



Legislation Text

File #: 19-0562, **Version:** 1

DATE: June 4, 2019

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Specialized Legal Services Agreement for Bond Counsel for Special Projects

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a specialized legal services agreement with Hawkins Delafield & Wood, LLP to act as bond counsel for special projects that may arise during FY 2019-20, effective July 1, 2019 (maximum compensation for services to be limited by amount appropriated by the Board in the FY 2019-20 budget, plus reimbursements from outside funding sources, if any).

Approving the recommended action will engage Hawkins Delafield & Wood, LLP (Hawkins) as the County's bond counsel as needed for special projects that may arise during FY 2019-20. County Counsel would be able to authorize Hawkins to work on special projects between July 1, 2019, and June 30, 2020. Because some special projects might arise toward the end of that period, bond counsel services may continue past June 30, 2020, for any work authorized during that period. The cost of all specialized legal services under the recommended agreement would be limited to Net County Cost appropriations as may be approved by the Board in the FY 2019-20 budget, plus reimbursements from outside funding sources, if any (for example, if a school district raises issues necessitating bond counsel assistance to the County, County Counsel would seek reimbursement from the district for those services). This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative to retaining bond counsel for these services because they must be provided by attorneys who have expertise in federal income tax and federal securities laws. The County Counsel's Office does not provide those specialized legal services.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

Under the Board of Supervisors' Administrative Policy No. 34 (Competitive Bids and Requests for Proposals) for obtaining services, competitive bidding is not required to select specialized legal counsel. Instead, that Board policy require County Counsel to conduct a salary survey every two years for legal services.

Last year, to satisfy the requirement for a salary survey, County Counsel conducted a competitive selection process that included five major law firms that routinely provide bond counsel services to local governments in California. Three of those firms responded with proposals. County Counsel recommends Hawkins because it provided the most competitive proposal, based on a variety of factors including the following: its hourly fee rates are lowest of the proposers; it possesses the highest level of relevant expertise and experience; and it is the only firm to accept all of the County's proposed terms for the recommended agreement.

This year, Hawkins has agreed to provide services at the same rates that it agreed to last year.

FISCAL IMPACT:

There is no additional Net County Cost because costs for bond counsel services are budgeted annually. Specialized legal services performed under the recommended agreement would be paid from FY 2019-20 Net County Cost appropriations as may be approved by the Board in the County's 2019-20 budget, plus reimbursements from outside funding sources, if any.

Under the recommended agreement, Hawkins would render specialized legal services at the hourly fee rate of \$315 for associate attorneys, and a range of rates from \$400 to \$550 for partner attorneys. These rates are the same as the County's most recent agreement with Hawkins for specialized legal services of this kind.

The fiscal impact of the recommended agreement will depend on the number and complexity of public finance matters that arise for the County during FY 2019-20. Some of those projects are certain to arise (for example, the County's annual continuing disclosure filing in the bond market to satisfy Securities and Exchange Commission reporting requirements), but much of the specialized legal work covered by this proposed agreement is likely to be unexpected and will probably need to be expedited. Given the number and type of financings undertaken by the County in recent years, such legal work will be needed.

DISCUSSION:

County Counsel recommends that Hawkins serve as bond counsel to the County for special projects that arise during FY 2019-20. Generally, Arto Becker, Esq., of Hawkins' Los Angeles office, would be the lead attorney for such special projects. Russell Miller, Esq., of Hawkins' San Francisco office, would be the lead attorney for special projects primarily involving federal income tax issues.

Hawkins currently serves as bond counsel to the County for special projects. Hawkins has consistently provided responsive and effective bond counsel services to the County on various projects for the last several years, including the following:

- The State's SB 1022 financing of the West Annex Jail project;
- Continuing administration of the use of tobacco securitization bond proceeds; and
- County's annual continuing disclosure filing in the bond market to satisfy Securities and Exchange Commission reporting requirements.

From time to time, the County requires the specialized legal services of bond counsel in connection with public finance matters, such as the County's required annual continuing disclosure filing in the bond market. Under the recommended agreement, County Counsel may consult with Hawkins as needed for special projects that arise in the next fiscal year (FY 2019-20). County Counsel would inform Hawkins of the need for services on each project as it arises. Then County Counsel would estimate the cost for the required legal service and authorize the work and monitor Hawkins' services; County Counsel would also review line-item entries of invoices to confirm the details of the services provided and charges incurred.

The recommended agreement also covers bond counsel work due to requests from outside agencies (for example, although not often, if a school district and its bond counsel raise issues related to their bond financings that affect the County). But in those cases, the County usually receives reimbursement from the agency for the work performed by the County's bond counsel.

If approved, the recommended agreement is effective on July 1, 2019. Under the recommended agreement, County Counsel may authorize special projects between July 1, 2019, and June 30, 2020. Because some projects might arise toward the end of that period, bond counsel services may continue past June 30, 2020, for any work authorized during that period.

The recommended agreement does not cover any legal services that would be required if the County

undertakes any new bond financings or refinancings. Those legal services would be covered by separate agreements.

REFERENCE MATERIAL:

BAI #37, June 5, 2018
BAI #25, February 28, 2017
BAI #27, April 5, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Hawkins Delafield & Wood, LLP

CAO ANALYST:

Yussel Zalapa