



Board Agenda Item 37

DATE: June 20, 2023
TO: Board of Supervisors
SUBMITTED BY: Paul Nerland, County Administrative Officer
SUBJECT: Budget Transfer for Alternate Indigent Defense Services

RECOMMENDED ACTION(S):

Approve and authorize the Clerk of the Board to execute Budget Transfer No. 78 transferring FY 2022-23 appropriations from Public Defender Org 2880 (\$300,000), from Account 6100 (Regular Salaries) to Alternate Indigent Defense Org 2875 Account 7283 (Appointed Attorneys-Superior), in the amount of \$300,000 to continue Alternate Indigent Defense Services.

Approval of the recommended action will allow an increase of appropriations to the Alternate Indigent Defense Alternate Org without an increase of Net County Cost (NCC) as the Appropriations will be re-budgeted from the Public Defender Org due to savings accrued within FY 2022-23 from their budgeted NCC provided out of the General Fund. Alternate Indigent Defense (AID) services are mandated legal defense services for indigent criminal defendants when the Public Defender declares a conflict of interest. Appropriations for court appointed attorneys and ancillary defense services in capital cases under Penal Code Section 987.9 are also included in the Alternate Indigent Defense Budget for FY 2022-23. This item is countywide.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, there will not be enough appropriations to cover; ancillary fees for the AID agreement, payment to attorneys who are covering cases where the Public Defender is deemed unavailable, and court claims for the remainder of FY 2022-23.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. Approval of the recommended action will decrease the Public Defender Org 2880 budgeted appropriations by \$300,000 resulting in a release of \$300,000 of NCC, to allow the re-budgeting of appropriations to the Alternate Indigent Defense Org 2875.

DISCUSSION:

Penal Code section 987.2 requires that the County pay a reasonable sum for compensation and for necessary expenses, out of the County general fund, for assigned counsel for indigent defendants, including one or more responsible attorneys contracted for by the County in the event of the unavailability or conflict of the Public Defender.

The Alternate Indigent Defense Org 2875 encompasses all costs associated with providing representation for indigent defendants in the event of unavailability or conflict of the Public Defender which includes, but is

not limited to, the current AID contract with Fitzgerald, Alvarez & Ciummo, A Professional Law Corporation (FAC).

On June 21, 2022, your Board approved an agreement with FAC to provide AID services for a period of three years, commencing on July 1, 2022, through June 30, 2025, with two optional one-year extensions. The agreement provides representation of up to seven conflict indigent defendants in a single case before the Fresno County Superior Court. Due to changes in legislation and an increase in the level and seriousness of crimes committed by the defendants represented, there has been an increase across in costs pertaining to the cases covered by FAC and court appointed claims.

The current proposed budget transfer is necessary in order to provide funding for the increase in attorney and ancillary costs associated with court appointed claims over the prior year as follows:

Attorney fees are approximately \$383,247, or 35%, over prior year; and
Ancillary fees are approximately \$150,426, or 62%, over prior year.

REFERENCE MATERIAL:

BAI #30, June 21, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Budget Transfer No. 78

CAO ANALYST:

Salvador Espino