

ORDINANCE NO. 5413

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING SECTION 2.32.035 OF THE MONTEREY COUNTY CODE REGARDING
THE CONTRACT AUTHORITY OF THE COUNTY COUNSEL, DISTRICT
ATTORNEY, AND PUBLIC DEFENDER**

County Counsel Summary

This ordinance amends Section 2.32.035 of the Monterey County Code to provide that the County Counsel, District Attorney and Public Defender shall have contract authority to engage independent contractors for services relating to their statutory duties in an amount not exceeding \$200,000, as allowed pursuant to state law and consistent with the Purchasing Agent's contract authority.

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

SECTION 1. FINDINGS AND DECLARATIONS.

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 section 25502.5 permits a board of supervisors to authorize the county purchasing agent to approve contracts engaging independent contractors to perform services in an amount not exceeding \$200,000 without action by the board of supervisors.

C. The County of Monterey Board of Supervisors has the authority to delegate to other officers of the County similar contract authority, including the County Counsel, District Attorney, and Public Defender.

D. Chapter 2.32 of the Monterey County Code ("Code") addresses the duties of the County's Purchasing Agent including the Purchasing Agent's contract authority to engage independent contractors and, at Section 2.32.035, also addresses the contract authority of the County Counsel, District Attorney, and Public Defender for contracts relating to the duties of those offices.

E. Prior to December 2022, the contract authority of the above-described officials was limited to an amount not to exceed \$100,000 as previously permitted by Government Code section 25502.5.

F. The Government Code was amended effective in 2019 to raise the not to exceed amount to \$200,000, and the Board of Supervisors amended the Code in December 2022 to raise the Purchasing Agent's contract authority but the contract authority of the County Counsel, District Attorney or Public Defender was not adjusted.

G. The County Counsel, District Attorney, and Public Defender can more efficiently engage independent contractors to perform services relating to their statutory duties by raising their contract authority to a not to exceed amount of \$200,000 consistent with the authority of the Purchasing Agent.

SECTION 2. Section 2.32.035 of the Monterey County Code is hereby 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 aggregate cost does not exceed two hundred thousand dollars (\$200,000) 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 aggregate cost does not exceed two hundred thousand dollars (\$200,000) 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 aggregate cost does not exceed two hundred thousand dollars (\$200,000); 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 aggregate cost does not exceed two hundred thousand dollars (\$200,000). 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;

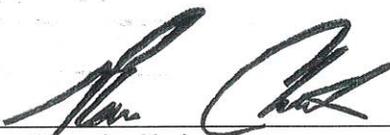
- e. Another department's budget that is responsible for such costs and agreed to by the department, County Administrator or the Board of Supervisors, as appropriate; or
- f. The Board of Supervisors otherwise makes available sufficient funds.

SECTION 3. SEVERABILITY. If any subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional. The courts are hereby authorized to reform the provisions of this Section in order to preserve the maximum permissible effect of each subsection herein.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 26th day of March 2024 by the following vote:

AYES Supervisors Alejo, Church, Lopez, Root Askew, and Adams
NOES None
ABSENT None
ASTAIN None
Motion Passed 5 to 0



Glenn Church, Chair
Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph
Clerk of the Board of Supervisors

By: 

Deputy Emmanuel H. Santos

APPROVED AS TO FORM BY:


Kelly L. Donlon
Assistant County Counsel