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Agenda Date: 4/4/2017

Agenda Placement: 6U

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Ben Guerrieri for Leanne Link - County Executive Officer
County Executive Office

REPORT BY: Ben Guerrieri, Management Analyst I - 707-253-4197

SUBJECT: Conflic Public Defender Agreements

RECOMMENDATION

County Executive Officer requests approval of and authorization for the Chair to sign the following agreements relating to Conflict Public Defender services for the term May 1, 2017 through June 30, 2018, with automatic on-year renewals unless terminated earlier:

1. An agreement with the Maas Law Offices for a maximum base compensation amount of \$126,723.52 for the initial fourteen month term, plus a CPI increase of between 2.5 percent and 5 percent per Fiscal Year, plus additional fees for providing legal representation in murder cases; and
2. An agreement with Douglas Pharr for a maximum base compensation amount of \$126,723.52 for the initial fourteen month term, plus a CPI increase of between 2.5 percent and 5 percent per Fiscal Year, plus additional fees for providing legal representation in murder cases.

EXECUTIVE SUMMARY

When the Public Defender is unable to represent an indigent defendant 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.

The County previously had contracts with a panel of six CPDs, but currently has agreements in place with only four attorneys. Two members of the panel resigned within the past 18 months. The four remaining CPDs have been covering the workloads of the two attorneys who departed on an interim basis under amendments to their contracts, as previously approved by the Board (and have divided the compensation that was being paid to the two who resigned).

The CEO and County Counsel have now completed the process of recruiting two new attorneys to replace those

who left. A Request for Qualifications (RFQ) yielded nine applications. A review committee, consisting of two representatives of the County Counsel's office, one representative of the CEO's office, and the Napa County Superior Court's Executive Officer, reviewed the applications. The committee members independently rated the applications and a strong, unanimous consensus was reached as to the top three candidates. However, one of those three candidates then withdrew from consideration. This left two clear-cut choices, Douglas Pharr and the Maas Law Offices (Thomas Maas and his associate Stacy Barrett), whose qualifications were deemed superior by the committee. The committee then checked the references of those candidates and elicited input from judges of the Napa County Superior Court and Solano County Superior Court, as well as the Napa County Public Defender Ronald Abernethy. The Background below provides some additional information about the qualifications of Mr. Pharr and of Thomas Maas who will be the lead attorney on the contract for the Maas firm.

Staff request and recommend that the Board authorize the execution of CPD contracts (on the same terms that apply to the four existing CPDs) with Mr. Pharr and with the Maas Law Offices. Upon engagement of the two new attorneys, the amendments of the contracts of the existing CPDs will terminate and their compensation will be restored and reduced to the prior levels.

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 agreements extend through June 30, 2018, with annual renewals. Future fiscal impact will be determined annually based on the number of murder cases handled by each Conflict Public Defender, which triggers the right for additional monthly compensation, and will be budgeted accordingly. The future fiscal impact will also depend on any required adjustments to base compensation levels that are required by the contracts, which adjustments are governed by the San Francisco Bay Area Consumer Price Index for each prior year.
Consequences if not approved:	If the amendments are not approved, the County may be unable to carry out its legal duty to furnish criminal defense services to indigents where the Public Defender has a conflict of interest. The existing CPDs are covering the additional caseload only on an interim basis and cannot bear the increased workload indefinitely.

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.

The County currently has agreements in place with a panel of four criminal defense attorneys who serve as Conflict Public Defenders (CPDs). This includes three CPDs who are primarily devoted to adult defense services and one CPD who is primarily devoted to juvenile defense services. The panel previously included two additional CPDs who provided adult defense services but who have resigned within the past 18 months. The four remaining CPDs have been covering the workloads of the two attorneys who departed on an interim basis under amendments to their contracts, as previously approved by the Board.

As we advised the Board would be the plan when those interim amendments were approved, CEO and County Counsel have now processed a Request for Qualifications (RFQ) to recruit two long-term replacements for the attorneys who resigned. The RFQ resulted in nine applications and statements of qualifications. A review committee, consisting of two representatives of the County Counsel's office, one representative of the CEO's office, and the Napa County Superior Court's Executive Officer, reviewed the applications. The committee members independently rated the applications and a strong, unanimous consensus was reached as to the top three candidates. However, one of those three candidates then withdrew from consideration. This left two clear-cut choices, Douglas Pharr and the Maas Law Offices (Thomas Maas and his associate Stacy Barrett) whose qualifications were deemed superior by the committee. The committee then checked the references of those candidates and elicited input from judges of the Napa County Superior Court and Solano County Superior Court, as well as the Napa County Public Defender Ronald Abernethy. Those sources provided additional strong support for the selection of Douglas Pharr and the Maas firm.

Mr. Pharr has prosecuted and defended numerous serious and complex felony cases. He was a prosecutor for 14 years (including over eight years with the Napa County District Attorney's Office) and has been a private defense attorney for the past 9 years. Maas has been practicing criminal defense law for 20 years. He has conducted more than 60 jury trials and an equal number of court trials. His associate, Ms. Barrett has conducted 12 jury trials. Based on this experience level and the recommendations received from bench officers and others, staff is confident in recommending that the Board authorized CPD contracts with Mr. Pharr and with the Maas Law Offices.

The proposed compensation structure is the same as that paid to the existing CPDs (except that one of the existing CPDs, Mervin Lernhart, receives additional compensation as compensation for his additional services as the Coordinator of the CPD program.

Mr. Pharr is a local vendor whose office is in Napa. While Thomas Maas's firm has its principal office in Fairfield, Mr. Maas is well-known and well-respected by the bench of the Napa County Superior Court. His associate, Stacy Barrett, who will assist Mr. Maas on the assignment, is a Napa resident and was with the Napa County Public Defender's office from 2006 to 2015. The RFQ required all applicants to provide office space in Napa where clients could meet with them. Mr. Maas has indicated his intent to secure Napa office space in time for the commencement of services on May 1, 2017.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Carlos Solorio