



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER

File #: 18-095

Board Meeting Date: 2/13/2018

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Reyna Farrales, Deputy County Manager
John L. Maltbie, County Manager

Subject: Amendment to the Agreement for Indigent Legal Representation Services

RECOMMENDATION:

Adopt a resolution authorizing an amendment to the agreement with the San Mateo County Bar Association for Private Defender Program (PDP) services for the period of June 1, 2017 through June 30, 2019, increasing the amount by \$6,400,000 to an amount not to exceed \$11,118,205, for services provided through June 30, 2018, until the County Controller has completed a follow-up audit and signed off on all financial reporting obligations as specified in the agreement, and an amendment to the agreement has been authorized by the Board with compensation terms for services provided through June 30, 2019.

BACKGROUND AND DISCUSSION:

Since 1968, the County's mandated indigent legal representation services has been provided by the Private Defender Program (PDP) through a contract with the San Mateo County Bar Association (SMCBA). On September 20, 2016, your Board approved recommendations from the County Manager and County Controller after reviews were conducted of the PDP, in response to Grand Jury recommendations for more frequent evaluations of the program.

On June 6, 2017, your Board approved Resolution 075208, authorizing an agreement with SMCBA for services provided by the Private Defender Program (PDP) through June 30, 2019. The agreement contained actions approved by your Board in September 2016, including financial and performance reporting on cases and costs, complaint resolution process for client requests to change assigned attorneys, quarterly payments after delivery and review of financial reports, transparency with attorney recruitment and selection process, a two-year notice of termination, with required transition services, and change of outside auditors at least once every five years. The agreement also included new Court-funded juvenile dependency services provided by a social worker to assist PDP attorneys assigned to these cases.

The agreement included County funding for PDP services through September 30, 2017, in an

amount not to exceed \$4,718,205, and use of any unspent balances from advance payments made under previous agreements for services after September 30, until the County Controller had completed a follow-up audit and signed off on all financial reporting obligations as specified in the agreement.

The Controller could not complete a follow-up audit until the new outside auditors for the PDP finished their audit. This was recently completed and a report was provided to the Controller on January 23. We expect the Controller's follow-up audit to be done and a subsequent amendment to the agreement with compensation terms covering services through June 30, 2019 to be brought to your Board by June 30, 2018. The PDP has used unspent balances from previous agreements to fund services from October 1, and can continue to do so and maintain the required 10% minimum reserve of \$1,920,000 through February 28, 2018, after which it is necessary for the County to add funding for services through June 30, 2018. This amendment adds \$6,400,000 to the agreement for this purpose.

This amendment also includes changing Section 11 - Evaluation of the agreement, establishing timeframes for the evaluation of the PDP's ongoing performance from no less than every ten years, to no less than every five years. With regard to juvenile dependency services specified in Appendix D, this agreement includes the provision of these services through June 30, 2018, after which the Court will have a separate agreement with the Bar Association for these services, which are a Court mandate, beginning July 1, 2018.

County Counsel has reviewed and approved the agreement and resolution as to form.

Approval of this agreement contributes to the Shared Vision 2025 outcome of a healthy, safe and prosperous community by ensuring that all residents of San Mateo County, regardless of their socio-economic standing, receive competent legal representation in the court of law as provided for by the United States Constitution.

PERFORMANCE MEASURE:

All financial reporting obligations as described in this Agreement will be met by June 30, 2018.

FISCAL IMPACT:

There are sufficient funds in the County's Private Defender Program FY 2017-18 Adopted Budget for the \$6,400,000 needed to continue services through June 30, 2018.