

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



ITEM
12.2
(ID # 10944)

MEETING DATE:

Tuesday, October 1, 2019

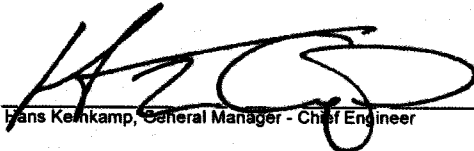
FROM : DEPARTMENT OF WASTE RESOURCES:

SUBJECT: DEPARTMENT OF WASTE RESOURCES: Amendment No. 1 to the Legal Services Agreement (Agreement) between the County of Riverside (COUNTY), on behalf of its Department of Waste Resources, and Gibbs Giden Locher Turner Senet & Wittbrodt, LLP. (ATTORNEY), for legal representation in all aspects of D.A. McCosker Construction Co., v. County of Riverside. District 5. [\$85,000 Total Cost - Department of Waste Resources Enterprise Fund 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Amendment No. 1 to the Agreement between the COUNTY and ATTORNEY for Legal Services; and
2. Authorize the Department of Waste Resources (Department) General Manager-Chief Engineer to execute Amendment No. 1 to the Agreement on behalf of the COUNTY.

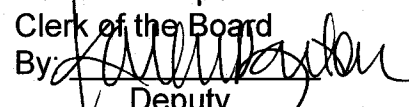
ACTION:Policy


Hans Kehkamp, General Manager - Chief Engineer 9/18/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Washington, Perez and Hewitt
Nays: None
Absent: Spiegel
Date: October 1, 2019
xc: Waste

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 85,000	\$ 0	\$ 85,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Department of Waste Resources Enterprise Funds			Budget Adjustment:	No
			For Fiscal Year:	19/20

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Prior to the issuance of a Final Progress Payment to D.A. McCosker Construction Co., D.B.A. Independent Construction Co. (Contractor), for the completion of the C4P3 Landfill Liner Expansion project at the Badlands Landfill, the Department received 29 claims for additional compensation from the Contractor. The Department and County Counsel proceeded to meet and confer with the Contractor to attempt to settle the unresolved claims. Settlement meetings with the Contractor were unsuccessful and on March 3, 2017, the Contractor filed a lawsuit against the COUNTY in the Superior Court of California, County of Riverside.

The COUNTY continued to meet and confer with the Contractor and based on County Counsel's recommendation, outside legal services were obtained. On March 1, 2019, a Legal Services Agreement (Agreement) between the COUNTY and ATTORNEY, in an amount of \$50,000, was prepared and processed through Central Purchasing. Due to lengthy legal procedures, additional funds are needed to compensate the ATTORNEY for finalizing the settlement agreement with the Contractor. Therefore, Amendment No. 1 to the Agreement is requested to increase the total compensation from \$50,000 to \$135,000.

Additional Fiscal Information

All costs associated with these legal services, are fully funded by the Department of Waste Resources Enterprise Fund and are included in the Department's budget for FY 2019/20. No net County costs will be incurred as a result of this increase of Agreement amount.

Contract History and Price Reasonableness

The rate of \$325.00 per hour for legal services by the ATTORNEY is significantly below the average rates for counsel of comparable experience and expertise. These rates have not changed for COUNTY since the signing of the original agreement on March 1, 2019.

ATTACHMENTS:


ATTACHMENT A - Amendment No.1

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



Jason Farrin, Senior Management Analyst

9/24/2019



Gregory V. Priaplos, Director County Counsel

9/19/2019

COUNTY OF RIVERSIDE
AMENDMENT NO. 1 TO THE AGREEMENT
WITH
GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT, LLP.

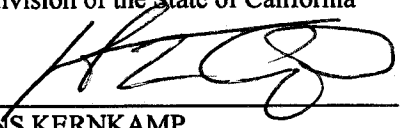
Original Contract Term:	March 1, 2019 until completion
Contract Term Extended To:	No change
Effective Date of Amendment:	September 24, 2019
Original Maximum Contract Amount:	\$50,000
Amended Annual Maximum Contract Amount:	\$135,000
Original Contract ID:	There was no original Contract ID
Amended Contract ID:	WMARC-96149-002-06/20

The Agreement between County of Riverside (COUNTY) and Gibbs Gidden Locher Turner Senet & Wittbrodt, LLP. (ATTORNEY), entered into as of March 1, 2019, is amended as follows:

1. Reference to Contract ID WMARC-96149-002-06/20 is hereby added to the Agreement.
2. COUNTY and ATTORNEY agree to increase the total amount of compensation under the terms of the Agreement. As a result, the first sentence of Section 6. COMPENSATION is hereby deleted in its entirety and replaced with the following: "The total amount of compensation paid to ATTORNEYS under the terms of this Agreement shall not exceed One Hundred Thirty Five Thousand Dollars (\$135,000)."
3. All other terms and conditions of the Agreement not modified herein shall remain unchanged.

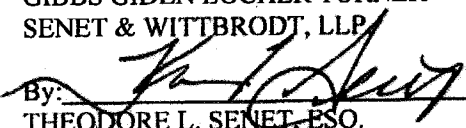
IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment.

COUNTY OF RIVERSIDE, a political
subdivision of the State of California

By: 
HANS KERNKAMP
GENERAL MANAGER-CHIEF ENGINEER
RIVERSIDE COUNTY DEPARTMENT OF
WASTE RESOURCES


Dated: 9/17/19

ATTORNEY:
GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT, LLP

By: 
THEODORE L. SENET, ESQ.
PARTNER

Dated: September 17, 2019

APPROVED AS TO FORM:
GREGORY P. PRIAMOS
COUNTY COUNSEL

By: 
KRISTINE BELL VALDEZ
SUPERVISING DEPUTY COUNTY
COUNSEL

Dated: 9/19/19

FORM APPROVED COUNTY COUNSEL
BY: 
KRISTINE BELL-VALDEZ DATE