



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: 25-497

July 08, 2025

Introduced: 6/17/2025

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

a. Approve and authorize the Contracts/Purchasing Officer or designee to execute Renewal and Amendment No. 1 to the Professional Services Agreement with the Law Office of William Scott Erdbacher to provide case management and case supervision for the Alternate Defender Office, to extend the expiration date for 12 additional months to June 30, 2026, retroactively effective July 1, 2025, for a revised full term of July 1, 2024, through June 30, 2026, and to increase the not-to-exceed amount by \$165,000 for a total not-to-exceed of \$330,000.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a. Approve and authorize the Contracts/Purchasing Officer or designee to execute Renewal and Amendment No. 1 to the Professional Services Agreement with the Law Office of William Scott Erdbacher to provide case management and case supervision for the Alternate Defender Office, to extend the expiration date for 12 additional months to June 30, 2026, retroactively effective July 1, 2025, for a revised full term of July 1, 2024, through June 30, 2026, and to increase the not-to-exceed amount by \$165,000 for a total not-to-exceed of \$330,000.

SUMMARY/DISCUSSION:

Monterey County fulfills its constitutional obligation to provide legal representation for indigent persons accused of criminal violations-and in certain civil proceedings (juvenile, mental health, truancy, sexually violent predator prosecutions)-through the Alternate Defender Office (ADO) when the Public Defender has a disabling conflict of interest. The Chief Alternate Defender maintains operational responsibility for the ADO. The Chief Alternate Defender manages the ADO attorney contracts and individual appointment of the ADO attorneys when the Public Defender has declared a conflict of interest. Examples of conflicts include situations in which multiple persons are accused in the same charging document, or the Public Defender currently represents a victim or witness in a prosecution, or where a Public Defender client provides information which is used by law enforcement to bring charges. In such cases, it would be an ethical violation for the Public Defender to represent or continue to represent such a client.

Some counties establish a second or even a third Public Defender Office (PDO). Others, like Monterey County, fulfill this constitutional obligation with the appointment, by contract, of an independent attorney or law firm to serve as the Chief Alternate Defender. Some examples of Chief Alternate Defender roles and responsibilities include, but are not limited to, reviewing conflicts of interest for the ADO when they arise, approving expert witnesses and investigation requests as needed, and arranging for the appointment of private counsel when necessary. The duties are required

to be carried out separately and distinctly from the PDO, as stated in *Castro v. Los Angeles Board of Supervisors* (1991), 232 Cal. App. 1432.

Although the amendment to this Agreement was prepared for Board review and approval prior to the end date of the original agreement, unanticipated delays in internal review processes resulted in expiration of the Agreement. In order to fulfill the County's constitutional obligation and ensure provision of appropriate legal representation for indigent persons accused of criminal violations, the Public Defender recommends that the Board approve a renewal and amendment to the Professional Services Agreement with the Law Office of William Scott Erdbacher to provide oversight and supervision of the ADO, serving as the Chief Alternate Defender.

OTHER AGENCY INVOLVEMENT:

County Counsel and the Auditor-Controller have reviewed and approved this Agreement as to legal form and fiscal provisions respectively. Risk Management has reviewed and approved as to County risk.

FINANCING:

Funding for this agreement is already included in the FY 2025-26 recommended budget. Fund 001-Public Defender PUB001-2270-Budget Unit 8168-Court Assigned Counsel. Approval of the recommended actions will have no additional impact on the County General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

PUBLIC SAFETY: The Alternate Defender strives to protect the constitutional rights of the indigent by providing them quality representation in a society free and safe from unlawful State interference by vigorously defending individual rights when the Public Defender has a conflict of interest. Acceptance of the recommendations ensures the continuation of criminal defense services to the indigent.

- ☐ Economic Development
- ☐ Administration
- ☐ Health and Human Services
- ☐ Infrastructure
- ☒ Public Safety

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Approved by: Susan E. Chapman, Public Defender, x5806

Attachments:

Attachment A: Renewal and Amendment No. 1 to Professional Services Agreement with the Law Office of William Scott Erdbacher

Attachment B: Professional Services Agreement with the Law Office of William Scott Erdbacher

Attachment C: Completed Board of Supervisors Order A-16932

