



Interoffice Memorandum

AGENDA ITEM

September 21, 2020

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Kurt N. Petersen, Manager, Office of Management & Budget

SUBJECT: Consent Agenda Item for October 13, 2020
Agreement for Problem Solving Court Case Managers,
Ninth Judicial Circuit Court of Florida and Orange County, Florida

K.N.P.

Board approval is requested for the FY 2020-21 Problem Solving Court Case Managers agreement between the Ninth Judicial Circuit Court and Orange County. Funding has been appropriated by the Florida Legislature that will fund four full time case managers reporting to the Office of Court Administration. This program provides essential substance abuse and other treatment services, and community supervision, to participants who have been arrested for criminal offenses. It is a shared objective to reduce recidivism by linking qualified recipients to assistance by providing a support system to focus on individualized needs of participants in regards to substance abuse, mental health, and overall well-being.

ACTION REQUESTED: Approval and execution of Agreement between The Ninth Judicial Circuit Court of Florida and Orange County, Florida regarding Funding for Problem Solving Court Case Managers.

KP/vh

c: Byron Brooks, County Administrator

AGREEMENT
between
THE NINTH JUDICIAL CIRCUIT COURT OF FLORIDA
and
ORANGE COUNTY, FLORIDA
regarding
Funding for Problem Solving Court Case Managers

This Agreement is entered into by and between the Ninth Judicial Circuit Court of Florida, hereinafter referred to as "Court," and Orange County, Florida, a charter county and political subdivision of the State of Florida, hereinafter referred to as "County." Court and County may also be individually identified as "Party" and collectively as "Parties."

RECITALS

WHEREAS, the Florida Legislature has appropriated general revenue funds for the Court's Problem Solving Court Programs.

WHEREAS, the programs provide essential substance abuse and other treatment services, and community supervision, to participants who have been arrested for criminal offenses.

WHEREAS, it is a shared objective to reduce recidivism by linking qualified recipients to assistance by providing a support system in a therapeutic atmosphere to focus on the individualized needs of participants in regards to substance abuse, mental health, and overall well-being.

WHEREAS, money appropriated by the Florida Legislature will fund 4 full-time Problem Solving Court Case Manager positions with the Office of Court Administration, to coordinate and manage Orange County Problem Solving Court Programs and provide service referrals.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1: Recitals

The above recitals are true and correct and form a material part of this Agreement.

Section 2: Documents

A. The documents that are incorporated by either reference or attachment and thereby form this Agreement are:

1. This Agreement
2. Attachment A: Scope of Work
3. Attachment B: Budget Estimates SFY 2020-2021

4. Attachment C: State Funding Compliance Requirements
5. Attachment D: Compliance Monitoring

Section 3: The County's Obligations and Responsibilities

A. The County will provide 4 full-time Problem Solving Court Case Manager positions, including benefits, to the Court, contingent on reimbursement from appropriated general revenue funds from the State, and in accordance with Attachment A and the terms and conditions specified in this Agreement.

B. Invoicing

1. The County will submit invoices to the Court on a monthly basis for fees or other compensation for services or expenses using the County's financial system that identifies what has been expended for the month.

2. Invoices shall be submitted to the following address:

Orange County Courthouse
Office of Court Administration
Attention: Kelly Steele, Contract Manager
425 N. Orange Ave., Suite 2130
Orlando, FL 32801

C. Records and Retention

1. The County will establish and maintain payroll records and other books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds resulting from this Agreement, in accordance with Florida Records Retention Laws.

2. Upon demand by the Court, the County will facilitate the duplication of any records or documents during the required retention period.

D. Inspection of Records

1. The County will allow public access to all documents, papers, letters, or other public records, made or received in conjunction with this Agreement, consistent with Florida Public Records Laws.

2. The County will allow persons duly authorized by the Court to inspect and copy any documents, papers, letters, or other public records relevant to this Agreement, consistent with Florida Public Records Laws.

E. Insurance

Without waiving its right to sovereign immunity, as provided for under Section 768.28, Florida Statutes, the County will provide continuous adequate liability insurance coverage during the

existence of this Agreement and any renewal(s) and extension(s). The County will be responsible for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the County and its employees served under this Agreement. Upon request, the County shall furnish to the contract manager, written verification supporting both the determination and existence of such insurance coverage. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida.

F. Safeguarding Confidential Information

The County will comply with all applicable state and federal laws, regulations and security controls related to access and use of confidential information obtained pursuant to this Agreement. The County acknowledges that the following managerial, operational and technical security controls are in place before and while County staff access confidential information.

1. The County shall restrict access to state and federal confidential information obtained under this Agreement to staff authorized to perform official duties under this Agreement. Access and use of information is authorized only for the purposes described in this Agreement. IF THERE IS ANY DOUBT WHETHER DISCLOSURE IS AUTHORIZED, THE INFORMATION MUST NOT BE DISCLOSED. Any questions should be directed to the Court's Contract Manager.

2. All County staff must review and acknowledge their understanding of the Court's policies and procedures related to safeguarding and disclosure of confidential information. Review and acknowledgement includes the requirements for protecting state and federal confidential information, information resources, and the civil penalties and criminal sanctions for misuse and unauthorized disclosure.

3. All Agreement terms relating to confidential information and data security apply to the County, the County's employees, agents, and any other person who performs work under this Agreement pursuant to any contract or subcontract with the County.

G. Return of Funds

The County will return to the Court any overpayments due to unearned funds or funds disallowed pursuant to the terms and conditions of this Agreement that were disbursed to the County by the Court. In the event that the County or its independent auditor discovers that an overpayment has been made, the County shall repay said overpayment within a reasonable amount of time of the discovery. In the event that the Court first discovers an overpayment has been made, the Contract Manager, on behalf of the Court, will notify the Recipient by letter of such findings.

H. Non-discrimination Requirements

The County will comply with the Americans with Disabilities Act, the Civil Rights Act of 1964, as amended, and the Florida Civil Rights Act of 1992. The County shall not discriminate against any employee in the performance of this Agreement, against any applicant for employment, any program participant or participant's non-offending family members because of age, race, religion,

color, disability, national origin, marital status, sex or genetic information. The County further assures, to the best of its ability, that all sub-recipients, or others with whom it arranges to provide services or benefits to participants, participant's non-offending family members or employees in connection with any of its programs and activities are not discriminating against those participants, participant's non-offending family members or employees because of age, race, religion, color, disability, national origin, marital status, sex or genetic information.

I. Employment of Illegal Aliens

The County will not employ unauthorized aliens. The Court shall consider the employment of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324 a). Such violation shall be cause for unilateral cancellation of this Agreement by the Court.

J. Independent Capacity of the County

1. Neither the County nor its agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the Court in any manner.

2. The County understands this Agreement does not entitle its employees, sub-recipients or subcontractors to any right or benefit of state employment, including, but not limited to state retirement, leave benefits or any other benefits of state employment as a result of performing the duties or obligations of this Agreement.

3. The County will take such actions as may be necessary to ensure that each subcontractor of the County will be deemed an independent contractor and will not be considered or permitted to be an agent, servant, joint venture, or partner of the Court.

4. The County understands all deductions for social security, withholding taxes, income taxes, garnishment or other reductions in pay, contributions to unemployment compensation funds and all necessary insurance for the County, the County's officers, employees, agents, subcontractors, or assignees shall be the sole responsibility of the County.

K. Final Invoice Process

The County will submit the final invoice for each State Fiscal Year (July 1 of each year to June 30 of the following year) to the Court by the last business day in July after the end of the State Fiscal Year or within fourteen (14) calendar days after the Agreement expires or is terminated.

L. Lobbying

The County will comply with the all applicable lobbying regulations, including Sections 11.062 and 216.347, F.S., which limit the expenditure of grant funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

M. Criminal History Records Checks

1. The County understands the Court requires criminal history records checks on any County staff, employees or subcontractor staff that has access to confidential information resources or

facilities operated in whole or in part, with funding from this Agreement unless formally waived in writing by the Court.

2. A criminal history records check must be completed within 30 calendar days after the start of employment. The Human Resource Manager for the Court Administration shall be responsible for administering the background check at no cost.

3. Criminal history records checks must be conducted through the state crime bureau in each state where the employee indicates residence, employment or education over the past ten years. A state crime bureau is the entity, charged by law, responsible for collection, retention, and dissemination of state criminal history records. Any evidence of criminal history by an employee will be dealt with according to the Court's policies.

4. During the term of the Agreement, the Court will receive instant notification of any arrest, charge or Notice to Appear for an alleged violation of law in any state or other jurisdiction for a County employee assigned pursuant to this Agreement. The Court reserves the right to immediately suspend or terminate the staff member's work under this Agreement.

N. Confidentiality Breach Reporting and Notification Responsibility

The County is aware of the provisions of Section 501.171 Florida Statutes, that require the reporting of a breach of security related to third-party confidential information.

Section 4: The Court's Obligations and Responsibilities

A. Agreement Amount

The Court will pay for commodities and services according to the terms and conditions of this Agreement in an amount not to exceed the total appropriation for the current fiscal year shown in Attachment B to this Agreement, subject to the availability of funds. Any costs or services paid for under any other contract or agreement or from any other source are not eligible for payment under this Agreement

B. Agreement Payment

1. This is a COST REIMBURSEMENT Agreement. The County will be reimbursed on a monthly basis for actual expenses necessary to deliver the services specified in Attachment A: Scope of Work.

2. Any issues regarding payment pursuant to the Agreement should be directed to the Contract Manager. (407) 836-0501.

C. Records and Retention

1. The Court will establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided under this Agreement in accordance with Florida Records Retention Laws and Rule 2.440, Florida Rules of Judicial Administration.

2. The Court will retain all records and documents, including electronic records, it makes or receives, in connection with this Agreement, for a period of five (5) years after completion of the Agreement, unless otherwise eligible for destruction under applicable records retention schedules. If any audit or litigation has been initiated based on the terms of this Agreement, and is unresolved at the end of five (5) years, applicable records and documents shall be retained until resolution of the audit or litigation.

3. Upon demand, the Court will facilitate the duplication and transfer of any records or documents to the County during the required retention period.

D. Audits, Inspections, Investigations and Monitoring

1. The Court will allow public access to all documents, papers, letters, or other public records, made or received in conjunction with this Agreement, consistent with Florida Public Records Laws and Rule 2.420, Florida Rules of Judicial Administration.

2. The Court will assure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by Federal, State, or other authorized personnel.

3. Where appropriate, the Court will permit duly authorized persons to inspect and copy any records, papers, documents, facilities, goods and services of the Court relevant to this Agreement; and to interview any clients, employees and sub-recipient employees of the Court to assure the satisfactory performance of the terms and conditions of this Agreement. Following such review, the Court will share with the County any written report of audit findings related to this Agreement.

4. The Court will comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Office of the Inspector General (§20.055, Florida Statutes), and/or the Auditor General of Florida.

Section 5: Term

The term of this Agreement shall commence on October 1, 2020, or on the date on which the Agreement has been signed by the last Party required to sign it, whichever is later. It shall end at midnight, Eastern Time, on June 30, 2021. Upon mutual consent by the Parties, and contingent upon funds being appropriated annually by the Legislature and allocated by the Chief Justice for purposes of the Problem Solving Court Programs in Orange County, Florida as related to this Agreement, the Agreement may be renewed for two (2) additional one-year terms, consistent with the State's fiscal year.

Section 6: Termination

This Agreement may be terminated by either Party without cause upon no less than a thirty (30) calendar day notice in writing to the other Party unless a shorter time is mutually agreed upon in writing.

In the event funds for payment pursuant to this Agreement become unavailable, either Party may terminate this Agreement upon no less than a twenty-four (24) hour notice in writing to the other

Party. In the event of termination of this Agreement, the County will be compensated for any work satisfactorily completed.

This Agreement may be terminated immediately for either Party's non-performance or deficient performance. Waiver of breach of any provisions of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms and conditions of this Agreement. The provisions herein do not limit either Party's right to remedies at law or in equity.

Written notice of termination shall be delivered by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery to the Court's Contract Manager or the representative of the County responsible for administration of the program as appropriate.

Section 7: Modifications

Except as expressly allowed by this Agreement, modifications to any provisions of this Agreement, including attachments, shall be valid only when they have been reduced to writing and duly signed by both Parties.

Section 8: Notices

Any notices required under this Agreement shall be in writing, and sent by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery to the Court's Contract Manager or the representative of the County responsible for administration of the program as appropriate.

Section 9: Governing Law and Venue

This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue shall be in the Ninth Judicial Circuit, in Orange County, Florida.

Section 10: Indemnification

Nothing contained in this Agreement shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes, by either Party. There is no agreement by either Party to assume any liability for the acts, omissions and/or negligence of the other Party.

Section 11: Assignment

Neither Party shall assign its rights, duties, or obligations hereunder without the prior written consent of the other Party. Failure to comply with this provision may result in immediate termination of this Agreement.

Section 12: Official Payee and Representatives

1. The official payee to whom the payment shall be made is:
Orange County Board of County Commissioners
C/O Kurt Petersen, Manager, Office of Management and Budget
201 South Rosalind Ave., 3rd Floor

P.O. Box 1393
Orlando, FL 32802-1393

2. The County's contact person is: Kurt Petersen

3. The Court's administrator of the program for this Agreement is:
Matthew Benefiel, Trial Court Administrator
425 N. Orange Ave., Suite 2130
Orlando, FL 32801

4. The program manager for the Court for this Agreement is:
Kelly Steele, Contract Manager
425 N. Orange Ave., Suite 2130
Orlando, FL 32801

5. Upon change of representatives, notice shall be provided in writing to the other Party.

Section 13: Severability

If any term or provision of this Agreement is legally determined unlawful or unenforceable, the remainder of the Agreement shall remain in full force and effect and such term or provision shall be stricken.

Section 14: Entire Agreement

This Agreement and any documents incorporated herein, sets forth and constitutes the entire Agreement and understanding of the Parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any Party to this Agreement.

IN WITNESS THEREOF, the parties have executed this Agreement, as duly authorized, on the dates set forth below.

ORANGE COUNTY, FLORIDA
By: Orange County Board of County
Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

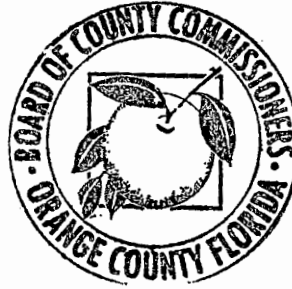
Date: **OCT 13 2020**

ATTEST: Phil Diamond, CPA, County Comptroller

As Clerk of the Board of County Commissioners

By: Kate Arnold
Deputy Clerk

Date: OCT 13 2020



THE NINTH JUDICIAL CIRCUIT COURT

By: Matthew L. Benefiel
Matthew L. Benefiel
Trial Court Administrator

Date: 9/18/2020

Attachment A - Scope of Work

PART 1 - GENERAL INFORMATION

Section A - Background and Purpose

The Florida Legislature has appropriated general revenue funds for Orange County's Problem Solving Court Programs. The programs provide essential substance abuse and other treatment services, and community supervision to participants who have been arrested for a criminal offense as permitted in section 397.334, Florida Statutes.

This Agreement provides the method for disbursement of the appropriated funds, how the funds may be spent, sets forth requisite deliverables, performance measures, financial consequences, reporting requirements, disbursement to expenditure reconciliation, invoice terms and other conditions necessary for payment. The total appropriation amount is identified in the Fiscal Year Budget, Attachment B to this Agreement.

Section B - Objective

The objective is to reduce offender recidivism by linking qualified recipients to assistance by providing a strong support system in a therapeutic atmosphere. The program is comprised of two elements: treatment and supervision. It is through the different phases of the program that an

offender is assessed for mental health and substance abuse issues, required to uphold appointments, community service, and fulfill reporting and testing requirements.

The goal for achieving the program objectives that are part of this Agreement is to focus on the individualized needs of participants in regards to substance abuse, mental health, and holistic well-being.

PART 2 - WORK REQUIREMENTS

Section A- Deliverables. Services and Tasks

The "Deliverables" for this Agreement are the services of 4 full-time staff positions, including benefits, to perform the tasks specified below.

PROBLEM SOLVING COURT CASE MANAGER, from October 1, 2020 to June 30, 2021

SPECIFIC DUTIES: The County will provide four (4) full-time equivalent (FTE) case manager staff to serve as Problem Solving Court Case Managers, (hereinafter "case manager") who will work for and under the supervision and control of the Court in the Ninth Judicial Circuit's Office of Court Administration to coordinate and manage Orange County Problem Solving Court Programs and provide service referrals.

The individuals in these positions shall be employed by the County, but shall be recruited, hired, evaluated and supervised directly by the Court under established Court policies. These positions will only serve the Court and will not be assigned duties unrelated to a problem solving court function. A case manager may be terminated by the Court, with or without cause. The County may discontinue this Agreement, effectively terminating one or more positions from employment with Orange County should state funding no longer be available or should it otherwise be in the interest of the County. In the event of a vacancy, the services of temporary staffing, including Other Personnel Services (OPS) staff or contracted staff, may be engaged and reimbursed from the remaining funds allocated for the vacant position, at the discretion of the County.

Section B - Program Administration, Oversight and Monitoring

1. Recipient Reimbursement and Invoicing

1.1. This is a monthly cost reimbursement Agreement. Only actual allowable expenditures for providing the services required under this Agreement during each month will be reimbursed.

1.2 Funds may only be used as follows:

1.2.1. Hourly rates for salaries and benefits for the positions identified in Attachment A, Part 2, Section A, 1-2 of this Agreement, when performing work required under this Agreement:

1.2.2. Other items not listed, but directly connected to providing the services required under this Agreement, are reimbursable with the justification and prior approval of the Contract Manager.

1.2.3. Any item \$1,000 or greater must have pre-approval of the Contract Manager.

1.3. Expenditures for services provided under this Agreement will be based on the presentation of evidence validating an allowable, reasonable and customary expense for providing the documents and services as listed in Attachment A, Part 2 Sections A and B. No other compensation will be made.

1.4. Expending funds on an unallowable, unreasonable, or non-customary expense will require the County to pay for the disallowed expense out of its own funds.

1.5. Expenses reimbursed from any other source are not eligible under this Agreement.

1.6. Invoices with all supporting documentation must be submitted by the 10th of each month for the expenditures incurred during the prior month. Invoices must include:

1.6.1. A certification statement that the "Expenses being submitted for reimbursement are true and accurate expenditures incurred while providing the services required under our Agreement. All services were provided in accordance with the terms and conditions of the Agreement and have not been and will not be reimbursed by any other source".

2. Corrective Action

2.1. The Court may institute a corrective action plan (CAP) to cure any deficiency, non-compliance, non-performance, or unacceptable performance identified by the Court under this Agreement. The Court's Contract Manager will send a notice to the County regarding any deficiencies that require a CAP. If necessary, the Court will institute a formal written CAP within ten (10) business days of notifying the County.

PART 3 - ADDITIONAL INFORMATION

Section A - Confidentiality

1. The County and Court shall ensure that County, officers, employees, staff, volunteers, contractors, subcontractors and anyone coming in contact with information during the performance of this Agreement shall not disclose confidential information, except as specifically authorized by law.

Section B - State Funding

The funds for this Agreement are from an award of State Funds by the Florida Legislature.

Attachment B

1. BUDGET ESTIMATES SFY 2020-2021

Line #	POSITION(S)	SALARY INC. TAXES/EXP. 7/1/20 – 6/30/21	ANNUAL EXPENSE
1	PSC CASE MANAGERS (4)	\$56,430/PERSON X 4	\$225,720.00

Attachment C

EXHIBIT 1

STATE FUNDING AWARDED TO THE COUNTY PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Chapter 2017-71, Laws of Florida

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Public Law 104-191 - Health Insurance Portability and Accountability Act (HIPAA)

§215.422, Florida Statutes - Payments, Warrants and Invoices, Processing Time Limits, Dispute Resolution, Agency and Judicial Branch Compliance

§215.425, Florida Statutes - Extra Compensation Claims Prohibited, Bonuses and Severance Pay

§215.985, Florida Statutes - Transparency in Government Spending

§216.052, Florida Statutes - Community Budget Requests/Appropriations

§394.4615, Florida Statutes - Confidentiality of Records in Mental Health Treatment Facilities

§415.1034, Florida Statutes - Mandatory Reporting of Abuse, Neglect or Exploitation of Vulnerable Adults

§456.063(3), Florida Statutes - Mandatory Reporting of Allegations of Provider Sexual Misconduct
Rule 2.430, Florida Rules of Judicial Administration - Retention of Records

Rule 2.440, Florida Rules of Judicial Administration - Retention of Administrative Records

Attachment D - COMPLIANCE MONITORING

The administration of resources awarded by the Florida Legislature, administered by the Office of the State Courts Administrator (OSCA) to the County will be subject to monitoring by OSCA, as described in this section.

MONITORING

By entering into this Agreement, the Parties agree to cooperate with any reasonable monitoring by OSCA of records created pursuant to this Agreement. The Parties further agree to cooperate with any records requests by the Supreme Court Inspector General, the Chief Financial Officer (CFO), or Auditor General, consistent with Florida Public Records Laws.