



Butte County Board of Supervisors Agenda Transmittal

Clerk of the Board Use Only

Meeting Date: Jun 12, 2012

Agenda Item: 3.18

Subject: Agreement between the County of Butte and Chico Research Foundation

Department: Sheriff/County Counsel

Meeting Date Requested: 06/12/2012

Contact: Brad Stephens

Phone: 538-7621

Regular Agenda

Consent Agenda

Department Summary: *(Information provided in this section will be included on the agenda. Attach explanatory memorandum and other background information as necessary).*

As a result of a lawsuit filed by inmates in the Jail in 1984 (Jones v. Brooks, Sup. Ct. Case No. 084429), the County and the inmates entered into a court-ordered Consent Decree that is under the jurisdiction of the Butte County Superior Court. In accordance with the County's obligation to provide inmates with "meaningful access to the courts," the Consent Decree requires that the Jail maintain a law library that is staffed by Legal Research Assistants (LRAs), who are Chico State students participating in University's paralegal program.

The agreement establishes that the LRAs are employees of the Research Foundation, and are covered by the Foundation's workers' compensation coverage. The agreement provides that the LRAs are to be paid \$8.50 per hour, or the then applicable minimum wage, and that the total amount to be paid by the County shall not exceed \$38,514.00, which is the same amount allowed under previous agreements. The term of the agreement is from July 1, 2012 through June 30, 2013.

Fiscal Impact:

None.

Personnel Impact:

None.

Action Requested:

Approve agreement and authorize the Chair to sign.

Administrative Office Review: Shari McCracken, Deputy Administrative Officer

AGREEMENT

This Agreement is effective July 1, 2012 and is entered into by and between the County of Butte ("County") and The CSU, Chico Research Foundation ("Foundation"), a California non-profit public benefit corporation and an auxiliary organization of California State University, Chico, who, in consideration of the mutual conditions, covenants and promises set forth below, agree as follows:

1. **Engagement.** County engages Foundation and Foundation accepts engagement by County to perform those services ("the Services") described on the attached Exhibit "A." Foundation agrees to undertake, perform and complete in a thorough, good and professional manner the Services.
2. **Compensation.** As and for compensation for performance by Foundation of the Services, County shall pay to Foundation the amounts set forth on the attached Exhibit "B," which amounts shall be paid in the manner described on the attached Exhibit "B."
3. **Term.** The term of this Agreement shall commence on July 1, 2012 and shall continue through June 30, 2013 as more particularly described on the attached Exhibit "A," or until terminated as set forth below. The parties acknowledge and agree that time is of the essence. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notification to the breaching party.
4. **Termination.** Termination shall be effective immediately upon receipt of said written notification, or five days after mailing of said notification, whichever occurs first. For purposes of this section, material breach of this Agreement shall include, but shall not be limited to, the following: Failure of Foundation to perform the Services in the manner and at the times required as set forth on the attached Exhibit "A;" nonpayment of compensation by County in the manner required of it under Exhibit "B;" or, bankruptcy or insolvency of either party. Notwithstanding the foregoing, in the event Foundation is unable to complete performance of the Services in the time specified on the attached Exhibit "A" because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other causes beyond the reasonable control of Foundation, then the term of this Agreement shall be extended for a period equal to

the period of such cause for failure of Foundation to perform. Should any such event arise during the term of this Agreement, Foundation shall give County written notice of such event within a reasonable time following Foundation becoming knowledgeable of such event and will advise County as reasonably as possible of the anticipated duration of such event.

5. **Relationship of Parties.** County and Foundation intend and agree that Foundation, in performing the Services, shall be and act as an independent contractor and shall have full and complete control of Foundation's work and the manner in which it is performed. Foundation shall be and is free to contract or perform similar duties for others during the term of this Agreement, so long as such does not interfere with Foundation's performance of the Services in the manner and at the times specified on the attached Exhibit "A." Foundation is not and shall not be deemed an agent or employee of County. County is interested only in the results of the work to be performed by Foundation. Foundation will determine the method, details and means of performing the Services. Foundation may, at Foundation's own expense, use employees or other subcontractors to perform the Services. Under no circumstances shall Foundation look to County as Foundation's employer or as a partner, agent or principal. Foundation shall not be entitled to any benefits accorded to County's employees including, without limitation, workers compensation, disability insurance, vacation or sick pay. Foundation shall be responsible for providing, at Foundation's expense and in Foundation's name, disability, workers compensation or other insurance as well as licenses and permits usual or necessary for conducting the Services hereunder. Foundation shall pay, when and as due, any and all taxes incurred as a result of Foundation's compensation hereunder, including estimated taxes.

6. **Indemnification.** Each party agrees to indemnify, defend and save harmless the other and its respective officers, agents, and employees from any and all liability, loss, expense, attorney's fees or claims accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with said party's performance under this Agreement, or accruing or resulting to any person, firm or corporation who may be injured or damaged by the negligence or intentional act or omission of said party, or its employees, agents, or subcontractors, in connection with this Agreement.

7. **Arbitration.** Any controversy arising from this Agreement or its breach shall be determined by three arbitrators appointed as set forth below:

a. Within ten days after notice by either party to the other requesting arbitration and stating the basis of the party's claim, one arbitrator shall be appointed by each party. Notice of the appointment shall be

given by each party to the other when made.

b. The two arbitrators shall immediately choose a third arbitrator to act with them. If a party fails to select an arbitrator within the time allowed or if the two arbitrators fail to select a third arbitrator within ten days after their appointment, on application by either party the additional arbitrator shall be promptly appointed by the presiding judge of the Superior Court of the State of California in and for the County of Butte, acting as an individual. The party making the application shall give the other party ten days notice of the application.

The arbitration shall be conducted under California Code of Civil Procedure sections 1280, et seq. Hearings shall be held in Butte County, California. All notices, including notices under Code of Civil Procedure section 1290.4, shall be given in writing either by personal service or by registered or certified mail, postage prepaid, and return receipt requested, or by facsimile transmission with a confirmation copy delivered by mail. Notice shall be considered given three days after mailing. Notices shall be addressed as shown below for each party, except that, if any party gives notice of a change of name or address, notices to that party shall thereafter be given as shown in that notice.

COUNTY:

Brad Stephens, Deputy
Office of the County Counsel
County of Butte
25 County Center Drive
Oroville, CA 95965
Telephone: 530-538-7621
FAX: 530-538-6891

FOUNDATION:

Carol Sager, Director
Office of Research and Sponsored Programs
The CSU, Chico Research Foundation
California State University, Chico
Chico, California 95929-0870
Telephone: 530-898-5700
FAX: 530-898-6804

NOTICE: By initialing in the space below, you are agreeing to have any controversy arising from this Agreement or its breach decided by neutral arbitration as provided by California law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California Code of Civil Procedure. Your agreement to this arbitration provision is voluntary.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING FROM THIS AGREEMENT OR ITS BREACH TO NEUTRAL ARBITRATION.

County: _____
Initial

Foundation: C
Initial

EXHIBIT A
SCOPE OF WORK

I. Overview

The period of performance for this Agreement is July 1, 2012 through June 30, 2013

The CSU, Chico Research Foundation ("Foundation") will provide the County of Butte ("County") with student Legal Research Assistants ("LRAs"), under the supervision of California State University, Chico ("CSU, Chico") Professor Sally Parker.

II. LRAs

A. LRA Qualifications

1. LRAs shall be current or continuing students enrolled at CSU, Chico who are working on or who have completed some of the course work in the Paralegal Certificate/Option Program, with legal research experience.
2. LRA's must be cleared by County to work in the County jail ("Jail").
3. Foundation and County may mutually agree upon other qualifications or conditions as necessary regarding LRAs.

B. LRA Services

1. LRAs shall assist Jail inmates ("Inmates") with legal research and shall conduct training for those Inmates who want to learn how to perform legal research on the computer or with the books in the Jail law library ("Law Library").
2. LRAs shall determine on a weekly basis the inventory of the law books and research materials, such as computer databases, and update such books and materials when updates/supplements are available. LRAs will notify responsible Jail management of books or materials that are missing or destroyed.
3. Law Library will be staffed by LRAs up to an average of 50 hours/week, between 9:00 a.m. and 9:00 p.m., excluding meal times or scheduled activities.

III. Jail Responsibilities

1. Jail shall provide LRAs with use of Law Library and access to Inmates who want to utilize the Services of LRAs.
2. Interviews and correspondence between the LRAs and Inmates shall be treated as privileged attorney-client communications and shall be confidential.
3. LRAs shall be provided with prompt access to Law Library, and should not have to wait more than five to ten minutes to enter Jail.
4. Jail may conduct reasonable searches on LRAs. Such searches shall be conducted in a professional manner and shall not be done in the presence of Inmates or other non necessary staff. LRAs shall not be searched as a part of the training of Jail personnel. Searches shall be conducted by an officer of the

same gender as the LRA.

5. Inmates shall be promptly brought and removed from Law Library when requested by the LRAs. "Promptly" is defined as no later than 15 minutes after LRA's request.
6. Security measures shall be implemented to provide for the safety and security of LRAs consistent with the security provided to County employees, including the ability to contact Jail staff immediately if necessary.
7. No more than two (2) Inmates of like classification may be permitted in any one of the facilities of Law Library at any one time.
8. Non-compatible Inmates shall not be brought to use Law Library at the same time.
9. Jail will discipline Inmates who are found to have violated Jail policies while in Law Library, including improper conduct directed at LRAs, and the destruction of Law Library books, supplies and computer equipment.
10. Foundation and County may mutually agree upon other restrictions or conditions as necessary regarding Inmates.

IV. County Responsibilities

1. County shall compensate Foundation as set forth in Exhibit B for Services of LRAs.
2. County shall also be responsible for costs, upkeep and repairs of the Law Library books, computer equipment, CD-ROM units, printers, typewriter and the like. County shall schedule maintenance and repairs of equipment in a timely manner, no later than 48 hours after LRA's request is made.
3. County shall also be responsible to provide all computer and copy paper required for Law Library to function. Paper shall be ordered no later than 24 hours after LRA's request is made.
4. County shall also be responsible to underwrite a subscription, either CD or internet based, that will provide access to current codes and cases for federal law and the state of California, the United States Supreme Court and the United States Court of Appeals, 9th Circuit.

EXHIBIT B
COMPENSATION

The County of Butte ("County") shall reimburse The CSU, Chico Research Foundation ("Foundation") for Foundation's actual costs of performance of the Services set forth in Exhibit A.

Wages paid to LRA's by Foundation shall not exceed the greater of \$8.50 per hour or the then applicable legally required minimum wage. Payroll taxes (FICA, SUI, Workers Compensation Insurance) are not expected to exceed 6% of wages. LRA's operating expenses (copying, supplies, postage, mileage, etc.) are not expected to exceed \$6,200. Foundation's actual costs shall include indirect costs calculated at the rate of 30% of wages, payroll taxes, and operating expenses for LRA's.

The total amount to be paid by County to Foundation under this Agreement **shall not exceed \$38,514.00.**

Foundation will invoice County quarterly in arrears.