RESOLUTION NO. [2026] - 09

BOARD OF COUNTY COMMISSIONERS OF BUTTE COUNTY, IDAHO

A RESOLUTION FIXING THE TERMS OF COMPENSATION OF THE BUTTE COUNTY PROSECUTING ATTORNEY; AUTHORIZING THE PROSECUTING ATTORNEY TO ENGAGE IN THE PRIVATE PRACTICE OF LAW; SPECIFICALLY AUTHORIZING THE USE OF COUNTY OFFICE SPACE, PERSONNEL, EQUIPMENT, AND SERVICES IN CONNECTION WITH THAT PRACTICE; ESTABLISHING CONDITIONS AND SAFEGUARDS FOR THAT USE; RATIFYING PRIOR USE; AND SUPERSEDING PRIOR RESOLUTIONS REGARDING THE COMPENSATION OF THE BUTTE COUNTY PROSECUTING ATTORNEY

WHEREAS, Article V, Section 18 of the Idaho Constitution provides for the election of a prosecuting attorney in each county, who must be a practicing attorney at law and a resident and elector of the county, and who shall perform such duties as are prescribed by law;

WHEREAS, the duties of the Prosecuting Attorney are prescribed in chapter 26, title 31, Idaho Code, and include the prosecution of criminal offenses and service as legal advisor to the Board of County Commissioners and to county officers, boards, and departments;

WHEREAS, pursuant to Idaho Code § 31-3106, the Board of County Commissioners (the "Board") fixes the annual salaries of county officers through the county budget process;

WHEREAS, Butte County is among the least populous and most geographically remote counties in Idaho, and, apart from the resident Magistrate Judge, the Prosecuting Attorney is the only attorney residing and practicing law in the County;

WHEREAS, Idaho Code § 59-907 recognizes that counties with three (3) or fewer resident attorneys willing and qualified to serve as prosecuting attorney may be unable to fill that office locally, and authorizes the Board, upon a vacancy, to appoint or contract with a non-resident attorney or with the prosecuting attorney of another county; Butte County falls well within that circumstance, and the Board finds that retaining a qualified resident Prosecuting Attorney under the terms of this Resolution better serves the County, at lower cost and with greater local availability, than the non-resident alternatives contemplated by that section;

WHEREAS, the volume of legal work in Butte County does not justify, and the County's budget cannot support, a full-time salary competitive with what a qualified attorney could earn in private practice or in a larger jurisdiction, and the Board finds that it would be extremely difficult to recruit and retain a qualified attorney willing to reside in Butte County and serve as Prosecuting Attorney without the opportunity to supplement his or her livelihood through the private practice of law;

WHEREAS, Steve L. Stephens ("Attorney") has served continuously as Butte County Prosecuting Attorney since 2006; at the outset of his service, the compensation of the office was based on approximately twenty (20) to twenty-five (25) hours per week of Attorney time, and the demands of the office have since grown such that compensation is currently based on an average of approximately thirty (30) hours per week;

Instrument # 64053 **# Pages: 6**
BUTTE COUNTY, Idaho
Oct 15, 2026 9:23:50 am **Fee: $**
For: SHELLY BLACKNER CLERK
SHELLY BLACKNER, Recorder
BILLEE, Deputy

WHEREAS, since 2006 the Board has permitted Attorney to engage in the private practice of law not in conflict with the duties of the Prosecuting Attorney, and to use the office, staff, equipment, and services of the Prosecuting Attorney's office in connection with that practice, and the Board memorializes that arrangement in this Resolution and that this arrangement has been approved since 2006;

WHEREAS, Idaho Code § 18-1359(1)(a) prohibits a public servant from using public funds or property to obtain a pecuniary benefit for himself without the specific authorization of the governmental entity for which he serves, and the Board intends by this Resolution to provide such specific authorization, on the terms and subject to the conditions stated herein;

WHEREAS, the Board finds that this arrangement serves a valid public purpose by securing for Butte County the services of a qualified, experienced, resident attorney at a cost substantially less than that of a full-time prosecuting attorney, of retaining outside counsel, or of the alternatives available under Idaho Code § 59-907 for the County's criminal, civil, and advisory legal needs, and that the incremental cost to the County of the uses authorized herein is minimal;

WHEREAS, because Attorney has a personal interest in this Resolution, Attorney has not advised the Board in his official capacity regarding its adoption, and the Board has been advised in writing that it may seek the advice of independent counsel and has had a reasonable opportunity to do so; and

WHEREAS, the Board desires to reaffirm, clarify, and update the terms of this arrangement for Attorney's current term and any future term(s) of office;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Butte County, Idaho, as follows:

Section 1. Findings. The recitals set forth above are adopted as findings of the Board.

Section 2. Compensation.

(a) The salary of the Prosecuting Attorney shall be fixed annually by the Board through the county budget process pursuant to Idaho Code § 31-3106. The salary is currently based on an average of approximately thirty (30) hours per week of Attorney time.

(b) The hourly figure stated in subsection (a) is a basis for budgeting only. It is not a limit on the duties of the office, a timekeeping requirement, or a condition of compensation. The Prosecuting Attorney shall perform all duties of the office prescribed by law, and the Board shall review the salary basis periodically in light of the actual demands of the office.

(c) The authorizations granted in Sections 3 and 4 of this Resolution are part of the consideration the Board provides to secure and retain a qualified Prosecuting Attorney, and are granted in addition to, and not in lieu of, the salary fixed under subsection (a).

Section 3. Private Practice Authorized.

(a) Attorney is authorized to engage in the private practice of law during his term(s) of office as Prosecuting Attorney, provided that such practice does not conflict with, and does not impair the timely performance of, the duties of the Prosecuting Attorney.

(b) Without limiting subsection (a), Attorney shall not, in his private practice:

(1) represent any person or entity in any matter adverse to Butte County or to any of its officers, boards, commissions, departments, or employees acting in their official capacities;

(2) represent any person charged with or under investigation for a criminal offense or infraction in Butte County, or in any matter arising from an investigation or referral by law enforcement in Butte County;

(3) represent any applicant, appellant, or other party before the Board, the Butte County Planning and Zoning Commission, the Board of Equalization, or any other county board or commission in a matter within that body's jurisdiction;

(4) represent any person in a matter in which Attorney participated personally and substantially as Prosecuting Attorney, except as permitted by Rule 1.11 of the Idaho Rules of Professional Conduct; or

(5) use or disclose confidential information gained in the course of his official duties, as prohibited by Idaho Code § 18-1359(1)(c).

(c) Attorney shall comply with the Idaho Rules of Professional Conduct in identifying and resolving conflicts between his official duties and his private representation. Where a conflict requires, Attorney shall decline or withdraw from the private representation or seek the appointment of a special prosecutor or conflict counsel as provided by law. The cost of any special prosecutor or conflict counsel made necessary by Attorney's private representation shall be borne by the County.

(d) Fees, retainers, and other compensation paid by private clients for Attorney's private legal services are Attorney's personal income. They are not fees received in an official capacity within the meaning of Article XVIII, Section 7 of the Idaho Constitution or Idaho Code § 31-3101, and are not required to be paid into the county treasury.

Section 4. Specific Authorization for Use of County Resources. Pursuant to Idaho Code § 18-1359(1)(a), and subject to the conditions of Section 5, the Board specifically authorizes Attorney to use the following county resources in connection with his private practice of law:

(a) the office space of the Prosecuting Attorney, including for meetings with private clients;

(b) the support services of Prosecuting Attorney staff, including clerical, secretarial, filing, scheduling, and reception services;

(c) office furniture, computers, printers, copiers, and other office equipment, and ordinary office supplies;

(d) telephone, internet, email, and related communications services; and

(e) legal research subscriptions and library materials maintained for the Prosecuting Attorney's office.

Any such use in accordance with this Resolution is a use specifically authorized by the Board and a proper use of county property and services, and shall not be deemed a misappropriation or unauthorized use of public funds or property.

Section 5. Conditions of Use.

(a) Priority. Use of office resources shall be prioritized over attorney's private work.

(b) Staff. Prosecuting Attorney staff remain county employees under the supervision of the Prosecuting Attorney, and support for Attorney's private practice performed during their regularly scheduled county hours is authorized as part of their county duties. Any work performed by county staff on private matters outside regularly scheduled county hours shall be arranged and compensated by Attorney directly and shall not be reported or paid as county time.

(c) Direct Costs. Attorney shall bear, or pass through to his private clients, the direct out-of-pocket costs specific to private matters, including court filing fees, service of process, postage and delivery charges, travel, expert and deposition costs, professional liability insurance premiums, and any software or subscription acquired solely for private practice. Ordinary office overhead, including space, utilities, general supplies, equipment, and communications services, is not subject to reimbursement.

(d) Separation. Attorney shall maintain private-practice banking, client trust accounts, billing, and accounting separate from all county accounts. Attorney shall not use county letterhead in private matters, and shall not use the title of Prosecuting Attorney in private matters in any manner suggesting the County's involvement or endorsement.

Section 6. Records. Files, correspondence, and other records of Attorney's private practice do not relate to the conduct or administration of the public's business, are not public records of Butte County within the meaning of Idaho Code § 74-101, and remain the property of Attorney and his clients, subject to the attorney-client privilege and Attorney's duties of confidentiality. Attorney shall keep private-practice files, paper and electronic, segregated from county files, and county staff who assist with private matters shall maintain the confidentiality of private client information. Nothing in this Section removes any county record from the Idaho Public Records Act.

Section 7. Valuation and Characterization. The Board finds that the incremental cost to the County of the uses authorized in Section 4 is not material and is not readily measurable. To the extent such uses have measurable value, they constitute part of the compensation and inducement the Board provides for service as Prosecuting Attorney, and the Board shall take this Resolution into account when fixing the salary of the Prosecuting Attorney under Idaho Code § 31-3106.

Section 8. Term, Review, and Amendment.

(a) This Resolution is effective upon adoption and applies during Attorney's current term of office and any subsequent term(s) for which he is elected or appointed. The Board shall review this Resolution in connection with each annual budget.

(b) The Board may amend or rescind this Resolution by subsequent resolution. To allow an orderly transition for Attorney and his private clients, any amendment that restricts or

terminates the authorizations granted herein shall take effect no sooner than ninety (90) days after written notice to Attorney or the first day of the next fiscal year, whichever is later, except that the Board may act immediately upon a written finding that a particular use conflicts with the duties of the office or violates law.

(c) The authorizations in Section 4 terminate when Attorney ceases to hold the office of Prosecuting Attorney, except that Attorney shall have sixty (60) days thereafter to remove private files and property from county premises and systems and to transition his private practice.

Section 9. Ratification; Prior Resolution Superseded. The Board ratifies and confirms Attorney's private practice and use of county office space, personnel, equipment, and services since 2006, as previously permitted by the Board and this resolution supersedes all prior resolutions regarding this arrangement.

Section 10. Severability. If any provision of this Resolution is held invalid, the remaining provisions shall continue in full force and effect.

DATED this 13th day of October, 2026.

BOARD OF COUNTY COMMISSIONERS
BUTTE COUNTY, IDAHO

Brian Harrell, Chairman
Butte County Commissioner

M.H. "Hootie" Langseth
Butte County Commissioner

Blake Van Etten
Butte County Commissioner

ATTEST:

Shelly Blackner
Butte County Clerk

ACKNOWLEDGED AND ACCEPTED:
Attorney acknowledges and agrees to the conditions and obligations of this Resolution, including Sections 3, 5, 6, and 7.

Steve L. Stephens
Butte County Prosecuting Attorney