



Legislation Text

File #: 13-0651, **Version:** 1

Resolution to Approve an Amendment to Professional Legal Services Agreement with Funkhouser and Nassif, P.L.L.C., DBA Model Cities Legal Services, Inc. to Provide Legal Representation as Court-Appointed Counsel to Indigent Defendants for FY2013 (\$203,000.00 amendment/\$383,000.00 new contract NTE)

The 15th Judicial District Court is required by law to appoint attorneys to represent indigent defendants when potential sanctions upon conviction may include incarceration.

By Resolution R-12-282 dated June 18, 2012, Council approved a professional services contract with Funkhouser and Nassif, P.L.L.C., dba Model Cities Legal Services, Inc. ("MCLS"), for indigent representation services in the amount of \$180,000.00 for FY 2013. The contract amount was estimated based upon, among other factors, the amount of invoices received from MCLS in prior FYs. Consequently the contract amounts were reduced from \$210,000.00 in FY 2008 to \$180,000.00 in FY 2013.

Indigent defendants represented by MCLS who are found guilty by plea or by trial are often subjected to further Court action because those defendants remain under Court supervision or are subject to ongoing Court orders after sentencing. Other indigent defendants represented by MCLS whose cases have not been adjudicated have outstanding arrest warrants, which continue those cases to undetermined future dates.

In October 2012 the Court and City Financial Services became aware that MCLS' often delayed invoices for indigent representation until those cases were closed or until further Court action was unlikely. The unfortunate and unintended result of that practice is a reservoir of unbilled invoices that masked the true annual cost of indigent representation.

In order to bring the indigent representation account fully current, the Court, City Financial Services and MCLS agreed that MCLS would invoice all delayed invoices, without regard to when services were rendered, not later than February 8, 2013. The Court, City Financial Services and MCLS also agreed that henceforth MCLS would cease delayed invoicing.

The amount of delayed invoices submitted on February 8, 2013 exceeds the original \$180,000.00 contract amount by \$148,000.00. Considering the true annual costs of indigent representation, the Court projects that an additional \$55,000.00 is needed to fund indigent representation to June 30, 2013 for a total of \$203,000.00.

Consequently the Court requests that the Ann Arbor City Council approve an amendment to the professional legal services agreement with MCLS that will increase the contract amount by \$203,000.00 to \$383,000.00. Future services, if the FY2014 contract for services with MCLS is approved by City Council, will be provided on a flat fee basis eliminating the possibility of future budget overruns.

Human Rights and Living Wage approval was received on May 15, 2013.

Prepared by: Keith Zeisloft, Court Administrator, 15th District Court

Reviewed by: Keith Zeisloft, Court Administrator, 15th District Court

Approved by: Steven D. Powers, City Administrator

Whereas, Persons charged with misdemeanor violations for which incarceration may be imposed are entitled to legal representation;

Whereas, Persons who are determined by the 15th Judicial District Court to be indigent have the right to have counsel appointed by the Court, at public expense, to represent them on misdemeanor violations for which incarceration may be imposed;

Whereas, The City of Ann Arbor is obligated by law to fund 15th Judicial District Court operations;

Whereas, Pursuant to Michigan Court Rule 8.110(C), the Chief Judge is the chief administrative official in the District Court and is responsible for oversight of the appointment of counsel for indigent defendants;

Whereas, By Resolution R-12-282 dated June 18, 2012, Council approved a professional services contract with Funkhouser and Nassif, P.L.L.C., dba Model Cities Legal Services, Inc. ("MCLS"), for indigent representation services in the amount of \$180,000.00 for FY 2013;

Whereas, The cost for indigent representation services by Model Cities Legal Services, Inc. to the end of FY 2013 will exceed the original contract amount by \$203,000.00;

Whereas, An amendment to the professional legal services agreement is necessary to provide representation for indigent persons; and

Whereas, Living Wage and Human Rights approval was granted by the City Human Resources Department on May 15, 2013;

RESOLVED, That City Council approve an amendment to the professional legal services agreement with Funkhouser and Nassif, P.L.L.C., dba Model Cities Legal Services, Inc. to increase the contract amount by \$203,000.00; and

RESOLVED, That the Mayor and City Clerk be authorized to sign the agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.