Legislation Text

File #: 19-1328, **Version:** 1

DATE: October 8, 2019

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Best, Best and Krieger, LLP Specialized Legal Services Agreement

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a specialized legal services Agreement with Best, Best and Krieger, LLP in connection with the County of Fresno's comprehensive review of its General Plan and Zoning Ordinance, and the associated environmental review, effective upon execution, not to exceed five consecutive years, which includes a three-year term and two optional one-year extensions, total not to exceed $300,000.

Approving the recommended action will engage Best, Best and Krieger, LLP to provide specialized legal services in connection with the County of Fresno's comprehensive review of its General Plan and Zoning Ordinance. This item is countywide.

ALTERNATIVE ACTION(S):

The County needs specialized legal services from attorneys who have significant expertise and experience advising public entities in planning, land use, and environmental review matters. County Counsel has identified Best, Best and Krieger, LLP as the law firm that would meet that need in a cost-effective manner. Your Board may direct our Office to undertake further investigation for outside counsel and return to your Board in the future for requested action.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

Under Board of Supervisors' Administrative Policy No. 34, competitive bidding is not required to select specialized legal services. Nevertheless, the County Counsel engaged in a limited request for proposal as described below, before deciding to engage Best, Best and Krieger, LLP under a purchasing agent agreement for these services. The law firm selected has specific experience in advising public entities in connection with comprehensive reviews and updates of general plans, and such specialized legal services are not available with County Counsel.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. Costs are estimated not to exceed $300,000 for the term of this agreement. Sufficient appropriations are included within the FY 2019-20 Interest and Miscellaneous Expenditures Org 2540 Adopted Budget and will be included in future budget requests.

Under the recommended agreement, Best, Best and Krieger would render specialized legal services at the hourly rate of $270 for associate attorneys and $325 for partners. These rates are the same as under the County's current agreement with Best, Best and Krieger, LLP for litigation services and under the prior

agreement for services of the same kind discussed below. These rates are competitive with other firms providing similar services.

DISCUSSION:

County Counsel recommends that your Board engage Best, Best and Krieger, LLP to provide specialized legal services in connection with the County of Fresno's comprehensive review of its General Plan, Zoning Ordinance Update, and the associated environmental review.

Generally, Sarah Owsowitz, Esq., of the firm's Walnut Creek office, would be the lead attorney for these services. Other attorneys would provide additional services as provided in the legal services agreement. Best, Best and Krieger, LLP and Ms. Owsowitz have advised the County previously in connection with the County of Fresno's General Plan Review and Zoning Ordinance update, as well as in related litigation.

General Plan Review Process

The County's General Plan is the foundation upon which all land use, development, housing, transportation, and resource decisions are based. The Board approved the last comprehensive update of the General Plan in the year 2000. The current General Plan review process began in 2006. Over the last 13 years, the scope of this project has evolved and grown. Due to the amount of time that has passed since the last comprehensive update and the amount of new planning obligations imposed by the Legislature, the current General Plan review will include proposed amendments to the General Plan and updating of the Zoning Ordinance, and will involve related environmental review.

Need for Specialized Legal Services

Advising planning agencies in the process of a comprehensive review of a general plan requires significant expertise and experience. In consultation with the Department of Public Works and Planning in 2018, County Counsel determined that specialized legal services were necessary, and that a budget of $300,000 is appropriate. Although the law and Board policy do not require competitive bidding for legal services contracts, in 2018, County Counsel requested bids from three law firms having expertise in land use matters. County Counsel determined that Best, Best and Krieger, LLP possessed the most desirable qualifications, offered competitive billing rates, and met the County's requirements for outside counsel.

In June of 2018, the County Purchasing Agent and Best, Best and Krieger, LLP executed a one-year legal services agreement, which has now expired. Best, Best and Krieger, LLP and Ms. Owsowitz provided legal services to the County under that agreement. In addition, the law firm has been engaged to represent the County in litigation relating to the General Plan. Services provided by the firm have been satisfactory to the County Counsel. County Counsel recommends that your Board extend the relationship with Best, Best and Krieger, LLP relating to the General Plan and Zoning Ordinance.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Best, Best and Krieger LLP

CAO ANALYST:

Yussel Zalapa

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