



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: December 13, 2022
Placement: Administrative
Estimated Time:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Director(s) Contact Info: Mona Miyasato, County Executive Officer
Nancy Anderson, Assistant County Executive Officer

DocuSigned by:

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SUBJECT: **Agreement for Services of Independent Contractor with Indigent Conflict Defense Counsel for Santa Barbara County, LLC for Conflict Indigent Defense Services**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the attached Agreement for Services of Independent Contractor with Indigent Conflict Defense Counsel for Santa Barbara County, LLC for conflict indigent defense services for the period of January 1, 2023 to June 30, 2024 (18 months) for a fixed monthly rate of \$205,000 for a total contract not to exceed amount of \$3,690,000; and
- b) Determine pursuant to CEQA Guidelines 15378(b)(5) that the above actions are not a project subject to CEQA review, because they are government administrative activities that will not result in direct or indirect physical changes to the environment.

Summary:

Staff recommends the Board’s approval of a professional services agreement with Indigent Conflict Defense Counsel for Santa Barbara County, LLC. The scope of services is detailed in the Agreement for Services of Independent Contractor (Attachment A). The Contractor will provide competent legal services in the defense of indigent clients charged with one or more misdemeanors, felonies, juvenile cases, drug

cases, domestic violence cases, mental health court cases, sexually violent predator cases, LPS and probate conservatorship cases, child support contempt proceedings, and all other matters for which indigent counsel is appointed or required, in the courts located in Santa Barbara County, where the Public Defender has properly declared a conflict of interest.

Contracts for conflict indigent defense legal services have been previously administered by the Superior Court. In April 2022, Superior Court management requested the administration of the contracts be transferred to the County. On August 16, 2022, the Board of Supervisors approved the County Executive Office to issue a Request for Proposals for these services. The highest-ranking respondent was Indigent Conflict Defense Counsel for Santa Barbara County, LLC. The contract term is for 18 months for a cost of \$205,000 per month with a total contract amount not to exceed \$3,690,000.

Background:

By law, counties are required to fund and provide defense counsel in certain criminal proceedings to individuals who are indigent. There are a variety of ways counties can meet these requirements including: through County departments such as the Office of the Public Defender; through contract public defenders in which a private sector law firm acts as a contractor to the County; and lastly, through assigned counsel, where cases are typically assigned directly by the Court and are paid on either a flat fee or hourly basis.

While the County of Santa Barbara relies on the Office of the Public Defender to provide these services, on occasion, the Public Defender must declare a conflict of interest in a case at which time the Superior Court Judge will assign an alternate attorney to represent the client. Historically, the Superior Court, on behalf of the County, has managed contracts for conflict indigent defense representation when the Office of the Public Defender declares a conflict of interest in a case with criminal allegations.

As the County is responsible for funding and providing the representation, contracted conflict defense services are typically administered by the County and often through the County Executive Office. Since 1983, the Superior Court has maintained two contracts for services, one in north County and one in the south County. The Superior Court has indicated that it will no longer be handling the management of these services after December 31, 2022, and the responsibility for procurement and administration of the contracted services will be transferred to the County Executive Office.

The County's consultant for criminal justice initiatives, Judge Sherrill Ellsworth, assisted with the development of the contract and negotiations. The contract for these services includes language that enhances accountability through new required monthly and quarterly reporting (Exhibits E-H), including case data and declarations of good standing and Marsden or sanction hearings related to the contracted attorneys. Additionally, the contractor is now required to ensure that all attorneys have met minimum standards that are outlined in the contract (Exhibit D) while maintaining good standing at all times within their professional licensing. The new contract language is expected to improve services to this client population.

Key Contract Risks:

The Agreement recommended for approval (Attachment A) can be terminated by the County for convenience upon 60 days written notice, with Board of Supervisors approval.

Budgeted:

Yes, the costs for conflict indigent defense services are budgeted annually as a General Fund expense and are estimated at \$2.4 million for Fiscal Year (FY) 2022-23.

Fiscal Impacts: The FY 2022-23 adopted budget includes a General Fund Contribution for these services totaling \$2.4 million. The agreement with Indigent Conflict Defense Counsel for Santa Barbara County, California will establish a fixed monthly rate of \$205,000 for all services provided which equates to \$2.4 million for one year with a total not to exceed amount of \$3,690,000 over the 18-month contract term. The fixed rate shall be inclusive of all expenses, costs and travel. In the prior fiscal year, the contracts for these services totaled \$2,001,280 on an annual basis, which reflects an increase of \$458,719 per year. Most of this increase in cost is the result of increasing the requirement for the contractor to have an adequate number of attorneys to cover up to 10 conflict defendants per case which is up from 5 in the previous contracts, if needed.

Special Instructions:

Clerk of the Board to forward one fully executed original contract and minute order to: County Executive Office, ATTN: Reese Ellestad

Attachments:

Attachment A: Agreement for Conflict Indigent Defense Services

Authored by:

Reese Ellestad, Fiscal & Policy Analyst, County Executive Office