



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
County Manager



**Date:** January 5, 2015  
**Board Meeting Date:** January 13, 2015  
**Special Notice / Hearing:** None  
**Vote Required:** 4/5ths

**To:** Honorable Board of Supervisors

**From:** John L. Maltbie, County Manager

**Subject:** Penal Code § 987.9 Special Investigation Costs

**RECOMMENDATION:**

Adopt a Resolution authorizing an Appropriation Transfer Request in the amount of \$500,000 from Non-Departmental Excess ERAF Reserves to the County Support of the Courts budget unit for the purpose of funding special investigation costs as defined under PC § 987.9.

**BACKGROUND:**

In the trial of a capital or death penalty case (PC § 190), the defendant's counsel may request the court for funds for the specific payment of investigators, experts, and others for the preparation and presentation of the defense. Upon receipt of the application, a judge of the court, other than the trial judge presiding over the case in question, will rule on the reasonableness of the request and authorize an appropriate amount of money to the defendant's attorney. Those funds are provided to the defendant's attorney from the County Support of the Court budget unit. At the termination of the proceedings or at a time when the case is reduced to a non-capital status, whichever occurs first, the attorney will furnish the court with a final accounting of all moneys received and disbursed. Once the trial has been completed, the County may file a claim with the State Controller's Office for reimbursement of these funds, as these costs constitute a State mandate. Defense costs that occur after the case has been reduced fall under the County's contract with the Private Defender Program.

**DISCUSSION:**

The County has historically budgeted \$500,000 a year for this purpose. Due in large part to the Sunny Day cases (People vs. Marvin Ware, et al), we have almost exhausted the entire appropriation with six months still remaining this the fiscal year. Approval of this ATR will provide an additional \$500,000 to cover these costs for the remainder of

this fiscal year. The County will work with an outside consultant to prepare claims to recover these funds.

Approval of this ATR contributes to the Shared Vision 2025 outcome of a Collaborative Community by ensuring that all County residents, regardless of their means, have access to high quality legal representation.

**FISCAL IMPACT:**

The \$500,000 is being transferred from Non-Departmental ERAF Reserves. The County will seek reimbursement of these costs by filing claims to the State Controller's Office once these cases are final. Due to the number of defendants and the complexity of these cases, it is anticipated that reimbursements for these costs will likely be received in future fiscal years.