

RESOLUTION NO. 2004 - 1248

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA, AND THE PUBLIC DEFENDER, SEVENTH JUDICIAL CIRCUIT, IN ORDER TO PROVIDE THE MEANS AND PROCEDURE FOR COMPENSATING THE PUBLIC DEFENDER'S OFFICE FOR LEGAL SERVICES DETAILED IN THE INTERLOCAL AGREEMENT.

WHEREAS, Section 27.51, Florida Statutes (2004), provides that the Public Defender shall appear in Circuit and County Courts within his or her judicial circuit for the purpose of representing indigent persons, who are arrested for, or charged with, a violation of a County ordinance, punishable by incarceration, if the Public Defender has contracted with the County for reimbursement for services rendered in accordance with Section 27.54(2), Florida Statutes (2004).

WHEREAS, Section 27.54, Florida Statutes (2004) provides for limitations on payments of expenditures for the Public Defender's Offices other than by the State, and that the County may contract with, or appropriate or contribute funds to the operation of, the various Public Defenders, and that a Public Defender representing indigent person who are under arrest, or charged with a violation of a County ordinance in the County Court, and that is punishable by incarceration, shall contract with the County in order to recover the full cost of services rendered on an hourly basis or reimburse the State for the full cost of assigning one or more fulltime or equivalent attorney positions to work on behalf of the County; and

WHEREAS, the Board of County Commissioners and Public Defender, Seventh Judicial Circuit desire to enter into an Interlocal Agreement in order to provide for the means and procedure for compensating the Public Defender's Office for such legal services detailed in the Interlocal Agreement that is attached hereto, and incorporated herein as Exhibit "A"; and

WHEREAS, the Florida Co-operation Act of 1969 (Chapter 163, Florida Statutes (2004)) authorizes the Board of County Commissioner and Public Defender to enter into such an Interlocal Agreement.


NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:

1. The above recitals are hereby adopted as legislative findings of fact.

2. The Chair of the Board of County Commissioners is authorized to execute and enter into an Interlocal Agreement between St. Johns County, and the Public Defender, Seventh Judicial Circuit.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 22nd day of June, 2004.

**BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS
COUNTY, FLORIDA**

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk



INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (Agreement), is entered as of this ____ day of ____, 2004, is between **St. Johns County, Florida (County)**, a political subdivision of Florida, by and through its Board of County Commissioners, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, and James Gibson, as the **Public Defender of the Seventh Judicial Circuit (Public Defender)**, duly elected, pursuant to Article V, Section 18, of the Florida Constitution.

RECITALS

WHEREAS, Section 27.51, Florida Statutes (2004), provides that the **Public Defender** shall appear in Circuit and County courts within his or her judicial circuit for the purpose of representing persons determined indigent, as set forth in State statutes, and who are under arrest for, or charged with, a violation of a municipal or County ordinance in the County Court, or if the **Public Defender** has contracted with the **County** for reimbursement for services rendered in accordance with Section 27.54(2), Florida Statutes, and both parties desire to enter into such a contract/agreement; and

WHEREAS, Section 27.54, Florida Statutes (2004), provides for limitations on payment of expenditures for the **Public Defender's Office** other than by the State, and that a County may contract with, or appropriate or contribute funds to the operation of, the various Public Defenders, and that a Public Defender representing indigent persons who are under arrest, or charged with a violation of a County ordinance in the County Court, shall contract with Counties to recover the full cost of services rendered on an hourly basis or re-imburse the State for the full cost of assigning, one or more fulltime, or equivalent, attorney positions to work on behalf of the County; and

WHEREAS, the **County** and the **Public Defender** desire to contract for services rendered on an hourly basis, based on estimates by the **Public Defender** on the number of hours required to handle the projected workload; and

WHEREAS, an agreement/contract for reimbursement on an hourly basis shall require Counties to reimburse the **Public Defender** at a rate of fifty dollars (\$50.00) per hours; and

WHEREAS, the **County** is willing to pay the **Public Defender** such sum on a quarterly basis in arrears; and

WHEREAS, the **Public Defender** is currently providing for the representation of indigent persons who are under arrest, or charged with a violation of a County Ordinance in County Court, and so is able to accurately estimate the appropriate time required; and

WHEREAS, the **Public Defender** estimates five (5) hours per week, which totals sixty-five (65) hours per quarter and two hundred sixty (260) hours per year is an accurate estimate of the time necessary to prosecute such violations written by sworn County law enforcement officers; and

WHEREAS, this **Agreement** sets forth the duration, terms and provisions, rights and responsibilities of both the **County**, and the **Public Defender**.

WHEREAS, Section 163.01, Florida Statutes (2004) authorizes the **County**, and the **Public Defender** to enter into such an **Agreement**.

NOW, THEREFORE, in consideration of mutual covenants and promises contained herein, it is agreed by and between the parties as follows:

Section 1. The above recitals are incorporated into the body of this **Agreement**, and said recitals are adopted as Findings of Fact.

Section 2. If any word, phrase, sentence, part, subsection, section, or other portion of this **Agreement**, or any application thereof, to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion or the proscribed application thereof, shall be severable, and the remaining portions of this **Agreement**, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.

Section 3. This **Agreement** shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this **Agreement** shall be in St. Johns County, Florida.

Section 3. In light of the scope and rationale of this **Agreement**, neither the **County**, nor the **Public Defender** may assign, transfer, and/or sell any of the rights noted in this **Agreement** without the express written approval of the other party. Should either the **County**, or the **Defender** assign, transfer, or sell any of the rights noted in this **Agreement** without such prior express approval of the other party, then such action on the part of either the **County**, or the **Public Defender**, shall result in the automatic termination of this **Agreement**, without further notice or action required on the part of the other party.

Section 3. Both the **County**, and the **Public Defender** acknowledge that this **Agreement** constitutes the complete agreement and understanding of both parties. Both the **County**, and the **Public Defender** acknowledge that any amendments to this **Agreement** shall be in writing, and shall be executed by duly authorized representatives of both the **County**, and the **Defender**.

Section 4. The duration of this **Agreement** shall be from July 1, 2004, through June 30, 2005. Either the **County**, or the **Public Defender** may request a one-year extension of this **Agreement** by submitting a written request to the other party, no later than March 1, 2005. Pursuant to a written request, either the **County**, or the **Public Defender** may approve an extension to the **Agreement**, prior to June 1, 2005. Subsequent extensions to this **Agreement** may be handled in manner similar to that described in this Section. Should this **Agreement** not be extended within the time frame noted in this Section, then this **Agreement** will terminate on July 1 of the year not extended. Under such circumstance, neither the **County**, nor the **Public Defender**, will have to provide any form of written notification of termination to the other party.

Section 5. This **Agreement** may be terminated without cause upon either the **County**, or the **Public Defender** giving at least thirty (30) days advance written notice to the other party of such notice without cause. Such written notification shall indicate that either the **County**, or the **Public Defender** intends to terminate this **Agreement** thirty (30) days from the date of notification. Consistent with other provisions of this **Agreement**, the **Public Defender** shall be compensated for any services and/or expenses that are authorized under this **Agreement**, and that are performed and/or accrue up to the date of termination of this **Agreement**.

This **Agreement** may be terminated by either the **County**, or the **Public Defender**, for cause, for the following reasons:

- 1) assignment of this **Agreement** by either party, without the prior written approval/consent of the other party;
- 2) failure by either party to comply with any obligation noted in this **Agreement**;
- 3) failure by the **County** to pay, for a period exceeding seventy-five (75) days, any amounts due and owing, for authorized services performed by the **Public Defender**;
- 4) failure by the **County** to budget for the services and/or expenses noted in this **Agreement**;
- 5) an exhaustion of funds budgeted for the services and/or expenses noted in this **Agreement**, without **County** approval of a subsequent increase in the amount of funds budgeted for the services and/or expenses noted in this **Agreement**;
- 6) a subsequent revisions/change/amendment to State law that would create an ethical conflict in funding and/operations between the **County and its Office of County Attorney, and the Public Defender**; and/or
- 7) a subsequent revision/change/amendment to State law that would prohibit the **County**, and the **Public Defender**, from entering into this type of **Agreement**.

Section 6. The **Public Defender** shall appear in the Circuit, and County courts within the **Public Defender's** judicial circuit, by and through the *County-Funded Local Defender*, for the purpose of representing indigent persons arrested for, or charged with violations of a County ordinance in County Court when said violations are cited by a **County** law enforcement officer. The *County-Funded Local Defender* will be hired by, and subject to the control of the **Public Defender**. Consequently, for purposes of this **Agreement**, the **Public Defender**, and the *County-Funded Local Defender* will be viewed as independent contractors, and have independent contractor status.

For the purposes of this **Agreement**, *County-Funded Local Defender* shall mean the person or persons assigned to represent indigent persons arrested for, or charged with violations of County ordinances punishable by incarceration, pursuant to this **Agreement**.

Section 7. The maximum amount available as compensation to the **Public Defender**, under this **Agreement** is thirteen thousand dollars (\$13,000.00) annually, unless the amount and the **Agreement** are amended in the manner set forth in this **Agreement**. Said amount is based on an hourly billing rate of fifty dollars (\$50.00) per hours (which is inclusive of expenses, unless specifically approved by the **County** on a case-by-case basis). **However, it is strictly understood** that the **Public Defender** is not entitled to this amount of compensation as a matter of right. Rather, the **Public Defender's** compensation is based on the provision of *approved legal services* provided by the *County-Funded Local Defender*.

For purposes of this Section, *approved legal services* means instances in which the *County-Funded Local Defender* represents indigent persons arrested for, or charged with violations of County ordinances that are punishable by incarceration, when said violations are cited by a **County** law enforcement officer.

Quarterly, the **Public Defender** shall submit to the **County Attorney** an invoice, which details the total hours incurred during the calendar quarter, along with the case or matter that was being prosecuted and/or handled on behalf of the **County**. If the **Public Defender** submits an incomplete and/or incorrect invoice, the **County Attorney** will notify the **State Attorney** within fifteen (15) days of submission of the incomplete/incorrect invoice by the **Public Defender**. The **Public Defender** will then have an additional fifteen (15) days in which to submit a complete and/or correct invoice. If the **Public Defender** submits a complete and/or correct invoice in excess of thirty (30) days of the date that the original incomplete/incorrect invoice was submitted to the **County**, then the **County** has seventy-five (75) days from the date of the submission of the complete and/or correct invoice, in which to re-imburse and/or compensate the **Public Defender** for such *approved legal services*.

Except as noted above, once the **Public Defender** submits a complete and correct invoice to the **County**, the **County** has forty-five (45) days from the date of submission, in which to re-imburse and/or compensate the **Public Defender** for such *approved legal services*.

The **County** may modify this procedure at any time, upon ten (10) days advance notice, in order to accommodate the budgetary concerns and/or procedures of the **County**.

Section 8. All notices, and other correspondence to the **County** shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32084

With A Copy To:

County Attorney
4020 Lewis Speedway
St. Augustine, Florida 32084

All notices, and other correspondence to the **Public Defender** shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to:

James B. Gibson, Public Defender
Seventh Judicial Circuit
The Judicial Center
251 North Ridgewood Avenue
Daytona Beach, Florida 32114

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal on this day and year below written.

**Board of County Commissioners
St. Johns County, Florida**

By: _____
Karen R. Stern, Chair

Date: _____

ATTEST:

**Clerk to the Board of County
Commissioners—St. Johns County**

**State Attorney—Seventh
Judicial Circuit—State of
Florida**

By: _____
**James Gibson, State Attorney
Seventh Judicial Circuit**

Date: _____

ATTEST:

By: _____

Title: _____