



## Legislation Text

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**File #:** 19-0948, **Version:** 1

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Chief Administrative Office recommending the Board approve the following:

- 1) Approve Agreement 4108 for the provision of conflict indigent defense services with El Dorado Law, A Professional Law Corporation, in the base amount of \$753,384 annually for the two-year period of July 1, 2019 through June 30, 2021; and
- 2) Authorize the Purchasing Agent to execute the Agreement.

**FUNDING:** General Fund.

### **DISCUSSION / BACKGROUND**

The constitutions of the United States and California mandate that persons who are accused of crimes or are otherwise at risk for loss of liberty, and who do not have the means to pay for legal representation due to indigence be provided legal representation at public expense. The primary provider of these services in El Dorado County is the Public Defender; however, there are instances in which the Public Defender's Office, due to a conflict of interest or other valid reason, cannot ethically represent certain indigent defendants. In these circumstances, the Court appoints an attorney from outside the Public Defender's Office to provide representation. Historically, the County has held contracts with multiple local, private attorneys, known as the "Conflict Panel," to provide these services.

On April 19, 2016, the Board awarded RFP No. 16-918-039 for the provision of conflict indigent defense services to El Dorado Law and authorized the CAO to negotiate a contract. The final contract with El Dorado Law was approved by the Board on June 14, 2016 for a one-year term covering the period of July 1, 2016 through June 30, 2017. On June 20, 2017, the Board approved a new contract with El Dorado Law for the two-year period of July 1, 2017 through June 30, 2019. The current contract provides for 10 attorneys (8 on the West Slope and 2 on the East Slope) and two administrative staff, at a base annual cost of \$863,568, plus ancillary costs and compensation for unusual or extended cases and capital cases. This was a reduction in the base annual amount of \$122,000 from the previous contract.

The proposed contract provides for base annual compensation of \$753,384, a reduction of \$112,000 from the current contract. Ancillary costs, such as psychological evaluations and expert consultants, are paid directly by the County pursuant to orders of the Court. The contractor will be required to notify the County when requesting a court order for any ancillary expense exceeding \$5,000. For cases that are deemed extraordinary by the Court, attorneys will be paid an hourly rate of \$100. The contract contains a provision for coverage of secondary conflicts by attorneys from either slope of the County. For example, if all panel attorneys on the West Slope must decline a case due to a conflict, an attorney from the East Slope would cover the case. This avoids the need for the Court to appoint a separate attorney not covered by the contract, who would be paid hourly. It is estimated that this may save between \$30,000 and \$50,000 annually. Previous agreements specified the number of subcontract attorneys and their monthly compensation. The proposed agreement places the responsibility to determine appropriate staffing and compensation on the contractor.

The CAO will continue to monitor and analyze caseload data, and explore other opportunities for efficiencies that may reduce costs for these services while ensuring that the County is fulfilling its constitutional mandate to provide effective counsel to indigent defendants.

### **ALTERNATIVES**

The Board could choose not to enter into this contract, in which case the Court would appoint attorneys to indigent defendants in conflict cases. Those attorneys would be paid hourly by the County, upon order of the Court.

### **PRIOR BOARD ACTION**

16-0359 - 6/26/16 Approved Agreement 095-S1711 for FY 2016-17

17-0641 - 6/20/17 Approved Agreement 105-S1811 for 7/1/17 - 6/30/19

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

### **CAO RECOMMENDATION**

It is recommended that the Board approve this item.

### **FINANCIAL IMPACT**

Funding for this Agreement is included in the FY 2019-20 Recommended Budget at the recommended amount, resulting in a reduction in cost of approximately \$112,000 from the FY 2018-19 amount.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

N/A

### **STRATEGIC PLAN COMPONENT**

Public Safety, Good Governance

### **CONTACT**

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