



LAKE COUNTY ADMINISTRATIVE OFFICE

Issue Date: FEBRUARY 21, 2017

REQUEST FOR PROPOSAL NUMBER: 1012-0217

FOR CONTRACT INDIGENT PUBLIC DEFENDER SERVICES

Notice is hereby given that proposals will be received at the Lake County Administrative Office for performing all work necessary in accordance with the "REQUIREMENTS" (Section 3) and other related documents provided herein. Please carefully read and follow the instructions.

Proposals shall be presented under sealed cover with the Proposal Number and the Proposal Submittal Close Date clearly marked on the outside and forwarded to:

County of Lake
Administrative Office
255 N. Forbes Street,
Lakeport California 95453
Attn: Jeff Rein, Chief Deputy County Administrative Officer
Email: jeff.rein@lakecountyca.gov

Any Proposer who wishes their proposal to be considered is responsible for making certain that their proposal is received in the Lake County Administrative Office by the Closing Date.

PROPOSALS RECEIVED AFTER THE DEADLINE WILL BE REJECTED AND WILL BE RETURNED TO THE PROPOSER UNOPENED.

CLOSING DEADLINE DATE: 4:00 P.M., March 13, 2017

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SECTION 1

INTRODUCTION

1.1 INTENT OF THE REQUEST FOR PROPOSAL

It is the intent of this Request for Proposals (RFP) to solicit proposals from well-qualified individuals, firms, or associations of firms, interested in providing indigent public defense services in Lake County, including primary and multiple levels of conflict representation.

All public defense services provided shall comply with applicable standards published by the American and California Bar Associations, including the State Bar of California Guidelines on Public Defense Delivery Systems (2006), American Bar Association's Code of Professional Responsibility and Standards on the Defense Function (Criminal Justice Section Standards), and applicable provisions of California law including but not limited to California Penal Code, California Business and Professions Code, California Welfare and Institutions Code, California Probate Code, California Civil Code, and the California Code of Civil Procedure.

Lake County desires to enter into a single contract for public defense services for a term up to three (3) years. It is preferred that proposals be based on a flat fee for all services delineated hereinafter, subject to additional compensation for death penalty cases and complex cases requiring extraordinary time.

Proposer should carefully review the information contained in this RFP, local court rules and the County's criminal justice system to ensure that only responsive proposals are submitted. The ability of the Proposer to understand the duties and responsibilities of comprehensive public defense, understand the needed services, and submit responsive and cost-effective proposals will be used as an indication of their ability to provide competent legal defense services if awarded a contract.

All services related to juvenile dependency and family law proceedings are procured and contracted directly by the Courts, and are therefore not covered in this RFP.

1.2 BACKGROUND INFORMATION

Geographically, Lake County is located immediately north of Napa County. Agricultural related industries are a major source of employment along with food processing, retailing, and light manufacturing. The city of Lakeport is the County seat and is one of two incorporated cities with a population of approximately 5,200.

Demographically, Lake County, at a population 65,000.

The County Administrative Office is responsible for managing the contract(s) for provision of public defense services. Lake County has historically contracted for public defense services. Currently there is a single "master" contract with a firm that provides one primary level of representation and multiple levels of conflict representation.

The Superior Court is the principal trial court of Lake County.

1.3 AGREEMENT TERM

The Agreement term shall be for a period of approximately three (3) years, commencing May 7, 2017 and terminating June 30, 2020, unless otherwise extended, contingent on appropriate and sufficient funding.

The Agreement may be extended for an additional three (3) year period upon mutual written consent of the parties.

A Sample Agreement is included as an attachment to this proposal. This Agreement will become part of the final Agreement with the successful Proposer being awarded the proposal. Any exceptions to the terms and conditions as stated herein and in the Sample Agreement must be identified separately within the submitted proposal. An Agreement with the successful Proposer is executed only upon final approval by the County's Board of Supervisors.

SECTION 2

TIMETABLE AND CHECKLIST

2.1 SUBMITTAL CHECKLIST

All items are required. This checklist is provided to assist you in ensuring you submit a complete proposal.

- a. ____ Signature Page (Attachment A)
- b. ____ Acknowledgement of Amendment(s) (If any)
- c. ____ Cover Letter
- d. ____ Table of Contents
- e. ____ Executive Summary
- f. ____ Exceptions
- g. ____ Approach
- h. ____ Proposer's Qualifications
- i. ____ Cost Proposal
- j. ____ Financial Assurances

(Non-submittal is considered non-responsive and cause for rejection of proposal.)

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2.2 SCHEDULED ACTIVITIES

To the extent achievable, the following schedule shall govern the review, evaluation and award of the proposal. The County reserves the right to modify the dates below in accordance with its review process.

Activity	Estimated Schedule	Date
2.2.1	Availability of the Request for Proposal	February 21, 2017
2.2.2	Deadline for submission of interpretation and/or written questions in relationship to the Request for Proposal. <i>Questions submitted after this date will not be answered. The closing date will not be extended for questions submitted after this date.</i>	March 1, 2017
2.2.3	Closing date for the Request for Proposal	March 13, 2017
2.2.4	Contract Award Date	April 4, 2017
2.2.5	Agreement performance to commence	May 7, 2017

2.3 NUMBER OF COPIES TO BE SUBMITTED

- 2.3.1 Please submit **one (1) original signature hard copy** to be **signed in blue ink** (original copies marked as such), five **(5)** exact copies of the original, and one soft copy via thumb drive.
- 2.3.2 **Proposer also to submit ONE (1) paper copy of Financial Assurances as set forth herein.** See Section 4.2.10 for guidance on what is required.
- 2.3.3 Disclosure of any Self Insured Retention (SIR) associated with the insurance requirement in the Sample Agreement.

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SECTION 3

REQUIREMENTS

3.1 SERVICES OVERVIEW

3.1.1 Public Defender Services include:

- a. Contract public defender services are required for the legal representation of accused persons (excluding infractions). All legal services described in this RFP are from the time of appointment to final adjudication or disposition and, as necessary, filing appeal or other legal documents pursuant to Penal Code Section 1240.1.
- b. Representation of any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to Juvenile Court Law, when such proceedings are concerned with a person alleged to be or who has been found to be within the description of the provisions of Sections 601 and 602 thereof.
- c. Public defender services are provided to financially eligible accused persons without expense to the defendant except as provided by Section 987.8 of the Penal Code.
- d. Representation of any eligible person in any proceeding brought by a County agency or department which may result in involuntary detention or treatment.
- e. Representation of any eligible person in proceedings under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, relating to the Lanterman-Petris-Short Act.
- f. Representation of any eligible person who requires counsel pursuant to Section 686.1 of the Penal Code (capital cases), depending on contract negotiations.
- g. Representation of any eligible persons in Habeas Corpus proceedings related or stemming from underlying criminal cases.
- h. In those cases in which a change of venue is ordered transferring a case from Lake County to another county, the Proposer shall defend eligible defendant in such other county.
- i. Provide the County with relevant workload and case related statistics, as required, and to actively participate in any and all cost-recapture mechanisms for services provided as specified by statute or County policy.

3.1.2 Types of cases excluded in this proposal:

- a. Proceedings under Section 300 of the Welfare and Institutions Code.

- b. Family law proceedings.

3.2 ACCEPTANCE OF CONDITIONS

3.2.1 By submitting a proposal, Proposer affirm that they accept the following conditions, any of which may be included in the contract to be entered into between the County and the Proposer:

- a. Proposer, by way of submitting a proposal, certify that they are active members with the California Bar Association, and that neither they nor their principals are presently suspended, under disciplinary investigation, declared ineligible, or voluntarily excluded from service participation by any federal/state department or agency. Should such certification be qualified in any way, an explanation must be included in the proposal.
- b. Proposer recognize that ethical considerations such as those referred to in the Rules of Professional Conduct may prohibit the Proposer from accepting some appointments normally included in the Agreement caseload. The Proposer agrees to establish a system for immediately screening new appointments upon intake to discover potential conflicts of interest.
- c. Specifically Proposer agrees and warrants that they are familiar with and will comply with Rule 3-320 of the State Bar of California's Rules of Professional Conduct. Further, Proposer agrees to provide County a letter on an annual basis describing Proposer's compliance with Rule 3-320 as it relates to any partner or employee. Said letter is incorporated by reference.
- d. Upon discovery of a conflict of interest or other ethical considerations which preclude further representation by Proposer or any Contract Attorney, Proposer shall immediately notify the affected client(s) and the Court and assist in the referral and/or transfer of the case to another attorney to provide public legal services of the same type. County must be advised when Proposer is not able to provide representation as described in this Agreement.
- e. Proposer shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes in any and all proceedings, provided that no private case shall be accepted which may cause a conflict of interest to arise wherein the Proposer would be thereby rendered unable to represent an indigent person whom the Public Defender cannot represent in Court.
- f. Successful Proposer must maintain a publicly accessible business office in Lake County during the entire contract period with reasonable hours of operation. The office must comply with the access requirements for the Americans with Disability Act.

- g. Subcontracts for services provided under this RFP are allowable; however, Lake County must be notified in writing of the existence of a subcontract agreement, a copy of the subcontract agreement format shall be provided to the County, and Subcontractors must provide insurance coverage pursuant to Section 5 of this RFP.
- h. The Proposer(s) shall be required to attend Court and County criminal justice system meetings, as directed by the County.
- i. Proposer shall maintain professional working relationships with elected and appointed criminal justice and general government officials.
- j. Proposer's response(s) to this RFP shall become a part of any contract awarded.
- k. Any representation beyond contract period shall be subject to agreement.
- l. Contracts awarded pursuant to this RFP shall require full participation in cost-recapture mechanisms for services provided as specified by statute, County policy and/or local court rules.
- m. The County may select one or more Proposers from those submitting proposals; however, the County reserves the right to reject any or all proposals.
- n. The County may cancel this RFP without any cost or obligation at any time, up until the award of the contract. In the event agreement cannot be reached with the selected Proposer, the County reserves the right to select an alternative Proposer.
- o. The County is an Equal Opportunity Employer. In connection with the performance of a contract related to this RFP, the Proposer shall comply with federal, state and county law/policy. The successful Proposer for the contract shall not discriminate against any sub-contractor, employee, or applicant for employment because of age, race, color, national origin, religion, sex/gender, sexual orientation, disability, medication condition, marital status or political beliefs.
- p. The County is a drug free workplace. All Proposers and subcontractors shall comply with the requirements of California Government Code Section 8355 - 8357 which are applicable to state agencies.

3.3 SCOPE OF SERVICES

- 3.3.1 Scope:** The successful Proposer will administer defense services and provide attorneys and such other services as are necessary to assure constitutionally-effective assistance for the indigent criminal defendants or parties in all phases of criminal actions to which attorneys are appointed by the Lake County Superior Court, including but not limited to all necessary court appearances for the defendant/party, motions, writs, trials, preliminary hearings, violation of probation hearings, report and sentencing, and legal

research, in all divisions of the Lake County Superior Court, Adult Divisions, and in the Juvenile Division, in delinquency cases only.

3.3.2 Service Area: The area serviced under the solicitation will be all branches of the Lake County Superior Court, or as otherwise scheduled by the courts.

3.3.3 Complete Defense Services: Proposer will provide complete defense services in each case to which Proposer is appointed during the term of the contract. Proposer will complete the representation of all clients and cases appointed under the contract even after the contract term expires. If a case begins during a contract and continues beyond the termination of the contract there will be no additional payments unless otherwise agreed upon.

- a. Capital Cases: Proposer is expected to accept appointment to the first-chair in capital cases and must appoint appropriately qualified attorneys to represent indigent clients in such cases.
- b. Vertical Representation: County desires continuity of representation at all stages of the case, or vertical representation. Vertical representation promotes efficiency, thoroughness of representation and positive attorney client relationships. Proposer agrees to make reasonable efforts to utilize the initial attorney assigned to a client throughout each case. This does not prohibit selected Proposer from making reasonable changes if it is in the best interest of the defendant. County recognizes that the quality of representation depends on a number of factors, including, but not limited to: the charge, the particular proceeding, and the qualifications and experience of the attorney representing the defendant. Nothing in this Request for Proposal prohibits the Proposer from structuring the Proposal to allow for the best interests of the defendant and promoting efficiencies. Proposer may determine that assigning a single attorney or multiple attorneys to handle an aspect of legal proceedings for all clients is the most effective mode of representation.
- c. Limitations on Stand-In Counsel: The use of stand-in counsel (aka "appearance counsel") is discouraged and should be used only in very limited circumstances judged on necessity on a case-by-case basis. Stand-in Counsel may not be used at any critical stage of the criminal proceedings. Stand-in Counsel must be under contract with Proposer, as Proposer is responsible for stand-in counsel's performance. Proposer must provide with its Proposal a clear policy on the use and limitations of stand-in counsel. Proposer shall include in their annual reports the specific circumstances that necessitated the use of stand-in counsel during the reporting period.
- d. Client Contact: In cases of initial appointment at or before the arraignment or denial of the petition in a juvenile delinquency proceeding, Proposer's attorneys must make attorney-client contact with all clients before each client's next court hearing,

and in any case, regardless of when appointed or the date of the next court hearing, no later than five (5) court days from notification of a case assignment. Proposer must ensure that attorney-client visits and communication will be maintained throughout the course of the case. In the case of an in-custody client, an "attorney client visit" or "contact" is defined as an in-person, face-to-face, meeting between the assigned attorney and the client outside of court.

3.3.4 Subcontracting: Proposer must describe if its work plan or business plan includes the use of subcontractors. Proposer must:

- a. Use: Specify the role subcontractors will play and how subcontractors will be used, assigned cases, monitored, evaluated, supervised, and paid.
- b. Quality Control: Describe the methods it will use to ensure quality control among its subcontractors.
- c. Written Agreement: Include a copy of the written agreement that will be used to hire or retain subcontractors.
- d. Risk Management: All subcontractors are to obtain the insurance policies required of Proposer in "INSURANCE" Section of the Agreement, and to name County as endorsed on the policy as an additional insured in each such insurance policy.

3.3.5 Caseload Management:

- a. Caseload Appointments: The caseload will include all defendants for whom the Court has appointed indigent defense counsel and may include multiple defendants in the same case, necessitating provision of conflict-free counsel and investigative services on behalf of each defendant or party represented.
- b. Transfer and Transition: Should the County find it necessary to do so, Proposer and County will negotiate a plan to assume representation and/or transfer of all open cases at time contract is awarded. The plan will specify which cases will be transferred at the beginning of the contract period and how the remaining cases will be transitioned including the timeline.

3.3.6 Mandatory Acceptance of Appointments: Proposer must accept all Lake County Superior Court appointments unless refusing such appointment is based on a conflict of interest. The County will only consider responses from Proposers that guarantee to have competent counsel on site and available for appointment during the normal business hours of Lake County and the Lake County Superior Court. Proposers must also address the following requirements in their Proposals:

- a. Sufficient Staff: Proposer must demonstrate in the Proposal it has the ability to accept all new Court appointments within the requirements of Penal Code Section

987.05, i.e., felony cases and capital cases. Appointments under this contract not accepted by Proposer due to an inability to meet the requirements of Penal Code Section 987.05, or the Lake County Superior Court's refusal to appoint Proposer, or its subcontractors, because of a finding that Proposer, or its subcontractors, cannot meet the requirements of Penal Code Section 987.05 may constitute a material breach of contract. Proposer must notify the County within 72 hours if such an event occurs. Proposer must establish caseload limits that will ensure that requirements of Penal Code Section 987.05 will be met.

- b. Sufficient Coverage: Proposer must demonstrate in the Proposal the ability to make court appearances in any courtroom within Lake County, including but not limited to all of the outlying divisions of the Superior Court, including the Juvenile Court, and the Pre-Trial facility. Proposer must describe in detail the process and procedures it will follow to service the outlying divisions of the Superior Court, without delay, when Proposer is required to be present in an outlying division of the courts for appointment on a case. Proposer must have adequate attorney staff to accept new appointments in the Superior Court arraignment departments, juvenile courtrooms, and the outlying division courts, in a timely manner and to the satisfaction of Lake County.
- c. Subsequent Proceedings: The Proposer will be required to provide legal representation in any subsequent proceedings for a Client previously represented by the Proposer or a Subcontract Attorney and for whom the case was remanded by the appellate department or a higher Court, unless such representation is precluded by law.

3.3.7 Attorney Qualifications: Attorney qualifications for case assignments shall be based upon criteria reflecting the necessary relevant experience and training for the various categories of cases handled by Proposer. Categories of cases must be identified by the level of skill and relevant experience required of attorneys to handle each type of case. Care must be taken to ensure that only attorneys who have the requisite skill and experience to handle a particular category of cases are assigned to such cases. Steps must be taken to ensure against excessive case reassignments.

Experience in bilingual and multi-cultural indigent defense is highly desirable.

3.3.8 Workloads: Pursuant to State Bar of California Workload Standards, indigent defense providers shall not maintain excessive workloads that compromise the ability of the provider to provide appropriate and competent representation in a timely manner.

- a. Effective Monitoring Plan: Proposer must include a plan or policy to track and monitor case assignments per attorney to ensure that no attorney is assigned more cases than he or she can effectively handle, and the method to monitor the need to redistribute and balance attorney caseloads as needed.

- b. Quarterly Reports: By the fifteenth working day of each calendar quarter, Contractor must submit to the Lake County Administrative Office, a report reflecting caseload data for the prior three month period. The detail and composition of the report will be mutually developed by the Contractor and County.
- c. Statistics Relevant to Ongoing Provision of Adequate Indigent Defense Services: **EXHIBIT 2** reflects Court statistical data for fiscal year 2014/2015 which was provided by the Lake County Superior Court; however, County cannot specify the exact number of cases that will be appointed to Contractor. Proposals may be submitted for providing services for all case types/proceedings. Unless otherwise classified by the Court, a "case" is a single charge or set of charges concerning a defendant in one courtroom in one proceeding. Proposer must rely upon its own projection of caseloads over the anticipated term of this Proposal, its own investigation of the facts and circumstances surrounding the provision of indigent criminal defense services in Lake County, and its own experience in the criminal law field representing indigent criminal defendants to recommend a staffing level that will meet all the requirements of this RFP.

3.3.9

Performance Standards: All cases must be processed according to the performance standards as set by the Judicial Council of California, the State Bar of California and American Bar Association Standards on Ethics, the State Bar of California Standards of Representation for Indigent Defense Services (Guidelines on Indigent Defense Services Delivery Systems, 2006, <http://calbar.ca.gov>), the California Rules of Professional Conduct, the California State Bar Act (Business & Professions Code sec's 6000, et. seq.), and the Performance Guidelines for Criminal Defense Representation of the National Legal Aid and Defender Association and in compliance with the California Rules of Court and the Lake County Superior Court Local Rules.

- a. Compliance with Applicable Laws: Selected Proposer(s) shall be subject to and comply with Federal, State, and local laws, as well as with all applicable regulations and ordinances for the provision of indigent defense under any resulting contract, including but not limited to, licensing requirements and employment laws, and in compliance with federal and state laws prohibiting discrimination, harassment & retaliation.
- b. Prohibition Against Outside Compensation/Client Conversion: Proposer (including all subcontractors, if any) are prohibited from converting or otherwise being hired or retained by clients that were initially appointed to Proposer or its subcontractors under the contract. Proposer must describe what precautions Proposer will take to prevent these events. Proposer must provide a copy of Proposer's written policy and procedures addressing this subject.

- c. Licensed Attorneys: Proposer's attorneys and all subcontract attorneys, at all times they are performing services for Lake County shall be currently licensed and in good standing with the State Bar of California.
- i. Attorney Roster: Initially, and then annually each fiscal year, Proposer shall provide a list of the names and the resume or Curriculum Vitae (CV) of every attorney to be employed or with whom the Proposer will subcontract, and setting out generally each attorney's qualifications. Proposer is NOT required to provide County with the names of the attorneys until the Proposal has been accepted by the County, but with the understanding that the contract will only be finalized with the Proposer upon approval by County of the attorneys listed as submitted. All positions requiring a professional license or certification must specify license or certification number in resume or CV.
 - ii. Reporting of Pending Disciplinary Matter: Proposer shall, during the term of the contract report to the County Executive Office any pending disciplinary matter within 24 hours of becoming aware of it.
 - iii. Specialized Competency: Attorneys handling special circumstance cases including death penalty cases shall have the necessary training, experience, and continuing education as required by law.
 - iv. Delinquency Defense Attorney Qualifications: Attorneys who represent delinquent youth under Welfare and Institutions Code, section 600, must be in compliance with the training standards and requirements of California Rules of Court, rule 5.664
 - v. Restrictions On Private Practice Of Law: Proposers may engage in the private practice of law (including the defense of those charged with crimes or involved in juvenile Lake County proceedings) provided that no private case that presents a conflict or the appearance of a conflict, which would prevent the Proposer from providing services requested in this RFP, shall be accepted.
 - vi. Marsden Hearings: Proposer is required to keep records regarding all *Marsden* hearings that are granted as to any of its staff attorneys or its subcontractors. Records must indicate case name, case number, and assigned attorney. The date the *Marsden* was granted, and the name of the new attorney appointed must be included. This information must be reported to the County on a monthly basis or as earlier requested.
 - vii. Criminal History and Civil Actions: All positions must submit the "Disclosure – Criminal History & Civil Actions" disclosing any State Bar discipline or discipline by the Department of Consumer Affairs, Bureau of Security and Investigative

Services, current or prior license revocations and suspensions, and any other criminal history.

3.3.10 Quality Assurance

- a. Quality Assurance Plan: Proposal must include a comprehensive legal representation Quality Assurance Plan and must include a discussion of how the following areas will be monitored and enforced.
 - i. Independent Oversight: Plan for independent oversight and monitoring the quality of representation.
 - ii. Case Management: Plan for case management and case management tracking system.
 - iii. Individualized Assessment: Plan for observation and assessment of attorney including, but not limited to, monitoring of time and caseload records.
 - iv. Client Guidelines: Guidelines for client contact, notification of appointment, initial client interview, and addressing client concerns.
 - v. Court Accountability: Guidelines for Lake County appearances and responsiveness to the Court system, including guidelines for monitoring and handling continuances.
 - vi. Competency: Plan to assure that all attorneys who provide services on behalf of Proposer have complete relevant general professional training or training specific to the particular types of cases they handle.
 - vii. Conflicts: Plan to avoid the creation or the appearance of conflicts of interest.
- b. Oversight, Monitoring, & Evaluation: To ensure consistent quality representation Proposer shall, using established written procedures and uniform standards, periodically monitor and accurately assess the performance of both its staff attorneys and its subcontractors. Proposer shall evaluate the professional performance of its attorneys regularly and, at the minimum, at least annually. Evaluations should include monitoring of time and caseload records, review of case files, and in courtroom observation. For subcontractors, such evaluations may be modified from those used for employees, taking into account counsels' status as an independent contractor. Annually, Proposer will be required to report and provide proof to the County that the Proposer is in compliance with the Quality Assurance Plan submitted to the County.

- c. **Supportive Services:** To ensure consistent quality representation, Proposer shall use competent expert witnesses, interpreters, psychologists, forensic testing laboratories and investigators.

3.4 COMPENSATION

3.4.1 Timing of Compensation

- a. **Monthly Basis, in Arrears:** Proposer will be compensated for services on a monthly basis, in arrears.
- b. **Performance Representation:** In the Proposal, Proposer must provide assurance that said Proposer can operate under provisions of the agreement and meet financial obligations without requesting expedited payments or special handling of reimbursement requests.

3.4.2 Reimbursable Expenses: Contractor shall furnish its own transportation and shall pay for all costs of meals, lodging and personal items as may be required in the performance of its duties, and shall require that its subcontractors are required to furnish their transportation and to pay all costs of meals, lodging, and personal items necessary to perform their duties, except:

- a. **Change of Venue:** The contractor's continued representation of defendants in change of venue cases shall be at no additional cost to the County except that the contractor shall be eligible for reimbursement of travel, lodging, and meal expenses subject to certain limitations which will be negotiated as part of the final contract.
- b. **Out of State Travel:** Additionally, out-of-state travel and service of subpoenas shall be provided by CONTRACTOR's subcontractors on a fee for services basis, paid by County, pursuant to Court Order as described hereinabove.

CONTRACTOR shall ensure that its agreements with its subcontractors shall expressly inform said subcontractors of their obligation to adhere to the above-stated requirement.

- c. **Expense Accounting:** Proposer shall maintain receipts for all reimburseable expenses. The receipts shall delineate the defendant's name, case number, the provider, services provided, address of provider, hourly cost, breakdown of charges, any installment payment, other relevant information, total amount billed, and signature of the person authorizing the payment. A log of these receipts will be submitted to County monthly, or as otherwise agreed upon, along with an invoice from Proposer requesting payment. Proposer shall maintain accounts and records, which sufficiently and properly reflect and identify the direct costs of the representation (investigative, expert and other

direct trust fund costs). Proposer shall submit all report(s) in a format approved by the County.

3.4.3 Elements of Compensation to be Considered in Proposer's Cost Proposal.

- a. General Services: Elements of service to be considered in quoting compensation for legal services are: attorney services, paralegal services, attorney training, office overhead such as phone, rent, routine in-house photocopying, office staff, interviewers, social workers, employment related expenses, discovery costs, office equipment and supplies, books or other research materials, and all other elements of cost not clearly included in ancillary services.
- b. Administrative Costs: Administrative costs include, but are not limited to travel, telephones, law library, including electronic legal research, financial accounting, case management systems, computers and software, office space and supplies, training, meeting the reporting requirements imposed by the contract, and other costs necessarily incurred in the day-to-day management of the contract.
 - i. Contract Administration: In the Cost Proposal, Proposer shall also provide the specific dollar amount of the cost and also indicate what percentage of the total cost of the contract will be spent on administrative fees and overhead charges allocated for administration of services being Proposal.
- c. Investigation: For services provided under this Proposal, Proposer must use or employ, at its own expense, only properly licensed investigators with investigation training and experience that are in compliance with the Private Investigator Act (Division 3, Business and Professions Code, Chapter 11.3), or by an employee of a licensed investigator who is working for compensation to complete the hours necessary to become licensed, and under the supervision of the employer (see California Business and Professions Code §7523). Investigators, including third party or subcontracting investigators, must not work cases that would, under any circumstances, present a conflict or the appearance of a conflict with any case on which Proposer or its subcontractors have been appointed.
- d. Ancillary Services: Expenses for ancillary services (as defined Sample Agreement attached hereto as Exhibit A) will provided by Contractor but paid directly to the provider by the County pursuant to Court Order

3.4.4 Recovery of Fees: Proposer shall be required to assist in the recovery of fees and funds pursuant to Penal Code Sections 987.5, 987.8(b), (c), 987.81 and 4750. Proposer shall submit a completed Attorney's Fee Form to the Lake County Superior Court requesting reimbursement to the County in all cases where contract attorney has been appointed to the case. Proposer's attorneys must make affirmative efforts to secure attorney-fee reimbursement orders from Lake County Superior Court and to ensure that these orders

are transmitted to the correct County Department for collection purposes. Each Proposal shall describe the manner in which this will be accomplished.

3.5 OFFICE AND RECORDS REQUIREMENTS

3.5.1 Office Location and Overhead

- a. Location: The County shall not provide work space for the Proposer. Attorneys performing services under the Contract shall be required to maintain, at all times, an office in the Lake area from which to conduct business and for consultation with clients.
- b. Public Accountability: It is the intent of this RFP that budgeted monies for this contract be used exclusively to fulfill Proposer's obligations under this contract and not to subsidize the private business or the private practice of law of Proposer or Proposer's staff or subcontractors. Proposer's submission must demonstrate that monies budgeted for office space and overhead under this contract are used fully and exclusively to meet Proposer's obligations under the Contract.
- c. Proof of Compliance: If Proposer intends to utilize its existing facility, proof that the premises comply with Title 9 must be provided in the Proposal. If a new facility will be utilized, a plan ensuring accessibility to the disabled must be developed and presented with Proposer's bid. Proposer must comply with the Rehabilitation Act of 1973 and the American with Disabilities Act of 1990 to ensure that the recipients/beneficiaries of services are provided services without regard to physical or mental disability and that Proposer has provided a facility accessible to the physically handicapped. The office facilities of all subcontractors must comply with the above requirements.

3.5.2 Records

- a. File and Information Storage: Proposer must provide secure file storage facilities for retention of case files and storage of electronic information consistent with all state and federal privacy laws and the attorney-client privilege. Proposer must demonstrate a secure computer system. This includes assuring that systems and applications operate effectively and provide appropriate confidentiality, integrity, and availability, through the use of cost-effective management, personnel, operational, and technical controls.
- i. Records Management and Retention Plan: Proposer shall work with Lake County to develop a records management plan that complies with county requirements as set forth herein.

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3.5.3 Maintenance Of Contract Records/Reporting Requirements

- a. Cost Accounting: Proposer must maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all costs and expenses incurred in performance of services in this RFP including the direct and indirect costs of services performed. Proposer must maintain records which sufficiently and properly reflect all direct and indirect costs of any subcontracts or personal service contracts. Such records shall include but not be limited to, documentation of funds expended by Proposer for said personal service contracts or subcontracts and documentation of the nature of the services rendered.
- b. Record Inspection Requirements: Proposer shall at any time during the normal business hours and as often as Lake County deems necessary, make available for examination by the Lake County, or its authorized representatives, all of its records and data with respect to all matters pertaining to services to be provided under this RFP. Upon request by Lake County, Proposer shall provide copies of such records and/or make such records available for audit and inspection for the period of the contract and up to three (3) years following the date of termination of the contract, including any extensions thereof.
- c. Client Files: Proposer shall retain client files in the manner of and for the time period required by California State Bar Ethics Formal Opinion Number 2001-157, or as otherwise agreed upon by the parties. Proposer shall provide a reasonable means of releasing all client related materials, including but not limited to files, work notes, police reports, investigation reports, and expert reports to Proposer's successor in interest.
- d. Work Product: All work papers prepared in connection with the contractual services will remain the property of the successful Proposer; however, all reports rendered to Lake County are the exclusive property of Lake County and subject to its use and control.

3.6 SPECIFIC COMPLIANCE

The Proposer awarded the Agreement derived from this proposal will be required to abide by all applicable local, Federal and State laws and regulations, including, but not limited to:

- Penal Code Section 987.2, 987.8, 987.05, 987.5
- Penal Code Section 1240.1
- Penal Code Section 686.1
- Penal Code Section 4750
- Welfare and Institutions Code Chapter 2 of Part 1 of Division 2, Sections 301 and 602

- Americans with Disabilities Act of 1990
- California Government Code Section 8355-8357
- Guidelines on Indigent Defense Services Delivery Systems, 2006
- Private Investigator Act, Division 3, Business and Professions Code, Chapter 11.3
- California Business and Professions Code Section 7523
- Rehabilitation Act of 1973
- California State Bar Ethics Formal Opinion Number 2001-157
- Family Code 7860
- California Probate Code 1470
- California Rules of Court, Rule 5.664

SECTION 4

RESPONSE FORMAT AND CONTENT

4.1 GENERAL INFORMATION

This section describes the required proposal format and content. The proposal should contain the requested information organized by the prescribed section and subsection numbers and titles. Any information provided beyond that required in the proposal should be contained in a section entitled "Optional Exhibits and Attachments".

Each Proposer shall submit a complete proposal, along with requested copies, providing all information requested and a complete description of the functional operation of the program/project proposed. Failure to follow the prescribed format may result in rejection of your proposal.

Proposals must be complete in all aspects. A proposal may be rejected if it is conditional or incomplete, or if it contains any alteration of form or other irregularities of any kind. A proposal may be rejected if any such defect or irregularity constitutes a material deviation from the proposal requirements. The proposal must contain all costs required by the proposal.

Proposals must be clearly marked as stated herein and must be received by the date and time specified.

The proposal must be typed. Every part of the proposal must be legible and of sufficient print clarity to allow copying of the document. Mistakes/Errors may be crossed out and corrections typed or printed adjacent to the mistake/error and initialed in ink by the person signing the proposal.

Special bindings, colored displays, etc., are not necessary. A single three-ring binder divided into sections by labeled tab index sheets is sufficient. Attachments that are not included in the binder should be

clearly labeled according to the sections and titles provided therein. The proposal should be clear, complete and consistent with the proposal content requirements.

4.2 PROPOSAL FORMAT

The proposal must be developed on the forms provided in this package, or must follow the proposal content requirements in the order in which they appear in the proposal. Proposals that do not conform to this format may not be considered for evaluation. Proposals must be typewritten and submitted on standard 8 1/2" by 11" paper. Each page must be clearly and consecutively numbered. All proposals must be submitted in the name of the legal entity or authorized agency. Proposals must be signed in ink by the officer or officers legally authorized to bind the company, partnership or corporation.

The content and sequence of the proposal will be as follows:

- 4.2.1 Signature Page (Attachment A)
- 4.2.2 Signed Amendment(s) (If any)
- 4.2.3 Cover Letter
- 4.2.4 Table of Contents
- 4.2.5 Executive Summary
- 4.2.6 Exceptions
- 4.2.7 Approach
- 4.2.8 Proposer's Qualifications
- 4.2.9 Cost Proposal
- 4.2.10 Financial Assurances

4.2.1 Signature Page

Proposer must complete and return the enclosed Signature Page (**Attachment A**, "Signature Page"). The Signature Page must be signed in blue ink by the officer or officers legally authorized to bind the company, partnership, or corporation.

4.2.2 Signed Amendment(s)

Proposer must sign, in blue ink, and include a copy of any amendments to the RFP.

4.2.3 Cover Letter

The Cover Letter must be a maximum of a one (1) page introducing the Proposer. The Cover Letter must include the Proposer's name and address.

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4.2.4 Table of Contents

The Table of Contents must be a comprehensive listing of the contents included in your proposal. This section must include a clear definition of the material, exhibits and supplemental information identified by sequential page numbers and by section reference numbers.

4.2.5 Executive Summary

The Executive Summary shall condense and highlight the contents of the Proposer's Business Proposal to provide the Evaluation Committee with a broad understanding of the Proposer's approach, qualification, experience and staffing.

4.2.6 Exceptions

This portion of the proposal will note any exceptions to the requirements and conditions taken by the Proposer. Exceptions should clearly explain why the Proposer is taking exception to the requirements. If exceptions are not noted, the County will assume that the Proposer's proposal meets those requirements as specified herein and that the Proposer accepts and intends to abide by all stated terms, conditions, and requirements. Exceptions will be considered by the County, and will form a part of any resulting Agreement, only if the County explicitly so states in writing.

Exceptions shall be noted as follows:

- Exceptions to the Scope of Work
- Exceptions to General Provisions
- Exceptions to Special Provisions
- Exceptions to Instructions for Submitting Proposal and Proposal Content Requirements
- Exceptions to any other part of this RFP
- Exceptions to terms in the Sample Agreement

4.2.7 Approach

The Proposer's proposal shall clearly describe in detail how the Proposer will meet and perform the requirements herein. Only those levels of performance the Proposer actually believes can be accomplished should be stated as measurable objectives. The merit of each proposal received in response to this proposal will be judged largely on the basis of each Proposer's narrative description as described in the Approach of their proposal. Proposers are encouraged to offer whatever information they think is relevant, which at a minimum should address the following:

- a. How will the Proposer provide efficient and effective services to clients and insure high quality, responsive and competent assistance of counsel.

- b. How will the Proposer provide efficient service to the court?
- c. What levels of conflict defense that the Proposer will provide to felony, misdemeanor and juvenile delinquency cases in order to ensure, the extent possible, the effective ongoing performance of the Agreement.

4.2.8 Proposer's Qualifications

Proposer shall provide a concise statement demonstrating that the Proposer's company has the qualifications, experience, and capability to perform the requirements of this proposal. Additionally, the proposal should provide any special or unique qualifications which the Proposer believes it possesses to meet the requirements of this proposal. At a minimum, the following sections must be included:

a) History

Provide a brief history of your company, including the number of years in business. State whether your organization is an individual proprietorship, partnership, corporation, or private nonprofit organization, and the date your company was formed or incorporated. Provide a statement as to any judgment, litigations, licensing violations, or other violations, outstanding or resolved, against your company in the past five (5) years.

b) Background and Experience

A summary of relevant background information describing your company's experience of major accomplishments and/or activities similar to the requirements set forth under this proposal, which demonstrates your company's ability to provide the service described in your proposal.

c) References

Provide a list of at least three (3) professional references. Include the firm's name; the name, title, and telephone number of a contact person; the dollar amount of the Agreement; and the dates that these services were completed. Proposer may provide sample material of your company's work to substantiate your previous experience.

d) Staff Assignment

A brief description of the experience and qualifications of the proposed key staff members assigned to this program/project and what percentage of their time will be devoted to the program/project. Show their function, level of education, degree and license, if appropriate, and a detailed resume for each person. Additionally, the Proposer must specify where the staff will be located and identify the program/project manager.

4.2.9 Cost Proposal

Describe your methodology and analysis in support of the fiscal elements of your proposal. Proposal shall include:

- a. Budget: The budget should reflect the estimated cost of providing the primary elements identified in Section 3.4.3 hereinabove, including: General Services, Administrative Costs, and Investigations.
- b. Fee: A flat fee encompassing all the Requirements of this RFP (excluding the provision of special Circumstance homicide and complex cases delineated in Section 4.2.9.c.
- c. A proposal for additional compensation for Capital cases (Note: eligibility for additional compensation for the first chair, is only upon appointment of a 2nd chair) and complex cases requiring extraordinary time.

4.2.10 Financial Assurances

Sufficient financial information should be submitted to demonstrate the ability to finance the Agreement and provide the services in accordance with the requirements of this RFP.

SECTION 5

BASIS OF AWARD, SELECTION PROCESS AND EVALUATION CRITERIA

5.1 BASIS OF AWARD

Award will be made to the Proposer whose proposal demonstrates to be the most qualified, responsive and advantageous to the County. **The County shall not be obligated to accept the lowest cost proposal, but will make an award in the best interests of the County after all factors have been evaluated ("most responsive proposal").**

THE COUNTY RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO COST ALONE. THE COUNTY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE PROPOSER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

False, incomplete, or nonresponsive statements in connection with the proposal may be deemed sufficient cause for rejection. The County shall be the sole judge in making such determination. The County reserves the right to cancel or discontinue with the proposal process and reject any or all proposals in the event it determines that there is no longer a requirement for the furnishing of such items, materials, equipment and/or services, funding is no longer available for this proposal, or it is otherwise in the County's best interest to cancel the proposal process.

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5.2 SELECTION OF EVALUATION COMMITTEE

An Evaluation Committee consisting of selected personnel will be established to evaluate the proposals. It is the intent of the Evaluation Committee to select an apparent successful Proposer with a recommendation to initiate Agreement negotiations. Selection will not be made on cost alone, but will be based upon the most responsive proposal.

5.3 EVALUATION CRITERIA

The Evaluation Committee will consider only those proposals which have been considered responsive to the proposal. Any proposal which fails to meet the requirements of the proposal will be considered non-responsive and may be rejected. Responsiveness includes attention to detail in following the proposal format. The Evaluation Committee may also contact and evaluate the Proposer's and the Sub-Contractors references; contact any Proposer to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The Evaluation Committee shall not be obligated to accept the lowest priced proposal, but shall recommend such proposal that is the most qualified, responsive and cost-effective proposal and in the best interest of the County ("most responsive proposal"). The following will be taken into consideration for the evaluation:

5.3.1. EXPERIENCE, QUALIFICATIONS AND STANDARDS OF REPRESENTATION

- a. Experienced and qualified staff with the breadth of experience needed to perform the work required by this RFP, including administrative, management, investigation, and litigation experience.
- b. Experience and past performance of attorneys in the representation in difficult and complex criminal cases, to include capital cases.
- c. Reputation of providing competent indigent defense services as required by Section 3, Requirements.
- d. Assigned staff capable of providing diligent and conscientious services to clients; providing careful factual and legal investigation; taking prompt action to protect clients' legal rights; informing clients of case development; preparing for jury selection, examination of witnesses, submission of instructions and presentation of arguments at trial; knowing and exploring sentencing alternatives; and advising clients concerning appeals.
- e. Attorney qualifications match the Proposer's standards for case assignments.
- f. Experience of attorneys in bilingual and multi-cultural indigent defense.
- g. Understanding of the needs of indigent defense clients.
- h. Capacity to efficiently and effectively manage a diverse public defender caseload.

5.3.2. PROPOSED APPROACH/WORK PLAN

- a. The Proposer's case management philosophy; proposed case assignment procedures and criteria, proposed method of allocating and managing personnel resources to insure timely delivery of services, minimal delays, and quality of representation.
- b. The Proposer's work plan that efficiently and effectively provides coverage for all Lake County Courts, ensuring sufficient and appropriately qualified staffing to provide daily representation and avoid otherwise unnecessary delays and continuances.
- c. The Proposer's work plan to provide adequate office space which is open and easily accessible (location) during normal work hours, telephone answering or a message service for calls from clients during non-business hours, and prompt interviews of clients in custody.
- d. The Proposer's work plan to monitor performance of attorneys to ensure quality assurance.
- e. Reasonable standards and attorney qualifications for assignment of various types of cases.
- f. The Proposer's work plan to handle complaints.
- g. The Proposer's system to screen new appointments upon intake to discover cases with conflicts of interest; immediately notify the affected client(s), and take steps to be removed as counsel.

5.3.3. COST

- a. Costs are reasonable for the work proposed to be performed.

SECTION 6

TERMS AND CONDITIONS

6.1 REQUEST FOR PROPOSAL CLOSING DATE

Proposals must be received in the Lake County Administrative Office on or before 4:00 p.m. on date specified on each separate proposal.

Proposals shall be presented under sealed cover and clearly identified on the outside to read:

- Name of the Proposer
- Address of the Proposer

- Subject of the Proposal
- Request for Proposal Number
- Proposal Submittal Deadline Date

It is the sole responsibility of the submitting Proposer to ensure that its proposal is received before the submission deadline.

Proposal must be labeled as: **Lake County Request For Proposal No. 1012-0217**

Without law or policy to the contrary, if the Proposer took reasonable steps to submit the proposal in due time, and failure of the proposal to be on hand at the time of closing was not the result of negligence or other fault of the Proposer, but was the result of negligence by the County, the County reserves the right to accept such proposal.

All proposals shall remain firm for at least one hundred twenty (120) days following the proposal closing date. The County reserves the right to withhold an award of the proposal for one hundred twenty (120) days from date of closing.

All proposals and accompanying documentation submitted by the will become the property of the County and will not be returned. Proposals shall be based on the material contained in the proposal. Proposers are instructed to disregard any prospective oral representations it may have received prior to the solicitation of the proposal.

Cost for developing and preparing the proposal is solely the responsibility of the Proposer whether or not any award results from this solicitation. Further, the cost of developing and preparing responses to the proposal will not be allowed as direct or indirect charges under any resulting Agreement.

No alteration in any of the terms, conditions, and/or delivery of services will be effective without prior written consent of the County.

THE COUNTY RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO REJECT ANY OR ALL PROPOSALS OR ANY PART THEREOF, OR TO WAIVE ANY INFORMALITIES IN THE PROPOSAL AND MINOR IRREGULARITIES, TECHNICAL DEFECTS OR CLERICAL ERRORS, TO MAKE AN AWARD ON THE BASIS OF SUITABILITY, QUALITY OF SERVICE(S) TO BE SUPPLIED, THEIR CONFORMITY WITH THE SPECIFICATIONS AND FOR THE PURPOSES FOR WHICH THEY ARE REQUIRED, AND NOT CONFINED TO PRICE ALONE. THE COUNTY SHALL NOT BE LIABLE FOR ANY COSTS INCURRED BY THE PROPOSER IN CONNECTION WITH THE PREPARATION AND SUBMISSION OF THIS OR ANY OTHER PROPOSAL.

6.2 INTERPRETATION, CORRECTIONS AND AMENDMENTS

The Proposer must carefully examine the specifications, terms and conditions provided in the Request for Proposal and become fully informed as to the requirements set forth therein. If anyone planning to submit a proposal discovers any ambiguity, conflict, discrepancy, omission or error in the proposal, has any questions in relationship to the "REQUIREMENTS" (Section 3), or any other related matters, shall

immediately notify the contact person as shown on the cover page of this RFP of such concern in writing and request clarification or modification of the document(s) no later than the Question and Answer deadline as set forth under Section 2.2, "SCHEDULED ACTIVITIES". No further requests for clarification or objections to the proposal will be accepted or considered after this date. Any change in the proposal will be made only by written amendment, issued by the Lake County Administrative Office to each vendor on the Proposers list as well as posted on the County website, and shall be incorporated in the proposal. The Proposer shall sign and date the amendment and submit same with the proposal. **Any oral communication by the County's designated contact person or any other County staff member concerning this proposal is not binding on the County and shall in no way modify this proposal or the obligations of the County or any Proposers.**

The Proposer may e-mail questions to the Buyer whose name is specified on the RFP, or mail to:

Lake County Administrative Office

255 N. Forbes Street

Lakeport, California 95453

Attention: Request For Proposal Information 1012-0217

All inquiries shall be directed to the designated County staff person shown on the RFP. Contact with any other County personnel or any undue "badgering" of such County personnel by the Proposer is prohibited. Failure to comply with this request may be considered cause for disqualification of your proposal.

6.3 DISCUSSION WITH RESPONSIBLE PROPOSERS AND CLARIFICATIONS TO PROPOSAL

The County may, in its sole discretion, conduct discussions with Proposers who submit proposals determined to be responsive and have the potential of being selected for an award, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Such clarifications may be permitted after submission of proposals and prior to award. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers to anyone outside the Evaluation Committee. The purpose of such discussions shall be to examine Proposers:

- Qualifications
- Proposed method of performance
- Proposed personnel and facilities
- Compensation

All Proposers submitting a proposal for consideration agree that their company will be willing to enter into a final Agreement if awarded this proposal. The County may, in its sole discretion, negotiate certain terms and conditions of such final Agreement after identification of the apparent successful Proposer.

However, Proposers should not assume that any terms of this RFP or other applicable terms and conditions are subject to later negotiation, and should instead assume that all such terms and conditions are mandatory conditions of participation in this RFP process. Negotiated changes, if any, will not change the "Requirements".

6.4 ANNOUNCEMENT OF APPARENT SUCCESSFUL PROPOSER

Based upon the qualifying and respective evaluations, the Evaluation Committee will recommend commencement of Agreement finalization. The Board of Supervisors will officially decide to select or reject the negotiated Agreement.

6.5 FALSE OR MISLEADING STATEMENTS

Proposals which contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the Proposer, may be rejected. If, in the opinion of the County, such information was intended to mislead the County in its evaluation of the proposal, and the attribute, condition or capability is a requirement of this proposal, it will be the basis for rejection of the proposal.

6.6 RULES FOR WITHDRAWAL OR REVISION OF PROPOSALS

A proposal which is submitted prior to the deadline may be withdrawn or revised any time prior to, but not after, the deadline for receipt of proposals provided that the request for withdrawal or revision is in writing and executed by the Proposer's duly authorized representative. The request for withdrawal or revision of the proposal must be filed with the Lake County Administrative Office before the deadline for the receipt of proposals. The withdrawal of a proposal shall not prejudice the right of a Proposer to submit a new proposal, provided the Proposer can submit the new proposal by the deadline stated herein.

6.7 INDEPENDENT CONTRACTOR

It is expressly understood that in the performance of any services resulting from this proposal, Proposer is an Independent Contractor and is not an agent or employee of the County and warrant that all persons assigned to the program/project are employees, or subcontractors, of the Proposer. In the event the awarded Proposer shall employ others to complete or perform the services provided, Proposer shall be solely responsible and hold the County harmless from all matters relating to the payment of such person(s).

It is mutually understood and agreed that no employee-employer relationship will be created between County and Proposer or County and Proposer's employees, and that the awarded Proposer shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes, contributions or premium imposed or required by workers' compensation, unemployment insurance, social security, income tax or other statutes or codes applying to Proposer, or its Sub-Contractors and employees, if any. It is mutually agreed and understood that the Proposer, its Sub-Contractors and employees, if any, shall have no claim under any Agreement that may result from this

proposal or otherwise against County for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

6.8 EXPLANATION OF USE OF SUB-CONTRACTORS

Any Proposer using a Sub-Contractor(s) must clearly explain the use of the Sub-Contractor(s) and list the name(s) of the Sub-Contractor(s) providing work under this proposal the selected Proposer will be fully responsible for all work performed under this proposal and will be considered as the Prime Contractor. Any Sub-Contracting, or other legal arrangements made by the Proposer are the sole responsibility of the Proposer. Any Agreement that is entered into between the selected Proposer and the Sub-Contractor(s) shall contain provisions for federal and state access to the books, documents, records, and inspection of work. Proposer awarded any Agreement as a result of this proposal shall obtain County written approval of sub-contractors identified in Proposer submittal prior to execution of Agreement.

6.9 JOINT VENTURES

In the event a proposal is submitted jointly by more than one organization, one legal entity must be designated as the Prime Contractor. All other participants shall be designated as Sub-Contractors.

6.10 CONFIDENTIALITY

The contents of all proposals, correspondence, agenda, memoranda, or any other medium which discloses any aspect of a Proposer's proposal shall be held in the strictest confidence until after negotiations for the contract are negotiated. If you contend that any submission contains trade secrets or proprietary data, please be advised that the County cannot and does not give any assurances or guarantees that such information will not be released under the California Public Records Act. The Proposer should clearly mark any of the information within their proposal that is proprietary, however, the County will be guided by the California Public records Act and the definition of Trade Secrets under California Civil Code Section 3426.1, but in no case will the following be considered proprietary: a) the final cost of the bid or proposal; b) information that is not clearly marked as proprietary in nature; c) information that, though marked as proprietary, is not actually proprietary d) information that is otherwise generally available as information or technology within the subject trade, industry or profession.

PROPOSER SHALL NOT DESIGNATE THE ENTIRE PROPOSAL AS PROPRIETARY. SUCH ATTEMPTED DESIGNATION WILL NOT BE HONORED.

Submission of a proposal by a Proposer shall constitute an agreement to the provision for public announcement. The County shall not be obligated to release information contained in any Proposer's RFP submittal that has been marked as proprietary, without the written consent of the Proposer. Any agency requesting such information so marked as proprietary must obtain such written authorization directly from Proposer and forwarded to County.

County shall not be required to contact any Proposer for information on behalf of any requesting agency. Lake County shall have the sole discretion and exclusive authority to determine if any other party has properly obtained the right to have access to proprietary information.

6.11 DETERMINATION OF PROPOSER'S RESPONSIBILITY

- **Responsible Proposer**

A responsible Proposer is a Proposer who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the Agreement.

6.12 PUBLIC DISCLOSURE

All public records of the County are available for disclosure except the contents of the proposals received in response to an RFP, which are not open for public review until the contract between the awarded Proposer and the County is agendized with the Board of Supervisors. In the event that an unsuccessful Proposer files an official request to view the awarded Proposer's proposal, the County must comply with appropriate public disclosure procedures. However, if information specifically designated in the proposal as proprietary is requested County may attempt to notify Proposer should Proposer wish to pursue protections against disclosure, at its own cost, so that the information will not be made available.

Pursuant to the California Public Records Act, Government Code Sections 6250 *et seq.*, any contract that eventually arises from this Request for Proposal is a public record, in its entirety. Also, all information submitted in response to this Request for Proposals is itself a public record **without exception**, and will be disclosed upon request, but only after negotiations are complete. Submission of any materials in response to this Request for Proposals constitutes your consent to release materials, and a waiver of any claim that the information is protected from disclosure. Furthermore, by submitting materials, you agree to indemnify and hold harmless Lake County for release of such information.

6.13 QUALIFICATIONS OF PROPOSER

The County may make such investigation as it deems necessary to determine the ability of the Proposer to provide the services requested herein, and the Proposer shall furnish to the County all information and data for this purpose as the County may request. The County reserves the right to reject any proposal should the evidence submitted by, or investigation of, the Proposer fails to satisfy the County that such Proposer is properly qualified to carry out the obligations of the proposal and to complete the requirements contemplated therein.

6.14 DISQUALIFICATION OF PROPOSER

A Proposer may be disqualified and the proposal rejected, in addition to any other cause for rejection as set forth elsewhere in this proposal, for any of, but not limited to, one of the following reasons:

- Proof of collusion among Proposers, in which case all proposals involved in the collusive action will be rejected and any participant to such collusion will be barred from future bidding until reinstated as a qualified Proposer.
- Lack of responsibility or cooperation as shown by past work or services provided to the County or others.
- Being in arrears on existing Agreements with the County or having defaulted on previous Agreements.
- Delivery of their proposal after the deadline specified in the proposal.
- Incomplete information or missing documents as required in the proposal.

6.15 INTEGRITY OF EXPENDITURE

The Proposer assures that every reasonable course of action will be taken to maintain the integrity of expenditure of public funds and to avoid any favoritism, questionable, or improper conduct.

6.16 GRATUITIES

Neither the Proposer nor any person, firm, or corporation employed by the Proposer shall give, directly or indirectly, to any employee or agent of the County, any gift, money, or anything of value, or any promise, obligation, or Agreement for future reward or compensation, neither during the proposal process nor during the performance of any Agreement period resulting from this proposal.

6.17 CONFLICT OF INTEREST

The Proposer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this proposal. Proposer shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or sub-Contractors, and the County. Proposer shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables them to influence any award of this proposal or any competing offer, shall have any direct or indirect financial interest resulting from any Agreement that may be derived from this proposal or shall have any relationship to the Proposer or officer or employee of the Proposer, nor that any such person will be employed by Proposer in the performance of any Agreement that may be derived from this proposal without immediate divulgence or such fact to the County.

6.18 FEDERAL, STATE, AND LOCAL TAXES

The awarded Proposer shall pay all taxes lawfully imposed upon it with respect to this proposal or any product delivered with respect to the Agreement. The County makes no representation whatsoever as to the exemption from liability to any tax imposed by any government entity on the awarded Proposer.

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6.19 DRUG FREE WORK PLACE

The awarded Proposer must certify that it will provide a drug-free workplace as set forth by the Federal Drug-Free Workplace Act of 1988.

6.20 COMPLIANCE WITH APPLICABLE LAWS

The successful Proposer shall otherwise perform all obligations under the resulting Agreement in compliance with all applicable federal, state, and local laws, rules, regulations, and policies.

6.21 LEGAL CONSIDERATIONS

Any Proposer, by submission of a response to this proposal, and any subsequent Agreement that may be derived from this proposal, shall be deemed and have agreed to be bound by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance.

Notwithstanding any other provisions of this proposal, any dispute concerning any question of fact or law arising under this proposal, or arbitration arising out of any Agreement that may be awarded as a result of this proposal, shall be tried in Lake County, unless the parties agree otherwise or are otherwise required by law.

DEFINITIONS

Proposer - A person, partnership, firm, corporation, or joint venture submitting a bid proposal for the

Closing Date/Time - The day and time the Request for Proposal must be received in the office of the Lake County Administrative Office for acceptance.

Consultant - The Proposer awarded the Agreement derived from this RFP.

Agreement - Comprises the Request for Proposal (RFP), any amendment thereto, the bid proposal, and the purchase order if appropriate. The Agreement constitutes the entire agreement between the County and the awarded Proposer.

Contractor - The Proposer or Vendor awarded the Agreement derived from this Bid or RFP.

County - The County of Lake, a political subdivision of the State of California.

Deliverable - The physical evidence such as documentation, certification of completion, hardware/software delivery, etc. which shows that a specific work has been completed as specified in the "Requirements" (Section 3).

Evaluation Committee - A committee established to review and evaluate proposals to determine the Agreement award. The committee includes representatives of the department seeking the goods or services.

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Formal Date of Award - Effective date the Board of Supervisors take formal action to award the subject RFP to the most responsive Proposer.

Goals/Tasks - A discrete unit of work to be performed.

Joint Ventures - Two or more corporations or entities that form a temporary union for the purpose of the RFP.

May – Indicates something that is not mandatory but permissible.

Must/Shell – Indicates a mandatory requirement. A proposal that fails to meet a mandatory requirement will be deemed non-responsive and not be considered for award.

Notice of Intent to Award - Letter sent by County to all participating Proposers advising them of the date the County Board of Supervisors will hear and possibly take action in awarding the Agreement to the apparent successful Proposer as recommended by the Evaluation Committee.

Objectives/Sub-Tasks - Detailed activities that comprise the actual performance of the Goal/Task. The total of all Goals/Tasks and Objectives/Sub-Tasks makes up the "Requirements".

Prime Contractor - The Proposer who is awarded the Agreement and designated as the legal entity. The Prime Contractor will hereafter also be known as the Contractor. Any sub-Contracting, Joint Ventures, or other legal arrangements made by the Contractor during this project are the sole responsibility of the Contractor.

Proposal Deadline - The closing date associated with this proposal.

Proprietary – The information provided that is considered exempt from public disclosure defined as Trade Secrets under Civil Code Section 3426.1, pursuant to Public Records Act.

Scope of Work - The mutually agreed to document which describe tasks, dependencies, the sequence and timing of events, deliverables, and responsible parties associated with the various phases of the proposal.

Sub-Contractors - Any person, entity or organization, to which Contractor or County has delegated any of its obligations hereunder.

Tasks – A discrete unit of work to be done.

Vendor - A person, partnership, firm, corporation, or joint venture submitting a bid or proposal for the purpose of obtaining a County Agreement.

Work Plan - The mutually agreed to document, which describes task, dependencies, the sequence and timing of events, deliverables, and responsible parties, associated with the various phases of the proposal.

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ATTACHMENT A

SIGNATURE PAGE

(PROPOSER TO COMPLETE AND PLACE IN FRONT OF PROPOSAL)

INDIVIDUAL/COMPANY:

ADDRESS:

CONTACT PERSON: _____

TITLE: _____

TELEPHONE NO. _____

E-MAIL ADDRESS _____

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has the authority to sign on behalf of the organization and assures that all statements made in the proposal are true, agrees to furnish the item(s) and/or service(s) stipulated in this Request for Proposal at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise stipulated.

"I certify that I have read the Sample Agreement (Exhibit 1) pursuant to the submittal of a Request For Proposal (RFP) and will comply with said Sample Agreement, unless otherwise noted by exception herein, as of the date and time of close of this proposal".

Authorized Representative - Name

Title

Signature (in blue ink)

Date

Professional License No.: _____

Taxpayer Identification No.: _____

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EXHIBIT 1

Sample Agreement

AGREEMENT FOR INDIGENT DEFENSE SERVICES

THIS AGREEMENT, is made and entered into by and between the County of Lake, a political subdivision of the State of California, (hereinafter referred to as "COUNTY"), and (name of contracting company or individual; specify the type of organization such as - government agency, individual, corporation, partnership,), located at (Street Address, Suite No., City, State) (hereinafter referred to as "ATTORNEY").

WHEREAS, the Constitution guarantees persons charged with the commission of a crime the right to be represented by counsel; and,

WHEREAS, Penal Code Section 987.2 authorizes COUNTY to pay a reasonable sum for compensation and for necessary expenses of court-assigned counsel in cases in which the court determines that the Public Defender is unable, due to a conflict of interest or other reason, to represent a person who desires but is unable to employ counsel; and,

WHEREAS, on (date), COUNTY issued its Request for Proposal #(proposal number) for Indigent Defense Services (hereinafter "RFP"), soliciting proposals from attorneys and firms for the provision, on a contract basis, of the usual and customary legal services to indigent defendants in the Lake County Superior Courts; and,

WHEREAS, ATTORNEY responded to the RFP with a comprehensive proposal, dated (date), (hereinafter "Proposal"), wherein ATTORNEY represented that ATTORNEY possessed the skill, experience and facilities to provide competent and adequate legal representation of up to seven (7) levels of conflict defense to indigent defendants in a case for a period of approximately three (3) years a fixed contract amount pursuant to the terms described in the RFP, which Proposal would provide budgetary stability and cost efficiency to COUNTY; and,

WHEREAS, it is in the interest of justice, efficiency and the benefit of indigent defendants that COUNTY contracts with private counsel to render the usual and customary legal services of a public defender

AGREEMENT

1. DEFINITIONS

- A. "ATTORNEY" shall mean (name of contracting company or individual; specify the type of organization such as - government agency, individual, corporation, partnership, i).
- B. "COUNTY" shall mean the County of Lake, a political subdivision of the State of California.
- C. "Court" shall mean the Lake County Superior Court, including the branch courts and the Juvenile Court of Lake County, unless otherwise specifically indicated.

- D. "Indigent" shall mean a person for whom the Court is required, by statute or case law in effect during the term of this Agreement, to appoint counsel at public expense,.
- E. "Contract Attorney(s)" shall mean that independent attorney who is under contract to ATTORNEY to provide legal defense services in cases to indigents.

2. SCOPE OF SERVICES

A. General Duties

All attorneys providing services under this Agreement, including Contract Attorneys, shall at all times each be an Attorney at Law admitted to practice in the State of California and shall at all times maintain active status with the California State Bar Association.

ATTORNEY shall complete in a professional and diligent manner all legal representation of indigent persons that ATTORNEY is properly appointed to represent, consistent with Section 27706(a) of the Government Code. ATTORNEY agrees to provide competent and adequate legal representation of indigent defendants when appointed to do so by a judge of the Lake County Superior Court.

ATTORNEY's representation shall be of the kind usually and customarily as a complete legal defense service in criminal cases for indigent defendants whom the Court appoints ATTORNEY to represent. Such complete legal defense services shall include, without limitation, all necessary court appearances for motions, trials, adjudications, hearings, dispositions and sentencing; preparation of writs, legal research and trial preparation; necessary support services, including, without limitation, investigative, paralegal and clerical support services; necessary ancillary services including, without limitation, expert witnesses, psychological evaluations; all necessary motions and appearances to the conclusion of the proceeding, including, without limitation, requests for modification of probation, alleged violations of probation or failure in a diversionary program or other representation of a previously sentenced or adjudicated client not involving new criminal charges and collateral appearances for such actions as dismissals under Vehicle Code Section 41500 or as part of a plea bargain agreement; all legal defense services reasonably and legally required therein from the time of appointment through a final adjudication of the proceeding, including those duties required by Penal Code Section 1240.1 (a) and Welfare and Institutions Code Section 800; and all other and such other legal representation or services necessary to provide complete legal defense services to disposition of a defendant's case.

ATTORNEY, including Contract Attorneys, shall perform the services hereunder with the care, skill and diligence associated with professional attorneys and in accordance with the applicable professional standards currently recognized by such profession. ATTORNEY shall be responsible for the professional quality, technical accuracy, completeness and coordination of all reports, information, and other items and services furnished under this Agreement. ATTORNEY shall comply with all applicable Federal, State, and Local laws, ordinances, codes, and regulations in performing the services hereunder. ATTORNEY shall, without additional compensation, correct or revise any errors or deficiencies in its reports and other related items or services.

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B. Proceedings Covered Under Flat Fee

ATTORNEY agrees to accept appointments to represent such indigent defendants regarding any case, which for this Agreement is defined to encompass any and all of the proceedings enumerated below,. ATTORNEY shall defend, without expense to the defendant, an indigent defendant at any and all stages of a Covered Proceeding. A "Covered Proceeding" shall mean the following cases in which COUNTY is responsible for legal representation costs:

- i. All non-capital criminal cases;
- ii. Capital Cases - first-chair only;
- iii. Civil Contempt cases;
- iv. Paternity cases;
- v. Welfare and Institutions Code 602 cases (Juvenile Delinquency);
- vi. Writs of Habeas Corpus stemming from underlying criminal cases;
- vii. Conservatorships in accordance to Lanterman-Perris-Short Act;
- viii. Probation violations;
- ix. Motions for new trials;
- x. Motions to withdraw a plea;
- xi. Any proceedings in the appellate court prior to conviction which are deemed necessary by ATTORNEY;
- xii. Any appeals of misdemeanor cases to the appellate department of the Superior Court which are deemed necessary by the ATTORNEY; and

C. Additional Compensation – Capital and Complex Cases

Capital cases beyond first-chair and complex cases requiring extraordinary attorney time shall be subject to additional compensation to be determined by the parties subsequent to good-faith negotiations.

D. Provide (TBD) Levels of Conflict Defense

ATTORNEY shall provide legal defense services for up to (TBD) conflict levels for individual indigent defendants in a case. ATTORNEY shall employ that combination of attorneys and/or Contract Attorneys as are necessary to ensure the delivery of complete legal defense services for up to (TBD) indigent defendants in a case.

E. Attorney Staffing and Coverage

ATTORNEY shall deploy such attorneys in such sufficient numbers and with the requisite preparation, experience and availability as will provide the legal representation contemplated in this Agreement and as will ensure that the business of the Court is not unreasonable delayed or impeded. ATTORNEY shall provide a sufficient number of competent attorneys in order to deliver legal services to indigent defendants hereunder and provide adequate coverage to the Court.

F. Contract Attorneys

ATTORNEY and COUNTY have the mutual objective to achieve a legal defense system that provides indigent defense services for up to (TBD) levels of conflict defense in a case. Therefore, ATTORNEY shall maintain under contract a sufficient number of attorneys, presently estimated to be (number) to (number) Contract Attorneys, to provide adequate legal defense services to indigent defendants.

ATTORNEY recognizes COUNTY's objective to obtain legal services across all (TBD) levels of conflict defense. A Contract Attorney declaring a conflict in representing an indigent defendant exposes COUNTY to increased costs for court-appointed attorneys to represent the indigent defendant. COUNTY desires that such conflicts be minimized so that the maximum number of indigent defendants receives representation under this Agreement instead of through court-appointed attorneys. To that end, and to the extent permitted by law, ATTORNEY shall endeavor to minimize the number of Contract Attorneys who allege a conflict of interest. ATTORNEY shall provide COUNTY with a monthly statistical report on the number of declared conflicts by Contract Attorneys. In addition, ATTORNEY shall promptly initiate such procedures as will assist ATTORNEY in minimizing declared conflicts of interest. ATTORNEY shall also consult with COUNTY at least every six (6) months to review changes or refinements to the Agreement or the parties' implementation thereto that are reasonably needed to minimize the number of conflicts resulting in court-appointments of private attorneys. However, ATTORNEY shall meet with COUNTY at times earlier than every six (6) months if the circumstances warrant and upon COUNTY's request. An important purpose of the aforesaid reports, meetings and consultation is to avoid causing COUNTY to incur additional costs from a Court appointment of private counsel at COUNTY expense.

ATTORNEY's contracts with private attorneys shall be in writing and shall contain provisions that: (1) prohibit them from seeking a court appointment directly from the Court to represent any indigent defendant ATTORNEY previously assigned to them; (2) prohibit them from converting any indigent defendant ATTORNEY previously assigned to them into a private criminal defense client;; (3) require all Contract Attorneys to obtain the insurance policies required of ATTORNEY in "INSURANCE" Section of the Agreement, and to name COUNTY as endorsed on the policy an additional insured in each such insurance policy. ATTORNEY shall include in each contract with a private attorney the provisions set forth in the "Attorney Staffing and Coverage" and "Personnel", and subsections of this Agreement.

Contract Attorneys shall maintain offices separate from the ATTORNEY and from such other attorneys that ATTORNEY engages to act as a Contract Attorney. The use of separate offices is to avoid conflicts of interest and an ethical "glass wall," as that term is recognized in *Castro v. Los Angeles County Board of Supervisors* (1991) 232 Cal.App.3d 1432.

ATTORNEY shall remain legally responsible for the performance of all terms of this Agreement, including the work performed or to be performed by Attorney employees or other subcontractors. Any subcontracting by ATTORNEY shall be subject to all applicable provisions of this Agreement.

G. Appointment Process

The indigent defense system to be implemented by ATTORNEY hereunder provides for the referral by the Court. The Court will appoint ATTORNEY, and ATTORNEY will assign a Contract Attorney to represent the defendant. In the event the Contract Attorney declares a legal conflict of interest, the case will be referred back to (name of contracting company or individual) for assignment to an alternate Contract Attorney. Through the hiring of sufficient and competent Contract Attorneys, ATTORNEY will ensure that X) levels of conflict defense will be provided hereunder.

H. Ancillary Services

ATTORNEY and COUNTY acknowledge that although this Agreement includes costs for legal and investigative expenses, ancillary and supportive services may be necessary to provide adequate representation to indigent defendants. In addition, California and Federal courts have ruled that there is an inherent conflict of interest in cases when the ATTORNEY must choose between spending funds on their own compensation or, in the alternative, on experts or other services potentially benefiting the client. Accordingly, the "Ancillary Services" Section of this Agreement provides a separate list of the types of ancillary services not to be paid by the ATTORNEY and that will be paid by the COUNTY.

ATTORNEY shall provide such ancillary and supportive services as may be necessary to provide adequate representation, including, but not limited to, investigative services, expert witnesses, forensic experts where deemed necessary by ATTORNEY, and such other services properly required by ATTORNEY designed to assist the indigent defendant in the preparation and presentation of his or her case. Ancillary services are to be provided in accordance with such policies and fee schedules of the Court as are applicable hereto.

ATTORNEY shall retain a sufficient number of investigators on staff or under contract at all times to provide investigative services adequate to service the projected caseload. ATTORNEY and Contract Attorneys are required to use investigators who are licensed or exempt from licensure by the State of California for any and all services pertaining to the fulfillment of this contract in accordance with the Business and Professions Code Section 7520 et seq.

The following ancillary services shall be provided by ATTORNEY but to be paid by the COUNTY:

- i. Expert witness fees, payable in accordance with State law;
- ii. Transcription Fees;
- iii. Interpreter Services;
- iv. Polygraph Services
- v. Costs for Psychological Evaluations and Reports;

- vi. Laboratory and Forensic Services ;
- vii. Extraordinary costs/expenses related to defense representation (with prior approval); and
- viii. Other specialized services which cannot reasonably be provided by ATTORNEY's staff.

I. Private Practice of Law

ATTORNEY shall be allowed to engage in the private practice of law, including the defense of those charged with crimes, provided that no private case may cause a conflict of interest which would prevent ATTORNEY from providing the contracted services herein. ATTORNEY shall not accept any compensation or other material benefit for providing legal defense services to any indigent defendant in a case that is a Covered Proceeding under this Agreement. Under no circumstances shall ATTORNEY receive compensation for providing legal defense services to an indigent defendant in a Covered Proceeding except pursuant to this Agreement. ATTORNEY shall also refrain from any actions resulting in a referral of an indigent defendant, subsequently determined to be eligible to receive legal defense services under this Agreement in a Covered Proceeding, to a different attorney already employed by ATTORNEY for compensation other than from this Agreement. These restrictions are specifically intended to include Contract Attorneys.

J. Office Access and Appointments

ATTORNEY shall maintain an adequate Lake County office that shall be open during normal business hours for appointments by indigent defendants who are not in custody. ATTORNEY shall maintain published office addresses and telephone numbers and a telephone answering service or devices for taking telephone messages during non-business hours. ATTORNEY shall utilize an adequate number of bilingual staff in order to service Spanish-speaking or other non-English speaking clients. In-custody clients generally shall be interviewed within thirty-six (36) hours of ATTORNEY's appointment. Out-of-custody clients generally shall be interviewed within seventy-two (72) hours of ATTORNEY's appointment.

K. Obligation to Keep Courts Informed

ATTORNEY shall keep all courts informed of the status of pending cases for which ATTORNEY has been appointed and shall advise the Court at the earliest possible time as to whether cases will be settled or go to trial, whether continuances are needed, whether and whenever interpreters will be needed, and other such matters bearing on the scheduling of cases before the Court. At the commencement of this Agreement, ATTORNEY shall submit to COUNTY written plans setting forth the deployment of attorneys and Contract Attorneys in the Court, including the Juvenile Court and branch courts, for the COUNTY's review and approval. Attorney shall submit to the COUNTY updates of the deployment plans as soon as reasonably possible to reflect changes in deployment of attorneys.

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L. Administration of Attorneys

ATTORNEY shall generate written practices and procedures for use by all attorneys providing services under this Agreement, including Contract Attorneys which are designed to avoid, whenever possible, the existence of conflicts of interest . Upon request, ATTORNEY shall provide COUNTY and the Court a list of attorneys providing services under this Agreement. Each list shall contain a brief biographical sketch pertaining to each attorney's professional experience. ATTORNEY shall notify COUNTY and the Court of any proposed changes in attorney staffing, including Contract Attorneys.

M. Declining Court Appointments

ATTORNEY shall not decline court appointment in any cases except for legal conflict of interest or other legal grounds.

N. Personnel

ATTORNEY represents that all attorneys providing services under this Agreement, including Contract Attorneys, shall possess at all times herein the requisite experience, training, skill and competence to provide competent legal services as assigned counsel and are willing to provide the services described in this Agreement. ATTORNEY represents that the ATTORNEY has, or will secure at its own expense, all personnel required to provide the services described in this Agreement. All of the services required to be provided hereunder will be performed by ATTORNEY, ATTORNEY 's legal r staff under its supervision, or ATTORNEY's contracting attorneys and all personnel engaged in the work shall be qualified to perform such services. ATTORNEY's personnel expressly agreed that they are not the employees of the COUNTY. ATTORNEY staff and Contract Attorneys shall consist of such attorneys, paralegal and clerical personnel in sufficient quantity and quality to meet all constitutional, statutory, and case law requirements for the defense of indigents in Lake County and to adequately and professionally carry out the duties and obligations set forth in this Agreement.

O. Registration; Accounting; Reimbursements

At the conclusion of a case and upon request of the Court, ATTORNEY shall provide the Court with an accounting of all time expended and costs to assist in determination of the cost of counsel pursuant to Penal Code Section s 987.4 and 987.8.

ATTORNEY shall assist COUNTY in obtaining qualifying reimbursements from the State of California, should any attorney providing services hereunder be assigned cases involving "homicide", "special circumstance" as charged by the District Attorney, "not guilty by reason of insanity pleas" and "sexually violent predator civil commitments" such cases shall be clearly identified on all reports. In addition to required monthly reports, a report reflecting total costs for these type cases shall be provided to COUNTY within thirty (30) days of the end of each fiscal year.

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P. Client's Interest

ATTORNEY shall at all times be governed solely by considerations of the client's interests and at no time shall the exercise of ATTORNEY's judgment in the performance of the legal services on behalf of ATTORNEY's client be subject to the direction or control of COUNTY or any representative of COUNTY.'

Q. Other Indigent Legal Services

ATTORNEY agrees to meet and confer with COUNTY, upon receipt of ninety (90) days notice by COUNTY, concerning any need for further indigent legal services not specifically set forth in this Agreement, including any modifications associated with potential changes to the indigent legal services system.

R. Coordination Meeting

Upon request, the ATTORNEY shall meet with COUNTY and/or Court representatives to coordinate indigent defense services being provided and improve any inefficiency that may be within ATTORNEY's scope of control.

3. CASELOAD AND WORK LEVELS

COUNTY has disclosed to ATTORNEY all information it possesses concerning the type and number of cases handled by COUNTY's prior contractors for this service. ATTORNEY agrees that, based upon this information and ATTORNEY's own independent investigation of the facts and circumstances surrounding the provision of indigent conflict defense services in Lake County, and ATTORNEY's own experience in the criminal law field representing indigent defendants, this Agreement contains an expanded definition of the duties to be provided to an indigent defendant. ATTORNEY further agrees that it is experienced as an attorney in the representation of indigent defendants, and that its projections are based upon its independent investigation and consideration of the circumstances, policies and practices within Lake County and has recommended a flat fee rate for the provision of services hereunder. ATTORNEY and COUNTY acknowledge that many factors outside the control of the parties can affect the ability of ATTORNEY to accurately project caseloads and/or work levels with certainty. The Court and the prosecution largely control such factors as the length of time between arraignment and trial, local sentencing practices and pleading negotiation practice. ATTORNEY has anticipated and liquidated in its flat fee and projected yearly increases, to the extent possible, all additional expenses arising from such change, and ATTORNEY assumes the risk of and hereby waives any claim(s) to additional compensation for expenses which may be incurred by reason of such or similar circumstances.

These agreements and representations of ATTORNEY are a significant inducement to COUNTY to enter into this Agreement, and COUNTY relies upon ATTORNEY's experience and understanding of the criminal justice system and its vagaries, as well as ATTORNEY's understanding of the circumstances likely to occur during the term of this Agreement.

Notwithstanding the foregoing, extraordinary events or conditions beyond the reasonable expectation of the parties may give rise to a need to modify or adjust this Agreement to ensure that ATTORNEY will be able to perform the obligations of this Agreement and to provide adequate legal representation. In

the event of such extraordinary events or conditions, ATTORNEY may request COUNTY to agree to modify this Agreement, upon reasonable notice and satisfactory proof thereof, to provide for the occurrence of such extraordinary events or conditions to permit ATTORNEY to continue to perform its obligations under this Agreement. COUNTY maintains the right to choose to enter or not enter into any such modification of this Agreement. Extraordinary circumstance may include the cumulative effect of multiple homicide cases involving extreme expenses. In the event that the ATTORNEY is required to devote an extraordinary expenditure of time and effort not reasonably foreseen by this Agreement, ATTORNEY may apply to the Lake County Board of Supervisors for a modification to this Agreement to provide for additional reasonable compensation.

4. AVOIDING CONFLICTS OF INTEREST

The parties recognize that ethical considerations such as those referred to in the Rules of Professional Conduct may prohibit the ATTORNEY from accepting some appointments normally included in the Agreement caseload. The ATTORNEY agrees to establish a system for immediately screening new appointments upon intake to discover potential conflicts of interest.

Specifically ATTORNEY agrees and warrants that they are familiar with and will comply with Rule 3-320 of the State Bar of California's Rules of Professional Conduct. Further, Attorney agrees to provide County a letter on an annual basis describing Attorney's compliance with Rule 3-320 as it relates to any Attorney partner or employee. Said letter is incorporated by reference.

Upon discovery of a conflict of interest or other ethical considerations which preclude further representation by ATTORNEY or any Contract Attorney, ATTORNEY shall immediately notify the affected client(s) and the Court and assist in the referral and/or transfer of the case to another attorney to provide indigent legal services of the same type. COUNTY must be advised when ATTORNEY is not able to provide representation as described in this Agreement.

ATTORNEY shall not be prohibited from engaging in the private practice of law, including the defense of those charged with crimes in any and all proceedings, provided that no private case shall be accepted which may cause a conflict of interest to arise wherein ATTORNEY would be thereby rendered unable to represent an indigent person.

Cases must be assessed as to seriousness and complexity and only assigned to indigent defense providers who possess the requisite relevant experience, training, and ability necessary for such matters.

Reasonable maximum caseloads should be established after evaluating the workload that each type of case represents in the context of the criminal practices and procedures used in Lake County. No attorney should be assigned more cases than he/she can effectively handle

5. MINIMUM PROFESSIONAL QUALIFICATIONS

ATTORNEY shall ensure that all attorneys performing legal services under this Agreement are active members in good standing of the State Bar of California. ATTORNEY shall maintain ongoing

communications with the local Bar Association and other interested professional groups to assure that ATTORNEY's operations meet the established professional standards for adequate representation. ATTORNEY shall, during the term of the contract, report to the County pending disciplinary matter within 24 hours of becoming aware of it.

ATTORNEY shall provide to COUNTY names of all attorneys performing legal defense services under this Agreement, their experience, qualifications, and areas of specialization, and shall update this information promptly as necessary. ATTORNEY shall develop and establish categories of minimum special qualifications and categories of cases for which each attorney is eligible to handle.

The legal representation provided by ATTORNEY and all attorneys performing legal services under this Agreement shall be of such high quality as will meet all constitutional, statutory, case law, and professional standards and requirements. Federal and State Constitutions require provision of competent counsel in criminal cases. In California, the test for determining competency of counsel in criminal cases is that of a "reasonably competent attorney acting as a diligent, conscientious advocate" (*People v. Pope* (1979) 23 Cal.3d 412.) ATTORNEY agrees to provide competent legal services in conformity with the above standards. Specifically, the following duties and responsibilities of counsel as set forth in prior court decisions and professional standards will be observed. These include:

- A. The duty of careful, factual and legal investigation. (*See, People v. Ybarra* (1983) 60 Cal.2d 480 - duty to research the law and raise settled objections; *In re Saunders* (1970) 2 Cal.3d 1033 - duty to investigate medical reports and conduct psychiatric examinations; and American Bar Association Standard on the Defense Function (hereinafter referred to as "ABA Standards"), Section 4.1)
- B. The duty to take prompt action to protect a client's legal rights. (ABA Standards, Section 3.6a (includes procedural steps such as moving for pre-trial release, obtain psychiatric examination, moving for change of venue or continuance, suppression of illegally obtained evidence, severance from jointly charged defendants, or dismissal)).
- C. The duty to keep a client informed. (ABA Standards, Section 3.8.)
- D. The duty to prepare for jury selection, examination of witnesses, submission of instructions and presentation of argument at trial. (*See, ABA Standards*, Sections 7.2(a) and 7.2(b).)
- E. The duty to know and explore sentencing alternatives. (ABA Standards, Section 8.1(b).)
- F. The duty to advise concerning appeals. (ABA Standards, Section 8.2(a).)
- G. The duty not to accept more cases than can be competently handled. (*See, Martin v. State Bar* (1978) 20 Cal.3d 717.)
- H. The duty not to handle a legal matter which the attorney knows or should know that he or she is not competent to handle. (Code of Professional Responsibility, Canon 6, disciplinary rule no. 6-101(a).)

- I. The duty to maintain confidences and secrets.
- J. The duty to administer an attorney's office in full compliance with any and all constitutional, legal, ethical, professional obligations, duties and responsibilities.

This Agreement shall be construed so no breach occurs if ATTORNEY's conduct is dictated by constitutional or statutory requirements, ATTORNEY's duties to the courts, clients, rules of professional responsibility, or considerations of professional ethics.

ATTORNEY, in the performance of this Agreement, shall comply with all applicable federal, state and local laws, and the regulations, guidelines, procedures and standards promulgated thereunder, as well as all applicable professional standards.

6. PROFESSIONAL TRAINING AND DEVELOPMENT

ATTORNEY shall ensure that the ongoing legal education of its staff attorneys and/or contracting attorneys includes formal training likely to assist the individual attorney's professional development in providing indigent defense services

7. COMPENSATION

A. Total Contract Price

Except as enumerated hereinafter in subsection 7.B, the Total Contract Price to be paid ATTORNEY by COUNTY is not to exceed (*type out contract price, i.e., Five Thousand Dollars and No/100 Cents*) consisting of the services to be provided hereunder, including the work to be performed hereunder, for all of the administration, management and supervision, attorney services, support services, facilitation of ancillary services, and other services identified in ATTORNEY'S Proposal to COUNTY's RFP, all as further defined and specified in this Agreement (hereinafter referred to as "Total Contract Price.").

The Total Contract Price includes all of the prices, fees, charges and expenses necessary in accordance with this Agreement to provide the services hereunder and to meet the requirements of ATTORNEY's Proposal and COUNTY's RFP. The Total Contract Price is the sole consideration to be paid to ATTORNEY hereunder, and includes provision for all out-of-pocket costs, such as computer time, freight, long distance telephone charges, travel expenses, copying, telecopying, faxing and postage, and for all items or services necessary to deliver the services described herein. Accordingly, no amounts not specified in the "Ancillary Services" subsection shall be billed to or paid by COUNTY, except pursuant to this Agreement or amendment hereto authorized by COUNTY'S Board of Supervisors. ATTORNEY shall not assign any payments or portions of payments without prior written consent of COUNTY.

ATTORNEY's agreement to the flat fee in this Agreement is based upon ATTORNEY's Proposal and ATTORNEY's independent investigation and review of the statistical information set forth in the COUNTY's RFP and ATTORNEY's Proposal. The parties agree and represent to each other that the flat fee basis of compensation has been established after consideration of the facts set forth in California Penal Code Section 987.3.

B. Exceptions to Total Contract Price:

- i. Ancillary services which are provided for above in the "Ancillary Services" subsection above; and
- ii. Capital cases beyond first-chair and complex cases requiring extraordinary attorney time.

C. Ancillary Services

All attorney and investigative expenses for representing indigent defendants are included under this Agreement, except for those non-attorney expenses listed below. Those costs deemed necessary and reasonable by the Court in the performance of services authorized by this contract shall be paid by the COUNTY:

- i. Expert witness fees, payable in accordance with State law;
- ii. Transcription Fees;
- iii. Interpreter Services;
- iv. Polygraph Services
- v. Costs for Psychological Evaluations and Reports;
- vi. Laboratory and Forensic Services ;
- vii. Extraordinary costs/expenses related to defense representation (with prior approval); and
- viii. Other specialized services which cannot reasonably be provided by ATTORNEY's staff.

To provide funds for the purpose of reimbursement of the reasonable and necessary charges for these ancillary services to the direct providers thereof, the parties agree that the above mentioned ancillary expense will be forwarded to and paid by the COUNTY. The ATTORNEY shall notify the COUNTY in advance of estimated costs for each expense, except for those items requiring approval.

D. Payments

ATTORNEY shall receive payment according to the following schedule:

The COUNTY shall pay ATTORNEY as compensation for all services to be rendered under this Agreement, except as delineated in subsection "E" below, the Total Contract Price of (type out contract price, i.e., Five Thousand Dollars and No/100 Cents); to be paid in the following manner:

For the period (date) to (date) (the "First Year"), twelve equal monthly payments of (type out monthly price, i.e., Five Thousand Dollars and No/100 Cents), which totals (type out contract price, i.e., Five Thousand Dollars and No/100 Cents) (the "First Year Compensation").

The compensation payable under this subsection is the maximum amount which COUNTY shall pay ATTORNEY for providing legal defense services to indigent defendants under this Agreement, and ATTORNEY shall assume and pay all other expenses incurred in ATTORNEY's performance under this Agreement.

E. Payment for "Exceptions to Total Compensation":

Capital cases beyond first-chair and complex cases requiring extraordinary attorney time, shall be subject to additional compensation to be determined by the parties subsequent to good-faith negotiations.

F. Other Payment Provisions:

COUNTY shall receive all funds collected pursuant to Penal Code Sections 987.4, 987.6 and 987.8, Government Code Section 27712, and any other statutes or case law providing for reimbursement for the cost of legal defense services rendered under this Agreement, and no portion of said funds shall inure to ATTORNEY's benefit or otherwise affect the amounts specified in the "Payments" Section of this Agreement.

COUNTY, upon consultation with the Court, reserves the right to reduce the monthly compensation of ATTORNEY if it appears that the ATTORNEY has not or will not be handling the contracted share of assignments.

Any and/or all payments made under this Agreement shall be paid by check, payable to the order of the ATTORNEY and be mailed or delivered to ATTORNEY at:

NAME

ADDRESS

CITY/STATE/ZIP

ATTORNEY may request COUNTY to have the check mailed or delivered to ATTORNEY, in such a manner of, or at such other address as, ATTORNEY may from time to time designate to COUNTY. Such request must be made in writing in accordance with such procedures as outlined under the "NOTICES" Section of this Agreement.

8. TERM; CONTINUATION OF REPRESENTATION

The term of this Agreement shall be from (date) through and including (date), unless sooner terminated as set forth in the "TERMINATION" Section, below.

ATTORNEY shall provide services under this Agreement in cases which have not been closed to which ATTORNEY or its independent attorney subcontractors have been appointed previously under prior agreements and to which they are appointed by the Court, from (date) through (date). ATTORNEY (or its independent attorney subcontractors assigned) shall continue to work on those cases, even though

they have not been concluded by the end of the Term set forth in the prior agreement, in the manner hereafter provided.

- A. If COUNTY and the ATTORNEY extend or renew this Agreement or enter into a similar new agreement, there shall be no additional compensation paid to ATTORNEY under this Agreement. However, if this Agreement is not extended or renewed, then commencing (date), COUNTY will pay ATTORNEY as follows:
 - I. On or before (date), each attorney who has a case or cases under this Agreement (or a previous contract) that are still pending in court, shall ask the Court to allow him or her to withdraw from each such case, effective (date) and have the Court appoint another attorney to assume the duties of the defense attorney in each such case. If the Court grants the motion and the said attorney is relieved from all such cases, then his or her duties under this contract are ended, and COUNTY shall pay ATTORNEY through (date), and remainder of this section shall not apply to ATTORNEY (or its independent attorney subcontractors). However, if said ATTORNEY or its independent attorney subcontractors have one or more cases in which they are still the attorney of record on (date), the County shall negotiate with ATTORNEY compensation to be paid based on the evaluation of caseload.
 - II. This Agreement is scheduled to end on (date). After (date), under this Agreement, the Court shall not assign any cases to ATTORNEY (or its independent attorney subcontractors), and ATTORNEY (or its independent attorney subcontractors) shall not accept cases. The amount COUNTY pays to ATTORNEY for the month of (month, year) shall be called "End Pay" and shall be calculated as set forth in Section 7. C.

9. TERMINATION

This Agreement may be terminated in accordance with the following:

A. Non-Allocation of Funds

The terms of this Agreement and the services to be provided hereunder are contingent upon the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time by giving the ATTORNEY thirty (30) days advance written notice.

B. For Cause

COUNTY may, in addition to any other remedies it may have, by giving written notice thereof to ATTORNEY in the manner set forth under Section titled, "NOTICES," immediately suspend or terminate this Agreement in full or in part, where in the determination of COUNTY there is sufficient cause due to:

- i. An illegal or unethical use of funds;

- ii. A failure to comply with any term of this Agreement;
- iii. A substantially incorrect or incomplete report submitted to COUNTY;
- iv. Improperly performed services;
- v. Any of the following actions or inaction by ATTORNEY:
 - a. Pleading no contest to or being found guilty of a felony or a crime involving moral turpitude;
 - b. Persistent failure or inability to perform the duties of the Agreement, whether willful or otherwise;
 - c. Disability that seriously interferes with the performance of duties and is permanent or is likely to become permanent;
 - d. Willful misconduct by ATTORNEY pertaining to contract performance;
 - e. Habitual intemperance or the use of intoxicants or drugs;
 - f. Conduct prejudicial to the administration of justice which brings ATTORNEY into disrepute;
 - g. Conduct prejudicial to the administration of COUNTY's interests in entering this Agreement, specifically additional expense to COUNTY resulting from ATTORNEY actions contrary to the spirit of this Agreement. Persistent failure or inability to perform shall not be construed to encompass actions within the discretionary duties of ATTORNEY.
- vi. Any of the following occurrences:
 - a. Institution of proceedings by or against ATTORNEY under the United States bankruptcy laws;
 - b. Suspension of business operations, failure or receivership of ATTORNEY;
 - c. Any assignment of this Agreement without prior written approval of COUNTY;
 - d. Failure by ATTORNEY to procure or maintain required insurance, as specified in the "INSURANCE" Section of this Agreement;
 - e. Failure by ATTORNEY to procure or maintain required bonding, as specified in the "INSURANCE" Section of this Agreement;
 - f. Failure by ATTORNEY to administer the delivery of legal services hereunder in full compliance with any and all constitutional, legal and professional

obligations or requirements, and/or duties and responsibilities governing ATTORNEY's conduct under this Agreement.

- vii. Any other occurrence or omission constituting a breach of contract.

In no event shall any payment by COUNTY constitute a waiver by COUNTY of any breach of this Agreement or any default that may then exist on the party of ATTORNEY. Neither shall such payment impair or prejudice any remedy available to COUNTY with respect to the breach or default. COUNTY shall have the right to demand of ATTORNEY the repayment to COUNTY of any funds disbursed to ATTORNEY under this Agreement, which in the judgment of COUNTY were not expended in accordance with the terms of this Agreement. ATTORNEY shall promptly refund any such funds upon demand.

C. Without Cause

Under circumstances other than those set forth above, COUNTY may terminate this Agreement upon the giving of ninety (90) days advance written notice of an intention to terminate. ATTORNEY may terminate this Agreement upon giving one hundred twenty (120) days advance notice of an intention to terminate.

D. No Further Liability.

Upon the effective date of termination, COUNTY shall have no further liability to ATTORNEY except for payment for actual services rendered during the performance hereunder to the time specified in said notice, not previously reimbursed by COUNTY to the extent such costs are actual, necessary, reasonable and verifiable, and have been incurred by ATTORNEY prior to and in connection with discontinuing the work hereunder.

E. Transition

Upon the termination or expiration of the Agreement, ATTORNEY shall cooperate fully with COUNTY and with such persons as may be designated by COUNTY to succeed ATTORNEY or to whom ATTORNEY may replace in order to effect the orderly transition of legal services from ATTORNEY to ATTORNEY's successor or vice-versa. The cooperation specified in this paragraph includes, but is not limited to, the releasing or acceptance of such files, papers and records as may be required to carry out the provisions of this Agreement, and any subsequent Agreement with the successor ATTORNEY or assumption of caseloads as otherwise required by COUNTY, and insuring the continued adequate legal representation of persons eligible for the services herein set forth.

10. DISPOSITION OF WORK UPON TERMINATION

In the event of termination, all finished or unfinished documents and other materials, if any, at the option of COUNTY, and to the extent permitted by law, shall become the property of the COUNTY and ATTORNEY shall be entitled to receive compensation for any work completed prior to receipt of the notice of termination. Neither party, however, shall be relieved of liability to the other for damages sustained by either party by virtue of any breach of this Agreement, regardless of whether this

Agreement was terminated at will or for cause. COUNTY may withhold any payments not yet made to ATTORNEY for purpose of setoff until such time as the exact amount of damages due to COUNTY from ATTORNEY is determined and which are signed by both parties.

11. INSURANCE

Contractor shall not commence work under this Contract until he has obtained all the insurance required herein, certificates of insurance have been submitted to County and said insurance has been approved by County. The certificates of insurance shall contain a provision that coverage afforded under the policies will not be canceled until at least twenty days (20) prior written notice has been given to County.

Contractor shall not allow any subcontractor to commence work on his subcontract until the insurance required of the subcontractor has been obtained.

Any failure of Contractor to maintain the insurance required by this section, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Contract.

Certificates evidencing the issuance of the following insurance shall be filed with the County within ten (10) days after the date of execution of this Contract by Contractor:

- A **Compensation Insurance:** Contractor shall procure and maintain, at Contractor's own expense, during the term hereof, Workers' Compensation Insurance and Employer's Liability Insurance as required by the State of California, for all employees to be engaged in work. In case any such work is sublet, Contractor shall require subcontractor similarly to provide Employer's Liability and Workers' Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by Contractor's Workers' Compensation Insurance. Employer's Liability Insurance shall be in an amount not less than \$1,000,000 per occurrence
- B **Commercial General Liability:** Contractor shall procure and maintain, at Contractor's own expense during the term hereof, upon himself and his employees at all times during the course of this Contract, Commercial General Liability Insurance (Occurrence Form CG 0001), for bodily injury, personal injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single-limit coverage per occurrence including but not limited to endorsements for the following coverage's: premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.
- C **Automobile Liability Insurance:** Contractor shall procure and maintain, at Contractor's own expense during the term hereof, Comprehensive Automobile Liability Insurance, both bodily injury and property damage on owned, hired, leased and non-owned vehicles used in connection with Contractor's business in an amount of not less than one million dollars (1,000,000) combined single-limit coverage per occurrence.
- D. **Subcontractors:** Contractor shall include all subcontractors as insured's under the aforesaid policies or shall furnish separate certificates and endorsements for each subcontractor to County for review and approval. All coverage's for subcontractors shall be subject to all of the requirements hereinabove and contain the additional insured endorsement required by Contractor hereinafter.

- E. **Additional Insured Endorsement:** The Commercial General Liability and automobile policies are to contain, or be endorsed to contain, the following provisions:
- I. The County, its officers officials employees, agents and volunteers are to be covered as additional insured's and shall be added in the form of an endorsement to Contractor's insurance on Form CG 20 38 04 13 or coverage at least as broad. All coverage available to the Contractor shall also be available and applicable to the County. Any available insurance proceeds in excess of the specified minimum limits and coverage shall be available to the County. Contractor shall not commence work under this Contract until he has had delivered to County the Additional Insured Endorsements required herein.
 - II. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- F. **Other Insurance Provisions:**
- i. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the County, its officers officials employees, agents and volunteers. Any insurance or self-insurance maintained by County, its officers officials employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance. Any excess insurance by Contractor shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the County before the County's own primary Insurance policy or self-insurance shall be called upon to protect the Contractor.
 - ii. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: Contractor shall reduce or eliminate such deductibles or self-insurance retentions; or Contractor shall provide a financial guarantee satisfactory to County guaranteeing payment of losses and related investigations, claim administration and defense expenses.
 - iii. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.
 - iv. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude Contractor from taking other actions as is available to it under any other provision of the Contract or law. Failure of County to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.
 - v. If any insurance coverage required by the Contract is provided on a "Claims Made", rather than "occurrence" form, Contractor agrees to maintain required coverage for a period of three years after the expiration of this Contract (hereinafter, "Post Agreement Coverage") and any extensions thereof. Contractor may maintain the required Post Agreement Coverage by renewal or purchase of prior acts or tail coverage. This subprovision is contingent upon Post Agreement Coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Contract. For purposes of

interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Contract in order to purchase prior acts or tail coverage for Post Agreement Coverage shall be deemed to be reasonable.

- vi. Contractor agrees to waive all rights or subrogation against County, its officers, officials, employees, agents, and volunteers for losses arising from work performed by Contractor under this Contract.

12. INDEMNIFICATION

ATTORNEY has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, COUNTY, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of ATTORNEY.

ATTORNEY's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the ATTORNEY, its agents, sub-Contractors and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim or allegation of liability against County. ATTORNEY will on request and at its expense defend any action suit or proceeding arising hereunder. This clause for indemnification shall be interpreted to the broadest extent permitted by law.

13. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that ATTORNEY is an independent Contractor in the performance of the work duties and obligations devolving upon ATTORNEY under this Agreement. County shall neither have, nor exercise any control or direction over the methods by which ATTORNEY shall perform the assigned work and functions. The contractual interest of County is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner.

It is agreed that no employer-employee relationship is created and ATTORNEY shall hold County harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes; any contributions or premiums imposed or required by workers' compensation; any unemployment insurance; any social security income tax; and any other obligations from statutes or codes applying to ATTORNEY, or its sub-Contractors and employees, if any.

It is mutually agreed and understood that ATTORNEY, its sub-Contractors and employees, if any, shall have no claim under this Agreement or otherwise against the County for vacation pay, sick leave,

retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause.

ATTORNEY shall insure that all its personnel and employees, sub-Contractors and their employees, and any other individuals used to perform the contracted services are aware and expressly agree that County is not responsible for any benefits, coverage or payment for their efforts.

14. RECORDS, INFORMATION AND REPORTS

ATTORNEY shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, County shall have free access to non-privileged materials at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement.

To the extent permitted by law, ATTORNEY shall furnish County such periodic reports as County may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection therewith shall be borne by the ATTORNEY.

15. RETENTION OF FILES

ATTORNEY or ATTORNEY 's contracting attorney shall maintain all files and time records for each case in safe storage for at least seven (7) years, or longer as made necessary by the applicable statutes of the State of California at the conclusion of services rendered by ATTORNEY or ATTORNEY's contracting attorneys in the case, unless such files are assigned to successor counsel in the case. COUNTY shall have access to such files as necessary for administration of this Agreement or a successor contract, but COUNTY shall observe the confidentiality of such files for all other purposes.

16. REPORTS AND INFORMATION

To the extent permitted by law, ATTORNEY shall furnish COUNTY such periodic reports as COUNTY may request pertaining to the work or services undertaken pursuant to his Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement, shall be borne by ATTORNEY.

As set forth in the Proposal, ATTORNEY shall specifically provide to the County Administrative Officer monthly statistical reports within thirty (30) days of the end of the month covered by the report. The report shall indicate the number of cases received per month, the numbers and types of cases referred to Contract Attorneys, the number of open cases, the total number of cases closed and their disposition, the number of cases assigned to private investigators, the total number of open cases maintained by each private investigator, the total number of cases closed by each private investigator, and any other additional information deemed necessary by the COUNTY. Said reports must be provided in an electronic format (via email or a computer storage disk).

17. PERSONAL SATISFACTION AS A CONDITION PRECEDENT

The obligations of the COUNTY as provided in this Agreement are expressly conditioned upon ATTORNEY's compliance with the provisions of the contract to the personal satisfaction of the COUNTY. COUNTY shall determine compliance in good faith and as a reasonable person would under the circumstances.

18. COMPLETE AGREEMENT

This Agreement and any additional supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other contracts, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

19. ADMINISTRATION OF AGREEMENT

COUNTY shall designate a representative to administer this Agreement. Said designee shall ensure the enforcement of the terms of this Agreement and coordinate the duties of the ATTORNEY.

20. COUNTY NOT OBLIGATED TO THIRD PARTIES

COUNTY shall not be obligated or liable to any party other than ATTORNEY.

21. COUNTY'S RIGHTS NOT WAIVED BY PAYMENTS

In no event shall the making, by the COUNTY, of any payment to ATTORNEY constitute, or be construed as, a waiver by the COUNTY of any breach of covenant, or any default which may then exist, on the part of ATTORNEY, and the making of any such payment by the COUNTY while any such breach or default shall exist be construed as acceptance of substandard or careless work or as relieving ATTORNEY from its full responsibility under this Agreement.

22. NOTICES

The persons and their addresses having authority to give and receive notices under this Agreement include the following:

COUNTY

NAME

ADDRESS

CITY/STATE/ZIP

PHONE

ATTORNEY

NAME

ADDRESS

CITY/STATE/ZIP

PHONE

- A. Any and all notices between COUNTY and ATTORNEY provided for or permitted under this Agreement shall be in writing and shall be deemed duly served when personally delivered to

one of the parties, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such party.

- B. Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service.
- C. Any party may change its address of fax number by giving the other party notice of the change in any manner permitted by this Agreement.

23. APPLICABLE LAW; VENUE

All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon County unless agreed in writing by County and counsel for County.

Notwithstanding any other provision of this Agreement, any disputes concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in Lake County, unless the parties agree otherwise or are otherwise required by law.

24. AMENDMENT; NO WAIVER; INTERPRETATION

Except as provided herein, no alteration, amendment, variation, or waiver of the terms of this Agreement shall be valid unless made in writing and signed by both parties. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder. No interpretation of any provision of this Agreement shall be binding upon COUNTY unless agreed in writing by the County Executive Office and County Counsel.

25. REMEDY FOR BREACH AND RIGHT TO CURE

Notwithstanding anything else in this Agreement to the contrary, if ATTORNEY fails to perform any obligation of this Agreement, the County may itself perform, or cause the performance of, such agreement or obligation. In that event, ATTORNEY will, on demand, fully reimburse County for all such expenditures. Alternatively, County, at its option, may deduct from any funds owed to ATTORNEY the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the County by law or as otherwise stated in this Agreement.

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26. SUCCESSORS IN INTEREST

All the terms, covenant, and conditions of this Agreement shall be binding and in full force and effect upon any successors in interest and assigns of the parties hereto. This paragraph shall not be deemed as a waiver of any of the conditions against assignment set forth herein.

27. CONFLICT OF INTEREST

ATTORNEY covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. ATTORNEY shall ensure that no conflict of interest exists between its officers, employees, or sub-Contractors, and the COUNTY. ATTORNEY shall ensure that no County officer or employee in a position that enables them to influence this Agreement will have any direct or indirect financial interest resulting from this Agreement. ATTORNEY shall ensure that no County employee shall have any relationship to the ATTORNEY or officer or employee of the ATTORNEY, nor that any such person will be employed by ATTORNEY in the performance of this Agreement without immediate divulgence of such fact to the COUNTY.

28. NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES

ATTORNEY and any sub-Contractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of County, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. ATTORNEY shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of County employees and agents, and recipients of services are free from such discrimination and harassment.

ATTORNEY represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and ensure a workplace free of sexual harassment pursuant to Government Code 12950; and regulations and guidelines issued pursuant thereto.

ATTORNEY agrees to compile data, maintain records and submit reports to permit effective enforcement of all applicable antidiscrimination laws and this provision.

ATTORNEY shall include this nondiscrimination provision in all subcontracts related to this Agreement and when applicable give notice of these obligations to labor organizations with which they have Agreements.

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29. CAPTIONS

The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

30. SEVERABILITY

If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to ATTORNEY from the County may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

31. DUPLICATE COUNTERPARTS

This Agreement may be executed in duplicate counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by both parties.

32. DISPUTES

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between them. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party's right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this lease agreement on the day and year first above written at _____, California

COUNTY OF LAKE

ATTORNEY

CHAIRMAN, Board of Supervisors

ATTEST: Carol J. Huchingson
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
Anita L. Grant
County Counsel

By: _____

CASE STATISTICS FOR LAKE COUNTY COURTS

Felony Filings Per Fiscal Year			
Fiscal Year	FY2013-2014	FY2014-2015	FY2015-2016
Homicide	9	4	4
Forcible Rape	0	2	1
Kidnap	3	1	2
Assault	109	115	131
Robbery	21	17	18
Sexual Offense	17	19	18
Property Offense	171	180	130
Drug Offense	505	309	210
Other Felony	254	207	222
Miscellaneous Petitions	6	5	0
Writ of Habeas Corpus	61	36	49
Total Filings Per Fiscal Year	1156	895	785

Total Felony Trials Started	19	18	15
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Misdemeanor Filings Per Fiscal Year			
	FY2013-2014	FY2014-2015	FY2015-2016
Assault & Battery	264	262	282
Property Offense	216	221	246
Drug Offense	398	367	470
Sexual Offense	6	3	3
Other Non-traffic Misd	381	330	404
DUI	345	346	319
Other Traffic Misd	53	60	64
VC14601	269	240	333
Total Filings Per Fiscal Year	1932	1829	2121

Total Misdemeanor Trials Started	12	7	6
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