



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.washoecounty.us

CM/ACM _____
Finance _____
DA _____
Risk Mgt. ALA _____
HR ALA _____
Other _____

STAFF REPORT

BOARD MEETING DATE: June 28, 2016

DATE: June 17, 2016
TO: Board of County Commissioners
FROM: Kevin Schiller, Assistant County Manager
THRU: John Slaughter, County Manager

SUBJECT: Approve the renewal of the Agreement for appointed Counsel Administrator Services between the County of Washoe and Robert Bell, Esq., for professional legal services as the Appointed Counsel Administrator for the period of July 1, 2016 through October 31, 2016 [not to exceed [\$51,500] and if approved, authorize County Manager to execute the Contract (All Commission Districts)

SUMMARY

On June 25, 2013 the Board approved a three year agreement between the County of Washoe and Robert C. Bell, Esq. for professional legal services as the Appointed Counsel Administrator pursuant to the Model Court Plan of the Second Judicial District filed with the Supreme Court under ADKT No. 411. This agreement expires June 30, 2016, a Request for Proposal is currently in process for competitive selection of a vendor given significant changes have occurred in the conflict policy with a corresponding reduction in caseload. This renewal extends the current agreement for a period of 120 days.

PREVIOUS BOARD ACTION

On June 25, 2013 the Board approved a three year agreement between the County of Washoe and Robert C. Bell, Esq. for professional legal services as the Appointed Counsel Administrator pursuant to the Model Court Plan of the Second Judicial District filed with the Supreme Court under ADKT No. 411

On June 12, 2012 the Board approved an addendum extending the contract for an additional year.

On June 28, 2011 the Board approved awarding Agreement for Appointed Counsel Administrator Services between the County of Washoe and Robert Bell, Esq., for one year effective July 1, 2011 with the option to renew for two additional one-year terms.

AGENDA ITEM # 5H10

On June 14, 2011 the Board deferred an item to clarify the term of the agreement was for one year effective July 1, 2011, with the option to renew for two additional one-year terms.

On May 25, 2010 the Board approved a second and final addendum to renew for one year, the contract with Bell for professional legal services as the ACA.

On June 23, 2009 the Board approved an addendum to renew for one year, the contract with Bell for professional legal services as the ACA.

On June 24, 2008 the Board approved a one-year agreement with Bell for professional legal services as the ACA.

BACKGROUND

In its order dated January 4, 2008, the Supreme Court required each judicial district to file a plan for the provision and administration of indigent public defense. Accordingly on May 1, 2008, the Chief Administrative Judge of the Second Judicial District filed the Model Court Plan for indigent defense which became effective July 1, 2008.

The Plan calls for the administration of the process to appointed counsel both in conflict cases and on behalf of the court, to be provided under a contract by a qualified attorney. As the administrator, the attorney is specifically excluded from providing representation in appointed counsel cases.

Robert Bell has provided conflict counsel services to the County beginning with the first of two contracts dating back to July 1, 2007. Since the beginning of the contract, the implementation of the 2008 plan has led to an extensive scope in services as outlined in the attached agreement. Caseload has been effected by policy shifts based on precedents set in ongoing case law. Specifically, caseload data has shifted dramatically from its peak in FY 13-14 to approximately 300 cases in the current fiscal year as outlined below:

Fiscal Year 12-13 – 786 cases (including 48 Category A cases)

Fiscal Year 13-14 - 743 cases (including 58 Category A cases)

Fiscal Year 14-15 – 359 cases (including 41 Category A cases)

Fiscal Year 15-16 – 300 cases

As a result of the caseload reduction, an RFP will be released to address both financial and programmatic changes with the selection of vendor within the upcoming fiscal year. It is anticipated that this should be completed in no longer than 90 days, at which time an item will be brought forward for Board action. Pursuant to the current agreement which expires on June 30, 2016, this is a request for a renewal for a period not to exceed 120 days.

FISCAL IMPACT

Funding in an amount not to exceed \$51,500 is available in the County Manager's Conflict Counsel FY 16-17 budget (C101010, GL710800).

RECOMMENDATION

Approve the renewal of the Agreement for appointed Counsel Administrator Services between the County of Washoe and Robert Bell, Esq., for professional legal services as the Appointed Counsel Administrator for the period of July 1, 2016 through October 31, 2016 [not to exceed [\$51,500] and if approved, authorize County Manager to execute the Contract

POSSIBLE MOTION

If the Board agrees, a possible motion would be "Approve the renewal of the Agreement for appointed Counsel Administrator Services between the County of Washoe and Robert Bell, Esq., for professional legal services as the Appointed Counsel Administrator for the period of July 1, 2016 through October 31, 2016 [not to exceed [\$51,500] and if approved, authorize County Manager to execute the Contract."

AGREEMENT FOR APPOINTED COUNSEL ADMINISTRATOR SERVICES

THIS AGREEMENT, is made this 1st day of July, 2013, by and between Robert Bell, Esq., hereinafter "Appointed Counsel Administrator," or "Administrator," and Washoe County, a political subdivision of the State of Nevada, hereinafter "County."

WITNESSETH:

WHEREAS, County has the responsibility of providing for legal defense services to indigent persons in criminal, juvenile and family court cases which the Public Defender and Alternate Public Defender cannot handle because of conflicts of interest and in cases where the Court appoints counsel; and

WHEREAS, pursuant to the Nevada Supreme Court Order in ADKT No. 411, the Second Judicial District Court filed a Model Court Plan that calls for the administration of the process to appoint counsel both in conflict cases and on behalf of the court to be provided under a contract by a qualified attorney.

WHEREAS, Appointed Counsel Administrator represents that he is able and willing to provide the required services, has the experience necessary to competently perform his duties hereunder, and holds the required licenses to do so.

WHEREAS, the parties estimate that Administrator will be responsible for appointing counsel and providing all administrative services in approximately 900 conflict cases and 150 Habeas Corpus cases during the fiscal year 2014.

WHEREAS, these caseloads will require the preparation of approximately 1600 orders for processing.

NOW THEREFORE, it is hereby agreed as follows:

1. **Services to be Performed:** Appointed Counsel Administrator agrees that in no event will the Administrator be directly involved in representation of clients in court-appointed counsel cases or cases coming from the Alternate Public Defender. Appointed Counsel Administrator shall provide all professional services as described in the Request for Proposals dated April 12, 2011, which shall meet the requirements of the Second Judicial District Model Court Plan including, without limitation, as follows:
 - a. Maintaining a working group of properly licensed and experienced attorneys to handle all cases in which counsel is appointed by the court or cases in which both the Washoe County Public Defender and the Washoe County Alternate Public Defender have determined that a conflict of interest exists and in cases where the court appoints counsel.
 - b. Select and appoint representative attorneys to all cases covered by this agreement from the qualified lists of attorneys provided by the Appointed Counsel Selection Committee.

- c. Maintain all records regarding the appointments.
 - d. Approve claims for payment to attorneys, experts, interpreters and other necessary costs.
 - e. Determine the order in which contract, hourly, or capital case attorney need to be substituted for the Alternate Public Defender.
 - f. Establish and maintain a system for receipt and review of client complaints.
 - g. Prepare draft orders for the court relating to appointment of counsel.
 - h. Approve attorney's fees and the charges of other contractors i.e. interpreters, investigators, etc., requested in special cases upon review.
 - i. Refer appeals to the Chief Judge as provided for in section C.5 of the Model Court Plan.
 - j. Establish a mentoring program for new attorneys and work with the Public Defender and Alternate Public Defender Offices to establish annual and periodic training programs as provided for in section IV.A, B, and C of the Model Court Plan.
 - k. Establish and operate a system for determining possible conflicts of interest with pool attorneys.
 - l. Establish and operate a system for notifying a client of the conflict system the attorney from the group will be representing the client and providing the client with that attorney's contact information.
 - m. Provide monthly and annual reports to Washoe County and the court as required that allow the costs of the program to be analyzed and budgeted.
 - n. Establish and maintains a written Group Procedure Manual within the office that provide for the manner in which cases are assigned, tracked and handled by pool attorneys.
2. **Staff Support.** The Administrator will provide or contract for the provision of staff services necessary to carry out the duties of the Administrator, including without limitation:
- a. File intake and retrieval of files, documents and discovery from the Alternate Public Defender's Office.
 - b. Retrieve pre-sentence reports from Parole & Probation prior to scheduled hearing for those cases involving such reports.
 - c. Log new files into a databases by case type, i.e., Criminal, Family, or Juvenile, and prepared color-coded file folders and check for upcoming Court dates.

3. **Term:** This Agreement shall be effective on July 1, 2013 and shall remain in effect for a period of three (3) years. The Agreement may be renewed for additional term upon written agreement of both parties entered into before the expiration date of June 30, 2015. This Agreement may be terminated immediately if Bell Esq. fails to perform its obligation hereunder, upon thirty days written notice by County given in accordance with paragraph eight below and a subsequent failure to cure by Bell Esq. within a reasonable period of time.
4. **Compensation:** County agrees to pay Administrator as follows:
- Effective July 1, 2013, County shall pay to Bell Esq. \$143,250 per year payable in monthly installments of \$11,937.50.
 - Effective July 1, 2014, County shall pay to Bell Esq. \$150,000 per year payable in monthly installments of \$12,500.
 - Effective July 1, 2015, County shall pay to Bell Esq. \$154,500 per year payable in monthly installments of \$12,875.
5. **Collaboration:** Administrator agrees to collaborate with County on the implementation of the systems required by the Second Judicial District Model Court Plan as it is modified or amended from time to time.
6. **Relationship of the Parties:** All persons employed to furnish services hereunder are employees or contractors of Administrator, and not of County. Nothing in the Agreement shall cause either party to be construed as an employee, agent, partner or joint venture of the other. Neither party shall have the right to bind the other to any agreement with a third party, except as set forth in paragraph two above. Neither party shall represent itself as an agent, partner or joint venture of the other, nor to incur any obligation or liability on behalf of the other party.
7. **Indemnification and Insurance:** County has established specific indemnification and insurance requirements which are set forth in Exhibit A, which is attached hereto and by this reference incorporated herein. All conditions and requirements identified in Exhibit A shall be completed prior to the commencement of any work under this agreement.
8. **Termination:** This Agreement may be terminated as follows:
- By either party without cause or penalty upon thirty (30) days written notice given pursuant to paragraph nine below.
 - By County for good cause upon fourteen (14) days written notice given pursuant to paragraph nine below. Good cause is defined to include the failure to comply with the terms of the contract to an extent that the delivery of services to clients by a conflict attorney is impaired or rendered impossible; a willful disregard by Administrator of the rights and best interests of clients to whom attorneys assigned under this agreement; or the imposition of discipline by the Nevada State Bar or of sanctions by any court.
 - By County immediately upon receipt of information that Administrator's license to practice law in the State of Nevada has been suspended or revoked.

d. By County upon fourteen (14) days written notice given pursuant to paragraph nine below that the Board of County Commissioners has failed to appropriate funds to pay for the services described hereunder.

9. Notices: All notices, requests, demands, and other communications hereunder shall be in writing and delivered or mailed, with postage prepaid, to the party intended at its address as herein before set forth. In the event the notice is mailed, it shall be deemed received three (3) business days after deposit with the U.S. Postal Service.

To Conflict Attorney:
Robert Bell, Esq.
20 Winter Street
Reno, Nv 89503

To County:
John Berkich
Assistant County Manager
P.O. Box 11130
Reno, Nv 89520

10. Entire Agreement: This agreement contains the entire agreement between the parties hereto and supersedes any previous agreements between the parties, whether oral or written.

11. Governing Law: This agreement shall be governed by the laws of the State of Nevada and venue for deciding any dispute arising hereunder shall be in Washoe County, Nevada.

12. Amendment of Agreement: This agreement may be amended only by a written instrument signed by the parties hereto.

13. Severability: If any provision of this agreement shall be held or declared to be void or illegal for any reason, all other provisions of the Agreement which can be given effect without such illegal provision shall nevertheless remain in full force and effect.

14. Headings: The section headings in this agreement are intended solely for convenience; they are not part of this Agreement and shall not affect its construction.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

ROBERT BELL




Date: 7-1-13

ATTEST:

BY 
County Clerk

WASHOE COUNTY, NEVADA
Acting by and through its Board of
County Commissioners



Date: 6/25/13

Date: 6/25/13

RENEWAL TO
AGREEMENT FOR APPOINTED COUNSEL ADMINISTRATOR SERVICES

This first Addendum to the Agreement for Appointed Counsel Administrator Services, between Robert Bell, Esq., hereinafter "Administrator" and Washoe County, a political subdivision of the State of Nevada, hereinafter "County", is made and entered into this 1st day of July, 2016.

WITNESSETH:

WHEREAS, Administrator and County entered into the Agreement for Appointed Counsel Administrator Services, hereinafter "the Agreement", on July 1, 2013, which Agreement; and

WHEREAS, the Agreement presently provides that the parties have the option to renew for an additional term upon written agreement; and

WHEREAS, the current Agreement sets forth specific professional services to be provided by the Administrator; and

WHEREAS, the implementation of the Model Court Plan has created the continued need for services to be provided by the administrator; and

NOW THEREFORE, it is hereby agreed as follows:

1. Services to be Performed:

The Administrator will provide the professional services specified in the original agreement. This includes, without limitation, the following:

- a. For all Class A felony cases with the possibility of a life sentence or death penalty:
 - i. review all cases including facts and charges to determine the potential of trial versus settlement
 - ii. recommend appointment of counsel and hold a meeting to discuss the details of the case, set an estimated cost for the case for representation and other defense costs
 - iii. prepare orders for appointment of counsel
 - iv. monitor the progress and accumulated cost for the case
 - v. review and approve motions to pay interim and/or final costs in the case
 - vi. prepare and file orders or notices with the court, distribute copies to the parties and the appropriate agency for payment
- b. Prepare notices regarding fees and costs in all other less serious cases or cases that do not require State approval; file with the court; and, distribute copies to parties and to the appropriate agency for payment

- c. review new motions and requests, including invoices, time sheets and attorney expenditures for accuracy and ensure they are within statutory parameters
 - d. review the court's filing database for additional information; meet directly with court clerk staff
 - e. review each Motion Request for appointment of counsel, attorney fees, investigative, expert witness, interpreters, and motions for transcripts; review attorney's and expert's time and expense sheets to pre-authorize future expenses
2. Term: The term of this addendum shall be 120 days, commencing July 1, 2016 through October 31, 2016.
 3. Compensation: County agrees to pay Administrator four (4) monthly installments of \$12,500.

All other paragraphs of the Agreement shall remain unchanged.

Dated this ___ day of July, 2016.

Robert Bell, Esq.

By: _____

Date: _____

Washoe County, Nevada
Acting by and through its Board of County Commissioners

By: _____
John Slaughter, County Manager

Date: _____

ATTEST:

By: _____
County Clerk

Date: _____