



Board Agenda Item 27

DATE: October 11, 2016

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: Third Amendment to Agreement with Richard A. Ciummo & Associates for Alternate Indigent Defense Services

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute Third Amendment to Indigent Conflict Defense Agreement 12-272-2 with Richard A. Ciummo & Associates effective upon execution through June 30, 2017 and increasing the contract maximum by \$100,000 to a total of \$17,694,200.

The recommended action will modify the agreement to increase the ancillary funding for the alternate indigent defense contract by \$100,000 with no increase in Net County Cost. The ancillary funding is for reimbursement expenses including investigative services, copies of records, court appointed expert witnesses, DNA experts, and other court appointed expenses deemed necessary to assist Ciummo & Associates in the defense of indigent defendants.

ALTERNATIVE ACTION(S):

Your Board could choose to not approve the recommended action, in which case Ciummo & Associates would petition the Court for approval of such ancillary expenses.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action as estimated savings within the Alternate Indigent Defense Org 2875 line items (e.g., Professional and Specialized Services) will be utilized to offset the additional reimbursement expenses. The amendment will increase the amount allowable in the agreement for reimbursable expenses by \$100,000 (with no change in attorney fees). Appropriations for the Alternate Indigent Defense contract are included in the FY 2016-17 Adopted Budget for Org 2875.

DISCUSSION:

On June 5, 2012, your Board approved agreement No. 12-272 with Richard A. Ciummo and Associates to provide alternate indigent defense services for the period of July 1, 2012 through June 30, 2015, with two one-year optional renewals. On January 29, 2013, your Board approved the first amendment to include defendants previously represented by conflict counsel and deemed eligible for a resentencing hearing under the Three Strikes Reform Act of 2012 for no additional compensation. The first amendment also provided an additional \$20,000 specifically for ancillary/expert reimbursement expenses related to the "Three Strikes" defendants (to date \$5,000 of those funds have been expended). On June 2, 2015, your Board approved the second amendment for two one-year optional renewals extending the agreement through June 30, 2017.

The alternate indigent defense agreement includes representation of up to seven conflict indigent defendants in a single case before the Fresno County Superior Court. Ciummo & Associates continues to meet all

performance expectations.

Approval of the third amendment will add an additional \$100,000 in ancillary funding through the end of the current term, June 30, 2017. Ancillary funding is utilized by Ciummo & Associates in the preparation and presentation of a defendant's case. This funding is used for court appointed expert witness fees, investigative services, DNA experts, pathology experts, psychological assessments, and other ancillary expenses necessary in the defense of assigned clients.

Ancillary funding is disbursed on an as-needed basis. The current agreement provides for \$90,000 in ancillary services per year, which is a projection of these costs. Caseload fluctuations in addition to the different types of cases appointed to the vendor determine the required funding level for ancillary services. The recommended \$100,000 in additional ancillary funding is a projection of need through the end of the current contract term, June 30, 2017. The projected funding is based on Ciummo & Associates current caseload and types of cases. Any ancillary funding not utilized by the vendor will revert back to the County at the end of the contract term.

It should be noted if your Board does not approve the request for additional ancillary funding, Ciummo & Associates will petition the court to order these services to continue providing proper representation of their clients. Should this occur, the County will be required by court order to pay for these expenses.

REFERENCE MATERIAL:

BAI #48, June 5, 2012
BAI #27, January 29, 2013
BAI #21, June 2, 1015

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Third Amendment to Agreement with Ciummo & Associates

CAO ANALYST:

Samantha Buck