



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: October 2, 2018
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors
FROM: County Counsel Michael C. Ghizzoni (805) 568-2950
Contact Info: Martin G. McKenzie, Chief of Litigation (805) 568-2950
SUBJECT: Approve Agreement for Services of Contractor on Payroll for Office of County Counsel

County Counsel Concurrence

As to form: Yes

Other Concurrence: Human Resources; Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- a) Approve and authorize the Chair to execute the attached Agreement for Services of Contractor on Payroll between the County of Santa Barbara and Hudson Hornick, Attorney at Law, in an amount not to exceed \$75,000 without written amendment; 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:

The 2018-2019 budget for the Office of County Counsel, as approved the Board of Supervisors on June 11, 2018, includes limited-term funding for attorney work on assessment appeals and disaster recovery operations. Attorneys in permanent Deputy County Counsel positions are performing that work. The attorney hired under this Agreement for Services of Contractor on Payroll will backfill some of the duties those permanent attorneys would otherwise be performing. At County Counsel's request, the County Human Resources Department's Employee Relations Division has met and conferred with the Civil Attorneys Association about the plan to hire a Contractor on Payroll.

The County's Contractor on Payroll Policy ("COP Policy") defines a Contractor on Payroll as an at-will employee who: (1) is employed through a contract; (2) does not fill a regular, allocated position; and (3) does not meet the Internal Revenue Service definition of an independent contractor. The COP Policy permits hiring a COP if: (1) there is a need for specialized work to be performed; (2) the work cannot be

performed by an independent contractor; (3) there is a temporary funding source for the work; and (4) the work is sporadic and does not warrant a full or part-time regular position.

This Agreement meets the foregoing requirements of the COP Policy, and is authorized under California Government Code Section 31000, which allows the Board of Supervisors to contract for legal services with persons specially trained, experienced, expert, and competent to perform those services.

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”) expressly provides that the Board of Supervisors, acting by and through the County Counsel, retains the authority to direct and control the course and conduct of the litigation.

A Request for Proposals was not required for this selection.

Staffing Impacts: None

Special Instructions: Please forward a signed copy to Martin McKenzie in County Counsel.

Attachments: a) Contract
b) Contract Summary Form

Authored by: Martin McKenzie, County Counsel Chief of Litigation

cc: