

**COUNTY OF ORANGE
EMPLOYMENT AGREEMENT
FOR
PUBLIC DEFENDER**

This Employment Agreement for the Public Defender ("AGREEMENT") is made by and between the County of Orange ("COUNTY") and Martin Schwarz (hereinafter "SCHWARZ").

IT IS MUTUALLY AGREED:

1. APPOINTMENT

In accordance with the May 11, 2021 minute order of the Orange County Board of Supervisors ("BOARD") appointing SCHWARZ to the Office of Public Defender, the COUNTY hereby agrees to employ SCHWARZ as the Public Defender on the terms and conditions specified herein. SCHWARZ hereby accepts his appointment to the Office of Public Defender and accepts employment with the COUNTY on the terms and conditions specified herein.

2. TERM

This AGREEMENT is for a three-year term commencing on May 11, 2021, and ending on Friday, May 10, 2024 (hereinafter "EXPIRATION DATE").

3. DUTIES, RESPONSIBILITIES, AND AUTHORITY

Acting under the administrative supervision of the COUNTY Chief Executive Officer, SCHWARZ shall be responsible for the overall operation of the Office of the Public Defender. SCHWARZ shall perform the duties and responsibilities of the Public Defender, including those duties and responsibilities set forth in Chapter 13 of Part 3 of Division 2 of Title 3 of the California Government Code, and in the Codified Ordinances of the County of Orange, as well as any other such duties that may be prescribed by law, and shall at all times competently perform such duties in a manner that is both (1) satisfactory to the BOARD, and (2) consistent with the California Rules of Professional Conduct.

4. COMPLIANCE WITH THE LAW AND COUNTY CODE OF ETHICS

SCHWARZ shall, during the term of this AGREEMENT, comply with all laws and regulations, all Codified Ordinances of the County of Orange, and shall also comply with the County Code of Ethics (Board Resolution No. 16-055). By signing this AGREEMENT, SCHWARZ acknowledges that, as the Public Defender, he shall be a "designated employee" required to file a Statement of Economic Interests (FPPC Form 700) and must comply with the Orange County Gift Ban Ordinance (commencing at section 1-3-21 of the Codified Ordinances of the County of Orange).

5. PERFORMANCE EVALUATION

The COUNTY Chief Executive Officer will evaluate the performance of SCHWARZ both formally and informally on an ongoing basis. At least annually, however, SCHWARZ shall receive a formal evaluation based on his performance as Public Defender. However, a failure to complete this formal evaluation will not affect any other provision of this AGREEMENT.

6. COMPENSATION, BENEFITS, AND ANNUAL LEAVE

For services rendered to the COUNTY as Public Defender, SCHWARZ shall be compensated at the rate of \$122.10 per hour. SCHWARZ shall additionally be entitled to receive the same salary adjustments generally provided to the members of the Orange County Attorneys' Association. As the position of Public Defender is overtime-exempt executive position, SCHWARZ shall not be entitled to overtime pay under either Fair Labor Standards Act or California Law.

SCHWARZ shall accrue Vacation and Sick Leave at the same rate as other COUNTY Executive Management (Group II) employees, and shall be entitled to a payoff for all accrued, unused Vacation Time, Comp Time, and Annual Leave (but not Sick Leave) at the time of separation of employment, in accordance with the requirements of California law. SCHWARZ shall receive the same benefits generally provided to other Executive Management (Group II) employees, except as otherwise provide herein or in other acts of the BOARD. SCHWARZ shall be a member of the Orange County Employees Retirement System, and shall be required to contribute toward pension benefits under the same terms as other COUNTY Executive Management (Group II) employees.

7. RESIGNATION/TERMINATION

In accordance with Government Code section 27703, SCHWARZ shall serve as Public Defender at the sole pleasure of the Board. This AGREEMENT may be terminated "at will" by either SCHWARZ or the Board at any time, and without notice. Upon termination of this AGREEMENT, the authority of SCHWARZ to serve as the Public Defender shall immediately terminate and the Office of Public Defender shall be deemed vacant under Government Code section 24105.

SCHWARZ is advised and, with his signature below, hereby acknowledges and agrees that he shall have none of the due process rights of a regular, full-time COUNTY employee. As a condition of his appointment, SCHWARZ knowingly, willingly, and voluntarily gives up, waives, and disclaims any and all rights he may have, express or implied, to any notice and/or hearing either before or after termination of this AGREEMENT, and to any continued employment with the COUNTY after termination of this AGREEMENT.

In the event the BOARD decides to terminate this AGREEMENT, SCHWARZ shall receive from the COUNTY a severance package, payable in a single lump sum, equal to the sum of salary and the County's share of the costs of my health insurance premiums calculated from the date of termination through the next 90 calendar days. However, this AGREEMENT shall terminate

automatically, without further action of the BOARD, and SCHWARZ shall not be entitled to this or any other severance package from the COUNTY, if (1) SCHWARZ voluntarily resigns his employment; (2) SCHWARZ elects to apply for a pension or similar defined-benefit retirement from any public pension system; or (3) the COUNTY terminates this AGREEMENT for "good cause" under the legal standard set forth in *Cotran v. Rollins Hudig Hall International, Inc.*, 17 Cal. 4th 93 (1998).

8. MERGER

This AGREEMENT is intended as the final expression of the agreement between the COUNTY and SCHWARZ. The COUNTY and SCHWARZ acknowledge and agree that no representations, inducements, promises and/or agreements, oral or written, have been made by any party or any person acting on behalf of any party, which are not embodied herein. The COUNTY and SCHWARZ also agree that no other agreement, statement, or promise beyond the terms and conditions expressly stated in this AGREEMENT are binding.

9. MODIFICATION

This AGREEMENT may be modified by mutual agreement between the COUNTY and SCHWARZ. However, no waiver or modification of this AGREEMENT shall be valid unless in writing and duly executed by the parties hereto.

10. ACKNOWLEDGEMENT AND CONSENT

By signing below, SCHWARZ and Chairman Andrew Do, authorized by action of the BOARD to sign this AGREEMENT on behalf of the COUNTY, acknowledge that they each have read and fully understand the terms and conditions of this AGREEMENT, and that they consent and agree to each and every term and condition contained herein.



Martin Schwarz

5-11-21

Date

FOR THE COUNTY OF ORANGE:




Andrew Do
Chairman of the Board of Supervisors
County of Orange

5-11-21

Date

Signed and certified that a copy of this document has been delivered to the Chairman of the Board per G.C. Sec. 25103, Reso 79-1535

Attest:



Robin Stieler
Clerk of the Board of Supervisors
Orange County, California

Approved as to form:
Office of the County Counsel
Orange County, California

By: Leon Page
Leon J. Page
County Counsel

Digitally signed by Leon Page
DN: cn=Leon Page, o=Orange County Counsel,
email=leon.page@occc.org, c=US
Date: 2023.04.29 16:19:24 -0700