



County of Monterey

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

Board Report

File #: A 23-250, **Version:** 1

Approve and authorize the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to execute Amendment No. 2 to the Agreement with Kelly Duncan for legal representation in indigent adult criminal cases, through the Alternate Defender’s Office, extending the term of the Professional Services Agreement by one year, for a total revised term of July 1, 2021 through June 30, 2024, and adding the amount of \$92,610; for a total contract liability of \$264,810.

RECOMMENDATION:

Approve and authorize the Contracts/Purchasing Officer or the Contracts/Purchasing Supervisor to execute Amendment No. 2 to the Agreement with Kelly Duncan for legal representation in indigent adult criminal cases, through the Alternate Defender’s Office, extending the term of the Professional Services Agreement by one year, for a total revised term of July 1, 2021 through June 30, 2024, and adding the amount of \$92,610; for a total contract liability of \$264,810.

SUMMARY:

Monterey County has a Constitutional obligation to provide legal representation for indigent persons accused of criminal violations, and in certain civil proceedings (i.e. juvenile, mental health, truancy, sexually violent predator prosecutions), in which the Monterey County Public Defender has declared a conflict of interest. In attorneys enable Monterey County to meet its constitutional obligations in conflict of interest cases.

DISCUSSION:

The County faces tough competition in recruiting and retaining qualified attorneys to handle representation in cases where the Public Defender has a conflict of interest. As a result, the Monterey County Alternate Defender’s (ADO) seeks to increase the compensation paid with its existing Alternate Defender Office (ADO) attorneys, including Kelly Duncan, who represents indigent defendants in adult criminal cases where the Public Defender has a conflict of interest.

Language has been added to the proposed Amendment 2 to ensure that legal services are provided in compliance with Alternate Defender Office (ADO) policies regarding legal representation and procedures. The proposed Amendment 2, Amendment 1, and the original Professional Services Agreement are attached to this Board report and are on file with the Clerk to the Board’s Office.

OTHER AGENCY INVOLVEMENT:

County Counsel and the Auditor-Controller have reviewed and approved this Amendment as to legal form and fiscal provisions respectively.

FINANCING:

The annual compensation for the Agreement is funded through Fund 001-Public Defender PUB001-2270-Budget Unit 8168-Court Assigned Counsel, as follows:

<u>Contractor</u>	<u>Maximum Annual Amount</u>	<u>Case Type</u>
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Law Office of Kelly Duncan

\$92,610

Misdemeanors

Funding for the Agreement is included in the FY 2023-2024 recommended Budget and will be included in the FY 2024-25 Requested Budget, 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 Office will strive 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 where the Public Defender has a conflict of interest.

Prepared by: Laura Henderson, Management Analyst, ext.6054 _____

Approved by: Susan Chapman, Public Defender, ext.5806 _____

Attachments: 1 through 3

Attachment 1: Board Order for Original PSA FY21/22

Attachment 2: Board Order for Amendment #1

Attachment 3: Amendment #2 Kelly Duncan (Amendment #1 and Original FY22 PSA attached to Amendment #2)