



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:** Superior Court  
**Department No.:** 025  
**For Agenda Of:** January 29, 2019  
**Placement:** Administrative  
**Estimated Tme:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Darrel E. Parker 614-6594  
Director(s)  
Contact Info: Patrick Ballard 882-4682, Richard Morgantini 568-3551  
**SUBJECT:** Contract for Provision of Conflict Defense Services

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form:

**Auditor-Controller Concurrence**

As to form: Yes

**Recommended Actions:**

Approve, ratify, and authorize the Chair to execute Amendment No. 4 to the Agreement for Services for Legal Representation of Eligible Indigents with Criminal Defense Associates and lead attorneys Douglas R. Hayes and William Duval, and the Superior Court of California, County of Santa Barbara for the provision of conflict defense (alternate Public Defender) services in the South County Superior Courts for the period of January 1, 2019 through June 30, 2019.

**Summary Text:**

The provision of defense counsel for indigent defendants is required under the U.S. Constitution, decisional law, and Penal Code section 987. Further, Penal Code section 987.2(b) provides that such services may be provided by a contract with one or more responsible attorneys.

**Background:**

The current agreement for the provision of conflict defense services in the South County courts expires December 31, 2018. Upon mutual agreement of the parties and fair and reasonable consideration, an extension to the agreement is requested in order to continue to provide these legally mandated services, to allow additional time to further assess the configuration and requirements for an award of a new contract.

Under the contract system, a consortium of attorneys handle various defense cases in which the Public Defender cannot legally represent the defendant because of a conflict of interest. (These cases are actual legal conflicts and are distinguished from cases in which the Public Defender has declined representation for budgetary reasons). This primarily occurs in multiple defendant cases in which the Public Defender may legally only represent one defendant. The contractor is required to represent up to five (5) co-

defendants in a given conflict case. Secondary conflicts are avoided because the various attorneys in the consortium are in separate law firms and economies of scale are achieved.

The contract method of providing conflict defense services has resulted in tremendous cost savings since its inception in Santa Barbara County compared to the former method of compensating counsel on an hourly basis for each case handled. The court and county have established contracts, which essentially require the provision of such services on a “flat fee for all cases” basis.

Although the Superior Court has been satisfied with the quality of service provided by Criminal Defense Associates, further assessment of the configuration and requirements is necessary to streamline and ensure the highest quality of services at the lowest possible cost to the County. The Superior Court wishes to extend the agreement through June 30, 2019, until a new contract may be awarded.

**Fiscal and Facilities Impacts:**

For fiscal year 2018-19, the cost for the provision of such services through June 30, 2019 under the Agreement shall be \$73,423.91 monthly, for a total of \$881,086.92.

There are no facilities impacts.

Budgeted: This contract has been budgeted for this fiscal year.

**Key Contract Risks:**

The risk factors in this contract are relatively low. There is a risk of increased costs when there are more than five (5) defendants in a case and additional attorneys are required at an hourly rate, beyond the scope of this contract. An additional financial risk occurs when extreme circumstances arise with justifiable extraordinary expenses due to prolonged capital felony cases, change of venue, mass arrests, multiple defendant cases, and changes in the law, consequential to the Criminal Defense Associates incurring expenses in excess of \$10,000 for experts and investigative fees.

**Special Instructions:**

Please provide a fully executed original to: Patrick Ballard, Superior Court Chief Financial Officer.

Please provide copies of the minute order to: Patrick Ballard, Superior Court Chief Financial Officer and to Richard Morgantini, County Administrative Analyst, upon adoption.

**Attachments:**

Attachment A: Amendment No. 4 to the Agreement for Services for Legal Representation of Eligible Indigents

Attachment B: Board Contract Summary

Attachment C: Amendment No. 3 to the Agreement for Services for Legal Representation of Eligible Indigents

Attachment D: Amendment No. 2 to the Agreement for Services for Legal Representation of Eligible Indigents

Attachment E: Amendment No. 1 to the Agreement for Services for Legal Representation of Eligible Indigents

Attachment F: The Agreement for Services for Legal Representation of Eligible Indigents

**Authored by:**

Darrel E. Parker, Superior Court Executive Officer

**cc:**

Richard Morgantini, County Executive Office