A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/15/2020
Agenda Placement: 6P

NAPA COUNTY BOARD OF SUPERVISORS
Board Agenda Letter

TO:	Board of Supervisors
FROM:	Jeffrey Brax - County Counsel County Counsel
REPORT BY:	Thomas Zeleny, Chief Deputy County Counsel - 707-253-4234
SUBJECT:	Amendment No. 4 to Agreement No. 190183B with Goodin, MacBride, Squeri & Day LLP

RECOMMENDATION

County Counsel requests approval and authorization for the Chair to sign Amendment No. 4 to Agreement No. 190183B with the law firm of Goodin, MacBride, Squeri & Day for representation in proceedings at the California Public Utilities Commission (CPUC), acknowledging a prior increase in the billing rates of the primary assigned attorney retroactive to January 1, 2020 (resulting in a net increase in cost to the County of $2.50 to $10 per hour, depending on the proceeding, which has been paid) and redirecting funds designated for Amendment No. 2 to the remaining CPUC proceedings.

EXECUTIVE SUMMARY

In December 2018, the County executed a Professional Services Agreement ("Agreement") with Goodin, MacBride, Squeri & Day, LLP ("Goodin") for specialized legal services before the California Public Utilities Commission (“CPUC”) related to PG&E and wildfire issues. Goodin jointly represents Napa County and anywhere from two to eight other public agencies (depending on the proceeding) at the CPUC, which reduces the County’s cost of legal representation by splitting that cost with other public agencies. The Agreement was last amended in October 2019. Shortly thereafter, the public agencies agreed to an increase in the hourly rates charged by their primary assigned attorney, Megan Somogyi, Esq., resulting in a net increase in cost to the County of $2.50 to $10 per hour, depending on the number of public agencies participating in each CPUC proceeding. Staff recently discovered that these changes were never memorialized in a contract amendment with Napa County. This amendment will retroactively capture these rate adjustments, and reallocate funds designated in Amendment No. 2 from specific proceedings that have concluded to other CPUC proceedings through the end of the fiscal year.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Fiscal impact estimated to be $5,000 to $6,000 based on an increase in hourly rates of between $2.50 to $10.00 per hour. The actual impact depends on the hours billed and number of other public agencies participating in the particular CPUC proceeding. The cost will not exceed the contract maximum, and no additional funding is requested at this time. Additional funds will likely be needed if legal services are desired in fiscal year 2021-22.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The goal of participating at the CPUC through Goodin's services is to enhance protection of the community from the damaging effects of wildfires caused by PG&E facilities, and the adverse impacts of measures PG&E takes to prevent wildfires.
Is the general fund affected?	Yes
Future fiscal impact:	Additional funding will likely be needed if Goodin's legal services are desired after the end of the current fiscal year.
Consequences if not approved:	County Counsel will seek to wind down the legal services agreement with Goodin.
County Strategic Plan pillar addressed:	
Additional Information:	

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by State CEQA Guidelines section 15378, and therefore not subject to further CEQA review.

BACKGROUND AND DISCUSSION

In December 2018, the County executed a Professional Services Agreement ("Agreement") with Goodin, MacBride, Squeri & Day, LLP ("Goodin") for specialized legal services before the California Public Utilities Commission (“CPUC”) related to PG&E and wildfire issues. Goodin jointly represents Napa County and anywhere from two to eight other public agencies (depending on the proceeding) at the CPUC, which reduces the County’s cost of legal representation by splitting that cost with other public agencies. Goodin currently represents Napa County in eight CPUC proceedings. The County's share of the cost of Goodin's services range from 11% to 33%, depending on how many other public agencies Goodin is representing in a particular proceeding. The County was paying 100% of Goodin's services related to the Fulton-Calistoga electrical transmission line and PG&E's natural gas pipeline along Highway 29 (services unique to Napa County added by Amendment No. 2), but those services are complete.

The Agreement was last amended in October 2019. Shortly thereafter, the public agencies agreed to an increase in the hourly rates charged by their primary assigned attorney, Megan Somogyi, Esq., from $340 per hour to $350 per hour, to reflect the allowed increase in hourly rates under the CPUC's intervenor compensation program, should the CPUC grant reimbursement. This increase resulted in a net increase in cost to the County of $2.50 to

$10 per hour, depending on the number of public agencies participating in each CPUC proceeding. At the same time, with the additional representation of another public agency in the Phase 2 PSPS proceeding, the public agencies agreed to increase the hourly rate of Ms. Somogyi to her regular (non-discounted) rate of $550 per hour only for the Phase 2 PSPS proceeding, resulting in a net increase in cost to the County of $7.90 per hour. Staff recently discovered that these changes were never memorialized in a contract amendment with Napa County, even though the higher rates were being paid. This amendment will capture these rate adjustments retroactively to January 1, 2020.

In addition, Amendment No. 2 dedicated $80,000 towards the Fulton-Calistoga electrical transmission line and PG&E's natural gas pipeline along Highway 29. Only $20,406 was expended on Goodin's services on those projects, which left $59,594 available for other CPUC proceedings. About $33,818 has been used to providing funding for the other CPUC proceedings, with $25,776 available to fund Goodin's services for the rest of the fiscal year. This amendment will authorize redirecting unused funds from Amendment No. 2 towards the other CPUC proceedings. No additional funds are being requested at this time.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Helene Franchi