

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

348



FROM: Executive Office

SUBMITTAL DATE:
January 9, 2012

SUBJECT: Federal Legislative Advocacy Services

RECOMMENDED MOTION: That the Board of Supervisors ratify the contract agreement and authorize the Chairman to sign the agreement with Thomas Walters and Associates to provide federal legislative advocacy services for calendar years 2013 through 2015.

BACKGROUND: Tom Walters & Associates has been providing federal legislative advocacy services to the County since 1991, originally as part of the firm Honberger and Walters and since 1999 through his own company. The attached agreement will continue all current services through Mr. Walters. The agreement continues to provide a 10% percent compensation reduction in annual compensation. Mr. Walters firm continues to provide exemplary service to the County as our federal advocate and it is recommended that his services be retained.

Alex Gann

Alex Gann, Principal Management Analyst

FINANCIAL DATA

Current F.Y. Total Cost:	\$184,706	In Current Year Budget:	Yes
Current F.Y. Net County Cost:	\$184,706	Budget Adjustment:	No
Annual Net County Cost:	\$184,706	For Fiscal Year:	2012/13

SOURCE OF FUNDS: General Fund

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Christopher M. Hans*
Christopher M. Hans

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dept's Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.8 1/24/12 | District: all | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3-16

FORM APPROVED COUNTY COUNSEL
BY: *RB Becker*
DATE: *1/15/12*

Departmental Concurrence

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered as of the date signed and attested to by the Clerk of the Board below, and is by and between Thomas Walters & Associates, a Virginia Corporation, herein referred to as "CONSULTANT", and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, herein referred to as "COUNTY".

WHEREAS, Government Code Section 23000 et seq authorizes the COUNTY to contract for services as necessary to the exercise of its powers and conduct of its business; and

WHEREAS, CONSULTANT has the expertise, special skills, knowledge and experience to perform the duties set out herein,

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows, effective as of January 1, 2013:

1. DESCRIPTION OF SERVICES

1.1 CONSULTANT shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of one (1) page, attached hereto and incorporated by this reference.

1.2 CONSULTANT represents it has the skills, experience and knowledge necessary to fully and adequately perform all services, duties and obligations required by this Agreement. CONSULTANT shall perform the services in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. CONSULTANT further represents and warrants to the COUNTY that it has all licenses, permits, qualifications and approvals legally required to practice its profession. CONSULTANT further represents that it shall keep all such licenses and approvals in effect during the term of this Agreement.

2. PERIOD OF PERFORMANCE

The services under this Agreement shall be performed from January 1, 2013 through December 30, 2016, unless terminated as specified in Sections 3 or 8. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

3. COMPENSATION

3.1 The COUNTY shall pay the CONSULTANT for services performed in accordance with the terms of Exhibit A. The total amount of compensation paid to the CONSULTANT under this Agreement shall not exceed the sum of One Hundred Eighty-Four Thousand Seven Hundred Six Dollars (\$184,706) per year. There shall be no

additional compensation paid by the COUNTY for any costs incurred in the performance of this Agreement, unless an amendment is executed pursuant to Section 7 herein.

3.2 Any other provision notwithstanding, said compensation shall be unilaterally increased each year by a percentage equal to the change in the consumer price index (CPI) during the most recent twelve-month period for which data is published, not to exceed a total percentage increase of 4 percent per annum. Change in the CPI is determined based on data developed by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. in a report entitled "Consumer Price Index, All Urban Consumers – (CPI-U), Washington-Baltimore, DC-MD-VA-WV".

3.3 Said compensation shall be paid in equal installments on the first of each month pursuant to an invoice submitted by CONSULTANT.

3.4 The COUNTY'S obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONSULTANT in writing and this Agreement shall be deemed terminated and have no further force and effect.

4. INDEPENDENT CONSULTANT

COUNTY retains CONSULTANT on an independent contractor basis. CONSULTANT is not, and shall not be considered to be in any manner, an employee, agent or representative of the COUNTY. Personnel performing services under this Agreement on behalf of CONSULTANT shall at all times be under CONSULTANT'S exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel in connection with their performance of service and as required by law. CONSULTANT shall be responsible for all reports and obligations respecting such personnel, including but not limited to, social security, income tax withholdings, unemployment insurance and workers' compensation insurance.

5. INSURANCE

5.1 Without limiting or diminishing CONSULTANT'S obligation to indemnify or hold the COUNTY harmless, CONSULTANT shall procure and maintain at its sole cost and expense, the following insurance coverages at all times during the performance of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

5.1.1 Commercial General Liability Insurance. Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified

contractual liability, products and completed operations liability, personal and advertising injury and cross liability coverage, covering claims which may arise from or out of CONSULTANT'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

5.1.2 Automobile Liability Insurance. If CONSULTANT'S vehicles or licensed mobile equipment are used in the performance of the obligations under this Agreement, then CONSULTANT shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

5.1.3 Professional Liability Insurance. CONSULTANT shall maintain Professional Liability (Errors and Omissions) Insurance coverage for the CONSULTANT'S performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If the policy is on claims-made basis rather than an occurrence basis, such insurance shall continue throughout the term of this Agreement and CONSULTANT shall purchase at its sole expense either 1. An Extended Reporting endorsement (also known as Tail Coverage); or 2. Prior Dates coverage from a new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3. Demonstrate through Certificates of Insurance that CONSULTANT has maintained continuous coverage with the same or original insurer. Coverage provided under items 1), 2), or 3) will continue as long as the law allows.

5.1.4 Workers' Compensation Insurance. If CONSULTANT has employees as defined by the State of California, CONSULTANT shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed waive subrogation in favor of the County of Riverside.

5.2 General Insurance Provisions—All Lines.

(a) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California unless waived, in writing, by the County Risk Manager. Carrier(s) shall have an A.M. BEST rating of not less than an A: VIII unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waves a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

(b) The CONSULTANT must declare its insurance self-insured retention for each coverage unit required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of services under this Agreement. Upon notification of self-insured unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONSULTANT'S carriers shall either: 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

(c) CONSULTANT shall cause its insurance carrier(s) to furnish the County of Riverside with either: 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, or 2) if requested to do so in writing by the County Risk Manager provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONSULTANT shall not commence services until the COUNTY has been furnished original Certificate(s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

(d) It is understood and agreed to by the parties hereto, that the CONSULTANT'S insurance shall be construed as primary, and the COUNTY'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(e) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONSULTANT has become inadequate.

(f) CONSULTANT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

(g) CONSULTANT agrees to notify COUNTY of any claim by a third party or any incident or event that may arise to a claim arising from the performance of this Agreement

(h) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

6. INDEMNIFICATION

CONSULTANT shall indemnify and hold harmless COUNTY, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected and appointed officials, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONSULTANT, its officers, employees, subcontractors, agents or representatives, arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever. CONSULTANT further agrees to protect, indemnify and defend at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards the Indemnitees in any claim or action(s) based upon such services.

With respect to any action or claim subject to indemnification herein by CONSULTANT, CONSULTANT shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONSULTANT'S indemnification to Indemnitees as set forth herein.

CONSULTANT'S obligation hereunder shall be satisfied when CONSULTANT has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONSULTANT'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

7. ALTERATION

No alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. The Board of Supervisors and the County Purchasing Agent and/or his designee are the only authorized COUNTY representatives who may at any time, by written amendment, make alterations to this Agreement.

8. TERMINATION

8.1 COUNTY may, by written notice to CONSULTANT, terminate this Agreement in whole or in part at any time. Such termination may be for COUNTY'S convenience or because of CONSULTANT'S failure to perform its duties and obligations under this Agreement including, but not limited to, the failure of CONSULTANT to timely perform services pursuant to those described in Exhibit A to this Agreement.

8.2 Discontinuance of Services. Upon receipt of Notice of Termination, CONSULTANT shall discontinue all affected services within seven (7) days of receipt of the Notice, unless otherwise directed by the Notice, and deliver to the COUNTY all information, summaries, reports and other related materials as may have been prepared or accumulated by CONSULTANT in performance of services, whether completed or in progress.

8.3 Effect of Termination for Convenience. If the termination is to be for the convenience of the COUNTY, the COUNTY shall compensate CONSULTANT for services satisfactorily performed through the date of termination. CONSULTANT shall provide documentation deemed adequate by COUNTY to show services actually completed by CONSULTANT prior to termination. This Agreement shall terminate seven (7) days following receipt by the CONSULTANT of the written Notice of Termination.

8.4 Effect of Termination for Cause. If the termination is due to the failure of CONSULTANT to fulfill its obligations under this Agreement, CONSULTANT shall be compensated for those services which have been completed and accepted by the COUNTY. In such case, the COUNTY may take over and complete the work by contract or otherwise. Following discontinuance of services, the COUNTY may arrange for a meeting with CONSULTANT to determine what steps, if any, CONSULTANT can take to adequately fulfill its requirements under this Agreement. In its sole discretion, COUNTY may propose an adjustment to the terms and conditions of this Agreement, including the contract price. Such contract adjustments, if accepted in writing by the Parties, shall become binding on CONSULTANT and shall be performed as part of this Agreement. In the event of termination for cause, unless otherwise agreed to in writing by the parties, this Agreement shall terminate thirty (30) days following the date the Notice of Termination was mailed to CONSULTANT. Termination of this Agreement for cause may be considered by the COUNTY in determining whether to enter into future agreements with CONSULTANT.

8.5 Cumulative Remedies. The rights and remedies of the parties provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

9. ASSIGNMENT

This Agreement shall not be assigned by CONSULTANT, either in whole or in part, without prior written consent of COUNTY. Any assignment or purported

assignment of this Agreement by CONSULTANT without the prior written consent of COUNTY will be deemed void and of no force or effect.

10. NONDISCRIMINATION

CONSULTANT represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, sexual orientation, physical condition, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

11. CONFIDENTIALITY

CONSULTANT shall observe all Federal, State and County regulations concerning confidentiality of records. CONSULTANT shall refer all requests for information to COUNTY.

12. CONFLICT OF INTEREST

CONSULTANT will exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interest of COUNTY. This obligation will apply to CONSULTANT'S employees, agents, relatives, sub-tier contractors, and third parties associated with accomplishing the work herein. CONSULTANT'S effort will include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of the COUNTY

13. ADMINISTRATION

The County Executive Officer (or designee) shall administer this agreement on behalf of COUNTY.

14. WORK PRODUCT

All reports, preliminary findings, or data assembled or compiled by CONSULTANT under this agreement become the property of the COUNTY. The COUNTY reserves the right to authorize others to use or reproduce such materials. Therefore, such materials shall not be circulated in whole or in part, nor released to the public, without the direct authorization of the County Executive Officer or designee.

15. WAIVER

Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of

the same or of any other term thereof. Failure on the part of the COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or stopping COUNTY from enforcement hereof.

16. SEVERABILITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

17. FORCE MAJEURE

In the event CONSULTANT is unable to comply with any provision of this Agreement due to causes beyond CONSULTANT'S control such as acts of God, acts of war, civil disorders, or other similar acts, CONSULTANT shall not be held liable to COUNTY for such failure to comply. In the event COUNTY is unable to comply with any provision of this Agreement due to causes beyond its control related to acts of God, acts of war, civil disorders, or other similar acts, COUNTY shall not be held liable to CONSULTANT for such failure to comply.

18. JURISDICTION/VENUE/ATTORNEYS FEES

This Agreement is to be construed under the laws of the State of California. The parties agree to the jurisdiction and venue of the appropriate courts in the County of Riverside, State of California. Should action be brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to attorney's fees in addition to whatever other relief is granted

19. NOTICES

All correspondence and notices required or contemplated by this agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two (2) days after their deposit in the United States Mail, postage prepaid:

COUNTY
County of Riverside
Executive Office
4080 Lemon Street, 4th Floor
Riverside, CA 92501

CONSULTANT
Thomas Walters & Associates
3808 Colonial Avenue
Alexandria, VA 22309

20. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and all prior or contemporaneous agreements of any kind or nature relating to the same shall be deemed to be merged herein. Any modifications to the terms of this Agreement must be in writing and signed by the parties herein.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this agreement.

COUNTY:
County of Riverside

CONSULTANT:
Thomas Walters & Associates

By: _____
John Benoit
Chairman, Board of Supervisors

By: _____
Thomas Walters
President

Date: _____

Date: _____

ATTEST:
Clerk of the Board
Kecia Harper-Ihem

By: _____
Deputy

Date: _____

SCOPE OF SERVICE

1. Background:

Under general direction of the County Executive Officer, or his designee, the CONSULTANT shall advance the official policy positions of the County of Riverside Board of Supervisors and represent the interests of COUNTY on Federal legislative and regulatory matters.

2. Scope of Services:

2.1 Representation:

- A. Represent COUNTY specific interests reflected in policy set by the Board of Supervisors.
- B. Sponsor, support, amend or oppose legislation or regulations to benefit COUNTY related to the specific interests specified pursuant to A above.

2.2 Information:

- A. Regular reports on legislation or regulations indicating impact on COUNTY in specific interests.
- B. Response to any questions from Board of Supervisors, County Executive Officer, or designated COUNTY Officials.
- C. Specific analysis of legislation or regulation as to their impact on COUNTY specific interests upon request.

2.3 Access:

- A. Access to legislators in addition to county delegation, and legislative staff for Board of Supervisors, County Executive Officer, and Department Heads.
- B. Access to key administrative officials.