



BRADFORD R. FENOCCHIO
DISTRICT ATTORNEY

PLACER COUNTY DISTRICT ATTORNEY

11562 "B" Avenue • Auburn, CA 95603-2687
530 889-7000 • FAX 530 889-7129
www.placer.ca.gov

TO: Honorable Board of Supervisors
FROM: Bradford R. Fenocchio, District Attorney
DATE: March 21, 2006
SUBJECT: Ratify An Agreement for Special Prosecutor Services

ACTION REQUESTED

Ratify an agreement for Special Prosecutor services between the County of Placer, Placer County District Attorney Bradford Fenocchio, and James C. Brazelton up to a maximum of \$49,999.

BACKGROUND

On February 26, 2006, a Professional Services agreement with James Brazelton was carried out to appoint special counsel to prosecute the Placer County Superior Court case of People v. Timothy C. Brooks.

The contract, including an attached scope of services and payment schedule, is available and on file in the Clerk to the Board of Supervisors's office. Compensation for the professional services is a maximum of \$49,999.

PROBLEM STATEMENT

Your Board's ratification of the contract is requested.

FISCAL IMPACT

None. Funding to provide for the cost of the contract is available in the District Attorney's FY 2005-06 budget.

Description:
Contract No. _____
Administering Agency: Placer County District Attorney

PROFESSIONAL SERVICES OF

JAMES C. BRAZELTON

P.O. Box 1759
MODESTO, CA.
(209) 529-8713
Fax: 529-2312

Federal Tax ID No. 553-52-2760

Re: Case Name: People v. Timothy C. Brooks
Placer County Superior Court Case No. 42-003456

THIS AGREEMENT MADE AND ENTERED BY AND BETWEEN the County of Placer, and Placer County District Attorney Bradford Fenocchio, hereinafter referred to as "COUNTY" and James C. Brazelton, hereinafter referred to as "SECOND PARTY".

WHEREAS, the COUNTY is desirous of receiving the services of SECOND PARTY as a Special Prosecutor to perform certain services; and

WHEREAS, SECOND PARTY is willing to perform such services as a Special Prosecutor for the County of Placer;

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, it is agreed by and between the parties hereto as follows:

1. SCOPE OF WORK. COUNTY hereby hires SECOND PARTY as an independent contractor and Placer County District Attorney Bradford Fenocchio, hereby appoints SECOND PARTY as Special Prosecutor, to do that work set forth in the exhibit entitled "Scope of Work" attached hereto and incorporated herein by this reference.
2. AMENDMENT OF SCOPE OF WORK. Said Scope of Work may be amended with written approval; however, in no event shall such amendments create any additional liability to COUNTY, or additional compensation to SECOND PARTY except as set forth in this or the amended agreement.
3. TIME OF COMPLETION. SECOND PARTY agrees to prosecute the case of People v. Timothy Brooks to plea or verdict and to submit appropriate reports and other duties contained within said Scope of Work.

4. PROGRESS REPORTS. SECOND PARTY shall submit such progress reports as may be requested by COUNTY.

5. AMOUNT OF PAYMENT. COUNTY shall pay SECOND PARTY for services, and reasonable costs and expenses incurred, as set forth in the Payment Schedule attached hereto as Exhibit "B" up to a maximum of \$49,999.

This amount is the initial authorization and additional expenditures, if any, may be authorized by the COUNTY when requested and approved in advance and in writing.

6. PAYMENT SCHEDULE. Payments shall be made to SECOND PARTY as set forth in the exhibit entitled "Payment Schedule" attached hereto as Exhibit "B". Payment will be made following the completion and acceptance of work set forth in the Payment Schedule.

7. RECORDS. SECOND PARTY shall maintain at all times complete detailed records with regard to work performed under this Agreement in a form acceptable to COUNTY, and COUNTY shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this Agreement, no payments shall be made to SECOND PARTY until COUNTY is satisfied that work of such value has been rendered pursuant to this Agreement.

8. EMPLOYEES OF SECOND PARTY. All persons performing services for SECOND PARTY shall be independent contractors or employees of SECOND PARTY and not employees of COUNTY. SECOND PARTY shall be solely responsible for the salaries and other applicable benefits, including Worker's Compensation, of all such personnel.

9. HOLD HARMLESS. SECOND PARTY agrees to save harmless and indemnify COUNTY from every claim or demand of any kind or nature whatsoever which may be made by any person resulting from employees under the terms of this Agreement, and further agrees, at his own cost, expense and risk to defend any and all actions, suits, or other legal proceedings which may be brought against COUNTY as a result of such action or inaction, and further agrees that he will pay or satisfy any judgment which may be rendered therein.

10. NONASSIGNABILITY. This Agreement, rights and duties thereunder, shall not be assigned in whole or in part without the express written consent of the COUNTY.

11. INSURANCE. SECOND PARTY shall, contemporaneous with the signing of this Agreement, file with the COUNTY a Certificate of Insurance showing automobile liability insurance in an amount not less than \$100,000, for each person and not less than \$300,000, for each accident, and showing property damage coverage in an amount not less than \$50,000.

12. CANCELLATION. This Agreement may be cancelled by COUNTY upon the giving of 10 day's advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation by COUNTY or SECOND PARTY, SECOND

PARTY shall be paid for all work performed and all reasonable expenses incurred to date of cancellation.

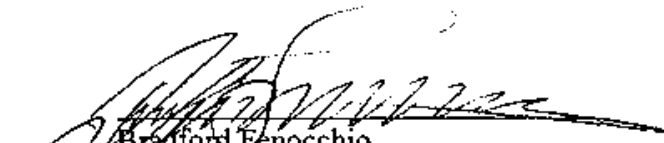
13. TERM. The term of this agreement shall cover the period beginning February 21, 2006, and continue until the services contemplated in the Scope of Work, attached hereto as Exhibit "A", is completed, unless otherwise ended pursuant to paragraph 12, above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

COUNTY OF PLACER, "COUNTY"



Thomas Miller,
County Executive Officer



Bradford Fenocchio,
Placer County District Attorney

"SECOND PARTY"

By 
James C. Brazelton

EXHIBIT A

SCOPE OF WORK

SERVICES. Provide professional services as needed and as appropriate for the prosecution of People v. Timothy C. Brooks, Placer County Superior Court Case No. 42-003456 in consultation with the Placer County District Attorney. Such services shall include all usual and necessary services normally provided in the course of prosecuting a criminal matter, including but not limited to, analysis of liability/damage exposure and settlement potential, negotiation, propounding and responding to discovery, trial, and appellate work.

REPORTS/AUTHORITY. SECOND PARTY should submit monthly progress reports and any requests for authority and/or investigation to the Placer County District Attorney:

Bradford Fenocchio
Placer County District Attorney
11562 B Avenue
Auburn, CA 95603

(530) 889-7040
Fax: 889-7129

DISPOSITION. SECOND PARTY will not enter into any disposition agreement in this matter without approval of Placer County District Attorney. SECOND PARTY will notify the District Attorney promptly of the terms of any disposition offer received.

RELEASE OF PAPERS AND PROPERTY. At the termination of services under this agreement, SECOND PARTY will release promptly to COUNTY on request all of COUNTY'S papers and property.

EXHIBIT B

PAYMENT SCHEDULE

Payment shall be made upon receipt of a detailed billing which itemizes date, work performed, time spent, and an indication of who performed the work.

LEGAL FEES. COUNTY agrees to pay SECOND PARTY for legal services at the following hourly rate, with charges in increments of one tenth (.1) of an hour. The minimum time charged will be one tenth (.1) of an hour. The hourly rate shall be \$75.00.

COSTS. COSTS are defined to include court filing fees, deposition costs and court reporters' fees, expert & consultant fees and expenses, witness fees and expenses, investigation costs, messenger & delivery fees, process server fees, large photocopy projects, fees fixed by law or assessed by courts or other agencies, and any other expenditure authorized by the Placer County District Attorney in the course of the litigation.

COUNTY authorizes SECOND PARTY to incur reasonable COSTS and shall reimburse for all such COSTS incurred. However, SECOND PARTY shall obtain the authorization of the Placer County District Attorney before incurring any cost in excess of \$1000.00; before retaining outside investigators, consultants, or expert witnesses. Payment shall be made upon receipt of a detailed billing accompanied by a copy of the billing or statement from the outside vendor or other acceptable backup paper.

TRAVEL. COUNTY authorizes SECOND PARTY to incur reasonable travel expenses, including, mileage, parking, tolls, out of county lodging and meals, and shall reimburse for all such actual costs incurred as follows. Payment shall be made upon receipt of a detailed billing accompanied by a copy of a receipt or statement from the outside vendor or other acceptable backup documentation.

Mileage- IRS rate: currently at \$.44.5 cents per mile

Breakfast- County Employee maximum rate (posted in Administrative Rules).

Lunch- County Employee maximum rate (posted in Administrative Rules).

Dinner- County Employee maximum rate (posted in Administrative Rules).

SECOND PARTY is expected to use an economically reasonable means of transportation, depending upon the circumstances and conditions anticipated. SECOND PARTY is expected to stay at economically reasonable overnight lodgings, depending upon the circumstances and conditions anticipated. Prior authorization of the Placer County District Attorney should be obtained before incurring expenses for overnight lodging and before using a mode of transportation other than by car, unless otherwise set forth in this schedule.

