



SUMMARY REPORT

Agenda Date: 4/14/2026

To: Board of Supervisors

Department or Agency Name(s): County Counsel

Staff Name and Phone Number: Joshua Myers, County Counsel; Jennifer Klein, Chief Deputy County Counsel, 565-2421

Vote Requirement: 4/5th

Supervisorial District(s): All

Title:

Amendment to Existing Legal Service Agreement for On Call Land Use Counsel-Best Best & Krieger LLP

Recommended Action:

Authorize County Counsel to execute a fourth amendment to the on-call legal service agreement with Best Best & Krieger LLP for representation of the County in land use and public law matters, including appellate litigation stemming from defense of the *Riverkeeper* litigation challenging the County's well ordinance amendments, to extend the agreement term by one year, and to increase the not-to-exceed aggregate amount by \$265,000, for a new total not to exceed cap of \$990,000, and to make minor rate adjustments.

Executive Summary:

On July 27, 2021, the County entered agreements with three firms for land use legal services on an on-call basis with no minimum or maximum amount of work guaranteed to the firm, following an Request for Proposals (RFP) process. Each firm specializes in representing public agencies and has expertise in land use and public law matters. The firms are: Best Best & Krieger LLP, Burke Williams & Sorensen LLP, and Richards Watson & Gershon. Each has provided the County services under the agreements ranging from litigation defense to advisory work when County Counsel lacked capacity.

The current item proposes to extend the term by one year, for a total term of seven (7) years, increase the not to exceed amount of Best Best & Krieger's agreement by \$265,000 due to the ongoing demands associated with the *Riverkeeper* appellate litigation, and make minor rate adjustments below an inflation factor that continue the public sector discount for services. That litigation is funded from the litigation contingency fund. However, because the contract is for general on-call legal services which may vary, the source of the funds for each requested service will also vary depending on the requested service. For example, litigation defense may come from the litigation contingency fund if authorized for a particular case, whereas legal support on an at-cost project would be passed through to the permit applicant, and other services may be funded from other sources. No service would be engaged under the contract by the County absent an advanced identification of funds.

Discussion:

The County has a continuing need to establish extra capacity to provide legal services to its clients in land use project review, environmental review, comprehensive planning, and litigation, on an on-call, as needed basis.

These needs are not always consistent and staffing flexibility and use of on-call agreements provides efficiencies in fulfilling client needs. The County may contract with and utilize more than one outside counsel for such on-call legal services, but is not obligated to utilize any outside counsel, and no work is guaranteed under any contract. The immediate need to increase the Best Best & Krieger agreement stems from the demands of the *Riverkeeper* appellate litigation, related to a challenge brought to the County's adoption of amendments to its well ordinance.

Some of the requested services under the agreement's scope of work have included defense or prosecution of complex land use litigation, advising on large, time sensitive comprehensive planning initiatives, and legal review and counsel to staff in the land use entitlement process for private projects, including review of environmental documents to ensure consistency with the California Environmental Quality Act (CEQA), when applicable, as well as administrative hearings and appeals. Best Best & Krieger LLP, continues to have specialized expertise in land use matters, government representation, as well as competitive rates which include public sector discounts. It has also provided defense of the *Riverkeeper* suit throughout the pendency of that litigation and is currently providing appellate litigation services in further defense of the County's well ordinance amendments. To maintain capacity to cover legal needs and avoid a gap in service including for pending litigation and projects, County Counsel recommends your Board authorize County Counsel execute an amendment to Best Best and Kreiger's agreement to extend its six year term by one year so that it expires July 26, 2028 unless further extended or earlier terminated, and to increase the total compensation under by \$265,000, for a total not to exceed amount over the agreement's seven-year term of \$990,000.

County Counsel originally issued a Request for Proposals (RFP) to law firms who specialize in representing public agencies in land use matters to increase capacity to provide both advisory and litigation related land use legal services. Nine law firms submitted a response that conformed to all material requirements. County Counsel carefully reviewed and analyzed the proposals. After selecting and interviewing six finalists, County Counsel issued a notice of intent to award contracts to three of the finalists in Spring 2021, to comprise its panel of on-call land use counsel. Thereafter, the Board in July 2021 authorized on-call legal services agreements with the three selected firms: Best Best & Krieger LLP; Burke Williams & Sorensen LLP; and Richards Watson & Gershon. Each contract has previously been amended to extend its term and increase its not to exceed cost cap, and to make other changes related to the scope of services and applicable public sector rates. Presently, the only on-call legal services agreement proposed for amendment to extend the term and increase the cost cap is the agreement with Best Best and Krieger, due to the demands of the *Riverkeeper* litigation.

The cost for this and all the on-call land use legal service agreement comes from a variety of funding sources depending on the matter requiring legal services, such as the litigation contingency fund, at-cost agreement reimbursements, grant funding for specific planning initiatives, and other client department funds programed for legal services, as needed. Execution of these agreements does not require additional appropriations.

Strategic Plan:

N/A

Racial Equity:

Was this item identified as an opportunity to apply the Racial Equity Toolkit?

No

Prior Board Actions:

July 27, 2021: Board authorization for On-call Legal Services Agreement with Best Best & Krieger LLP, Burke Williams & Sorensen LLP, and Richards Watson & Gershon.
 January 31, 2023: First Amendment to On-call Legal Services Agreements with Best Best & Krieger LLP, Burke Williams & Sorensen LLP, and Richards Watson & Gershon.
 March 8, 2024, Second Amendment to On-Call Legal Services Agreement with Burke Williams & Sorenson LLP.
 July 25, 2024, Second Amendment to On-Call Legal Services Agreements with Best Best & Krieger LLP, and Richards Watson & Gershon; and Third Amendment to Agreement with Burke Williams & Sorenson LLP Third Amendment.
 May 13, 2025, Amendment to Existing Legal Service Agreement for On Call Land Use Counsel-Best Best & Krieger LLP

FISCAL SUMMARY

Expenditures	FY25-26 Adopted	FY26-27 Projected	FY27-28 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures			
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
General Fund Contingencies			
Total Sources			

Narrative Explanation of Fiscal Impacts:

Although County Counsel will continue to handle most land use litigation and advisory work, outside counsel is utilized in cases of conflict, lack of capacity or where there is a need for specialized legal services. Financing of legal expenses will be designated at the time of specific case retention or assignment and will vary depending on the nature of the litigation or assignment, including but not limited to, permit fees and long-range planning initiative grants. County Counsel is estimating that outside on-call land use counsel may spend 100 hours or more per year for services related to these contracts. However, engaging services are not guaranteed and thus usage will vary year-over-year, which prevents staff for defining a specific annual fiscal impact.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

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Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

Attachment A: Proposed Fourth Amendment to On-call Legal Services Agreement with Best Best & Krieger LLP

Attachment B: Original, First, Second, and Third Amendments to On-call Legal Services Agreement with Best Best & Krieger LLP

Related Items "On File" with the Clerk of the Board:

None