

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

318



FROM: Law Offices of the Public Defender and Purchasing and Fleet Dept.

SUBMITTAL DATE:
January 26, 2011

SUBJECT: Approval of the Agreement with the Law Offices of Barbara M. Brand, Virginia M. Blumenthal, a Professional Law Corp., and Criminal Defense Lawyers, to Provide Legal Indigent Defense Criminal Services for Riverside County

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached 17-month indigent defense contract with Barbara Brand in the amount of \$2,691,661, with Virginia M. Blumenthal, a professional corporation, in the amount of \$4,816,667 and with Criminal Defense Lawyers in the amount of \$3,258,333.
2. Authorize the Chairman to sign four copies of each agreement.
3. Authorize the Purchasing Agent, in accordance with Ordinance 459.4, to exercise the renewal option for a maximum of two years in one-year increments, based on the availability of fiscal year funding and the performance of the contractors as determined by the Public Defender.
4. Authorize the Purchasing Agent to also sign amendments that do not change the substantive terms of the agreement and that do not increase the compensation initially approved for each vendor.
5. Direct the Clerk of the Board to return three (3) original copies of the signed agreements to the Purchasing and Fleet Services Dept.

(Continued on Page 2)

BY: *Gary Windom* GARY WINDOM, Public Defender
 For: *Mark Seiler* ROBERT J. HOWDY SHELL, DIRECTOR, Purchasing and Fleet Services Dept.

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 3,581,665	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 3,581,665	Budget Adjustment:	No
	Annual Net County Cost:	\$ 8,595,996	For Fiscal Year:	FY 10/11

SOURCE OF FUNDS: Indigent Defense Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Dean Deines*
Dean Deines

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and IT WAS FURTHER ORDERED that the Public Defender come back with a progress report at the beginning of the fiscal year.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
 Nays: None
 Absent: None
 Date: February 1, 2011
 xc: Public Defender, Purchasing, COB

Kecia Harper-Ihem
 Clerk of the Board
 By: *[Signature]*
 Deputy

Prev. Agn. Ref.: 12/14/2010 3.46 | **District:** all | **Agenda Number:**

3.13

FORM APPROVED COUNTY COUNSEL
DATE: 1/27/11
BY: *[Signature]*
MARSHAL VICTOR

Poli cy / Poli cy
 Consent / Consent
 Dept't Recomm.: / Per Exec. Ofc.:

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., Criminal Defense Lawyers, and Law Offices of Barbara M. Brand to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 2

BACKGROUND

Riverside County is required to retain legal services to represent indigent defendants for whom the Riverside County Public Defender's Office (PD) declares a conflict of interest, including misdemeanors, felonies and the Welfare and Institution Code Section 600 et. Seq. Juvenile Offenses.

The area serviced under this Request for Proposal (RFP) was defined as all branches of the Riverside Superior Court across three distinct regions: Western Riverside, which includes Riverside, Corona, Banning, and Moreno Valley courts; Mid-County, which includes Hemet, Temecula, the Southwest Justice Center, and East County, which includes Indio and Blythe. Matters to be handled include violation of probation hearings, misdemeanors, and felonies (including non-death penalty capita cases when the Public Defender and Capital Public Defender Offices declare a conflict), as well as other miscellaneous appointments by the court, wherein the Public Defender has declared a conflict and the defendant/party meets the Public Defender indigence standard, which is consistent with 45 Code of Federal Regulations 1611 et seq. It should be noted that no cases of these types are held in Moreno Valley, Hemet or Temecula.

Recent Board Direction to Update the Indigent Defense Contract

On December 14, 2010 the Board directed the Public Defender, County Counsel, and the Purchasing Department to award the desert area to the Law Offices of Barbara Brand and to negotiate a split of the balance of the of the County areas between Virginia Blumenthal and the Criminal Defense Lawyers in as near to a equitable split as possible. The original geographical division of the County provided for the preponderance of the cases in the Western Riverside region. In an effort to create an equable split and still be manageable by both Ms. Blumenthal and CDK, Departments 21 and 22 in Riverside and the Banning Court along with the associated costs were moved from the Western Riverside region to the Mid County region. This arrangement, while not a 50/50 split, was approved by Ms. Blumenthal, CDL, and the Public Defender as the best way to provide a manageable split without duplication of effort and increasing costs. The negotiations resulted in the mutually agreeable split of the areas as follows:

Virginia Blumenthal receives the Western Riverside region, including the Riverside Vertical Calendar Department (VCR) and trial courts, including Mental Health, Domestic Violence and Drug Courts representing 56% of the caseload.

Criminal Defense Lawyers receives the Southwest Justice Center, Banning and Riverside Departments 21 and 22, representing 44% of the caseload.

The original solicitation included historical case load data so that potential bidders could estimate their costs and prepare proposal budgets. All three contractors have agreed to handle

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., Criminal Defense Lawyers, and Law Offices of Barbara M. Brand to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 3

all cases in their areas without limit for the fixed fee, so the case ranges were removed from the contracts. The agreements were prepared with flat fee for total service regardless of the number of cases handled. The Public Defender's primary concern is that indigent defense standards are maintained; there is adequate language in the contracts to ensure this.

The trust amounts provided to the contractors ensure that an adequate defense is prepared. Services include but are not limited to investigation and expert testimony. Trust accounts are subject to an annual audit by an outside firm. Any contractor whose trust account balance exceeds \$40,000 is not permitted to invoice the County for additional funds. Trust amounts are as follows:

Barbara Brand - \$8,000 per month (\$136,000 for the 17 month contract)
Virginia Blumenthal - \$40,000 per month (\$680,000 for the 17 month contract)
Criminal Defense Lawyers - \$35,000 per month (\$595,000 for the 17 month contract)

All capital cases where the District Attorney declares an intent to seek death will be first sent to the Capital Defenders Office of the Law Offices of the Public Defender. If a conflict is declared by that office, those cases will then go to the Law Offices of the Public Defender for handling. If a conflict exists in that office, cases where death is sought will then be serviced on a contract basis with pre-qualified private attorneys pursuant to California Rules of Court 4.117.

Capital cases where the District Attorney is not seeking death but is seeking life in prison without possibility of parole will be processed as follows: All said cases will first go to Capital Defenders Office of the Law Offices of the Public Defender for review. If after review a determination that case will not go forward as a death case is made, the matter will be transferred to the Law Offices of the Public defender for handling. If a conflict is declared, the matter will be transferred to the appropriate Indigent Defense Contractor for processing. If the District Attorney decides to declare a declaration to seek the death penalty while the case is with the Contractor, the matter will be transferred back to the Capital Defender Office of the Law Offices of the Public Defender.

AWARD RECOMMENDATION

It is recommended that the Board award 17 month contracts to the Law Office of Barbara M. Brand in the amount of \$2,691,661, Virginia M. Blumenthal, a professional law corporation in the amount of \$4,816,667, and to Criminal Defense Lawyers, in the amount of \$3,258,333. Through this negotiation process, the three contractors worked together with Purchasing, the Public Defender and County Counsel to reach a reasonable split of the cases. These contracts will not only ensure that indigent defense standards will be met but also represent a total annual savings of \$182,404 over the proposed total cost of the December 14, 2010, Agenda No. 3.46.

REVIEW/CONCURRENCE:

These contracts were reviewed and approved as to form by County Counsel.

*County of Riverside
Professional Services Agreement*

CRIMINAL DEFENSE AGREEMENT
for
LEGAL INDIGENT DEFENSE SERVICES
between
COUNTY OF RIVERSIDE
and
LAW OFFICE OF BARBARA M. BRAND



RFP# EOARC-019

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RECEIVED RIVERSIDE COUNTY

FEB 01 2011 3.13

County of Riverside
Professional Services Agreement

CONTRACT TO PROVIDE LEGAL SERVICES.

THIS CONTRACT is made this ____ day of _____, 2011, between the County of Riverside (hereinafter "COUNTY") and Law Office of Barbara M. Brand, (hereinafter "ATTORNEY"), for Indigent Defense services to be provided in the Superior Court of the County of Riverside, Desert Region, as set forth herein.

RECITALS

WHEREAS, the right of all persons against whom Criminal Court proceedings are brought to be represented by Counsel is guaranteed by the Constitution of the United States and the Constitution of the State of California; and

WHEREAS, the cost and expense of each counsel in the representation of indigent adults in the specified proceedings are a proper and lawful charge upon the COUNTY; and

WHEREAS, the cost and expense of each counsel in the representation of indigent minors in a Juvenile proceeding under Welfare & Institutions Code § 602 et. seq., and California Rule of Court including the Juvenile Court Rules is a proper and lawful charge upon the County; and

WHEREAS, the County currently thinks it is in the public interest in circumstances where the Riverside County Law Office of the Public Defender declares a conflict of interest, or is otherwise unavailable, that the COUNTY contract with private counsel to render the usual and customary legal services required by law to be provided to individuals; and

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEY to provide legal representation for indigent parties in the Superior Court of the County of Riverside, Desert Region, when appointed by the Court as required by law, after a determination that a conflict of interest exists which causes the Law Office of the Public Defender to be unable to represent the defendant, or the Law Office of the Public Defender is relieved by the Court for extraordinary reasons, except for those cases enumerated in Section 4.

*County of Riverside
Professional Services Agreement*

1.1 Indigent party(ies) means a defendant or defendants charged with a crime and unable afford hiring private counsel.

2. TERM OF PERFORMANCE. This Contract shall take effect for February 1, 2011 to June 30, 2012, and then renewable in one-year increments for up to two years, expiring on June 30, 2014, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEY shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Courts within the Desert Region, wherever the cases may eventually be set for trial within the County of Riverside, and pursuant to the terms of this contract and in compliance with Attachment A, attached hereto, and incorporated herein. For the purpose of providing such professional legal services, ATTORNEY, at ATTORNEY'S own discretion, may perform the services, or cause them to be performed by other attorneys, who shall not be parties to this Contract, but are independent contractors and not agents or employees of ATTORNEY or COUNTY.

3.1 The Parties agree that the total number of cases is uncertain as is the complexity of those cases and agree for the first 17 month term that ATTORNEY will handle during the term of this contract, the case load as more specifically described as including:

(a) All felony matters within the range noted above, and filed in the Riverside County Superior Court Desert Region and represented through final judgment as set forth and delineated in paragraph 1;

(b) All Violation of Probation matters. However in all violation of probation matters, ATTORNEY will not accept appointment unless the Law Office of the Public Defender has declared a continuing conflict of interest or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability, or reasons not related to a declaration of conflict pursuant to Penal Code Section 987.2.

(d) All misdemeanor matters;

*County of Riverside
Professional Services Agreement*

(e) All miscellaneous matters; for example including but not limited to: diversion progress hearing; substance abuse enrollment hearings; reinstatement hearings; diversion fall-out sentencing; proof of enrollment hearings; plea withdrawals; remittitur hearings; re-sentencing; witness advisements; and other unique and unusual matters.

3.2 For the purposes of this Agreement, a “case” is defined as follows for all adult matters: the representation of one person on one accusatory pleading. Multiple charges against a defendant in one accusatory pleading shall not prevent designation of a matter as a single case. If a single defendant is accused in more than one accusatory pleading, each separate pleading shall constitute a separate case. If multiple defendants are charged in a single accusatory pleading, it shall be considered that there are as many cases as there are defendants.

3.3 For juvenile matters, a “case” means, an original petition; a subsequent petition based on entirely new facts; or a Notice of Hearing petition when no other original or subsequent petition is being processed. An amended petition (unless it states entirely new facts), modification hearings, restitution hearings, and the recalendaring of matters based on 15 day review, are not considered a new “case.”

3.4 ATTORNEY agrees that representation of those charged with complex felonies, including Special Circumstance Homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEY will, pursuant to this Contract, begin representation in these cases as soon as the Law Office of the Public Defender declares a conflict or is otherwise relieved, and defend or assign the case to a subcontract attorney at the earliest possible stage to insure vertical representation where appropriate.

3.5 ATTORNEY shall assist in the recovery of fees and funds pursuant to Penal Code Sections 987.5, 987.8(b), (c) and 987.81.

3.6 ATTORNEY shall accept appointment when the Law Office of the Public Defender has declared a conflict, or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability or reasons not related to a declaration of conflict pursuant to Penal Code §987.2.

*County of Riverside
Professional Services Agreement*

3.7 In subcontracting with other attorneys, ATTORNEY shall consider the factors enumerated in Penal Code § 987 et. seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code § 6000 et. seq., State Bar of California Guidelines on Indigent Defense Services Delivery Systems, the performance and case management guidelines for Criminal Defense Representation for the National Legal Aid & Defenders Association, and the State Bar Rules of California, as appropriate, including Rule 3-310. ATTORNEY shall assure that all subcontractors satisfy the minimum requirements for practicing law in the State of California as determined by the California State Bar Association, and are competent and provide constitutionally effective assistance. ATTORNEY shall submit a list of all subcontracting attorneys to the Law Office of the Public Defender at the beginning of each Fiscal Year and as necessary, when any changes in subcontracting attorneys occurs. Evidence of the qualification(s) of such subcontracting attorneys shall be provided with the list.

3.7.1 Each subcontracting attorney representing a defendant accused of a serious or violent felony pursuant to California Penal Code section 1192.7 must have served at least twenty-four (24) to thirty-six (36) months as a prosecutor, a public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials to verdict and sentencing. Five (5) of said jury trials must be felony matters.

3.7.2 Each subcontracting attorney representing a defendant in felony matters not delineated above, or involved in a probation revocation hearing involving a felony matter must have served at twelve (12) to thirty-six (36) months as a prosecutor, public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials.

3.8 ATTORNEY shall perform or case to be performed all professional legal services reasonably and legally required herein from the time of appointment, to and including, a final adjudication or disposition of the case. Disposition in criminal cases shall mean: 1) the dismissal of charges; 2) the entering of an order of deferred prosecution; 3) an order or result requiring a new trial; 4) imposition of sentence; 5) an order imposing probation; or 6) deferral of any of the above coupled with any other hearing on the case number, including but not limited to felony or misdemeanor probation

*County of Riverside
Professional Services Agreement*

review that occurs within thirty (30) days of sentence, deferral of sentence or entry of an order of deferred prosecution. No hearing that occurs after thirty (30) days of any of the above will be considered part of case disposition for the purpose of this contract, except that a restitution hearing ordered at the time of the original disposition, whether it is held within 30 days or subsequently, shall be included in case disposition. Disposition includes the filing of a notice of appeal, if applicable.

3.9 It is the intent of County that all Felony Trials are to be litigated or otherwise resolved in a timely manner. In order to assure that Penal Code section 1050 requests for continuances do not hinder a timely resolution of assigned cases, all felony trial attorneys must submit a monthly report listing all cases not resolved within four (4) months of arraignment. The report shall delineate (a) what is done on the case, and (b) what will be done to resolve the case.

3.10 In order to effectuate an early resolution of felony cases, the Riverside Superior Court has designated Vertical Calendar Departments (VCDs) in the Desert Region. These Departments have been established to reduce the backlog of criminal cases and ensure that criminal cases will not be dismissed under the speedy trial requirements of Penal Code Section 1382.

(a) ATTORNEY shall dedicate experienced criminal law attorneys to be assigned to Departments designated as the Vertical Calendar Department (VCD) in the Desert County region. These sub-contracting attorneys shall be available to the designated Departments during normal Court business hours. ATTORNEY understands that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;

(b) ATTORNEY shall assume full responsibility for assigning only sub-contracting attorneys who have the necessary experience, qualifications and capabilities to handle cases assigned to these specialty departments;

(c) ATTORNEY understands that pursuant to this contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Desert County region upon notification of a conflict of interest by the Law Office of the Public Defender.

County of Riverside
Professional Services Agreement

(d) ATTORNEY shall provide a written report to the COUNTY that includes: the cases assigned to all VCD's, providing the department number, case number, date assigned, charge, name of assigned attorney, and any other relevant information.

4. EXCLUSIONS. ATTORNEY shall not be obligated under this Contract to provide defense in the following cases:

(a) Stand-by or Co-Counsel when a defendant has waived counsel or represents self in propria persona;

(b) All post-trial appellate proceedings including appeals to the Appellate Department of Superior Court or higher Appellate Courts;

(c) All federal proceedings;

(d) All parole violation hearings;

(e) All civil forfeiture proceedings;

(f) Any case in which the Court either removes or refuses to appoint the Law Office of the Public Defender on other than conflict grounds or fails to make an actual finding of incompetence under "Marsden":

(g) All death penalty proceedings.

5. ADMINISTRATIVE DUTIES.

5.1 ATTORNEY shall assign an Administrative Attorney under this Contract. In cases involving multiple defendants, the Administrative Attorney shall designate counsel for each defendant. In no case shall the designating Attorney appoint him or herself as Trial Attorney in such multiple defendant cases.

5.2 The Law Office of the Public Defender shall administer this Agreement on behalf of COUNTY.

6. PERFORMANCE MANAGEMENT. ATTORNEY shall have the responsibility for significant administrative duties under this contract to avoid conflicts of interest and monitoring subcontracting attorneys. The purpose of monitoring individual attorney caseloads is to ensure that all

*County of Riverside
Professional Services Agreement*

clients represented under this contract receive effective assistance of counsel under the Constitutions of the United States and the State of California.

6.1 ATTORNEY shall require that each subcontracting attorney participate in Mandatory Continuing Legal Education (MCLE) programs focusing on applicable law including but not limited to criminal law and procedure, juvenile law, and trial advocacy law. ATTORNEY shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEY shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEY of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEY will require the subcontracting attorney to provide proof of attendance at MCLE programs and to report participation in educational programs or other informal training. ATTORNEY will assure that only attorneys with the requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEY shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEY shall immediately notify COUNTY in writing upon becoming aware that a complaint lodged with the California State Bar Association/discipline body has resulted in a reprimand, suspension, or disbarment of any attorney who is a member of ATTORNEY'S staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this contract, ATTORNEY shall submit the following quarterly written reports to the COUNTY. COUNTY may, at its option, request these reports be submitted on a monthly basis. The quarterly reports shall include: a summary on the evaluation of the investigators and other providers of ancillary services used under this contract; a summary of subcontract attorney evaluations and observations; average number of MCLE approved training hours; participation in other educational programs related to the practice of criminal and/or juvenile law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEY, or such other information as requested by COUNTY. The

*County of Riverside
Professional Services Agreement*

report shall be accompanied by a certification from ATTORNEY that she has reviewed the performance of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEY shall meet to discuss all cases and contract issues at any time during the contract period.

7. COMPENSATION. The contract cost for February 1, 2011 through June 30, 2012 shall be a maximum of \$2, 691,661 (two million six hundred ninety-one thousand six hundred sixty-one dollars) plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEY up to the sum of \$158,333 (one hundred fifty-eight thousand three hundred thirty-three dollars) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of ATTORNEY to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract.

7.1 It is understood that, to the extent, ATTORNEY'S constitutional and necessary level of legal representation under the Contract may tend to justify additional payment, such necessary services in all but the most extreme circumstances, will all be considered by the ATTORNEY to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEY'S estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned to the Contract, extraordinary change of venue cases involving extreme expense, and such similar circumstances as may arise. ATTORNEY'S request must be in writing and include a complete justification of action or anticipated extra expenses and complete itemization of requested extraordinary payment.

8. EXPENSES. ATTORNEY shall pay all costs of specialized and professional services reasonably necessary to assist in the defense and preparation and presentation of their case, including: medical and psychiatric examination; investigative services; expert testimony; forensic services; language interpretation; discovery costs; reporter's transcripts; and fees for experts appointed pursuant to statute; from a trust account they hold for the County of Riverside, except for those services reimbursed pursuant

*County of Riverside
Professional Services Agreement*

to Penal Code § 987.9. ATTORNEY shall, within 90 days after the start date of this Contract, provide the COUNTY with a written policy, acceptable to the COUNTY, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEY shall disseminate these policies and procedures to all attorneys that they engage to provide services under this contract. ATTORNEY shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEY'S written policies and procedures pertaining to approval, invoicing, and payment. The written policy shall address the issues described in Attachment A. For these services during the contract term, the sum of \$8,000 per month for Desert County cases shall be paid to ATTORNEY monthly, in arrears, and set aside monthly and maintained in a separate interest bearing trust accounts for this purpose, EXCEPT that payments shall be suspended when the balance in ATTORNEY'S trust account for all criminal Penal Code 987.2 cases exceeds \$40,000 for each region. Additionally, upon written agreement of ATTORNEY and the COUNTY, or designee, the monthly expense payments may be modified in amount or timing but in no event shall exceed the maximum amount per month as set forth in this Section 8. ATTORNEY will maintain two separate trust accounts, one for Juvenile 602 et. seq. cases, and one for all criminal Penal Code 987.2 cases into which all of the monthly expense amount will be deposited. Should the amount of funds in the trust account for Juvenile 602 et seq. cases fall below \$3,000, ATTORNEY is authorized to transfer funds from the trust account for Penal Code 987.2 cases in \$3,000 increment(s), and shall notify the County Public Defender's Office upon any such transfer. Any interest accrued from these funds will be redeposited into the respective trust account and used by the ATTORNEY to pay the costs incurred herein (Business & Professions Code §6211(b)). These funds remain the property of the County of Riverside and at the end of the contract, or upon request of COUNTY, all or a portion of the unexpended funds shall be returned to COUNTY, and an accounting provided to the COUNTY within 30 days of termination, for all sums expended, including accrued interest. ATTORNEY must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. Either party may cancel this Contract, in whole or in part, on sixty (60)

*County of Riverside
Professional Services Agreement*

day's written notice to the other party. In the event this Contract is canceled, ATTORNEY shall be responsible for the matters currently assigned to ATTORNEY as set forth in Section 25.

10. INDEPENDENT COUNSEL. ATTORNEY is, and shall at all times be deemed independent and shall be wholly responsible for the manner in which they perform the services required by this Contract. ATTORNEY exclusively assumes responsibility for the acts of her employees and subcontractors as they relate to the services to be provided during the course and scope of their employment. ATTORNEY, her agents, employees and independent contractors and their agents and employees shall not be considered in any manner to be employees of the County of Riverside.

11. RECORDS. ATTORNEY shall keep sufficient records to enable COUNTY to establish the cost of representing each individual in Court proceedings and allow County of Riverside to attempt to recover such costs from whomever may be obligated to reimburse the COUNTY.

11.1 ATTORNEY shall furnish monthly written reports to the COUNTY, within ten (10) calendar days of the end of each month, on performance of each attorney during the preceding month. Such reports shall be in a format as specified by the COUNTY (See Exhibit A attached hereto and incorporated herein by this reference), and include name of defendant; type of case; case number; charge; disposition; number of cases opened, closed and reopened, transferred, or where a substitution for previously appointed counsel has occurred; and a notation of which cases ATTORNEY was appointed on under Section 3.1 a), b), c), and d) herein. ATTORNEY understands that COUNTY relies on the monthly reports to determine the cost of services and that any correction or adjustment to the report must be done in a timely manner not to exceed sixty (60) days from the required submission date of the monthly report by ATTORNEY. ATTORNEY shall also furnish a monthly report of expenditures for the trust account funds, that includes the vendor, type of expense (e.g., investigation, expert, etc.), client/case identifier (not name and/or case number of defendant), and amount of expense. The report shall additionally include the current balance of the account. ATTORNEY shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEY feel an indigent defendant referred does not qualify for services, ATTORNEY shall immediately so advise defendant and the Court and request

County of Riverside
Professional Services Agreement

determination by the Court. In no event shall ATTORNEY accept anything of value as consideration for services rendered to any indigent defendant that ATTORNEY has been appointed to represent by the Courts, except as provided in this Contract. ATTORNEY shall not charge any defendant for services rendered pursuant to this Contract.

11.2 For all cases where ATTORNEY is providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEY shall track the hours related to handling that specific case. Attorney hours are a specific requirement of the State of California in order for counties to seek reimbursement for indigent defense services provided on behalf of state indigent inmates charged with a crime while in custody. The written report of these hours shall be submitted with the monthly statistics. In the event ATTORNEY submits information too late for the COUNTY to request reimbursement from the State of California or in a manner which prevents the COUNTY from submitting a timely request to the State of California, the amount the COUNTY would have been reimbursed by the State will be deducted from compensation to the ATTORNEY.

11.3 Records maintained by ATTORNEY shall be sufficient to reflect all direct and indirect costs of services performed pursuant to this contract and the cost associated with each case, including those related to subcontracts and personal service contracts. These records shall include but not be limited to: documentation of any funds expended by ATTORNEY for personal service contracts or subcontracts; documentation of the service rendered under the contract(s); and reports of the time spent by each subcontractor or personal service contractor.

11.4 COUNTY may, at its discretion, audit or inspect ATTORNEY'S files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEY shall be audited by an outside auditor a minimum of once every twelve months, and at the end of the contract period. Payment for all ancillary expenses will be maintained by ATTORNEY in a separate bank account wherein COUNTY is named as the designated beneficiary of the fund. All monies paid for expenses are the sole property of the COUNTY and as such are returnable to COUNTY on demand. Any interest accrued to this account remains the property of COUNTY. Said expense money is to be spent as specified in the

*County of Riverside
Professional Services Agreement*

contract. ATTORNEY agrees to make available for inspection, without restrictions, all books, statements, ledgers and other financial records for a period of five (5) years from the termination of this Contract. All financial records shall be kept, or made available to County of Riverside, at ATTORNEY'S principal place of business at (insert address). ATTORNEY agrees to grant COUNTY full access to materials necessary to verify compliance with all terms of this contract. ATTORNEY shall provide COUNTY right of access to its facilities to audit information relating to the matters covered by this contract. Information that may be subject to any privilege or rules of confidentiality should be maintained by ATTORNEY in a way that allows access by COUNTY without breaching such confidentiality or privilege. Notwithstanding any of the above provisions of this paragraph, none of the constitutional, statutory, and common rights and privileges of any client are waived by this contract and COUNTY will respect the attorney/client privilege.

12. HOLD HARMLESS. ATTORNEY shall indemnify and hold the COUNTY, the Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees free and harmless from any liability, whatsoever, based or asserted upon any act(s) or omissions(s) of ATTORNEY, their employees, agents and subcontractors, for property damage, bodily injury, or death or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the accomplishment of the services to be performed by ATTORNEY hereunder; and ATTORNEY shall defend, at their sole expense, including attorney fees, COUNTY, Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees in any legal action (s) or claims(s) based upon such alleged act(s) or omission(s) whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

13. INSURANCE: Without limiting or diminishing the ATTORNEY'S obligation to indemnify or hold the COUNTY harmless, ATTORNEY shall procure and maintain or cause to be maintained, the following insurance coverage's during the term of this Agreement.

13.1 Workers' Compensation: If ATTORNEY has employees as defined by the State of California, ATTORNEY shall maintain statutory Workers' Compensation Insurance (Coverage A) as

*County of Riverside
Professional Services Agreement*

prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Diseases with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County of Riverside; and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

13.2 Commercial General Liability: ATTORNEY shall maintain Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, completed operations, personal and advertising injury covering claims, which may arise from or out of ATTORNEY'S performance of its obligations hereunder. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents or representatives as an Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

13.3 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, ATTORNEY shall maintain liability insurance for all owned, non-owned, or hired vehicles in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents, or representatives as an Additional Insured.

13.4 Professional Liability: ATTORNEY shall maintain Professional Liability Insurance providing coverage for performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEY'S Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement. Upon termination of this Agreement or the expiration or cancellation of the claims made insurance policy ATTORNEY shall purchase either 1) an Extended

County of Riverside
Professional Services Agreement

Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five (5) years beyond the termination of this Agreement. The ATTORNEY shall provide proof of coverage to COUNTY within 15 days of execution of the Contract.

13.5 Blanket Commercial Crime Policy: ATTORNEY shall maintain a Blanket Commercial Crime Policy including, but not limited to, coverage provided for all Directors, Officers, employees, agents and representatives who may be involved in any way with the direction, handling, depositing, payment or other function that involves COUNTY funds associated with the performance of this Contract with a limit of liability of not less than an amount per loss equal to, or greater than, the maximum amount of COUNTY money that may be in trust with the ATTORNEY at any one time. The coverage will remain in force for at least three (3) years subsequent to the termination of this Agreement or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. If this coverage is written on a Claims-Made basis, the ATTORNEY will provide either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Such extended claims made coverage shall be maintained for a period of three years or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. In the alternative, ATTORNEY may obtain a Fidelity Bond acceptable to COUNTY.

13.6 General Insurance Provisions - All lines:

*County of Riverside
Professional Services Agreement*

(a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.

(b) The ATTORNEY'S insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence, such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self insured retentions which are deemed unacceptable to the COUNTY, at the election of the County's Risk Manager, ATTORNEY'S carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEY shall cause their insurance carrier(s) to furnish the County of Riverside with 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to the County of Riverside prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

*County of Riverside
Professional Services Agreement*

ATTORNEY shall furnish COUNTY with original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this. The ATTORNEY shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

(d) It is understood and agreed by the parties hereto and the ATTORNEY'S insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(e) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or performance of work the Risk Manager of the County of Riverside reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's required herein, if; in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEY has become inadequate.

14. MATERIAL BREACH. Notwithstanding the provisions of Section 2., the failure of ATTORNEY or her agents, subcontractors or employees to comply with the terms of this Contract and any reasonable directions, by or on behalf of the COUNTY, issued pursuant thereto shall constitute a material breach of Contract by ATTORNEY, and, in addition to any other remedy authorized by law, COUNTY shall have the right to terminate said Contract immediately. Failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time. At the option of COUNTY, this Contract may be terminated upon the happening of any of the following:

- (a) Violation of any material provision of this Contract;
- (b) Institution of proceedings by, or against, any ATTORNEY under the bankruptcy laws of the United States;
- (c) Discovery that this Contract was obtained through fraud by commission or omission;
- (d) Suspension of business operation, or receivership, of ATTORNEY;

*County of Riverside
Professional Services Agreement*

- (e) Any assignment of this Contract without prior COUNTY approval;
- (f) The institution of disciplinary proceedings against any ATTORNEY by the California State Bar; or
- (g) The commencement of criminal prosecution of any ATTORNEY in any Court anywhere;
- (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310.
- (i) Failure to comply with the provisions of section 3.7 herein.

14.1 It is understood that the above-noted items are not exclusive of any other causes for termination, and failure of COUNTY to exercise its rights to terminate shall not constitute waiver of such right, which may be exercised at any subsequent time.

15. CONFLICT OF INTEREST. ATTORNEY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEY, ATTORNEY'S employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEY under this contract.

(a) ATTORNEY will establish measures to prevent employees or agents from making, receiving, providing, or offering gifts, entertainment, payment, loans, or other considerations, which could be deemed to appear to influence individuals to act contrary to the best interest of the COUNTY.

(b) No officer, employee, or agent of COUNTY, the State of California or the Federal Government, who exercises any function or responsibility in connection with the planning and implementation of the services being funded herein shall have any personal financial interest, direct or indirect, in this contract or in ATTORNEY'S firm.

(c) ATTORNEY shall not sit as Judge Pro Tem in any of the Courts that ATTORNEY provides representation for indigent services under this contract.

*County of Riverside
Professional Services Agreement*

(d) ATTORNEY shall provide conflict free representation. ATTORNEY is aware of *Christian v. Jackson* (1996) 41 C.A.4th 986, and *Castro v. Los Angeles Board of Supervisors* (1991) 232 C.A.3d 1432, and the guidelines expressed therein.

16. PRIVATE PRACTICE. ATTORNEY shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes or any and all proceedings in the Courts of the County of Riverside. ATTORNEY shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEY from providing representation to indigents pursuant to this Contract. If ATTORNEY or attorney subcontractors split their work between work under this contract and other business, the monthly report will indicate the percentage of time that attorney(s) devote to private matters compared to work under this contract, and also include a certification by each attorney subcontractor(s) regarding such time. ATTORNEY, employees working as attorneys under provisions of this agreement and subcontractors working under provisions of this agreement must report in writing each month the percentage of their time spent on conflict contract representation and the percentage of time spent on private practice matters. ATTORNEY must also indicate the hours spent per month.

17. WAIVER. No waiver by any party of any existing default by any other party shall be deemed to waive any subsequent default by such party.

18. ASSIGNMENT: This Agreement shall not be assigned by ATTORNEY, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Agreement by ATTORNEY without the prior written consent of COUNTY will be deemed void and of no force or effect.

19. CUMULATIVE RIGHTS. All rights hereunder are cumulative, not alternative, and are in addition to any other rights given by law.

20. ENTIRE AGREEMENT. This Contract supersedes any prior agreements between the Parties and is the sole basis for Contract between the Parties. This Contract expresses the understandings of the Parties concerning all matters covered.

*County of Riverside
Professional Services Agreement*

21. ALTERATION. No addition to, or alteration of, the terms of this Contract, whether by written or oral understanding of the Parties, their officers, agents or employees, shall be valid unless made in the form of written amendment to this Contract and formally approved by the Parties.

22. SUBCONTRACTS. The Parties agree that ATTORNEY shall not sign contracts with subcontractors wherein there is a clause in said contracts prohibiting subcontractors from submitting proposals when COUNTY solicits proposals for Indigent Defense Services. Where prospective subcontractors are equally competent and qualified, ATTORNEY shall use best efforts to utilize firms located in Riverside County to the maximum extent possible consistent with prudent business practices and providing the best value under this Contract.

23. NONDISCRIMINATION. Neither ATTORNEY nor any subcontractor or other party providing services related to this contract, shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, or the presence of any sensory, mental or physical handicap, in employment or application for employment, subcontracting or in the administration or delivery of services or any other benefit under this contract.

24. CONTINUITY OF REPRESENTATION. The Parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled by either Party, that there will be a need to provide for the existing caseload through its completion. Continuity of counsel is desired where there is an established attorney-client relationship. Each case will be reviewed independently. To that end, COUNTY agrees for the sake of the clients, to have any successor attorney absorb matters not yet set for trial.

24.1 As to those cases already set for trial, the Parties agree upon the following:

(a) Any case, except Special Circumstance Homicides, that is originally set for trial with a trial date more than 90 days after the expiration of this Contract, or any case including Special Circumstance Homicides or vertical prosecution cases in which arraignment is pending in the Superior Court will be transferred to the new attorney if there is one, if no conflict of interest exists;

*County of Riverside
Professional Services Agreement*

(b) Special Circumstance Homicides that have been assigned to ATTORNEY for less than 180 days shall be transferred to successor attorney. ATTORNEY will assist new counsel in preparation as requested by that counsel;

(c) It is anticipated that ATTORNEY or subcontract attorneys will remain as counsel on all vertical prosecution cases set for trial, and all other felonies in which a trial date is, or has previously been, set by that ATTORNEY.

24.2 The first two provisions above provide for transfer of cases to successor attorney and responsibility for providing adequate legal counsel, but the Parties agree that the Court can hear any motion brought by any counsel on behalf of any client affected by this process and that decision may be contrary to this process.

24.3 For those cases that cannot be transferred to successor attorney, the Parties agree that the COUNTY's liability for costs shall be limited to the following:

(a) COUNTY shall pay ATTORNEY up to one additional month at current negotiated rates, which will compensate for trial preparation and trial except as set forth below. For those cases originally scheduled for trial during the Contract term or within 60 days of the termination of the Contract, no additional payment is provided beyond the per case cost, and not to exceed one month's compensation.

(b) For those cases originally set for trial more than 60 days after termination of the Contract, the following payment schedule will apply:

Special Circumstance Homicides	\$500/day or \$250/half day per Attorney Trial or motion (excluding 1050 motions)
Vertical Prosecution and Non-Special Circumstance Homicides	\$400/day or \$200/half day Trial or motion (excluding 1050 motions)
Other	\$350/day or \$175/half day Trial or motion (excluding 1050 motions)

(c) It is agreed that if a case has been assigned to ATTORNEY during the term of this Contract, costs of ATTORNEY'S preparation have already been paid and only motion and trial costs will be paid in addition as set forth above.

County of Riverside
Professional Services Agreement

25. NOTICES. All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

County of Riverside

ATTORNEY

By Bob Buster
Chairman, Board of Supervisors
BOB BUSTER

By Barbara Brand
Barbara M. Brand

DATED: FEB 01 2011

DATED: 1-26-11

ATTEST:

Kecia Harper-Ihem, Clerk

By Kecia Harper-Ihem
Deputy

FORM APPROVED COUNTY COUNSEL
BY: Marshall Victor 1/27/11
MARSHAL VICTOR DATE

*County of Riverside
Professional Services Agreement*

ATTACHMENT A

Definitions

Wherever these words occur in this Attachment, shall have the following meaning:

- a) "ATTORNEY" shall mean any employee, agent, or representative of the contract company used in conjunction with the performance of this contract.
- b) "Vendor" shall mean an individual, firm, partnership, or corporation that performs services for the ATTORNEY or his or her subcontract attorney, either directly or through a duly authorized representative.
- c) "County" shall mean the County of Riverside and the Law Office of the Public Defender. For purposes of this attachment, and County are used interchangeably.

Specialized and Professional Services Trust Account Policy

- (1) ATTORNEY shall retain on file written documentation from each engaged subcontract attorney and professional vendor; a signed acknowledgment of the following:
 - (a) Has read and understands the written policies and procedures pertaining to Requests for Approval, reporting and invoicing;
 - (b) Understands that subcontract attorney and vendor must respond to all inquiries by the ATTORNEY, and the County regarding billings and payments protocols unless such request infringes upon attorney client privileges, and
 - (c) Understands that subcontract attorney and any additional vendor may not get paid the full amount included in the invoice and/or may be required to reimburse the County for inappropriate or unauthorized expenditures.
- (2) ATTORNEY shall implement the following internal controls:
 - (a) Reasons for approving fewer or more hours than requested will be documented;
 - (b) Dates initial and any supplemental requests were approved will be recorded on the request forms and in ATTORNEY's electronic case tracking systems; and,

*County of Riverside
Professional Services Agreement*

- (c) The number of requests made, total number of hours approved, hours used, and hours remaining will be tracked, and recorded for each case.
- (3) ATTORNEY shall include the following policies and procedures regarding invoices for specialized and professional services, and insure their subcontract attorneys and any subsequent vendors adhere to these policies and procedures:
- (a) Invoices will include all case identifiers described above; travel time, start and end locations when requesting reimbursement for miles; accurate total miles, total hours, and total dollar amounts; billing by the tenths or quarter of an hour, whichever is less; and total hours authorized, used and remaining on the case.
 - (b) ATTORNEY shall ensure by their signature on the invoice that the work performed was consistent with what was described and authorized in the corresponding "Request for Approval," and those the dates for which hours are billed were after the date of approval for investigative work and before the case was close.
 - (c) ATTORNEY shall review all invoices to ensure that the work performed is consistent with what was described in the Request for Approval and the number of hours approved and was conducted after the date of approval and before the case was closed;
 - (d) Verify that all calculations on the invoices are correct, including use of the correct mileage and hourly rates for investigations;
 - (e) Verify that the dates of each activity are within the billing period for the invoice;
 - (f) Bill in increments of tenth or quarter hours, whichever is lower.
 - (g) Examples of investigative activities that would not be subject to payment by the ATTORNEY include: (i) work performed over the number of hours approved; (ii) worked performed after the date a case was closed; and, (iii) administrative activities that are not considered investigative, such as setting up files, filling out required paperwork for the ATTORNEY, indexing, or placing discovery into binders.
- (4) The ATTORNEY shall :

County of Riverside
Professional Services Agreement

- (a) Assign, record, and track internal file numbers for each case with specialized and professional expenditures by defendant and case.
- (b) Include the internal file numbers as a case identifier in the monthly reports of expenditures of Trust Account Funds, in addition to the vendor, type of service, amount of expense, and current balance of the account.
- (c) Include in the paper documents associated with each payment from Trust Account Funds: (i) individual invoices for each case paid by the check; (ii) a coversheet that includes the cases, amount for each case, and total amount paid or to be paid to the vendor by the subcontract attorney; and (iii) the check number for the final payment to the subcontract attorney or vendor.
- (d) Input into an internal electronic system for each case with specialized and professional expenditures, at a minimum: (i) case identifiers such as the defendant's first and last name, case number, internal file number, ATTORNEY or subcontract attorney, and type of case (e.g. felony, misdemeanor, special circumstance); (ii) information on requests for specialized and professional services such as the dates of the request and approval, type of service (e.g. investigator, expert, etc.), vendor name, number of requests, number of hours or dollar amount approved; and (iii) separate entries on expenditures made on the case that include the date of the invoice, type of service, vendor, hours used, amount of other expenses, total amount billed on the invoice, and the check number for payment.
- (e) Utilize a readily available, inexpensive electronic software that is able to run reports using the above information and provide: (i) the total expenditures, number of requests, hours approved, used, and remaining on a particular case; (ii) average cost per case and/or by case type (e.g. felony, misdemeanor, special circumstances); (iii) total and average cost per service charge type (e.g. investigator, expert, etc.); (iv) total and average expenditure per vendor; and (v) average number of hours requested, approved and used per case type.

County of Riverside
Professional Services Agreement

“Request For Approval” Procedures

(5) The following information shall be required for all initial and any supplemental subcontract attorney “Requests for Approval” for specialized and professional services and shall be maintained in the file unless such request infringes upon attorney client privileges:

- (a) Itemized planned activities (e.g. review discovery, crime scene investigation, review police reports, etc.);
- (b) Whether or not a written report is required;
- (c) Names or initials of witnesses to be contacted and interviewed, if available;
- (d) Anticipated location of planned interviews;
- (e) Consistent case identifiers on all pages, including: defendant first and last name, case number, internal file number, and ATTORNEY;
- (f) The number of the request;
- (g) ATTORNEY hours approved and worked to date on the case (for supplemental requests); and,
- (h) Other pertinent information

*County of Riverside
Professional Services Agreement*

EXHIBIT A

**Attorney: List the Attorney's full name
Felony Trial Caseload as of day, month, year**

	Client Name (last, first)	Case Number	Charge (s)	Date Assigned	Next Court Date	Type of proceeding	Life Case	Multiple Cases-list	Hours worked on this case this month
#									
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

I maintain information to document the hours I am reporting for work on each case listed.

Attorney
Signature: _____

Signature of Conflict Counsel
Administrator: _____ Date: _____

The above signature should be coming from administrative counsel signing on behalf of the conflict counsel firm.

Reviewed at the Public
Defender: _____ Date: _____

*County of Riverside
Professional Services Agreement*

CRIMINAL DEFENSE AGREEMENT

for

LEGAL INDIGENT DEFENSE SERVICES

between

COUNTY OF RIVERSIDE

and

VIRGINIA M. BLUMENTHAL
A PROFESSIONAL LAW CORPORATION



5011 700 5.1 64 1: 18

RECEIVED RIVERSIDE COUNTY
PROFESSIONAL SERVICES AGREEMENT

*County of Riverside
Professional Services Agreement*

CONTRACT TO PROVIDE LEGAL SERVICES.

THIS CONTRACT is made this ____ day of _____, 2011, between the County of Riverside (hereinafter "COUNTY") and Virginia M. Blumenthal, A Professional Law Corporation, (hereinafter "ATTORNEY"), for Indigent Defense services to be provided in the Superior Court of the County of Riverside, Western County Region, as set forth herein.

RECITALS

WHEREAS, the right of all persons against whom Criminal Court proceedings are brought to be represented by Counsel is guaranteed by the Constitution of the United States and the Constitution of the State of California; and

WHEREAS, the cost and expense of each counsel in the representation of indigent adults in the specified proceedings are a proper and lawful charge upon the COUNTY; and

WHEREAS, the County currently thinks it is in the public interest in circumstances where the Riverside County Law Office of the Public Defender declares a conflict of interest, or is otherwise unavailable, that the COUNTY contract with private counsel to render the usual and customary legal services required by law to be provided to individuals; and

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEY to provide legal representation for indigent parties in the Superior Court of the County of Riverside, Western Region, and more specifically identified as Riverside VCD and trial courts, including the Mental Health court(s), Domestic Violence Court(s), and Drug Court(s), but specifically excluding Departments 21 and 22, when appointed by the Court as required by law, after a determination that a conflict of interest exists which causes the Law Office of the Public Defender to be unable to represent the defendant, or the Law Office of the Public Defender is relieved by the Court for extraordinary reasons, except for those cases enumerated in Section 4. ATTORNEY also agrees to assume responsibility for all currently pending indigent cases in the Superior Courts listed, subject to any necessary approvals of the Court.

*County of Riverside
Professional Services Agreement*

1.1 Indigent party(ies) means a defendant or defendants charged with a crime and unable afford hiring private counsel.

2. TERM OF PERFORMANCE. This Contract shall take effect for February 1, 2011 to June 30, 2012, and then renewable in one-year increments for up to two years, expiring on June 30, 2014, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEY shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Courts within the Western County Region as specified in section 1 herein, wherever the cases may eventually be set for trial within the County of Riverside, and pursuant to the terms of this contract and in compliance with Appendix A, attached hereto, and incorporated herein. For the purpose of providing such professional legal services, ATTORNEY, at ATTORNEY'S own discretion, may perform the services, or cause them to be performed by other attorneys, who shall not be parties to this Contract, but are independent contractors and not agents or employees of ATTORNEY or COUNTY.

3.1 The Parties agree that the total number of cases is uncertain as is the complexity of those cases and agree for the first 17 month term that ATTORNEY will handle the following cases during the term of this contract:

(a) All felony matters filed in the Riverside County Superior Courts and represented through final judgment as set forth and delineated in paragraph 1;

(b) All Violation of Probation matters. However in all violation of probation matters, ATTORNEY will not accept appointment unless the Law Office of the Public Defender has declared a continuing conflict of interest or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability, or reasons not related to a declaration of conflict pursuant to Penal Code Section 987.2.

(c) All misdemeanor matters except those originating in Riverside Court rooms 21 and 22;

*County of Riverside
Professional Services Agreement*

(d) All miscellaneous matters; for example including but not limited to: diversion progress hearing; substance abuse enrollment hearings; reinstatement hearings; diversion fall-out sentencing; proof of enrollment hearings; plea withdrawals; remittitur hearings; re-sentencing; witness advisements; and other unique and unusual matters.

3.2 For the purposes of this Agreement, a “case” is defined as follows for all adult matters: the representation of one person on one accusatory pleading. Multiple charges against a defendant in one accusatory pleading shall not prevent designation of a matter as a single case. If a single defendant is accused in more than one accusatory pleading, each separate pleading shall constitute a separate case. If multiple defendants are charged in a single accusatory pleading, it shall be considered that there are as many cases as there are defendants.

3.3 ATTORNEY agrees that representation of those charged with complex felonies, including Special Circumstance Homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEY will, pursuant to this Contract, begin representation in these cases as soon as the Law Office of the Public Defender declares a conflict or is otherwise relieved, and defend or assign the case to a subcontract attorney at the earliest possible stage to insure vertical representation where appropriate.

3.4 ATTORNEY shall assist in the recovery of fees and funds pursuant to Penal Code Sections 987.5, 987.8(b), (c) and 987.81.

3.5 ATTORNEY shall accept appointment when the Law Office of the Public Defender has declared a conflict, or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability or reasons not related to a declaration of conflict pursuant to Penal Code §987.2.

3.6 In subcontracting with other attorneys, ATTORNEY shall consider the factors enumerated in Penal Code § 987 et. seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code § 6000 et. seq., State Bar of California Guidelines on Indigent Defense Services Delivery Systems, the performance and case management guidelines for Criminal Defense

*County of Riverside
Professional Services Agreement*

Representation for the National Legal Aid & Defenders Association, and the State Bar Rules of California, as appropriate, including Rule 3-310. ATTORNEY shall assure that all subcontractors satisfy the minimum requirements for practicing law in the State of California as determined by the California State Bar Association, and are competent and provide constitutionally effective assistance. ATTORNEY shall submit a list of all subcontracting attorneys to the Law Office of the Public Defender at the beginning of each Fiscal Year and as necessary, when any changes in subcontracting attorneys occurs. Evidence of the qualification(s) of such subcontracting attorneys shall be provided with the list.

3.6.1 Each subcontracting attorney representing a defendant accused of a serious or violent felony pursuant to California Penal Code section 1192.7 must have served at least twenty-four (24) to thirty-six (36) months as a prosecutor, a public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials to verdict and sentencing. Five (5) of said jury trials must be felony matters.

3.6.2 Each subcontracting attorney representing a defendant in felony matters not delineated above, or involved in a probation revocation hearing involving a felony matter must have served at twelve (12) to thirty-six (36) months as a prosecutor, public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials.

3.7 ATTORNEY shall perform or cause to be performed all professional legal services reasonably and legally required herein from the time of appointment, to and including, a final adjudication or disposition of the case. Disposition in criminal cases shall mean: 1) the dismissal of charges; 2) the entering of an order of deferred prosecution; 3) an order or result requiring a new trial; 4) imposition of sentence; 5) an order imposing probation; or 6) deferral of any of the above coupled with any other hearing on the case number, including but not limited to felony or misdemeanor probation review that occurs within thirty (30) days of sentence, deferral of sentence or entry of an order of deferred prosecution. No hearing that occurs after thirty (30) days of any of the above will be considered part of case disposition for the purpose of this contract, except that a restitution hearing ordered at the time of the

*County of Riverside
Professional Services Agreement*

original disposition, whether it is held within 30 days or subsequently, shall be included in case disposition. Disposition includes the filing of a notice of appeal, if applicable.

3.8 It is the intent of County that all Felony Trials are to be litigated or otherwise resolved in a timely manner. In order to assure that Penal Code section 1050 requests for continuances do not hinder a timely resolution of assigned cases, all felony trial attorneys must submit a monthly report listing all cases not resolved within four (4) months of arraignment. The report shall delineate (a) what is done on the case, and (b) what will be done to resolve the case.

3.9 In order to effectuate an early resolution of felony cases, the Riverside Superior Court has designated Vertical Calendar Departments (VCDs) in the Western County Region. These Departments have been established to reduce the backlog of criminal cases and ensure that criminal cases will not be dismissed under the speedy trial requirements of Penal Code Section 1382.

(a) ATTORNEY shall dedicate experienced criminal law attorneys to be assigned to Departments designated as the Vertical Calendar Department (VCD) in the Western County Region, minus Banning. These sub-contracting attorneys shall be available to the designated Departments during normal Court business hours. ATTORNEY understands that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;

(b) ATTORNEY shall assume full responsibility for assigning only sub-contracting attorneys who have the necessary experience, qualifications and capabilities to handle cases assigned to these specialty departments;

(c) ATTORNEY understands that pursuant to this contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Western County Region upon notification of a conflict of interest by the Law Office of the Public Defender.

(d) ATTORNEY shall provide a written report to the COUNTY that includes: the cases assigned to all VCD's, providing the department number, case number, date assigned, charge, name of assigned attorney, and any other relevant information.

County of Riverside
Professional Services Agreement

4. EXCLUSIONS. ATTORNEY shall not be obligated under this Contract to provide defense in the following cases:

(a) Stand-by or Co-Counsel when a defendant has waived counsel or represents self in propria persona;

(b) All post-trial appellate proceedings including appeals to the Appellate Department of Superior Court or higher Appellate Courts;

(c) All federal proceedings;

(d) All parole violation hearings;

(e) All civil forfeiture proceedings;

(f) Any case in which the Court either removes or refuses to appoint the Law Office of the Public Defender on other than conflict grounds or fails to make an actual finding of incompetence under "Marsden":

(g) All death penalty proceedings.

5. ADMINISTRATIVE DUTIES.

5.1 ATTORNEY shall assign an Administrative Attorney under this Contract. In cases involving multiple defendants, the Administrative Attorney shall designate counsel for each defendant. In no case shall the designating Attorney appoint him or herself as Trial Attorney in such multiple defendant cases.

5.2 The Law Office of the Public Defender shall administer this Agreement on behalf of COUNTY.

6. PERFORMANCE MANAGEMENT. ATTORNEY shall have the responsibility for significant administrative duties under this contract to avoid conflicts of interest and monitoring subcontracting attorneys. The purpose of monitoring individual attorney caseloads is to ensure that all clients represented under this contract receive effective assistance of counsel under the Constitutions of the United States and the State of California.

*County of Riverside
Professional Services Agreement*

6.1 ATTORNEY shall require that each subcontracting attorney participate in Mandatory Continuing Legal Education (MCLE) programs focusing on applicable law including but not limited to criminal law and procedure, juvenile law, and trial advocacy law. ATTORNEY shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEY shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEY of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEY will require the subcontracting attorney to provide proof of attendance at MCLE programs and to report participation in educational programs or other informal training. ATTORNEY will assure that only attorneys with the requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEY shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEY shall immediately notify COUNTY in writing upon becoming aware that a complaint lodged with the California State Bar Association/discipline body has resulted in a reprimand, suspension, or disbarment of any attorney who is a member of ATTORNEY'S staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this contract, ATTORNEY shall submit the following quarterly written reports to the COUNTY. COUNTY may, at its option, request these reports be submitted on a monthly basis. The quarterly reports shall include: a summary on the evaluation of the investigators and other providers of ancillary services used under this contract; a summary of subcontract attorney evaluations and observations; average number of MCLE approved training hours; participation in other educational programs related to the practice of criminal and/or juvenile law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEY, or such other information as requested by COUNTY. The report shall be accompanied by a certification from ATTORNEY that she has reviewed the performance

*County of Riverside
Professional Services Agreement*

of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEY shall meet to discuss all cases and contract issues at any time during the contract period.

7. COMPENSATION. The contract cost for February 1, 2011 through June 30, 2012 shall be a maximum of \$4,816,667 (four million eight hundred sixteen thousand six hundred sixty-seven dollars) plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEY up to the sum of \$283,333.35 (two hundred eighty-three thousand three hundred thirty-three dollars and thirty five cents) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of ATTORNEY to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract.

7.1 It is understood that, to the extent, ATTORNEY'S constitutional and necessary level of legal representation under the Contract may tend to justify additional payment, such necessary services in all but the most extreme circumstances, will all be considered by the ATTORNEY to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEY'S estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned to the Contract, extraordinary change of venue cases involving extreme expense, and such similar circumstances as may arise. ATTORNEY'S request must be in writing and include a complete justification of action or anticipated extra expenses and complete itemization of requested extraordinary payment.

8. EXPENSES. ATTORNEY shall pay all costs of specialized and professional services reasonably necessary to assist in the defense and preparation and presentation of their case, including: medical and psychiatric examination; investigative services; expert testimony; forensic services; language interpretation; discovery costs; reporter's transcripts; and fees for experts appointed pursuant to statute; from a trust account they hold for the County of Riverside, except for those services reimbursed pursuant to Penal Code § 987.9. ATTORNEY shall, within 90 days after the start date of this Contract, provide the

*County of Riverside
Professional Services Agreement*

COUNTY with a written policy, acceptable to the COUNTY, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEY shall disseminate these policies and procedures to all attorneys that they engage to provide services under this contract. ATTORNEY shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEY'S written policies and procedures pertaining to approval, invoicing, and payment. The written policy shall address the issues described in Attachment A. For these services during the contract term, the sum of \$40,000 per month for Western County cases shall be paid to ATTORNEY monthly, in arrears, and set aside monthly and maintained in a separate interest bearing trust accounts for this purpose, EXCEPT that payments shall be suspended when the balance in ATTORNEY'S trust account for all criminal Penal Code 987.2 cases exceeds \$40,000 for each region. Additionally, upon written agreement of ATTORNEY and the COUNTY, or designee, the monthly expense payments may be modified in amount or timing but in no event shall exceed the maximum amount per month as set forth in this Section 8. Any interest accrued from these funds will be redeposit into the respective trust account and used by the ATTORNEY to pay the costs incurred herein (Business & Professions Code §6211(b)). These funds remain the property of the County of Riverside and at the end of the contract, or upon request of COUNTY, all or a portion of the unexpended funds shall be returned to COUNTY, and an accounting provided to the COUNTY within 30 days of termination, for all sums expended, including accrued interest. ATTORNEY must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. Either party may cancel this Contract, in whole or in part, on sixty (60) day's written notice to the other party. In the event this Contract is canceled, ATTORNEY shall be responsible for the matters currently assigned to ATTORNEY as set forth in Section 25.

10. INDEPENDENT COUNSEL. ATTORNEY is, and shall at all times be deemed independent and shall be wholly responsible for the manner in which they perform the services required by this Contract. ATTORNEY exclusively assumes responsibility for the acts of her employees and subcontractors as they relate to the services to be provided during the course and scope of their

*County of Riverside
Professional Services Agreement*

employment. ATTORNEY, her agents, employees and independent contractors and their agents and employees shall not be considered in any manner to be employees of the County of Riverside.

11. RECORDS. ATTORNEY shall keep sufficient records to enable COUNTY to establish the cost of representing each individual in Court proceedings and allow County of Riverside to attempt to recover such costs from whomever may be obligated to reimburse the COUNTY.

11.1 ATTORNEY shall furnish monthly written reports to the COUNTY, within ten (10) calendar days of the end of each month, on performance of each attorney during the preceding month. Such reports shall be in a format as specified by the COUNTY (See Exhibit A attached hereto and incorporated herein by this reference), and include name of defendant; type of case; case number; charge; disposition; number of cases opened, closed and reopened, transferred, or where a substitution for previously appointed counsel has occurred; and a notation of which cases ATTORNEY was appointed on under Section 3.1 a), b), c), and d) herein. ATTORNEY understands that COUNTY relies on the monthly reports to determine the cost of services and that any correction or adjustment to the report must be done in a timely manner not to exceed sixty (60) days from the required submission date of the monthly report by ATTORNEY. ATTORNEY shall also furnish a monthly report of expenditures for the trust account funds, that includes the vendor, type of expense (e.g., investigation, expert, etc.), client/case identifier (not name and/or case number of defendant), and amount of expense. The report shall additionally include the current balance of the account. ATTORNEY shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEY feel an indigent defendant referred does not qualify for services, ATTORNEY shall immediately so advise defendant and the Court and request determination by the Court. In no event shall ATTORNEY accept anything of value as consideration for services rendered to any indigent defendant that ATTORNEY has been appointed to represent by the Courts, except as provided in this Contract. ATTORNEY shall not charge any defendant for services rendered pursuant to this Contract.

11.2 For all cases where ATTORNEY is providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEY shall track the

*County of Riverside
Professional Services Agreement*

hours related to handling that specific case. Attorney hours are a specific requirement of the State of California in order for counties to seek reimbursement for indigent defense services provided on behalf of state indigent inmates charged with a crime while in custody. The written report of these hours shall be submitted with the monthly statistics. In the event ATTORNEY submits information too late for the COUNTY to request reimbursement from the State of California or in a manner which prevents the COUNTY from submitting a timely request to the State of California, the amount the COUNTY would have been reimbursed by the State will be deducted from compensation to the ATTORNEY.

11.3 Records maintained by ATTORNEY shall be sufficient to reflect all direct and indirect costs of services performed pursuant to this contract and the cost associated with each case, including those related to subcontracts and personal service contracts. These records shall include but not be limited to: documentation of any funds expended by ATTORNEY for personal service contracts or subcontracts; documentation of the service rendered under the contract(s); and reports of the time spent by each subcontractor or personal service contractor.

11.4 COUNTY may, at its discretion, audit or inspect ATTORNEY'S files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEY shall be audited by an outside auditor a minimum of once every twelve months, and at the end of the contract period. Payment for all ancillary expenses will be maintained by ATTORNEY in a separate bank account wherein COUNTY is named as the designated beneficiary of the fund. All monies paid for expenses are the sole property of the COUNTY and as such are returnable to COUNTY on demand. Any interest accrued to this account remains the property of COUNTY. Said expense money is to be spent as specified in the contract. ATTORNEY agrees to make available for inspection, without restrictions, all books, statements, ledgers and other financial records for a period of five (5) years from the termination of this Contract. All financial records shall be kept, or made available to County of Riverside, at ATTORNEY'S principal place of business at (insert address). ATTORNEY agrees to grant COUNTY full access to materials necessary to verify compliance with all terms of this contract. ATTORNEY shall provide COUNTY right of access to its facilities to audit information relating to the matters covered by this contract. Information

*County of Riverside
Professional Services Agreement*

that may be subject to any privilege or rules of confidentiality should be maintained by ATTORNEY in a way that allows access by COUNTY without breaching such confidentiality or privilege. Notwithstanding any of the above provisions of this paragraph, none of the constitutional, statutory, and common rights and privileges of any client are waived by this contract and COUNTY will respect the attorney/client privilege.

12. HOLD HARMLESS. ATTORNEY shall indemnify and hold the COUNTY, the Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees free and harmless from any liability, whatsoever, based or asserted upon any act(s) or omissions(s) of ATTORNEY, their employees, agents and subcontractors, for property damage, bodily injury, or death or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the accomplishment of the services to be performed by ATTORNEY hereunder; and ATTORNEY shall defend, at their sole expense, including attorney fees, COUNTY, Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees in any legal action (s) or claims(s) based upon such alleged act(s) or omission(s) whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

13. INSURANCE: Without limiting or diminishing the ATTORNEY's obligation to indemnify or hold the COUNTY harmless, ATTORNEY shall procure and maintain or cause to be maintained, the following insurance coverage's during the term of this Agreement.

13.1 Workers' Compensation: If ATTORNEY has employees as defined by the State of California, ATTORNEY shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Diseases with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County of Riverside; and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

13.2 Commercial General Liability: ATTORNEY shall maintain Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual

*County of Riverside
Professional Services Agreement*

liability, completed operations, personal and advertising injury covering claims, which may arise from or out of ATTORNEY'S performance of its obligations hereunder. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents or representatives as an Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

13.3 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, ATTORNEY shall maintain liability insurance for all owned, non-owned, or hired vehicles in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents, or representatives as an Additional Insured.

13.4 Professional Liability: ATTORNEY shall maintain Professional Liability Insurance providing coverage for performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEY'S Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement. Upon termination of this Agreement or the expiration or cancellation of the claims made insurance policy ATTORNEY shall purchase either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five (5) years beyond the termination of this Agreement. The ATTORNEY shall provide proof of coverage to COUNTY within 15 days of execution of the Contract.

County of Riverside
Professional Services Agreement

13.5 Blanket Commercial Crime Policy: ATTORNEY shall maintain a Blanket Commercial Crime Policy including, but not limited to, coverage provided for all Directors, Officers, employees, agents and representatives who may be involved in any way with the direction, handling, depositing, payment or other function that involves COUNTY funds associated with the performance of this Contract with a limit of liability of not less than an amount per loss equal to, or greater than, the maximum amount of COUNTY money that may be in trust with the ATTORNEY at any one time. The coverage will remain in force for at least three (3) years subsequent to the termination of this Agreement or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. If this coverage is written on a Claims-Made basis, the ATTORNEY will provide either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Such extended claims made coverage shall be maintained for a period of three years or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. In the alternative, ATTORNEY may obtain a Fidelity Bond acceptable to COUNTY.

13.6 General Insurance Provisions - All lines:

(a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.

(b) The ATTORNEY'S insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence, such retentions shall have the

*County of Riverside
Professional Services Agreement*

prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self insured retentions which are deemed unacceptable to the COUNTY, at the election of the County's Risk Manager, ATTORNEY'S carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEY shall cause their insurance carrier(s) to furnish the County of Riverside with 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to the County of Riverside prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. ATTORNEY shall furnish COUNTY with original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this. The ATTORNEY shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

(d) It is understood and agreed by the parties hereto and the ATTORNEY'S insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be

*County of Riverside
Professional Services Agreement*

construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(e) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or performance of work the Risk Manager of the County of Riverside reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's required herein, if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEY has become inadequate.

14. MATERIAL BREACH. Notwithstanding the provisions of Section 2., the failure of ATTORNEY or her agents, subcontractors or employees to comply with the terms of this Contract and any reasonable directions, by or on behalf of the COUNTY, issued pursuant thereto shall constitute a material breach of Contract by ATTORNEY, and, in addition to any other remedy authorized by law, COUNTY shall have the right to terminate said Contract immediately. Failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time. At the option of COUNTY, this Contract may be terminated upon the happening of any of the following:

- (a) Violation of any material provision of this Contract;
- (b) Institution of proceedings by, or against, any ATTORNEY under the bankruptcy laws of the United States;
- (c) Discovery that this Contract was obtained through fraud by commission or omission;
- (d) Suspension of business operation, or receivership, of ATTORNEY;
- (e) Any assignment of this Contract without prior COUNTY approval;
- (f) The institution of disciplinary proceedings against any ATTORNEY by the California State Bar; or
- (g) The commencement of criminal prosecution of any ATTORNEY in any Court anywhere;
- (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310.

*County of Riverside
Professional Services Agreement*

- (i) Failure to comply with the provisions of section 3.7 herein.

14.1 It is understood that the above-noted items are not exclusive of any other causes for termination, and failure of COUNTY to exercise its rights to terminate shall not constitute waiver of such right, which may be exercised at any subsequent time.

15. CONFLICT OF INTEREST. ATTORNEY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEY, ATTORNEY'S employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEY under this contract.

(a) ATTORNEY will establish measures to prevent employees or agents from making, receiving, providing, or offering gifts, entertainment, payment, loans, or other considerations, which could be deemed to appear to influence individuals to act contrary to the best interest of the COUNTY.

(b) No officer, employee, or agent of COUNTY, the State of California or the Federal Government, who exercises any function or responsibility in connection with the planning and implementation of the services being funded herein shall have any personal financial interest, direct or indirect, in this contract or in ATTORNEY'S firm.

(c) ATTORNEY shall not sit as Judge Pro Tem in any of the Courts that ATTORNEY provides representation for indigent services under this contract.

(d) ATTORNEY shall provide conflict free representation. ATTORNEY is aware of *Christian v. Jackson* (1996) 41 C.A.4th 986, and *Castro v. Los Angeles Board of Supervisors* (1991) 232 C.A.3d 1432, and the guidelines expressed therein.

16. PRIVATE PRACTICE. ATTORNEY shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes or any and all proceedings in the Courts of the County of Riverside. ATTORNEY shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEY from providing representation to indigents pursuant to this Contract. If ATTORNEY or attorney subcontractors split their

County of Riverside
Professional Services Agreement

work between work under this contract and other business, the monthly report will indicate the percentage of time that attorney(s) devote to private matters compared to work under this contract, and also include a certification by each attorney subcontractor(s) regarding such time. ATTORNEY, employees working as attorneys under provisions of this agreement and subcontractors working under provisions of this agreement must report in writing each month the percentage of their time spent on conflict contract representation and the percentage of time spent on private practice matters. ATTORNEY must also indicate the hours spent per month.

17. WAIVER. No waiver by any party of any existing default by any other party shall be deemed to waive any subsequent default by such party.

18. ASSIGNMENT: This Agreement shall not be assigned by ATTORNEY, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Agreement by ATTORNEY without the prior written consent of COUNTY will be deemed void and of no force or effect.

19. CUMULATIVE RIGHTS. All rights hereunder are cumulative, not alternative, and are in addition to any other rights given by law.

20. ENTIRE AGREEMENT. This Contract supersedes any prior agreements between the Parties and is the sole basis for Contract between the Parties. This Contract expresses the understandings of the Parties concerning all matters covered.

21. ALTERATION. No addition to, or alteration of, the terms of this Contract, whether by written or oral understanding of the Parties, their officers, agents or employees, shall be valid unless made in the form of written amendment to this Contract and formally approved by the Parties.

22. SUBCONTRACTS. The Parties agree that ATTORNEY shall not sign contracts with subcontractors wherein there is a clause in said contracts prohibiting subcontractors from submitting proposals when COUNTY solicits proposals for Indigent Defense Services. Where prospective subcontractors are equally competent and qualified, ATTORNEY shall use best efforts to utilize firms

*County of Riverside
Professional Services Agreement*

located in Riverside County to the maximum extent possible consistent with prudent business practices and providing the best value under this Contract.

23. NONDISCRIMINATION. Neither ATTORNEY nor any subcontractor or other party providing services related to this contract, shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, or the presence of any sensory, mental or physical handicap, in employment or application for employment, subcontracting or in the administration or delivery of services or any other benefit under this contract.

24. CONTINUITY OF REPRESENTATION. The Parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled by either Party, that there will be a need to provide for the existing caseload through its completion. Continuity of counsel is desired where there is an established attorney-client relationship. Each case will be reviewed independently. To that end, COUNTY agrees for the sake of the clients, to have any successor attorney absorb matters not yet set for trial.

24.1 As to those cases already set for trial, the Parties agree upon the following:

(a) Any case, except Special Circumstance Homicides, that is originally set for trial with a trial date more than 90 days after the expiration of this Contract, or any case including Special Circumstance Homicides or vertical prosecution cases in which arraignment is pending in the Superior Court will be transferred to the new attorney if there is one, if no conflict of interest exists;

(b) Special Circumstance Homicides that have been assigned to ATTORNEY for less than 180 days shall be transferred to successor attorney. ATTORNEY will assist new counsel in preparation as requested by that counsel;

(c) It is anticipated that ATTORNEY or subcontract attorneys will remain as counsel on all vertical prosecution cases set for trial, and all other felonies in which a trial date is, or has previously been, set by that ATTORNEY.

24.2 The first two provisions above provide for transfer of cases to successor attorney and responsibility for providing adequate legal counsel, but the Parties agree that the Court can hear any

*County of Riverside
Professional Services Agreement*

motion brought by any counsel on behalf of any client affected by this process and that decision may be contrary to this process.

24.3 For those cases that cannot be transferred to successor attorney, the Parties agree that the COUNTY's liability for costs shall be limited to the following:

(a) COUNTY shall pay ATTORNEY up to one additional month at current negotiated rates, which will compensate for trial preparation and trial except as set forth below. For those cases originally scheduled for trial during the Contract term or within 90 days of the termination of the Contract, no additional payment is provided beyond the per case cost, and not to exceed one month's compensation.

(b) For those cases originally set for trial more than 90 days after termination of the Contract, the following payment schedule will apply:

Special Circumstance Homicides	\$500/day or \$250/half day per Attorney Trial or motion (excluding 1050 motions)
Vertical Prosecution and Non- Special Circumstance Homicides	\$400/day or \$200/half day Trial or motion (excluding 1050 motions)
Other	\$350/day or \$175/half day Trial or motion (excluding 1050 motions)

(c) It is agreed that if a case has been assigned to ATTORNEY during the term of this Contract, costs of ATTORNEY'S preparation have already been paid and only motion and trial costs will be paid in addition as set forth above.

25. NOTICES. All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

County of Riverside
Professional Services Agreement

County of Riverside

By Bob Buster
Chairman, Board of Supervisors
BOB BUSTER

DATED: FEB 01 2011

ATTEST:

Kecia Harper-Ihem, Clerk

By Kecia Harper-Ihem
Deputy

ATTORNEY

By Virginia M. Blumenthal
Virginia M. Blumenthal

DATED: Jan 26, 2011

FORM APPROVED COUNTY COUNSEL
BY: Marshall Victor 1/27/11
MARSHAL L. VICTOR DATE

*County of Riverside
Professional Services Agreement*

ATTACHMENT A

Definitions

Wherever these words occur in this Attachment, shall have the following meaning:

- a) "ATTORNEY" shall mean any employee, agent, or representative of the contract company used in conjunction with the performance of this contract.
- b) "Vendor" shall mean an individual, firm, partnership, or corporation that performs services for the ATTORNEY or his or her subcontract attorney, either directly or through a duly authorized representative.
- c) "County" shall mean the County of Riverside and the Law Office of the Public Defender. For purposes of this attachment, and County are used interchangeably.

Specialized and Professional Services Trust Account Policy

- (1) ATTORNEY shall retain on file written documentation from each engaged subcontract attorney and professional vendor; a signed acknowledgment of the following:
 - (a) Has read and understands the written policies and procedures pertaining to Requests for Approval, reporting and invoicing;
 - (b) Understands that subcontract attorney and vendor must respond to all inquiries by the ATTORNEY, and the County regarding billings and payments protocols unless such request infringes upon attorney client privileges, and
 - (c) Understands that subcontract attorney and any additional vendor may not get paid the full amount included in the invoice and/or may be required to reimburse the County for inappropriate or unauthorized expenditures.
- (2) ATTORNEY shall implement the following internal controls:
 - (a) Reasons for approving fewer or more hours than requested will be documented;
 - (b) Dates initial and any supplemental requests were approved will be recorded on the request forms and in ATTORNEY's electronic case tracking systems; and,

*County of Riverside
Professional Services Agreement*

- (c) The number of requests made, total number of hours approved, hours used, and hours remaining will be tracked, and recorded for each case.
- (3) ATTORNEY shall include the following policies and procedures regarding invoices for specialized and professional services, and insure their subcontract attorneys and any subsequent vendors adhere to these policies and procedures:
 - (a) Invoices will include all case identifiers described above; travel time, start and end locations when requesting reimbursement for miles; accurate total miles, total hours, and total dollar amounts; billing by the tenths or quarter of an hour, whichever is less; and total hours authorized, used and remaining on the case.
 - (b) ATTORNEY shall ensure by their signature on the invoice that the work performed was consistent with what was described and authorized in the corresponding "Request for Approval," and those the dates for which hours are billed were after the date of approval for investigative work and before the case was close.
 - (c) ATTORNEY shall review all invoices to ensure that the work performed is consistent with what was described in the Request for Approval and the number of hours approved and was conducted after the date of approval and before the case was closed;
 - (d) Verify that all calculations on the invoices are correct, including use of the correct mileage and hourly rates for investigations;
 - (e) Verify that the dates of each activity are within the billing period for the invoice;
 - (f) Bill in increments of tenth or quarter hours, whichever is lower.
 - (g) Examples of investigative activities that would not be subject to payment by the ATTORNEY include: (i) work performed over the number of hours approved; (ii) worked performed after the date a case was closed; and, (iii) administrative activities that are not considered investigative, such as setting up files, filling out required paperwork for the ATTORNEY, indexing, or placing discovery into binders.
- (4) The ATTORNEY shall :

*County of Riverside
Professional Services Agreement*

- (a) Assign, record, and track internal file numbers for each case with specialized and professional expenditures by defendant and case.
- (b) Include the internal file numbers as a case identifier in the monthly reports of expenditures of Trust Account Funds, in addition to the vendor, type of service, amount of expense, and current balance of the account.
- (c) Include in the paper documents associated with each payment from Trust Account Funds: (i) individual invoices for each case paid by the check; (ii) a coversheet that includes the cases, amount for each case, and total amount paid or to be paid to the vendor by the subcontract attorney; and (iii) the check number for the final payment to the subcontract attorney or vendor.
- (d) Input into an internal electronic system for each case with specialized and professional expenditures, at a minimum: (i) case identifiers such as the defendant's first and last name, case number, internal file number, ATTORNEY or subcontract attorney, and type of case (e.g. felony, misdemeanor, special circumstance); (ii) information on requests for specialized and professional services such as the dates of the request and approval, type of service (e.g. investigator, expert, etc.), vendor name, number of requests, number of hours or dollar amount approved; and (iii) separate entries on expenditures made on the case that include the date of the invoice, type of service, vendor, hours used, amount of other expenses, total amount billed on the invoice, and the check number for payment.
- (e) Utilize a readily available, inexpensive electronic software that is able to run reports using the above information and provide: (i) the total expenditures, number of requests, hours approved, used, and remaining on a particular case; (ii) average cost per case and/or by case type (e.g. felony, misdemeanor, special circumstances); (iii) total and average cost per service charge type (e.g. investigator, expert, etc.); (iv) total and average expenditure per vendor; and (v) average number of hours requested, approved and used per case type.

County of Riverside
Professional Services Agreement

“Request For Approval” Procedures

(5) The following information shall be required for all initial and any supplemental subcontract attorney “Requests for Approval” for specialized and professional services and shall be maintained in the file unless such request infringes upon attorney client privileges:

- (a) Itemized planned activities (e.g. review discovery, crime scene investigation, review police reports, etc.);
- (b) Whether or not a written report is required;
- (c) Names or initials of witnesses to be contacted and interviewed, if available;
- (d) Anticipated location of planned interviews;
- (e) Consistent case identifiers on all pages, including: defendant first and last name, case number, internal file number, and ATTORNEY;
- (f) The number of the request;
- (g) ATTORNEY hours approved and worked to date on the case (for supplemental requests); and,
- (h) Other pertinent information

*County of Riverside
Professional Services Agreement*

EXHIBIT A
Attorney: List the Attorney's full name
Felony Trial Caseload as of day, month, year

	Client Name (last, first)	Case Number	Charge (s)	Date Assigned	Next Court Date	Type of proceeding	Life Case	Multiple Cases-list	Hours worked on this case this month
#									
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

I maintain information to document the hours I am reporting for work on each case listed.

Attorney
Signature: _____

Signature of Conflict Counsel
Administrator: _____ Date: _____

The above signature should be coming from administrative counsel signing on behalf of the conflict counsel firm.

Reviewed at the Public
Defender: _____ Date: _____

CRIMINAL DEFENSE AGREEMENT

for

LEGAL INDIGENT DEFENSE SERVICES

between

COUNTY OF RIVERSIDE

and

CRIMINAL DEFENSE LAWYERS



84-1 RPT 1105

RECEIVED RIVERSIDE COUNTY
FEBRUARY 01 2011

*County of Riverside
Professional Services Agreement*

CONTRACT TO PROVIDE LEGAL SERVICES.

THIS CONTRACT is made this ____ day of _____, 2011, between the County of Riverside (hereinafter "COUNTY") and Criminal Defense Lawyers, (hereinafter "ATTORNEY"), for Indigent Defense services to be provided in the Superior Court of the County of Riverside, Mid County Region and Riverside Departments 21 and 22., as set forth herein.

RECITALS

WHEREAS, the right of all persons against whom Criminal Court proceedings are brought to be represented by Counsel is guaranteed by the Constitution of the United States and the Constitution of the State of California; and

WHEREAS, the cost and expense of each counsel in the representation of indigent adults in the specified proceedings are a proper and lawful charge upon the COUNTY; and

WHEREAS, the County currently thinks it is in the public interest in circumstances where the Riverside County Law Office of the Public Defender declares a conflict of interest, or is otherwise unavailable, that the COUNTY contract with private counsel to render the usual and customary legal services required by law to be provided to individuals; and

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEY to provide legal representation for indigent parties in the Superior Courts of the County of Riverside , for all VCD and trial courts at Southwest Justice Center and Banning Courts, and Riverside Departments 21 and 22, when appointed by the Court as required by law, after a determination that a conflict of interest exists which causes the Law Office of the Public Defender to be unable to represent the defendant, or the Law Office of the Public Defender is relieved by the Court for extraordinary reasons, except for those cases enumerated in Section 4. ATTORNEY also agrees to assume responsibility for all currently pending indigent cases in the Superior Courts listed, subject to any necessary approvals of the Court.

1.1 Indigent party(ies) means a defendant or defendants charged with a crime and unable afford hiring private counsel.

County of Riverside
Professional Services Agreement

2. TERM OF PERFORMANCE. This Contract shall take effect for February 1, 2011 to June 30, 2012, and then renewable in one-year increments for up to two years, expiring on June 30, 2014, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEY shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Courts within the Mid and Western County Region as specified above, wherever the cases may eventually be set for trial within the County of Riverside, and pursuant to the terms of this contract and in compliance with Appendix A, attached hereto and incorporated herein. For the purpose of providing such professional legal services, ATTORNEY, at ATTORNEY'S own discretion, may perform the services, or cause them to be performed by other attorneys, who shall not be parties to this Contract, but are independent contractors and not agents or employees of ATTORNEY or COUNTY.

3.1 The Parties agree that the total number of cases is uncertain as is the complexity of those cases and agree for the first 17 month term that ATTORNEY will handle the following cases during the term of this contract:

(a) All felony matters filed in the Riverside County Superior Courts and represented through final judgment as set forth and delineated in paragraph 1;

(b) All Violation of Probation matters. However in all violation of probation matters, ATTORNEY will not accept appointment unless the Law Office of the Public Defender has declared a continuing conflict of interest or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability, or reasons not related to a declaration of conflict pursuant to Penal Code Section 987.2. All violations of probation must be accompanied by a copy of the court minutes showing that a public defender representative appeared on the record and declared a continued state of conflict of interest at the time of their reappointment or alternatively, the billing must be accompanied by documentary affirmation of the continued conflict in the case supplied by the Law Office of the Public Defender at the time of their reappointment;

(c) All misdemeanor matters originating in Riverside Court rooms 21 & 22;

County of Riverside
Professional Services Agreement

(d) All miscellaneous matters; for example including but not limited to: diversion progress hearing; substance abuse enrollment hearings; reinstatement hearings; diversion fall-out sentencing; proof of enrollment hearings; plea withdrawals; remittitur hearings; re-sentencing; witness advisements; and other unique and unusual matters.

3.2 For the purposes of this Agreement, a “case” is defined as follows for all adult matters: the representation of one person on one accusatory pleading. Multiple charges against a defendant in one accusatory pleading shall not prevent designation of a matter as a single case. If a single defendant is accused in more than one accusatory pleading, each separate pleading shall constitute a separate case. If multiple defendants are charged in a single accusatory pleading, it shall be considered that there are as many cases as there are defendants.

3.3 ATTORNEY agrees that representation of those charged with complex felonies, including Special Circumstance Homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEY will, pursuant to this Contract, begin representation in these cases as soon as the Law Office of the Public Defender declares a conflict or is otherwise relieved, and defend or assign the case to a subcontract attorney at the earliest possible stage to insure vertical representation where appropriate.

3.4 ATTORNEY shall assist in the recovery of fees and funds pursuant to Penal Code Sections 987.5, 987.8(b), (c) and 987.81.

3.5 ATTORNEY shall accept appointment when the Law Office of the Public Defender has declared a conflict, or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability or reasons not related to a declaration of conflict pursuant to Penal Code §987.2.

3.6 In subcontracting with other attorneys, ATTORNEY shall consider the factors enumerated in Penal Code § 987 et. seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code § 6000 et. seq., State Bar of California Guidelines on Indigent Defense Services Delivery Systems, the performance and case management guidelines for Criminal Defense

*County of Riverside
Professional Services Agreement*

Representation for the National Legal Aid & Defenders Association, and the State Bar Rules of California, as appropriate, including Rule 3-310. ATTORNEY shall assure that all subcontractors satisfy the minimum requirements for practicing law in the State of California as determined by the California State Bar Association, and are competent and provide constitutionally effective assistance. ATTORNEY shall submit a list of all subcontracting attorneys to the Law Office of the Public Defender at the beginning of each Fiscal Year and as necessary, when any changes in subcontracting attorneys occurs. Evidence of the qualification(s) of such subcontracting attorneys shall be provided with the list.

3.6.1 Each subcontracting attorney representing a defendant accused of a serious or violent felony pursuant to California Penal Code section 1192.7 must have served at least twenty-four (24) to thirty-six (36) months as a prosecutor, a public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials to verdict and sentencing. Five (5) of said jury trials must be felony matters.

3.6.2 Each subcontracting attorney representing a defendant in felony matters not delineated above, or involved in a probation revocation hearing involving a felony matter must have served at twelve (12) to thirty-six (36) months as a prosecutor, public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials.

3.7 ATTORNEY shall perform or cause to be performed all professional legal services reasonably and legally required herein from the time of appointment, to and including, a final adjudication or disposition of the case. Disposition in criminal cases shall mean: 1) the dismissal of charges; 2) the entering of an order of deferred prosecution; 3) an order or result requiring a new trial; 4) imposition of sentence; 5) an order imposing probation; or 6) deferral of any of the above coupled with any other hearing on the case number, including but not limited to felony or misdemeanor probation review that occurs within thirty (30) days of sentence, deferral of sentence or entry of an order of deferred prosecution. No hearing that occurs after thirty (30) days of any of the above will be considered part of case disposition for the purpose of this contract, except that a restitution hearing ordered at the time of the

*County of Riverside
Professional Services Agreement*

original disposition, whether it is held within 30 days or subsequently, shall be included in case disposition. Disposition includes the filing of a notice of appeal, if applicable.

3.8 It is the intent of County that all Felony Trials are to be litigated or otherwise resolved in a timely manner. In order to assure that Penal Code section 1050 requests for continuances do not hinder a timely resolution of assigned cases, all felony trial attorneys must submit a monthly report listing all cases not resolved within four (4) months of arraignment. The report shall delineate (a) what is done on the case, and (b) what will be done to resolve the case.

3.9 In order to effectuate an early resolution of felony cases, the Riverside Superior Court has designated Vertical Calendar Departments (VCDs) in the Mid and Western County and Banning Courts. These Departments have been established to reduce the backlog of criminal cases and ensure that criminal cases will not be dismissed under the speedy trial requirements of Penal Code Section 1382.

(a) ATTORNEY shall dedicate experienced criminal law attorneys to be assigned to Departments designated as the Vertical Calendar Department (VCD) in the Mid and Western County Region. These sub-contracting attorneys shall be available to the designated Departments during normal Court business hours. ATTORNEY understands that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;

(b) ATTORNEY shall assume full responsibility for assigning only sub-contracting attorneys who have the necessary experience, qualifications and capabilities to handle cases assigned to these specialty departments;

(c) ATTORNEY understands that pursuant to this contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Southwest Justice Center, Banning Court(s), and Riverside Departments 21 and 22 upon notification of a conflict of interest by the Law Office of the Public Defender.

(d) ATTORNEY shall provide a written report to the COUNTY that includes: the cases assigned to all VCD's, providing the department number, case number, date assigned, charge, name of assigned attorney, and any other relevant information.

County of Riverside
Professional Services Agreement

4. EXCLUSIONS. ATTORNEY shall not be obligated under this Contract to provide defense in the following cases:

(a) Stand-by or Co-Counsel when a defendant has waived counsel or represents self in propria persona;

(b) All post-trial appellate proceedings including appeals to the Appellate Department of Superior Court or higher Appellate Courts;

(c) All federal proceedings;

(d) All parole violation hearings;

(e) All civil forfeiture proceedings;

(f) Any case in which the Court either removes or refuses to appoint the Law Office of the Public Defender on other than conflict grounds or fails to make an actual finding of incompetence under "Marsden":

(g) All death penalty proceedings.

5. ADMINISTRATIVE DUTIES.

5.1 ATTORNEY shall assign an Administrative Attorney under this Contract. In cases involving multiple defendants, the Administrative Attorney shall designate counsel for each defendant. In no case shall the designating Attorney appoint him or herself as Trial Attorney in such multiple defendant cases.

5.2 The Law Office of the Public Defender shall administer this Agreement on behalf of COUNTY.

6. PERFORMANCE MANAGEMENT. ATTORNEY shall have the responsibility for significant administrative duties under this contract to avoid conflicts of interest and monitoring subcontracting attorneys. The purpose of monitoring individual attorney caseloads is to ensure that all clients represented under this contract receive effective assistance of counsel under the Constitutions of the United States and the State of California.

*County of Riverside
Professional Services Agreement*

6.1 ATTORNEY shall require that each subcontracting attorney participate in Mandatory Continuing Legal Education (MCLE) programs focusing on applicable law including but not limited to criminal law and procedure, juvenile law, and trial advocacy law. ATTORNEY shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEY shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEY of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEY will require the subcontracting attorney to provide proof of attendance at MCLE programs and to report participation in educational programs or other informal training. ATTORNEY will assure that only attorneys with the requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEY shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEY shall immediately notify COUNTY in writing upon becoming aware that a complaint lodged with the California State Bar Association/discipline body has resulted in a reprimand, suspension, or disbarment of any attorney who is a member of ATTORNEY'S staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this contract, ATTORNEY shall submit the following quarterly written reports to the COUNTY. COUNTY may, at its option, request these reports be submitted on a monthly basis. The quarterly reports shall include: a summary on the evaluation of the investigators and other providers of ancillary services used under this contract; a summary of subcontract attorney evaluations and observations; average number of MCLE approved training hours; participation in other educational programs related to the practice of criminal and/or juvenile law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEY, or such other information as requested by COUNTY. The report shall be accompanied by a certification from ATTORNEY that she has reviewed the performance

*County of Riverside
Professional Services Agreement*

of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEY shall meet to discuss all cases and contract issues at any time during the contract period.

7. COMPENSATION. The contract cost for February 1, 2011 through June 30, 2012 shall be a maximum of \$3,258,333 (three million two hundred fifty-eight thousand three hundred thirty-three dollars) plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEY up to the sum of \$191,666.64 (one hundred ninety one thousand six hundred sixty-six dollars and sixty four cents) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of ATTORNEY to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract.

7.1 It is understood that, to the extent, ATTORNEY'S constitutional and necessary level of legal representation under the Contract may tend to justify additional payment, such necessary services in all but the most extreme circumstances, will all be considered by the ATTORNEY to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEY'S estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned to the Contract, extraordinary change of venue cases involving extreme expense, and such similar circumstances as may arise. ATTORNEY'S request must be in writing and include a complete justification of action or anticipated extra expenses and complete itemization of requested extraordinary payment.

8. EXPENSES. ATTORNEY shall pay all costs of specialized and professional services reasonably necessary to assist in the defense and preparation and presentation of their case, including: medical and psychiatric examination; investigative services; expert testimony; forensic services; language interpretation; discovery costs; reporter's transcripts; and fees for experts appointed pursuant to statute; from a trust account they hold for the County of Riverside, except for those services reimbursed pursuant to Penal Code § 987.9. ATTORNEY shall, within 90 days after the start date of this Contract, provide the

*County of Riverside
Professional Services Agreement*

COUNTY with a written policy, acceptable to the COUNTY, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEY shall disseminate these policies and procedures to all attorneys that they engage to provide services under this contract. ATTORNEY shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEY'S written policies and procedures pertaining to approval, invoicing, and payment. The written policy shall address the issues described in Attachment A. For these services during the contract term the sum of \$35,000 per month for Southwest Justice Center, Banning, and Riverside Departments 21 and 22 cases, shall be paid to ATTORNEY monthly, in arrears, and set aside monthly and maintained in a separate interest bearing trust accounts for this purpose, EXCEPT that payments shall be suspended when the balance in ATTORNEY'S trust account for all criminal Penal Code 987.2 cases exceeds \$40,000 for each region. Additionally, upon written agreement of ATTORNEY and the COUNTY, or designee, the monthly expense payments may be modified in amount or timing but in no event shall exceed the maximum amount per month as set forth in this Section 8. Any interest accrued from these funds will be redeposit into the respective trust account and used by the ATTORNEY to pay the costs incurred herein (Business & Professions Code §6211(b)). These funds remain the property of the County of Riverside and at the end of the contract, or upon request of COUNTY, all or a portion of the unexpended funds shall be returned to COUNTY, and an accounting provided to the COUNTY within 30 days of termination, for all sums expended, including accrued interest. ATTORNEY must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. Either party may cancel this Contract, in whole or in part, on sixty (60) day's written notice to the other party. In the event this Contract is canceled, ATTORNEY shall be responsible for the matters currently assigned to ATTORNEY as set forth in Section 25.

10. INDEPENDENT COUNSEL. ATTORNEY is, and shall at all times be deemed independent and shall be wholly responsible for the manner in which they perform the services required by this Contract. ATTORNEY exclusively assumes responsibility for the acts of her employees and subcontractors as they relate to the services to be provided during the course and scope of their

*County of Riverside
Professional Services Agreement*

employment. ATTORNEY, her agents, employees and independent contractors and their agents and employees shall not be considered in any manner to be employees of the County of Riverside.

11. RECORDS. ATTORNEY shall keep sufficient records to enable COUNTY to establish the cost of representing each individual in Court proceedings and allow County of Riverside to attempt to recover such costs from whomever may be obligated to reimburse the COUNTY.

11.1 ATTORNEY shall furnish monthly written reports to the COUNTY, within ten (10) calendar days of the end of each month, on performance of each attorney during the preceding month. Such reports shall be in a format as specified by the COUNTY (See Exhibit A attached hereto and incorporated herein by this reference), and include name of defendant; type of case; case number; charge; disposition; number of cases opened, closed and reopened, transferred, or where a substitution for previously appointed counsel has occurred; and a notation of which cases ATTORNEY was appointed on under Section 3.1 a), b), c), and d) herein. ATTORNEY understands that COUNTY relies on the monthly reports to determine the cost of services and that any correction or adjustment to the report must be done in a timely manner not to exceed sixty (60) days from the required submission date of the monthly report by ATTORNEY. ATTORNEY shall also furnish a monthly report of expenditures for the trust account funds, that includes the vendor, type of expense (e.g., investigation, expert, etc.), client/case identifier (not name and/or case number of defendant), and amount of expense. The report shall additionally include the current balance of the account. ATTORNEY shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEY feel an indigent defendant referred does not qualify for services, ATTORNEY shall immediately so advise defendant and the Court and request determination by the Court. In no event shall ATTORNEY accept anything of value as consideration for services rendered to any indigent defendant that ATTORNEY has been appointed to represent by the Courts, except as provided in this Contract. ATTORNEY shall not charge any defendant for services rendered pursuant to this Contract.

11.2 For all cases where ATTORNEY is providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEY shall track the

*County of Riverside
Professional Services Agreement*

hours related to handling that specific case. Attorney hours are a specific requirement of the State of California in order for counties to seek reimbursement for indigent defense services provided on behalf of state indigent inmates charged with a crime while in custody. The written report of these hours shall be submitted with the monthly statistics. In the event ATTORNEY submits information too late for the COUNTY to request reimbursement from the State of California or in a manner which prevents the COUNTY from submitting a timely request to the State of California, the amount the COUNTY would have been reimbursed by the State will be deducted from compensation to the ATTORNEY.

11.3 Records maintained by ATTORNEY shall be sufficient to reflect all direct and indirect costs of services performed pursuant to this contract and the cost associated with each case, including those related to subcontracts and personal service contracts. These records shall include but not be limited to: documentation of any funds expended by ATTORNEY for personal service contracts or subcontracts; documentation of the service rendered under the contract(s); and reports of the time spent by each subcontractor or personal service contractor.

11.4 COUNTY may, at its discretion, audit or inspect ATTORNEY'S files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEY shall be audited by an outside auditor a minimum of once every twelve months, and at the end of the contract period. Payment for all ancillary expenses will be maintained by ATTORNEY in a separate bank account wherein COUNTY is named as the designated beneficiary of the fund. All monies paid for expenses are the sole property of the COUNTY and as such are returnable to COUNTY on demand. Any interest accrued to this account remains the property of COUNTY. Said expense money is to be spent as specified in the contract. ATTORNEY agrees to make available for inspection, without restrictions, all books, statements, ledgers and other financial records for a period of five (5) years from the termination of this Contract. All financial records shall be kept, or made available to County of Riverside, at ATTORNEY'S principal place of business at (insert address). ATTORNEY agrees to grant COUNTY full access to materials necessary to verify compliance with all terms of this contract. ATTORNEY shall provide COUNTY right of access to its facilities to audit information relating to the matters covered by this contract. Information

*County of Riverside
Professional Services Agreement*

that may be subject to any privilege or rules of confidentiality should be maintained by ATTORNEY in a way that allows access by COUNTY without breaching such confidentiality or privilege. Notwithstanding any of the above provisions of this paragraph, none of the constitutional, statutory, and common rights and privileges of any client are waived by this contract and COUNTY will respect the attorney/client privilege.

12. HOLD HARMLESS. ATTORNEY shall indemnify and hold the COUNTY, the Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees free and harmless from any liability, whatsoever, based or asserted upon any act(s) or omissions(s) of ATTORNEY, their employees, agents and subcontractors, for property damage, bodily injury, or death or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the accomplishment of the services to be performed by ATTORNEY hereunder; and ATTORNEY shall defend, at their sole expense, including attorney fees, COUNTY, Board of Supervisors, Special Districts, their respective directors, officers, agents, elected officials and employees in any legal action (s) or claims(s) based upon such alleged act(s) or omission(s) whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

13. INSURANCE: Without limiting or diminishing the ATTORNEY's obligation to indemnify or hold the COUNTY harmless, ATTORNEY shall procure and maintain or cause to be maintained, the following insurance coverage's during the term of this Agreement.

13.1 Workers' Compensation: If ATTORNEY has employees as defined by the State of California, ATTORNEY shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Diseases with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the County of Riverside; and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

13.2 Commercial General Liability: ATTORNEY shall maintain Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual

*County of Riverside
Professional Services Agreement*

liability, completed operations, personal and advertising injury covering claims, which may arise from or out of ATTORNEY" performance of its obligations hereunder. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents or representatives as an Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

13.3 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, ATTORNEY shall maintain liability insurance for all owned, non-owned, or hired vehicles in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the County of Riverside, Board of Supervisors, special districts, agencies, districts and departments, their respective directors, officers, elected officials, employees, agents, or representatives as an Additional Insured.

13.4 Professional Liability: ATTORNEY shall maintain Professional Liability Insurance providing coverage for performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEY'S Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement. Upon termination of this Agreement or the expiration or cancellation of the claims made insurance policy ATTORNEY shall purchase either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2) or 3) will continue for a period of five (5) years beyond the termination of this Agreement. The ATTORNEY shall provide proof of coverage to COUNTY within 15 days of execution of the Contract.

*County of Riverside
Professional Services Agreement*

13.5 Blanket Commercial Crime Policy: ATTORNEY shall maintain a Blanket Commercial Crime Policy including, but not limited to, coverage provided for all Directors, Officers, employees, agents and representatives who may be involved in any way with the direction, handling, depositing, payment or other function that involves COUNTY funds associated with the performance of this Contract with a limit of liability of not less than an amount per loss equal to, or greater than, the maximum amount of COUNTY money that may be in trust with the ATTORNEY at any one time. The coverage will remain in force for at least three (3) years subsequent to the termination of this Agreement or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. If this coverage is written on a Claims-Made basis, the ATTORNEY will provide either 1) an Extended Reporting Endorsement (also known as Tail Coverage); or, 2) Prior Dates Coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEY has maintained continuous coverage with the same or original insurer. Such extended claims made coverage shall be maintained for a period of three years or until that time when all moneys have been reconciled and the COUNTY has agreed in writing that all financial issues have been completed and the ATTORNEY no longer has any COUNTY assets held in the Trust as defined herein. In the alternative, ATTORNEY may obtain a Fidelity Bond acceptable to COUNTY.

13.6 General Insurance Provisions - All lines:

(a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A.M. BEST rating of not less than an A: VIII (A: 8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer, such waiver is only valid for that specific insurer and only for one policy term.

(b) The ATTORNEY'S insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence, such retentions shall have the

*County of Riverside
Professional Services Agreement*

prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self insured retentions which are deemed unacceptable to the COUNTY, at the election of the County's Risk Manager, ATTORNEY'S carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEY shall cause their insurance carrier(s) to furnish the County of Riverside with 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein; or, 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) shall provide no less than thirty (30) days written notice be given to the County of Riverside prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance. ATTORNEY shall furnish COUNTY with original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this. The ATTORNEY shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

(d) It is understood and agreed by the parties hereto and the ATTORNEY'S insurance company(s), that the Certificate(s) of Insurance and policies shall so covenant and shall be

*County of Riverside
Professional Services Agreement*

construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(e) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services or performance of work the Risk Manager of the County of Riverside reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverage's required herein, if; in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEY has become inadequate.

14. MATERIAL BREACH. Notwithstanding the provisions of Section 2., the failure of ATTORNEY or his agents, subcontractors or employees to comply with the terms of this Contract and any reasonable directions, by or on behalf of the COUNTY, issued pursuant thereto shall constitute a material breach of Contract by ATTORNEY, and, in addition to any other remedy authorized by law, COUNTY shall have the right to terminate said Contract immediately. Failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time. At the option of COUNTY, this Contract may be terminated upon the happening of any of the following:

- (a) Violation of any material provision of this Contract;
- (b) Institution of proceedings by, or against, any ATTORNEY under the bankruptcy laws of the United States;
- (c) Discovery that this Contract was obtained through fraud by commission or omission;
- (d) Suspension of business operation, or receivership, of ATTORNEY;
- (e) Any assignment of this Contract without prior COUNTY approval;
- (f) The institution of disciplinary proceedings against any ATTORNEY by the California State Bar; or
- (g) The commencement of criminal prosecution of any ATTORNEY in any Court anywhere;
- (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310.

County of Riverside
Professional Services Agreement

- (i) Failure to comply with the provisions of section 3.7 herein.

14.1 It is understood that the above-noted items are not exclusive of any other causes for termination, and failure of COUNTY to exercise its rights to terminate shall not constitute waiver of such right, which may be exercised at any subsequent time.

15. CONFLICT OF INTEREST. ATTORNEY shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEY, ATTORNEY'S employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEY under this contract.

(a) ATTORNEY will establish measures to prevent employees or agents from making, receiving, providing, or offering gifts, entertainment, payment, loans, or other considerations, which could be deemed to appear to influence individuals to act contrary to the best interest of the COUNTY.

(b) No officer, employee, or agent of COUNTY, the State of California or the Federal Government, who exercises any function or responsibility in connection with the planning and implementation of the services being funded herein shall have any personal financial interest, direct or indirect, in this contract or in ATTORNEY'S firm.

(c) ATTORNEY shall not sit as Judge Pro Tem in any of the Courts that ATTORNEY provides representation for indigent services under this contract.

(d) ATTORNEY shall provide conflict free representation. ATTORNEY is aware of *Christian v. Jackson* (1996) 41 C.A.4th 986, and *Castro v. Los Angeles Board of Supervisors* (1991) 232 C.A.3d 1432, and the guidelines expressed therein.

16. PRIVATE PRACTICE. ATTORNEY shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes or any and all proceedings in the Courts of the County of Riverside. ATTORNEY shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEY from providing representation to indigents pursuant to this Contract. If ATTORNEY or attorney subcontractors split their

*County of Riverside
Professional Services Agreement*

work between work under this contract and other business, the monthly report will indicate the percentage of time that attorney(s) devote to private matters compared to work under this contract, and also include a certification by each attorney subcontractor(s) regarding such time. ATTORNEY, employees working as attorneys under provisions of this agreement and subcontractors working under provisions of this agreement must report in writing each month the percentage of their time spent on conflict contract representation and the percentage of time spent on private practice matters. ATTORNEY must also indicate the hours spent per month.

17. WAIVER. No waiver by any party of any existing default by any other party shall be deemed to waive any subsequent default by such party.

18. ASSIGNMENT: This Agreement shall not be assigned by ATTORNEY, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Agreement by ATTORNEY without the prior written consent of COUNTY will be deemed void and of no force or effect.

19. CUMULATIVE RIGHTS. All rights hereunder are cumulative, not alternative, and are in addition to any other rights given by law.

20. ENTIRE AGREEMENT. This Contract supersedes any prior agreements between the Parties and is the sole basis for Contract between the Parties. This Contract expresses the understandings of the Parties concerning all matters covered.

21. ALTERATION. No addition to, or alteration of, the terms of this Contract, whether by written or oral understanding of the Parties, their officers, agents or employees, shall be valid unless made in the form of written amendment to this Contract and formally approved by the Parties.

22. SUBCONTRACTS. The Parties agree that ATTORNEY shall not sign contracts with subcontractors wherein there is a clause in said contracts prohibiting subcontractors from submitting proposals when COUNTY solicits proposals for Indigent Defense Services. Where prospective subcontractors are equally competent and qualified, ATTORNEY shall use best efforts to utilize firms

*County of Riverside
Professional Services Agreement*

located in Riverside County to the maximum extent possible consistent with prudent business practices and providing the best value under this Contract.

23. NONDISCRIMINATION. Neither ATTORNEY nor any subcontractor or other party providing services related to this contract, shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, or the presence of any sensory, mental or physical handicap, in employment or application for employment, subcontracting or in the administration or delivery of services or any other benefit under this contract.

24. CONTINUITY OF REPRESENTATION. The Parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled by either Party, that there will be a need to provide for the existing caseload through its completion. Continuity of counsel is desired where there is an established attorney-client relationship. Each case will be reviewed independently. To that end, COUNTY agrees for the sake of the clients, to have any successor attorney absorb matters not yet set for trial.

24.1 As to those cases already set for trial, the Parties agree upon the following:

(a) Any case, except Special Circumstance Homicides, that is originally set for trial with a trial date more than 90 days after the expiration of this Contract, or any case including Special Circumstance Homicides or vertical prosecution cases in which arraignment is pending in the Superior Court will be transferred to the new attorney if there is one, if no conflict of interest exists;

(b) Special Circumstance Homicides that have been assigned to ATTORNEY for less than 180 days shall be transferred to successor attorney. ATTORNEY will assist new counsel in preparation as requested by that counsel;

(c) It is anticipated that ATTORNEY or subcontract attorneys will remain as counsel on all vertical prosecution cases set for trial, and all other felonies in which a trial date is, or has previously been, set by that ATTORNEY.

24.2 The first two provisions above provide for transfer of cases to successor attorney and responsibility for providing adequate legal counsel, but the Parties agree that the Court can hear any

*County of Riverside
Professional Services Agreement*

motion brought by any counsel on behalf of any client affected by this process and that decision may be contrary to this process.

24.3 For those cases that cannot be transferred to successor attorney, the Parties agree that the COUNTY's liability for costs shall be limited to the following:

(a) COUNTY shall pay ATTORNEY up to one additional month at current negotiated rates, which will compensate for trial preparation and trial except as set forth below. For those cases originally scheduled for trial during the Contract term or within 90 days of the termination of the Contract, no additional payment is provided beyond the per case cost, and not to exceed one month's compensation.

(b) For those cases originally set for trial more than 90 days after termination of the Contract, the following payment schedule will apply:

Special Circumstance Homicides	\$500/day or \$250/half day per Attorney Trial or motion (excluding 1050 motions)
Vertical Prosecution and Non-Special Circumstance Homicides	\$400/day or \$200/half day Trial or motion (excluding 1050 motions)
Other	\$350/day or \$175/half day Trial or motion (excluding 1050 motions)

(c) It is agreed that if a case has been assigned to ATTORNEY during the term of this Contract, costs of ATTORNEY'S preparation have already been paid and only motion and trial costs will be paid in addition as set forth above.

25. NOTICES. All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

County of Riverside
Professional Services Agreement

County of Riverside

ATTORNEY

By Bob Buster
Chairman, Board of Supervisors
BOB BUSTER

By Paul Grech
Paul Grech

DATED: 1-26-11

By Steve Harmon
Steve Harmon

DATED: 1-26-11

ATTEST: Kecia Harper-Ihem, Clerk

By Kecia Harper-Ihem
Deputy

FORM APPROVED COUNTY COUNSEL
BY: Marshall Victor 1/27/11
MARSHALL VICTOR DATE

*County of Riverside
Professional Services Agreement*

ATTACHMENT A

Definitions

Wherever these words occur in this Attachment, shall have the following meaning:

- a) "ATTORNEY" shall mean any employee, agent, or representative of the contract company used in conjunction with the performance of this contract.
- b) "Vendor" shall mean an individual, firm, partnership, or corporation that performs services for the ATTORNEY or his or her subcontract attorney, either directly or through a duly authorized representative.
- c) "County" shall mean the County of Riverside and the Law Office of the Public Defender. For purposes of this attachment, and County are used interchangeably.

Specialized and Professional Services Trust Account Policy

- (1) ATTORNEY shall retain on file written documentation from each engaged subcontract attorney and professional vendor; a signed acknowledgment of the following:
 - (a) Has read and understands the written policies and procedures pertaining to Requests for Approval, reporting and invoicing;
 - (b) Understands that subcontract attorney and vendor must respond to all inquiries by the ATTORNEY, and the County regarding billings and payments protocols unless such request infringes upon attorney client privileges, and
 - (c) Understands that subcontract attorney and any additional vendor may not get paid the full amount included in the invoice and/or may be required to reimburse the County for inappropriate or unauthorized expenditures.
- (2) ATTORNEY shall implement the following internal controls:
 - (a) Reasons for approving fewer or more hours than requested will be documented;
 - (b) Dates initial and any supplemental requests were approved will be recorded on the request forms and in ATTORNEY's electronic case tracking systems; and,

*County of Riverside
Professional Services Agreement*

- (c) The number of requests made, total number of hours approved, hours used, and hours remaining will be tracked, and recorded for each case.
- (3) ATTORNEY shall include the following policies and procedures regarding invoices for specialized and professional services, and insure their subcontract attorneys and any subsequent vendors adhere to these policies and procedures:
 - (a) Invoices will include all case identifiers described above; travel time, start and end locations when requesting reimbursement for miles; accurate total miles, total hours, and total dollar amounts; billing by the tenths or quarter of an hour, whichever is less; and total hours authorized, used and remaining on the case.
 - (b) ATTORNEY shall ensure by their signature on the invoice that the work performed was consistent with what was described and authorized in the corresponding "Request for Approval," and those the dates for which hours are billed were after the date of approval for investigative work and before the case was close.
 - (c) ATTORNEY shall review all invoices to ensure that the work performed is consistent with what was described in the Request for Approval and the number of hours approved and was conducted after the date of approval and before the case was closed;
 - (d) Verify that all calculations on the invoices are correct, including use of the correct mileage and hourly rates for investigations;
 - (e) Verify that the dates of each activity are within the billing period for the invoice;
 - (f) Bill in increments of tenth or quarter hours, whichever is lower.
 - (g) Examples of investigative activities that would not be subject to payment by the ATTORNEY include: (i) work performed over the number of hours approved; (ii) worked performed after the date a case was closed; and, (iii) administrative activities that are not considered investigative, such as setting up files, filling out required paperwork for the ATTORNEY, indexing, or placing discovery into binders.
- (4) The ATTORNEY shall :

County of Riverside
Professional Services Agreement

- (a) Assign, record, and track internal file numbers for each case with specialized and professional expenditures by defendant and case.
- (b) Include the internal file numbers as a case identifier in the monthly reports of expenditures of Trust Account Funds, in addition to the vendor, type of service, amount of expense, and current balance of the account.
- (c) Include in the paper documents associated with each payment from Trust Account Funds: (i) individual invoices for each case paid by the check; (ii) a coversheet that includes the cases, amount for each case, and total amount paid or to be paid to the vendor by the subcontract attorney; and (iii) the check number for the final payment to the subcontract attorney or vendor.
- (d) Input into an internal electronic system for each case with specialized and professional expenditures, at a minimum: (i) case identifiers such as the defendant's first and last name, case number, internal file number, ATTORNEY or subcontract attorney, and type of case (e.g. felony, misdemeanor, special circumstance); (ii) information on requests for specialized and professional services such as the dates of the request and approval, type of service (e.g. investigator, expert, etc.), vendor name, number of requests, number of hours or dollar amount approved; and (iii) separate entries on expenditures made on the case that include the date of the invoice, type of service, vendor, hours used, amount of other expenses, total amount billed on the invoice, and the check number for payment.
- (e) Utilize a readily available, inexpensive electronic software that is able to run reports using the above information and provide: (i) the total expenditures, number of requests, hours approved, used, and remaining on a particular case; (ii) average cost per case and/or by case type (e.g. felony, misdemeanor, special circumstances); (iii) total and average cost per service charge type (e.g. investigator, expert, etc.); (iv) total and average expenditure per vendor; and (v) average number of hours requested, approved and used per case type.

County of Riverside
Professional Services Agreement

“Request For Approval” Procedures

(5) The following information shall be required for all initial and any supplemental subcontract attorney “Requests for Approval” for specialized and professional services and shall be maintained in the file unless such request infringes upon attorney client privileges:

- (a) Itemized planned activities (e.g. review discovery, crime scene investigation, review police reports, etc.);
- (b) Whether or not a written report is required;
- (c) Names or initials of witnesses to be contacted and interviewed, if available;
- (d) Anticipated location of planned interviews;
- (e) Consistent case identifiers on all pages, including: defendant first and last name, case number, internal file number, and ATTORNEY;
- (f) The number of the request;
- (g) ATTORNEY hours approved and worked to date on the case (for supplemental requests); and,
- (h) Other pertinent information

*County of Riverside
Professional Services Agreement*

EXHIBIT A
Attorney: List the Attorney's full name
Felony Trial Caseload as of day, month, year

	Client Name (last, first)	Case Number	Charge (s)	Date Assigned	Next Court Date	Type of proceeding	Life Case	Multiple Cases-list	Hours worked on this case this month
#									
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

I maintain information to document the hours I am reporting for work on each case listed.

Attorney
Signature: _____

Signature of Conflict Counsel
Administrator: _____ Date: _____

The above signature should be coming from administrative counsel signing on behalf of the conflict counsel firm.

Reviewed at the Public
Defender: _____ Date: _____

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.46

On motion of Supervisor Benoit, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Purchasing and Fleet Services regarding Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services is continued to Tuesday, February 1, 2011 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on December 14, 2010 of Supervisors Minutes.

(seal) WITNESS my hand and the seal of the Board of Supervisors
Dated: December 14, 2010
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

By: *Kecia Harper-Ihem* Deputy

AGENDA NO.

xc: Purchasing & Fleet, E.O., CØB

3.13

853



**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Purchasing and Fleet Services Dept.

SUBMITTAL DATE:
 November 17, 2010

**SUBJECT: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp.,
 to Provide Legal Indigent Defense Criminal Services for Riverside County**

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve and execute the 18-month professional service agreement with Virginia M. Blumenthal, a professional law corporation, for \$8,778,400 annually (\$7,772,400 services plus \$1,056,000 ancillary), which contains the options to renew the agreement for two additional one-year periods, and;
2. Authorize the Purchasing Agent, in accordance with Ordinance 459.4, to exercise the renewal option, based on the availability of fiscal year funding, and to sign amendments that do not change the substantive terms of the agreement, including amendments to the compensation provision that do not exceed the annual CPI rates, and;
3. Direct the Clerk of the Board to return three (3) original signed agreements to Purchasing and Fleet Services.
4. Approve the shift of Legal Indigent Defense to the Public Defender for administrative oversight and budget responsibility.

(Continued on Page 2)

[Signature]
 ROBERT J. HOWDY SHELL, DIRECTOR
 Purchasing and Fleet Services Dept.

FINANCIAL DATA	Current F.Y. Total Cost:	\$4,389,200	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$4,389,200	Budget Adjustment:	No
	Annual Net County Cost:	\$8,778,400	For Fiscal Year:	10/11

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *[Signature]*
 Dean Deines

County Executive Office Signature

- Policy
- Consent
- Policy
- Consent

Dept's Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: #3.13 Dated 7/15/08, #3.11 Dated 6/23/09, #3.67 Dated 8/31/10, #3.57C Dated 2/23/10, & #3.48 Dated 3/16/10
 District: _____ Agenda Number: _____

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

3.46

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 2

BACKGROUND

New Oversight and Service Need

Recommended along with this contract is a shift in responsibility for budget and contract oversight. With the Board's concurrence, the Public Defender's control and responsibility for all aspects of this service will increase. Decisions affecting Indigent Defense will be made in the context of three budgets. Specifically, the Public Defender will be asked to put together a yearly budget that together covers the offices of the Public Defender, the Alternate Public Defender and indigent defense. It is expected that achieving present and planned cuts can best be accomplished by a single manager considering public defense as a unit.

Riverside County is required to retain legal services to represent indigent defendants for whom the Riverside County Public Defender's Office (PD) declares a conflict of interest, including misdemeanors, felonies and the Welfare and Institution Code Section 600 et. Seq. juvenile offenses.

The area serviced under this solicitation will be all branches of the Riverside Superior Court across three distinct regions: Western Riverside, which includes Riverside, Corona, Banning, and Moreno Valley courts; Mid-County, which includes Hemet, Temecula, the Southwest Justice Center, and East County, which includes Indio and Blythe. Matters to be handled include violation of probation hearings, misdemeanors, and felonies (including non-death penalty capital cases when the Public Defender and Capital Public Defender Offices declare a conflict), as well as other miscellaneous appointments by the court, wherein the Public Defender has declared a conflict and the defendant/party meets the Public Defender indigence standard, which is consistent with 45 Code of Federal Regulations 1611 et seq.

Recent Board Direction to Update the Indigent Defense Contract

On March 16, 2010 the Board directed the legal indigent criminal defense services requirement to be re-solicited and that the process be conducted in a specified manner to promote confidence in the process in which the proposals were received, handled, evaluated and safeguarded throughout the procurement process.

- **RFP Steering Committee**

To ensure full compliance with the Board's direction, a steering committee was formed consisting of Purchasing, Executive Office, County Counsel, Public Defender and a representative from each Board of Supervisors was invited to participate. Many meetings were held to refine the statement of work, establish the evaluation criteria, establish the evaluation weighting factors, create a timeline for critical events and establish appropriate parameters for selecting an evaluation team.

In addition, the steering committee decided to remove the "death penalty" cases from the scope of services for a separate solicitation process.

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 3

BACKGROUND (Continued)

The culmination of this effort resulted in a solicitation document which was presented to the Board on August 31, 2010, Agenda #3.67. The Board of Supervisors approved the solicitation (Request for Proposal (RFP) #EOARC019) to be released. In addition to the solicitation, the names of the evaluators selected as public defense subject matter experts from other California Counties, were identified and approved.

The Evaluation Team consisted of the following members:

- John Abrahams: Public Defender, Sonoma County; Past Chair, California Council of Chief Defenders; Over 25 years experience in Criminal Law Public Defense.
- John Digiacinto: Chief Defender, San Mateo County Private Defender (Contract); Board Member, American Council of Chief Defenders; Board Member, Defense Policy Group for the National Legal Aid and Defender Association; Over 25 years experience in Criminal Law Private Defense.
- Paulino Duran: Public Defender, Sacramento County; Chair, American Council of Chief Defenders; Past Chair, California Public Defender's Association; Over 30 years experience in Criminal Law Public Defense.

• **The RFP Evaluation Criteria and Weighting Factors, which were part of the RFP approved by the Board on August 31, 2010, agenda #3.67, are as follows:**

1. Overall responsiveness and general understanding of the RFP requirements -5%
 2. Contractor's capability, service methodology, experience, and ability – 35%
 3. Credential/Resumes/Licenses/Certifications – 20%
 4. Overall cost to the County – 40%
- Total Weighted Criteria = 100%
5. References with demonstrated success with similar work to the Scope of Service:
Pass or Fail
 6. Financial status: **Pass or Fail**
 7. Clarification, Exceptions, or Deviations: **Pass or Fail**

• **Request for Proposal Release**

Purchasing released the RFP on September 2, 2010. The RFP was mailed to 110 vendors. The pre-bid conference was held at 9:00 a.m. on September 16, 2010, at 2980 Washington St., Riverside, CA in the Purchasing conference room, and nine vendor representatives attended.

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 4

BACKGROUND (Continued)

• **Request for Proposal Receipt and Evaluation**

The RFP closed on October 6, 2010 at 1:30 p.m. and three proposals were received by the Clerk of the Board. The respondents are as follows:

- Criminal Defense Lawyers: Received via sealed submission on September 27, 2010 at 10:49 a.m.
- Law Offices of Barbara Brand: Received via sealed submission on October 10, 2010 at 2:29 p.m.
- Virginia M. Blumenthal Law Corp.: Received via sealed submission on October 6, 2010 at 1:13 p.m.

As part of the effort to obtain the fairest technical evaluation, the associated costs proposals were submitted separately and maintained by the Clerk of the Board in their safe until after the technical evaluation phase of the process.

The evaluation period was set for 9:00 a.m. on October 18, 2010 until 12:00 p.m. on October 20, 2010 and was conducted at 2980 Washington St., Riverside, CA in the Purchasing Conference Room. Instruction to evaluators was standard and no historical perspective was provided. Code-of-conduct forms were signed by all evaluators. All attempts were made to minimize outside contact with evaluators to prevent any perception of influence on the process. Likewise, sealing the cost proposals in a safe at the Clerk of the Board until the technical evaluation was completed, demonstrated there was absolutely no opportunity for the original cost information to be revealed or manipulated.

At the conclusion of the technical evaluation, the evaluation team and Purchasing met at the Clerk of the Board on October 19, 2010 at 3:30 p.m. to review the vendors' cost proposals. In attendance for the opening of the cost proposals were the following: John Digiacinto, Paulino Duran, John Abrahams, Lisa Boerner (Purchasing), and Jane Jennings (Clerk of the Board).

Evaluation Summary

The evaluation committee scoring for the technical portion, along with the addition of the scoring for the pricing, separated by the three geographic regions, is as follows:

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 5

BACKGROUND (Continued)

Western County Region

Criteria:	Weight Factors	Virginia M. Blumenthal Law Corp.				Criminal Defense Lawyers (CDL)				
		#1	#2	#3	Weighted Average	#1	#2	#3	Weighted Average	
1. Overall Responsiveness	5	7	7	6	3.33	5	5	4	2.33	
2. Experience Ability	35	8	10	9	31.50	3	5	4	14.00	
3. Credential/Resume/Licenses/Certification	20	9	10	10	19.33	3	3	3	6.00	
4. Cost to the County										
* Average Cases Open Per Year		1463				1463				
Service Portion		\$3,823,237				\$3,732,437				
* Ancillary		\$480,000				\$480,000				
Total Cost to the County	40	\$4,303,237				39.16	\$4,212,437			40.00
5. References	Pass or Fail				Pass				Pass	
6. Financial Status	Pass or Fail				Pass				Pass	
7. Clarification, Exceptions or Deviations	Pass or Fail				Pass				Pass	
	100	Total Group Score:			93.32	Total Group Score:			62.33	

*Specified by the County

Notes: 1 Virginia M. Blumenthal Law Corp. \$90,800 more than Criminal Defense Lawyers
 2 Virginia M. Blumenthal Law Corp. 50% higher evaluation score

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 6

BACKGROUND (Continued)

Mid-County Region

Criteria:	Weight Factors	Virginia M. Blumenthal Law Corp.				Criminal Defense Lawyers (CDL)					
		#1	#2	#3	Weighted Average	#1	#2	#3	Weighted Average		
1. Overall Responsiveness	5	7	7	6	3.33	5	5	4	2.33		
2. Experience Ability	35	8	10	9	31.50	3	5	4	14.00		
3. Credential/Resume/Licenses/Certification	20	9	10	10	19.33	3	3	3	6.00		
4. Cost to the County											
* Average Cases Open Per Year		765				765					
Service Portion		\$1,999,163				\$1,696,563					
* Ancillary		\$480,000				\$480,000					
Total Cost to the County	40	\$2,479,163				35.12	\$2,176,563				40.00
5. References	Pass or Fail				Pass				Pass		
6. Financial Status	Pass or Fail				Pass				Pass		
7. Clarification, Exceptions or Deviations	Pass or Fail				Pass				Pass		
	100	Total Group Score:				89.28	Total Group Score:				62.33

*Specified by the County

Notes: 1 Criminal Defense Lawyers reduced Ancillary Expenses by \$60,000; however, this is a pass-through and county specified the amount to utilize.

2 Virginia M. Blumenthal Law Corp. \$302,600 more than Criminal Defense Lawyers

3 Virginia M. Blumenthal Law Corp. 43% higher evaluation score

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 7

BACKGROUND (Continued)

Desert Region

Criteria:	Weight Factors	Virginia M. Blumenthal Law Corp.				Law Office of Barbara Brand					
		#1	#2	#3	Weighted Average	#1	#2	#3	Weighted Average		
1. Overall Responsiveness	5	7	7	6	3.33	4	5	4	2.17		
2. Experience Ability	35	8	10	9	31.50	2	4	4	11.67		
3. Credential/Resume/Licenses/Certification	20	9	10	10	19.33	8	8	7	15.33		
4. Cost to the County											
* Average Cases Open Per Year		1250				1250					
Service Portion		\$1,900,000				\$1,920,000					
* Ancillary		\$96,000				\$96,000					
Total Cost to the County	40	\$1,996,000				40	\$2,016,000				39.60
5. References	Pass or Fail				Pass				Pass		
6. Financial Status	Pass or Fail				Pass				Pass		
7. Clarification, Exceptions or Deviations	Pass or Fail				Pass				Pass		
	100	Total Group Score:				94.17	Total Group Score:				68.77

*Specified by the County

- Notes:
- 1 Virginia M. Blumenthal Law Corp. \$20,000 less than the Law Office of Barbara Brand
 - 2 Virginia M. Blumenthal Law Corp. 37% higher evaluation score

BOARD OF SUPERVISORS

FORM 11: Approval of the Agreement with Virginia M. Blumenthal, a Professional Law Corp., to Provide Legal Indigent Defense Criminal Services for Riverside County

PAGE 8

AWARD RECOMMENDATION

It is recommended that the Board award the contract for all three geographic regions to Virginia M. Blumenthal, a professional law corporation, at an annual fee of \$8,778,400 (\$7,722,400 services plus \$1,056,000 ancillary). This firm was determined to be the most responsive and responsible vendor providing the best overall value to the county. This recommendation is supported by an independent evaluation conducted by experts in their field.

*County of Riverside
Professional Services Agreement*

CRIMINAL DEFENSE AGREEMENT

for

LEGAL INDIGENT DEFENSE SERVICES

between

COUNTY OF RIVERSIDE

and

**VIRGINIA M. BLUMENTHAL
A PROFESSIONAL LAW CORPORATION**



*County of Riverside
Professional Services Agreement*

CONTRACT TO PROVIDE LEGAL SERVICES.

THIS CONTRACT is made this ____ day of _____, 2010, between the County of Riverside (hereinafter "COUNTY") and Virginia M. Blumenthal, A Professional Law Corporation, (hereinafter "ATTORNEY"), for Indigent Defense services to be provided in the Superior Court of the County of Riverside, Desert, Mid and Western County Regions, as set forth herein.

RECITALS

WHEREAS, the right of all persons against whom Criminal Court proceedings are brought to be represented by Counsel is guaranteed by the Constitution of the United States and the Constitution of the State of California; and

WHEREAS, the cost and expense of each counsel in the representation of indigent adults in the specified proceedings are a proper and lawful charge upon the COUNTY; and

WHEREAS, the cost and expense of each counsel in the representation of indigent minors in a Juvenile proceeding under Welfare & Institutions Code § 602 et. seq., and California Rule of Court including the Juvenile Court Rules is a proper and lawful charge upon the County; and

WHEREAS, the County currently thinks it is in the public interest in circumstances where the Riverside County Law Office of the Public Defender declares a conflict of interest, or is otherwise unavailable, that the COUNTY contract with private counsel to render the usual and customary legal services required by law to be provided to individuals; and

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEY to provide legal representation for indigent parties in the Superior Court of the County of Riverside, Desert, Mid and Western Regions, when appointed by the Court as required by law, after a determination that a conflict of interest exists which causes the Law Office of the Public Defender to be unable to represent the defendant, or the Law Office of the Public Defender is relieved by the Court for extraordinary reasons, except for those cases enumerated in Section 4.

*County of Riverside
Professional Services Agreement*

1.1 Indigent party(ies) means a defendant or defendants charged with a crime and unable afford hiring private counsel.

2. TERM OF PERFORMANCE. This Contract shall take effect for January 1, 2011 to June 30, 2012, and then renewable in one-year increments for up to two years, expiring on June 30, 2014, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEY shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Courts within the Desert, Mid and Western County Region, wherever the cases may eventually be set for trial within the County of Riverside, and pursuant to the terms of this contract and in compliance with Appendix A, attached hereto and incorporated herein. For the purpose of providing such professional legal services, ATTORNEY, at ATTORNEY'S own discretion, may perform the services, or cause them to be performed by other attorneys, who shall not be parties to this Contract, but are independent contractors and not agents or employees of ATTORNEY or COUNTY.

3.1 The Parties agree that the total number of cases is uncertain as is the complexity of those cases. As a performance range, Parties agree for the first 18 month term to a midrange of 3426 (2284 annual midrange for renewal terms) Felony cases, and 1736 (1157 annual midrange for renewal terms) Misdemeanor cases, and an indeterminate number of Violation of Probation cases and Miscellaneous cases will be assigned to ATTORNEY during the term of this contract including:

(a) All felony matters filed in the Riverside County Superior Courts and represented through final judgment;

(b) No more than fourteen (14) special circumstance cases where the People are not seeking death;

(c) All Violation of Probation matters. However in all violation of probation matters, ATTORNEY will not accept appointment unless the Law Office of the Public Defender has declared a continuing conflict of interest or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability, or reasons not related to a declaration of conflict pursuant to

*County of Riverside
Professional Services Agreement*

Penal Code Section 987.2. All violations of probation must be accompanied by a copy of the court minutes showing that a public defender representative appeared on the record and declared a continued state of conflict of interest at the time of their reappointment or alternatively, the billing must be accompanied by documentary affirmation of the continued conflict in the case supplied by the Law Office of the Public Defender at the time of their reappointment;

(d) All misdemeanor matters;

(e) All miscellaneous matters; for example including but not limited to: diversion progress hearing; substance abuse enrollment hearings; reinstatement hearings; diversion fall-out sentencing; proof of enrollment hearings; plea withdrawals; remittitur hearings; re-sentencing; witness advisements; and other unique and unusual matters.

f) Up to 350 Welfare and Institution Code § 602 cases through every stage of the proceeding in the Desert Court region, including post-dispositional hearings until relieved by the court or upon substitution of counsel.

3.2 For the purposes of this Agreement, a "case" is defined as follows for all adult matters: the representation of one person on one accusatory pleading. Multiple charges against a defendant in one accusatory pleading shall not prevent designation of a matter as a single case. If a single defendant is accused in more than one accusatory pleading, each separate pleading shall constitute a separate case. If multiple defendants are charged in a single accusatory pleading, it shall be considered that there are as many cases as there are defendants.

3.3 For juvenile matters, a "case" means, an original petition; a subsequent petition based on entirely new facts; or a Notice of Hearing petition when no other original or subsequent petition is being processed. An amended petition (unless it states entirely new facts), modification hearings, restitution hearings, and the recalendaring of matters based on 15 day review, are not considered a new "case."

3.4 ATTORNEY agrees that representation of those charged with complex felonies, including Special Circumstance Homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEY will, pursuant to this Contract, begin representation in these cases as

*County of Riverside
Professional Services Agreement*

soon as the Law Office of the Public Defender declares a conflict or is otherwise relieved, and defend or assign the case to a subcontract attorney at the earliest possible stage to insure vertical representation where appropriate.

3.5 ATTORNEY shall assist in the recovery of fees and funds pursuant to Penal Code Sections 987.5, 987.8(b), (c) and 987.81.

3.6 ATTORNEY shall accept appointment when the Law Office of the Public Defender has declared a conflict, or after the Court relieves the Law Office of the Public Defender for lack of preparation, incompetence, unavailability or reasons not related to a declaration of conflict pursuant to Penal Code §987.2.

3.7 In subcontracting with other attorneys, ATTORNEY shall consider the factors enumerated in Penal Code § 987 et. seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code § 6000 et. seq., State Bar of California Guidelines on Indigent Defense Services Delivery Systems, the performance and case management guidelines for Criminal Defense Representation for the National Legal Aid & Defenders Association, and the State Bar Rules of California, as appropriate, including Rule 3-310. ATTORNEY shall assure that all subcontractors satisfy the minimum requirements for practicing law in the State of California as determined by the California State Bar Association, and are competent and provide constitutionally effective assistance. ATTORNEY shall submit a list of all subcontracting attorneys to the Law Office of the Public Defender at the beginning of each Fiscal Year and as necessary, when any changes in subcontracting attorneys occurs. Evidence of the qualification(s) of such subcontracting attorneys shall be provided with the list.

3.7.1 Each subcontracting attorney representing a defendant accused of a serious or violent felony pursuant to California Penal Code section 1192.7 must have served at least twenty-four (24) to thirty-six (36) months as a prosecutor, a public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials to verdict and sentencing. Five (5) of said jury trials must be felony matters.

*County of Riverside
Professional Services Agreement*

3.7.2 Each subcontracting attorney representing a defendant in felony matters not delineated above, or involved in a probation revocation hearing involving a felony matter must have served at twelve (12) to thirty-six (36) months as a prosecutor, public defender, assigned counsel or private defense attorney and has been lead trial counsel in at least five (5) to twenty (20) jury trials.

3.8 ATTORNEY shall perform or cause to be performed all professional legal services reasonably and legally required herein from the time of appointment, to and including, a final adjudication or disposition of the case. Disposition in criminal cases shall mean: 1) the dismissal of charges; 2) the entering of an order of deferred prosecution; 3) an order or result requiring a new trial; 4) imposition of sentence; 5) an order imposing probation; or 6) deferral of any of the above coupled with any other hearing on the cause number, including but not limited to felony or misdemeanor probation review that occurs within thirty (30) days of sentence, deferral of sentence or entry of an order of deferred prosecution. No hearing that occurs after thirty (30) days of any of the above will be considered part of case disposition for the purpose of this contract, except that a restitution hearing ordered at the time of the original disposition, whether it is held within 30 days or subsequently, shall be included in case disposition. Disposition includes the filing of a notice of appeal, if applicable.

3.9 It is the intent of County that all Felony Trials are to be litigated or otherwise resolved in a timely manner. In order to assure that Penal Code section 1050 requests for continuances do not hinder a timely resolution of assigned cases, all felony trial attorneys must submit a monthly report listing all cases not resolved within four (4) months of arraignment. The report shall delineate (a) what is done on the case, and (b) what will be done to resolve the case.

3.10 In order to effectuate an early resolution of felony cases, the Riverside Superior Court has designated Vertical Calendar Departments (VCDs) in the Desert, Mid and Western County Regions. These Departments have been established to reduce the backlog of criminal cases and ensure that criminal cases will not be dismissed under the speedy trial requirements of Penal Code Section 1382.

(a) ATTORNEY shall dedicate experienced criminal law attorneys to be assigned to Departments designated as the Vertical Calendar Department (VCD) in the Desert, Mid and Western