



Agenda Submittal

Agenda #: 7 **Status:** Consent Calendar
Type: ATR **Department:** County Administrator
File #: 18-421 **Contact:** Ian Goldberg, 784-6116
Agenda date: 6/12/2018 **Final action:** 6/12/2018
Title: Approve an Appropriation Transfer Request increasing appropriations by \$450,000 for anticipated court appointed attorney and capital case costs in excess of the FY2017/18 Other Public Defense budget, funded by a transfer of \$150,000 anticipated savings in Salaries and Benefits within Other Public Defense and an increase General Fund Contribution of \$300,000, offset by decreased General Fund Contributions within the Public Safety Fund 900 (4/5 vote required)
Governing body: Board of Supervisors
District: All
Attachments: 1. Minute Order

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------|----------|--------|
| 6/12/2018 | 1 | Board of Supervisors | Approved | |

Published Notice Required? Yes ☐ No ☒
Public Hearing Required? Yes ☐ No ☒

DEPARTMENTAL RECOMMENDATION:

The County Administrator recommends the Board Approve an Appropriation Transfer Request increasing appropriations by \$450,000 for anticipated court appointed attorney and capital case costs in excess of the FY2017/18 Other Public Defense budget, funded by a transfer of \$150,000 anticipated savings in Salaries and Benefits within Other Public Defense and an increase General Fund Contribution of \$300,000, offset by decreased General Fund Contributions within the Public Safety Fund 900 (4/5 vote required).

SUMMARY/DISCUSSION:

The Other Public Defense budget funds the cost of indigent defense in cases where a conflict is present with the County-staffed Public Defender or Alternate Public Defender Offices, and the services of Court-appointed counsel are arranged. In addition the Other Public Defense budget includes funds for indigent defense costs incurred in capital cases.

General Fund costs in this department are a Constitutional responsibility. The County's General Fund exposure, represented by the Court's appointment of private attorneys is driven by two factors: the availability of Public Defender and/or Alternate Public Defender staff to provide representation where appropriate, and the number of hours required by private attorney/investigator/special witness/psychiatric evaluations/court reporter to properly represent indigent defendants. Cost exposures related to the number of private defense hours and, by implication, the incidence of criminal activity and arrest rates, are beyond the County's control. In addition costs related to capital cases which may be handled by the Public Defender or Alternate Public Defender are also subject to same cost exposures.

The FY2017/18 Working Budget for Other Public Defense does not reflect sufficient appropriations to cover projected expenditures through the end of the fiscal year. The Mid-year financial projections included

increases in expenditures beyond the Working Budget to address increased costs for Other Public Defense and to address costs for multiple pending capital cases, which are now in trial. The County Administrator recommends approval of an Appropriation Transfer Request increasing appropriations by \$450,000 for anticipated court appointed attorney and capital case costs in excess of the FY2017/18 Other Public Defense budget. This increase in appropriations is funded by a transfer of \$150,000 in anticipated salary and benefits savings within the Other Public Defense Budget, and a \$300,000 increase in the General Fund Contribution. The increased General Fund Contribution to Other Public Defense (Fund 900) is funded by a decrease from the General Fund Contribution to Probation (Fund 900).

FINANCIAL IMPACT:

The Other Public Defense budget is part of the Public Safety Fund 900 and is full offset by County General Fund and State reimbursement where applicable. Per Penal Code 987.9 payments advanced for the preparation and / or presentation of the defense in an existing indigent capital case are subject to State reimbursement for expenses incurred. Because capital cases are usually tried over a period of years, any State reimbursement will be used to replenish the funds to be used in the preparation and/or presentation of the defense over succeeding fiscal years. As a significant portion of the overruns are related to capital case costs, the County will be submitting the expenses related to capital cases for reimbursement from the State.

The total expenditures for Other Public Defense has experienced continued increases over the past several years. In FY2013/14 the total expenditure was \$1,841,989, in FY2014/15 the costs climbed to \$2,510,770, in FY2015/16 it was \$2,714,099, FY2016/17 was \$2,864,873 and in FY2017/18 the total cost is projected to exceed the current Working Budget of \$2,939,244 by up to an additional \$450,000. The increases are the result of increased Other Public Defense caseload and an increase in costs related to capital cases.

ALTERNATIVES:

The Board can choose not to approve the appropriations transfer request to increase the Other Public Defense budget appropriations; this is not recommended since this would result in the inability to pay claims for bona-fide business expenses for which the County may be liable.

OTHER AGENCY INVOLVEMENT:

The Public Defender and County Counsel have been consulted regarding the recommendation.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION