



## Legislation Text

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**File #:** 2021-0512, **Version:** 1

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**To:** Board of Supervisors

**Department or Agency Name(s):** County Counsel and Independent Office of Law Enforcement Review and Outreach

**Staff Name and Phone Number:** Tandra Curtis, Deputy County Counsel -707 565 2421

**Vote Requirement:** 4/5th

**Supervisory District(s):** Countywide

**Title:**

Legal Services Agreement for the Sonoma County Independent Office of Law Enforcement Review and Outreach ("IOLERO") Conflict Counsel.

**Recommended Action:**

Authorize the IOLERO Director to execute two on-call Legal Services Agreements for the Sonoma County Independent Office of Law Enforcement Review and Outreach ("IOLERO") Conflict Counsel with Renne Public Law Group and Carle, Mackie, Power & Ross LLP with not-to-exceed amounts of \$100,000 for each agreement and terms ending December 31, 2023 (4/5<sup>th</sup> Vote Required).

**Executive Summary:**

County Counsel, in conjunction with IOLERO, issued a Request for Proposals ("RFP") to law firms who have experience in litigation and in representing law enforcement oversight agencies, in the event that a direct conflict arises between the representation of IOLERO in matters involving the Sonoma County Sheriff's Office and/or the IOLERO Community Advisory Council ("CAC").

Two firms, Renne Public Law Group and Carle, Mackie, Power & Ross LLP, submitted a response that conformed to all material requirements of the RFP, and County Counsel issued a notice of intent to award the contract to both law firms. It is recommended that the Board authorize County Counsel to execute an on-call Legal Services Agreement with both Renne Public Law Group and Carle, Mackie, Power & Ross LLP.

**Discussion:**

IOLERO and the CAC were originally created in 2016 by adoption of Ordinance No. 6174. The duties and independence of both IOLERO and the CAC were recently expanded by Sonoma County Measure P, which repealed and replaced Ordinance 6174 in its entirety, and which has since been codified in Article XXVII of Chapter 2, sections 392 to 397, of the Sonoma County Code, as Ordinance 6333. Pursuant to Ordinance 6333 and Government Code section 25303.7, IOLERO and the CAC now have expanded oversight roles and responsibilities, including, but not limited to, the power to issue subpoenas and subpoena duces tecum to the Sheriff's Office. It is anticipated that such additional powers and authority may result in litigation between the Sheriff's Office, IOLERO and/or the CAC.

The Rules of Professional Conduct that govern attorneys prohibit County Counsel from representing clients

with direct conflicts. IOLERO anticipates that there will be instances in the future where the Sheriff's Office may challenge the legality of a subpoena issued by IOLERO or a related matter, and also that there may be differences of opinion that may arise between IOLERO and/or the Sheriff's Office and/or the CAC regarding the parties' authority and responsibilities under Ordinance 6333. If this were to occur, the Rules of Professional Responsibility would prohibit County Counsel from representing IOLERO, the Sheriff's Office and the CAC with respect to such differing opinions. Absent such a direct conflict, County Counsel will continue to represent IOLERO, as well as the Sheriff's Office and the CAC, with an ethical wall in place that will separate the attorneys who represent each department.

To ensure that IOLERO has appropriate legal representation in the event of such a conflict, County Counsel worked with IOLERO to issue a Request for Proposal (RFP) to law firms who specialize in litigation and in representing law enforcement oversight agencies, and who could provide competent legal services to IOLERO in the event of an actual conflict.

Renne Public Law Group and Carle, Mackie, Power & Ross LLP, submitted a response that conformed to all material requirements of the RFP. County Counsel issued a notice of intent to award the contract to both law firms.

Staff recommend that the Board authorize County Counsel and the IOLERO Director to execute an on-call Legal Services Agreement with Renne Public Law Group which is included as Attachment A, and Carle, Mackie, Power & Ross LLP, which is included as Attachment B. Each contract has a not to exceed amount of \$100,000.00 for the 3-year contract term, for combined total of \$200,000. Costs incurred pursuant to this Legal Services Agreement would be paid for out of IOLERO's FY 20-21 Adopted Budget for Other Contracts, and will be included in future budget requests. At this time, execution of this Agreement does not require additional appropriations.

**Prior Board Actions:**

N/A

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 20-21 Adopted</b>	<b>FY21-22 Projected</b>	<b>FY 22-23 Projected</b>
Budgeted Expenses	\$66,666.67	\$66,666.67	\$66,666.67
Additional Appropriation Requested			
<b>Total Expenditures</b>	\$66,666.67	\$66,666.67	\$66,666.67
<b>Funding Sources</b>			
General Fund/WA GF	\$66,666.67	\$66,666.67	\$66,666.67
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	\$66,666.67	\$66,666.67	\$66,666.67

**Narrative Explanation of Fiscal Impacts:**

County Counsel is estimating that outside Conflict Counsel may spend up to 100 hours per year for IOLERO conflict counsel legal services pursuant to each Agreement. Each Agreement has a not to exceed limit of \$100,000 over the three-year contract term for a total of \$200,000. The fiscal summary shows the total not to exceed amount spread out over three years. Any unspent funds will be rolled over and available for use in subsequent fiscal years. The current year fees for these outside legal services will be financed with available IOLEROs FY 20-21 appropriations and future years expenses will be included as part of the annual budget process.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

Attachment A: Legal Services Agreement with Renne Public Law Group

Attachment B: Legal Services Agreement with Carle, Mackie, Power & Ross LLP.

**Related Items "On File" with the Clerk of the Board:**

N/A