



Legislation Text

File #: 2024-0265, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): County Counsel's Office

Staff Name and Phone Number: Lisa Pheatt, Deputy County Counsel, (x2421)

Vote Requirement: 4/5th

Supervisorial District(s): All

Title:

Amendment to Legal Services Agreement with Nossaman, LLP for specialized legal services associated with the potential expansion of the Central Disposal Site

Recommended Action:

Authorize County Counsel to amend a Legal Services Agreement with Nossaman, LLP to increase the amount not to exceed to \$800,000 for specialized legal services associated with the potential expansion of the Central Disposal Site. (4/5th Vote Required).

Executive Summary:

Nossaman LLP was retained by County Counsel in March 2023 to advise on procurement processes associated with the potential expansion of the Central Disposal Site (CDS). Nossaman LLP offers specialized expertise in the negotiation and development of public-private partnerships. Staff recommends extending the existing contract with Nossaman LLP for this project, as they are uniquely qualified to support effective negotiations with Republic Services of Sonoma County, including related financial analyses and risk allocation strategies. For these reasons, County Counsel recommends amending the existing legal services agreement with Nossman LLP to maintain the availability of the firm's resources for this complex project. The proposed amendment increases the not-to-exceed budget for the contract from \$50,000 to \$800,000. Because the landfill expansion project is a complex undertaking anticipated to last five or more years, the term of the agreement is structured without reference to a specific end date. Rather, it will terminate upon the finalization of all matters related to the project, unless otherwise terminated by the County as allowed by the agreement.

Discussion:

On September 12, 2023, your Board received a presentation from Sonoma County Public Infrastructure staff regarding regional solid waste planning, including the potential expansion of the Sonoma County Central Disposal Site (CDS). Consistent with staff recommendations, the Board directed the initiation of work to renew prior engineering, design, and environmental studies to develop preliminary concepts to expand the CDS. The Board also directed staff and County Counsel to initiate negotiations with Republic Services of Sonoma County to develop a non-binding term sheet for the potential project that will be presented to the Board.

Nossaman LLP (Nossaman) was retained by County Counsel in March 2023 to advise on procurement processes associated with the potential expansion of the CDS. Nossaman was initially identified for this

project due in part to its unique familiarity with the many considerations that inform the existing agreement with Republic Services for operation of the CDS - The Master Operation Agreement or “MOA.” Nossaman developed experience with the MOA’s key terms, including the underlying CDS operation and associated liabilities, during the course of its work advising the County on the CDS divestiture effort in 2007-2010. Though the divestiture was ultimately not approved by the Board, the contract documents Nossaman drafted to support the County’s divestiture offer became the basis for the current MOA, making Nossaman uniquely qualified to support pending and anticipated work to define and develop the potential CDS expansion project, which could be delivered as an amendment to the MOA if the County and Republic Services are able to reach terms.

Nossaman’s original engagement to work on the divestiture project in 2007 followed a series of interviews with four different firms capable of providing the necessary services at the time. Nossaman LLP was selected because it had specific experience with successful divestitures in San Diego County and the City of Stockton. In addition, Nossaman LLP was the only firm that had completed a landfill divestiture in California at the time. Nossaman remains the only firm with experience with the County’s unique operational arrangements at the CDS.

Nossaman’s specialized expertise in public-private partnerships also makes the firm highly qualified to support effective negotiations with Republic, including related financial analyses and risk allocation strategies. For these reasons, County Counsel recommends amending the existing legal services agreement with Nossman LLP to maintain the availability of the firm’s resources for this complex project. The proposed amendment increases the not-to-exceed budget for the contract from \$50,000 to \$800,000.

Racial Equity:

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

No

INSTRUCTIONS: If ‘Yes’ to the above, or if equity analysis was conducted, include requisite information in this section staff’s discussion, findings, and recommendations as it directly relates to this item’s requested action(s).

Prior Board Actions:

9/12/23 - Adoption of Resolution No. 23-0456 designating a preferred site for the environmental analysis related to the potential expansion of the Central Disposal Site and authorizing and directing staff to initiate negotiations with Republic Services Of Sonoma County, Inc. on a sole source basis for development, implementation and operation of a potential expansion project without utilization of a competitive bid/proposal process.

8/21/2007 - Agreement with Nossaman for Divestiture Support.

FISCAL SUMMARY

Expenditures	FY23-24 Adopted	FY24-25 Projected	FY25-26 Projected
Budgeted Expenses	\$100,000	\$500,000	\$200,000

Additional Appropriation Requested			
Total Expenditures	\$100,000	\$500,000	\$200,000
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$100,000	\$500,000	\$200,000
Use of Fund Balance			
General Fund Contingencies			
Total Sources	\$100,000	\$500,000	\$200,000

Narrative Explanation of Fiscal Impacts:

Total estimated value of work to be completed with this Amendment is \$800,000.

Sufficient appropriations in the amount of \$100,000 from the Former Urban Landfill Fund (41123) were included in the Fiscal Year 2023-24 Adopted Budget, \$500,000 will be included in the Fiscal Year 2024-25 Recommended Budget, and \$200,000 in the 2025-26 Recommended Budget.

Funds for contracted work for the landfill expansion project are generated by the collection of Concession fees through the Master Operations Agreement with Republic Services of Sonoma County, Inc.

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

Narrative Explanation of Staffing Impacts (If Required):

None.

Attachments:

Legal Services Agreement with Nossaman LLP re Landfill Expansion 2023
 First Amendment to LSA with Nossaman LLP

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

None.