

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING SECTION 2.32.035 OF THE MONTEREY COUNTY CODE TO MODIFY
CONTRACTING AUTHORITY LIMITS TO THE ANNUAL AGGREGATE FOR
CERTAIN OFFICIALS**

County Counsel Summary

This ordinance amends Section 2.32.035 of the Monterey County Code (“Code”) to increase the authority of the Offices of District Attorney, Public Defender, and County Counsel to engage independent contractors to perform services for the County to \$200,000 annually in the aggregate. Currently, the Code gives the Offices of District Attorney, Public Defender, and County Counsel \$200,000 in the aggregate during the life of the agreement. The County can more efficiently engage necessary contractors for its purposes by authorizing the annual aggregate cost not to exceed \$200,000 as authorized by California Government Code section 25502.5.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Findings.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. California Government Code sections 25500 - 25509 authorize a county board of supervisors to employ a purchasing agent and such assistants as are necessary to properly fulfill the duties of the position.

C. California Government Code section 25502.5 authorizes the board of supervisors for counties having a population of 200,000 or more to: a) authorize the purchasing agent to engage independent contractors to perform services for the county or county officers, with or without furnishing materials, when the annual aggregate cost does not exceed \$200,000; and b) establish rules and regulations to effectuate the purpose of the Section.

D. Subsection A of Section 2.32.035 of the Monterey County Code currently authorizes the District Attorney to engage independent contractors to perform services for the County and the offices thereof with or without the furnishing of material where the aggregate cost does not exceed \$200,000, subject to certain limitations set forth in the Section. Unlike California Government Code section 25502.5, this provision is silent whether the \$200,000 is annual or during the life of the agreement.

E. Subsection B of Section 2.32.035 of the Monterey County Code currently authorizes the Public Defender to engage independent contractors to perform services for the

County and the offices thereof with or without the furnishing of material where the aggregate cost does not exceed \$200,000, subject to certain limitations set forth in the Section. Unlike California Government Code section 25502.5, this provision is silent whether the \$200,000 is annual or during the life of the agreement.

F. Subsection C of Section 2.32.035 of the Monterey County Code currently authorizes the County Counsel to engage independent contractors to perform services for the County and the offices thereof with or without the furnishing of material where the aggregate cost does not exceed \$200,000, subject to certain limitations set forth in the Section. Unlike California Government Code section 25502.5, this provision is silent whether the \$200,000 is annual or during the life of the agreement.

G. The County can more efficiently engage necessary contractors for its purposes by authorizing the *annual* aggregate cost not to exceed \$200,000 as authorized by state law.

H. The adoption of this ordinance is not a project under the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) because it is an organizational activity of government that will not result in a direct or indirect physical impact on the environment.

SECTION 2. Section 2.32.035 of the Monterey County Code is amended to read as follows:

Notwithstanding any other provision of this Chapter:

A. The District Attorney shall have the authority to engage independent contractors for expert and other services associated with the prosecution of cases within the District Attorney's authority where the annual aggregate cost does not exceed two hundred thousand dollars (\$200,000.00) and provided that sufficient funds for such services have been appropriated in the District Attorney's budget.

B. The Public Defender shall have the authority to engage independent contractors for expert and other services associated with the defense of cases within the Public Defender's authority where the annual aggregate cost does not exceed two hundred thousand dollars (\$200,000.00) and provided that sufficient funds for such services have been appropriated in the Public Defender's budget.

C. The County Counsel shall have the authority to engage independent contractors for:

1. All legal services provided to the County or a County-related entity where the annual aggregate cost does not exceed two hundred thousand dollars (\$200,000.00); and

2. Expert and other services associated with: (a) the assessment and processing of claims against the County, its related entities, or their officers or

employees, or (b) the conduct of litigation (as defined in California Government Code Section 54956.9(c)) to which the County, a County-related entity, or their officers or employees are a party, and where the annual aggregate cost does not exceed two hundred thousand dollars (\$200,000.00). Such services may be paid, as appropriate, from the following sources, provided sufficient funds have been appropriated:

- a. The County Counsel's budget;
- b. The Risk Management General Liability Internal Service Fund;
- c. The Risk Management Workers' Compensation Internal Service Fund;
- d. Another Risk Management Enterprise Fund as established by the Board of Supervisors;
- e. Another department's budget that is responsible for such costs and agreed to by the department, County Administrator or the Board of Supervisors, as appropriate; or
- f. The Board of Supervisors otherwise makes available sufficient funds.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Glenn Church, Chair
Monterey County Board of Supervisors

A T T E S T

VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

KELLY L. DONLON

Assistant County Counsel