#15

JUN 25 2015

MEMO

TO: Mayor and City Council

FROM: R. Michael Traynor, City Magistrate

SUBJECT: APPROVAL OF CONTRACTUAL SERVICES WITH PUBLIC DEFENDERS

RECOMMENDATION: The Presiding Magistrate recommends approving Public Defender Contracts with Alex Gonzalez, Michael Smith, Scott Silva and Maria Gonzalez.

BACKGROUND: Defendants in criminal cases, have the right to be represented by an attorney. In some instances, the attorney is court appointed. The court utilizes the services of court appointed attorneys to represent indigent defendants.

DISCUSSION: The proposed contract provides indigent defendants with access to a law office with demonstrated experience and expertise in the field of criminal defense with an office in the East Valley.

PROPOSED MOTION: Move to approve Public Defender Agreement between City of Chandler, Chandler Municipal Court and Alex Gonzalez, Michael Smith, Scott Silva and Maria Gonzalez.

R. Michael Traynor
Presiding City Magistrate

CITY OF CHANDLER PUBLIC DEFENDER SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of June 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Scott C. Silva, hereinafter referred to as "ATTORNEY" or "CONTRACTOR".

WHEREAS, CITY desires to provide counsel for representation of indigent defendants in the Chandler Municipal Court; and

WHEREAS, all attorneys in the ATTORNEY'S firm are Attorneys at Law, licensed to practice in the State of Arizona and ATTORNEY represents that all attorneys in ATTORNEY'S firm have expertise and are qualified to provide such representation as described in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. Contract Administrator. ATTORNEY shall act under the authority and approval of the Presiding City Magistrate of the Chandler Municipal Court/designee (Contract Administrator), to provide the services required by this Agreement.

2. SCOPE OF WORK: This is a personal service contract. ATTORNEY shall represent indigent defendants assigned to ATTORNEY after July 1, 2015 by a Magistrate of the Chandler Municipal Court.

2.1. On any day that the Chandler Courts are open ATTORNEY may be required to appear in any division of the Court, as determined by the Court schedule. The Court Schedule will not be changed arbitrarily and without prior consideration of ATTORNEY'S schedule.

2.2. ATTORNEY shall prepare for and appear at all court proceedings pertaining to assigned defendants, including but not limited to, pretrial conferences, motions, jury and non-jury trials, evidentiary hearings, sentence reviews, revocation of probation hearings, special hearings, oral arguments, sentencings, order to show cause hearings, appeal proceedings, and special actions, as well as, appeals to higher courts.

2.3. ATTORNEY will not be required to be present at arraignments except where the defendant requests appointment of counsel and qualifies for a Public Defender. In these instances, the arraignment will be continued until the time of a pretrial hearing, when ATTORNEY shall be present.

2.4. Once appointed, ATTORNEY shall represent each defendant throughout all stages of the proceedings, including appeals and other appropriate post conviction relief, until ATTORNEY is relieved from the case by the Court. No substitution of counsel shall be allowed without prior arrangement with the Contract Administrator.

2.5. ATTORNEY is responsible for providing personal consultation with clients prior to pretrial disposition conferences when requested or otherwise appropriate. ATTORNEY is required to maintain personal contact with defendant until the case is terminated and is required to use reasonable diligence in notifying defendant of official court action resulting from defendant's

nonappearance at a scheduled court session (proof of such notice must be supplied upon request).

2.6. ATTORNEY shall conduct the defense of all indigent defendants in conformance with the minimum standards and requirements set forth in State of Arizona vs. Michael Steven Watson, Arizona Supreme Court, 134 Ariz. 1, 653 P2d. 351 (1982); and in State of Arizona vs. Joe U. Smith, Arizona Supreme Court, decided April 3, 1984, 6027-PR; and in State of Arizona vs. Billy Don Lee, Arizona Supreme Court, decided September 25, 1984, 6107-PR.

2.7. ATTORNEY shall provide substitute counsel when unable for any reason to appear in Court or at events described in paragraph 2.6 above. Substitute counsel shall not be used routinely. In general, substitute counsel should be used only when ATTORNEY cannot serve as public defender because of illness or scheduled vacation, or prior legal commitment of precedence in another court. ATTORNEY shall provide the Contract Administrator with the names, addresses and telephone numbers of substitute counsel who will be responsible for providing public defender services. No counsel shall be offered as a substitute in performance of providing public defender services without the prior written consent of the Contract Administrator. Such consent shall not be arbitrarily or unreasonably withheld or withdrawn.

2.8. ATTORNEY shall not serve as Contract Public Defender in any other court while this agreement with CHANDLER is in force, if such service shall cause attorney's case load to exceed the minimum standards and requirements imposed by the Arizona Supreme Court as cited in paragraph 2.6.

2.9. CHANDLER Municipal Court will provide interpreters for non-English speaking defendants for all in court and pretrial proceedings. ATTORNEY shall provide, at his own expense, interpreters for all out-of-court matters.

2.10. ATTORNEY shall pay all costs incurred in the representation of indigent defendants assigned by the Court pursuant to this agreement including, but not limited to, office space, telephones, transportation, photographs (including photocopies of discoverable materials), photocopies, office supplies, office overhead, reports, secretarial services, and out-of-court interpreters. ATTORNEY will not be charged for photocopies of discoverable materials obtained from the Chandler City Prosecutor's Office.

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2.13. ATTORNEY agrees that court settings in the CHANDLER Municipal Court are to take precedence over civil cases and all other criminal cases in other courts which do not have precedence as provided by the Arizona Rules of Criminal Procedure

2.14. Non-Discrimination. ATTORNEY shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.15. Licenses. ATTORNEY shall maintain in current status all State Bar licenses required for to perform this Contract.

2.16. Advertising, Publishing and Promotion of Contract. ATTORNEY shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.17. Compliance With Applicable Laws. ATTORNEY shall comply with all applicable Federal, state and local laws.

3. ALLOWABLE CASELOAD: ATTORNEY'S Municipal Court contract caseload shall not exceed 300 misdemeanor cases per year, except at the request of and/or with the express permission of the Contract Administrator. ATTORNEY agrees that s/he will not accept representation of clients, other than indigents represented pursuant to this Contract, to the extent that such representation would increase his/her caseload beyond the guidelines set forth in State of Arizona vs. Joe U. Smith, 140 Arizona 355, 681 P.2d 1374 (1984). On cases that ATTORNEY views as unusually complicated, ATTORNEY may make a written request to the Contract Administrator, requesting said case to be counted as more than one case toward ATTORNEY'S 300 caseload limit. Final determination shall be made by the Contract Administrator. At no time shall ATTORNEY'S private practice caseload reach such a level, during his service as Public Defender, so as to jeopardize ATTORNEY'S ability under State vs. Smith to complete the 300 Municipal Court cases specified in this agreement.

3.1. Under the guidelines of the aforementioned case, ATTORNEY'S caseload shall be reviewed quarterly during the course of the contract to evaluate the number and complexity of cases assigned during the quarter, the amount of time spent on those cases and ATTORNEY'S professional competency to handle the caseload assigned in accordance with the Arizona Rules of Professional Responsibility (DR 6-101 and 7- 101, Rules of the Supreme Court, 17A A.R.S.) and the American Bar Association Standards (Standards 4-1.2 an 5-4.3), as cited in State of Arizona vs. Joe U. Smith. Said review may include CHANDLER staff consultation with CHANDLER Municipal Court Magistrates and ATTORNEY, as necessary to fairly evaluate his compliance with the terms of the contract.

4. ASSIGNMENT OF CASES: CHANDLER Municipal Court shall determine the assignment of all indigent cases to ATTORNEY. **Although CITY anticipates that ATTORNEY will be assigned a substantial number of cases, the total fees for cases assigned to ATTORNEY by the Court in any one-year contract term will not exceed Fifty Thousand Dollars ($50,000.00). ATTORNEY is not guaranteed any minimum amount of work nor any cases at all. ATTORNEY is aware that there is more than one ATTORNEY who has been awarded a Public Defender Contract for this type of work. CITY reserves the right and will assign cases based on ability of the ATTORNEY to meet CITY's calendars and schedule and the ATTORNEY'S expertise in relation to each case.**

5. SUSPENSION OF INDIGENT APPOINTMENTS:

5.1. Should ATTORNEY experience an indigent caseload that prevents ATTORNEY from giving effective assistance of counsel to each client, then in that event, ATTORNEY shall make a Motion to the Court for a suspension of indigent appointments until such congestion clears.

5.2. The Court, upon receipt of said Motion shall set a date for hearing not later than five (5) days from receipt of said Motion. Should the Court find at such hearing that the indigent caseload is excessive, and is adversely interfering with ATTORNEY'S ability to give effective legal assistance, the Court, in the interest of justice, may suspend further indigent appointments to ATTORNEY for a period not to exceed 30 days.

5.3. During such suspension, the Court shall appoint other counsel to represent indigents.

5.4. It shall be the obligation of ATTORNEY to notify the Court immediately upon determination that the case congestion has cleared so that appointments may be reinstated to said ATTORNEY.

5.5. During the period of suspension, the ATTORNEY shall notify the Court in writing every Monday (or Tuesday in the event Monday is a legal holiday) as to the status of the caseload and congestion.

5.6. At the expiration of any suspension period ordered by the Court, or earlier, if so notified by ATTORNEY, the Court shall again conduct a hearing for the purpose of determining whether such suspension should be lifted or a further suspension of appointments not to exceed thirty (30) days should be granted. Such suspension, affects only the appointment of new clients to ATTORNEY, and in no other way releases either party from other duties or obligations pursuant to this contract.

6. OFFICE: ATTORNEY shall have an office or make arrangements to use an office that is located within the East Valley to provide personal consultation with clients when requested and otherwise appropriate.

7. ACCEPTANCE AND DOCUMENTATION: ATTORNEY'S work shall be reviewed and approved by the Contract Administrator to determine acceptability.

7.1. Records. ATTORNEY shall retain and shall contractually require each substitute attorney to retain all data and other "records" relating to the performance of this Contract for a period of five years after the completion of the Contract.

7.2. ATTORNEY shall maintain current case logs and disposition records and shall provide monthly written reports containing sufficient and pertinent information requested as required by CITY for the purpose of audit and evaluation of ATTORNEY'S performance under this Agreement. The report for the previous month shall be submitted by ATTORNEY to the Contract Administrator no later than the tenth day of each month. The monthly report shall take the form of the attached as shown in Addendum 1 of this contract. CITY reserves the right to revise the information required on and the format of these reports and addendum forms at any time.

7.3. Audit. At any time during the term of this Contract and five (5) years thereafter, ATTORNEY'S or any substitute attorney's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the ATTORNEY shall produce a legible copy of any or all such records.

8. COMPENSATION: For performance of the duties and responsibilities set forth in this agreement, ATTORNEY shall receive compensation at the rate of Forty-Five Dollars ($45) per

hour. Attorney shall submit monthly billings by case and hours in sufficient detail to allow the Presiding City Magistrate to audit the statement as to the reasonableness of the time billed. The determination of the Presiding City Magistrate shall be final.

8.1. Attorney shall receive compensation until completion of the cases assigned through June 30,2016.

8.2. Attorney shall also receive as compensation an administrative fee in the amount of $150.00 for each month attorney performs services, or June 30, 2016 whichever comes first.

8.3. The total amount payable to ATTORNEY for the services rendered pursuant to this Contract shall not exceed $50,000.00, provided, however, the Contract Administrator may, for good cause, approve a contract amendment increasing the Contract amount by ten percent (10%).

8.4. CHANDLER will be responsible for fees for expert witnesses up to a maximum of $500.00 per year, with the $500.00 figure exceeded only where appointment of such a witness is ordered by the Court.

8.5. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

8.6. Taxes. ATTORNEY shall be solely responsible for any and all tax obligations, which may result out of the ATTORNEY'S performance of this Contract. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by ATTORNEY.

9. TERM: The term of this Contract is one year, provided ATTORNEY shall continue to provide representation to all defendants assigned prior to June 30, 2016, and shall continue to receive payment of the hourly rate for such services in accordance with the terms of this Contract, until completion of all such cases. The Contract Administrator is authorized to approve and execute, on behalf of the City, up to three, one-year extensions to this Contract, on the same terms and conditions.

10. CITY'S CONTRACTUAL REMEDIES:

10.1. Right to Assurance. If the City in good faith has reason to believe that ATTORNEY does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that ATTORNEY give a written assurance of intent to perform. Failure by ATTORNEY to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

10.2. Non-exclusive Remedies. The rights and the remedies of the City under this Contract are not exclusive.

10.3. Right of Offset. The City shall be entitled to offset against any sums due ATTORNEY, any expenses or costs incurred by the City, or damages assessed by the City concerning the ATTORNEY'S non-conforming performance or failure to perform the Contract, including expenses to bring in substitute counsel and other costs and damages incurred by CITY.

11. TERMINATION:

11.1. Termination for Convenience. Either party may terminate this Agreement or any part thereof for its sole convenience with sixty (60) days written notice. In the event of such termination, ATTORNEY shall immediately stop all work hereunder. As compensation in full for services performed to the date of such termination, ATTORNEY shall receive the hourly rate for all hours worked.

11.2. Termination for Cause. CITY may, upon written notice, terminate this Agreement for ATTORNEY'S failure to comply with the terms of this Agreement.

11.3. Cancellation for Conflict of Interest. ATTORNEY warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in ATTORNEY'S proposal to the CITY. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when ATTORNEY receives written notice of the cancellation unless the notice specifies a later time.

11.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by ATTORNEY or a representative of ATTORNEY to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by ATTORNEY.

11.5. Suspension or Debarment. CITY may, by written notice to the ATTORNEY, immediately terminate this Contract if CITY determines that ATTORNEY has been disbarred, suspended or otherwise lawfully prohibited from practicing law If ATTORNEY becomes suspended or disbarred, ATTORNEY shall immediately notify CITY.

11.6. Continuation of Performance Through Termination. The ATTORNEY shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

11.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

12. DISPUTE RESOLUTION:

12.1. Alternative Dispute Resolution. The parties hereby agree that there shall be a sixty (60) day moratorium on litigation commencing on the day that a claim is filed by CONTRACTOR

pursuant to A.R.S. § 12-821.01 during which time the parties will negotiate in good faith to resolve the dispute and evaluate the viability of pursuing alternative dispute resolution procedures such as mediation and arbitration.

12.2. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

12.3. Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

12.4. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication

13. INDEMNIFICATION: To the fullest extent permitted by law, ATTORNEY shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, judges, magistrates, and employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from ATTORNEY'S work or services. ATTORNEY'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of ATTORNEY, anyone directly or indirectly employed by them or anyone for whose acts ATTORNEY may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

14. INSURANCE: Throughout the term of the contract, ATTORNEY shall maintain professional liability insurance in minimum amounts of $500,000 per specific claim and $500,000 per aggregate claim per occurrence made under the policy of insurance. Proof of coverage and effective dates thereon shall be submitted to the Presiding City Magistrate, 200 East Chicago, Chandler, Arizona 85225, within ten days of the effective day of this Agreement.

15. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

RECEIVED
CHANDLER MUNICIPAL COURT
2015 JUN -8 PM 1:15

In the case of the CITY		In the case of the ATTORNEY	
Contract Administrator:	R. Michael Traynor	Firm Name:	Silva Law Firm, P.C.
Contact:		Contact:	Scott C. Silva
Mailing Address:	P.O. Box 4008/MS-302	Address:	90 S. Kyrene Rd., Ste. 1
Physical Address:	200 E. Chicago St.	City, State, Zip	Chandler, AZ, 85226
City, State, Zip	Chandler, AZ 85244	Phone:	(480) 456-1985
Phone:	480-782-4740	FAX:	
FAX:	480-782-4752		

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

16. CONFLICT OF INTEREST: No Conflict: ATTORNEY stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

17. WAIVER OF LIENS: ATTORNEY expressly waives any and all Attorney liens that may arise in the course of performance under this AGREEMENT.

18. COMPLIANCE WITH APPLICABLE LAWS: CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

I. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

II. A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

III. The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

IV. The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

V. The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or

effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

VI. In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.

VII. In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

19. GENERAL TERMS:

19.1. Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

19.2. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

19.3. All agreements shall be interpreted to avoid questions of unethical conduct by ATTORNEY OR CHANDLER.

19.4. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

19.5. ATTORNEY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap or national origin. ATTORNEY shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex or national origin.

19.6. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

19.7. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

19.8. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the ATTORNEY are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the ATTORNEY shall not be entitled to any claim under this Contract based on such changes.

19.9. Independent Contractor. The ATTORNEY under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

19.10. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of

the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

19.11. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this _____ day of June 2015.

FOR THE CITY OF CHANDLER

_____
MAYOR

FOR THE ATTORNEY

By: _____
Signature

APPROVED AS TO FORM:

_____
City Attorney

ATTEST: If Corporation

_____
Secretary

ATTEST:

_____
City Clerk SEAL

CITY OF CHANDLER PUBLIC DEFENDER SERVICES AGREEMENT

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3. ALLOWABLE CASELOAD: ATTORNEY'S Municipal Court contract caseload shall not exceed 300 misdemeanor cases per year, except at the request of and/or with the express permission of the Contract Administrator. ATTORNEY agrees that s/he will not accept representation of clients, other than indigents represented pursuant to this Contract, to the extent that such representation would increase his/her caseload beyond the guidelines set forth in State of Arizona vs. Joe U. Smith, 140 Arizona 355, 681 P.2d 1374 (1984). On cases that ATTORNEY views as unusually complicated, ATTORNEY may make a written request to the Contract Administrator, requesting said case to be counted as more than one case toward ATTORNEY'S 300 caseload limit. Final determination shall be made by the Contract Administrator. At no time shall ATTORNEY'S private practice caseload reach such a level, during his service as Public Defender, so as to jeopardize ATTORNEY'S ability under State vs. Smith to complete the 300 Municipal Court cases specified in this agreement.

3.1. Under the guidelines of the aforementioned case, ATTORNEY'S caseload shall be reviewed quarterly during the course of the contract to evaluate the number and complexity of cases assigned during the quarter, the amount of time spent on those cases and ATTORNEY'S professional competency to handle the caseload assigned in accordance with the Arizona Rules of Professional Responsibility (DR 6-101 and 7- 101, Rules of the Supreme Court, 17A A.R.S.) and the American Bar Association Standards (Standards 4-1.2 an 5-4.3), as cited in State of Arizona vs. Joe U. Smith. Said review may include CHANDLER staff consultation with CHANDLER Municipal Court Magistrates and ATTORNEY, as necessary to fairly evaluate his compliance with the terms of the contract.

4. ASSIGNMENT OF CASES: CHANDLER Municipal Court shall determine the assignment of all indigent cases to ATTORNEY. **Although CITY anticipates that ATTORNEY will be assigned a substantial number of cases, the total fees for cases assigned to ATTORNEY by the Court in any one-year contract term will not exceed Fifty Thousand Dollars ($50,000.00). ATTORNEY is not guaranteed any minimum amount of work nor any cases at all. ATTORNEY is aware that there is more than one ATTORNEY who has been awarded a Public Defender Contract for this type of work. CITY reserves the right and will assign cases based on ability of the ATTORNEY to meet CITY's calendars and schedule and the ATTORNEY'S expertise in relation to each case.**

5. SUSPENSION OF INDIGENT APPOINTMENTS:

5.1. Should ATTORNEY experience an indigent caseload that prevents ATTORNEY from giving effective assistance of counsel to each client, then in that event, ATTORNEY shall make a Motion to the Court for a suspension of indigent appointments until such congestion clears.

5.2. The Court, upon receipt of said Motion shall set a date for hearing not later than five (5) days from receipt of said Motion. Should the Court find at such hearing that the indigent caseload is excessive, and is adversely interfering with ATTORNEY'S ability to give effective legal assistance, the Court, in the interest of justice, may suspend further indigent appointments to ATTORNEY for a period not to exceed 30 days.

5.3. During such suspension, the Court shall appoint other counsel to represent indigents.

5.4. It shall be the obligation of ATTORNEY to notify the Court immediately upon determination that the case congestion has cleared so that appointments may be reinstated to said ATTORNEY.

5.5. During the period of suspension, the ATTORNEY shall notify the Court in writing every Monday (or Tuesday in the event Monday is a legal holiday) as to the status of the caseload and congestion.

5.6. At the expiration of any suspension period ordered by the Court, or earlier, if so notified by ATTORNEY, the Court shall again conduct a hearing for the purpose of determining whether such suspension should be lifted or a further suspension of appointments not to exceed thirty (30) days should be granted. Such suspension, affects only the appointment of new clients to ATTORNEY, and in no other way releases either party from other duties or obligations pursuant to this contract.

6. OFFICE: ATTORNEY shall have an office or make arrangements to use an office that is located within the East Valley to provide personal consultation with clients when requested and otherwise appropriate.

7. ACCEPTANCE AND DOCUMENTATION: ATTORNEY'S work shall be reviewed and approved by the Contract Administrator to determine acceptability.

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7.2. ATTORNEY shall maintain current case logs and disposition records and shall provide monthly written reports containing sufficient and pertinent information requested as required by CITY for the purpose of audit and evaluation of ATTORNEY'S performance under this Agreement. The report for the previous month shall be submitted by ATTORNEY to the Contract Administrator no later than the tenth day of each month. The monthly report shall take the form of the attached as shown in Addendum 1 of this contract. CITY reserves the right to revise the information required on and the format of these reports and addendum forms at any time.

7.3. Audit. At any time during the term of this Contract and five (5) years thereafter, ATTORNEY'S or any substitute attorney's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the ATTORNEY shall produce a legible copy of any or all such records.

8. COMPENSATION: For performance of the duties and responsibilities set forth in this agreement, ATTORNEY shall receive compensation at the rate of Forty-Five Dollars ($45) per

hour. Attorney shall submit monthly billings by case and hours in sufficient detail to allow the Presiding City Magistrate to audit the statement as to the reasonableness of the time billed. The determination of the Presiding City Magistrate shall be final.

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8.2. Attorney shall also receive as compensation an administrative fee in the amount of $150.00 for each month attorney performs services, or June 30, 2016 whichever comes first.

8.3. The total amount payable to ATTORNEY for the services rendered pursuant to this Contract shall not exceed $50,000.00, provided, however, the Contract Administrator may, for good cause, approve a contract amendment increasing the Contract amount by ten percent (10%).

8.4. CHANDLER will be responsible for fees for expert witnesses up to a maximum of $500.00 per year, with the $500.00 figure exceeded only where appointment of such a witness is ordered by the Court.

8.5. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

8.6. Taxes. ATTORNEY shall be solely responsible for any and all tax obligations, which may result out of the ATTORNEY'S performance of this Contract. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by ATTORNEY.

9. TERM: The term of this Contract is one year, provided ATTORNEY shall continue to provide representation to all defendants assigned prior to June 30, 2016, and shall continue to receive payment of the hourly rate for such services in accordance with the terms of this Contract, until completion of all such cases. The Contract Administrator is authorized to approve and execute, on behalf of the City, up to three, one-year extensions to this Contract, on the same terms and conditions.

10. CITY'S CONTRACTUAL REMEDIES:

10.1. Right to Assurance. If the City in good faith has reason to believe that ATTORNEY does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that ATTORNEY give a written assurance of intent to perform. Failure by ATTORNEY to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

10.2. Non-exclusive Remedies. The rights and the remedies of the City under this Contract are not exclusive.

10.3. Right of Offset. The City shall be entitled to offset against any sums due ATTORNEY, any expenses or costs incurred by the City, or damages assessed by the City concerning the ATTORNEY'S non-conforming performance or failure to perform the Contract, including expenses to bring in substitute counsel and other costs and damages incurred by CITY.

11. TERMINATION:

11.1. Termination for Convenience. Either party may terminate this Agreement or any part thereof for its sole convenience with sixty (60) days written notice. In the event of such termination, ATTORNEY shall immediately stop all work hereunder. As compensation in full for services performed to the date of such termination, ATTORNEY shall receive the hourly rate for all hours worked.

11.2. Termination for Cause. CITY may, upon written notice, terminate this Agreement for ATTORNEY'S failure to comply with the terms of this Agreement.

11.3. Cancellation for Conflict of Interest. ATTORNEY warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in ATTORNEY'S proposal to the CITY. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when ATTORNEY receives written notice of the cancellation unless the notice specifies a later time.

11.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by ATTORNEY or a representative of ATTORNEY to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by ATTORNEY.

11.5. Suspension or Debarment. CITY may, by written notice to the ATTORNEY, immediately terminate this Contract if CITY determines that ATTORNEY has been disbarred, suspended or otherwise lawfully prohibited from practicing law If ATTORNEY becomes suspended or disbarred, ATTORNEY shall immediately notify CITY.

11.6. Continuation of Performance Through Termination. The ATTORNEY shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

11.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

12. DISPUTE RESOLUTION:

12.1. Alternative Dispute Resolution. The parties hereby agree that there shall be a sixty (60) day moratorium on litigation commencing on the day that a claim is filed by CONTRACTOR

pursuant to A.R.S. § 12-821.01 during which time the parties will negotiate in good faith to resolve the dispute and evaluate the viability of pursuing alternative dispute resolution procedures such as mediation and arbitration.

12.2. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

12.3. Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

12.4. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication

13. INDEMNIFICATION: To the fullest extent permitted by law, ATTORNEY shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, judges, magistrates, and employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from ATTORNEY'S work or services. ATTORNEY'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of ATTORNEY, anyone directly or indirectly employed by them or anyone for whose acts ATTORNEY may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

14. INSURANCE: Throughout the term of the contract, ATTORNEY shall maintain professional liability insurance in minimum amounts of $500,000 per specific claim and $500,000 per aggregate claim per occurrence made under the policy of insurance. Proof of coverage and effective dates thereon shall be submitted to the Presiding City Magistrate, 200 East Chicago, Chandler, Arizona 85225, within ten days of the effective day of this Agreement.

15. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY		In the case of the ATTORNEY	
Contract Administrator:	R. Michael Traynor	Firm Name:	Michael J. Smith
Contact:		Contact:	
Mailing Address:	P.O. Box 4008/MS-302	Address:	2340 W. Ray Rd., Ste. 1
Physical Address:	200 E. Chicago St.	City, State, Zip	Chandler, AZ, 85224
City, State, Zip	Chandler, AZ 85244	Phone:	(480) 491-9750
Phone:	480-782-4740	FAX:	
FAX:	480-782-4752		

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

16. CONFLICT OF INTEREST: No Conflict: ATTORNEY stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

17. WAIVER OF LIENS: ATTORNEY expressly waives any and all Attorney liens that may arise in the course of performance under this AGREEMENT.

18. COMPLIANCE WITH APPLICABLE LAWS: CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

I. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

II. A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

III. The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

IV. The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

V. The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or

effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

VI. In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.

VII. In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

19. GENERAL TERMS:

19.1. Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

19.2. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

19.3. All agreements shall be interpreted to avoid questions of unethical conduct by ATTORNEY OR CHANDLER.

19.4. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

19.5. ATTORNEY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap or national origin. ATTORNEY shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex or national origin.

19.6. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

19.7. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

19.8. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the ATTORNEY are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the ATTORNEY shall not be entitled to any claim under this Contract based on such changes.

19.9. Independent Contractor. The ATTORNEY under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

19.10. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of

the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

19.11. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this _____ day of June 2015.

FOR THE CITY OF CHANDLER

_____
MAYOR

APPROVED AS TO FORM:

_____
City Attorney

ATTEST:

_____
City Clerk SEAL

FOR THE ATTORNEY

By: _____
Signature

ATTEST: If Corporation

_____
Secretary

CITY OF CHANDLER PUBLIC DEFENDER SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 9th day of June 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Maria Gonzalez, hereinafter referred to as "ATTORNEY" or "CONTRACTOR".

WHEREAS, CITY desires to provide counsel for representation of indigent defendants in the Chandler Municipal Court; and

WHEREAS, all attorneys in the ATTORNEY'S firm are Attorneys at Law, licensed to practice in the State of Arizona and ATTORNEY represents that all attorneys in ATTORNEY'S firm have expertise and are qualified to provide such representation as described in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. Contract Administrator. ATTORNEY shall act under the authority and approval of the Presiding City Magistrate of the Chandler Municipal Court/designee (Contract Administrator), to provide the services required by this Agreement.

2. SCOPE OF WORK: This is a personal service contract. ATTORNEY shall represent indigent defendants assigned to ATTORNEY after July 1, 2015 by a Magistrate of the Chandler Municipal Court.

2.1. On any day that the Chandler Courts are open ATTORNEY may be required to appear in any division of the Court, as determined by the Court schedule. The Court Schedule will not be changed arbitrarily and without prior consideration of ATTORNEY'S schedule.

2.2. ATTORNEY shall prepare for and appear at all court proceedings pertaining to assigned defendants, including but not limited to, pretrial conferences, motions, jury and non-jury trials, evidentiary hearings, sentence reviews, revocation of probation hearings, special hearings, oral arguments, sentencings, order to show cause hearings, appeal proceedings, and special actions, as well as, appeals to higher courts.

2.3. ATTORNEY will not be required to be present at arraignments except where the defendant requests appointment of counsel and qualifies for a Public Defender. In these instances, the arraignment will be continued until the time of a pretrial hearing, when ATTORNEY shall be present.

2.4. Once appointed, ATTORNEY shall represent each defendant throughout all stages of the proceedings, including appeals and other appropriate post conviction relief, until ATTORNEY is relieved from the case by the Court. No substitution of counsel shall be allowed without prior arrangement with the Contract Administrator.

2.5. ATTORNEY is responsible for providing personal consultation with clients prior to pretrial disposition conferences when requested or otherwise appropriate. ATTORNEY is required to maintain personal contact with defendant until the case is terminated and is required to use reasonable diligence in notifying defendant of official court action resulting from defendant's

nonappearance at a scheduled court session (proof of such notice must be supplied upon request).

2.6. ATTORNEY shall conduct the defense of all indigent defendants in conformance with the minimum standards and requirements set forth in State of Arizona vs. Michael Steven Watson, Arizona Supreme Court, 134 Ariz. 1, 653 P2d. 351 (1982); and in State of Arizona vs. Joe U. Smith, Arizona Supreme Court, decided April 3, 1984, 6027-PR; and in State of Arizona vs. Billy Don Lee, Arizona Supreme Court, decided September 25, 1984, 6107-PR.

2.7. ATTORNEY shall provide substitute counsel when unable for any reason to appear in Court or at events described in paragraph 2.6 above. Substitute counsel shall not be used routinely. In general, substitute counsel should be used only when ATTORNEY cannot serve as public defender because of illness or scheduled vacation, or prior legal commitment of precedence in another court. ATTORNEY shall provide the Contract Administrator with the names, addresses and telephone numbers of substitute counsel who will be responsible for providing public defender services. No counsel shall be offered as a substitute in performance of providing public defender services without the prior written consent of the Contract Administrator. Such consent shall not be arbitrarily or unreasonably withheld or withdrawn.

2.8. ATTORNEY shall not serve as Contract Public Defender in any other court while this agreement with CHANDLER is in force, if such service shall cause attorney's case load to exceed the minimum standards and requirements imposed by the Arizona Supreme Court as cited in paragraph 2.6.

2.9. CHANDLER Municipal Court will provide interpreters for non-English speaking defendants for all in court and pretrial proceedings. ATTORNEY shall provide, at his own expense, interpreters for all out-of-court matters.

2.10. ATTORNEY shall pay all costs incurred in the representation of indigent defendants assigned by the Court pursuant to this agreement including, but not limited to, office space, telephones, transportation, photographs (including photocopies of discoverable materials), photocopies, office supplies, office overhead, reports, secretarial services, and out-of-court interpreters. ATTORNEY will not be charged for photocopies of discoverable materials obtained from the Chandler City Prosecutor's Office.

2.11. In the event that a case involves two or more defendants or ATTORNEY declares a conflict of interest, a Magistrate may assign one or more defendants to another Public Defender.

2.12. CITY will provide required forms for defendants to prepare and submit to the Chandler Municipal Court to determine a defendant's indigency. ATTORNEY shall not be asked to advise clients until the Chandler Municipal Court has determined that they are indigent and are entitled to public defender representation. ATTORNEY may request a review of the indigence of any defendant assigned to him. If a Magistrate makes a determination of non-indigence of such a defendant and allows ATTORNEY to withdraw, ATTORNEY shall not represent that defendant in that case for a fee. ATTORNEY shall not solicit his public defender clients for future representation for a fee.

2.13. ATTORNEY agrees that court settings in the CHANDLER Municipal Court are to take precedence over civil cases and all other criminal cases in other courts which do not have precedence as provided by the Arizona Rules of Criminal Procedure

2.14. Non-Discrimination. ATTORNEY shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.15. Licenses. ATTORNEY shall maintain in current status all State Bar licenses required for to perform this Contract.

2.16. Advertising, Publishing and Promotion of Contract. ATTORNEY shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.17. Compliance With Applicable Laws. ATTORNEY shall comply with all applicable Federal, state and local laws.

3. ALLOWABLE CASELOAD: ATTORNEY'S Municipal Court contract caseload shall not exceed 300 misdemeanor cases per year, except at the request of and/or with the express permission of the Contract Administrator. ATTORNEY agrees that s/he will not accept representation of clients, other than indigents represented pursuant to this Contract, to the extent that such representation would increase his/her caseload beyond the guidelines set forth in State of Arizona vs. Joe U. Smith, 140 Arizona 355, 681 P.2d 1374 (1984). On cases that ATTORNEY views as unusually complicated, ATTORNEY may make a written request to the Contract Administrator, requesting said case to be counted as more than one case toward ATTORNEY'S 300 caseload limit. Final determination shall be made by the Contract Administrator. At no time shall ATTORNEY'S private practice caseload reach such a level, during his service as Public Defender, so as to jeopardize ATTORNEY'S ability under State vs. Smith to complete the 300 Municipal Court cases specified in this agreement.

3.1. Under the guidelines of the aforementioned case, ATTORNEY'S caseload shall be reviewed quarterly during the course of the contract to evaluate the number and complexity of cases assigned during the quarter, the amount of time spent on those cases and ATTORNEY'S professional competency to handle the caseload assigned in accordance with the Arizona Rules of Professional Responsibility (DR 6-101 and 7- 101, Rules of the Supreme Court, 17A A.R.S.) and the American Bar Association Standards (Standards 4-1.2 an 5-4.3), as cited in State of Arizona vs. Joe U. Smith. Said review may include CHANDLER staff consultation with CHANDLER Municipal Court Magistrates and ATTORNEY, as necessary to fairly evaluate his compliance with the terms of the contract.

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5.1. Should ATTORNEY experience an indigent caseload that prevents ATTORNEY from giving effective assistance of counsel to each client, then in that event, ATTORNEY shall make a Motion to the Court for a suspension of indigent appointments until such congestion clears.

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5.6. At the expiration of any suspension period ordered by the Court, or earlier, if so notified by ATTORNEY, the Court shall again conduct a hearing for the purpose of determining whether such suspension should be lifted or a further suspension of appointments not to exceed thirty (30) days should be granted. Such suspension, affects only the appointment of new clients to ATTORNEY, and in no other way releases either party from other duties or obligations pursuant to this contract.

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8.5. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

8.6. Taxes. ATTORNEY shall be solely responsible for any and all tax obligations, which may result out of the ATTORNEY'S performance of this Contract. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by ATTORNEY.

9. TERM: The term of this Contract is one year, provided ATTORNEY shall continue to provide representation to all defendants assigned prior to June 30, 2016, and shall continue to receive payment of the hourly rate for such services in accordance with the terms of this Contract, until completion of all such cases. The Contract Administrator is authorized to approve and execute, on behalf of the City, up to three, one-year extensions to this Contract, on the same terms and conditions.

10. CITY'S CONTRACTUAL REMEDIES:

10.1. Right to Assurance. If the City in good faith has reason to believe that ATTORNEY does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that ATTORNEY give a written assurance of intent to perform. Failure by ATTORNEY to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

10.2. Non-exclusive Remedies. The rights and the remedies of the City under this Contract are not exclusive.

10.3. Right of Offset. The City shall be entitled to offset against any sums due ATTORNEY, any expenses or costs incurred by the City, or damages assessed by the City concerning the ATTORNEY'S non-conforming performance or failure to perform the Contract, including expenses to bring in substitute counsel and other costs and damages incurred by CITY.

11. TERMINATION:

11.1. Termination for Convenience. Either party may terminate this Agreement or any part thereof for its sole convenience with sixty (60) days written notice. In the event of such termination, ATTORNEY shall immediately stop all work hereunder. As compensation in full for services performed to the date of such termination, ATTORNEY shall receive the hourly rate for all hours worked.

11.2. Termination for Cause. CITY may, upon written notice, terminate this Agreement for ATTORNEY'S failure to comply with the terms of this Agreement.

11.3. Cancellation for Conflict of Interest. ATTORNEY warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in ATTORNEY'S proposal to the CITY. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when ATTORNEY receives written notice of the cancellation unless the notice specifies a later time.

11.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by ATTORNEY or a representative of ATTORNEY to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by ATTORNEY.

11.5. Suspension or Debarment. CITY may, by written notice to the ATTORNEY, immediately terminate this Contract if CITY determines that ATTORNEY has been disbarred, suspended or otherwise lawfully prohibited from practicing law If ATTORNEY becomes suspended or disbarred, ATTORNEY shall immediately notify CITY.

11.6. Continuation of Performance Through Termination. The ATTORNEY shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

11.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

12. DISPUTE RESOLUTION:

12.1. Alternative Dispute Resolution. The parties hereby agree that there shall be a sixty (60) day moratorium on litigation commencing on the day that a claim is filed by CONTRACTOR

pursuant to A.R.S. § 12-821.01 during which time the parties will negotiate in good faith to resolve the dispute and evaluate the viability of pursuing alternative dispute resolution procedures such as mediation and arbitration.

12.2. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

12.3. Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

12.4. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication

13. INDEMNIFICATION: To the fullest extent permitted by law, ATTORNEY shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, judges, magistrates, and employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from ATTORNEY'S work or services. ATTORNEY'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of ATTORNEY, anyone directly or indirectly employed by them or anyone for whose acts ATTORNEY may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

14. INSURANCE: Throughout the term of the contract, ATTORNEY shall maintain professional liability insurance in minimum amounts of $500,000 per specific claim and $500,000 per aggregate claim per occurrence made under the policy of insurance. Proof of coverage and effective dates thereon shall be submitted to the Presiding City Magistrate, 200 East Chicago, Chandler, Arizona 85225, within ten days of the effective day of this Agreement.

15. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY		In the case of the ATTORNEY	
Contract Administrator:	R. Michael Traynor	Firm Name:	The Gonzalez Law Firm, PLLC
Contact:		Contact:	Maria Gonzalez
Mailing Address:	P.O. Box 4008/MS-302	Address:	290 W. Chandler Heights Rd., Ste. 1
Physical Address:	200 E. Chicago St.	City, State, Zip	Chandler, AZ, 85248
City, State, Zip	Chandler, AZ 85244	Phone:	(480)
Phone:	480-782-4740	FAX:	
FAX:	480-782-4752		

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

16. CONFLICT OF INTEREST: No Conflict: ATTORNEY stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

17. WAIVER OF LIENS: ATTORNEY expressly waives any and all Attorney liens that may arise in the course of performance under this AGREEMENT.

18. COMPLIANCE WITH APPLICABLE LAWS: CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

I. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

II. A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

III. The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

IV. The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

V. The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

VI. In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.

VII. In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

19. GENERAL TERMS:

19.1. Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

19.2. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

19.3. All agreements shall be interpreted to avoid questions of unethical conduct by ATTORNEY OR CHANDLER.

19.4. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

19.5. ATTORNEY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap or national origin. ATTORNEY shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex or national origin.

19.6. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

19.7. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

19.8. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the ATTORNEY are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the ATTORNEY shall not be entitled to any claim under this Contract based on such changes.

19.9. Independent Contractor. The ATTORNEY under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

19.10. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

19.11. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this _____ day of June 2015.

FOR THE CITY OF CHANDLER

_____
MAYOR

FOR THE ATTORNEY

By: _____
Signature

APPROVED AS TO FORM:

_____
City Attorney

ATTEST: If Corporation

_____
Secretary

ATTEST:

_____
City Clerk

SEAL

CITY OF CHANDLER PUBLIC DEFENDER SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of June 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Alex D. Gonzalez, hereinafter referred to as "ATTORNEY" or "CONTRACTOR".

WHEREAS, CITY desires to provide counsel for representation of indigent defendants in the Chandler Municipal Court; and

WHEREAS, all attorneys in the ATTORNEY'S firm are Attorneys at Law, licensed to practice in the State of Arizona and ATTORNEY represents that all attorneys in ATTORNEY'S firm have expertise and are qualified to provide such representation as described in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. CONTRACT ADMINISTRATOR:

1.1. Contract Administrator. ATTORNEY shall act under the authority and approval of the Presiding City Magistrate of the Chandler Municipal Court/designee (Contract Administrator), to provide the services required by this Agreement.

2. SCOPE OF WORK: This is a personal service contract. ATTORNEY shall represent indigent defendants assigned to ATTORNEY after July 1, 2015 by a Magistrate of the Chandler Municipal Court.

2.1. On any day that the Chandler Courts are open ATTORNEY may be required to appear in any division of the Court, as determined by the Court schedule. The Court Schedule will not be changed arbitrarily and without prior consideration of ATTORNEY'S schedule.

2.2. ATTORNEY shall prepare for and appear at all court proceedings pertaining to assigned defendants, including but not limited to, pretrial conferences, motions, jury and non-jury trials, evidentiary hearings, sentence reviews, revocation of probation hearings, special hearings, oral arguments, sentencings, order to show cause hearings, appeal proceedings, and special actions, as well as, appeals to higher courts.

2.3. ATTORNEY will not be required to be present at arraignments except where the defendant requests appointment of counsel and qualifies for a Public Defender. In these instances, the arraignment will be continued until the time of a pretrial hearing, when ATTORNEY shall be present.

2.4. Once appointed, ATTORNEY shall represent each defendant throughout all stages of the proceedings, including appeals and other appropriate post conviction relief, until ATTORNEY is relieved from the case by the Court. No substitution of counsel shall be allowed without prior arrangement with the Contract Administrator.

2.5. ATTORNEY is responsible for providing personal consultation with clients prior to pretrial disposition conferences when requested or otherwise appropriate. ATTORNEY is required to maintain personal contact with defendant until the case is terminated and is required to use reasonable diligence in notifying defendant of official court action resulting from defendant's

nonappearance at a scheduled court session (proof of such notice must be supplied upon request).

2.6. ATTORNEY shall conduct the defense of all indigent defendants in conformance with the minimum standards and requirements set forth in State of Arizona vs. Michael Steven Watson, Arizona Supreme Court, 134 Ariz. 1, 653 P2d. 351 (1982); and in State of Arizona vs. Joe U. Smith, Arizona Supreme Court, decided April 3, 1984, 6027-PR; and in State of Arizona vs. Billy Don Lee, Arizona Supreme Court, decided September 25, 1984, 6107-PR.

2.7. ATTORNEY shall provide substitute counsel when unable for any reason to appear in Court or at events described in paragraph 2.6 above. Substitute counsel shall not be used routinely. In general, substitute counsel should be used only when ATTORNEY cannot serve as public defender because of illness or scheduled vacation, or prior legal commitment of precedence in another court. ATTORNEY shall provide the Contract Administrator with the names, addresses and telephone numbers of substitute counsel who will be responsible for providing public defender services. No counsel shall be offered as a substitute in performance of providing public defender services without the prior written consent of the Contract Administrator. Such consent shall not be arbitrarily or unreasonably withheld or withdrawn.

2.8. ATTORNEY shall not serve as Contract Public Defender in any other court while this agreement with CHANDLER is in force, if such service shall cause attorney's case load to exceed the minimum standards and requirements imposed by the Arizona Supreme Court as cited in paragraph 2.6.

2.9. CHANDLER Municipal Court will provide interpreters for non-English speaking defendants for all in court and pretrial proceedings. ATTORNEY shall provide, at his own expense, interpreters for all out-of-court matters.

2.10. ATTORNEY shall pay all costs incurred in the representation of indigent defendants assigned by the Court pursuant to this agreement including, but not limited to, office space, telephones, transportation, photographs (including photocopies of discoverable materials), photocopies, office supplies, office overhead, reports, secretarial services, and out-of-court interpreters. ATTORNEY will not be charged for photocopies of discoverable materials obtained from the Chandler City Prosecutor's Office.

2.11. In the event that a case involves two or more defendants or ATTORNEY declares a conflict of interest, a Magistrate may assign one or more defendants to another Public Defender.

2.12. CITY will provide required forms for defendants to prepare and submit to the Chandler Municipal Court to determine a defendant's indigency. ATTORNEY shall not be asked to advise clients until the Chandler Municipal Court has determined that they are indigent and are entitled to public defender representation. ATTORNEY may request a review of the indigence of any defendant assigned to him. If a Magistrate makes a determination of non-indigence of such a defendant and allows ATTORNEY to withdraw, ATTORNEY shall not represent that defendant in that case for a fee. ATTORNEY shall not solicit his public defender clients for future representation for a fee.

2.13. ATTORNEY agrees that court settings in the CHANDLER Municipal Court are to take precedence over civil cases and all other criminal cases in other courts which do not have precedence as provided by the Arizona Rules of Criminal Procedure

2.14. Non-Discrimination. ATTORNEY shall comply with State Executive Order No. 99-4 and all other applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.15. Licenses. ATTORNEY shall maintain in current status all State Bar licenses required for to perform this Contract.

2.16. Advertising, Publishing and Promotion of Contract. ATTORNEY shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the CITY.

2.17. Compliance With Applicable Laws. ATTORNEY shall comply with all applicable Federal, state and local laws.

3. ALLOWABLE CASELOAD: ATTORNEY'S Municipal Court contract caseload shall not exceed 300 misdemeanor cases per year, except at the request of and/or with the express permission of the Contract Administrator. ATTORNEY agrees that s/he will not accept representation of clients, other than indigents represented pursuant to this Contract, to the extent that such representation would increase his/her caseload beyond the guidelines set forth in State of Arizona vs. Joe U. Smith, 140 Arizona 355, 681 P.2d 1374 (1984). On cases that ATTORNEY views as unusually complicated, ATTORNEY may make a written request to the Contract Administrator, requesting said case to be counted as more than one case toward ATTORNEY'S 300 caseload limit. Final determination shall be made by the Contract Administrator. At no time shall ATTORNEY'S private practice caseload reach such a level, during his service as Public Defender, so as to jeopardize ATTORNEY'S ability under State vs. Smith to complete the 300 Municipal Court cases specified in this agreement.

3.1. Under the guidelines of the aforementioned case, ATTORNEY'S caseload shall be reviewed quarterly during the course of the contract to evaluate the number and complexity of cases assigned during the quarter, the amount of time spent on those cases and ATTORNEY'S professional competency to handle the caseload assigned in accordance with the Arizona Rules of Professional Responsibility (DR 6-101 and 7- 101, Rules of the Supreme Court, 17A A.R.S.) and the American Bar Association Standards (Standards 4-1.2 an 5-4.3), as cited in State of Arizona vs. Joe U. Smith. Said review may include CHANDLER staff consultation with CHANDLER Municipal Court Magistrates and ATTORNEY, as necessary to fairly evaluate his compliance with the terms of the contract.

4. ASSIGNMENT OF CASES: CHANDLER Municipal Court shall determine the assignment of all indigent cases to ATTORNEY. **Although CITY anticipates that ATTORNEY will be assigned a substantial number of cases, the total fees for cases assigned to ATTORNEY by the Court in any one-year contract term will not exceed Fifty Thousand Dollars ($50,000.00). ATTORNEY is not guaranteed any minimum amount of work nor any cases at all. ATTORNEY is aware that there is more than one ATTORNEY who has been awarded a Public Defender Contract for this type of work. CITY reserves the right and will assign cases based on ability of the ATTORNEY to meet CITY's calendars and schedule and the ATTORNEY'S expertise in relation to each case.**

5. SUSPENSION OF INDIGENT APPOINTMENTS:

5.1. Should ATTORNEY experience an indigent caseload that prevents ATTORNEY from giving effective assistance of counsel to each client, then in that event, ATTORNEY shall make a Motion to the Court for a suspension of indigent appointments until such congestion clears.

5.2. The Court, upon receipt of said Motion shall set a date for hearing not later than five (5) days from receipt of said Motion. Should the Court find at such hearing that the indigent caseload is excessive, and is adversely interfering with ATTORNEY'S ability to give effective legal assistance, the Court, in the interest of justice, may suspend further indigent appointments to ATTORNEY for a period not to exceed 30 days.

5.3. During such suspension, the Court shall appoint other counsel to represent indigents.

5.4. It shall be the obligation of ATTORNEY to notify the Court immediately upon determination that the case congestion has cleared so that appointments may be reinstated to said ATTORNEY.

5.5. During the period of suspension, the ATTORNEY shall notify the Court in writing every Monday (or Tuesday in the event Monday is a legal holiday) as to the status of the caseload and congestion.

5.6. At the expiration of any suspension period ordered by the Court, or earlier, if so notified by ATTORNEY, the Court shall again conduct a hearing for the purpose of determining whether such suspension should be lifted or a further suspension of appointments not to exceed thirty (30) days should be granted. Such suspension, affects only the appointment of new clients to ATTORNEY, and in no other way releases either party from other duties or obligations pursuant to this contract.

6. OFFICE: ATTORNEY shall have an office or make arrangements to use an office that is located within the East Valley to provide personal consultation with clients when requested and otherwise appropriate.

7. ACCEPTANCE AND DOCUMENTATION: ATTORNEY'S work shall be reviewed and approved by the Contract Administrator to determine acceptability.

7.1. Records. ATTORNEY shall retain and shall contractually require each substitute attorney to retain all data and other "records" relating to the performance of this Contract for a period of five years after the completion of the Contract.

7.2. ATTORNEY shall maintain current case logs and disposition records and shall provide monthly written reports containing sufficient and pertinent information requested as required by CITY for the purpose of audit and evaluation of ATTORNEY'S performance under this Agreement. The report for the previous month shall be submitted by ATTORNEY to the Contract Administrator no later than the tenth day of each month. The monthly report shall take the form of the attached as shown in Addendum 1 of this contract. CITY reserves the right to revise the information required on and the format of these reports and addendum forms at any time.

7.3. Audit. At any time during the term of this Contract and five (5) years thereafter, ATTORNEY'S or any substitute attorney's books and records shall be subject to audit by CITY to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the ATTORNEY shall produce a legible copy of any or all such records.

8. COMPENSATION: For performance of the duties and responsibilities set forth in this agreement, ATTORNEY shall receive compensation at the rate of Forty-Five Dollars ($45) per

hour. Attorney shall submit monthly billings by case and hours in sufficient detail to allow the Presiding City Magistrate to audit the statement as to the reasonableness of the time billed. The determination of the Presiding City Magistrate shall be final.

8.1. Attorney shall receive compensation until completion of the cases assigned through June 30,2016.

8.2. Attorney shall also receive as compensation an administrative fee in the amount of $150.00 for each month attorney performs services, or June 30, 2016 whichever comes first.

8.3. The total amount payable to ATTORNEY for the services rendered pursuant to this Contract shall not exceed $50,000.00, provided, however, the Contract Administrator may, for good cause, approve a contract amendment increasing the Contract amount by ten percent (10%).

8.4. CHANDLER will be responsible for fees for expert witnesses up to a maximum of $500.00 per year, with the $500.00 figure exceeded only where appointment of such a witness is ordered by the Court.

8.5. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

8.6. Taxes. ATTORNEY shall be solely responsible for any and all tax obligations, which may result out of the ATTORNEY'S performance of this Contract. The CITY shall have no obligation to pay any amounts for taxes, of any type, incurred by ATTORNEY.

9. TERM: The term of this Contract is one year, provided ATTORNEY shall continue to provide representation to all defendants assigned prior to June 30, 2016, and shall continue to receive payment of the hourly rate for such services in accordance with the terms of this Contract, until completion of all such cases. The Contract Administrator is authorized to approve and execute, on behalf of the City, up to three, one-year extensions to this Contract, on the same terms and conditions.

10. CITY'S CONTRACTUAL REMEDIES:

10.1. Right to Assurance. If the City in good faith has reason to believe that ATTORNEY does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that ATTORNEY give a written assurance of intent to perform. Failure by ATTORNEY to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

10.2. Non-exclusive Remedies. The rights and the remedies of the City under this Contract are not exclusive.

10.3. Right of Offset. The City shall be entitled to offset against any sums due ATTORNEY, any expenses or costs incurred by the City, or damages assessed by the City concerning the ATTORNEY'S non-conforming performance or failure to perform the Contract, including expenses to bring in substitute counsel and other costs and damages incurred by CITY.

11. TERMINATION:

11.1. Termination for Convenience. Either party may terminate this Agreement or any part thereof for its sole convenience with sixty (60) days written notice. In the event of such termination, ATTORNEY shall immediately stop all work hereunder. As compensation in full for services performed to the date of such termination, ATTORNEY shall receive the hourly rate for all hours worked.

11.2. Termination for Cause. CITY may, upon written notice, terminate this Agreement for ATTORNEY'S failure to comply with the terms of this Agreement.

11.3. Cancellation for Conflict of Interest. ATTORNEY warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the CITY has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in ATTORNEY'S proposal to the CITY. Pursuant to A.R.S. § 38-511, CITY may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when ATTORNEY receives written notice of the cancellation unless the notice specifies a later time.

11.4. Gratuities. CITY may, by written notice, terminate this Contract, in whole or in part, if CITY determines that employment or a Gratuity was offered or made by ATTORNEY or a representative of ATTORNEY to any officer or employee of CITY for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The CITY, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by ATTORNEY.

11.5. Suspension or Debarment. CITY may, by written notice to the ATTORNEY, immediately terminate this Contract if CITY determines that ATTORNEY has been disbarred, suspended or otherwise lawfully prohibited from practicing law If ATTORNEY becomes suspended or disbarred, ATTORNEY shall immediately notify CITY.

11.6. Continuation of Performance Through Termination. The ATTORNEY shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

11.7. No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

12. DISPUTE RESOLUTION:

12.1. Alternative Dispute Resolution. The parties hereby agree that there shall be a sixty (60) day moratorium on litigation commencing on the day that a claim is filed by CONTRACTOR

pursuant to A.R.S. § 12-821.01 during which time the parties will negotiate in good faith to resolve the dispute and evaluate the viability of pursuing alternative dispute resolution procedures such as mediation and arbitration.

12.2. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

12.3. Jurisdiction and Venue. The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.

12.4. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication

13. INDEMNIFICATION: To the fullest extent permitted by law, ATTORNEY shall defend, indemnify and hold harmless the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, judges, magistrates, and employees individually and collectively; from and against all losses, claims, suits, actions, payments and judgments, demands, expenses, damages, including consequential damages and loss of productivity, attorney's fees, defense costs, or actions of any kind and nature relating to, arising out of, or alleged to have resulted from ATTORNEY'S work or services. ATTORNEY'S duty to defend, hold harmless and indemnify the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees shall arise in connection with any claim or amounts arising or recovered under Worker Compensation Laws, damage, loss or expenses relating to, arising out of or alleged to have resulted from any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of ATTORNEY, anyone directly or indirectly employed by them or anyone for whose acts ATTORNEY may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the City of Chandler. IT IS THE INTENTION OF THE PARTIES to this contract that the City of Chandler, its Mayor and Council, appointed boards and commissions, officials, officers, employees, individually and collectively, are to be indemnified against their own negligence unless and except their negligence is found to be the sole cause of the injury to persons or damages to property. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

14. INSURANCE: Throughout the term of the contract, ATTORNEY shall maintain professional liability insurance in minimum amounts of $500,000 per specific claim and $500,000 per aggregate claim per occurrence made under the policy of insurance. Proof of coverage and effective dates thereon shall be submitted to the Presiding City Magistrate, 200 East Chicago, Chandler, Arizona 85225, within ten days of the effective day of this Agreement.

15. NOTICES: All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract Administrator:	R. Michael Traynor
Contact:	
Mailing Address:	P.O. Box 4008/MS-302
Physical Address:	200 E. Chicago St.
City, State, Zip	Chandler, AZ 85244
Phone:	480-782-4740
FAX:	480-782-4752

In the case of the ATTORNEY

Firm Name:	Alex D. Gonzalez
Contact:	
Address:	2340 W. Ray Rd., Ste1
City, State, Zip	Chandler, AZ, 85224
Phone:	(480) 491-9750
FAX:	

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

16. CONFLICT OF INTEREST: No Conflict: ATTORNEY stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

17. WAIVER OF LIENS: ATTORNEY expressly waives any and all Attorney liens that may arise in the course of performance under this AGREEMENT.

18. COMPLIANCE WITH APPLICABLE LAWS: CONTRACTOR shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

I. Pursuant to the provisions of A.R.S. § 41-4401, the Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

II. A breach of the Contractor Immigration Warranty (Exhibit A) shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

III. The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

IV. The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verifications.

V. The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or

effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

VI. In accordance with A.R.S. §35-393.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Iran.

VII. In accordance with A.R.S. §35-391.06, the Contractor hereby certifies that the Offeror does not have scrutinized business operations in Sudan.

19. GENERAL TERMS:

19.1. Entire Agreement. This Agreement constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

19.2. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.

19.3. All agreements shall be interpreted to avoid questions of unethical conduct by ATTORNEY OR CHANDLER.

19.4. ATTORNEY shall not collect or receive any payment or remuneration from defendants assigned to ATTORNEY under this Agreement for services provided on the assigned cases.

19.5. ATTORNEY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap or national origin. ATTORNEY shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex or national origin.

19.6. Arizona Law. This Agreement shall be governed and interpreted according to the laws of the State of Arizona.

19.7. Assignment: Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the CITY.

19.8. Amendments. The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the ATTORNEY are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the ATTORNEY shall not be entitled to any claim under this Contract based on such changes.

19.9. Independent Contractor. The ATTORNEY under this Contract is an independent contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

19.10. No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of

the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

19.11. Authority: Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 7th day of June 2015.

FOR THE CITY OF CHANDLER

_____
MAYOR

FOR THE ATTORNEY

By: _____
Signature

APPROVED AS TO FORM:

_____
City Attorney

ATTEST: If Corporation

_____
Secretary

ATTEST:

_____
City Clerk SEAL