



WASHOE COUNTY

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DA PL
Risk Mgt. DT
HR
Other

STAFF REPORT BOARD MEETING DATE: August 9, 2011

DATE: July 28, 2011
TO: Board of County Commissioners
FROM: John Berkich, Assistant County Manager
Richard Gammick, District Attorney
THROUGH: Katy Simon, County Manager
SUBJECT: Approve Agreement for Provision of Legal Services to Indigent Defendants between the County of Washoe and Washoe Legal Services [not to exceed \$80,000] for a six-month pilot period effective September 1, 2011, with the option to renew for an additional term; and if approved, authorize Chairman to execute Agreement. (All Commission Districts.)

SUMMARY

On June 28, 2011 staff and the District Attorney (DA) presented an update on the program to the Board and received direction to develop a contract with Washoe Legal Services (WLS) to implement a pilot program. Staff and WLS have developed the attached agreement, proposed budget for Board consideration and approval. The contract is to become effective September 1, 2011 for a six-month period ending February 28, 2012 with an option to renew for an additional term.

PREVIOUS ACTION

June 28, 2011 – the Board received and update on the program and received direction to develop a contract with WLS for a pilot program

BACKGROUND

On June 28, 2011 staff and the DA presented an update on the program to the Board and received direction to develop a contract with WLS to implement a pilot program. Staff and WLS have developed the attached agreement, proposed budget and business plan for Board consideration and approval. The contract is to become effective September 1, 2011 for a six-month period ending February 28, 2012 with an option to renew for an additional term.

As proposed, once developed and fully-operational, this program may process up to approximately 2000 cases each year and provide for numerous benefits to both defendants and the County as discussed with the Board

Under this proposed contract, WLS would agree to:

- Provide all the necessary personnel including attorneys and support staff
- Provide all facilities and equipment
- Provide all management and administration

AGENDA ITEM # 60(3)

- Provide all legal services for the early resolution of felony and misdemeanor cases

The County would agree to:

- Provide all funding for startup costs and operating expenses, not to exceed \$80,000 for a pilot project period of six months. (WLS estimated budget (attached) is for \$87,323 but agrees to the cap.)
- Fully cooperate with WLS in the design and development of the program and its ongoing operation.
- Collaborate with WLS in a comprehensive assessment of the program at the six month interval using performance measures which include:
 - Reduced jail days
 - Reduced court continuances
 - Reduced caseloads in the DA, PD and APD offices
 - Reduced transportation costs at the SO
 - Earlier resolution of cases

In summary, staff and the DA request Board approval of this contract to develop a pilot program for the proposed ECR program with WLS and return prior to the expiration of the contract with a performance report and a recommendation to renew or terminate the contract.

FISCAL IMPACT

Costs would be posted to the Conflict Counsel FY 11-12 budget C101010, GL 710839 Court Appointed Attorneys. Funding would not to exceed \$80,000 for a six-month pilot program and will require a transfer from Contingency if savings are not sufficient to cover the pilot program costs.

RECOMMENDATION

Approve Agreement for Provision of Legal Services to Indigent Defendants between the County of Washoe and Washoe Legal Services [not to exceed \$80,000] for a six-month pilot period effective September 1, 2011, with the option to renew for an additional term; and if approved, authorize Chairman to execute Agreement.

POSSIBLE MOTION

Motion to approve an Agreement for Provision of Legal Services to Indigent Defendants between the County of Washoe and Washoe Legal Services [not to exceed \$80,000] for a six-month pilot period effective September 1, 2011, with the option to renew for an additional term; and if approved, authorize Chairman to execute Agreement.

(All Commission Districts.)

AGREEMENT FOR PROVISION OF LEGAL SERVICES
TO INDIGENT DEFENDANTS

This Agreement, is made and entered into this 9th day of August, 2011, by and between WASHOE COUNTY, a political subdivision of the State of Nevada (hereinafter "County"), and WASHOE LEGAL SERVICES, a Nevada non-profit corporation (hereinafter "WLS").

WHEREAS, the Sixth Amendment to the United States Constitution requires states to provide competent legal defense to indigent persons; and.

WHEREAS, the State of Nevada has delegated its responsibility to provide indigent defense to the counties: and

WHEREAS, in 1997 Washoe County created the first Early Case Resolution (ECR) program which provided expedited due process to thousands of defendants over a period of eleven years during which no successful challenge was ever made against the program; and

WHEREAS, the ECR program was suspended by the Washoe County Public Defender in February 2008, subsequent to the Supreme Court order in ADKT No. 411 and the County and District Attorney now seek to reintroduce the program to minimize the overall indigent caseload;

NOW, THEREFORE, the parties agree as follows:

1. WLS agrees to provide the necessary counsel and support services and all equipment and administrative costs for a period of six months to provide for a pilot program to provide indigent legal services contemplated by the ECR program.
2. Amount of Compensation to be Paid: In consideration of the indigent legal defense and ECR services provided by WLS , County agrees to pay WLS \$80,000.00 for the provision of said services for a six-month pilot period. The payments shall be made to WLS on a monthly basis at the address set forth below in six equal payments during the term.
3. Term of Agreement: This Agreement shall be effective on September 1, 2011 and shall remain in effect for a period of six (6) months. The Agreement may be renewed for additional term upon written agreement of both parties entered into before the expiration date of February 28, 2012. This Agreement may be terminated immediately if WLS fails to perform its obligation hereunder, upon thirty days written notice by the County given in accordance with paragraph eight below and a subsequent failure to cure by WLS within a reasonable period of time.
4. Relationships Created: The parties understand and agree that no attorney-client relationship is created under this Agreement between WLS and the County. It is the

intention of the parties only that WLS shall provide the services and assistance outlined in this Agreement, and that the only attorney client relationship that arises from the services provided hereunder shall be between the attorney employed by WLS and the individual represented.

5. Procedure for Provision of Services: The obligation of WLS to provide legal counsel services hereunder shall accrue upon appointment to a case by the Justice Court and a subsequent identification of the case as appropriate for inclusion in the ECR program and shall continue until an order is entered by the Court relieving WLS of its obligation or the case is dismissed.

*

6. Indemnification and Insurance Requirements: Contractor shall save, hold harmless, and indemnify County, its officers, agents and employees, from and against all claims, causes of action, liabilities, expenses and costs, including reasonable attorneys' fees, for injury or death of any person or damage to property arising out of, or connected with, work performed under this Agreement which is the result of any acts or omissions, whether negligent or otherwise, of Contractor, its officers, agents, subcontractors or employees.

County shall not provide any insurance coverage of any kind for Contractor or Contractor's employees or contract personnel. Contractor shall procure and maintain Professional Liability insurance in the amount of \$1,000,000.00 to cover Contractor's activities with respect to services provided pursuant to this Agreement. This insurance coverage shall remain in force for the duration of this contract.

7. Notices: Any notice to be provided to a party under this Agreement shall be made by ordinary mail (effective three days after deposit in an approved U.S. Mail facility), or by hand delivery as follows:

To the County: Washoe County Manager
 P.O. Box 11130
 Reno, Nevada 89520

To Washoe Legal Services: Executive Director
 650 Tahoe Street
 Reno, Nevada 89509

8. Condition of Funding For Enforcement of Agreement: As required by N.R.S. 244.320 and N.R.S. 354.626, the parties acknowledge that the participation of the County in this Agreement is contingent upon the appropriation of public funds to support the activities described herein and that the Agreement will terminate if the appropriation of funds does not occur. In this event, immediate written notice of termination will be given in accordance with paragraph eight above.

9. Sole Agreement: This Agreement contains all the commitments and agreements of the parties related to indigent legal defense and ECR services, and oral or written

commitments not contained herein shall have no force or effect to alter any term or condition of this Agreement, unless modified in accordance with paragraph eleven below.

10. Amendment: This Agreement may be amended or modified only by the mutual written agreement of the parties which has been ratified in accordance with law.

11. Severability: In case any one or more of the terms, sentences, paragraphs or provisions contained herein shall for any reason be held to be invalid, illegal, or non-enforceable, in any respect, such invalidity, illegality, or non-enforceability shall not affect any other terms, sentences, paragraphs, or provisions and this Agreement shall be construed as if such invalid, illegal, or non-enforceable provision had never been contained herein.

12. Waiver: A waiver of any breach of any provision of this Agreement by any party shall not be construed to be a waiver of any preceding or succeeding breach.

13. Governing Law; Venue: This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Nevada and venue for any action based upon its terms and the parties' performance thereunder shall be in the Second Judicial District Court of Washoe County.

IN WITNESS WHEREOF, the parties have set their hands with the intent to be bound.

WASHOE LEGAL SERVICES

By: _____
Executive Director

WASHOE COUNTY

By: _____
John Breternitz, Chairman,
Washoe County Board of Commissioners

ATTEST:

County Clerk

EXHIBIT A
YEARLY ECR Budget

			ANNUAL Total	Six Month Total
<u>Staff & Benefits</u>				
Attorney (includes Benefits and Taxes)			\$ 88,386	\$ 44,193
Part-time Assistant (includes taxes)			\$ 21,530	\$ 10,765
<u>Administration</u>				
Executive Director- Allocation	5%	\$ 135,000	\$ 7,830	\$ 3,915
CFO-Allocation	5%	\$ 82,000	\$ 4,756	\$ 2,378
<u>Other Expenses</u>				
Occupancy Expenses			\$ 14,010	\$ 7,005
(Includes rent @.75 per square foot, utilities, telephone and janitorial)				
Translation services			\$ 12,000	\$ 6,000
Office Supplies			\$ 2,500	\$ 1,250
IT Expense			\$ 3,000	\$ 1,500
Postage and Delivery			\$ 500	\$ 250
Professional Fees/Expenses			\$ 3,100	\$ 1,550
(includes Training, Professional Dues, Subscriptions and Library)				
Miscellaneous Expenses			\$ 500	\$ 250
Workmans Comp Insurance			\$ 135	\$ 68
Professional Liability Insurance			\$ 1,500	\$ 750
Payroll Processing Fees			\$ 300	\$ 150
			\$ 160,047	\$ 80,023

Start Up Costs not to exceed \$7,500:

2 Computers & Software	\$ 3,000
2 Printers	\$ 300
Furniture	\$ 1,500
Filing Cabinets	\$ 500
2 Phones	\$ 1,000
Wiring and installation of computers/phones	\$ 1,000
	\$ 7,300