

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



ITEM: 3.23
(ID # 22215)

MEETING DATE:

Tuesday, June 27, 2023

FROM : EXECUTIVE OFFICE:

SUBJECT: EXECUTIVE OFFICE: Approve the Contracts to Provide Legal Services for Indigent Defendants for Whom the Riverside County Law Office of the Public Defender Declares a Conflict of Interest or is Otherwise Unavailable with Blumenthal & Moore, A Professional Law Corporation, Paul Grech Jr. dba Criminal Defense Lawyers, and Peter J. Morreale, Esq. and Peter W. Scalisi, Esq., for five (5) years with the option to renew for three (3) additional one (1) year periods; All Districts, [Total Annual Cost \$11,839,001 – 100% - Indigent Defense Budget]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Contracts to Provide Legal Services for Indigent Defendants for Whom the Riverside County Law Office of the Public Defender Declares a Conflict of Interest or is Otherwise Unavailable with Blumenthal & Moore, A Professional Law Corporation with an annual maximum amount of \$4,694,000, Paul Grech Jr. dba Criminal Defense Lawyers with an annual maximum amount of \$3,229,001, and Peter J. Morreale, Esq. and Peter W. Scalisi, Esq. with an annual maximum amount of \$3,916,000, from July 1, 2023 through June 30, 2028 with the option to renew for three additional one (1) year periods; authorize the Chairperson of the Board to sign three (3) copies of the same on behalf of the County;

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ACTION:Policy

Juan C. Perez, Chief Operating Officer

6/22/2023

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Spiegel, Washington, Perez and Gutierrez
Nays: None
Absent: None
Date: June 27, 2023
xc: E.O.

Kimberly A. Rector
Clerk of the Board
By:
Deputy

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

RECOMMENDED MOTION: That the Board of Supervisors:

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 exercise the options of the agreements including modifications to the agreements that stay within the intent of the agreements, and b) sign amendments to the compensation provisions that do not exceed five percent (5%) of the annual maximum compensation amounts annually in accordance with the terms of the agreements for the three (3) additional one (1) year renewal periods between June 30, 2028 through June 30, 2031; and
3. Direct the Clerk of the Board to retain one (1) copy and return two (2) copies of the agreements to the Executive Office for distribution.

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$11,839,001	\$59,195,005	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Executive Office Indigent Defense Budget-100%			Budget Adjustment:	No
			For Fiscal Year:	23/24 – 27/28

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The request before the Board is for approval of the contracts to provide legal services for indigent defendants for whom the Riverside County Law Office of the Public Defender declares a conflict of interest or is otherwise unavailable with Blumenthal & Moore, A Professional Law Corporation with the annual maximum amount of \$4,694,000, with Paul Grech Jr. dba Criminal Defense Lawyers with the annual maximum amount of \$3,229,001, and Peter J. Morreale, Esq. and Peter W. Scalisi, Esq. with an annual maximum amount of \$3,916,000 from July 1, 2023 through June 30, 2028 with the option to renew for three additional one (1) year periods.

The County of Riverside 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.

Blumenthal & Moore's agreement includes the handling of Senate Bill 1437 cases, Senate Bill 775 cases, and Franklin Hearings. Senate Bill 1437 and Senate Bill 775 changed the definition of murder and attempted murder in California, and these changes are retroactive. Individuals convicted of murder or attempted murder in Riverside County who believe they would not have been convicted under the new definition of murder and attempted murder may file Petitions for Resentencing pursuant to Pen. Code §1170.95.

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In *People v. Franklin* (2016) 63 Cal. 4th 261, the California Supreme Court held that a youthful offender who is sentenced to an indeterminate life sentence, must be “given adequate opportunity at sentencing to make a record of mitigating evidence tied to youth.” *People v. Franklin* (2016) 63 Cal. 4th 261 at 269. For those juvenile offenders who did not receive said opportunity and whose conviction and sentence are final, they may file a motion for a Franklin proceeding under the authority of Penal Code 1203.01 and *In Re Cook* (2019) 7 Cal. 5th 439.

Impact on Residents and Businesses

These contracts provide for necessary legal representation of indigent defendants for whom the Public Defender’s Office declares a conflict of interest. The Legal Indigent Defense Services Agreements will keep the County in compliance with legal requirements, including with Senate Bills 1437, Senate Bills 775, and Franklin Hearings.

Additional Fiscal Information

The number of actual cases assigned may vary, an estimated case number was used based on historical cases assigned and the associated costs. The following table summarizes the cost of the Legal Indigent Defense Services Agreements per fiscal year with ancillary cost. The contracts include extension provisions for three additional one (1) year periods beyond the original five-year term, with cost increases for each of the three additional years of up to 5%.

Blumenthal and Moore:

Description	FY 23/24	FY 24/25	FY 25/26	FY 26/27	FY 27/28
Felonies - Riverside Region SB 1437, 775, and Franklin Hearing – Countywide	\$4,694,000	\$4,694,000	\$4,694,000	\$4,694,000	\$4,694,000
Total	\$4,694,000	\$4,694,000	\$4,694,000	\$4,694,000	\$4,694,000

Criminal Defense Lawyers:

Description	FY 23/24	FY 24/25	FY 25/26	FY 26/27	FY 27/28
Felonies – Banning and Southwest Regions Misdemeanors – Banning, Riverside, Southwest Regions	\$3,229,001	\$3,229,001	\$3,229,001	\$3,229,001	\$3,229,001
Total	\$3,229,001	\$3,229,001	\$3,229,001	\$3,229,001	\$3,229,001

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Peter J. Morreale, Esq. and Peter W. Scalisi, Esq.:

Description	FY 23/24	FY 24/25	FY 25/26	FY 26/27	FY 27/28
Felonies – Blythe and Indio Regions	\$3,916,000	\$3,916,000	\$3,916,000	\$3,916,000	\$3,916,000
Misdemeanors – Blythe and Indio Regions					
Total	\$3,916,000	\$3,916,000	\$3,916,000	\$3,916,000	\$3,916,000

Contract History and Price Reasonableness

The County of Riverside Purchasing, on behalf of the Executive Office, issued a Request for Proposal (RFP) #EOARC-652 on December 20, 2022, soliciting proposals for Legal Indigent Defense Services. The RFP was posted on publicpurchase.com and 33 potential firms were notified of the RFP solicitation. Upon bid closing on January 19, 2023, the County received four responsive bids with cost ranging from \$3,184,520 to \$5,956,000.

After careful evaluation and consideration of all aspects of the proposals, Best and Final Process, and Negotiations, the County Evaluation Committee recommends the award to Blumenthal & Moore for Felonies, SB 1437, 775, and Franklin Hearings for the Riverside Region; Paul Grech dba Criminal Defense Lawyers for Felonies for the Southwest and Banning Regions, and Misdemeanor cases for Riverside, Southwest, and Banning Regions; and Peter J. Morreale, Esq. and Peter W. Scalisi, Esq. for the Desert Region.

Attachments

- A. Contract to Provide Legal Services for Indigent Defendants for Whom the Riverside County Law Office of the Public Defender Declares a Conflict of Interest or is Otherwise Unavailable with Blumenthal & Moore, A Professional Law Corporation.
- B. Contract to Provide Legal Services for Indigent Defendants for Whom the Riverside County Law Office of the Public Defender Declares a Conflict of Interest or is Otherwise Unavailable with Paul Grech Jr. dba Criminal Defense Lawyers.
- C. Contract to Provide Legal Services for Indigent Defendants for Whom the Riverside County Law Office of the Public Defender Declares a Conflict of Interest or is Otherwise Unavailable with Peter J. Morreale, Esq. and Peter W. Scalisi, Esq.

Meghan Hahn
Meghan Hahn, Deputy Director of Procurement 6/20/2023

Kristine Bell-Valdez
Kristine Bell-Valdez, Supervising Deputy County Counsel 6/21/2023

CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT OF INTEREST OR IS OTHERWISE UNAVAILABLE

between

COUNTY OF RIVERSIDE

and

BLUMENTHAL & MOORE, A PROFESSIONAL LAW CORPORATION



THIS CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT OF INTEREST OR IS OTHERWISE UNAVAILABLE (hereinafter "Contract") is made and entered into this ___ day of _____, 2023, by and between the County of Riverside, a political subdivision of the State of California, (hereinafter "COUNTY") and Blumenthal & Moore, A Professional Law Corporation, a California corporation, (hereinafter "ATTORNEYS"), for indigent defense services to be provided in the Superior Court of the County of Riverside, 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 said individuals;

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEYS to provide legal representation for indigent parties in the Superior Court of the County of Riverside, Western Region [except for Senate Bills 1437 and 775 cases and *Franklin* cases ATTORNEYS will provide legal representation for indigent parties in all regions (Western Region, Mid-County Region and Desert Region) of the Superior Court of the County of Riverside], 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.

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

2. TERM OF PERFORMANCE. This Contract shall take effect July 1, 2023 and continues in effect to and including June 30, 2028, with the option to renew for three (3) additional one year periods by a

written amendment signed by the authorized representatives of both parties, unless terminated sooner as provided herein.

3. **SCOPE OF SERVICES.** ATTORNEYS shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Superior Court of the County of Riverside within the Western Region (and all regions for Senate Bills 1437 and 775 cases and *Franklin* cases), 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, ATTORNEYS, at ATTORNEYS' 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 ATTORNEYS or COUNTY.

3.1 The parties agree that the total number of cases is uncertain as is the complexity of those cases. An indeterminate number of cases will be assigned to ATTORNEYS annually including:

- (a) All felony matters filed in the Western Region Superior Courts and represented through final judgment;
- (b) All Senate Bills 1437 and 775 cases and all *Franklin* cases for all regions (Western Region, Mid-County Region and Desert Region) of the Superior Court of the County of Riverside;
- (c) No more than fourteen (14) special circumstance cases where the People are not seeking death;
- (d) All violation of probation matters; however in all violation of probation matters, ATTORNEYS 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;
- (e) All miscellaneous matters, 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) ATTORNEYS shall not take stand alone misdemeanor matters.

3.2 For the purposes of this Contract, a "case" is defined as follows: 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 ATTORNEYS agree that representation of those charged with complex felonies, including special circumstance homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEYS 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 ATTORNEYS shall assist in the recovery of fees and funds pursuant to all applicable Penal Code Sections currently in effect or hereinafter enacted, including but not limited to, Penal Code Section 4750.

3.5 ATTORNEYS 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 Section 987.2.

3.6 In subcontracting with other attorneys, ATTORNEYS shall consider the factors enumerated in Penal Code Section 987 et seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code Section 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. ATTORNEYS 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. ATTORNEYS shall submit a list of all subcontracting attorneys to the COUNTY's Executive Office 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 through 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 least 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 ATTORNEYS 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 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 thirty (30) days or more, 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). These VCDs 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) ATTORNEYS shall dedicate experienced criminal law attorneys to be assigned to departments designated as the Vertical Calendar Department (VCD). These sub-contracting attorneys shall be available to the designated VCDs during normal Court business hours. ATTORNEYS understand that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;
- (b) ATTORNEYS 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) ATTORNEYS understand that the restructuring of these specialized departments is a concept being utilized by the Riverside Superior Court for case flow management, and may be changed or discontinued by the Court at any time. ATTORNEYS further understand that the COUNTY cannot guarantee that the need for the sub- contracting attorneys will continue. The COUNTY retains the right to determine that there is no longer a need to provide full time attorneys to the specialized departments based on their underutilization or the Court's redesignation of these departments. If for any reason the Court discontinues one or more of the Felony VCD's, ATTORNEYS and COUNTY shall negotiate appropriate adjustments to the services and associated compensation set forth in this Contract;
- (d) ATTORNEYS understand that pursuant to this Contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Western Region (except stand alone misdemeanors) and all Senate Bills 1437 and 775 cases and *Franklin* cases in all regions (Western Region, Mid-County Region and Desert Region) of the Superior Court of the County of Riverside upon notification of a conflict of interest by the Law Office of the Public Defender and that the additional attorneys assigned to the specialized departments is solely due to the request of the Superior Court and the Administrative Office of the Courts that the specialized departments be staffed with dedicated, well qualified attorneys from the District Attorney's Office, the Law Office of the Public Defender and by Contract Panel Attorneys;
- (e) ATTORNEYS 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. ATTORNEYS 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;
 - (h) Stand-alone misdemeanor matters.
 - (i) All writ proceedings, unless ATTORNEYS determine that pursuing writ relief is necessary for effective assistance of counsel, including petitions for habeas corpus and petitions for prohibition/mandate.

5. **ADMINISTRATIVE DUTIES.** ATTORNEYS 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 Administrative Attorney appoint himself or herself as Trial Attorney in such multiple defendant cases.

6. **PERFORMANCE MANAGEMENT.** ATTORNEYS 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.

6.1 ATTORNEYS 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, and trial advocacy law. ATTORNEYS shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEYS shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEYS of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEYS will require each

subcontracting attorney to provide proof that they are "in good standing" with the State Bar of California regarding the State Bar's MCLE requirements. ATTORNEYS will assure that only attorneys with the requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEYS shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEYS shall immediately notify COUNTY in writing when they become 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 ATTORNEYS' staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this Contract, ATTORNEYS 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 law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEYS, or such other information as requested by COUNTY. The report shall be accompanied by a certification from ATTORNEYS that they have reviewed the performance of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEYS shall meet to discuss all cases and Contract issues at any time during the Contract period.

7. COMPENSATION. The Contract cost for July 1, 2023 through June 30, 2028 shall be a maximum of four million four hundred fifty-four thousand dollars (\$4,454,000) annually plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEYS up to the sum of three hundred seventy-one thousand one hundred sixty-six dollars and sixty-seven cents (\$371,166.67) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of the ATTORNEYS to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract. Should the Contract Term of Performance be renewed for three (3) additional one year periods by a written amendment signed by the authorized representatives of both parties as provided in Section 2 of this Contract, the annual maximum compensation amount for the three (3) additional one year periods shall not exceed five

percent (5%) per year of the annual maximum compensation amount set forth herein of four million four hundred fifty-four thousand dollars (\$4,454,000) annually plus expenses as set forth in Section 8 herein.

7.1 It is understood that, to the extent, ATTORNEYS' 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 ATTORNEYS to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEYS' estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY's Executive Office. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned under the Contract; extraordinary change of venue cases involving extreme expense; and such similar circumstances as may arise. ATTORNEYS' 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. ATTORNEYS 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 Section 987.9. ATTORNEYS shall, within ninety (90) days after the start date of this Contract, provide the COUNTY's Executive Office with a written policy, acceptable to the COUNTY's Executive Office, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEYS shall disseminate these policies and procedures to all attorneys that they engage to provide services under this Contract. ATTORNEYS shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEYS' 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 twenty thousand dollars (\$20,000) per month, shall be paid to ATTORNEYS 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 ATTORNEYS' trust account for all criminal Penal Code Section 987.2 cases exceeds forty thousand dollars (\$40,000). Additionally, upon written agreement of ATTORNEYS and the COUNTY's Executive Officer, 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 ATTORNEYS 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's Executive Office within thirty (30) days of termination, for all sums expended, including accrued interest. ATTORNEYS must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. COUNTY may cancel this Contract, in whole or in part, upon sixty (60) day's written notice to ATTORNEYS. In the event this Contract is canceled, ATTORNEYS shall be responsible for the matters currently assigned to ATTORNEYS as set forth in Section 25. ATTORNEYS may cancel this Contract, in whole or in part, upon one (1) year written notice to the COUNTY.

10. INDEPENDENT COUNSEL. ATTORNEYS are, 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. ATTORNEYS exclusively assume responsibility for the acts of their employees and subcontractors as they relate to the services to be provided during the course and scope of their employment. ATTORNEYS, their 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. ATTORNEYS 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 ATTORNEYS shall furnish monthly written reports to the COUNTY's Executive Office, 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's Executive Office, which may be updated from time to time without a written amendment to this Contract (See Exhibit B for the most current report template), 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 ATTORNEYS were appointed on under Section 3.1 a), b), c), d), and e) herein. ATTORNEYS understand 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 ATTORNEYS. ATTORNEYS shall also furnish a monthly report of

expenditures for the criminal 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. ATTORNEYS shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEYS feel an indigent defendant referred does not qualify for services, ATTORNEYS shall immediately so advise defendant and the Court and request determination by the Court. In no event shall ATTORNEYS accept anything of value as consideration for services rendered to any indigent defendant that ATTORNEYS have been appointed to represent by the Courts, except as provided in this Contract. ATTORNEYS shall not charge any defendant for services rendered pursuant to this Contract.

11.2 For all cases where ATTORNEYS are providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEYS shall track the hours related to handling that specific case. ATTORNEYS hours are a specific requirements 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 ATTORNEYS submit 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 ATTORNEYS.

11.3 Records maintained by ATTORNEYS 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 ATTORNEYS 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 ATTORNEYS' files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEYS may be audited by an outside auditor, as determined by the COUNTY. Payment for all ancillary expenses will be maintained by ATTORNEYS 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. ATTORNEYS agree 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 ATTORNEYS' principal place of business at 3993 Market Street, Riverside, CA 92501. ATTORNEYS agree to grant COUNTY full access to materials necessary to verify compliance with all terms of this Contract. ATTORNEYS 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 ATTORNEYS 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. ATTORNEYS shall indemnify and hold harmless the COUNTY, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter "INDEMNITEES") from any liability, action, claim or damage whatsoever, based or asserted upon any services of ATTORNEYS, its officers, employees, subcontractors, agents, or representatives arising out of or in any way relating to this Contract, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. ATTORNEYS shall defend the INDEMNITEES, at its sole expense, including all costs and fees (including but not limited to, attorney's fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions, or services whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

With respect to any action or claim subject to indemnification herein by ATTORNEYS, ATTORNEYS shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes ATTORNEYS' indemnification to INDEMNITEES as set forth herein.

ATTORNEYS' obligation hereunder shall be satisfied when ATTORNEYS has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe ATTORNEYS' obligations to indemnify and hold harmless the INDEMNITEES herein from third party claims.

13. **INSURANCE**. Without limiting or diminishing the ATTORNEYS' obligation to indemnify or hold the COUNTY harmless, ATTORNEYS shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Contract. 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.

13.1 **Workers' Compensation**: If ATTORNEYS have employees as defined by the State of California, ATTORNEYS 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**: ATTORNEYS 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 ATTORNEYS' performance of its obligations hereunder. Policy shall name the COUNTY 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 Contract 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 Contract, ATTORNEYS 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 Contract or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as an Additional Insured.

13.4 **Professional Liability**: ATTORNEYS shall maintain Professional Liability Insurance providing coverage for ATTORNEYS' performance of work included within this Contract, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEYS'

Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and ATTORNEYS shall purchase at its 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 Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEYS have 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. The ATTORNEYS shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

13.5 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 ATTORNEYS must declare its insurance self-insured retentions for each coverage required herein. If any 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 Contract. Upon notification of self-insured retentions which are deemed unacceptable to the COUNTY, at the election of the COUNTY's Risk Manager, ATTORNEYS' carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Contract with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEYS 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; and 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 of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration or reduction of coverage, this Contract 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 set forth herein and the insurance required herein is in full force and effect. ATTORNEYS shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original 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. 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.

(d) It is understood and agreed to by the parties hereto that the ATTORNEYS' 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 Contract 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 Contract, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Contract, if in the COUNTY Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEYS has become inadequate.

(f) ATTORNEYS shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

(g) The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the COUNTY.

(h) ATTORNEYS 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 Contract.

14. **MATERIAL BREACH.** Notwithstanding the provisions of Section 2, the failure of ATTORNEYS or their 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 ATTORNEYS, 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 ATTORNEYS 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 ATTORNEYS;
 - (e) Any assignment of this Contract without prior COUNTY approval;
 - (f) The institution of disciplinary proceedings against any ATTORNEYS by the California State Bar;
 - (g) The commencement of criminal prosecution of any ATTORNEYS in any Court anywhere;
 - (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310; or
 - (i) Failure to comply with the provisions of section 3.6 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. ATTORNEYS shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEYS, ATTORNEYS' employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEYS under this Contract.

- (a) ATTORNEYS 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 the ATTORNEYS.
- (c) ATTORNEYS shall not sit as Judge Pro Tem in any of the Courts that ATTORNEYS provide representation for indigent services under this Contract.

(d) ATTORNEYS shall provide conflict free representation. ATTORNEYS are 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**. ATTORNEYS 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. ATTORNEYS shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEYS from providing representation to indigent parties pursuant to this Contract. If ATTORNEYS 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. ATTORNEYS, employees working as attorneys under provisions of this Contract and subcontractors working under provisions of this Contract 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. ATTORNEYS must also indicate the hours spent on each case reported.

17. **WAIVER**. Any waiver by COUNTY of any breach of any one or more of the terms of this Contract shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Contract. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Contract shall not be construed as in any manner changing the terms or preventing COUNTY from enforcing the terms of the Contract.

18. **ASSIGNMENT**. This Contract shall not be assigned by ATTORNEYS, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Contract by ATTORNEYS 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, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing.

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 ATTORNEYS 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.
23. **NONDISCRIMINATION**. Neither ATTORNEYS 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. **PERIODIC REVIEW**. ATTORNEYS and COUNTY agree that there exists some uncertainty as to the number of cases and extent of the work to be performed hereunder, and that the amount could be greater or lesser than in the past. Consequently, parties agree to a mandatory meeting annually or as requested by COUNTY to evaluate the case filings, and any other matters affecting the Contract. ATTORNEYS and COUNTY may make adjustments to the Contract as necessary. Either ATTORNEYS or COUNTY may request a meeting at any time during the Contract period to discuss any matter related to this Contract.
25. **CONTINUITY OF REPRESENTATION**. The parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled as provided for herein, 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.
- 25.1 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 ninety (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 ATTORNEYS for less than one hundred eighty (180) days shall be transferred to successor attorney. ATTORNEYS will assist new counsel in preparation as requested by that counsel;

(c) It is anticipated that ATTORNEYS 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 ATTORNEYS.

25.2 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.

25.3 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 ATTORNEYS 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 sixty (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 sixty (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- \$400/day or \$200/half day

Special Circumstance Homicides 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 ATTORNEYS during the term of this Contract, costs of ATTORNEYS preparation have already been paid, and only motion and trial costs will be paid in addition as set forth above.

26. **NOTICES:** All correspondence and notices required or contemplated by this Contract 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:

County Executive Office
 Attn: Rebecca Cortez
 4080 Lemon Street, 4th Floor
 Riverside, CA 92501

ATTORNEYS:

Blumenthal & Moore, APLC
 Attn: Virginia M. Blumenthal
 3993 Market Street
 Riverside, CA 92501

And

Purchasing and Fleet Services
 Attn: Rick Hai
 3450 14th Street, 4th floor
 Riverside, CA 92501

27. **DISPUTES.** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. ATTORNEYS shall proceed diligently with the performance of this Contract pending the resolution of a dispute. Prior to the filing of any legal action related to this Contract, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

28. **COMPLIANCE WITH APPLICABLE LAWS.** ATTORNEYS shall comply with all applicable federal, state and local laws and regulations. ATTORNEYS will comply with all applicable COUNTY policies and procedures. In the event there is a conflict between the various laws and regulations that may apply, ATTORNEYS shall comply with the more restrictive law or regulation.

29. **GOVERNING LAW; VENUE.** This Contract shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Contract shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

30. **ELECTRONIC SIGNATURES.** This Contract may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party to this Contract agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Contract. The parties further agree that the electronic signatures of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Signature Page to Follow]

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

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

By: [Signature]
Kevin Jeffries
Chairman, Board of Supervisors

Dated: 6/27/23

Blumenthal & Moore, A Professional Law Corporation, a California corporation

By: [Signature]
Virginia M. Blumenthal
CEO, Secretary & CFO

Dated: June 5, 2023

ATTEST:
Kimberly A. Rector
Clerk of the Board

By: [Signature]
Deputy

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

By: [Signature]
Danielle Maland
Deputy County Counsel

**CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM
THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT
OF INTEREST OR IS OTHERWISE UNAVAILABLE**

between

COUNTY OF RIVERSIDE

and

PAUL GRECH JR. dba CRIMINAL DEFENSE LAWYERS



THIS CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT OF INTEREST OR IS OTHERWISE UNAVAILABLE (hereinafter "Contract") is made and entered into this ___ day of _____, 2023, by and between the County of Riverside, a political subdivision of the State of California, (hereinafter "COUNTY") and Paul Grech Jr. dba Criminal Defense Lawyers (hereinafter "ATTORNEYS"), for indigent defense services to be provided in the Superior Court of the County of Riverside, 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 said individuals;

NOW, THEREFORE, the parties hereto agree as follows:

1. **DESCRIPTION OF SERVICES.** COUNTY contracts with ATTORNEYS to provide legal representation for indigent parties in the Superior Court of the County of Riverside, Mid-County Region [except for misdemeanor cases ATTORNEYS will provide legal representation for indigent parties in both the Mid-County Region and Western Region of the Superior Court of the County of Riverside], 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.

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

2. **TERM OF PERFORMANCE.** This Contract shall take effect July 1, 2023 and continues in effect to and including June 30, 2028, with the option to renew for three (3) additional one year periods by a

written amendment signed by the authorized representatives of both parties, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEYS shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Superior Court of the County of Riverside within the Mid-County Region (and Western Region for misdemeanor cases), 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, ATTORNEYS, at ATTORNEYS' 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 ATTORNEYS or COUNTY.

3.1 The parties agree that the total number of cases is uncertain as is the complexity of those cases. An indeterminate number of cases will be assigned to ATTORNEYS annually including:

- (a) All felony matters filed in the Mid-County Region Superior Courts and represented through final judgment;
- (b) All misdemeanor matters filed in the Mid-County Region and Western Region Superior Courts and represented through final judgment;
- (c) No more than fourteen (14) special circumstance cases where the People are not seeking death;
- (d) All violation of probation matters; however in all violation of probation matters, ATTORNEYS 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;
- (e) All miscellaneous matters, 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 Contract, a "case" is defined as follows: 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 ATTORNEYS agree that representation of those charged with complex felonies, including special circumstance homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEYS 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 ATTORNEYS shall assist in the recovery of fees and funds pursuant to all applicable Penal Code Sections currently in effect or hereinafter enacted, including but not limited to, Penal Code Section 4750.

3.5 ATTORNEYS 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 Section 987.2.

3.6 In subcontracting with other attorneys, ATTORNEYS shall consider the factors enumerated in Penal Code Section 987 et seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code Section 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. ATTORNEYS 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. ATTORNEYS shall submit a list of all subcontracting attorneys to the COUNTY's Executive Office 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 through 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 least 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 ATTORNEYS 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 thirty (30) days or more, 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 County Superior Court has designated Vertical Calendar Departments (VCDs). These VCDs 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) ATTORNEYS shall dedicate experienced criminal law attorneys to be assigned to departments designated as the Vertical Calendar Department (VCD). These sub-contracting attorneys shall be available to the designated VCDs during normal Court business hours. ATTORNEYS understand that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;

(b) ATTORNEYS 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) ATTORNEYS understand that the restructuring of these specialized departments is a concept being utilized by the Riverside County Superior Court for case flow management, and may be changed or discontinued by the Court at any time. ATTORNEYS further understand that the COUNTY cannot guarantee that the need for the sub-contracting attorneys will continue. The COUNTY retains the right to determine that there is no longer a need to provide full time attorneys to the specialized departments based on their underutilization or the Court's redesignation of these departments. If for any reason the Court discontinues one or more of the Felony VCD's, ATTORNEYS and COUNTY shall negotiate appropriate adjustments to the services and associated compensation set forth in this Contract;

(d) ATTORNEYS understand that pursuant to this Contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Mid-County Region and all misdemeanor cases filed in the Riverside County Superior Court Western Region upon notification of a conflict of interest by the Law Office of the Public Defender and that the additional attorneys assigned to the specialized departments is solely due to the request of the Superior Court and the Administrative Office of the Courts that the specialized departments be staffed with dedicated, well qualified attorneys from the District Attorney's Office, the Law Office of the Public Defender and by Contract Panel Attorneys;

(e) ATTORNEYS 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. ATTORNEYS 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;
- (h) All writ proceedings, unless ATTORNEYS determine that pursuing writ relief is necessary for effective assistance of counsel, including petitions for habeas corpus and petitions for prohibition/mandate.

5. ADMINISTRATIVE DUTIES. ATTORNEYS 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 Administrative Attorney appoint himself or herself as Trial Attorney in such multiple defendant cases.

6. PERFORMANCE MANAGEMENT. ATTORNEYS 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.

6.1 ATTORNEYS 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, and trial advocacy law. ATTORNEYS shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEYS shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEYS of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEYS will require each subcontracting attorney to provide proof that they are "in good standing" with the State Bar of California regarding the State Bar's MCLE requirements. ATTORNEYS will assure that only attorneys with the

requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEYS shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEYS shall immediately notify COUNTY in writing when they become 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 ATTORNEYS' staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this Contract, ATTORNEYS 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 law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEYS, or such other information as requested by COUNTY. The report shall be accompanied by a certification from ATTORNEYS that they have reviewed the performance of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEYS shall meet to discuss all cases and Contract issues at any time during the Contract period.

7. COMPENSATION. The Contract cost for July 1, 2023 through June 30, 2028 shall be a maximum of two million nine hundred seventy-nine thousand five dollars (\$2,979,005) annually plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEYS up to the sum of two hundred forty-eight thousand two hundred fifty dollars and forty-two cents (\$248,250.42) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of the ATTORNEYS to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract. Should the Contract Term of Performance be renewed for three (3) additional one year periods by a written amendment signed by the authorized representatives of both parties as provided in Section 2 of this Contract, the annual maximum compensation amount for the three (3) additional one year periods shall not exceed five percent (5%) per year of the annual maximum compensation amount set forth herein of two million nine hundred seventy-nine thousand five dollars (\$2,979,005) annually plus expenses as set forth in Section 8 herein.

7.1 It is understood that, to the extent, ATTORNEYS' 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 ATTORNEYS to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEYS' estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY's Executive Office. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned under the Contract; extraordinary change of venue cases involving extreme expense; and such similar circumstances as may arise. ATTORNEYS' 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. ATTORNEYS 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 Section 987.9. ATTORNEYS shall, within ninety (90) days after the start date of this Contract, provide the COUNTY's Executive Office with a written policy, acceptable to the COUNTY's Executive Office, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEYS shall disseminate these policies and procedures to all attorneys that they engage to provide services under this Contract. ATTORNEYS shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEYS' 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 twenty thousand eight hundred thirty-three dollars (\$20,833) per month, shall be paid to ATTORNEYS 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 ATTORNEYS' trust account for all criminal Penal Code Section 987.2 cases exceeds forty thousand dollars (\$40,000). Additionally, upon written agreement of ATTORNEYS and the COUNTY's Executive Officer, 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

ATTORNEYS 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's Executive Office within thirty (30) days of termination, for all sums expended, including accrued interest. ATTORNEYS must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. COUNTY may cancel this Contract, in whole or in part, upon sixty (60) day's written notice to ATTORNEYS. In the event this Contract is canceled, ATTORNEYS shall be responsible for the matters currently assigned to ATTORNEYS as set forth in Section 25. ATTORNEYS may cancel this Contract, in whole or in part, upon one (1) year written notice to the COUNTY.

10. INDEPENDENT COUNSEL. ATTORNEYS are, 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. ATTORNEYS exclusively assume responsibility for the acts of their employees and subcontractors as they relate to the services to be provided during the course and scope of their employment. ATTORNEYS, their 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. ATTORNEYS 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 ATTORNEYS shall furnish monthly written reports to the COUNTY's Executive Office, 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's Executive Office, which may be updated from time to time without a written amendment to this Contract (See Exhibit B for the most current report template), 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 ATTORNEYS were appointed on under Section 3.1 a), b), c), d), and e) herein. ATTORNEYS understand 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 ATTORNEYS. ATTORNEYS shall also furnish a monthly report of expenditures for the criminal 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. ATTORNEYS shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEYS feel an indigent defendant referred does not qualify for services, ATTORNEYS shall immediately so advise defendant and the Court and request determination by the Court. In no event shall ATTORNEYS accept anything of value as consideration for services rendered to any indigent defendant that ATTORNEYS have been appointed to represent by the Courts, except as provided in this Contract. ATTORNEYS shall not charge any defendant for services rendered pursuant to this Contract.

11.2 For all cases where ATTORNEYS are providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEYS shall track the hours related to handling that specific case. ATTORNEYS hours are a specific requirements 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 ATTORNEYS submit 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 ATTORNEYS.

11.3 Records maintained by ATTORNEYS 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 ATTORNEYS 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 ATTORNEYS' files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEYS may be audited by an outside auditor, as determined by the COUNTY. Payment for all ancillary expenses will be maintained by ATTORNEYS 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. ATTORNEYS agree 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 ATTORNEYS' principal place of business at 7095 Indiana Avenue, Suite 200, Riverside, CA 92506. ATTORNEYS agree to grant COUNTY full access to materials necessary to verify compliance with all terms of this Contract. ATTORNEYS 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 ATTORNEYS 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. ATTORNEYS shall indemnify and hold harmless the COUNTY, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter "INDEMNITEES") from any liability, action, claim or damage whatsoever, based or asserted upon any services of ATTORNEYS, its officers, employees, subcontractors, agents, or representatives arising out of or in any way relating to this Contract, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. ATTORNEYS shall defend the INDEMNITEES, at its sole expense, including all costs and fees (including but not limited to, attorney's fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions, or services whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

With respect to any action or claim subject to indemnification herein by ATTORNEYS, ATTORNEYS shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes ATTORNEYS' indemnification to INDEMNITEES as set forth herein.

ATTORNEYS' obligation hereunder shall be satisfied when ATTORNEYS has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe ATTORNEYS' obligations to indemnify and hold harmless the INDEMNITEES herein from third party claims.

13. INSURANCE. Without limiting or diminishing the ATTORNEYS' obligation to indemnify or hold the COUNTY harmless, ATTORNEYS shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Contract. 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.

13.1 Workers' Compensation: If ATTORNEYS have employees as defined by the State of California, ATTORNEYS 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: ATTORNEYS 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 ATTORNEYS' performance of its obligations hereunder. Policy shall name the COUNTY 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 Contract 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 Contract, ATTORNEYS 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 Contract or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as an Additional Insured.

13.4 Professional Liability: ATTORNEYS shall maintain Professional Liability Insurance providing coverage for ATTORNEYS' performance of work included within this Contract, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEYS'

Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and ATTORNEYS shall purchase at its 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 Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEYS have 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. The ATTORNEYS shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

13.5 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 ATTORNEYS must declare its insurance self-insured retentions for each coverage required herein. If any 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 Contract. Upon notification of self-insured retentions which are deemed unacceptable to the COUNTY, at the election of the COUNTY's Risk Manager, ATTORNEYS' carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Contract with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEYS 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; and 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 of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration or reduction of coverage, this Contract 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 set forth herein and the insurance required herein is in full force and effect. ATTORNEYS shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original 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. 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.

(d) It is understood and agreed to by the parties hereto that the ATTORNEYS' 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 Contract 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 Contract, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Contract, if in the COUNTY Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEYS has become inadequate.

(f) ATTORNEYS shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

(g) The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the COUNTY.

(h) ATTORNEYS 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 Contract.

14. **MATERIAL BREACH.** Notwithstanding the provisions of Section 2, the failure of ATTORNEYS or their 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 ATTORNEYS, 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:

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- (a) Violation of any material provision of this Contract;
 - (b) Institution of proceedings by, or against, any ATTORNEYS 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 ATTORNEYS;
 - (e) Any assignment of this Contract without prior COUNTY approval;
 - (f) The institution of disciplinary proceedings against any ATTORNEYS by the California State Bar;
 - (g) The commencement of criminal prosecution of any ATTORNEYS in any Court anywhere;
 - (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310; or
 - (i) Failure to comply with the provisions of section 3.6 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. ATTORNEYS shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEYS, ATTORNEYS' employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEYS under this Contract.

- (a) ATTORNEYS 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 the ATTORNEYS.
- (c) ATTORNEYS shall not sit as Judge Pro Tem in any of the Courts that ATTORNEYS provide representation for indigent services under this Contract.

(d) ATTORNEYS shall provide conflict free representation. ATTORNEYS are 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. ATTORNEYS 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. ATTORNEYS shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEYS from providing representation to indigent parties pursuant to this Contract. If ATTORNEYS 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. ATTORNEYS, employees working as attorneys under provisions of this Contract and subcontractors working under provisions of this Contract 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. ATTORNEYS must also indicate the hours spent on each case reported.

17. WAIVER. Any waiver by COUNTY of any breach of any one or more of the terms of this Contract shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Contract. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Contract shall not be construed as in any manner changing the terms or preventing COUNTY from enforcing the terms of the Contract.

18. ASSIGNMENT. This Contract shall not be assigned by ATTORNEYS, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Contract by ATTORNEYS 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, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing.

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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 ATTORNEYS 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.
23. NONDISCRIMINATION. Neither ATTORNEYS 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. PERIODIC REVIEW. ATTORNEYS and COUNTY agree that there exists some uncertainty as to the number of cases and extent of the work to be performed hereunder, and that the amount could be greater or lesser than in the past. Consequently, parties agree to a mandatory meeting annually or as requested by COUNTY to evaluate the case filings, and any other matters affecting the Contract. ATTORNEYS and COUNTY may make adjustments to the Contract as necessary. Either ATTORNEYS or COUNTY may request a meeting at any time during the Contract period to discuss any matter related to this Contract.
25. CONTINUITY OF REPRESENTATION. The parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled as provided for herein, 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.
- 25.1 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 ninety (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 ATTORNEYS for less than one hundred eighty (180) days shall be transferred to successor attorney. ATTORNEYS will assist new counsel in preparation as requested by that counsel;

(c) It is anticipated that ATTORNEYS 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 ATTORNEYS.

25.2 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.

25.3 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 ATTORNEYS 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 sixty (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 sixty (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- \$400/day or \$200/half day

Special Circumstance Homicides 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 ATTORNEYS during the term of this Contract, costs of ATTORNEYS preparation have already been paid, and only motion and trial costs will be paid in addition as set forth above.

26. NOTICES. All correspondence and notices required or contemplated by this Contract 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:

County Executive Office
Attn: Rebecca Cortez
4080 Lemon Street, 4th Floor
Riverside, CA 92501

ATTORNEYS:

Criminal Defense Lawyers
Attn: Paul Grech Jr.
7095 Indiana Avenue, Suite 200
Riverside, CA 92506

And

Purchasing and Fleet Services
Attn: Rick Hai
3450 14th Street, 4th floor
Riverside, CA 92501

27. DISPUTES. The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. ATTORNEYS shall proceed diligently with the performance of this Contract pending the resolution of a dispute. Prior to the filing of any legal action related to this Contract, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

28. COMPLIANCE WITH APPLICABLE LAWS. ATTORNEYS shall comply with all applicable federal, state and local laws and regulations. ATTORNEYS will comply with all applicable COUNTY policies and procedures. In the event there is a conflict between the various laws and regulations that may apply, ATTORNEYS shall comply with the more restrictive law or regulation.

29. GOVERNING LAW; VENUE. This Contract shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Contract shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

30. **ELECTRONIC SIGNATURES.** This Contract may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party to this Contract agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Contract. The parties further agree that the electronic signatures of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Signature Page Follows]

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

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

By: [Signature]
Kevin Jeffries
Chairman, Board of Supervisors

Dated: 10/27/23

PAUL GRECH, JR. dba CRIMINAL DEFENSE LAWYERS

By: [Signature]
Paul Grech Jr.

Dated: June 6, 2023

ATTEST:
Kimberly A. Rector
Clerk of the Board

By: [Signature]
Deputy

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

By: [Signature]
Danielle Maland
Deputy County Counsel

CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT OF INTEREST OR IS OTHERWISE UNAVAILABLE

between

COUNTY OF RIVERSIDE

and

PETER J. MORREALE, ESQ. and PETER W. SCALISI, ESQ.



THIS CONTRACT TO PROVIDE LEGAL SERVICES FOR INDIGENT DEFENDANTS FOR WHOM THE RIVERSIDE COUNTY LAW OFFICE OF THE PUBLIC DEFENDER DECLARES A CONFLICT OF INTEREST OR IS OTHERWISE UNAVAILABLE (hereinafter "Contract") is made and entered into this ___ day of _____, 2023, by and between the County of Riverside, a political subdivision of the State of California, (hereinafter "COUNTY") and Peter J. Morreale, Esquire and Peter W. Scalisi, Esquire (hereinafter individually and collectively referred to as "ATTORNEYS"), for indigent defense services to be provided in the Superior Court of the County of Riverside, 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 said individuals;

NOW, THEREFORE, the parties hereto agree as follows:

1. DESCRIPTION OF SERVICES. COUNTY contracts with ATTORNEYS 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.

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

2. TERM OF PERFORMANCE. This Contract shall take effect July 1, 2023 and continues in effect to and including June 30, 2028, with the option to renew for three (3) additional one year periods by a written amendment signed by the authorized representatives of both parties, unless terminated sooner as provided herein.

3. SCOPE OF SERVICES. ATTORNEYS shall assume full responsibility for furnishing counsel necessary to provide daily representation in the various divisions and departments of the Superior Court of the County of Riverside 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, ATTORNEYS, at ATTORNEYS' 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 ATTORNEYS or COUNTY.

3.1 The parties agree that the total number of cases is uncertain as is the complexity of those cases. An indeterminate number of cases will be assigned to ATTORNEYS annually including:

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

(b) All misdemeanor matters filed in the Desert Region Superior Courts and represented through final judgment;

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

(d) All violation of probation matters; however in all violation of probation matters, ATTORNEYS 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;

(e) All miscellaneous matters, 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 Contract, a "case" is defined as follows: 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 ATTORNEYS agree that representation of those charged with complex felonies, including special circumstance homicides, is generally most effective when vertical representation is provided. Therefore, ATTORNEYS 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 ATTORNEYS shall assist in the recovery of fees and funds pursuant to all applicable Penal Code Sections currently in effect or hereinafter enacted, including but not limited to, Penal Code Section 4750.

3.5 ATTORNEYS 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 Section 987.2.

3.6 In subcontracting with other attorneys, ATTORNEYS shall consider the factors enumerated in Penal Code Section 987 et seq., the Rules of Professional Conduct governing lawyers in Business & Professions Code Section 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. ATTORNEYS 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. ATTORNEYS shall submit a list of all subcontracting attorneys to the COUNTY's Executive Office 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 through 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 least 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 ATTORNEYS 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 thirty (30) days or more, 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 County Superior Court has designated Vertical Calendar Departments (VCDs). These VCDs 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) ATTORNEYS shall dedicate experienced criminal law attorneys to be assigned to departments designated as the Vertical Calendar Department (VCD). These sub-contracting attorneys shall be available to the designated VCDs during normal Court business hours. ATTORNEYS understand that the availability of the sub-contracting attorneys to the assigned Department/s is of paramount importance;

(b) ATTORNEYS 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) ATTORNEYS understand that the restructuring of these specialized departments is a concept being utilized by the Riverside County Superior Court for case flow management, and may be changed or discontinued by the Court at any time. ATTORNEYS further understand that the COUNTY cannot guarantee that the need for the sub-contracting attorneys will continue. The COUNTY retains the right to determine that there is no longer a need to provide full time attorneys to the specialized departments based on their underutilization or the Court's redesignation of these departments. If for any reason the Court discontinues one or more of the Felony VCD's, ATTORNEYS and COUNTY shall negotiate appropriate adjustments to the services and associated compensation set forth in this Contract;

(d) ATTORNEYS understand that pursuant to this Contract with COUNTY, they are obligated to handle all cases filed in the Riverside Superior Court Desert Region upon notification of a conflict of interest by the Law Office of the Public Defender and that the additional attorneys assigned to the specialized departments is solely due to the request of the Superior Court and the Administrative Office of the Courts that the specialized departments be staffed with dedicated, well qualified attorneys from the District Attorney's Office, the Law Office of the Public Defender and by Contract Panel Attorneys;

(e) ATTORNEYS 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. ATTORNEYS 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;

(h) All writ proceedings, unless ATTORNEYS determine that pursuing writ relief is necessary for effective assistance of counsel, including petitions for habeas corpus and petitions for prohibition/mandate.

5. ADMINISTRATIVE DUTIES. ATTORNEYS 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 Administrative Attorney appoint himself or herself as Trial Attorney in such multiple defendant cases.

6. PERFORMANCE MANAGEMENT. ATTORNEYS 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.

6.1 ATTORNEYS 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, and trial advocacy law. ATTORNEYS shall encourage subcontracting attorneys to participate in shared training with the Law Office of the Public Defender to the extent possible. ATTORNEYS shall annually review the performance of each subcontracting attorney. This review shall include inquiry and/or observation by ATTORNEYS of the performance of the independent subcontractor in a trial or other relevant courtroom setting. ATTORNEYS will require each subcontracting attorney to provide proof that they are "in good standing" with the State Bar of California regarding the State Bar's MCLE requirements. ATTORNEYS will assure that only attorneys with the requisite skill and experience handle particular category(ies) of cases and are assigned to such cases. ATTORNEYS shall periodically monitor and evaluate the work of investigators and the performance of experts and other providers of ancillary services.

6.2 ATTORNEYS shall immediately notify COUNTY in writing when they become 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 ATTORNEYS' staff or is working as a subcontractor.

6.3 In addition to the monthly written reports required under Section 11.1 of this Contract, ATTORNEYS 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 law; case aging reports; and any other information that may be indicative of the quality of representation provided by ATTORNEYS, or such other information as requested by COUNTY. The report shall be accompanied by a certification from ATTORNEYS that they have reviewed the performance of each independent subcontractor as described in 6.1 above. At the COUNTY's request, ATTORNEYS shall meet to discuss all cases and Contract issues at any time during the Contract period.

7. COMPENSATION. The Contract cost for July 1, 2023 through June 30, 2028 shall be a maximum of three million seven hundred thousand dollars (\$3,700,000) annually plus expenses as set forth in Section 8 herein. COUNTY shall pay ATTORNEYS up to the sum of three hundred eight thousand three hundred thirty-three dollars and thirty-three cents (\$308,333.33) per month paid in arrears upon the submission of an approved monthly report and an invoice for services. It remains the responsibility of the ATTORNEYS to oversee the budgeted funds to ensure they are properly disbursed to provide the legal services required under this Contract. Should the Contract Term of Performance be renewed for three (3) additional one year periods by a written amendment signed by the authorized representatives of both parties as provided in Section 2 of this Contract, the annual maximum compensation amount for the three (3) additional one year periods shall not exceed five percent (5%) per year of the annual maximum compensation amount set forth herein of three million seven hundred thousand dollars (\$3,700,000) annually plus expenses as set forth in Section 8 herein.

7.1 It is understood that, to the extent, ATTORNEYS' 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 ATTORNEYS to be their pro bono publico contribution to the administration of justice.

7.2 If, in addition, in ATTORNEYS' estimation an extreme circumstance arises, ATTORNEY may make a timely request for additional compensation from the COUNTY's Executive Office. Extreme circumstances shall generally be limited to extremely protracted felony cases; cases involving trial for more than three defendants assigned under the Contract; extraordinary change of venue cases involving extreme expense; and such similar circumstances as may arise. ATTORNEYS' 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. ATTORNEYS 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 Section 987.9. ATTORNEYS shall, within ninety (90) days after the start date of this Contract, provide the COUNTY's Executive Office with a written policy, acceptable to the COUNTY's Executive Office, governing the use and accounting of the trust account(s) established pursuant to this Section 8. ATTORNEYS shall disseminate these policies and procedures to all attorneys that they engage to provide services under this Contract. ATTORNEYS shall require their attorneys to provide all their investigators and other specialized and professional service vendors with the ATTORNEYS' 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 eighteen thousand dollars (\$18,000) per month, shall be paid to ATTORNEYS 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 ATTORNEYS' trust account for all criminal Penal Code Section 987.2 cases exceeds forty thousand dollars (\$40,000). Additionally, upon written agreement of ATTORNEYS and the COUNTY's Executive Officer, 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 ATTORNEYS 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's Executive Office within thirty (30) days of termination, for all sums expended, including

accrued interest. ATTORNEYS must submit an invoice monthly requesting the payment of funds into the trust account.

9. TERMINATION. COUNTY may cancel this Contract, in whole or in part, upon sixty (60) day's written notice to ATTORNEYS. In the event this Contract is canceled, ATTORNEYS shall be responsible for the matters currently assigned to ATTORNEYS as set forth in Section 25. ATTORNEYS may cancel this Contract, in whole or in part, upon one (1) year written notice to the COUNTY.

10. INDEPENDENT COUNSEL. ATTORNEYS are, 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. ATTORNEYS exclusively assume responsibility for the acts of their employees and subcontractors as they relate to the services to be provided during the course and scope of their employment. ATTORNEYS, their 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. ATTORNEYS 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 ATTORNEYS shall furnish monthly written reports to the COUNTY's Executive Office, 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's Executive Office, which may be updated from time to time without a written amendment to this Contract (See Exhibit B for the most current report template), 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 ATTORNEYS were appointed on under Section 3.1 a), b), c), d), and e) herein. ATTORNEYS understand 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 ATTORNEYS. ATTORNEYS shall also furnish a monthly report of expenditures for the criminal 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. ATTORNEYS shall utilize a standard electronic accounting system to input and maintain data and compile records. Should ATTORNEYS feel an indigent defendant referred does not qualify for services,

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

11.2 For all cases where ATTORNEYS are providing legal counsel to any state inmate charged with an offense during the time sentenced to a state correctional facility, ATTORNEYS shall track the hours related to handling that specific case. ATTORNEYS hours are a specific requirements 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 ATTORNEYS submit 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 ATTORNEYS.

11.3 Records maintained by ATTORNEYS 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 ATTORNEYS 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 ATTORNEYS' files, books, and/or financial records relating to the Contract, at any reasonable times. ATTORNEYS may be audited by an outside auditor, as determined by the COUNTY. Payment for all ancillary expenses will be maintained by ATTORNEYS 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. ATTORNEYS agree 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 ATTORNEYS' principal place of business at 3403 10th Street, Suite 751, Riverside, CA 92501. ATTORNEYS agree to grant COUNTY full access to materials necessary to verify compliance with all terms of this Contract. ATTORNEYS 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 ATTORNEYS 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. ATTORNEYS shall indemnify and hold harmless the COUNTY, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter "INDEMNITEES") from any liability, action, claim or damage whatsoever, based or asserted upon any services of ATTORNEYS, its officers, employees, subcontractors, agents, or representatives arising out of or in any way relating to this Contract, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. ATTORNEYS shall defend the INDEMNITEES, at its sole expense, including all costs and fees (including but not limited to, attorney's fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions, or services whether the subject action(s) or claim(s) are well-founded, properly filed or pleaded, or not commenced in a court of competent jurisdiction.

With respect to any action or claim subject to indemnification herein by ATTORNEYS, ATTORNEYS shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes ATTORNEYS' indemnification to INDEMNITEES as set forth herein.

ATTORNEYS' obligation hereunder shall be satisfied when ATTORNEYS has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Contract shall in no way limit or circumscribe ATTORNEYS' obligations to indemnify and hold harmless the INDEMNITEES herein from third party claims.

13. INSURANCE. Without limiting or diminishing the ATTORNEYS' obligation to indemnify or hold the COUNTY harmless, ATTORNEYS shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Contract. 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.

13.1 Workers' Compensation: If ATTORNEYS have employees as defined by the State of California, ATTORNEYS 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: ATTORNEYS 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 ATTORNEYS' performance of its obligations hereunder. Policy shall name the COUNTY 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 Contract 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 Contract, ATTORNEYS 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 Contract or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as an Additional Insured.

13.4 Professional Liability: ATTORNEYS shall maintain Professional Liability Insurance providing coverage for ATTORNEYS' performance of work included within this Contract, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ATTORNEYS' Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Contract and ATTORNEYS shall purchase at its 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 Contract; or, 3) demonstrate through Certificates of Insurance that ATTORNEYS have 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. The ATTORNEYS shall provide proof of coverage to COUNTY within fifteen (15) days of execution of the Contract.

13.5 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 ATTORNEYS must declare its insurance self-insured retentions for each coverage required herein. If any 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 Contract. Upon notification of self-insured retentions which are deemed unacceptable to the COUNTY, at the election of the COUNTY's Risk Manager, ATTORNEYS' carriers shall either; 1) reduce or eliminate such self-insured retentions as respects this Contract with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(c) The ATTORNEYS 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; and 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 of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration or reduction of coverage, this Contract 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 set forth herein and the insurance required herein is in full force and effect. ATTORNEYS shall not commence operations until the COUNTY has been furnished original Certificate(s) of Insurance and certified original 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. 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.

(d) It is understood and agreed to by the parties hereto that the ATTORNEYS' 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 Contract 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 Contract, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Contract, if in the COUNTY Risk Manager's reasonable judgment, the amount or type of insurance carried by the ATTORNEYS has become inadequate.

(f) ATTORNEYS shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Contract.

(g) The insurance requirements contained in this Contract may be met with a program(s) of self-insurance acceptable to the COUNTY.

(h) ATTORNEYS 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 Contract.

14. **MATERIAL BREACH.** Notwithstanding the provisions of Section 2, the failure of ATTORNEYS or their 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 ATTORNEYS, 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 ATTORNEYS 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 ATTORNEYS;
- (e) Any assignment of this Contract without prior COUNTY approval;
- (f) The institution of disciplinary proceedings against any ATTORNEYS by the California State Bar;
- (g) The commencement of criminal prosecution of any ATTORNEYS in any Court anywhere;
- (h) Failure to observe the Rules of Professional Conduct, including Rule 3-310; or
- (i) Failure to comply with the provisions of section 3.6 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. ATTORNEYS shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict of interest. This obligation applies to ATTORNEYS, ATTORNEYS' employees, agents, relative sub-tier contractors, and third parties associated with or accomplishing work for ATTORNEYS under this Contract.

(a) ATTORNEYS 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 the ATTORNEYS.

(c) ATTORNEYS shall not sit as Judge Pro Tem in any of the Courts that ATTORNEYS provide representation for indigent services under this Contract.

(d) ATTORNEYS shall provide conflict free representation. ATTORNEYS are 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. ATTORNEYS 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. ATTORNEYS shall not accept in his or her private practice any case, which may cause a conflict of interest, which would preclude ATTORNEYS from providing representation to

indigent parties pursuant to this Contract. If ATTORNEYS 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. ATTORNEYS, employees working as attorneys under provisions of this Contract and subcontractors working under provisions of this Contract 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. ATTORNEYS must also indicate the hours spent on each case reported.

17. WAIVER. Any waiver by COUNTY of any breach of any one or more of the terms of this Contract shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Contract. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Contract shall not be construed as in any manner changing the terms or preventing COUNTY from enforcing the terms of the Contract.

18. ASSIGNMENT. This Contract shall not be assigned by ATTORNEYS, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported assignment of this Contract by ATTORNEYS 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, including any attachments or exhibits, constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing.

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 ATTORNEYS 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.

23. NONDISCRIMINATION. Neither ATTORNEYS 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. PERIODIC REVIEW. ATTORNEYS and COUNTY agree that there exists some uncertainty as to the number of cases and extent of the work to be performed hereunder, and that the amount could be greater or lesser than in the past. Consequently, parties agree to a mandatory meeting annually or as requested by COUNTY to evaluate the case filings, and any other matters affecting the Contract. ATTORNEYS and COUNTY may make adjustments to the Contract as necessary. Either ATTORNEYS or COUNTY may request a meeting at any time during the Contract period to discuss any matter related to this Contract.

25. CONTINUITY OF REPRESENTATION. The parties agree that at the conclusion of this Contract term, or earlier if the Contract is canceled as provided for herein, 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.

25.1 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 ninety (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 ATTORNEYS for less than one hundred eighty (180) days shall be transferred to successor attorney. ATTORNEYS will assist new counsel in preparation as requested by that counsel;
- (c) It is anticipated that ATTORNEYS 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 ATTORNEYS.

25.2 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.

25.3 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 ATTORNEYS 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 sixty (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 sixty (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- \$400/day or \$200/half day

Special Circumstance Homicides 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 ATTORNEYS during the term of this Contract, costs of ATTORNEYS preparation have already been paid, and only motion and trial costs will be paid in addition as set forth above.

26. NOTICES. All correspondence and notices required or contemplated by this Contract 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:
County Executive Office
Attn: Rebecca Cortez
4080 Lemon Street, 4th Floor

ATTORNEYS:
Peter J. Morreale, Esq. and Peter W. Scalisi, Esq
Attn: Peter Morreale/Peter Scalisi
3403 10th Street, Suite 751

Riverside, CA 92501

Riverside, CA 92501

And

Purchasing and Fleet Services

Attn: Rick Hai

3450 14th Street, 4th floor

Riverside, CA 92501

27. **DISPUTES.** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. ATTORNEYS shall proceed diligently with the performance of this Contract pending the resolution of a dispute. Prior to the filing of any legal action related to this Contract, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.
28. **COMPLIANCE WITH APPLICABLE LAWS.** ATTORNEYS shall comply with all applicable federal, state and local laws and regulations. ATTORNEYS will comply with all applicable COUNTY policies and procedures. In the event there is a conflict between the various laws and regulations that may apply, ATTORNEYS shall comply with the more restrictive law or regulation.
29. **GOVERNING LAW; VENUE.** This Contract shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Contract shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
30. **ELECTRONIC SIGNATURES.** This Contract may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument. Each party to this Contract agrees to the use of electronic signatures, such as digital signatures that meet the requirements of the California Uniform Electronic Transactions Act ("CUETA") Cal. Civ. Code §§ 1633.1 to 1633.17), for executing this Contract. The parties further agree that the electronic signatures of the parties included in this Contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a

person with the intent to sign the electronic record pursuant to the CUETA as amended from time to time. The CUETA authorizes use of an electronic signature for transactions and contracts among parties in California, including a government agency. Digital signature means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature, and shall be reasonably relied upon by the parties. For purposes of this section, a digital signature is a type of "electronic signature" as defined in subdivision (i) of Section 1633.2 of the Civil Code.

[Signature Page Follows]

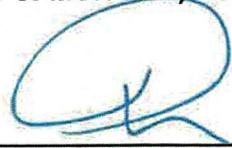
IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Contract.

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

By: 
Kevin Jeffries
Chairman, Board of Supervisors

Dated: 10/27/23

Peter J. Morreale, Esq.

By: 
Peter J. Morreale

Dated: 6/20/23

ATTEST:
Kimberly A. Rector
Clerk of the Board


By: 
Deputy

Peter W. Scalisi, Esq.

By: 
Peter W. Scalisi

Dated: June 20, 2023

APPROVED AS TO FORM:
Minh C. Tran
County Counsel

By: 
Danielle Maland
Deputy County Counsel

Lopez, Daniel

From: Aquia Mail
Sent: Tuesday, June 27, 2023 9:12 AM
To: gd@gddlaw.com
Cc: COB
Subject: Board comments web submission



Thank you for submitting your request to speak. The Clerk of the Board office has received your request and will be prepared to allow you to speak when your item is called. To attend the meeting, please call (669) 900-6833 and use **Meeting ID # 864 4411 6015 . Password is 20230627**. You will be muted until your item is pulled and your name is called. Please dial in at 9:00 am with the phone number you provided in the form so you can be identified during the meeting.

Submitted on June 27, 2023

Submitted values are:

First Name
Graham

Last Name
Donath

Address (Street, City and Zip)
72021 Palm haven drive Rancho Mirage 92270

Phone
7149044022

Email
gd@gddlaw.com

Agenda Date
06/27/2023

Agenda Item # or Public Comment
23-22215

State your position below
Neutral

3.23

Lopez, Daniel

From: Aquia Mail
Sent: Tuesday, June 27, 2023 9:12 AM
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Email
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Agenda Date
06/27/2023

Agenda Item # or Public Comment
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State your position below
Neutral

3.23