



Board Agenda Item 31

DATE: April 23, 2024

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Amendment to Agreement with Best, Best & Krieger, LLP for Specialized Legal Services Agreement

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute Amendment No. 1 to Agreement for Specialized Legal Services with Best, Best and Krieger, LLP, to include litigation services in connection with the County's General Plan Review and Zoning Ordinance Update and the associated Environmental Impact Report, and to increase the maximum compensation by \$200,000 to a total of \$500,000.

Approval of the recommended action would expand the scope of the current agreement so that the law firm of Best, Best and Krieger, LLP (BBK), would be able to represent the County in two lawsuits that have been filed against the County in connection with the County's General Plan Review and Zoning Ordinance Update and the associated Environmental Impact Report (GPRZOU). The recommended Amendment would also increase the maximum compensation payable to BBK.

ALTERNATIVE ACTION(S):

Your Board may decline to enter the recommended Amendment, but the County would lack the specialized legal services provided by BBK.

FISCAL IMPACT:

The Agreement currently provides for maximum compensation of \$300,000. Adding litigation services through the recommended Amendment is likely to increase the total cost of the specialized legal services ultimately provided by BBK. The recommended Amendment reflects that likelihood by increasing the maximum compensation payable to BBK by \$200,000 to a total of \$500,000. Under the current agreement, the County has spent about \$90,000 to date.

DISCUSSION:

On October 8, 2019, your Board approved the original agreement No. 19-517 between the County and BBK for GPRZOU-related services. That agreement was extended by letter to October 8, 2023, when it expired. On January 23, 2024, your Board approved an agreement to re-engage BBK for the GPRZOU, as County agreement No. 24-038.

On February 20, 2024, pursuant to the GPRZOU, and following a recommendation from the Planning Commission, your Board adopted a resolution certifying that the Program Environmental Impact Report prepared for the County's General Plan Review and Comprehensive Zoning Ordinance Update is complete, adequate, and in compliance with the California Environmental Quality Act (CEQA), accepting the revised General Plan Background Report, and approving General Plan Amendment No. 529. On that day, your

Board also adopted an ordinance approving Amendment to Text Application No. 385, consisting of the Comprehensive Update to the Fresno County Zoning Ordinance.

On March 22, 2024, the County was served with a verified petition for writ of mandate in *City of Fresno v. County of Fresno, et al.*, Fresno County Superior Court case number 24CECG01199, alleging violations by the County of CEQA and State planning and zoning laws in connection with the GPRZOU (City Lawsuit). Also on March 22, 2024, the County was served with a verified petition for writ of mandate in *Central Valley Partnership, et al. v. County of Fresno, et al.*, Fresno County Superior Court case number 24CECG01201, alleging violations by the County of CEQA and State planning laws in connection with the GPRZOU (CVP Lawsuit).

Because of its prior work on the GPRZOU, since 2019, BBK is intimately and uniquely familiar with the GPRZOU. BBK also has experience defending similar projects against litigation challenges after working on those projects in an advisory capacity, as here.

The recommended Agreement will allow BBK, in a continuation of its work for the County on the GPRZOU under the current agreement, to represent both the County and your Board in the City Lawsuit and the CVP Lawsuit, and in other litigation that might arise in relation to the GPRZOU. The recommended Agreement also provides that BBK will prepare the administrative record, or assist the County in preparing the administrative record, as directed by the County Counsel.

REFERENCE MATERIAL:

BAI #6, February 20, 2024
BAI #26, January 23, 2024
BAI #35, October 8, 2019

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 1 to Agreement

CAO ANALYST:

Ahla Yang