



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: April 20, 2021
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 Michael C. Ghizzoni, County Counsel (805) 568-2950
Contact Info: Teresa M. Martinez, Deputy County Counsel (805) 568-2980
SUBJECT: Approve First Amendment to Agreement for Professional Legal Services with
Outside Counsel Rutan & Tucker, LLP

County Counsel Concurrence

As to form: Yes

Other Concurrence: General Services, 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 attached First 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, 2022 and increase the maximum contract amount by \$384,000 for a new maximum contract amount not to exceed \$584,000; and
- b) Determine that the above action is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15378(b)(4) and 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 initially executed an Agreement for Professional Services between the County of Santa Barbara and Rutan & Tucker, LLP to provide needed legal advice and representation regarding public construction projects. This agreement expired on July 25, 2019. On July 26, 2019, the Board executed a new 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 closely and effectively with County Counsel to prosecute complex litigation against the architect on the Northern Branch Jail project. We anticipate that the litigation will continue through Fiscal Year 21-22 and that increased pre-trial discovery and retention of experts will add to the costs of this litigation. Through this First Amendment, County Counsel recommends extending the

agreement through December 31, 2022, designating Rutan & Tucker partner Robert Owen, Esq. as Rutan's designated representative and attorney personally responsible for providing legal services to the County under this agreement, and increasing the maximum contract amount by \$384,000 for a new maximum contract amount of \$584,000. The requested increased amount represents approximately \$150,000 in outside counsel fees and approximately \$234,000 in expert witness fees. The contract amount is a shared expense between budgeted Outside Counsel fees and expert costs that are a programmatic expense of the Northern Branch Jail.

Performance Measure: N/A

Contract Renewals and Performance Outcomes: N/A

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.

A Request for Proposals was not required for this selection.

Staffing Impacts: None

Special Instructions: Please forward a signed copy to Teresa Martinez at teresamartinez@co.santa-barbara.ca.us.

Attachments:

- a) First Amendment to Agreement for Professional Legal Services
- b) Agreement for Professional Legal Services

Authored by: Teresa Martinez, Deputy County Counsel

cc: