

FUNDS AGREEMENT

THE STATE BAR OF CALIFORNIA

OFFICE OF ACCESS & INCLUSION – CARE COURT FUNDS 2024 - 2025

This Funds Agreement (“Agreement”) is made as of July 1, 2024, (“Effective Date”) between The State Bar of California, a California public corporation, with a principal place of business at 180 Howard Street, San Francisco, CA 94105 (“State Bar”), and Law Offices of the Public Defender, San Bernardino County, a county public defender office or equivalent entity funding public defender services on behalf of a county, with a principal place of business at 323 W. Court Street, Floor 3 San Bernardino, CA 92415 (“Recipient”). This Agreement sets forth the terms and conditions for receiving the Funds. State Bar and Recipient are sometimes hereinafter referred to individually as a “Party,” and together as the “Parties.”

RECITALS

- A. Pursuant to California Business and Professions Code Section 6210-6228 (“Act”), and Title 3, Division 5, Chapter 2 of the Rules of the State Bar of California (“Rules”), a Legal Services Trust Fund Program (“Program”) has been established in the State of California. The Office of Access & Inclusion administers the Program. The Program includes an Equal Access Fund (“Fund”) that is funded pursuant to the annual California Budget Act and the Uniform Civil Fees and Standard Fee Schedule Act of 2005 (“Fee Schedule Act”).
- B. In 2022, Senate Bill 1338 (“S.B. 1338”) was enacted, creating the Community Assistance, Recovery, and Empowerment (CARE) Court Program (Welfare and Institutions Code sections 5970-5987), as amended in 2023 by Senate Bill No. 35 (“S.B. 35”). In 2024, Assembly Bill No. 107 (“A.B. 107”) was enacted, allocating \$16,750,000 (“CARE Court Fund”) to be distributed by the Judicial Council of California through the State Bar via grant awards to qualified legal services projects and unawarded funds, if any, to public defenders to provide legal counsel pursuant to subdivision (c) of Section 5976 of the Welfare and Institutions Code for representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans by December 1, 2024 (“CARE Court Legal Services”). The CARE Court Fund was to be distributed by the State Bar to qualified legal services projects who were found to be eligible through a competitive grant process. After which, the Legal Services Trust Fund Commission shall provide any funds not awarded to qualified legal services projects for representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans in each county to that county’s public defender office to provide those services.
- C. Recipient is a county public defender office that will provide—or, where a county has no public defender office, a county office designating a county public defender equivalent entity that will provide (e.g., contract) for—representation in CARE Act proceedings, matters related to CARE agreements, and CARE plans.

D. NOW, THEREFORE, in consideration of covenants and agreements herein, and for good

and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound hereby, agree as follows:

AGREEMENTS

1. Pursuant to A.B 107, S.B. 104, S.B. 1338, S.B. 35 the Act, Rules, and Fund, and in reliance upon the promises and representations made by Recipient, the State Bar provides to Recipient \$227,164.85 ("Funding Amount").
2. The funding period will commence on October 1, 2024 ("Start Date") and end on January 1, 2026 ("End Date," with the period from the Start Date to the End Date known as the "Funding Period"). Recipient must be available to be appointed to represent respondents in CARE Act proceedings in the County of San Bernardino for the period of October 1, 2024, to January 1, 2026.
3. The Act, S.B. 917, A.B 107, S.B. 1338, S.B. 35, Fee Schedule Act, Rules, are incorporated into this Agreement as if set forth in their entirety in this Agreement. Recipient agrees to comply with the Act, S.B. 917, A.B 107, S.B. 1338, S.B. 35, Fee Schedule Act, Rules, including reporting to the State Bar all expenditures, outcomes, and other data necessary pursuant to Welfare and Institutions Code sections 5984, 5985, and 5986. Recipient agrees to comply with all lawful statutes, rules, regulations, guidelines, policies, instructions, and similar directives pertaining to the Program and the Fund (collectively, "Directives") including without limitation, any Directive adopted after the Effective Date. Recipient further agrees to comply with all applicable state and federal civil rights and anti-discrimination laws, including but not limited to the Fair Employment and Housing Act, the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990.
4. Recipient represents and warrants that its Chief Public Defender or similarly empowered staff have read and understand this Agreement, the Act, S.B. 917, A.B 107, S.B. 1338, S.B. 35, and Rules. Recipient has familiarized appropriate staff with the requirements of this Agreement, the Act, S.B. 917, A.B 107, S.B. 1338, S.B. 35, and the Rules.
5. Pursuant to Welfare and Institutions Code section 5981.5(b), the State Bar will retain control over the distribution of the Funding Amount to Recipient. It will pay the Funding Amount in one installment to be paid as soon as reasonably practicable after the Start Date. However, under no circumstances will the State Bar bear any liability to Recipient or to other persons or entities for delays in payments.
6. Termination.
 - a) Notwithstanding any other provision of this Agreement regarding the payment of the Funds, Recipient acknowledges that the Funding Amount and all payments thereof shall be made from funds received by the State Bar pursuant to A.B 107 ("State Funding"), and are contingent upon the availability and sufficiency of such funds, as determined by the State Bar in its sole discretion. Consequently, Recipient shall not be guaranteed any specific dollar amount in funds, or any funds at all, if funds received pursuant to State Funding are insufficient or unavailable to the State Bar. This Agreement shall terminate automatically if State Funding becomes unavailable. The State Bar will not assume any liability whatsoever to Recipient for any failure to pay the Funding Amount or any part thereof that results because funds are insufficient or unavailable.

- b) The State Bar may terminate for cause, without prejudice to State Bar's right to recover any Funding Amount previously paid, if Recipient fails to comply with the provisions of this Agreement. The termination shall be effective five (5) business days after the State Bar sends written notice of termination to Recipient pursuant to Section 22.
 - c) This Agreement will terminate automatically in the event of the bankruptcy or insolvency of either Party.
- 7. This Agreement does not impose on the State Bar any obligation to provide Recipient funds in excess of the Funding Amount or beyond the end of the Funding Period.
 - 8. Recipient shall spend the Funding Amount for the purposes and in the manner set forth in A.B. 107 and S.B. 1338.
 - 9. Recipient will notify the State Bar within five (5) business days after any change in any material fact affecting Recipient's eligibility to receive funds.
 - 10. Recipient will not make any misrepresentations or misstatements of fact in any communications or report to the State Bar. In the event Recipient later discovers that any statement made to the State Bar is no longer true, Recipient will notify the State Bar within five (5) business days after discovering that the statement is no longer true.
 - 11. Recipient will notify the State Bar within five (5) business days of Recipient's awareness of any of the following events: (1) a decision to change Recipient's name, merge or consolidate with another entity, cease operations, or cease the activities funded by the Funding Amount; (2) a decision to close or relocate any main or branch office; (3) significant management changes, including the departure of and/or hiring or appointment of the Chief Public Defender or equivalent position; (4) Recipient becomes insolvent or is in danger of becoming insolvent within three months; (5) a monetary judgment, settlement, sanction, penalty, or force majeure event that will substantially impact Recipient's delivery of legal services; (6) Recipient or any of Recipient's officials (e.g., officers and executive team members) or employees with control over finances or financial management responsibilities is investigated for or charged with fraud, misappropriation, embezzlement, theft, or any similar offense, or are suspended, disciplined, or delicensed by a bar or other professional licensing organization; or (7) Recipient is investigated or audited by any provider of funds to Recipient.
 - 12. The Act, S.B. 917, A.B. 107, S.B. 1338, S.B. 35, Fee Schedule Act, Rules, and Directives set forth requirements concerning the use of Program funds and payment for subcontracts to provide legal services ("Subcontracted Services"). Recipient acknowledges its obligation to inform all providers of Subcontracted Services of the requirements of the Program and to obtain from all Subcontracted Services providers a written agreement to comply with all requirements of this Agreement as if that provider is the Recipient. Recipients shall take reasonable steps to monitor the compliance of any providers of Subcontracted Services with the requirements of the Program and this Agreement. Recipients shall immediately report to the State Bar any noncompliance by any providers of Subcontracted Services with the requirements of the Program and/or this Agreement. Recipient assigns to the State Bar all rights that Recipient has or shall acquire to inspect the premises and records of providers of Subcontracted Services to ensure compliance with Program; provided, however, that disclosure of client-identifying information by a provider of Subcontracted Services shall be governed by the provisions of Section 15 above.

13. Recipient shall not represent or in any way suggest that it may obligate or pledge the credit of the State of California or of the State Bar.
14. Any notices to be given by either Party to the other must be in writing, and both emailed and delivered personally or by first-class, certified, registered, or overnight mail addressed to the Parties at the addresses stated below:

State Bar: The State Bar of California
 180 Howard Street
 San Francisco, California 94105-1617

Attention: Doan Nguyen, Program Director
 Office of Access & Inclusion
 doan.nguyen@calbar.ca.gov

Recipient: Law Offices of the Public Defender, San Bernardino County
 323 W. Court Street , Floor 3
 San Bernardino, CA 92415
 thomas.sone@pd.sbcounty.gov

Attention: Thomas Sone
 Public Defender

Each Party may change the notice address appearing above by giving the other Party written notice in accordance with this Section. Such changes in address for purposes of giving notice will be effective two (2) weeks after giving notice of the change in address.

15. This Agreement, together with the Act, S.B. 917, A.B. 107, S.B. 1338, S.B. 35, Fee Schedule Act, Rules, Directives, and Attachment A contains and constitutes the entire agreement between the State Bar and Recipient regarding the State Bar's payment of Equal Access Fund monies to Recipient pursuant to S.B. 101 and supersedes all prior negotiations, representations, or agreements regarding the State Bar's payment of Equal Access Fund monies to Recipient pursuant to S.B. A.B. 107, either written or oral.
16. The Recipient shall neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of the State Bar. This Agreement shall be binding upon agents and successors of both Parties.
17. No amendment, alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by both of the Parties.
18. This Agreement was made and entered into by the Parties in the State of California and shall be construed according to the laws of the State of California. Any action or suit brought to interpret, construe, or enforce the provisions of this Agreement shall be commenced in the

Superior Court of the State of California, in and for the County of San Francisco.

19. Each Party represents that it has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement. Each Party further acknowledges that its Directors, Trustees, or similarly empowered persons have read this Agreement, understand it, and agree to be bound by it.
20. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. No consent or waiver by one Party to a breach of this Agreement by the other Party, whether expressed or implied, shall constitute consent to, waiver of, or excuse for any other, different, or subsequent breach. No amendment, consent, or waiver on behalf of the State Bar shall be binding upon the State Bar unless it is executed by the Executive Director of the State Bar or the Executive Director's designee.
21. Each provision of this Agreement shall be separately enforceable, and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.
22. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which, together will constitute but one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, email or any other reliable means will be effective for all purposes as delivery of a manually executed original counterpart. Either Party may maintain a copy of this Agreement in electronic form. The Parties further agree that a copy produced from the delivered counterpart or electronic form by any reliable means (for example, photocopy, facsimile, or printed image) will in all respects be considered an original.

[Signatures Follow]

By executing this Agreement below, the Parties agree to its terms and conditions. This Agreement has been executed and delivered by the duly authorized representatives of State Bar and Recipient as of the date first written above.

STATE BAR OF CALIFORNIA

RECIPIENT

Date: _____

Date: _____

By: _____

By: _____

Aracely Montoya-Chico

Name of State Bar Executive Officer

Thomas Sone

Print Name of Person Authorized to
Sign for Recipient

Chief Financial Officer

Title of State Bar Executive Officer

Public Defender

Print Title of Person Authorized to Sign
for Recipient