



# County of Monterey

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

## Board Report

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**File #: 18-832, Version: 1**

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Approve and authorize the Contracts/Purchasing Officer to sign Amendment No. 2 to the Professional Services Agreement with Scott Erdbacher for legal representation of indigent defendants in adult criminal cases, modifying insurance provisions.

### RECOMMENDATION:

It is recommended that the Board of Supervisors:

Approve and authorize the Contracts/Purchasing Officer to sign Amendment No. 2 to the Professional Services Agreement with Scott Erdbacher for legal representation of indigent defendants in adult criminal cases, modifying insurance provisions.

### SUMMARY/DISCUSSION:

On July 25, 2017, the Board of Supervisors approved a Professional Services Agreement with attorney Scott Erdbacher for legal representation of indigent defendants in adult criminal cases, working through the Monterey County Alternate Defender's Office. On July 17, 2018, the Board approved Amendment No. 1 to the Erdbacher Professional Services Agreement, extending the agreement through June 30, 2019.

Amendment No. 2 to this agreement is now before the Board for its consideration. Attorney Erdbacher has met the insurance requirements imposed by his Professional Services Agreement, with the exception of providing an endorsement to his automobile insurance policy, naming the County as an additional insured. Attorney Erdbacher has provided the County with proof of automobile insurance coverage in the required amount; his insurer, however, will not provide the endorsement in question. Proposed Amendment No. 2 deletes the endorsement requirement.

Attorney Erdbacher presently has no employees and therefore is not required by law to purchase workers' compensation insurance. Proposed Amendment No. 2 recognizes this fact and provides that should he hire employees during the term of the Agreement, he will obtain workers' compensation insurance as required by law and by his Professional Services Agreement with the County.

Monterey County has a Constitutional obligation to provide legal representation for indigent persons accused of criminal violations in which the Monterey County Public Defender has declared a conflict of interest. Attorney Erdbacher's services are needed to fulfill this constitutional obligation. Conversely, the risk posed to the County by proceeding with the Agreement without being named as an additional insured on his automobile insurance policy is assessed as low.

Accordingly, the Public Defender recommends that the Board authorize Amendment 2 in order to retain Attorney Erdbacher's services and to meet the County's constitutional obligations to provide indigent legal defense services.

All other terms and conditions of Attorney Erdbacher's Professional Services agreement, previously approved by the Board, remain unchanged by Amendment No. 2.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed Amendment No. 2 as to form.

FINANCING:

Funding for the Professional Services Agreement is included in the FY 2018-2019 Approved Budget and will be included in the FY 2019-20 Requested Budget, Budget Unit 8168-Court Assigned Counsel. Proposed Amendment No. 2 has no impact on the funding previously approved by the Board and will have no additional impact on the County General Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

**PUBLIC SAFETY:** Acceptance of the recommendations in this report ensures the continuation of criminal defense services to the indigent.

X Public Safety

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

**Attachments:**

Professional Services Agreement with Scott Erdbacher

Amendment No.1 to Professional Services Agreement with Scott Erdbacher

Proposed Amendment No. 2 to Professional Services Agreement with Scott Erdbacher