



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Counsel
Department No.: 013
For Agenda Of: November 28, 2023
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5^{ths}

TO: Board of Supervisors
FROM: County Counsel Rachel Van Mullem, ^{Pym} County Counsel (805) 568-2950
Contact Info: Paul Lee, Deputy County Counsel (805) 568-2950
SUBJECT: Approve Amendment to Agreement for Professional Legal Services with Outside Counsel Rutan & Tucker, LLP

County Council Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- a) Approve, ratify, and authorize the Chair to execute the Third Amendment to Agreement for Professional Legal Services between the County of Santa Barbara and Rutan & Tucker, LLP to extend the term of the Agreement to December 31, 2024 and increase the maximum contract amount by \$250,000 for a new maximum contract amount not to exceed \$1,034,000; and
- b) Determine that the above action is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5) because it consists of government administrative or fiscal activities that will not result in direct or indirect physical changes in the environment.

Summary Text:

On August 22, 2017, the Board executed an Agreement for Professional Services between the County of Santa Barbara and Rutan & Tucker, LLP to provide legal advice and representation regarding public construction projects. This agreement expired on July 25, 2019. On July 16, 2019, the Board executed a Agreement for Professional Services between the County of Santa Barbara and Rutan & Tucker to continue to provide needed legal advice and representation regarding public construction projects.

Rutan & Tucker has been coordinating with County Counsel to represent the County in complex litigation against the architect and the general contractor on the Northern Branch Jail project. We anticipate that increased pre-trial discovery, retention of experts, and arbitration will add to the costs of this litigation. Through this Third Amendment, County Counsel recommends increasing the maximum contract amount

by \$250,000 for a new maximum contract amount of \$1,034,000 and extending the agreement through December 31, 2024.

Performance Measure:

Not applicable.

Fiscal and Facilities Impacts:

Budgeted: Yes

Key Contract Risks:

The Office of County Counsel reviewed the Contract Risk Assessment Worksheet as part of our process. Exhibit A of the Agreement (“Statement of Work”) provides that the Board of Supervisors, acting through its County Counsel, expressly retains the authority to direct and control the course and conduct of the litigation, including the exclusive right to make decisions regarding settlement.

Staffing Impacts:

Contracting with Outside Counsel will allow the County to obtain the specialized legal services needed in these matters without hiring additional staff attorneys.

Special Instructions:

Please forward a signed copy to Paul Lee at plee@countyofsb.org.

Attachments:

Third Amendment to Agreement for Professional Legal Services

Authored by:

Paul Lee, Deputy County Counsel