



Legislation Text

File #: 23-0395, **Version:** 1

Alternate Public Defender's Office recommending the Board consider the following:

- 1) Adopt and authorize the Chair to sign Resolution **037-2023** amending the Authorized Personnel Allocation to add one (1.0) Full Time Equivalent Deputy Public Defender I/II/III/IV to the Alternate Public Defender's Office; and
- 2) Authorize the Purchasing Agent to execute Amendment II to Agreement for Services 5951 with Lori G. London for the provision of defense counsel to indigent defendants whom the Public Defender and/or Alternate Public Defender may not represent due to conflict to increase the monthly billing rate by \$7,000 for a total monthly rate of \$14,000 and increase total compensation by \$12,647 for a total not to exceed \$222,647 for the two-year period of the agreement.

FUNDING: General Fund.

DISCUSSION / BACKGROUND

In March 2021, the Board approved the Final Passage of Ordinance 5141 establishing the Office of the Alternate Public Defender. The plan for service approved by the Board at that time was to establish the Office on the West Slope and contract for conflict defense services in the Tahoe Basin through the end of Fiscal Year 2022-23. The Alternate Public Defender would manage the contracted indigent defense services for the Tahoe Basin while analyzing and assessing the service needs in the Tahoe Basin to determine how to best meet those needs.

On September 28, 2021, the Board approved and authorized the Chair to execute agreements 5951 and 5953 with attorneys Lori G. London and Kimberly G. Hunt for the provision of conflict defense services for the East Slope of El Dorado County for the period from October 1, 2021 through September 30, 2022 in the amount of \$126,000 each, with the option to extend for the period from October 1, 2022 through September 30, 2023. The Board approved one-year extensions to both agreements in September, 2022, to provide more time to complete the analysis of service provision in the basin.

On Wednesday, January 25, 2023, Ms. Hunt notified the County of her intent to terminate her agreement, effective February 24, 2023. Ms. London's service agreement with the County includes a provision to assume the case load of Ms. Hunt upon termination of Ms. Hunt's agreement, with the compensation to be adjusted in proportion to the caseload to be assumed by Ms. London. Ms. London will assume Ms. Hunt's entire case load. Accordingly, Alternate Public Defender Elvira Lua authorized Ms. London in writing on February 7, 2023, to assume Ms. Hunt's case load effective February 24, 2023 and notified her that her monthly compensation would be increased by \$7,000 to a total of \$14,000, effective March 1, 2023, and that she would receive a prorated amount for the remainder of the month of February. An amendment to Ms. London's agreement is necessary to increase the maximum compensation to accommodate the additional monthly compensation. The original agreement included additional funding for extraordinary or complex cases and trials exceeding three weeks. Most of that additional compensation had not been expended, so it is only necessary to increase the maximum compensation by \$12,000, for a total of \$222,000 for the two-year period. Due to the short notice regarding the need for the amendment, the Board is asked to

authorize the Purchasing Agent to execute the amendment, contingent upon approval by County Counsel and Risk Management.

Upon review of the service needs in the Tahoe Basin over the last 18 months, the Alternate Public Defender has determined that the addition of one FTE Deputy Public Defender, serving the Tahoe Basin full time, would meet the needs of the clients in the Basin. The Alternate Public Defender is requesting the addition of the position now to allow for recruitment and selection to be completed before Ms. London's agreement expires on September 30, 2023.

Ms. London provides third-level conflicts on the West slope and any conflict in the South Lake Tahoe area. There will be a need for appointed counsel outside of Ms. London's agreement in those rare instances where there are more than 3 defendants charged on the Western Slope or where Ms. London has a conflict in South Lake Tahoe. When Ms. London's service agreement is replaced by the Alternate Public Defender in South Lake Tahoe there will be a need for appointed counsel in those rare situations where the Public Defender and the Alternate Public Defender have a conflict in either the Western Slope or South Lake Tahoe. Alternative solutions will be explored by the Alternate Public Defender to ensure representation is provided to those clients needing appointed counsel in the most efficient and cost-effective method.

ALTERNATIVES

The Board could direct the Alternate Public Defender to choose to continue to contract out services in the Tahoe Basin and not add an allocation.

PRIOR BOARD ACTION

20-1606 - 01/26/2021: Board conceptually approved the creation of the Office of the Alternate Public Defender

21-0340 - 03/16/2021: Board authorized the establishment of the Office of the Alternate Public Defender

21-1372 - 09/28/2021: Board approved agreements 5951 and 5953 with Lori London and Kimberly G. Hunt with the option to extend for the period from October 1, 2022 through September 30, 2023.

22-0854 - 09/13/2022: Board approved amendments to agreement 5951 and 5953 to exercise the option to extend the agreements through September 30, 2023 and increase the total compensation of each contract to \$210,000.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Human Resources

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

The funding for the increase to Ms. London's contract can be absorbed through savings in the department in the current year. In future years, the position will be funded through the elimination of the two current contracts.

CLERK OF THE BOARD FOLLOW UP ACTIONS

N/A

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

Elvira Lua