Attachment No. 1 to Professional Services Contract form

STATE OF ARKANSAS
ADMINISTRATIVE OFFICE OF THE COURTS

ATTACHMENT NO. 1 TO PROFESSIONAL SERVICES CONTRACT FORM

THIS AGREEMENT is made and entered into this ___ day of _____, 20__, by and between the Arkansas Administrative Office of the Courts, hereinafter referred to as the "AOC," and Parent Counsel Name, Attorney, hereinafter referred to as "the Contractor."

IT IS AGREED AS FOLLOWS:

1. SCOPE OF WORK

A. The Contractor, Parent Counsel Name, Attorney, shall provide representation for _____% of indigent parents and guardians cases in the _____ Judicial District, for the dependency-neglect cases filed through June 30, 2010 (end of fiscal year). The Contractor shall be appointed in the emergency ex parte order and shall represent his/her client through all the dependency-neglect proceedings at the Circuit Court. The Contractor understands and agrees that the number of cases included will fluctuate throughout the contract term as cases close and new ones open, and the contract compensation will not change.

B. The Contractor shall be responsible for advising his/her client about his/her appellate rights, filing any notices of appeal and ensuring that the indigency hearing is held pursuant to Rule 6-9 and 6-10 of the Rules of the Supreme Court and Court of Appeals. The Contractor shall serve by electronic submission a file-marked copy of the notice of appeal and the order or orders that are being appealed on the Arkansas Public Defender Commission within three (3) business days of filing the notice of appeal with the Circuit Clerk.

C. The contractor shall be responsible for, and ensure representation by, another qualified parent counsel contractor in any case in which the contractor has, or develops, a conflict; in turn, the contractor shall cover conflicts of other contractors when asked.

D. The Contractor shall represent clients in accordance with the Arkansas Model Rules of Professional Conduct and all other applicable laws.

E. The Contractor shall meet all requirements set forth in the qualifications and "Standards of Practice" set forth in Supreme Court Administrative Order No. 15 as they relate to parent counsel representation in dependency-neglect proceedings. The "Standards of Practice" are set out below:

THE STANDARDS OF PRACTICE FOR INDIGENT PARENT COUNSEL IN DEPENDENCY-NEGLECT CASES: SUPREME COURT ADMINISTRATIVE ORDER NO. 15

1. An attorney shall conduct a review of all relevant documents and records including but not limited to: police reports, DCFS records, medical records, and court records. An attorney shall interview all people having relevant knowledge to assist in representation, including but not limited to the investigator, OCC attorney or DCFS case worker, and service providers.

2. An attorney shall make earnest efforts to attend all case staffings and court-ordered mediation conferences and to meet with his or her client prior to every hearing. An attorney shall attend all dependency-neglect court hearings until the case is closed or his or her client's parental rights have been terminated.

3. An attorney shall diligently and zealously protect and advance the client's interests, rights and goals at all case staffings and in all court proceedings.

4. An attorney shall advise and explain to the client each stage of the court proceedings and the likelihood of achieving the client's goals. An attorney, where appropriate, shall identify alternatives for the client to consider, including the client's rights regarding any possible appeal, and explain the risks, if any, inherent in the client's position.

5. An attorney shall appear at all hearings and present all evidence and develop all issues to zealously advocate for his or her client and to further the client's goals.

6. An attorney shall advocate for specific and appropriate services for the parent to further the client's goals.

7. An attorney shall monitor implementation of case plans and court orders to further the client's goals.

8. An attorney shall file appropriate pleadings to further the client's goals.

9. An attorney shall review the progress of the client's case and shall advocate for timely hearings when necessary to further the client's goals.

10. An attorney shall request orders that are clear, specific, and, where appropriate, include a time line for assessment, services, placement, and treatment.

11. An attorney shall participate in 10 hours of initial legal education prior to appointment and shall participate in 4 hours of CLE each year thereafter.

12. An attorney shall identify any potential or actual conflict of interest that would impair his or her ability to represent a client. The attorney shall notify the court as soon as practical of such conflict to allow the court to appoint another attorney for the client or for the client to retain counsel prior to the next hearing.

13. An attorney shall not accept appointment of any case for which he or she cannot devote the requisite amount of time to comply with the above Standards of Practice and the Model Rules of Professional Conduct.

F. As required in the Arkansas Juvenile Code, Ark. Code Ann. Section 9-27-316(h) et seq., the Contractor shall zealously represent his/her client. In addition:

1. The Contractor shall be appointed in the emergency ex parte order or when a petition is filed, whichever is sooner. If appointed in the ex parte order, the Contractor shall appear at the Probable Cause Hearing or the first scheduled hearing.

2. The Contractor shall ensure that his/her client's "Indigency Affidavit" is complete, introduce it into evidence at the client's first court appearance requesting appointed counsel, and file it. If the client is not indigent or does not request counsel, the Contractor shall ask to be relieved from representation following the Probable Cause Hearing or the first hearing appearance, whichever is sooner. If during the course of the dependency-neglect proceedings, the client regains financial stability so that he or she is no longer indigent, the Contractor shall explain his/her financial responsibilities with regard to the case, including appeals.

3 The Contractor shall, personally or in conjunction with DCFS or others, ensure that the client has completed the "Background

Affidavit" and shall introduce the "Background Affidavit" into evidence at the first court appearance, if required by the court.

4. The Contractor shall prepare for hearings, including conducting interviews with potential witnesses, preparing, procuring and/or reviewing relevant exhibits and reports, issuing subpoenas or otherwise arranging for the testimony of relevant witnesses and exhibits to insure their admissibility, to the extent possible.

5. The Contractor, following each hearing, shall ensure that the client understands to the best of his/her ability what happened during the hearing, what the client is expected to do next, and how the client's actions will affect the outcome of the litigation.

6. The Contractor shall maintain ongoing contact with his/her client to ensure adequate preparation for court hearings, to monitor the case plan and court orders, and to advise the client of the case status and all court deadlines.

7. The Contractor shall monitor the case plan and court orders to ensure that services ordered by the court are actually provided, are provided in a timely manner, and are accomplishing their intended goals.

8. The Contractor shall file appropriate motions with the Circuit Court if:

    a) court-ordered services are not being made available to the parents as ordered by the court;

    b) court-ordered services are not achieving their purpose;

    c) any violation of orders, new developments, or changes have occurred that justify a review of the case.

G. The Contractor shall attend and participate in all dependency-neglect proceedings involving his/her client. The Contractor shall bring his/her calendar to court to ensure that he/she will be available for all scheduled hearings. It is the duty of the Contractor to ensure that court dates are set at a time when he/she will be present and that the Contractor does not schedule other court appearances that conflict with the dependency-neglect docket.

H. The Contractor shall continue representation in all cases assigned during the contract period; in the event of a change of venue, the originating attorney shall remain on the case until a new attorney is appointed by the court in the new venue.

I. The Contractor shall file a motion to withdraw from representation, if after diligent efforts the contractor cannot locate his/her client. The contract attorney shall at a minimum send a certified letter to the client's last known address informing him/her that failure to contact the contract attorney to provide representation will result in the contract attorney being removed from the case. If the client makes contact with the contract attorney during an on-going dependency-neglect case, the contract attorney shall file a motion with the Court asking to be reappointed to represent the client, if the client requests such representation and is indigent.

J. The Contractor shall participate and represent his/her client during any mediation conferences ordered by the court.

K. The Contractor agrees to meet with the AOC or its designee, Rena Roach (Parent Counsel Program Director) at any time the AOC requests, to discuss any aspect of representation under this Agreement. The Contractor has the right to arrange other meetings with the AOC.

L. The Contractor must meet all reporting requirements set out by the AOC, which shall include a monthly reporting form concerning the status of cases and compliance with Supreme Court Administrative Order No. 15.

M. The Contractor shall not subcontract any of the duties or responsibilities, subcontracts are expressly prohibited.

N. The contractor must immediately notify Rena Roach at (501) 655-2242 or renaroach@rocketmail.com of the following:

1. Any time his or her attorney license is suspended or revoked.

2. Any time he or she becomes a full-time employee of any state agency, office, or organization, or a full-time employee of any other entity.

3. When the attorney knows of a true case conflict or scheduled court hearing conflict that cannot be remedied by adhering to Section 1.C. herein.

O. The Contractor shall respect the confidentiality requirements of the Arkansas Juvenile Code, Ark. Code Ann. Section 9-27-309 and the Child Maltreatment Reporting Act, Ark. Code Ann. Section 12-12-506.

2. COMPENSATION

See Form PCS-1, Page 1.

3. TERM

The term of this agreement shall begin May 1, 2010, and shall end June 30, 2010, unless terminated because the contract amount has been exhausted, whichever occurs first; however some obligations incurred pursuant to this Agreement shall survive termination as set forth below. The contract is renewable annually thereafter upon agreement of the contractor and the AOC and with approval of the legislature and DFA.

4. STATUS OF CONTRACTOR

The Contractor is an independent contractor performing professional services and is not an employee of the AOC or the State of Arkansas and shall not be entitled to accrue leave, retirement benefits, insurance, bonding, use of state vehicle, or other benefits afforded to the employees of the State of Arkansas as a result of this Agreement.

5. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without prior written approval of the AOC.

6. CONFLICT OF INTEREST

The Contractor warrants that the Contractor presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the performance of services required under this Agreement. The Contractor shall avoid future employment or engagements that would be in conflict with the Contractor's duties as an attorney under this agreement or that would give the appearance of impropriety.

7. RECORDS AND AUDIT

The Contractor shall maintain all files, pleadings, and documents necessary for the competent representation of indigent parents and shall keep records which indicate the date, amount of time, and nature of service rendered. The AOC

has the right to review such records at any time during the term of the contract. A compilation of such records shall be delivered to the AOC, or to a person designated by the AOC to receive those records, no later than the termination date of this Agreement. Such compilation shall specify those new cases to which the Contractor was appointed as an attorney pursuant to this Agreement. These records shall be subject to audit by the Department of Finance and Administration and the State Auditor subject to the maintenance of attorney-client confidentiality.

8. APPROPRIATIONS

The continuation of this Agreement is contingent on sufficient funding and upon authorization for expenditures being made by the Arkansas Legislature. If sufficient funding is not available at the discretion of the AOC, this Agreement shall, notwithstanding the provisions of any other paragraph, terminate on the Contractor's receipt of written notice of termination from AOC. The AOC's decision of whether sufficient funding and authorization for expenditures have been made shall be accepted by the Contractor and shall be final.

9. CONFIDENTIALITY

Any confidential information provided for or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the AOC or the juvenile court. This provision shall extend indefinitely beyond the terms of this Agreement.

10. PROHIBITION AGAINST DUAL COMPENSATION

Services are reimbursable or subject to compensation under this Contract only to the extent that such services relate exclusively and directly to the purposes of this Contract, and no supplemental or additional payment for such services shall be received by the Contractor from any other source, except those ordered by the Circuit Court from county funds.

11. EQUAL EMPLOYMENT OPPORTUNITY

The Contractor, in the performance of this Agreement, shall not discriminate against any employee, client or other person on the basis of race, color, religion, national origin, sex, age or disability.

12. PROHIBITION AGAINST CONTINGENT FEES

Ark. Code Ann. 19-11-708 (Repl. 1994) provides that it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, and that all contracts and solicitations therefore shall conspicuously set forth the following: "Before being awarded a state contract other than by procedure set forth in . . . Purchasing Law, Sec. 19-11-201 et seq., and regulations promulgated thereunder for small purchases, every person shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards."

13. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings are merged into this written Agreement, which is an Attachment to Form PCS-1, State of Arkansas Professional Services Contract. No prior agreement of understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

14. AMENDMENT

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties to this Agreement.

15. APPLICABLE LAW

This Agreement shall be governed by the applicable laws, statutes, rules and regulations of the State of Arkansas.

16. EFFECTIVE DATE

This Agreement is not effective until signed by all parties and is effective on the date specified in Paragraph 3 of this Agreement.

Signed by the parties on the dates indicated:

_____	_____
Director Administrative Office of the Courts	Parent Counsel Name Attorney/Contractor
_____	_____
Date	Date