

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY BAR ASSOCIATION

FY 2013-2015

APPENDIX A-1

This *Appendix* amends the *AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE SAN MATEO COUNTY BAR ASSOCIATION*, made and entered into on the 4th day of June, 2013, for the provision of services by the Association's Private Defender Program (Agreement).

Pursuant to Paragraph 3 of the Original Agreement and at the request of the Association, the parties met and discussed the inability of the Association to complete its obligations under the contract for the FYE June 30, 2015 at the compensation amount set forth in the Original Agreement. This inability is the direct result of the appointment of the Private Defender Program in the criminal cases *People v. Marvin Ware, et al, San Mateo County Superior Court Nos. SC080432, SC080433, and SC080434*.

As a result of the most massive criminal investigation in the history of San Mateo County, charges were filed pursuant to three separate but interrelated indictments against 16 individuals, nine of whom are accused of a series of Special Circumstance murders. Also alleged are a variety of other serious and violent felonies, including attempted murder, attempted robbery and dissuasion of a witness, all alleged to be in furtherance of the interests of three alleged local street gangs. The amount of evidence that has been collected is enormous. The number of hours that Private Defender Program lawyers, investigators and expert witnesses will necessarily spend in fulfilling their duties to their clients is, at this point in time, incalculable.

In order to enable the Association to fulfill its obligations under the terms of the Original Agreement in light of the appointment of the Private Defender Program in the above-referenced Superior Court cases, the Original Agreement is hereby amended to reflect that the County will pay, in addition to the compensation set forth in the Original Agreement, the attorney and investigator fees and related costs of these specific cases a sum not to exceed \$5,000,000 during the term of the current Agreement. This sum is subject to change in future agreements. Subsequent agreements will include the following terms and conditions:

1. All funds paid to the Association pursuant to this amendment will be spent exclusively on the fees and costs as defined in the Original Agreement incurred by the Association for the defense of these specific cases;
2. Should the Private Defender Program's obligations concluded for any reason while there is an unexpended balance of these funds, that balance will be refunded to the County;

3. Payments by the County to reimburse the Association for the fees and costs incurred in the defense of these cases will be made in increments of approximately \$500,000. Each incremental payment will be made as the fees and costs incurred by the Association have reached that approximate amount. The Association will send an electronically transmitted detailed invoice in that amount to the County on a monthly basis, submitted between the 26th and the 29th of each month. The detailed invoice shall reflect a breakdown of the following information: amount billed for attorney's fees; amount billed for expert costs; amount billed for investigation costs; and amount billed for miscellaneous costs. The County will make payment thereof within 30 calendar days of receipt of detailed invoice.
4. In addition to Paragraph 9.a. of the Original Agreement, the County will on a quarterly basis compare the actual bills to the categories of expenses submitted on a monthly basis to ensure accuracy in expense reported. The Association will fully cooperate with providing any and all information requested for review by the County pursuant to Paragraph 9.a. of the Original Agreement.
5. Because the initial fees and costs of these cases, incurred from April 2014 through October 2014, have already exceeded the sum of \$500,000, the first incremental payment will be credited toward those already expended funds upon the submission of a detailed invoice. The unpaid balance will be reimbursed as part of the next incremental payment. This first incremental payment of \$500,000 shall be due within 10 calendar days of the approval of this amended Agreement.
6. The provisions of Paragraph 3.b. of the Original Agreement, setting forth the dates payments are due on the original contract price, will not apply to the sums to be paid under the terms of this Appendix;
7. Notice of sums due to be paid under the terms of this Appendix may be transmitted by electronic mail;
8. All of the remaining provisions of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the provision of services in connection with the Private Defender Program, effective as of December 9, 2014.

COUNTY OF SAN MATEO

BY _____
Dave Pine
President, Board of Supervisors

ATTEST:

John L. Maltbie
Clerk of said Board

SAN MATEO COUNTY BAR ASSOCIATION

BY  _____
John Digiacinto
Executive Director