



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: December 9, 2014
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

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

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 an 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 the State of California for the County of Santa Barbara for the provision of conflict defense (alternate Public Defender) services in the South County Superior Courts for the period of December 1, 2014 through June 30, 2016, with an Option to Renew for fiscal year 2016-17 at the fiscal year 2015-16 amount plus a Consumer Price Index (CPI) adjustment not to exceed 2% upon consent of all contract parties.

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 contract for the provision of conflict defense services in the South County courts expires November 30, 2014. A new contract must be issued in order to continue to provide these legally mandated services.

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".

The Superior Court has been very satisfied with the quality of service provided by Criminal Defense Associates and wishes enter into a new contract through fiscal year 2015-16, with the Option to Renew for one (1) additional one (1) year term.

Fiscal and Facilities Impacts:

Total payments for fiscal year 2014-15 shall be \$841,802.64 which includes amounts paid under this Agreement of \$504,384.89 and \$337,417.75 paid under Contract No. BC-14-048.

For fiscal year 2015-16, the cost for the provision of such services shall be \$841,802.64 plus the California Consumer Price Index (CPI) adjustment, not to exceed 2%.

If the Contract is extended through June of 2017, then Contractor shall be paid the fiscal year 2015-16 amount plus the CPI adjustment, not to exceed 2%.

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 where it is needed to hire additional attorneys outside this contract. An additional financial risk is when extreme circumstances arise with justifiable extraordinary expenses due to prolonged capital felony cases, change of venue, mass arrests, multiple defendant cases, changes in the law, and in any non-capital homicide case where the Criminal Defense Associates incur expenses in excess of \$10,000 for experts and investigative fees.

Special Instructions:

Please provide a fully executed original to: Casie E. Hill, Superior Court Chief Financial Officer.

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

Attachments:

Master Contract for Legal Representation of Eligible Indigents

Board Contract Summary

Authored by:

Darrel E. Parker, Superior Court Executive Officer

cc:

Richard Morgantini, County Executive Office