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BOISE, ID 83705

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WWW.IDCOUNTIES.ORG

Capital Crimes Defense Fund

Policies and Procedures

2020

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Governance and Management

Governance

Policy

It is the policy of the Idaho Association of Counties to uphold the legislative requirements of the Idaho Capital Crimes Defense Fund (CCDF) provided in Idaho Code Section [19-863A](#).

Policy Objectives

In criminal defense cases where the penalty of death is a legal possibility, the Idaho Association of Counties shall:

1. Organize and operate a fund in accordance with a joint power's agreement, as authorized by Idaho Code section [67-2326](#).
2. Assist the Board of Trustees in assessing voluntary contributions to the fund, fund management, and case management.

Management

Any Idaho county shall be permitted to participate in the activities of CCDF. The BOARD shall be comprised of seven (7) public officials, all of whom shall be county commissioners. The electoral boundaries shall be organized as follows:

Each member of the BOARD shall be a commissioner elected from a COUNTY signatory to the Joint Powers Agreement (JPA) and shall serve for a period of two (2) years, or until a successor is elected or appointed. For purposes of this Agreement, a "Board Seat" shall be defined as the position on the CCDF Board provided to and occupied by the representative duly elected or appointed from a District as outlined in this Section.

Nominations by COUNTIES shall be submitted to CCDF no later than August 15th each year. The Board of County Commissioners of each COUNTY may cast a ballot for a District member of the BOARD, to be received by CCDF at a time and place specified by the Board or Administrator prior to the Board's September meeting each year. Each member of the BOARD shall serve from the date of the first BOARD meeting in the succeeding year through the conclusion of his/her term when a succeeding BOARD member is seated. Each district including the at-large member, in addition to the election of its board member, may elect an alternate to serve in the place of the primary board member.

The seven (7) county commissioners composing the BOARD shall be elected one each from the districts within the state of Idaho and one at-large as follows:

- District 1: Counties of Boundary, Bonner, Kootenai, Benewah, and Shoshone.
- District 2: Counties of Latah, Clearwater, Nez Perce, Lewis, and Idaho.
- District 3: Counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, and Owyhee.
- District 4: Counties of Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls, and Cassia.
- District 5: Counties of Bingham, Power, Bannock, Caribou, Oneida, Franklin, and Bear Lake.
- District 6: Counties of Lemhi, Custer, Clark, Fremont, Butte, Jefferson, Madison, Teton, and Bonneville.
- At-Large: All of the counties within the state of Idaho.

Purpose

CCDF funding is provided to help cover the costs of criminal defense in cases where the penalty of death is a legal possibility. Reimbursable services may include but shall not be limited to trial preparation, mitigation preparation, cost of investigators, experts, or other reasonable defense needs.

The following steps or criteria must be met in order for a county participating in the Joint Powers Agreement to access the CCDF:

- The crime for which the death penalty is sought must have occurred on or after October 1, 1998.
- A county prosecutor must declare that he or she will seek the death penalty no later than sixty days after entry of a plea by the defendant pursuant Idaho Code Section [18-4004A](#).
- The clerk of a county with a capital case and needing assistance from CCDF, shall submit an application to CCDF.
- The clerk shall provide to the CCDF a copy of the prosecutor's notice of intent to seek the death penalty at the time of notice to the defendant.
- Counties shall pay a \$10,000 deductible for trial costs. In the case of multiple defendants, the deductible and trial costs apply to each defendant.

- [Idaho Criminal Rule 44.3](#) enables the judge to appoint one (1) or two (2) qualified attorneys to represent the defendant in death penalty cases. After the deductible is paid, the CCDF will pay the costs for the “lead counsel” and all other related trial costs including, but not limited to, preparation, investigation, forensics, mitigation, etc.
- The board of county commissioners, county clerk, prosecuting attorney, and defense counsel should work closely to ensure that information is provided to the CCDF in order that reimbursement can be made to the counties. Claims are to be submitted to the CCDF after approval by the board of county commissioners. (Clerks please note that this will work similarly to the CAT program.)
- Notice will be given to the CCDF when the death penalty is removed from the case. An audit will be completed when the case is closed.

There is no direct relationship between the CCDF and the office of the State Appellate Public Defender (SAPD) created in Idaho Code Sections [19-867](#) through [19-872](#) other than counties must participate in the CCDF in order to access the services of the State Appellate Public Defender. There is also no direct relationship between the SAPD and the Attorney General’s office. The Attorney General’s office handles all appeals for the prosecution.

- The State Appellate Public Defender will handle ALL FELONY APPEALS, appeals from the district court in post-conviction relief proceedings, appeals from the district court in certain habeas corpus proceedings and post-conviction relief proceedings in death penalty cases. [Idaho Code Section 19-870](#)

If a case is converted from a capital case to a non-capital case prior to trial, the CCDF shall pay only those amounts incurred prior to conversion to a non-capital case.



Finance

Assessments

The BOARD shall establish annual contribution amounts for COUNTIES not later than April 1 of each year. The CCDF may change contributions annually charged to any COUNTY to reflect changes in expense resulting from caseloads or complexity or for other reasons established by the BOARD. Additional contributions may be charged when necessary to maintain program funding. Any additional contribution charged by the BOARD may be paid in the current fiscal year by the COUNTY or in the next succeeding fiscal year with that year's regular contribution.

Any delinquent payments may incur interest that shall be equivalent to the prime interest rate on the date of delinquency of the financial institution that invests the majority of the CCDF funds. Payments will be considered delinquent thirty (30) days following the due date. Coverage and other services shall not continue for COUNTIES that are delinquent in payment of premiums according to the terms of this Agreement.

Enrollment

COUNTIES agree to the admission of future COUNTIES in accordance with provisions of the JOINT POWERS AGREEMENT and acknowledge that they shall have no right to object to the addition of such COUNTIES provided they are admitted in accordance with the terms hereof. A non-participating COUNTY may enter into this Agreement at the beginning of each fiscal year. This Agreement shall be automatically renewed consistent with BOARD-established terms, unless the provisions for withdrawal, expulsion or termination are applied in compliance with the terms of this Agreement or adopted BOARD policy. COUNTIES continued participation in CCDF depends on their annual appropriation of funds for the support of CCDF.



Staff

Staff Procedures

Meeting Notice

- All meetings must have a notice posted at the meeting location two weeks prior to commencement.

Agenda

- The agenda and supporting documentation must be sent to the Board of Trustees a week prior to any meeting for review.

Minutes

- IAC staff will take minutes for each meeting.
- Meetings may contain an Executive Session. A vote to go into executive session must be held. Minutes pertaining to executive sessions shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.
- All meetings must comply to the Open Meeting Law I.C. Chapter 2, Title 74
[Open Meeting Law](#)

Basic Guide for Payments

- County clerks complete CCDF application.
- County clerks submit CCDF application and other required documents (to include template spreadsheet) to CCDF via IAC.

To be filled out by the county requesting reimbursement													To be filled out by CCDF	
Date(s) of Service	Payee Name	Payee Category	Expense amount	Expense Category	Ordered to pay by court?	Date of court order	Date of county payment	Date received from county	Court order provided?	Approved by CCDF?	Expense amount approved	Date of CCDF payment	Comments	
Enter the date(s) of the services rendered		E.g. expert witness, forensic pathologist, mitigation investigator	(\$)	E.g. air fare, labor, lodging, food, car rental, parking	Enter "Y" if yes, "AD" if awaiting a decision, and "N" if rejected by the court.				Enter "Y" if yes, "N" if no.	Enter "Y" if yes, "FD" if CCDF requested further documentation, and "N" if rejected by the board	(\$)			
8/25/15	Dan Bloksom	Expert witness	\$5.25	Food	Y	9/15/15	9/20/15	9/25/15	Y	Y	\$5.25	9/28/15		

- Prior to each meeting, the completed spreadsheet and documentation (judge's orders and expenses invoices) must be sent to the Idaho Association of Counties (IAC), unless the judge specifies otherwise.
- IAC will review the orders and supporting documentation for validation.
- Capital Crimes Defense Fund Board will meet (per requirements above) and review the claims and either approve or deny said claims.
 - Some judges will seal a case and not allow expenses (receipts/invoices) to be shared. The orders should be provided. It is expected that counties will reimburse CCDF if there are any non-allowable expenses found later by the Board of Trustees.
- If claims are approved, IAC staff will reimburse the county for allowable incurred expenses. All approved claims are after the county's \$10,000 deductible.
- If claims are denied, the CCDF Board will provide a reason to the county. Sometimes claims are denied for lack of clarification and could be approved at a later date.

Elections

- IAC staff will send out nomination memo and form to district up for election in mid-July.
- Nomination forms are due back to IAC no later than August 15th.
- If there are contested races, ballots will be sent out the last Friday in August.
- Ballots are due back to IAC the last Friday in September.
- IAC election results will be sent out the first Monday in October.

EXAMPLE: OPERATION OF CCDF WHEN THERE ARE TWO DEFENDANTS

DOE/BUCK MURDER TRIAL COSTS

DOE (You can use Doe as an example of a single defendant)

Jury Service	\$3,000.00
Jury Mileage	\$750.00
Jury Meals & Snacks	\$400.00
Meals for Security	\$250.00
Attorneys:	
Public Defender 1 (Lead Counsel)	\$25,000.00
Public Defender 2 (Co-counsel)	\$20,000.00
Investigator	\$5,000.00
Psychological Evaluation	\$2,500.00
Witness Fees	\$1,200.00
Trial Preparation (PD 1)	\$500.00
Trial Preparation (PD 2)	\$750.00
Misc.	<u>\$250.00</u>
TOTAL:	\$59,600.00

Summary:

County Defense Costs:	\$20,000 public defender 2 + \$10,000 deductible + \$4,400 jury costs
	TOTAL: \$34,400
CCDF Costs:	\$59,600 - \$34,400
	TOTAL: \$25,200.00

BUCK (Assuming defendants are tried together)

Jury Service	Same as above
Jury Mileage	\$3,000.00
Jury Meals & Snacks	\$750.00
Meals for Security	\$400.00
Attorneys:	
Public Defender 1 (Lead Counsel)	\$20,000.00
Public Defender 2 (Co-Counsel)	\$15,000.00
Investigator	\$3,000.00
Psychological Evaluation	\$1,200.00
Witness Fees	\$1,000.00
Trial Preparation (PD 1)	\$500.00
Trial Preparation (PD 2)	\$750.00
Misc.	<u>\$100.00</u>
TOTAL:	\$41,550.00

Summary:

County Defense Costs:	\$15,000 + \$10,000 deductible (County responsible for jury costs)
	TOTAL: \$25,000.00
CCDF Costs:	\$41,550 - \$25,000
	TOTAL: \$16,550.00

TOTAL PAID FOR BOTH BY CCDF: \$41,750.00 (\$16,550.00 + \$25,200.00)



Meeting Schedule

Meetings

IAC Annual Conference, September

IAC Midwinter Legislative Conference, February

Idaho Association of Commissioner and Clerks, June

(Additional meetings as needed)



Templates

Idaho Capital Crimes Defense Fund

3100 S. Vista Ave. Ste. 200, Boise, ID. 83705 Phone: (208) 345-9126 Fax: (208) 345-0379

www.idcounties.org

District 1: Members
District 2:
District 3:
District 4:

District 5:
District 6:
At-Large:
Administrator: Idaho Association of Counties

NOTICE OF MEETING:

Date

Contact: Idaho Association of Counties (208) 345-9126.

The Capital Crimes Defense Fund Board of Directors will meet at _____ location _____. The Capital Crimes Defense Fund is funded by counties to provide financial assistance to help cover defense costs in death penalty cases. Meeting location, time, and agenda are listed below.

IDAHO CAPITAL CRIMES DEFENSE FUND
BOARD OF DIRECTORS
AGENDA
Date
Time
Location

- I. CALL TO ORDER-ROLL CALL-OPENING COMMENTS
- II. CONSIDERATION OF APPROVAL OF EXPENSES (Executive session under Idaho Code 74-206(1)(d), 74-104(2)).

Cases to be discussed:
 - *Case numbers*
- III. OTHER BUSINESS

Agenda

Idaho Capital Crimes Defense Fund

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District 1: Members

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IDAHO CAPITAL CRIMES DEFENSE FUND

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AGENDA

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IDAHO CAPITAL CRIMES DEFENSE FUND

BOARD OF DIRECTORS

AGENDA

Date

Time

Location

I. CALL TO ORDER

Roll call, opening comments, changes to the agenda

_____ called meeting to order at 11:02am.

II. MINUTES FROM ___DATE___ MEETING APPROVAL

_____ *moved to accept the minutes.* _____ *seconded. Motion carried.*

III. EXPENSE REVIEW AND APPROVAL

(Executive session under Idaho Code 74-206(1)(d), 74-104(2)).

_____ *moved to move into executive session per 74-2061d, 104(2).* _____ *seconded. Motion carried.*

Cases to be discussed:

- *Case numbers*

Case #

Board members discussed cases _____.

Out of executive session.

_____ *made a motion to pay \$_____ on case _____.* _____ *seconded the motion. Motion carried.*

IV. OTHER BUSINESS

Discussion

_____ *moved to end the meeting.* _____ *seconded. Motion carried. The meeting ended at _____pm.*

JOINT POWERS AGREEMENT

IDAHO CAPITAL CRIMES DEFENSE FUND

THIS AGREEMENT is entered into pursuant to the provisions of Idaho Code, Sections 67- 2326 through 67-2333, relating to the joint exercise of powers between and among signatory counties of the state of Idaho and in accordance with relevant provisions of Title 8, Chapter 19, Idaho Code, specifically including Idaho Code Section 19-863A.

WHEREAS, counties of the state of Idaho by virtue of delegation from the state of Idaho have the responsibility to provide defense for indigent defendants charged with capital offenses pursuant to penal laws of the state of Idaho; and

WHEREAS, it is to the mutual benefit of counties to join together with the state to establish this Joint Powers Agreement to accomplish the purposes hereinafter set forth; and

WHEREAS, the counties have determined that there is a need for counties to jointly create and cooperate in the operation of a Capital Crimes Defense Fund (CCDF) to partially fund the costs of providing the defense required by law; and

WHEREAS, the laws of the state of Idaho authorize the formation of such a fund by counties without abrogating any privileges or immunities accorded to them by law;

NOW, THEREFORE, BE IT AGREED, in consideration of the mutual advantages and benefits to the participating counties and the mutual covenants herein contained, the COUNTIES mutually agree as follows:

ARTICLE I. DEFINITIONS

As used in this Agreement, the following terms shall have the respective meanings hereinafter set forth:

- (1) **CCDF.** The Idaho Capital Crimes Defense Fund established pursuant to the statutes of this state by this joint powers agreement.
- (2) **BOARD.** The governing board of the Idaho Capital Crimes Defense Fund.
- (3) **COUNTIES (or COUNTY).** The counties, which have entered into this JOINT POWERS AGREEMENT.
- (4) **JOINT POWERS AGREEMENT (JPA or Agreement).** This Agreement wherein counties agree to participate in the capital crimes defense fund services of CCDF as set forth by the BOARD.
- (5) **ADMINISTRATOR (or Administrator).** The Idaho Association of Counties or its designated successor.

ARTICLE II. ESTABLISHMENT, MAINTENANCE AND PARTICIPATION IN CCDF

The Idaho Capital Crimes Defense Fund, a separate Joint Powers Entity, is created through this Joint Powers Agreement executed by the certain counties of the state of Idaho upon adoption, on or before October 1, 1998, with an initial effective date of October 1, 1998. This JOINT POWERS AGREEMENT is intended to establish the organization and operation of CCDF into future years upon the foundation laid hereby. The undersigned public entity, a county of the state of Idaho, upon execution of this JOINT POWERS AGREEMENT will become a COUNTY in the Idaho Capital Crimes Defense Fund (CCDF) with all rights and duties associated therewith.

ARTICLE III. PURPOSES AND DURATION

- (1) The purpose of CCDF is to provide a fund to assist COUNTIES in dealing with the costs of providing capital crimes defense expenses in the courts of the state of Idaho.
- (2) It is the intent of the COUNTIES to create an entity of unlimited duration.
- (3) It is the intent of the COUNTIES that the Fund serves as a vehicle for cooperative undertakings for all COUNTIES, or selected groups thereof, to pool the costs of certain required

criminal defense obligations, which the COUNTIES are obligated to provide. In implementation of any such funds, the COUNTIES shall bear the proportionate costs of carrying out the purposes of the funds. The proportionate costs shall be determined on a population or per capita basis. Changes to the funding formula shall be made only upon unanimous approval of the COUNTIES participating in this Agreement.

ARTICLE IV. MANNER OF FINANCING

Financial operations of CCDF shall be committed to the sound discretion of the BOARD. The BOARD as provided in Article IX of this JOINT POWERS AGREEMENT shall determine contributions from COUNTIES. The fiscal year of CCDF shall be from October 1 through September 30. All income and assets of CCDF shall be at all times dedicated to the benefit of its COUNTIES.

ARTICLE V. NON-WAIVER OF GOVERNMENTAL OR OTHER IMMUNITY

COUNTIES, by participation in this fund, do not waive any immunities or limitations of liability provided to counties, the state of Idaho or their respective employees by any law of this state or nation.

ARTICLE VI. CCDF POWERS AND DUTIES

The powers of CCDF to perform and accomplish the purposes set forth above shall, within the budgetary limits and procedures set forth in this Agreement and as otherwise established by the BOARD, be the following:

- (a) To employ agents, employees and independent contractors.
- (b) To purchase, sell, encumber and lease real property; to incur obligations or borrow funds on behalf of the fund to the extent permitted by Article 8, §3 of the Idaho Constitution or appropriate statutory provisions; and to purchase, sell, or lease equipment, machinery, and personal property.
- (c) To invest funds as allowed by Idaho statutes.
- (d) To create, collect funds for, and administer a capital crimes defense fund program.

- (e) To carry out such other activities as are necessarily implied or required to carry out the purposes of CCDF specified in Article III of this Agreement, even though such undertakings might not be known at the time of entering into this Agreement, or the specific powers enumerated in this Article.
- (f) To sue and be sued.
- (g) To enter into contracts.
- (h) To reimburse BOARD members for reasonable and approved expenses incurred in attending to BOARD responsibilities.
- (i) To provide security for the official responsibilities of all officers, BOARD members, and employees of CCDF.

ARTICLE VII. PARTICIPATION

Any Idaho county shall be permitted to participate in the activities of CCDF as provided in this Agreement. Participation in CCDF shall be comprised of those counties which have entered into this Agreement or its counterpart by and through an individual duly authorized to execute this Agreement, and which have agreed to pay the required contributions. COUNTIES agree to the admission of future COUNTIES in accordance with provisions of the JOINT POWERS AGREEMENT and acknowledge that they shall have no right to object to the addition of such COUNTIES provided they are admitted in accordance with the terms hereof.

A non-participating COUNTY may enter into this Agreement at the beginning of each fiscal year. This Agreement shall be automatically renewed consistent with BOARD-established terms, unless the provisions for withdrawal, expulsion or termination are applied in compliance with the terms of this Agreement or adopted BOARD policy. COUNTIES' continued participation in CCDF depends on their annual appropriation of funds for the support of CCDF.

ARTICLE VIII. COUNTIES' RIGHTS AND OBLIGATIONS

- (1) The individual COUNTIES shall have the right to:
 - (a) Petition the BOARD to be heard regarding any aspect of fund operation.
 - (b) Withdraw from participation at any time. COUNTIES recognize that the fund is managed for long-term participation and that agreements that support the program are of one-year or

longer duration. Any COUNTY'S failure to annually appropriate its pro rata share of the fund shall be considered withdrawal from the CCDF. Any COUNTY that withdraws shall remain liable for the payment of any contributions unpaid and owing as of the time of withdrawal.

Any COUNTY that withdraws and seeks to rejoin the CCDF at a later date shall be allowed to rejoin upon the payment of the current year assessment for that COUNTY plus twenty-five per cent (25%) of the assessment the COUNTY would have paid had the COUNTY remained a participant in CCDF or by the payment of a fee as may be determined by the Board and the affected COUNTY.

(c) To vote in election of a representative to serve on the BOARD as provided by this JOINT POWERS AGREEMENT.

(2) The obligations of COUNTIES shall be as follows:

(a) Unless otherwise agreed by the Board and County, to pay promptly all contributions to CCDF at such times and in such amounts as shall be established by the BOARD pursuant to this Agreement. Any delinquent payments may incur interest that shall be equivalent to the prime interest rate on the date of delinquency of the financial institution that invests the majority of the CCDF funds. Payments will be considered delinquent thirty (30) days following the due date. Coverage and other services shall not continue for COUNTIES that are delinquent in payment of premiums according to the terms of this Agreement.

(b) To allow and its agents, officers and employees reasonable access to relevant records of the COUNTY, including but not limited to financial records, as reasonably required for the administration of CCDF and the effective handling of claims for reimbursement brought against COUNTIES. Provided however, that all privileges available to the county or CCDF through state or federal law or court rule shall remain in full force and effect.

(c) To cooperate fully with the attorneys, officers and employees of CCDF in activities relating to the purposes and powers of CCDF.

(3) In case of any contest or disagreement involving the operation of CCDF, any COUNTY and the CCDF may agree to use dispute resolution procedures approved by the Board and the County.

ARTICLE IX. CONTRIBUTIONS

The BOARD shall establish annual contribution amounts for COUNTIES not later than April 1 of each year. The CCDF may change contributions annually charged to any COUNTY to reflect changes in expense resulting from caseloads or complexity or for other reasons established by the BOARD. Additional contributions may be charged when necessary to maintain program funding. Any additional contribution charged by the BOARD may be paid in the current fiscal year by the COUNTY or in the next succeeding fiscal year with that year's regular contribution. Unless otherwise agreed by the Board and County, the CCDF reserves the right to condition continued participation by any COUNTY upon compliance with specific performance requirements, payment of co-payment amounts and such other measures as the CCDF deems necessary or appropriate. Contribution amounts shall be paid at least semi-annually during the months of February and July.

ARTICLE X. BOARD

The BOARD shall be comprised of seven (7) public officials, all of whom shall be county commissioners. The electoral boundaries shall be organized as follows:

Each member of the BOARD shall be a commissioner elected from a COUNTY signatory to this JPA and shall serve for a period of two (2) years, or until a successor is elected or appointed. Beginning in the year 1998, the Board members elected from Districts 1,3, 5 and the At-Large member shall be elected for a two-year term and for a two-year term every two years thereafter. In the year 1998, the Board members elected from Districts 2, 4 and 6 shall be elected for an initial term of one year, and beginning in the year 1999 shall be elected for a two-year term and for a two- year term every two years thereafter.

For purposes of this Agreement, a "Board Seat" shall be defined as the position on the CCDF Board provided to and occupied by the representative duly elected or appointed from a District as outlined in this Section. Nominations by COUNTIES shall be submitted to CCDF no later than August 15th each year. The Board of County Commissioners of each COUNTY may cast a ballot for a District member of the BOARD, to be received by CCDF at a time and place specified by the Board or Administrator prior to the Board's September meeting each year. Each member of the BOARD shall serve from the date of the first BOARD meeting in the succeeding year through the conclusion of his/her term when a succeeding BOARD member is seated.

Each district including the at-large member, in addition to the election of its board member, may elect an alternate to serve in the place of the primary board member. A vacancy shall immediately exist on the BOARD if the county from which the BOARD member serves, withdraws or is otherwise not a participant in the CCDF.

The seven (7) county commissioners composing the BOARD shall be elected one each from the districts within the state of Idaho and one at-large as follows:

District 1: Counties of Boundary, Bonner, Kootenai, Benewah and Shoshone.

District 2: Counties of Latah, Clearwater, Nez Perce, Lewis and Idaho.

District 3: Counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore and Owyhee.

District 4: Counties of Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls and Cassia.

District 5: Counties of Bingham, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake.

District 6: Counties of Lemhi, Custer, Clark, Fremont, Butte, Jefferson, Madison, Teton and Bonneville.

At-Large: All of the counties within the state of Idaho.

Elections for the Board chairman and vice-chairman shall be at the annual CCDF meeting (which is held during the IAC annual conference).

ARTICLE XI. POWERS AND DUTIES OF THE BOARD

The BOARD shall have the following powers and duties:

- (1) To annually elect a chairman and vice-chairman. Each officer shall serve until his or her successor is elected.
- (2) To admit or expel COUNTIES in accordance with this Agreement.
- (3) To establish contribution amounts and payment procedures for COUNTIES.
- (4) To establish fund design.

- (5) To provide for selection of all personnel and contractors necessary for the administration of CCDF, including the appointment of a primary administrator to supervise the business of the fund and carry out functions delegated by the BOARD.
- (6) To establish a schedule for BOARD meetings.
- (7) To fill vacancies on the BOARD by majority vote of the remaining members for the unexpired term.
- (8) To exercise all powers of CCDF, except powers reserved to the COUNTIES.
- (9) To prepare, adopt and oversee CCDF's budget.
- (10) To make reports to the COUNTIES.
- (11) To provide oversight of activities and procedures.
- (12) To provide for the investment and disbursement of funds.
- (13) To establish by-laws, rules and regulations governing its own conduct and procedures and the powers and duties of its officers, not inconsistent with this Agreement.
- (14) To provide to COUNTIES an annual report of operations and financial affairs.
- (15) To form committees and advisory panels; and to provide other services as needed by CCDF. The BOARD shall determine the method of appointment and terms of members of committees and advisory panels.
- (16) To submit to COUNTIES a subsequent, substitute, or replacement Joint Powers Agreement at the date of periodic renewal for acceptance by COUNTIES.
- (17) Dissolve CCDF and disburse its assets when BOARD action is accompanied by a two-thirds (2/3) vote of the entire number of COUNTIES, provided that a notice of intent to dissolve CCDF shall be given to the Administrative Office of the Courts at least one hundred eighty (180) days prior to the effective date. Like notice of such intent shall be provided to all COUNTIES at least thirty (30) days before any such vote regarding dissolution.
- (18) To do or delegate all acts necessary and proper for the implementation of this Agreement.
- (19) To provide a certified list of counties participating in the CCDF to the following entities:

Idaho Supreme Court, Administrative Judge in each Judicial District, Attorney General and State Appellate Public Defender.

(20) To provide notice to the entities listed in subsection (19) above of the addition or deletion of a county thirty (30) days prior to the effective date of the addition or deletion.

(21) If requested, to report annually or as otherwise may be requested to the governor, legislative council and chairs of the germane legislative committees the activities of CCDF.

(22) To file one (1) copy of the completed audit report with Legislative Services within 9 months after the end of the audit period, pursuant 67-450B Idaho Code.

ARTICLE XII. ESTABLISHMENT OF CAPITAL CRIMES DEFENSE FUND

The CCDF shall consist of amounts the BOARD estimates to be reasonably sufficient to annually produce the sum of money necessary to fund CCDF's general and administrative expenses and to pay the current year capital crimes defense expenses.

ARTICLE XIII. SCOPE OF COVERAGE

(1) CCDF shall provide services to each COUNTY as established in the operation and analysis document adopted by the BOARD. Reimbursable services may include but shall not be limited to trail preparation, mitigation preparation, and cost of investigators, experts or other reasonable defense needs.

(2) No COUNTY shall be entitled to a contribution from other COUNTIES beyond the amount obligated by this Agreement and its attendant annual contributions. It is recognized that supplemental payments may be required in subsequent years in order to fund the capital defense obligations assumed by the fund.

ARTICLE XIV. MEETINGS OF THE BOARD

(1) The BOARD may set a time and place for regular meetings in accordance with applicable law. All provisions of law applicable to public meetings shall be observed.

(2) A majority of seated Board members shall constitute a quorum to do business. All formal acts of the BOARD shall require a majority vote of the members present and voting.

ARTICLE XV. LIABILITY OF BOARD

The members of the BOARD and officers of CCDF should use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties hereunder. They shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care. No BOARD member shall be liable for any action taken or omitted by any other BOARD member. The assets of CCDF shall be used to defend and indemnify any BOARD member, officer, or employee for actions taken by each such person in good faith within the scope of his or her authority for CCDF as public officials in the state of Idaho. CCDF may purchase insurance providing coverage for BOARD members, officers and employees.

ARTICLE XVI. WITHDRAWAL FROM PARTICIPATION

Any COUNTY may withdraw from CCDF by giving thirty days notice in writing to the BOARD of its intent to withdraw. The continuing rights of any withdrawing COUNTY shall be as set forth in the currently applicable Joint Powers Agreement.

ARTICLE XVII. EXPULSION OF COUNTIES

- (1) By a two-thirds (2/3) vote of the entire BOARD, any COUNTY may be expelled. Expulsion shall take effect in accordance with the terms of the action expelling the COUNTY, and expulsion may be carried out for one or more of the following reasons:
 - (a) Failure to make any payments due to CCDF.
 - (b) Failure to allow CCDF reasonable access to the records of the COUNTY necessary for proper administration of CCDF.
 - (c) Failure to fully cooperate with the attorneys, agents, employees, or officers of CCDF.
 - (d) Failure to carry out any obligation of a COUNTY, which impairs the ability of CCDF to carry out its purpose or powers.
- (2) No COUNTY may be expelled until after notice from the BOARD of the alleged failure along with the reasonable opportunity (not less than thirty (30) days) to cure, if the situation is

curable. Notice to a COUNTY shall state whether a cure is possible. The COUNTY may request a hearing before the BOARD before any final decision, which shall be held no more than fifteen (15) days after the expiration of the time to cure has passed or notice of expulsion has been provided. If a decision to expel is affirmed after hearing, such date of expulsion shall relate back to the date of initial BOARD action from which the notice of intent to terminate derives. The rights of any expelled COUNTY shall be as set forth in this Agreement or upon such other terms and conditions as the BOARD may negotiate with the expelled COUNTY.

ARTICLE XVIII. RIGHTS UPON WITHDRAWAL, EXPULSION OR TERMINATION

Any COUNTY separating from CCDF (withdrawing, expelled, or terminated) shall not be entitled to any reimbursement of contributions that have been paid unless otherwise required by provisions of applicable law. All claims (including those related to pending or pre-existing cases) occurring after the date of separation from CCDF shall become the sole responsibility of the separated COUNTY.

ARTICLE XIX. BINDING CONTRACTUAL OBLIGATION

This document shall constitute a JOINT POWERS AGREEMENT, a binding contract, among those counties, which are COUNTIES of CCDF. The terms of this Agreement may be enforced in court by CCDF itself or by any of its COUNTIES. The consideration for the duties herewith imposed upon the COUNTIES to take certain actions and to refrain from certain other actions is based upon the mutual promises and agreements of the COUNTIES set forth herein. This Agreement shall be approved according to law by each COUNTY and by signature affixed hereto.

COUNTY asserts that it has complied with relevant laws and that it waives its ability to object to the binding nature of this Agreement by virtue of informalities in its approval. Except to the extent of the financial contributions to CCDF agreed to herein, or such additional obligations as may come about through amendments to this Agreement, no COUNTY agrees or contracts herein to be held responsible for any claims in tort or contract made against any other COUNTY.

The contracting parties intend in the creation of CCDF to establish an organization for a capital crimes defense fund only within the scope set out in this Agreement, and have not created as between COUNTY and COUNTY any relationship of surety or indemnitor, nor by participating does any COUNTY assume responsibility for the debts of or claims against any other COUNTY.

**ARTICLE XX. DISTRIBUTION OF PROPERTY, FUNDS AND SUPPLIES UPON
DISSOLUTION OF CCDF**

In the event of termination of this JOINT POWERS AGREEMENT such that CCDF is dissolved, all unused consumable supplies, non-consumable supplies or other property acquired by CCDF shall be disposed of in a manner permissible by law, and the proceeds of such liquidation shall be disbursed to the COUNTIES at a rate equal to each COUNTY'S pro rata share of the cumulative contributions paid to CCDF from the time the CCDF began until the time that it was terminated or dissolved. The BOARD shall make said determination of asset distribution in good faith.

ARTICLE XXI. SEVERABILITY

In the event that any Article, provision, clause or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability with respect to other Articles, provisions, clauses, applications or occurrences, and this Agreement is expressly declared to be severable.

ARTICLE XXII. POWER OF ATTORNEY - EXPENSES AND DUTIES

(1) COUNTY hereby appoints CCDF to take all actions and execute all documents that are necessary or appropriate in carrying on a capital crimes defense fund through CCDF on behalf of COUNTY. COUNTY agrees that the BOARD may delegate powers to an Administrator in accordance with this Joint Powers Agreement.

(2) The Administrator appointed by the Board is hereby empowered by the undersigned to accept service of process on behalf of CCDF. The general services to be performed by the Administrator shall be designated by the BOARD. The Administrator's obligations and liability shall be limited by the terms and conditions of this Joint Powers Agreement and by the Idaho Tort Claims Act.

(3) The general items of expense to be paid by CCDF shall include, but not be limited to:

- (a) Defense reimbursement payments
- (b) Allocable administrative expense
- (c) Governmental charges, license fees, and taxes

- (d) Expenses incurred in auditing CCDF's books and records
- (e) Contribution collection costs
- (f) BOARD expenses
- (g) Fees of investment counsel and direct investment expense
- (h) Salaries and expenses of officers and employees of CCDF
- (i) Special expenses authorized by the BOARD
- (j) Auditing and legal expenses.

(4) The authority conveyed herein shall expire upon termination of CCDF. The fund services provided by CCDF are subject to payment of contributions to CCDF. The liability of each COUNTY for the obligations of CCDF shall be an individual, several and proportionate liability and not a joint liability. The liability of each COUNTY shall be limited as stated in this Agreement; provided, however, that in no event shall any COUNTY be required to contribute more than the amount authorized by applicable state statutes and constitutional provisions under which CCDF is established.

ARTICLE XXIII. MISCELLANEOUS PROVISIONS - NOTICE

- (1) The provisions of this Agreement shall be interpreted pursuant to the laws of the state of Idaho.
- (2) The parties hereto consent that courts in the state of Idaho shall have jurisdiction over any dispute arising under this Agreement. If reasonable attorney fees are incurred in enforcing provisions of this Agreement in a court of law, the prevailing party to such an action shall be entitled to reimbursement of its reasonable attorney fees.
- (3) No waiver of any breach of this Agreement or any provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any of the other provisions herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligations or acts.

(4) This Agreement may be modified or amended by a written agreement entered into by the BOARD and member COUNTIES, provided, however, no such modification shall be effective retroactively unless agreed to all parties hereto. Modifications may be made effective during a fiscal year only to comply with applicable laws respecting operation of CCDF or with express consent of the COUNTY.

(5) All notices required to be given under this Agreement shall be delivered in writing. Notices by a COUNTY to CCDF shall be sent to CCDF in care of the Idaho Association of Counties, 3100 S. Vista Ave. Ste. 200, Boise, ID 83705. Notices to any COUNTY shall be sent to the COUNTY'S address as provided on its signature page to this Agreement. In the event that any party to this Agreement desires to change its address, notice of change of address shall be sent to the other party by United States Mail in accordance with the terms and provisions of this Article.

ARTICLE XXIV. EXECUTION AND ATTEST

In Witness hereof, this Agreement is executed on the _____ day of, _____ 20 ____, by the undersigned who are duly authorized officer(s) of the county indicated below and by the Idaho Capital Crimes Defense Fund (CCDF), pursuant to action taken by the governing board of the COUNTY on the _____ day of _____ 20 ____. [L] [SEP]

COUNTY: (including mailing address)

By: [L] [SEP]

CHAIRMAN OF THE BOARD,

Attest/Witness: [L] [SEP]

CLERK OF THE BOARD

ACCEPTED FOR THE IDAHO CAPITAL CRIMES DEFENSE FUND (CCDF)

By:

ADMINISTRATOR

Application

Capital Crimes Defense Fund Application

Date: _____

County: _____

Case Name: _____ Case #: _____

Public Defender (Lead): _____

Public Defender (Co-council): _____

Original Charge: _____ Date of Incident: _____

Plea Date: _____

Death Penalty Notice Date: _____ Death Penalty Removal Date: _____

Trial Date: _____ Estimated Trial Length: _____

Expense Estimate: _____

(Please note that if at any time the case no longer is a capital case, CCDF requires notice of capital removal.)

Documents Required:

- CCDF Application
- Criminal Information
- Notice to seek the death penalty
- County per diem rate schedule
- Proof of county's \$10,000 deductible has been met
- Completed CCDF spreadsheet for current claims/orders

(Year) NOMINATION FORM
FOR THE CAPITAL CRIMES DEFENSE FUND
BOARD ELECTIONS

***** Please Complete and Return by _____ *****
By email to: kbrassfield@idcounties.org

County Responding: _____

County Commissioner Nominee from District __: _____

Nominee's County: _____

Commissioner, Chairman

Commissioner

Commissioner

ATTEST:

County Clerk

(Year) ELECTION BALLOT
For
CAPITAL CRIMES DEFENSE FUND
DISTRICT VI BOARD MEMBER
***** Please Complete and Return by _____ *****
By email to: kbrassfield@idcounties.org

PLEASE VOTE FOR ONLY ONE

County Responding: _____

_____ Commissioner, Chairman

_____ Commissioner

_____ Commissioner

Attest:

_____ County Clerk