

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



**ITEM: 3.3  
(ID # 13314)**

**MEETING DATE:**  
Tuesday, August 25, 2020

**FROM:** EXECUTIVE OFFICE:

**SUBJECT:** EXECUTIVE OFFICE: Ratify and Approve the Professional Services Agreement with Brown White & Osborne, LLP for Legal Services for Indigent Conservatees and Minors in Guardianship Matters without seeking competitive bids for three years; All Districts [Total cost \$1,800,540; \$600,180 annually; up to \$298,908 in additional compensation] 100% General Fund

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Ratify and approve the Professional Services Agreement with Brown White & Osborne, LLP for Legal Services for Indigent Conservatees and Minors in Guardianship Matters without seeking competitive bids for an annual amount of \$600,180 for a total amount of \$1,800,540 for three years, effective July 1, 2020 through June 30, 2023, and authorize the Chairman of the Board to sign the Agreement on behalf of the County.
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel to: (a) sign amendments that make modifications to the scope of services that stay within the intent of the agreement; and (b) sign amendments to the compensation provisions that do not exceed the sum total of twenty percent (20%) of the total annual cost of the agreement.

**ACTION:** Policy

Jeff Van Wageningen, Assistant CEO / Public Safety 8/20/2020

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: August 25, 2020  
xc: EO

Kecia R. Harper  
Clerk of the Board

By:   
Deputy

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<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 600,180	\$ 600,180	\$ 1,800,540	\$ 0
<b>NET COUNTY COST</b>	\$ 600,180	\$ 600,180	\$ 1,800,540	\$ 0
<b>SOURCE OF FUNDS: General Fund</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	20/21 to 22/23

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The County is obligated to pay the cost and expense of legal services for a ward, a proposed ward, an indigent conservatee, or a proposed indigent conservatee in guardianship or conservatorship proceedings. The County contracts with private attorneys and law firms to provide legal representation for wards, proposed wards, indigent conservatees, or proposed indigent conservatees in guardianship or conservatorship proceedings in the Superior Court of the County of Riverside when appointed by the Court as required by law, or upon a declaration that a conflict of interest exists with the Public Defender's Office or the Public Defender's Office is relieved by the Court for extraordinary reasons.

Brown White & Osborne, LLP (formerly Brown, White, and Newhouse, LLP) is a large, established law firm, that has the resources including experienced attorneys and in-house investigators with child development backgrounds dedicated to serving the needs of the conservatees and the guardianship minors. This vendor has been providing this service to the county since 2012, when they were awarded the legal indigent conservatee and guardianship contract as the lowest responsive/responsible bidder. This firm continues to provide satisfactory performance and willingness to cooperate with the County to reduce fees. In July 2017, the county successfully negotiated a 5% rate reduction with the firm to continue these services. The County and the Courts believe that the resources available to the vendor have enabled them to provide a valuable service that exceeds those provided by other companies. The vendor has agreed to reduce their current monthly rates by an additional 5%. Continuity of service with a trusted vendor is important for this type of mandated service during the current health and safety situation.

The agreement has been approved as to form by County Counsel.

**Impact on Residents and Businesses**

Indigent Defense provides legally required representation, which is part of the legal system that benefits the community.

**Additional Fiscal Information**

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The cost of this contract was included in the department's adopted budget for the current fiscal year and no additional funding is being requested.

**Contract History and Price Reasonableness**

In July 2012, Purchasing released a Request for Proposal (RFP PDARC-011) on behalf of the Law Offices of the Public Defender, mailing solicitations to 110 legal firms, and advertised on the County's Purchasing Website, with four proposals received at the Clerk of the Board of Supervisors with sealed cost proposals. The recommendation of award of the contract went to Brown, White, and Newhouse, LLP, as the lowest responsive/responsible bidder for all Riverside County geographical areas, (Desert, Western, and Mid-County) that was approved by the Board of Supervisors on December 18, 2012 on minute order 3.40.

Judges in Probate and Family Law courts of the Superior Court of Riverside County appoint attorneys from the Board approved firm to represent indigent conservatees, proposed conservatees and minors in guardianships when the Law Office of the Public Defender declares a conflict. Since FY13/14, the Executive Office has administered this agreement.

On February 1, 2013, The Purchasing Agent signed Amendment No. 1 to amend Section 5, Compensation in the approved Agreement.

On February 1, 2014, The Purchasing Agent signed Amendment No. 2 to amend Section 2, Term of Performance, to extend the term from February 1, 2014 through January 31, 2015.

On February 1, 2015, The Purchasing Agent signed Amendment No. 3 to amend Section 2, Term of Performance, to extend the term from February 1, 2015 through January 31, 2016, and amend Section 23, Notices.

On February 1, 2016, The Purchasing Agent signed Amendment No. 4 to amend Section 2, Term of Performance, to extend the term from February 1, 2016 through January 31, 2017.

On February 1, 2017, The Purchasing Agent signed Amendment No. 5 to amend Section 2, Term of Performance, to extend the term from February 1, 2017 through January 31, 2018.

On December 12, 2017, the Board of Supervisors approved Amendment No. 6 to amend Section 2, Term of Performance, to extend the term through June 30, 2020, and amend Section 5, Compensation to included a 5% rate reduction in the monthly fee resulting in savings of \$27,600 annually.

The Executive Office and County Purchasing and Fleet Services are working together to negotiate new agreements with indigent defense firms to accept a reduction in rates for the next three years. County Purchasing and Fleet Services successfully negotiated a new agreement with Brown White and Osborne, LLP with a 5% rate reduction in the monthly fee.

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The new monthly fee effective July 1, 2020 will be \$41,515.00 per month, down from \$43,700 per month. The additional case rate will be \$730, down from \$768. The negotiated reduction will provide an estimated savings of \$26,220 annually.

**ATTACHMENTS:**

**ATTACHMENT A.** Professional Services Agreement for Legal Services for Indigent Conservatees and Minors in Guardianship Matters with Brown White and Osborne, LLP

**ATTACHMENT B.** SSJ #21-025 Brown White and Osborne, LLP

  
Tina Grande, Assistant Purchasing Director 8/19/2020

  
Cherilyn Williams 8/20/2020

  
Gregory L. Priamos, Director County Counsel 8/20/2020

**PROFESSIONAL SERVICES AGREEMENT**

for

**LEGAL SERVICES FOR INDIGENT CONSERVATEES  
AND MINORS IN GUARDIANSHIP MATTERS**

between

**COUNTY OF RIVERSIDE**

and

**BROWN WHITE & OSBORN, LLP**



THIS PROFESSIONAL SERVICES AGREEMENT (herein referred to as "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between BROWN WHITE & OSBORN, LLP, a California limited liability partnership, (formerly Brown White & Newhouse, LLP), (herein referred to as "ATTORNEY"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"), for conservatorship and guardianship services to be provided in the Superior Court of the County of Riverside, all regions, as set forth herein.

#### RECITALS

WHEREAS, the California Probate Code and Welfare and Institutions Code provide for the protection of the rights of conservatees or proposed conservatees in specified proceedings as set out in Probate Code sections 1471, 1852, 2356.5, 2357, 3140, and 3205; and conservatorship proceedings instituted pursuant to Welfare and Institutions Code section 5000 et seq. commonly referred to as LPS (Lanterman-Petris-Short Act) Conservatorships; and

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

WHEREAS, it is in the public interest in circumstances wherein the Riverside County Public Defender declares a conflict of interest under Welfare and Institutions Code section 5000 et seq. 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 those individuals; and

WHEREAS, a ward, a proposed ward, a conservatee, or a proposed conservatee may be furnished with legal counsel in a guardianship or conservatorship processing and the cost of counsel may be a proper charge upon the COUNTY as set out in Probate Code section 1470 or 1472;

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEY to provide legal representation for indigent conservatees and for wards in guardianship proceedings in the Superior Court of the County of Riverside, all regions, when appointed by the Court as required by law, or upon a declaration that a conflict of interest exists which causes the Public Defender to be unable to represent the conservatee, or the Public Defender is relieved by the Court for extraordinary reasons, for specified probate proceedings as set forth in Section 3.1 and in Section 3.2.

2. TERM OF PERFORMANCE. This Agreement shall take effect July 1, 2020 and continues in effect through June 30, 2023, unless terminated sooner as provided herein or amended in writing by the parties. The Board of Supervisors and the County Purchasing Agent and/or his/her designee are the authorized COUNTY representatives who may at any time by written order make alterations to this Agreement.

3. SCOPE OF SERVICES. ATTORNEY shall assume fully responsibility for furnishing counsel necessary to provide daily representation in the Superior Courts within the entire region, within the funding provisions of this Agreement. For the purpose of providing such professional legal services, ATTORNEY, at his/her own discretion, may perform the services, or cause them to be performed by other attorneys, who shall not be parties to this Agreement, but are independent contractors and not agents or employees of ATTORNEY or COUNTY.

3.1 ATTORNEY shall be required to provide counsel in the following proceedings in conservatorship cases where the conservatee or proposed conservatee has been determined to be indigent utilizing the standard for indigency in 45 Code of Federal Regulations § 1611 as adopted by the Riverside County Public Defender, pursuant to Government Code § 27706(d), or when the Court determines indigency pursuant to Government Code § 27707:

- a. When appointed by the Court pursuant to Probate Code § 1471(a), (b) & (c).
- b. When appointed by the Court pursuant to Probate Code § 1471(a)(1) including a request for Dementia Powers pursuant to Probate Code § 2356.5.
- c. When appointed by the Court pursuant to Probate Code § 1471(a)(1) which includes a Petition for appointment of a Temporary Conservator.
- d. When appointed by the Court in a proceeding under Probate Code §§ 1852, 2357, 3140, 3201 and 3205.
- e. When appointed by the Court in a proceeding pursuant to Welfare and Institutions Code section 5000 et seq. wherein the Office of the Riverside County Public Defender has declared a conflict or has been relieved due to extortionary circumstances.
- f. When appointed by the Court pursuant to Probate Code §§ 1470 or 1472.
- g. ATTORNEY shall represent the conservatee in Court Trials or Jury Trials in the foregoing proceedings. ATTORNEY shall not withdraw from the case at the conclusion of the proceeding but remain counsel of record for all mandatory and discretionary appointment proceedings. When applicable, ATTORNEY shall comply with California Rule of Professional Conduct 3-700.

h. At the end of each proceeding, pursuant to Probate Code section 1472, ATTORNEY shall request from the Court a determination of the conservatee or the conservatorship's estate ability to pay all or a portion of attorney fees and expenses. If the Court determines that the conservatee or the conservatorship estate has adequate funds to pay attorneys' fees and expenses, ATTORNEY shall request an order from the Court. Any award of attorneys' fees shall be made payable to the County of Riverside, to the attention of the Law Offices of the Public Defender referencing *Indigent Defense*.

i. Expenses such as mileage (in accordance with COUNTY Policy D-1 cost) outside of the California region to visit a conservatee or extraordinary postage may be reimbursed from the trust account.

3.2 Pursuant to California Probate Code section 1470(c)(3) effective January 2008, the COUNTY is obligated to compensate counsel appointed to represent a minor in a legal proceeding to establish the Guardianship of the Person of the minor, the Guardianship of the Person and Estate and the Guardianship of the Estate, upon the Court's determination that there is no other viable source of payment.

a. COUNTY has determined that it would be in the best interest of the minor and would benefit the Superior Court to have well qualified, experienced counsel represent the minor when appointed by the Court in Guardianship matters filed in the Superior Court.

b. ATTORNEY shall assume full responsibility for representing minors in Guardianship Proceedings in the Department of the Riverside Superior Court as designated by the Court. ATTORNEY shall perform or cause to have performed all professional legal services for the minor(s) in Guardianship Proceedings from the time of appointment, at every stage of the proceeding including trial until relieved by the Court or upon substitution of counsel. ATTORNEY shall not withdraw from the case at the conclusion of the petition but remains counsel of record for the annual reviews. When applicable, ATTORNEY shall comply with California Rule of Profession Conduct 3-700.

c. If the investigation in the case finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by sections 328 and 327 of the Welfare and Institution Code is completed and a report is provided to the Court in which the guardianship proceeding is pending.

d. Each case where counsel is appointed for a minor is a separate case except that all minors named in one Guardianship Petition (Proceeding) may be joined as one appointment if only one attorney is necessary to provide conflict free representation for the minors. A "case" is defined as a Court Proceeding to



establish the Guardianship of the Person of the minor or minors, Guardianship of the Person and Estate, or Guardianship of the Estate including all acts necessary to the conclusion of the matter, including but not limited to the following: 1) Communication with the minor, parents, relatives, non-custodial parents, and others as necessary; 2) Investigation of the circumstances; 3) Representation of the minor in Court; 4) Preparation of documents or pleadings as necessary; 5) Annual Review Hearings.

e. ATTORNEY shall assume full responsibility for assigning only sub-contracting attorneys who have the necessary experience, qualifications, and capabilities to handle Guardianship cases in the Superior Court. The assigned attorneys shall meet the requirements established by the Judicial Council and set out in the Rules of Court pursuant to Probate Code section 1456, including CRC 7.1101.

f. ATTORNEY is an independent contractor and may represent minors in Guardianship Proceedings when retained, or appointed by the Court and when there is a source of payment other than the COUNTY.

g. ATTORNEY shall request that the Court make a determination of the financial ability of the parent or parents of the minor or from the minor's estate to compensate counsel in total or in part at the conclusion of each Guardianship Proceeding. Any award of attorneys' fees shall be made payable to the County of Riverside, to the attention of the Law Offices of the Public Defender referencing *Indigent Defense*.

h. ATTORNEY understands that it is important to the Court and to the COUNTY to have counsel available to represent the minor in Guardianship Proceedings upon appointment of counsel and at the time designated for hearing.

i. ATTORNEY shall accept all appointments, including "Discretionary Appointments" pursuant to Probate Code §§ 1470 or 1472 under the Agreement.

3.3 In subcontracting with other attorneys, ATTORNEY shall consider the factors enumerated in 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, Probate Code section 1456, and Rules of Court promulgated pursuant thereto, including CRC 7.1101, and the State Bar Rules of California, as appropriate, including Rule 3-310. ATTORNEY shall assure that all subcontractors are competent and provide constitutionally effective assistance.

3.4 ATTORNEY shall perform or cause to be preformed all professional legal services reasonably and legally required herein from the time of appointment, to and including, a final adjudication

or disposition of such case. ATTORNEY is appointed for the life of the case and remains the attorney of record until the case is completed.

4. PERFORMANCE MANAGEMENT. ATTORNEY shall have the responsibility for administrative duties under this Agreement 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 Agreement receive effective assistance of counsel under the Constitutions of the United State and the State of California.

4.1 ATTORNEY shall require each subcontracting attorney to participate in Mandatory Continuing Legal Education (MCLE) programs focusing on applicable law including but not limited to trial advocacy, juvenile law, probate, guardianships and conservatorships. ATTORNEY shall review on a yearly basis 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 do his/her best to assure that only attorneys with the requisite skill and experience handle particular category of cases and are assigned to such cases.

4.2 ATTORNEY shall meet at least semi-annually with the COUNTY representative to discuss caseloads, MCLE programs, and certify that ATTORNEY has reviewed the performance of each independent subcontractor as described above. In addition to any oral report, ATTORNEY shall submit written reports monthly including a summary of subcontractor-attorney evaluations and observations, and average number of MCLE approved training hours, and report participation in other educational programs related to the practice of probate law. The written reports should also contain any information that may be indicative of the quality of representation provided by ATTORNEY.

5. COMPENSATION. The parties agree that the total number of monthly cases is uncertain. As a performance range, the COUNTY and ATTORNEY agree that between forty (40) and sixty-six (66) conservatorship cases, and/or, guardianship cases will be assigned to ATTORNEY monthly during the term of this Agreement and ATTORNEY shall be compensated forty-one thousand five hundred fifteen dollars (\$41,515.00) per month for all cases within the specified range, wherein ATTORNEY is appointed hereunder, plus expenses during the term of this Agreement as set out in section 6. Should the monthly cases assigned to ATTORNEY exceed the specified range set forth herein, the parties agree that the extra cases will be compensated at the following additional rates – conservatorship cases will be compensated at

\$730.00 per case (plus expenses) and guardianship cases will be compensated at \$730.00 per case (plus expenses). It is expected that if the caseload does not fall within the range set forth herein, ATTORNEY and COUNTY shall make adjustments to the Agreement as necessary to determine payback by ATTORNEY to COUNTY for the ATTORNEY falling below the agreed case range and possible reduction in the future caseload range and associated compensation. If the caseload as set forth herein is exceeded, ATTORNEY and COUNTY shall make adjustments to this Agreement as necessary to determine additional compensation due ATTORNEY at the contract rate for the additional caseload, and possible adjustment in the future caseload range and associated compensation.

a. A "case" for purpose of Guardianship matters is defined as a Court Proceeding to establish the Guardianship of the Person of the minor or minors, Guardianship of the Person and Estate, and/or Guardianship of the Estate, including all acts necessary to the conclusion of the matter, including but not limited to the following: 1) Communication with the minor, parents, relatives, non-custodial parents, and others as necessary; 2) Investigation of the circumstances; 3) Representation of the minor in Court; 4) Preparation of documents or pleadings as necessary; 5) Annual Review Hearings.

b. A "case" for purposes of Conservatorship matters is set forth in section 3.1

c. COUNTY shall pay ATTORNEY in arrears. Said compensation shall be paid in accordance with an invoice submitted to COUNTY by ATTORNEY within ten (10) days from the last day of each calendar month, and COUNTY shall process the invoice within twenty (20) working days from the date of receipt of the invoice. The invoice shall contain the case name and number, date of appointment, all § 1470(c)(3) orders, and the total compensation requested. Cases shall not be invoiced until after the ability to pay hearing has been held, and then shall be invoiced only once as ATTORNEY is the attorney of record for the life of the case.

5.1 It is understood that, to the extent, ATTORNEY'S constitutional and necessary level of legal representation under the Agreement 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.

6. EXPENSES. Pursuant to Probate Code § 1471(a), (b) & (c), § 1471 (a) (1) including a request for Dementia Powers pursuant to Probate Code §§ 2356.5, 1852, 2357, 3140, 3201, and 3205 and guardianship proceedings as set out in Probate Code section 1470; ATTORNEY shall pay all cost of specialized and professional services reasonably necessary to assist in the preparation and presentation of his/her case, including medical and psychiatric examination, investigative services, expert testimony,

forensic services, language interpretation, discovery costs, travel expenses in accordance with COUNTY Policy D-1, reporter's transcripts, and fees for experts appointed pursuant to statute from a trust account they hold for the County of Riverside. For these services during the Agreement term, the additional sum of eight thousand five hundred dollars (\$8,500) per month, in arrears, shall be paid to ATTORNEY and set aside monthly and maintained in a separate interest bearing trust account for the purpose of providing specialized and professional services, EXCEPT that payments shall be suspended when the balance in ATTORNEY'S trust account exceeds \$20,000.

6.1 Additionally, upon written agreement of ATTORNEY and the Law Offices of the Public Defender, or designee, the monthly expenses may be modified in amount or timing but in no event shall exceed the maximum amount of \$102,000 (\$8,500 X 12 months) annually. Any interest accrued from these funds will be redeposited in to the respective trust account and used by the ATTORNEY to pay the cost incurred herein (Business & Professions Code § 6211(b)). These funds remain the property of the County of Riverside and at the end of the Agreement, or upon request of the COUNTY, all or a portion of the unexpended funds shall be returned to the COUNTY, and an accounting shall be provided to the Law Offices of the Public Defender within 30 days of termination, for all sums expended, including accrued interest.

7. TERMINATION. Either party may cancel this Agreement, in whole or in part, on ninety (90) day's written notice to the other party. In the event this Agreement is canceled, ATTORNEY shall be responsible for the matters/cases currently assigned to ATTORNEY.

8. INDEPENDENT COUNSEL. ATTORNEY is and shall at all times be deemed independent and shall be wholly responsible for the manner in which he/she performs the services required by this Agreement. ATTORNEY exclusively assumes responsibility for the acts of his/her employees as they relate to the services to be provided during the course and scope of their employment. ATTORNEY, his/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.

9. 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 whoever may be obligated to reimburse the COUNTY. COUNTY may, at its discretion, audit or inspect ATTORNEY's book and/or financial records relating to the Agreement, at any reasonable time. ATTORNEY shall be audited by an outside auditor a minimum of once every twelve months and at the end of the Agreement period. ATTORNEY shall be responsible for the cost of the audit.

ATTORNEY agrees to make available for inspections, without restrictions, all books, statements, ledgers and other financial records for a period of five (5) years from the termination of this Agreement. All financial records shall be kept, or made available to County of Riverside, at ATTORNEY's principal place of business at 300 East State Street, Suite 300, Redlands, California.

9.1 ATTORNEY understands that they are accountable for public funds and that they must maintain all records that support their expenditures of this money included but not limited to expert and investigator's invoices, activity/time logs, bank statements, canceled checks, and receipts.

9.2 ATTORNEY shall maintain statistics showing the following data and information on each Guardianship Case to which counsel is appointed and submit a monthly report to the Law Offices of the Public Defender, within ten (10) days of the end of each month:

1. Name of minor(s) represented;
2. Case Number;
3. Disposition, date of disposition, was there a contested hearing;
4. Number of hours expended on case;
5. Number of cases opened and closed on a monthly basis;
6. The number of ability to pay hearings conducted per month with totals as to the number of cases where COUNTY is ordered to pay and the total number of cases where the parent, ward, or estate is ordered to pay.
7. The number of Probate Code section 1513(c) motions made by ATTORNEY.
8. A copy of the Court's Order or Minute Order pursuant to section 1470(c)(3) as to the Court's finding of ability to pay ATTORNEY's fees.

9.3 ATTORNEY shall also furnish a monthly report of expenditures of trust account funds that includes the vendor, type of service (e.g., investigation, expert, etc.), client/case identifier (not name and/or case number of defendant), and amount of expense, within ten (10) days of the end of each month. 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.

9.4 ATTORNEY shall maintain statistics showing the following data and information on each Probate case assigned under this Agreement, which shall be submitted with the monthly invoice:

- a. Name of party represented;

- b. Case Number;
- c. Code Section of each proceeding for which appointed,
- d. Disposition;
- e. The number of ability to pay hearings conducted per month with totals as to the number of cases where COUNTY is ordered to pay and the total number of cases where the person or conservator of the estate is ordered to pay.

f. A copy of the Court's Order on a Probate Code section 1472 hearing with the finding of the Court as to the estate's ability to pay all or a portion of the attorney's fees; or a copy of the Minute Order on a Probate Code section 1472 hearing with a finding of indigency.

9.5 ATTORNEY shall file monthly reports with the Law Offices of the Public Defender in a form agreed upon by the parties, including any or all of the above information and any other costs and/or information reasonably requested by the Law Offices of the Public Defender. ATTORNEY understands that COUNTY relies on the monthly reports to determine the cost of services and that any corrections or adjustments to the reports must be done in a timely manner not to exceed thirty days from the required submission date of the monthly report, and that ATTORNEY will not be compensated for cases reported beyond the thirty days.

10. HOLD HARMLESS. ATTORNEY shall indemnify and hold the COUNTY, its Special Districts, their respective directors, officers, Board of Supervisors, agents, elected officials and employees free and harmless from any liability whatsoever, based or asserted upon any act(s) or omissions(s) of ATTORNEY 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 its sole expense, including attorney fees, COUNTY, its Special Districts, their respective directors, officers, Board of Supervisors, 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.

11. 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. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

11.1 Workers' Compensation: If ATTORNEY has employees as defined by the State of California, ATTORNEY shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease 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.

11.2 Commercial General Liability: ATTORNEY shall maintain Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of ATTORNEY'S performance of its obligations hereunder. Policy shall name the COUNTY as 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.

11.3 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then ATTORNEY shall maintain liability insurance for all owned, non-owned, or hired vehicles so used 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 as Additional Insured.

11.4 Professional Liability: ATTORNEY shall maintain Professional Liability Insurance providing coverage for ATTORNEY'S performance of work included within this Agreement, with a limit of liability of not less than \$250,000 per occurrence and \$500,000 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 and ATTORNEY shall purchase at his/her sole

expense 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 as long as the law allows.

11.5 Blanket Commercial Crime Policy: ATTORNEY shall maintain a Blanket Commercial Crime Policy including, but not limited to, coverage provided under Forms 'A', 'B' and 'F' 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 Agreement 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 Agreement; 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.

11.6 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 must declare its insurance self-insured retentions for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence, each such retention shall have the prior written consent of the COUNTY Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention 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 retention 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) that thirty (30) days written notice shall be given to the COUNTY prior to any material modification, cancellation, expiration, or reduction of such insurance. In the event of a material modification, cancellation, expiration or reduction of coverage, this Agreement shall terminate forthwith, unless the COUNTY 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. *ATTORNEY shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of insurance.*

d. It is understood and agreed by the parties hereto that the ATTORNEY'S insurance 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, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions of performance of work exceeds five (5) years, 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.

f. ATTORNEY shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

g. ATTORNEY agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

12. MATERIAL BREACH. Notwithstanding the provisions of Section 2, the failure of ATTORNEY or his/her agents or employees to comply with the terms of this Agreement and any reasonable directions, by or on behalf of the COUNTY, issued pursuant thereto shall constitute a material breach of this Agreement by ATTORNEY, and, in addition to any other remedy authorized by law, COUNTY shall have the right to terminate said Agreement 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 Agreement may be terminated upon the happening of any of the following:

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

12.1 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.

13. 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 Agreement.

13.1 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.

13.2 ATTORNEY shall not sit as Judge Pro Tem in any of the Courts that ATTORNEY provides representation for indigent services under this Agreement.

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

14. PRIVATE PRACTICE. ATTORNEY shall not be prohibited from engaging in the private practice of law, including any and all proceedings in the Courts of the County of Riverside. ATTORNEY shall not accept in her private practice any case which may cause a conflict of interest which would preclude ATTORNEY from providing representation to conservatees or minors pursuant to this Agreement.

15. 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.

16. 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.

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

18. ENTIRE AGREEMENT. This Agreement supersedes any prior agreements between the parties and is the sole basis for the contract between the Parties. This Agreement expresses the understandings of the Parties concerning all matters covered.

19. ALTERATION. No addition to, or alteration of, the terms of this Agreement, 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 Agreement and formally approved by the parties.

20. 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, Conservatorship, or Guardianship legal services.

21. PERIODIC REVIEW. ATTORNEY and COUNTY agree that there exists some uncertainty as to the number of cases hereunder. Consequently, the parties agree to a mandatory semi-annual meetings to evaluate the case filings and any other matters affecting this Agreement. ATTORNEY however, may request a meeting at any other time during the Agreement term to discuss any matters related to this Agreement. Either ATTORNEY or COUNTY may request a meeting at any time during the Agreement term to discuss adjustments to the Agreement when the case load falls below or exceeds the case range set out in Section 5 or to discuss any matter related to this Agreement.

22. CONTINUITY OF REPRESENTATION. The parties agree that at the conclusion of this Agreement term, or earlier if the Agreement 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. The parties thus agree that ATTORNEY has been paid for cost of handling the cases assigned hereunder and shall handle all cases assigned through completion of the case despite the termination or conclusion of this Agreement.

23. 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  
Law Offices of the Public Defender  
4200 Orange St. Ste 120  
Riverside, CA 92501  
Attn: Indigent Defense

ATTORNEY  
Brown White and Osborn, LLP  
3900 Market Street, Suite 215  
Riverside, CA 92501  
Attn: Jack Osborn, Managing Attorney

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement below.

COUNTY OF RIVERSIDE, a political  
subdivision of the state of California

BROWN WHITE AND OSBORN, LLP, a  
California limited liability partnership

By: V. Manuel Perez  
V. Manuel Perez  
Chairman, Board of Supervisors  
Date: AUG 25 2020

By: Jack B. Osborn  
Name: Jack B. Osborn  
Title: Partner  
Date: August 19, 2020

ATTEST:

Kecia R. Harper

By: Yvonne Kasso  
Deputy

APPROVED AS TO FORM:

Gregory P. Priamos

County Counsel

By: Danielle Maland  
Danielle Maland  
Deputy County Counsel

Date: 8/20/20