

**AMENDMENT #1 TO PROFESSIONAL SERVICES A  
AGREEMENT BETWEEN THE COUNTY OF MONTEREY  
&  
THE LAW OFFICE OF KELLY B. DUNCAN**

**THIS AMENDMENT** is made to the AGREEMENT for legal representation services by and between The Law Office of **KELLY B. DUNCAN**, Attorney at Law, State Bar #161488, hereinafter referred to as “Attorney”, and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as “County.”

**WHEREAS**, the County and Attorney wish to amend the AGREEMENT to extend the term and the agreement for one additional year, through June 30, 2023, and to increase the total amount of the AGREEMENT by \$88,200 to compensate Attorney for the period of July 1, 2022 through June 30, 2023.

**NOW THEREFORE**, the County and Attorney hereby agree to amend the AGREEMENT in the following manner:

1. Section 2.02, “**Monthly Reports by the Attorney,**” shall be amended by deleting the following language, “*Failure to comply may cause delay in payment.*”
2. Section 4.01, “**Monthly Payments by County,**” shall be amended by deleting the following language, “*Subject to the limitations set forth herein, the County through the Auditor-Controller shall pay the Attorney a monthly payment equal to 1/12th of the maximum amount of the County’s liability over the full term of this Agreement, payable on or before the thirtieth day of each month during the term of this Agreement for those services rendered in the immediately preceding month pursuant to this Agreement*” and replacing it with, “**During the period of July 1, 2022 through June 30, 2023, compensation in the amount of \$88,200.00 shall be paid to Attorney, in monthly payments of \$7,350.00, payable on or before the thirtieth day of each month during this time period for those services rendered in the immediately preceding month pursuant to this Agreement.**”
3. Section 4.02, “**Maximum Payment by the County,**” shall be amended by removing, “*The maximum compensation to be paid by the County, except as provided in Section 4.03, over the full term of this Agreement shall not exceed \$84,000.00*” and replacing it with, “**The maximum compensation to be paid by the County, except as provided in Section 4.03, over the full term of this Agreement shall not exceed one hundred seventy-two thousand two hundred dollars (\$172,200.00).**”
4. Section 5.01, “**Duration of Agreement,**” shall be amended by removing, “*This Agreement shall be in full force and effect commencing on July 1, 2021, and ending on June 30, 2022, unless sooner terminated as provided herein*” and replacing it with, “**This Agreement shall be in full force and effect commencing on July 1, 2021 and ending on June 30, 2023, unless sooner terminated as provided herein.**”

5. Section 5.02, **“Termination without Cause,”** shall be amended by removing, *“This Agreement may be terminated by the County without cause by giving thirty (30) days written notice of an intention to terminate”* and replacing it with, **“The Agreement may be terminated by the County or Attorney without cause by giving thirty (30) days prior written notice of an intention to terminate.**

6. Section 5.03, **“Method of Computing Pro Rata Payment,”** shall be amended by removing

*“(a) Misdemeanor - \$200 for each misdemeanor case assigned pursuant to this Agreement, through the date of termination.*

*(b) Non-Serious Felonies - \$75 per hour for each non-serious felony case assigned pursuant to this Agreement, through the date of termination.  
Non-serious felonies are offenses that are not listed in Penal Code sections 1192.7(c) and 667.5(c).*

*(c) Serious Felonies - \$100 per hour for each serious felony case assigned pursuant to this Agreement, through the date of termination.  
Serious felonies are offenses that are not listed in Penal Code sections 1192.7(c) and 667.5(c).”*

**and replacing it with**

**“(a) Misdemeanors - \$200 for each misdemeanor case assigned pursuant to this Agreement, through the conclusion of the case.**

**(b) Non-Strike Felonies - \$75 per hour for each non-strike felony case assigned pursuant to this Agreement, through the conclusion of the case. Non-strike felonies are offenses not listed in either Penal Code Sections 667.5(c) or 1192.7(c).**

**(c) Serious Strike Felonies - \$100 per hour for each strike felony case assigned pursuant to this Agreement, through the conclusion of the case. Felonies designated as strikes are the offenses listed in Penal Code Section 667.5(c) and 1192.7(c).”**

7. Exhibit A to the Agreement, **“Scope of Work”** shall be amended by removing, *“The Attorney shall be assigned no more than 150 clients during the term of this Agreement. A client who has concurrent cases and/or probation violations will constitute one client. Clients who: (a) cannot be represented due to a conflict of interest; (b) retain private counsel, or; (c) successfully relieve counsel pursuant to People v. Marsden (1970), 2 Cal.3d 118, do not count toward the case limitation. This Agreement is concurrent client based; therefore, one client equals one client, regardless of the number of individual cases assigned to that client on a concurrent basis. These limitations cannot be exceeded unless the parties mutually agree in writing to change these limitations.”* and replacing it with **“The Attorney shall be**

**assigned no more than 150 clients during the term of this Agreement. If a client has concurrent misdemeanor charges alleged in a separate Complaint, each will be counted as a separate client toward the 150-client contract maximum. However, a client who has concurrent misdemeanor violations of probation will constitute one client. Clients who: (a) cannot be represented due to conflict of interest; (b) retain private counsel, or; (c) successfully relieve counsel pursuant to *People v. Marsden* (1970), 2 Cal.3d 118, do not count toward the case limitation, unless the Attorney has performed significant work on the case. These limitations cannot be exceeded unless the parties mutually agree in writing to change these limitations.”**

- 8.** Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by the AGREEMENT and shall continue in full force and effect as set forth in the AGREEMENT.
- 9.** A copy of this AMENDMENT #1 shall be attached to the original AGREEMENT executed by the County on June 22, 2021.

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**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year written below.**

**County of Monterey:**

By: \_\_\_\_\_  
**Contracts/Purchasing Officer**

Date: \_\_\_\_\_

**Attorney:**

DocuSigned by:

*Kelly Duncan*

By: \_\_\_\_\_  
**Kelly B. Duncan, Attorney at Law**

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5/18/2022

Date: \_\_\_\_\_

**Approved:**

DocuSigned by:

*Juliet Peck*

By: \_\_\_\_\_  
**Juliet Peck or Michael Lawrence  
ADO, Contract Administrator**

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5/18/2022

Date: \_\_\_\_\_

**Approved:**

DocuSigned by:

*Susan Chapman*

By: \_\_\_\_\_  
**Susan E. Chapman  
Public Defender**

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5/18/2022

Date: \_\_\_\_\_

**Approved as to Form:**

DocuSigned by:

*Stacy Saetta*

By: \_\_\_\_\_  
**Deputy County Counsel**

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**Approved as to Fiscal Provisions:**

DocuSigned by:

*Gary Giboney*

By: \_\_\_\_\_  
**Deputy Auditor/Controller**

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Name: Stacy Saetta  
Date: 5/18/2022

Name: Gary Giboney  
Date: 5/18/2022

**Approved as to Indemnity/Insurance Language:**

By \_\_\_\_\_  
Name: \_\_\_\_\_

Date: \_\_\_\_\_

\*INSTRUCTIONS: If ATTORNEYS is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If ATTORNEY is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If ATTORNEY is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.