



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: November 24, 2014

Board Meeting Date: December 9, 2014

Special Notice / Hearing: None

Vote Required: 4/5ths

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager

Subject: Appendix A-1 to the Agreement between the County of San Mateo and the San Mateo County Bar Association

RECOMMENDATION:

Adopt a Resolution:

- A. Authorizing Appendix A-1 to the Fiscal Years 2013-2015 Agreement between the County of San Mateo and the San Mateo County Bar Association for services rendered by the Association's Private Defender Program; and
- B. Authorizing an Appropriation Transfer Request in the amount of \$500,000 from Non-Departmental Excess ERAF Reserves to the Private Defender Program budget unit for the purpose of reimbursing the PDP for costs incurred to date for the cases filed under *People v. Marvin Ware, et al.*

BACKGROUND:

The County of San Mateo is obligated to provide legal representation for those persons accused of crimes and subject to certain criminal proceedings who are determined by the courts to be indigent and therefore entitled to the appointment of counsel at public expense. At the June 4, 2013 Board of Supervisors meeting, the Board approved a two-year contract between the County of San Mateo and the San Mateo County Bar Association for services rendered by the Association's Private Defender Program (PDP) for a term of July 1, 2013 through June 30, 2015.

Paragraph 3e of that contract allows for changes to the terms and conditions of the contract in cases of Special Litigation. Special Litigation can consist of cases which require extraordinary demands upon an attorney's time, efforts, or skills and primarily involve cases of homicide. On March 24, 2014, the San Mateo County District Attorney's Office announced the indictment of sixteen (16) defendants, nine (9) of whom were indicted on Special Circumstances murder cases. Other charges include other violent felonies including attempted murder, attempted robbery, and dissuasion of

witnesses. The cases have been filed under *People v. Marvin Ware, et al, San Mateo Superior Court Nos. SC080432, SC080433, and SC080434*. The PDP has indicated that the resources it will expend on defending those associated with this case are well beyond their current budget and they have enacted the provision contained within Paragraph 3.e. of the Agreement in order to seek the financial means necessary to defend the allegations against those indigent defendants in this case.

DISCUSSION:

The Private Defender Program and the County Manager's Office have engaged in discussions regarding the funding outside the current contract that is necessary to defend PDP clients in this case. The exact amount of time and money that the PDP will expend defending clients in this matter is currently incalculable. Appendix A-1 caps attorney and investigation fees, and all other related costs at a sum not to exceed \$5,000,000 during the term of the current and subsequent agreements, as the defense of these cases will exceed the term of the current agreement. Payments by the County to reimburse the Association for fees and costs associated with the defense of this case will be made in increments of \$500,000 and a request for reimbursement will come to this Board each time the Association accrues \$500,000 in additional fees and expenses. The Association has already incurred expenses in excess of \$500,000 associated with this matter and is seeking immediate reimbursement of those expenses.

To ensure there is proper oversight of spending on this matter, the Association will provide the County with invoices on a monthly basis that will include a breakdown of the amount billed for attorney fees, expert costs, investigation costs and miscellaneous costs. Additionally, on a quarterly basis, the County will conduct an audit comparing the actual bills to the categories of expenses submitted on a monthly basis to ensure accuracy in expense reporting.

FISCAL IMPACT:

Reimbursements to the PDP will be made from Non-Departmental Excess ERAF reserves, for an amount not to exceed \$5 million. All payments related to this matter represent one-time Net County Cost. This ATR appropriates the initial increment of \$500,000.