



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 3/22/2016

Agenda Placement: 6T

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Jeffrey Richard for Minh Tran - County Counsel
County Counsel

REPORT BY: Jeffrey Richard, CHIEF DEPUTY COUNTY COUNSEL - 253-4234

SUBJECT: Conflict Public Defender Agreements - Amendments to Agreement Nos. 6844-1, 6846-1, 6847-1, and 6849-1

RECOMMENDATION

County Executive Officer requests approval of and authorization for the Chairman to sign the following agreements increasing the monthly base compensation amounts for each attorney by \$2,200 effective April 1, 2016 to provide conflict public defender services on an interim basis not to exceed six months due to increased case loads:

1. Amendment No. 2 to Agreement No. 6844-1 with Mervin C. Lernhart, Jr.,
2. Amendment No. 2 to Agreement No. 6846-1 with Michael Keeley,
3. Amendment No. 2 to Agreement No. 6847-1 with James McEntee, and
4. Amendment No. 2 to Agreement No. 6849-1 with Jeffrey E. Hammond.

EXECUTIVE SUMMARY

The County has agreements in place with a panel of five criminal defense attorneys who serve as Conflict Public Defenders (CPDs). One member of the present panel, Jess Raphael, has terminated his CPD agreement effective March 31, 2016. Thus, in order to ensure coverage of Mr. Raphael's workload during the County's efforts to recruit his long-term replacement, it is necessary for the County to enter into amendments to each of the remaining four CPD agreements (Amendment No. 2 to each Agreement), by which the remaining four attorneys on the CPD panel would agree to cover a one-fourth share of Mr. Raphael's caseload and, in exchange, the County would pay each of them a one-fourth share of the monthly compensation being paid by the County to Mr. Raphael (\$8,800 per month), so that each of them will receive an additional \$2,200 per month. The term of the Amendments would be a maximum of six months, from April 1, 2016 through the earlier of the date by which the County engages the services of Mr. Raphael's long-term replacement and gives 30 days' notice of termination of the Amendments to each of the four attorneys or October 31, 2016.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Conflict Public Defender
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	The Amendments would extend through October 31, 2016 and will be budgeted accordingly in future fiscal years, including any subsequent CPI increases.
Consequences if not approved:	If the Amendments are not approved, the County will have increased reliance on court-appointed Conflict Public Defenders who bill hourly. The County will likely lose the ability to appropriately predict and budget costs in future fiscal years.
Additional Information:	

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

The Public Defender provides legal representation to persons charged with a criminal offense or certain other offenses involving liberty interests who are financially unable to pay for private legal assistance. When the Public Defender is unable to represent a client due to a conflict of interest, the case is handled by attorneys assigned as Conflict Public Defenders (CPDs). For many years, the County of Napa has provided CPD services through a panel of attorneys individually contracted with the County.

One member of the present panel of five CPD attorneys, Jess Raphael, has given notice of termination of his CPD agreement effective March 31, 2016. In order to provide coverage for Mr. Raphael's caseload during the time that a recruitment is undertaken through a Request for Qualifications to engage the services of a long-term replacement for Mr. Raphael, the other four attorneys on the CPD panel are willing, effective April 1, 2016, to assume an equal one-fourth share of Mr. Raphael's currently assigned caseload and an equal one-fourth share of the cases that would have been assigned to Mr. Raphael until such time as the County engages the services of the long-term replacement.

Thus, in order to ensure coverage of Mr. Raphael's workload during the County's efforts to recruit his long-term replacement, it is necessary for the County to enter into amendments to each of the four CPD agreements (Amendment No. 2 to each Agreement), by which the four attorneys would agree to cover a share of Mr. Raphael's caseload and, in exchange, the County would pay each of them a one-fourth share of the monthly compensation being paid by the County to Mr. Raphael (\$8,800 per month), so that each of them will receive an additional \$2,200 per month. The term of the Amendments would be a maximum of six months, from April 1, 2016 through the earlier

of the date by which the County engages the services of Mr. Raphael's long-term replacement and gives 30 days' notice of termination of the Amendments to each of the four attorneys or October 31, 2016.

The four attorneys whose agreements would be amended are all local vendors.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Helene Franchi