County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

"To Enrich Lives Through Effective And Caring Service"

Board of Supervisors
GLORIA MOLINA
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May 13, 2014

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

13 May 13, 2014

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

AGREEMENTS FOR SPECIAL LEGAL SERVICES –
PROBATION DEPARTMENT
(ALL DISTRICTS AFFECTED)
(3 VOTES)

SUBJECT

This is a recommendation to terminate the Agreement Number 77426 with Cynthia Hernandez related to the Office of Independent Review for the Probation Department and concurrently enter into a separate agreement with Cynthia Hernandez for the provision of special legal services for the Probation Department.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and instruct the Chairman of the Board to sign the attached Agreement for Special Legal Services for the Probation Department with Cynthia Hernandez for the provision of special legal services to the Probation Department, commencing upon execution by the Board of Supervisors and terminating June 30, 2017, with a total base annual compensation amount not to exceed $207,930 plus actual and necessary expenses incurred.

2. Delegate authority to the Chief Executive Officer to execute all amendments to the Agreement for Special Legal Services with Cynthia Hernandez that are necessary to implement Board directives regarding the functions and scope of specialized legal services for the Probation Department.

3. Approve and instruct the Chairman of the Board to sign the attached Amendment Number Three to Agreement Number 77426 with Cynthia Hernandez to terminate Agreement Number 77426 in its entirety, effective upon execution by the Board of Supervisors, to allow Cynthia Hernandez to now provide special legal services for the Probation Department pursuant to a separate agreement for

special legal services.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

As requested by the Chief Probation Officer, we are recommending approval of the attached Agreement for Special Legal Services for the Probation Department (Agreement) with Cynthia Hernandez (Chief Attorney), who will fill the vacancy left by the Office of Independent Review (OIR). Because Cynthia Hernandez is currently serving in the capacity as OIR Attorney for Probation, we are also recommending termination of her current agreement, Agreement Number 77426 which expires June 30, 2014, to allow for her contracted service as Chief Attorney.

The Chief Attorney shall assist the Chief Probation Officer in fulfilling his duties and obligations by investigating allegations of intradepartmental misconduct, including that which constitutes criminal conduct which he, as the Chief Probation Officer, has the duty to investigate. The Chief Attorney shall oversee and coordinate the independent review process and shall perform such specialized legal services as are necessary to accomplish such oversight and coordination.

Implementation of Strategic Plan Goals

This action supports the County's Strategic Plan Goal 1: Operational Effectiveness; Maximize the effectiveness of the process, structure and operations to support timely delivery of customer-oriented and efficient public service. The specialized legal services will help enhance the County's ability to protect the well-being and safety of its citizens, clients, and employees.

FISCAL IMPACT/FINANCING

The proposed Agreement provides that the Chief Attorney is paid a total base annual compensation amount of $207,930, plus actual and necessary expenses incurred. Sufficient funding is included in Probation's budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The term of the Agreement shall commence upon execution by the Board of Supervisors and shall terminate on June 30, 2017. The expiration date of the Agreement runs concurrent with the end of the fiscal year. Either party may terminate the Agreement, for any or no reason whatsoever, by giving the other party no less than thirty calendar days advance written notice of such termination.

Under the Agreement, the Chief Attorney's key responsibilities include but are not limited to: 1) providing periodic status reports on selected investigations, uses of force, the disciplinary process, and reviews of significant matters; 2) assisting in the initiation, structuring, and development of ongoing internal investigations conducted by Probation Department's Professional Standards Bureau to ensure that investigations are complete, effective, and fair; 3) participating, as necessary and appropriate, in ongoing investigations including interviewing witnesses, responding to crime scenes, and reviewing tangible evidence and relevant documentation; 4) Monitoring ongoing investigations and reviewing completed investigations conducted by Probation Department's Professional Standards Bureau to ensure that content, disposition, and discipline are appropriate; and 5) monitoring and making recommendations about direction, disposition, discipline, and corrective action throughout the disciplinary process.

Under the Agreement, the Chief Attorney receives a base annual compensation in the amount of

$207,930. The Chief Attorney shall also receive reimbursement for actual and necessary expenses incurred. The base annual compensation amount is based upon the expectation that the time devoted to County services by the Chief Attorney will be comparable to the time a full-time County employee is expected to devote to the County. The Agreement provides for a discretionary increase in annual compensation in the event that the Board approves a general percentage salary adjustment for County employees in any given year.

The County agrees to provide the Chief Attorney with office space, equipment, a vehicle, and staff support and assistance as set forth in the Agreement. Probation will utilize an additional staff attorney and an investigator for comprehensive oversight, as well as one support staff. When the vacancies are filled, a recommendation for approval to fill the vacancies of the staff attorney and investigator will be submitted to the Board.

In consideration of the benefit to the County of the specialized legal assistance and independent review services to be provided by the Chief Attorney under the Agreement, the County agrees to indemnify, defend, and hold the Chief Attorney harmless from claims of liability resulting from acts and omissions of the Chief Attorney in the performance of services provided within the scope of services required pursuant to the Agreement, to the same extent as if the Chief Attorney was a County employee under California Government Code section 995 et seq.

Pursuant to California Government Code Section 31000, the Board has the authority to contract for specialized services to assist the Chief Probation Officer in the performance of his duties.

Amendment Number Three to Agreement Number 77426 with Cynthia Hernandez will terminate Agreement Number 77426 in its entirety, effective upon execution by the Board of Supervisors.

County Counsel has approved the attached Agreement and Amendment Number Three to Agreement Number 77426 as to form.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the proposed Agreement with the Chief Attorney will ensure uninterrupted provision of this critical function and service.

CONCLUSION

Upon approval by your Board, please return one stamped adopted copy of the letter with a stamped adopted copy of the Agreement and Amendment Number Three to Agreement Number 77426 to:

1. Chief Executive Office
   Attention: Georgia Mattera, Senior Assistant Chief Executive Officer
   500 West Temple Street, 7th Floor
   Los Angeles, CA 90012

2. Office of the County Counsel
   Attention: Roger Granbo, Assistant County Counsel
   500 West Temple Street, 6th Floor
   Los Angeles, CA 90012

3.Probation Department
Administrative Services
Attention: Kym Vieira, Administrative Deputy
9150 East Imperial Highway
Downey, CA 90242

Respectfully submitted,

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SHK:GS
LG:cg

Enclosures

c: Executive Office, Board of Supervisors
County Counsel
Probation

AGREEMENT FOR SPECIAL LEGAL SERVICES FOR PROBATION DEPARTMENT

This Agreement for Special Legal Services ("Agreement") is entered into as of this 13th day of May, 2014 by and between the County of Los Angeles ("County") and Cynthia Hernandez ("Chief Attorney") for the purpose of providing special legal services for the Los Angeles County Probation Department ("Probation Department").

RECITALS

A. WHEREAS, the Chief Probation Officer has requested the continuation of resources for the Chief Probation Officer to fulfill his duties and obligations to investigate allegations of intradepartmental misconduct, including that which constitutes criminal conduct which he, as the Chief Probation Officer, has the duty to investigate; and

B. WHEREAS, the Chief Probation Officer wishes to ensure that the allegations of intradepartmental misconduct are investigated and reviewed in a fair, thorough, and impartial manner; and

C. WHEREAS, pursuant to California Government Code Section 31000, the Board of Supervisors has the authority to contract for specialized services to assist the Chief Probation Officer in the performance of his duties; and

D. WHEREAS, the Chief Attorney has been determined to be uniquely qualified to serve as such a resource.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the County and the Chief Attorney agree as follows:

1.0 GENERAL SCOPE OF SERVICES – CHIEF ATTORNEY

1.1 The Chief Attorney shall assist Chief Probation Officer in fulfilling his duties and obligations by investigating allegations of intradepartmental

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misconduct, including that which constitutes criminal conduct which he, as the Chief Probation Officer, has the duty to investigate. The Chief Attorney shall oversee and coordinate the independent review process and shall perform such specialized legal services as are necessary to accomplish such oversight and coordination.

1.2 The Chief Attorney represents and warrants to the County, and the County relies upon such representation and warranty, that Chief Attorney has the necessary skills, competence, and expertise to fully and completely perform the specialized legal services called for under this Agreement.

2.0 CHIEF ATTORNEY DUTIES

The Chief Attorney shall perform duties and functions related to the Probation Department including but not limited to the following:

2.1 Providing periodic status reports on selected investigations, uses of force, the disciplinary process, and reviews of significant matters to the Board of Supervisors and the Chief Probation Officer.

2.2 Assisting in the initiation, structuring, and development of ongoing internal investigations conducted by the Probation Department's Professional Standards Bureau to ensure that investigations are complete, effective, and fair.

2.3 Participating, as necessary and appropriate, in ongoing investigations including interviewing witnesses, responding to crime scenes, and reviewing tangible evidence and relevant documentation.

2.4 Monitoring ongoing investigations and reviewing completed investigations conducted by the Probation Department's Professional Standards Bureau to ensure that content, disposition of employment issues, and recommended discipline are appropriate.

2.5 Monitoring and making recommendations about direction, disposition, discipline, and corrective action throughout the Probation Department's disciplinary process.

2.6 Establishing and maintaining liaison with the District Attorney, Probation Executives, Probation Units and Facilities, County Counsel, employee

unions, the Probation Commission, the United States Department of Justice, the Federal Bureau of Investigation, civil rights organizations, community based organizations, and other outside entities.

2.7 Performing thorough analyses and reviews of selected Probation Department internal investigations to determine whether Probation Department policies, practices, and procedures should be reexamined to prevent the future occurrence of similar allegations of misconduct, and when warranted, developing and proposing recommendations for revisions of the implicated policies, practices, or procedures.

2.8 Performing audits of Probation Department operations, reviewing selected internal in investigations, and studying best practices from probation departments in other jurisdictions in order to develop and improve policies, practices, and procedures to ensure that investigations of intra-departmental misconduct and disciplinary procedures are more effective, fair, thorough, and impartial.

2.9 Devising and recommending mechanisms to provide positive recognition and incentives to employees who perform duties in an exemplary fashion with regard to integrity, conduct, and other issues that frequently are the subject of discipline.

2.10 Setting an operational philosophy to ensure that the needs and goals of the community, the Board of Supervisors, the Probation Department, and the staff are met.

3.0 <u>TERM</u>

3.1 The term of this Agreement shall commence upon execution by the County Board of Supervisors and shall terminate on June 30, 2017, unless sooner extended or terminated as provided herein.

3.2 Either party may, at its sole option and discretion, terminate this Agreement, for any or no reason whatsoever, by giving the other party no less than thirty (30) calendar days advance written notice of such termination.

4.0 COMPENSATION AND EXPENSES

4.1 The Chief Attorney shall be paid an annual amount of $207,930 for services performed ("Annual Compensation Amount"), plus actual and necessary expenses incurred by the Chief Attorney pursuant to this Agreement. Reimbursement for necessary expenses shall be paid for such items at the same rates and on the same terms as for County employees pursuant to Chapter 5.40 of the Los Angeles County Code.

4.2 The Annual Compensation Amount set forth above is based upon the expectation that the time devoted to County services by the Chief Attorney will be comparable to the time a full-time County employee is expected to devote to the County.

4.3 In the event the Board of Supervisors approves a general percentage salary adjustment for County employees to be effective on or after July 1 of any given year during the term of this Agreement, such general percentage adjustment may be applied to the Annual Compensation Amount during the remaining term of this Agreement. Any such adjustment shall be effective upon the same date such general percentage salary adjustment becomes effective for County employees and shall be at the sole discretion of the County.

4.4 Payments of the Annual Compensation Amount by the County to the Chief Attorney shall be made in twelve (12) monthly installments within ten (10) business days after the first day of each month during the term of this Agreement. Reimbursement of actual and necessary expenses shall be payable on a monthly basis within ten (10) business days after submission to and approval of an invoice by the Office of County Counsel. Such invoices shall specify in detail the dates and reasons for incurring each item of expense for which reimbursement is claimed. Invoices shall be mailed or delivered to:

Office of County Counsel
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

5.0 ACCESS TO RECORDS AND CONFIDENTIALITY

5.1 The Chief Attorney shall have an attorney-client relationship with the County of Los Angeles, the Board of Supervisors, the Chief Probation Officer, and any other County department head, as applicable, when performing the special legal services provided pursuant to this Agreement.

5.2 As special counsel to the County of Los Angeles, the Board of Supervisors, the Chief Probation Officer, and any other County department head, as applicable, in performing the specialized legal assistance and independent review services provided pursuant to this Agreement, the Chief Attorney shall have access on an attorney-client basis to such confidential records of the County, its departments, and officers as may be material and relevant to performance of the Chief Attorney's services and responsibilities pursuant to this Agreement.

5.3 All communications and reports to the County, including to the Board of Supervisors, the Chief Probation Officer, and any other County department head, as applicable, shall be made or submitted on a confidential attorney-client basis. Any public reports by the Chief Attorney which are authorized by the County shall preserve all statutory and constitutional requirements of confidentiality with regard to records and individuals. All such information will be information acquired in confidence by a public employee in the course of his or her duties and not open, or officially disclosed, to the public within the meaning of California Evidence Code Section 1040.

5.4 All communications and reports to County pursuant to this Agreement shall be made or submitted only by the Chief Attorney, and not by staff.

5.5 All internal observations and determinations by the Chief Attorney in the performance of the specialized legal assistance and independent review services provided pursuant to this Agreement are and shall be considered attorney work product and subject to the appropriate claims of privilege therein.

5.6 The confidentiality of all records and materials collected and used by the Chief Attorney shall be preserved consistent with the terms of this Agreement, and shall within ten (10) business days from the date of expiration or termination of this Agreement be delivered to the Office of County Counsel for confidential retention in the manner and for the periods required by law for confidential records of the County Counsel.

6.0 COUNTY ADMINISTRATION

6.1 The County Chief Executive Officer and/or County Counsel shall serve as the County Contract Manager(s) for purposes of this Agreement.

7.0 NO ASSIGNMENT OR DELEGATION

7.1 This Agreement shall not be assignable by Chief Attorney, either in whole or in part. Any attempt to assign this Agreement shall be void and confer no rights on any third parties.

7.2 All services and duties of the Chief Attorney pursuant to this Agreement shall be the sole responsibility of the Chief Attorney, and such services and duties may not be delegated without the prior written consent of the County. Any person not employed by the County whose services are utilized by the Chief Attorney, with such prior written consent, to assist in the performance of the Chief Attorney's services and duties pursuant to this Agreement shall, prior to performing any such services, execute an agreement with the Chief Attorney, reviewed and approved by County Counsel, agreeing to abide by the terms of this Agreement, including all requirements of confidentiality.

7.3 No person assisting the Chief Attorney shall have a criminal record of conviction of a felony or any crime of moral turpitude.

7.4 The Chief Attorney shall be responsible for all assisting staff who are not County employees.

7.5 All communications and reports to County pursuant to this Agreement shall be made or submitted only by the Chief Attorney.

8.0 INDEPENDENT CONTRACTOR STATUS

8.1 The Chief Attorney is not, nor shall she or any of her employees or agents be deemed for any purposes, an employee of the County; nor shall the Chief Attorney, or any of her employees or agents, be entitled to any rights, benefits, or privileges of County employees.

8.2 The Chief Attorney shall comply with all federal, state, and local statutes, laws, and ordinances related to the payment of any employer, income, disability, or other tax which may be due by virtue of any compensation received by the Chief Attorney under this Agreement.

9.0 INDEMNIFICATION

9.1 In consideration of the benefit to the County of the specialized legal assistance and independent review services to be provided by the Chief Attorney pursuant to this Agreement, the County agrees to indemnify, defend, and hold the Chief Attorney harmless from claims of liability resulting from acts and omissions of the Chief Attorney in the performance of services provided within the scope of services required pursuant to this Agreement, to the same extent as if the Chief Attorney was a County employee under Sections 995 *et seq.* of the California Government Code.

9.2 Except as specifically provided herein, the Chief Attorney agrees to indemnify, defend, and hold the County harmless from any and all other claims of liability for damages of any nature whatsoever arising from or connected with acts or omissions of the Chief Attorney, including any workers' compensation claims, liability, or expense arising from or connected with services performed by or on behalf of the Chief Attorney by any person.

10.0 OFFICE SPACE, EQUIPMENT, AND STAFF SUPPORT

10.1 The County agrees to provide the Chief Attorney, at no cost to the Chief Attorney, with office space, equipment, and staff support and assistance as follows.

10.1.1 A Staff Attorney with the necessary skills and experience to assist the Chief Attorney in the performance of all tasks anticipated in this

Agreement. The Chief Attorney will recommend a candidate to the County to fill this position through a separate contractual arrangement approved by the Board of Supervisors.

10.1.2 An investigator/associate/attorney who has the necessary skills and experience to assist the Chief Attorney in performance of all tasks anticipated in this Agreement. The Chief Attorney will recommend a candidate to the County to fill this position through a separate contractual arrangement approved by the Board of Supervisors.

10.1.3 One (1) support staff with the necessary secretarial, data management, and/or investigation review skills and experience to assist the Chief Attorney in performance of all tasks anticipated in this Agreement.

10.1.4 Office space and furniture sufficient for the needs of the Chief Attorney, one (1) Staff Attorney, one (1) investigator/associate/attorney, and one (1) support staff, located within the Probation Headquarters Building.

10.1.5 Vehicles for the exclusive use of the Chief Attorney and one (1) Staff Attorney.

10.1.6 Cell phones, computers, printers, and related office equipment for the exclusive use of the Chief Attorney and her staff at the Probation Department.

10.1.7 Any other equipment, services, or staff assistance as may be mutually agreed upon by the Chief Attorney and the County Contract Managers. Any and all other office space, equipment, and/or staff support assistance utilized by the Chief Attorney in providing services pursuant to this Agreement shall be the sole cost and responsibility of the Chief Attorney.

10.2 All County provided equipment, office space, and staff support, and any other County provided resources, shall be used only in the provision of services under this Agreement consistent with County policies regarding the use of County equipment by County employees. Such resources,

including the County address and phone number, shall not be used by the Chief Attorney to solicit or provide services to any entities, other than the County.

10.3 All office space shall be vacated, and all equipment and other County resources provided hereunder shall be relinquished to County, immediately upon expiration or termination of this Agreement.

11.0 NOTICES

11.1 Notices required or permitted pursuant to this Agreement shall be given in writing by personal delivery or deposit in the United States mail first class postage prepaid, addressed as follows:

To County:	Office of County Counsel 648 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012
With a copy to:	Chief Executive Officer 713 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012
To Chief Attorney:	Cynthia Hernandez 9150 East Imperial Highway Downey, CA 90242

11.2 The address for notice may be changed by the County or the Chief Attorney, as the case may be, by written notice to the other party as provided herein.

AGREEMENT FOR SPECIAL LEGAL SERVICES FOR PROBATION DEPARTMENT

IN WITNESS WHEREOF, the Chief Attorney has executed this Agreement, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Agreement to be executed on its behalf by the Chairman of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof.

COUNTY OF LOS ANGELES

By _____
Chairman, Board of Supervisors

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

ATTEST:
SACHI A. HAMAI
Executive Officer-Clerk
of the Board of Supervisors

By _____
Deputy

CHIEF ATTORNEY

By _____
Cynthia Hernandez

APPROVED AS TO FORM:
JOHN F. KRATTLI
County Counsel

By _____
Senior Deputy County Counsel

ADOPTED
BOARD OF SUPERVISORS

#13 MAY 13 2014

SACHI A. HAMAI
EXECUTIVE OFFICER

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AMENDMENT NUMBER THREE
TO AGREEMENT NUMBER 77426
FOR SPECIAL LEGAL SERVICES
OFFICE OF INDEPENDENT REVIEW

This Amendment Number Three ("Amendment") to Agreement Number 77426 ("Agreement") is made and entered into this 13th day of May, 2014, by and between the County of Los Angeles ("County") and Cynthia Hernandez ("OIR Attorney").

RECITALS

WHEREAS, on September 28, 2010, County and OIR Attorney entered into the Agreement for the provision of services as OIR Attorney; and

WHEREAS, on June 11, 2013, County and OIR Attorney entered into Amendment Number One to the Agreement to extend the term of the Agreement on a month-to-month basis for a period not to exceed six (6) months from July 1, 2013 through December 31, 2013; and

WHEREAS, on December 17, 2013, County and OIR Attorney entered into Amendment Number Two to extend the term of the Agreement for three (3) months from January 1, 2014 through March 31, 2014 and, upon the recommendation of the Inspector General, thereafter on a month-to-month basis for up to three (3) additional months from April 1, 2014 through June 30, 2014; and

WHEREAS, upon the termination of the agreement with the current Deputy Chief Attorney of OIR at the Probation Department, the County seeks to contract with a Chief Attorney to perform special legal services for the Probation Department; and

WHEREAS, County and OIR Attorney agree to mutually terminate the Agreement and concurrently enter into a separate Agreement for Special Legal Services for Probation Department, whereby OIR Attorney will serve as Chief Attorney for the performance of special legal services for the Probation Department.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties mutually agree as follows:

1. Effective upon execution of this Amendment Number Three by the Board of Supervisors, Agreement Number 77426 shall be terminated in its entirety.

* * * * * *

77426, Supplement 2

AMENDMENT NUMBER THREE
TO AGREEMENT NUMBER 77426
FOR SPECIAL LEGAL SERVICES
OFFICE OF INDEPENDENT REVIEW

IN WITNESS WHEREOF, the OIR Attorney has executed this Amendment, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Amendment to be executed on its behalf by the Chairman of the Board of Supervisors.

COUNTY OF LOS ANGELES

By _____
DON KNABE
Chairman, Board of Supervisors

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

ATTEST
SACHI HAMAI
Executive Officer-Clerk
of Board of Supervisors

By _____
Deputy

77426 Supplement No. 2

OIR ATTORNEY

By _____
CYNTHIA HERNANDEZ

Date 5/8/14

APPROVED AS TO FORM
JOHN F. KRATTLI
County Counsel

By _____
Senior Deputy County Counsel

ADOPTED
BOARD OF SUPERVISORS

#13 MAY 13 2014

SACHI A. HAMAI
EXECUTIVE OFFICER