

## **AGREEMENT FOR SPECIAL COUNSEL**

This Agreement is entered into between the Iowa Department of Justice (the “Department”) acting on behalf of the Treasurer of the State of Iowa (“Treasurer”) and Dentons Davis Brown PC, 215 10<sup>th</sup> Street, Suite 1300, Des Moines, Iowa 50309 (“Special Counsel”).

### **1. PURPOSE**

Upon the request of the Office and the authorization of the Executive Council, Special Counsel is retained pursuant to Iowa Code section 13.7 to provide legal advice to the Treasurer’s Office on probate issues in connection with the disposition of unclaimed property.

### **2. DURATION**

This Agreement shall extend from April 15, 2023 until April 15, 2026, unless terminated by one of the parties pursuant to the terms set forth in this Agreement. The Department and the Treasurer will have the option of renewing this Agreement for 3 additional one-year renewal term by giving Special Counsel written notice of its intention to renew at least thirty (30) days prior to the end of the then current term.

### **3. SCOPE**

- A. Assignment of specific legal matters to Special Counsel shall be as authorized by the Department and the Treasurer within the scope of this Agreement.
- B. Special Counsel agrees to investigate, prosecute, defend and attend to the legal matters described in this Agreement in a careful, diligent and skillful manner. Assignment of specific legal matters to Special Counsel shall be as authorized by the Department and the Treasurer within the scope of this Agreement.
- C. Special Counsel further agrees that any pleading, motion or correspondence filed or submitted to any court on behalf of the State of Iowa shall first be provided to and approved by the Department, the Treasurer or its designee.

### **4. PERFORMANCE STANDARDS**

Special Counsel shall comply with and adhere to the performance accountability standards as set forth in the “Great Iowa Treasure Hunt Performance Standards” (Exhibit A). These standards may be amended from time to time as agreed to by the Special Counsel and the Treasurer.

### **5. PAYMENT**

- A. Legal services by Special Counsel shall be performed by Special Counsel and compensated as follows:
  - i. Routine Matters – \$175 per claim.

These are relatively straightforward matters that often could be reviewed by a paralegal, with attorney oversight. As a general rule the matter would take one hour or less to review and would not anticipate much back and forth correspondence with the claimant.

ii. Complicated Matters - \$350 per claim.

Complicated matters require some research, additional attorney involvement, and/or correspondence back and forth with the claimant requesting and reviewing additional information, which additional time is not likely to exceed one and a half hours of combined paralegal and attorney time for the additional research and correspondence.

iii. Complex Matters – Hourly with a 10% discount off standard rates.

Complex matters cover all claims that do not fit into the Routine or Complicated matters classification. Reasons for this classification include, but are not limited to, significant research; research into probate laws of jurisdictions outside of Iowa; significant volume of documentation to review; claims with uncertainty around marriage, divorce, and descendants; and more than routine communication with the claimant, or separate communication with numerous potential heirs.

Probate matters charged at an hourly rate are subject to advance approval by the Treasurer's office. Advance approval shall be determined by a Deputy Treasurer or designee. Advance approval may be conveyed to Special Counsel verbally, either in person or over the telephone, or may be conveyed in writing by first class mail, e-mail or fax.

- B. Special Counsel shall be reimbursed for miscellaneous expenses incurred as a reasonable and necessary incident to the provision of legal services. Miscellaneous Expenses include filing fees, copying fees, telephone charges, postage and such additional expenses to which both parties agree.
- C. Special Counsel shall bill the State promptly each month for any services performed and any miscellaneous expenses incurred. Bills shall be submitted to the Iowa Executive Council, reviewed by the Department and approved by the Iowa Executive Council prior to payment. Bills shall be sent to the attention of: Iowa Executive Council, Room 114, State Capitol, Des Moines, Iowa 50319. All bills submitted by Special Counsel shall: (i) contain appropriate documentation as necessary to support the fees, charges and expenses included on the bill; (ii) comply with all applicable laws, rules and procedures concerning payment of such fees, charges or other claims; and (iii) contain any other information reasonably requested by the Department or the Treasurer.
- D. The Executive Council will forward the bills to the Department for approval prior to putting a request for approval of the bills on the Executive Council's agenda. Following approval from the Iowa Executive Council, the Treasurer will, to the extent Unclaimed Property Funds are

available, process payment of the bills. Should the Unclaimed Property Funds not have sufficient funds to cover payment of the bill in its entirety, such excess amounts shall be submitted to the Executive Council for payment out of the General Fund.

- E. Subject to the terms of this Agreement, the Treasurer shall pay all approved bills in arrears and in conformance with applicable laws and rules, including, without limitation, Iowa Code section 421.40.

## 6. ASSIGNMENT

Special Counsel shall not assign the rights or obligations contained in this Agreement without the written consent of the Department and Treasurer.

## 7. TERMINATION

Any party may terminate this Agreement for any reason upon 30-days' written notice. Notice shall be by letter delivered by first class mail. Thirty days commences from the date affixed at the top of the letter. In addition, the Department and the Treasurer shall have the right to terminate this Agreement upon giving Special Counsel written notice if any funds needed to compensate or make payment to Special Counsel are de-appropriated, reduced, eliminated, not allocated, not appropriated, or are insufficient or unavailable for any other reason, as determined by the Department or the Treasurer in its sole discretion.

## 8. COMPLIANCE WITH LAWS

Special Counsel and all partners, associates, employees, and agents of Special Counsel performing services under this Agreement (Personnel) shall comply with all applicable federal, state, foreign, and local laws, rules, regulations, procedures, ordinances, codes, and orders when performing within the scope of this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management and the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, business permits and registrations, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws, and laws relating to the use of targeted small businesses as subcontractors or suppliers.

## 9. INDEPENDENT CONTRACTOR

The status of Special Counsel and Personnel shall be that of an independent contractor. Special Counsel and Personnel shall not, under any circumstances or for any purposes, be considered employees or agents of the State of Iowa, the Department, or the Treasurer. Special Counsel and Personnel are not eligible for any State of Iowa employee benefits, including, but not limited to, retirement benefits or insurance coverage. The Department shall not withhold taxes on behalf of Special Counsel and Personnel, unless required by law.

## 10. NO CONFLICT OF INTEREST

Special Counsel represents warrants and covenants that Special Counsel and Personnel do not have any interest, and shall not acquire any direct or indirect interest, including the representation of any other client, that would conflict in any manner or degree with the legal representation, or the services provided under this Agreement. This Agreement shall not disqualify Special Counsel or Personnel from continuing to represent other clients in unrelated matters adverse to the State of Iowa, state agencies, or governmental subdivisions, whether ongoing at the time of this Agreement or undertaken thereafter, that do not have a substantial relationship to the legal representation, or the services provided under this Agreement.

#### 11. CHOICE OF LAW AND FORUM

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. In the event any proceeding of a judicial or quasi-judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa. This provision shall not be construed as waiving any immunity to suit or liability, including, without limitation, sovereign immunity, in state or federal court, which may be available to the Department, the Treasurer or the State of Iowa.

APPROVED ON:

Courtney Strutt Todd  
Courtney Strutt Todd  
Dentons Davis Brown

5/2/2023  
Date

Sam P. Langholz  
Sam Langholz  
Chief Deputy Attorney General  
Iowa Department of Justice

5/17/23  
Date

Victoria Newton  
Victoria Newton  
Executive Council

05/17/2023  
Date

## Exhibit A

### Great Iowa Treasure Hunt Performance Standards

#### 4.2023

The goal of this document is to establish performance standards that are consistent with the Treasurer of State's office wide goals: Earning and maintaining the public trust and confidence, providing quality services and information, promoting positive relationships and prudent practices and encouraging a supportive work environment.

1. Access to KAPS
  - a. All staff at Dentons that use the system must have their own user ID into KAPS and OnBase.
  - b. Passwords cannot be shared.
  - c. Contractor is required to do the annual Lexis Nexis training as well as any other training required of Treasurer of State employees.
  - d. If a user is not able to get into the system, email [toskapsadmin@tos.iowa.gov](mailto:toskapsadmin@tos.iowa.gov) and someone will either unlock or reset.
2. Claims determinations
  - a. Per Iowa Code 556.21, the Great Iowa Treasure Hunt must act within ninety days after the filing of a claim.
  - b. Determination to request additional information, approve or deny claim(s) will be no later than twenty business days after the claim has been submitted to contractor.
3. Phone calls
  - a. Contractor will return claimant calls within two business days of written notice from Treasurers Office.
  - b. Contractor will return claimant calls within two business days of receiving claimant phone calls directly to the contractor.
  - c. Contractor will place a note in KAPS indicating when calls were returned and provide a brief synopsis of the conversation.
    - i. This note should begin with: "THE NOTES BELOW ARE ATTORNEY-CLIENT PRIVILEGED AND SHOULD NOT BE SHARED BY ANYONE THAT ISN'T APPROVED TO SHARE THE INFORMATION."
4. Mail
  - a. Contractor will respond and upload all incoming mail within ten business days of the postmarked date.
  - b. All correspondence to and from claimants, forms and information from KAPS must comply with the State Treasurer's Office Personally Identifiable Information Security Policy.
5. Email
  - a. Contractor will respond to claimant emails within two business days of receipt.
  - b. Contractor will respond to Treasurer of State emails within two business days of receipt.
6. Out of office
  - a. Contractor will give a minimum of twenty-four hours' notice if the contractor will not have staff available to respond to claimants within the agreed upon timelines.
7. Complaints
  - a. Contractor will provide a plan of action response within twenty-four business hours of receiving a complaint. If a plan of action response cannot be given within the twenty-four business hours of receiving a complaint then the contractor will send

- response to the claimant acknowledging the complaint and that they will follow up with a plan of action within 7 business days.
8. Claims in status “Legal Requested Additional Evidence”
    - a. Contractor will follow up thirty days after their initial letter was sent if no response has been given to their initial request for additional evidence.
    - b. Contractor will follow up with a second letter after no response has been given to their initial request or first follow up request after an additional thirty days. This second follow up letter should indicate that the claim will be closed, but can be reopened.
    - c. Contractor will complete a closing summary at end of ninety days of no response from the claimant. The claim will then be closed.