RESOLUTION AUTHORIZING CHAIRMAN TO SIGN CONTRACTS FOR JUVENILE COURT LEGAL SERVICES

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104(6), the County has the power to all acts in relation to the concerns of the County necessary to the exercise of its corporate powers;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and

WHEREAS, Sarpy County requires the services of various attorneys for the performance of certain legal services in the Separate Juvenile Court of Sarpy County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT the Chairman and Clerk are hereby authorized to execute on behalf of Sarpy County, Nebraska certain contracts for juvenile court legal services, copies of which are attached hereto, the same being approved by the Board.

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 4th day of December, 2018.

Chair, Sarpy County Board

Sarpy County Clerk
Memo

To: Sarpy County Board

From: Brian Hanson

Re: Juvenile Court Appointed Attorney

Sarpy County contracts for legal services in Juvenile Court. One of the contract attorneys is significantly reducing the hours she is working under the contract and it is necessary to contract with another attorney to pick up those hours. The attached resolution will approve a contract with Candice Novak under the same terms and conditions as the other contract attorneys. Ms. Novak’s qualifications are attached and Judges Gendler and O’Neal have approved of her appointment.

Please let me know if you have any questions.

Yours Truly,

Brian E. Hanson, Fiscal Administrator

cc: Dan Hoins
Scott Bovick
Deb Houghtaling
Judge Gendler
Judge O’Neal
CONTRACT FOR JUVENILE COURT LEGAL SERVICES

This Contract is entered into by and between the COUNTY OF SARPY, of the State of Nebraska, a body politic and corporate, and hereinafter "County", and an attorney or a coalition of attorneys licensed to practice in the State of Nebraska, and hereinafter "Counsel".

WHEREAS, County is obliged to provide legal representation for children, their parents, either jointly or severally, and/or the services of a guardian ad litem in the Separate Juvenile Court of Sarpy County, Nebraska; and,

WHEREAS, the County provides such representation through the Office of the Sarpy County Public Defender on behalf of the Court; and,

WHEREAS, said Office from time to time is barred from representing certain children and/or their parents due to a conflict of interest arising under the Nebraska Code of Professional Responsibility, as adopted by the Nebraska Supreme Court and/or the case law of that Supreme Court; and,

WHEREAS, under such circumstances County is obliged to provide legal representation on behalf of the aforesaid Court through other counsel; and,

WHEREAS, Counsel holds herself out as having experience in Separate Juvenile Court; and,

WHEREAS, Counsel is desirous of offering legal services to County in the Separate Juvenile Court;

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:
I. **TERM OF CONTRACT**

This Contract shall be in full force and effect from November 1, 2018 and October 31, 2020, unless otherwise terminated as provided herein.

II. **COUNSEL'S DUTIES:**

A. Counsel declares, promises and warrants that he/she is an attorney in good standing, licensed to practice law in the State Courts of the State of Nebraska.

B. Counsel declares, promises and warrants that he/she will faithfully perform and provide legal services pursuant to applicable State Statutes, the Nebraska Code of Professional Responsibility and the practice standards for guardians ad litem for juveniles in Separate Juvenile Court Proceedings (Standards) as an attorney in the Separate Juvenile Court of Sarpy County, Nebraska on behalf of any and all clients referred to him/her by that Court including but not limited to serving as defense counsel for a child, counsel for parents of a particular child (either jointly or severally), or as a guardian ad litem. Counsel further declares that it will comply with Rule § 6-1705 established by the Nebraska Supreme Court, which can be found at [https://supremecourt.nebraska.gov/supreme-court-rules/chapter-6-trial-courts/article-17-uniform-separate-juvenile-court-rules-practice-procedure/%C2%A7-6-1705-practice-standards-guardians-ad-litem-juveniles-separate-juvenile-court-proceedings](https://supremecourt.nebraska.gov/supreme-court-rules/chapter-6-trial-courts/article-17-uniform-separate-juvenile-court-rules-practice-procedure/%C2%A7-6-1705-practice-standards-guardians-ad-litem-juveniles-separate-juvenile-court-proceedings).

C. If Counsel cannot, through illness or otherwise, attend Court proceedings on behalf of his/her client, Counsel shall have the duty to secure a continuance of the proceedings, or find substitute counsel. Counsel shall include the hours of the substitute counsel in his/her monthly billing but Counsel will show no charge for substitute counsel. Substitute
counsel shall be responsible for billing their own hours. Substitute counsel shall be qualified in the same manner as Counsel to provide services under this contract.

D. During the term of this contract, Counsel shall have complied with the training requirements set forth in Section 4-401 Guardians ad litem: Young Adult Bridge to Independence Attorneys; required training; appointments. Counsel shall provide proof of the completion of the required training within thirty (30) days of the effective date of this contract and annually thereafter.

E. Counsel may be required to defend clients on any and all misdemeanor or felony criminal charges, including but not limited to charges of motor vehicle homicide. Counsel shall not, however, be required to defend indigent persons against charges of manslaughter, or first or second degree murder, or aiding and/or abetting those offenses.

F. Counsel shall be required to meet within their client within fourteen (14) calendar days of receiving notice of appointment, unless expressly waived by the Court. Thereafter, Counsel shall be required to meet with their client a minimum of every 90 days, except when such client is an infant or toddler, and shall have more frequent contact if such is mandated by the Nebraska Juvenile Code. Failure to do so may result in non-payment for court appearances, removal as Counsel from the case, or cancellation of this Contract.

G. Counsel shall agree to regularly check and maintain electronic communications with their client, including but not limited to, communications regarding youth clients who are detained or removed from their residence. Counsel shall make every effort to be present at any and all hearings that are set, including any professional conferencing set before the hearings.
H. Counsel shall promptly appear at designated times and dates for any pre-hearing conference set by the Court and shall make every available effort to communicate with their client, except when such client is an infant or toddler, prior to such appearance.

I. All Guardian Ad Litem ("GAL") reports shall be submitted to the Court at least forty-eight (48) judicial hours prior to the hearing, unless expressly waived by the Court because of extenuating circumstance. Failure to do so may result in non-payment for any court appearance associated with such report.

J. Counsel may, in his/her best professional judgment, employ experts and/or investigators to assist in the defense of the assigned criminal cases, but such employment shall be at Counsel's sole cost and expense, unless such employment is previously approved by the Court. Other costs incurred by Counsel, including but not limited to expenses for depositions, transcripts, bills of exception, filing fees, travel expenses, long distance telephone calls, other court costs, and any other costs of whatever type or kind shall be reimbursed by County only when previously approved by the Court. Counsel shall be solely responsible for obtaining such an order.

K. Counsel declares, promises and warrants that he/she will not assess, bill, charge, or otherwise attempt to collect any fee, funds, or monies of whatever type or kind from clients assigned to Counsel by a Court. Counsel acknowledges that any such attempt is an unethical practice of law, that such efforts constitute a specific breach under this Contract, and will result in a formal disciplinary complaint to the Counsel for Discipline of the State of Nebraska.

L. Counsel acknowledges that he/she has an ethical duty to maintain records of clients served
in order to prevent any actual or apparent conflict of interest, as required by the Nebraska Code of Professional Responsibility and case law, including State ex rel. First Tier Bank v. Buckley, 244 Neb. 838 (1993), and State ex rel. Creighton University v. Hickman, 245 Neb 247 (1994). In addition, Counsel shall prepare and maintain records as proved in Section E (3) of the Standards for cases in which Counsel is appointed as Guardian Ad Litem for a minor. The Guardian Ad Litem Report identified in Appendix 1 of the Standards shall be provided to the court at least forty eight (48) judicial hours before the hearing. Counsel shall be solely responsible for maintaining such records, and notifying the Court of any conflict prior to representing a particular client. Counsel shall also be liable for any and all consequences arising out of a breach of this duty.

M. If Counsel's license to practice law is suspended or revoked, Counsel shall notify County of such suspension or revocation within three (3) days of that disciplinary action.

N. Counsel may find it necessary in his/her professional opinion to appeal a decision from the Separate Juvenile Court to the Nebraska Court of Appeals or Supreme Court; or, to file a petition for termination of parental rights or determination of paternity or guardianship under Sections 28, 29 and 30 of the 1998 Neb. Laws LB 1041, as the same may be later amended. Such representation shall be at one-half (½) Counsel's usual rate for legal services, but said fee shall not exceed Eighty Five Dollars ($85) per hour. Reimbursement for extraordinary expenses during an appeal shall be made as set forth above, and shall not be paid by County unless previously approved by the Court. For each case to be appealed, or petition filed the Juvenile Court Judge shall conduct a new financial hearing to determine the ability of the parties to pay attorney's fees and costs of the appeal.
O. During the term of this Contract, for the cases from which the Sarpy County Public Defender has been disqualified such cases shall be distributed proportionally. A monthly list showing total appointments made by the Court will be furnished to Counsel by the Court.

P. Counsel agrees to communicate with the Court Appointed Special Advocate as soon as possible after appointment and on a regular basis thereafter.

Q. Counsel agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. Counsel is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Counsel is an individual or sole proprietorship, the following applies:

1. Counsel must complete the United State Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.

2. If Counsel indicates on such attestation form that he or she is a qualified alien, Counsel agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Vendor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. Counsel understands and agrees that lawful presence in the United States is required and the Counsel may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect. 4-108.

III. COUNTY'S DUTIES:

A. In return for Counsel's performance of the duties described above, County promises to pay Counsel for the term of this Contract at the rate of $63 for each hour actually and necessarily worked in the performance for the first year of this Contract, and $65 for each hour actually and necessarily worked in the performance of the second year of this Contract. Charges to the County shall be billed for each 1/10 of an hour. Such compensation shall not be paid for hours associated with training, travel (except for mandatory meetings) or time waiting for hearings or meetings to begin.

B. All payments by the County under this contract shall be made by electronic funds transfer (EFT) except as provided herein. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer. In the event the County is unable to release one or more payments by EFT, the Contractor agrees to accept payment by check or some other mutually agreeable method of payment.

C. Payments for services hereunder shall be made within the first fifteen (15) days after the billing hours and expenses are approved by the Separate Juvenile Court and forwarded to the County Clerk's Office.

D. Payment for extraordinary expenses approved by the Court shall be made as provided in C. above.
IV. RECORD KEEPING AND CONFIDENTIALITY OF RECORDS:

A. Counsel declares, promises and warrants that he/she will keep records showing the actual time spent and type of services provided and record of expenses for each client which Counsel shall represent under this Contract. A report containing this information, in the format shown on Exhibit B with a total for each case and a composite total for all cases for the month shall be provided by Counsel to the Juvenile Court Judge for approval and submitted to the County each month for payment (attn.: Mikala Gansemer, Sarpy County Fiscal Administration). Counsel promises to keep all required records available for a period of three (3) years after the date of final disposition, and shall make those records available to representatives of County during normal business hours. Nothing in this Contract shall be deemed to require Counsel to violate any attorney-client privilege, or otherwise disclose confidential information received from any client.

V. ASSIGNABILITY:

Neither Party to this Contract may assign any benefit, nor delegate any duty hereunder, to any person, firm, organization, or corporation, without the prior written consent of the other.

VI. TAXES:

The Parties hereto stipulate and agree that any and all expenses, including but not limited to overhead, costs, fees, taxes, health, liability, or unemployment insurance, dues, professional fees, and any other expenses of whatever type and kind, assessed against Counsel shall be the exclusive obligation of Counsel.
VII. **SEVERABILITY CLAUSE:**

It is understood and agreed by the Parties hereto that if any part, term, or provision of this Contract is held to be illegal or in conflict with any law of this State or of the United States, the validity of the remaining terms and conditions, provision-or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provisions held to be invalid.

VIII. **NONDISCRIMINATION CLAUSE:**


IX. **CONFLICT OF INTEREST CLAUSE:**

Pursuant to Neb. Rev. Stat. §23-3113 (Reissue 1991), the Parties hereto declare and affirm that no officer, member, or employee of County, and no member of its governing body, and no other public official of the County who exercises any functions or responsibilities in the review or approval of the undertaking described in this contract, or the performing
of services pursuant to this contract, shall participate in any decision relating to this contract
which affects his or her personal interest, or any corporation, partnership, or association in
which he or she is directly or indirectly interested; nor shall any employee of the County,
nor any member of its governing body, have any interest, direct or indirect, in this contract
or the proceeds thereof.

X. USE OF OUTSIDE AGENTS:
Counsel warrants that it has not employed or retained any County or person, other than a
bona fide employee working for Counsel, to solicit or securé this contract, and that Counsel
has not paid or agreed to pay any County or person, other than a bona fide employee, any
fee, commission, percentage, brokerage fee, gift or any other consideration, contingent
upon or resulting from the award or making of this Contract. For breach or violation of
this warranty, the County shall have the right to annul this Contract without liability, or in
its discretion, to deduct from the Contract price or consideration, or otherwise recover, the
full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

XI. NON-RAIDING CLAUSE:
Counsel shall not engage the services of any person or persons presently in the employ of
the County for work covered by this Contract without the written consent of the employer
of such person or persons.

XII. NATURE OF THE RELATIONSHIP:
Each Party declares, represents, warrants and acknowledges that it is not an agent for the
other now, nor will it be in the future. Each Party is an independent contractor, and neither
Party is nor will become the employee of the other as a result of the relationship created by
this contract.

XIII. **INTEGRATION CLAUSE:**

This Contract contains the entire Contract between the Parties, and there are no other written or oral promises, Contracts or warrants which may affect it, except as contained herein. This Contract cannot be amended except by written Contract of both parties. Notice to the Parties shall be given in writing to the agents for each Party named below:

County: **Ms. Deb Houghtaling**

Sarpy County Clerk

1210 Golden Gate Drive

Papillion, NE 68046

Counsel: [Signature]

300 S. 19th St. Ste. 312

Omaha, NE 68102

XIV. **COMPLIANCE WITH LAWS:**

Counsel shall comply with all Federal and State laws applicable to this Contract, including but not limited to those set forth herein.

XV. **TERMINATION:**

Either Party may terminate this Contract upon thirty (30) days written notice to the other. Such termination shall not constitute a breach.

XVI. **HOLD HARMLESS CLAUSE:**

Counsel shall indemnify and hold harmless Sarpy County, its Board of Commissioners, elected officials, officers, agents, employees and/or representative from all claims,
demands, suits, actions, payments, liability, and judgements, including attorney's fees, arising from the acts, actions, inaction or activities, or breach of professional or ethical duty or duties, whether a result of negligence, intentional or willful misconduct of Counsel.

XVII. CONSEQUENCES OF BREACH:

Should Counsel breach, violate or abrogate any term, condition, clause, or provision of this Contract, County may, at its discretion, terminate this Contract forthwith, upon written notice to Counsel. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law. Delay or failure of County to enforce at any time the provisions hereunder shall not constitute a waiver of the right of the County thereafter to enforce such provision(s). No remedy or election hereunder shall be deemed exclusive but shall be cumulative with and nonexclusive of all other remedies at law or in equity.

XVIII. APPLICABLE LAW:

This contract shall be construed under the laws of the State of Nebraska.

XIX. EFFECT OF HEADINGS:

Section headings in this Contract are for convenience only and shall not be used to construe the provisions herein.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]
COUNTY OF SARPY
A Body Politic and Corporate.

APPROVED AS TO FORM AND CONTENT:

Deputy County Attorney

Counsel
STATE OF NEBRASKA

COUNTY OF SARPY

On this the 4th day of December, A.D. 2018, before me, a Notary Public within and for said county, appeared Candice Novak and thereupon she executed the above and foregoing Contract and acknowledged the same to be her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, at the City of Papillion, County of Sarpy, State of Nebraska.

[Signature]
Notary Public
November 27, 2018

Mr. Brian Hanson
Sarpy County Fiscal Administrator
1210 Golden Gate Drive
Papillion, NE 68046

via email

Re.: Juvenile Court Appointed Attorney contract

Mr. Hanson:

Please find the attached resume in support of my request that the Sarpy County board of commissioners approve the attached contract to provide juvenile court legal services. In addition to the information contained within the resume, I would like to provide the following information which I believe will shed additional light on my experience as a practicing attorney primarily providing representation in juvenile court matters:

I have completed legal research while drafting the following for submission to the Court:
Brief in support of Petition for Further review to the Nebraska Supreme Court;
Nebraska Court of Appeals briefs;
Legal memorandums to the District Court, Separate Juvenile Court, and County Court;
Written arguments to the Separate Juvenile Court;
Guardian ad litem reports submitted to the District Court and Separate Juvenile Court.

Throughout my career I have been lead counsel in a number of civil and juvenile trials and evidentiary hearings, some lasting days in duration. I have also been lead counsel in appealing cases from the Court of original jurisdiction and have argued before both the Nebraska Court of Appeals and Supreme Court of Nebraska. In relation to said cases, I have been lead counsel in preparing the Court of Appeals briefs and Petition for further review to the Nebraska Supreme Court and have conducted all legal research and prepared all briefs relating to said appeals.

My experience as a guardian ad litem and solo practitioner for the past 13-14 years, from 2004 to the current date, has afforded me the opportunity to interact with professionals both inside and outside the Douglas County Courthouse on an almost daily basis. I am fortunate enough to typically have daily contact with Judges, prosecutors, defense attorneys, attorneys for the
Department of Health and Human services, clients, court reporters, bailiffs, members of law enforcement, juvenile probation officers, Nebraska Department of Health and Human services personnel, as well as other case professionals and lay persons.

The nature of my contact with said individuals is typically in collaboration for the purpose of assisting with hearings and general case progression. In addition to contact within the Douglas County Courthouse I also regularly participate in meetings outside of the courthouse which would include client meetings, collaborative team meetings that include case professionals, and case staffings to assess matters with other outside professionals and community members.

Additionally, as a co-founder of the Nebraska guardian ad litem project I am actively engaged in researching and arranging educational opportunities which focus on the practice of law within juvenile court and providing guardian ad litem representation in juvenile court matters.

Finally, for your information, as well as the County board’s information, should the proposed contract be approved it is my intent to obtain office space within 1 to 4 miles of the Sarpy County Courthouse in order to best fulfill my responsibilities under the contract.

If you have any additional questions regarding my experience or the information contained within this correspondence please do not hesitate to contact me.

Thank you for your time and consideration.

Sincerely,

Candice J. Novak
Attorney at Law

Enclosure: Resume
EDUCATION

Creighton University School of Law, Omaha, Nebraska
Juris Doctor, May 2004

Activities: Health Law Society, Secretary
Public Interest Law Forum, Member
Domestic Moot Court Competition Participant
Domestic Moot Court Competition Bailiff
Client Counseling Competition Participant
Client Negotiation Competition Participant

College of Saint Mary, Omaha, Nebraska
Bachelor of Arts, Paralegal Studies, May 2001

Honors and Activities: Dean’s Honor Roll
Paralegal Club, Member

EXPERIENCE

Candice J. Novak, Attorney at Law, Omaha, Nebraska November 2010-Current
Solo Practitioner
General civil practice including juvenile law, family law, and criminal law. Represent defendants in
traffic, misdemeanor, and felony criminal cases. Represent the best interest of juveniles and parents
during Juvenile Court proceedings, including adjudication and termination of parental rights hearings.
Represent individuals involved in family law cases, including divorce, adoption, and probate proceedings.
Attend hearings. File motions and hold evidentiary hearings.

Incontro Law Office, Omaha, Nebraska March 2006-November 2010
Associate Attorney/Guardian ad Litem
Represented the best interests of children involved in abuse and neglect cases in the Separate Juvenile
Court and Family Drug Court in Douglas County. Interviewed and prepared witnesses and child
witnesses to testify. Filed motions and held evidentiary hearings. Attended and participated in scheduled
hearings and adjudications. Gathered information through review of documents, personal interviews, and
case meetings. Argued legal issues before the Nebraska Court of Appeals and Nebraska Supreme Court
and prepared legal briefs in support of arguments.

Candice J. Novak, Attorney at Law, Omaha, Nebraska July 2005-March 2006
Solo Practitioner
General civil practice including juvenile law, family law, and adoption. Met and advised clients.
Attended hearings.
Fournier Law Office, Omaha, Nebraska  
**Associate Attorney**  
November 2004-July 2005  
Researched general principals of law and prepared opinions. Interviewed and communicated with clients with respect to their case. Prepared various client correspondence and pleadings, including complaints and answers.

Creighton University, Omaha, Nebraska  
**Research Assistant, Professor Edward J. Birmingham**  
January 2003-May 2004  
Researched and wrote memoranda of law on issues of healthcare and personal injury. Reviewed and summarized recent court decisions on federal and state topics including ERISA and subrogation.

**VOLUNTEER SERVICES**

Child Saving Institute, Omaha, Nebraska  
November 2010-November 2014  
Provide foster parent and professional education and training regarding juvenile court and preparing to testify in Court.

Boys Town, Omaha, Nebraska  
September 2016-Current  
Provide training to foster care specialists regarding juvenile court proceedings and preparing to testify in Court.

**ORGANIZATIONS**

Nebraska Guardian ad Litem Project  
July 2015-Current  
Co-founder of the Nebraska Guardian ad Litem Project, which was established to promote and support excellence in Guardian ad Litem advocacy through training and education for licensed attorneys in Juvenile Courts in the State of Nebraska.
REFERENCES

Katrine M. Herrboldt
Attorney at Law
2024 Stillwater Dr.
Papillion, NE 68046
(402) 203-9198

Amy Schuchman, J.D.
Douglas County Deputy County Attorney
1701 Farnam Street
Hall of Justice, Room 601
Omaha, NE 68183
(402) 444-7051