



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 5, 2022
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, County Counsel (805) 568-2950
Contact Info: Amber Holderness, Chief Assistant (805) 568-2950
SUBJECT: Approve Agreement for Professional Legal Services with Outside Counsel
Wilmer Cutler Pickering Hale & Dorr LLP

County Counsel 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 attached Agreement for Professional Legal Services between the County of Santa Barbara and Wilmer Cutler Pickering Hale & Dorr LLP, with a not to exceed amount of \$250,000 and for the term commencing January 18, 2022 through October 30, 2023; 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 primary purpose of the Agreement is to provide needed legal advice and representation in False Claims Act matters including in current False Claims Act litigation pending in the United States District Court, Central District of California to which the County is a party. In December 2021, County Counsel recommended retaining the firm Hanson Bridgett LLP due to its extensive expertise in this highly-specialized area of law and its regular practice in the court where this litigation is pending. The Hanson Bridgett attorneys handling the litigation for the County joined the law firm Wilmer Cutler Pickering Hale & Dorr LLP (WilmerHale) on January 18, 2022. County Counsel recommends retaining WilmerHale to maintain continuity of services. The County's excess insurer, PRISM, has confirmed that the costs of the County's representation by Outside Counsel in this matter will count toward satisfying the County's Self-Insured Retention.

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. Negotiations with WilmerHale resulted in changes to the County’s standard indemnification and insurance requirements. Risks associated with these changes have been mitigated with input from the applicable departments. The Agreement includes an advance conflicts waiver, which would allow WilmerHale to represent another client whose interests may be adverse to the County’s interests in matters that are not substantially similar to False Claims Act matters. WilmerHale must notify the County of a future actual conflict and shall not disclose the County’s confidential or proprietary information in connection with its representation of another client without the County’s written consent. A Request for Proposals was not required for this selection.

Staffing Impacts: None

Special Instructions: Please forward a signed copy to Amber Holderness at aholderness@countyofsb.org.

Attachments: a) Agreement for Professional Legal Services

Authored by: Amber Holderness, Chief Assistant

cc: Risk Management