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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

February 5, 2020

Charter Township of Waterford Board of Trustees
5200 Civic Center Drive
Waterford, MI 48329

RE: (1) Michigan Indigent Defense Commission (MIDC) Grant Contract for FY2020
(2) Interlocal Agreement with Oakland County

Dear Township Board Members:

MIDC Grant Contract

As reported last year when you approved an MIDC Grant Contract for FY2019 (10/1/2018 - 9/30/2019), under the Michigan Indigent Defense Commission Act ("Act") adopted in 2013 and amended in 2018, the MIDC is responsible for developing and ensuring compliance with uniform minimum standards for Michigan courts to provide indigent criminal defense services. The Act provides for State grants to assist "Indigent Criminal Defense Systems" such as the Township (as the funding unit for the 51st District Court) in complying with the standards.

Provided with this letter for approval is MIDC's proposed Grant Contract for FY2020 (10/1/2019 - 9/30/2020.) Ms. Thom has advised this is what was expected, including the budget amounts on page 1, and recommends approval. I concur with that recommendation. If you agree, the appropriate action would be a motion:

To approve and authorize the Supervisor to sign the Grant Contract with the State Michigan Indigent Defense Commission and Department of Licensing and Regulatory Affairs for October 1, 2019 to September 30, 2020.

Interlocal Agreement with Oakland County

The second Agreement provided with this letter for approval is Oakland County's proposed Interlocal Agreement to provide defense attorneys at the County jail for indigent defendants being arraigned beginning March 2, 2020. Under the MIDC Grant Contract, providing those attorneys is the Township's responsibility and money is allocated in the Township's MIDC grant for the costs of doing that. The amounts to be paid by the Township to the County are roughly 65% of the Township's annual grant amount for that MIDC requirement, reflecting that the period from March 2nd to September 30th is 65% of the 2020 Fiscal Year.

Our office had two (2) general areas of concern with the County's proposed Agreement. The first was with respect to many provisions that are way too one-sided in the County's favor for a cooperative intergovernmental agreement such as this. However, upon presenting those concerns to the County attorney, we were advised that the County Board of Commissioners had

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already approved the Agreement for all Oakland County communities and that the Township had indicated the Agreement was acceptable before that Board of Commissioner's approval.

In this situation where there is no risk of the Township not paying (Ms. Thom confirmed that the FY 19 Prior Year Unspent Funds on page 1 of the MIDC Grant Contract could be used if necessary) the chances of those objectionable provisions coming into play is extremely low. That combined with the benefits to the Court and Township of this arrangement, and that the County will hopefully be able to assume this entire responsibility in future years (see Section 4.2) provide a rationale for overlooking the objectionable provisions and approving the Agreement.

The second concern we had with the County's Agreement was whether the Township signing it would violate the Township's MIDC Grant Contract. Those concerns on behalf of Waterford and two other clients (Farmington and Farmington Hills) were discussed with the County attorney, who then presented them to MIDC. Attached is a January 30, 2020 email from MIDC's Regional Manager that has satisfied our concerns.

As with the MIDC Grant Contract, Ms. Thom recommends approval of the Interlocal Agreement with Oakland County, and for the reasons outlined above, I believe that following that recommendation would be in the best interest of the Township. A written Resolution approving the County Agreement is required and provided. Your action could be by a motion to:

Adopt the Resolution approving the Interlocal Agreement with Oakland County
For Appointments of Arraignment-Only Attorneys in the Oakland County Jail.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Gary L. Dovre

Attachments

cc: Jennifer Thom, Court Administrator
Derek Diederich, Budget Director
Barb Miller, Asst. Budget Director

Gary L. Dovre

From: Smithson, Nicole (LARA) <SmithsonN@michigan.gov>
Sent: Thursday, January 30, 2020 12:44 PM
To: Jerge, Mary A; Gary L. Dovre
Cc: Brown, Malcolm D; Steve Joppich; Tom Schultz; 'Thom, Jen'; David Walsh
Subject: RE: 47th and 51st District Courts - Interlocal Arr Attys in OCJ - MIDC Approval

Hi Mary Ann:

I received the following feedback.

The systems listed below received a written correspondence advising that the plans and costs that they submitted were approved for FY20. The MIDC is not involved in the details of the interlocal agreement. I think this takes care of the first 2 points. As to the 3rd point, systems submit plans every year. The Commission will review and make decisions for FY21 when those plans are submitted.

- The MIDC has approved of Waterford's, Farmington's and Farmington Hill's delegation and assignment to Oakland County of the MIDC Standard 4 requirement to provide arraignment attorneys to their defendants in the Oakland County Jail.
- The MIDC has approved the funding of the municipalities' budget amounts for reimbursement to Oakland County for providing arraignment attorneys in the OCJ in both FY19 and FY20.
- The MIDC understands that in subsequent years, Oakland County will apply for the entire funding for arraignment attorneys in the OCJ and the municipalities will no longer have to budget for or be granted the reimbursement budget line item in subsequent years' grants. (This is the understanding contained in Sec. 4.2 of the attached Interlocal).

Nicole

Nicole M. Smithson, Regional Manager
Lapeer, Macomb, Oakland, and St. Clair
(586) 638-6546



MICHIGAN INDIGENT
DEFENSE COMMISSION

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From: Jerge, Mary A <jergem@oakgov.com>
Sent: Wednesday, January 29, 2020 3:05 PM
To: Gary L. Dovre <gdovre@rsjalaw.com>
Cc: Brown, Malcolm D <brownm@oakgov.com>; Steve Joppich <sjoppich@rsjalaw.com>; Tom Schultz <tschultz@rsjalaw.com>; Smithson, Nicole (LARA) <SmithsonN@michigan.gov>; 'Thom, Jen' <JThom@waterfordmi.gov>;