



Board Agenda Item 29

DATE: May 8, 2018

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: First Amendment to Agreement with Richard A. Ciummo & Associates for Alternate Indigent Defense Services and Budget Resolution

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute First Amendment to Indigent Conflict Defense Agreement No. 17-226 with Richard A. Ciummo & Associates effective upon execution with no change in term and increasing the maximum by \$402,547 to \$23,136,307; and**
- 2. Adopt Budget Resolution increasing the FY 2017-18 appropriations for Alternate Indigent Defense Org 2875 in the amount of \$195,000 using available Fund Balance in the amount of \$195,000 from the General Fund (4/5 vote).**

There is an increase in Net County Cost in the amount of \$195,000 associated with the recommended actions in FY 2017-18. The budget resolution is necessary to provide funding for additional service needs in the Alternate Indigent Defense agreement and to cover costs associated with Public Defender case declinations in the current year. The current Alternate Indigent Defense provider, Richard A. Ciummo and Associates (Ciummo), is providing representation for cases that were declined by the Public Defender. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended actions are not approved, funding will not be provided for additional conflict defense services and Public Defender case declinations.

FISCAL IMPACT:

There is an increase in Net County Cost for FY 2017-18 in the amount of \$195,000. The additional Net County Cost will be funded from Unassigned Fund Balance that your Board reserved in FY 2017-18 for future Capital Projects. The Board initially reserved this funding (\$8,000,000) for future Capital Projects that had yet to be identified, or committed for a specific project. As such these funds are classified as Unassigned for financial reporting purposes in compliance with Governmental Accounting Standards Board (GASB) statement 54.

The additional Net County Cost represents the need for additional services in the Alternate Indigent Defense agreement and to cover Ciummo's costs for attorney and ancillary expenses associated with Public Defender case declinations in the current year. The current Alternate Indigent Defense agreement with Ciummo provides for coverage of cases declined by the Public Defender at a rate of \$60 per hour (25% less than the court's rate of \$80 per hour for appointed attorneys). Although this option was included in the agreement, funding was not included due to the uncertainty of the Public Defender declaring unavailability on

cases.

The increase of \$402,547 in the agreement represents the following:

- FY 2017-18 \$153,000 to fund costs associated with the Public Defender's declined cases and \$42,000 to fund costs associated with the added services in the conflict defense agreement; and
- FY 2018-19 \$207,547 to fund the remaining costs associated with added services in the conflict defense agreement, which will be included in the FY 2018-19 Requested Budget for the Alternate Indigent Defense Org 2875.

It should be noted, funds not expended for this amendment will revert back to the County.

DISCUSSION:

On June 6, 2017, your Board approved agreement No. 17-226 with Ciummo to provide alternate indigent services for a period of three years commencing on July 1, 2017 through June 30, 2020 with two optional one year extensions. This agreement provides representation of up to seven conflict indigent defendants in a single case before the Fresno County Superior Court. Ciummo continues to meet all performance expectations.

The agreement also provides for Ciummo to provide legal representation for cases declined by the Public Defender. The Public Defender declined select serious and violent felony cases from December 22, 2017 through February 20, 2018. Attorney and ancillary expenses associated with these cases are projected at approximately \$153,000. If additional funding is needed for these cases and/or in the unlikely event the Public Defender declines cases again, another amendment to the agreement may be necessary to fund additional costs.

Additionally, the recommended amendment before your Board provides funding for an increase in service needs due to the receipt of information on pending and closed cases represented by Ciummo, which require further review. It is expected the additional services at an estimated cost of \$249,547 will be completed within a twelve month period (FY 2017-18 = \$42,000, FY 2018-19 = \$207,547). Any funding that is not utilized from this amendment will revert back to the County.

REFERENCE MATERIAL:

BAI #33, June 6, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - First Amendment to Agreement with Richard A. Ciummo and Associates
On file with Clerk - Resolution (Org 2875)

CAO ANALYST:

Samantha Buck