



Board Agenda Item 23

DATE: April 25, 2023

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: Retroactive Amendment No. 1 to Public Defense Pilot Program Grant

RECOMMENDED ACTION(S):

Retroactively approve, authorize, and ratify the County Administrative Officer's previous execution and submittal of the first Amendment to the Grant Agreement with the Board of State and Community Corrections (BSCC) for Year 2 of the 2021 Public Defense Pilot Program Grant with no change to the term of March 1, 2022 through March 1, 2025 and increasing the maximum by \$1,185,405 to a total of \$2,389,571.

There is no additional Net County Cost associated with the recommended action, which will authorize and ratify the execution and submittal of the amendment to the BSCC by the County Administrative Officer to accept the Year 2 funding of the Public Defender Pilot Program Grant. There is no change in the term of this agreement. This item is Countywide.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended action, in which case the amendment will be withdrawn and the awarded funds for Year 2 will be returned to BSCC.

RETROACTIVE AGREEMENT:

This item is retroactive because BSCC awarded the Year 2 funds on March 3, 2023 and required a signed Amendment be returned to BSCC by March 17, 2023 to secure the funding.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The additional BSCC funding will be included in the FY 2023-24 budget requests for the Public Defender's Office Org 2880 and Fitzgerald, Alvarez and Ciummo (FAC) Org 2875.

DISCUSSION:

The Budget Act of 2021 (Senate Bill 129) established the Public Defense Pilot Program and allocated funds that must be utilized for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters, for the purposes of workload associated with the following eligible case types:

- PC 1170.95 - Felony murder resentencing
- PC 1170 (d)(1) - Resentencing of inmates

- PC 1473.7 - Vacate convictions due to defendant inability to understand immigration consequences
- PC 3051 - Youth Offender Parole Hearing for prisoners 25 years old or younger at time of offense (aka Franklin Hearing)

On April 5, 2022, your Board approved the retroactive submittal of the Public Defense Pilot Program grant application to BSCC for post-conviction defense, effective March 1, 2022 through March 1, 2025 (\$1,204,165). This item authorized the County Administrative Officer to execute the retroactive Grant Award Agreement and any extensions or amendments with BSCC throughout the period of March 1, 2022, through March 1, 2025, not to exceed \$1,204,165. As this amendment raises the total limit to \$2,389,570 our Office is seeking retroactive approval for the first amendment submitted back to BSCC on March 13, 2023.

On February 7, 2023, your Board approved Amendment No. 1 to Agreement No. 22-249 with FAC to increase the maximum compensation amount due to available BSCC grant funds, increasing the maximum by \$124,499. Amendment No.1 added Year 1 funds earmarked specifically for FAC within the Public Defense Pilot Program grant and a similar item will be taken later this year to increase the compensation amount of the contract again. Additional considerations are currently being discussed internally regarding the contract with FAC and the CAO's Office would like to consolidate all revisions into the next Amendment.

Of the total amount awarded for Year 2, \$151,556 is earmarked for Professional Services which is currently being utilized to help reimburse the County's Alternate Indigent Defense subcontractor FAC for their submitted invoices pertaining to the casework related to the four Penal Codes mentioned above.

REFERENCE MATERIAL:

BAI #24, February 7, 2023

BAI #30, April 5, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 1 to PDPP Grant

CAO ANALYST:

Salvador Espino