

**Lee County Board Of County Commissioners**

**Agenda Item Summary**

**Blue Sheet No. 20020266**

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Approve contract extension for a period of 1 year with David Bennett, Courts and Correction Planning Consultant for coordinating and implementing the Lee County Criminal Justice System Master Plan. Contract will be from May 1, 2002 to April 30, 2003 for \$48,000. Authorize transfer of \$48,000 from General Fund to Court Administration.

**WHY ACTION IS NECESSARY:** The Board of County Commissioners approves all contracts over \$50,000.

**WHAT ACTION ACCOMPLISHES:** Approval will allow Court Administration to continue the process to streamline handling felony cases in the effort to reduce number of jail beds and to transfer funds from General Fund Reserve for Contingencies for this effort.

**2. DEPARTMENTAL CATEGORY:**  
**COMMISSION DISTRICT #**

*C 1 B*

**3. MEETING DATE:**

*04-02-2002*

**4. AGENDA:**

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:**  
*(Specify)*

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

**6. REQUESTOR OF INFORMATION:**

- A. COMMISSIONER
- B. DEPARTMENT County Administration
- C. DIVISION

**BY:** Bruce D. Loucks,  
Asst. County Manager

**7. BACKGROUND:**

David Bennett will provide consulting services in the following areas: (1) Work with SAO, Public Defender, Circuit Court, Private Bar, Court Administration and Pre-trial Services to implement, work out problems, refine program to resolve as high a percentage of filed felony cases as possible within 30 days of arrest, (2) Domestic Violence Intervention to develop procedures with the SAO, Public Defender, and the court to identify and detain those persons who are the most likely to commit additional violence prior to trail, (3) Case Calendaring to reduce the length of time to process felony cases, (4) Case Management to implement a successful case-flow management system, and (5) work with Criminal Justice Council, Court Administration, County Administration, Board of County Commissioners, and all criminal justice system agencies in the county, city, and state to coordinate policy.

Funds will be transferred to EB6050000100.509310.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>NA</i>		<i>NA</i>		<i>OK per scheduling 3/14/02</i>	<i>OA</i>	<i>OM</i>	<i>Risk</i>	<i>GC</i>	<i>AS for [Signature]</i>
					<i>3/14/02</i>	<i>3/14/02</i>	<i>3/14</i>	<i>3-14-02</i>	

**10. COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: <i>3/14/02</i>
Time: <i>9:20 am</i>
Forwarded To: <i>Co Adm 3/14/02</i>

RECEIVED BY COUNTY ADMIN.
<i>3/14 9:30</i>
COUNTY ADMIN. FORWARDED TO:
<i>3/14 5:00</i>

**AGREEMENT**

between

**ADMINISTRATIVE OFFICE OF THE COURTS  
TWENTIETH JUDICIAL CIRCUIT**

and

**DAVID M. BENNETT  
CRIMINAL JUSTICE CONSULTANT**

for

**CONSULTING SERVICES REGARDING THE COORDINATION AND  
IMPLEMENTATION OF THE LEE COUNTY CRIMINAL JUSTICE SYSTEM  
MASTER PLAN**

This Agreement, is made May 1, 2000, by and between the Administrative Office of the Courts, Twentieth Judicial Circuit, State of Florida, (hereafter "AOC"), and David M. Bennett, Courts and Corrections Planning Consultant, P.O. Box 682740, Park City, Utah 84068, (hereafter "PROVIDER").

WHEREAS, the AOC desires to obtain the services of said PROVIDER as further described herein; and,

WHEREAS, the PROVIDER hereby certifies that it has been granted and possesses valid, current licenses to do business in the State of Florida and in Lee County, Florida, issued by the respective State Board and Government Agencies responsible for regulating and licensing the services to be provided and performed by the PROVIDER pursuant to this Agreement; and,

WHEREAS, the PROVIDER has reviewed the services required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with the provisions, conditions and terms hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

## ARTICLE 1. OBLIGATIONS OF THE PARTIES

1.01 Scope of Services : PROVIDER shall provide AOC with the services as delineated on Exhibit "1", which is attached hereto and hereby incorporated by reference.

1.02 Standards of Professional Service : The PROVIDER agrees to provide and perform all services pursuant to this Agreement in accordance with generally accepted standards of professional practice and, in accordance with the laws, statutes, ordinances, codes, rules, regulations and requirements of governmental agencies which regulate or have jurisdiction over the services to be provided and/or performed by the PROVIDER.

### PERFORMANCE COVENANTS

1.03 (A) **QUALIFIED PERSONNEL.** The PROVIDER agrees that when the services to be provided and performed relate to a professional service(s) which, under Florida Statutes, requires a license, certificate of authorization, or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in charge of all Basic Services and Additional Services to be provided pursuant to this Agreement.

(B) **CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES**

(1) Responsibility to Correct. The PROVIDER agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, reports, memoranda, other documents and other services, work and materials performed, provided, and/or furnished by PROVIDER. The PROVIDER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in such data, studies and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of PROVIDER.

(2) AOC's Approval Shall Not Relieve PROVIDER of Responsibility. Neither review, approval, or acceptance by AOC of data, studies, reports, memoranda, and incidental professional services, work and materials furnished hereunder by the PROVIDER, shall in any way relieve PROVIDER of responsibility for the adequacy, completeness and accuracy of its services, work and materials. Neither AOC's review, approval or acceptance of, nor payment for, any part of the PROVIDER'S services, work and materials shall be construed to operate as a waiver of any of the AOC's rights under

this Agreement, or any cause of action it may have arising out of the performance of the Agreement.

1.04 Record Keeping and Reporting Requirement. PROVIDER shall keep adequate records and supporting documentation to enable the AOC to establish the costs of all services performed by the PROVIDER, and shall make them available to AOC upon request. PROVIDER shall submit status reports as requested to the AOC.

AOC may audit or inspect PROVIDER'S books, statements, ledgers and/or other financial records relating to services rendered hereunder for five (5) years from the termination of this Agreement or until all federal/state audits are complete for the relevant fiscal year, whichever is later. All financial records shall be made available to AOC immediately upon request by the Court Administrator.

1.05. Ownership and Transfer of Documents. All documents such as payment records, notes, computer files, evaluations, reports and other records and data relating to the services specifically prepared or developed by the PROVIDER under this Agreement shall be the property of the PROVIDER until the PROVIDER has been paid for performing the services and work required to produce such documents. Upon completion or termination of this Agreement, all of the above documents to the extent requested by the AOC shall be delivered to the AOC or to any subsequent PROVIDER within thirty (30) calendar days. The PROVIDER, at its expense, may make and retain copies of all documents delivered to the AOC for reference and internal use.

1.06 Maintenance of Licenses and Insurance Coverage. PROVIDER shall maintain all such licenses as are required to do business in the State of Florida and in Lee County, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the services provided and performed by the PROVIDER. The PROVIDER shall obtain and maintain such insurance as will protect PROVIDER from claims under Worker's Compensation laws. PROVIDER shall provide and maintain comprehensive general liability insurance, including bodily injury liability coverage with a minimum amount of \$100,000.00 per person and \$300,000.00 per occurrence and property damage liability with a minimum amount of \$50,000.00 per occurrence. PROVIDER shall provide AOC with a copy of such policies within fifteen (15) days of signing this Agreement. PROVIDER shall maintain professional liability insurance coverage.

1.07 Employment Practices. PROVIDER hereby warrants and represents that anyone providing services pursuant to this Agreement will be treated equally by PROVIDER without regard to race, creed, color, physical handicap, sex, age, national origin, and/or veteran's status. PROVIDER further warrants that all of his/her employees or sub-contractors utilized pursuant to this Agreement will be in full compliance with the requirements of the Fair Labor Standards Act.

1.08 Indemnification and Hold Harmless. PROVIDER shall indemnify and hold harmless AOC, the Twentieth Judicial Circuit and the Counties therein, the State of Florida, the Chief Judge, all other Circuit and County Judges, the Court Administrator and their designees, against any claims, costs, losses, liability, attorneys fees, irrespective of merit, which said persons or entities may incur by reason of any suit, action, claim or proceeding, irrespective of merit, for injury or damage occasioned wholly or in part by any act or omission of PROVIDER (or any person or entity providing services hereunder through PROVIDER) with regard to the subject matter of this Agreement.

1.09 Public Entities Crimes Statement. At the commencement of the Agreement and of each calendar year of this Agreement. PROVIDER shall submit a sworn statement under Section 287.133(3)(a), Florida Statutes, regarding Public Entity Crimes.

## ARTICLE 2. COMPENSATION

2.01 Schedule of Payment. AOC agrees to pay PROVIDER, as compensation for all services and work provided for hereunder, in accordance with the Schedule of Payment which is attached as Exhibit "2" and hereby incorporated by reference. PROVIDER agrees that this payment is fair and reasonable compensation for the services and work provided by and/or through PROVIDER hereunder.

2.02 Cost Included. The parties acknowledge that the compensation listed on Exhibit "2" includes payment for all out-of-pocket expenses incurred by PROVIDER hereunder, including but not limited to parking fees, office supplies, materials, equipment, rent, office overhead and operating expenses, travel reimbursement except as approved in writing by the Court Administrator before the travel is incurred, postage and copying expenses. However, on a case-by-case basis, specific other costs may be approved for reimbursement. Any request by PROVIDER for reimbursement of such other costs must be approved in writing by the Court Administrator prior to such costs being incurred. Nothing herein contained shall be construed as approval thereof. If payment of mileage for out of town travel is approved, it shall be made at the current state rate per mile.

2.03 Compensation to Third Parties Included. The parties acknowledge that the PROVIDER may utilize the services of sub-contractors and/or employees and/or other third parties to fulfill its obligations hereunder. The compensation listed on Exhibit "2" includes payment for all such services provided by or through PROVIDER. AOC shall not be responsible for payment of any monies to any party providing services to AOC through this Agreement and/or through PROVIDER.

2.04 Method of Payment. PROVIDER shall submit a detailed billing statement (in

a form acceptable to AOC) for services rendered for the previous month. AOC shall review the statement and shall have the ability to request additional documentation in its sole discretion. Following approval of the statement, AOC shall request the Finance Department to pay PROVIDER. Statements will normally be paid within thirty (30) days via check made payable to PROVIDER.

2.05 Appropriation Contingency. The parties agree that AOC's obligation to perform and/or pay PROVIDER under this Agreement is contingent upon an appropriation for this purpose by the Board of County Commissioners for the County in which these services are to be rendered.

**ARTICLE 3.  
TERM OF AGREEMENT**

3.01 Initial Term. The term hereof shall commence on May 01, 2000 and shall continue for a period of two years, unless terminated prior thereto in accordance with other provisions hereof.

3.02 Renewal of Term. The parties may renew this Agreement for one (1) successive one year period, upon mutual agreement. Each party shall advise the other in writing no later than ninety (90) days prior to expiration of the initial term hereof (or any renewals thereof) of its desire to so renew. However, nothing herein contained shall require either party to renew this Agreement.

**ARTICLE 4.  
RELATIONSHIP BETWEEN AOC AND PROVIDER**

4.01 Independent Contractors. The relationship between AOC and PROVIDER shall at all times be that of independent contractors. Nothing herein contained shall create any responsibility whatsoever for either party with respect to services provided or contractual obligations assumed by the other party to third parties. Nothing herein contained shall be deemed to contemplate either party as a servant, partner, employee, agent or representative of the other party, or to create the relationship of employer-employee, joint venturers, or association as between PROVIDER and the County, the State of Florida, the Twentieth Judicial Circuit, and/or the AOC. Neither AOC nor the Judges of the Twentieth Judicial Circuit supervise, direct or control the activities of PROVIDER and/or any person whose services are provided by or through PROVIDER hereunder. As between AOC and PROVIDER, the PROVIDER exclusively assumes responsibility for the acts of (or failure to act by) all persons whose services are provided by or through PROVIDER hereunder.

4.02 No Employee Benefits. Neither PROVIDER nor anyone whose services are provided by or through PROVIDER hereunder shall be entitled to any rights or privileges of employees of the State of Florida, any County in the Twentieth Judicial Circuit, or AOC for any reason.

## ARTICLE 5. TERMINATION; BREACH; REMEDIES

5.01 Termination Without Cause. AOC reserves the exclusive right to terminate this Agreement without cause, upon ten (10) days written notice to PROVIDER.

5.02 Termination For Cause. Either party may immediately terminate this Agreement for the other's breach of material provision(s) hereof. For purposes of this subparagraph, material breach shall consist of :

- A. Violation of any material provision hereof;
- B. Institution of proceedings by, or against, PROVIDER or any of his or her officers, directors, or managing agents under the bankruptcy laws of the United States;
- C. Fraud (by commission or omission) or other illegal act committed to procure this Agreement or any extension thereof;
- D. Suspension of business operations, failure or receivership of PROVIDER, or any of his or her officers, directors, or managing agents; or
- E. Institution of disciplinary proceedings against and/or criminal prosecution of PROVIDER (or anyone whose services are provided by PROVIDER hereunder) in any court or administrative body, anywhere.

5.03 Termination for Failure of Funding. Without limiting the generality of any other termination provisions herein, AOC may terminate this contract as a result of partial or total failure by any government entity to provide funding to AOC for services hereunder.

5.04 Remedies Upon Breach. Either party may exercise any rights available under law or equity in the event of breach by the other. No waiver by either party of any default shall be construed as waiving rights in the event of any subsequent default.

5.05 Failure to Perform in a Timely Manner. Should the PROVIDER fail to commence, provide, perform, and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the AOC may consider such failure as justifiable cause to terminate this Agreement. As an alternative to

termination, the AOC at its option may, upon written notice to the PROVIDER, withhold any or all payments due and owing to the PROVIDER, not to exceed the amount of the compensation for the work in dispute, until such time as the PROVIDER resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements as set forth in this Agreement.

## ARTICLE 6. MISCELLANEOUS PROVISIONS

6.01 Incorporation of Request for Proposals/Proposal. It is the intent of the parties that AOC's Request for Proposals and PROVIDER's Proposal in response thereto be implemented pursuant to this Agreement. Therefore, both documents are hereby merged into, and effectuated by, this agreement. Other than as referenced in this subparagraph, there are no prior or contemporaneous written or verbal agreements between the parties.

6.02 Assignment of Agreement. Neither party may assign its rights, duties, or obligations hereunder without the other's express, written prior permission.

6.03 Modification of Agreement. No modification of, or addition to, this Agreement shall be effective unless contained in writing signed by both parties with the same formality as this Agreement.

6.04 Cumulative rights. All rights of either party hereunder are cumulative, not alternative, and are in addition to any other rights given by law or equity.

6.05 Notices. All notices hereunder shall be sent by certified mail, return receipt requested. The address of AOC for this purpose is: Administrative Office of the Courts, Lee County Justice Center, 1700 Monroe Street, Fort Myers, FL 33901. The address of PROVIDER for this purpose is: Mr. David M. Bennett, Criminal Justice Consultant, P.O. Box 682740, Park City, Utah 84068. Phone (435) 649-1999, and fax (435) 649-4425. E-mail address: davidb@xmission.com

The address of PROVIDER for purpose of service of process is: Mr. David M. Bennett 2835 Eladar Place, Park City, Utah 84068.

6.06 Litigation. All claims or disputes regarding the subject matter hereof shall be decided by a court of competent jurisdiction, and shall not be the subject of arbitration or mediation. Venue in the event of such litigation shall be in Lee County, Florida. The prevailing party shall be entitled to attorneys fees and costs of such litigation.



EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2000..

**ADMINISTRATIVE OFFICE OF THE COURTS,  
TWENTIETH JUDICIAL CIRCUIT**

\_\_\_\_\_  
COURT ADMINISTRATOR

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
PROVIDER

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
FEDERAL ID OR SOCIAL SECURITY #

## Exhibit # 1

### SCOPE OF SERVICES

#### **Coordination and Implementation of the Lee County Criminal Justice System Master Plan Consulting Services provided by David Bennett Ongoing Services - May 1, 2000 to April 30, 2002**

**Accelerated Case Resolution Program.** Work with the SAO, Public Defender, Circuit Court, Private Bar, Court Administration and Pre-trial Services to implement the program, work out any problems and then proceed to refine the program so as to resolve as high a percentage of filed felony cases as possible within 30 days of arrest. Washoe County has averaged a third of all felony cases filed over the last 7 months resolved through this program; for the month of January almost half of the filed cases were resolved.

**Pre-trial Services.** Continue to work with the program to expand the number of persons released from custody prior to trial. The TQM process has recommended additional staff and coverage. The program needs to expand its policies and procedures so that it can more effectively recommend additional persons to be released, keeping a low failure-to-appear re-arrest rate. Work needs to occur with the Courts, SAO, and Public Defender around the policies of interviewing, recommending for release, and court coverage so that the program can maximize its potential.

**Domestic Violence Intervention.** Under the direction of the Court Administrator, we have implemented a model program for working with domestic violence. The philosophy of all the agencies of the system and the coordination role played by court administration has put in place an effective program that satisfies all of the goals of society - early intervention and the development of an individualized program for defendants and victims. The problem of domestic violence is considered by some to represent the single largest increase in cases in our criminal justice system today. We need to take the model that has been developed and expand the coverage so that we can truly be effective in our intervention policy. This will include development of the procedures with the SAO, Public Defender, and the court to identify and detain those persons who are the most likely to commit additional violence prior to trial and not allow them simply to bond out; at the same time we release under court ordered supervision those persons who will most benefit by a program. This has to occur on a timely basis.

**Case Calendaring.** Once the Accelerated Case Resolution program has been working for a period of time, the next step in the process is to change the calendaring policy of the circuit court. A new case management system will dramatically reduce the length of time it takes to process a felony case. The pre-trial felony population remains the single

largest population category in the jail. The more efficiently we can process cases through the system, the fewer jail beds are needed. By implementing the Accelerated Case Resolution Program we can clear the easy cases off the calendar. This will allow the development of a case management system that will have as its goal resolving 75 percent of felony cases within 45 days of arraignment.

**Case Management.** Will form and facilitate three committees to address issues to implement a successful case-flow management system. Each committee is chaired by a Circuit Court Judge.

- **Pre-Arraignment Issues:** This committee will discuss issues including the early, sufficient case reports provided to the SAO, time filing standards, and making arraignment a meaningful hearing with all parties present.
- **Discovery Issues:** This committee will discuss issues including the scheduling and procedures for conducting depositions, and motions as well as any lab or evidence problems. It will also discuss access to defendants.
- **Docket Sounding Issues:** This committee will discuss realistic calendaring of cases that begin with the entrance of a not guilty plea. This includes requiring a pre-trial conference between the parties within a short period of time after arraignment, a scheduling conference (docket sounding) with the court a short time following that includes a plea reduction cut-off, followed by the setting of a realistic court date.

**Criminal Justice Council.** Present data presentations on various aspects of the operation of the system along with ongoing updates and analysis to the Public Safety Coordinating Council.

**Coordination.** Work with Court Administration, County Administration, Board of County Commissioners, and all criminal justice system agencies in the county, city, and state to coordinate policy. This will include regular meetings and presentations to key individuals and agencies and have the ability to respond to problems and issues that arise.

## Exhibit #2

### SCHEDULE OF PAYMENT

- Terms of payment schedule - is based on twelve on site visits to Lee County by Consultant David Bennett during a two year period.
- Contract payment schedule - will consist of (24) monthly payments in the amount of (\$4,000 per month), beginning May of 2000. For a total sum of (\$96,000) to be paid under this contract.
- Invoices received by AOC - must be numbered with the appropriate dates to reflect each of the (24) monthly billing periods. In addition, on site visit dates shall be noted when appropriate.
- Each on site visit - will include a written report of activities, and ongoing progress being completed during the on-site visit. This written report to be received within (7) working days of the on-site visit.

