

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

DECEMBER 1, 2020

TITLE:

**APPROVE AMENDMENT TO AGREEMENT
WITH KING & SPALDING LLP FOR
SPECIALIZED LEGAL SERVICES IN AN
AMOUNT NOT TO EXCEED \$850,000
(GENERAL FUND)**

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

/s/ Kristine Ridge

CITY MANAGER

CONTINUED TO _____

FILE NUMBER _____

RECOMMENDED ACTION

Authorize the City Manager to execute an amendment to the agreement with the law firm of King & Spalding LLP for specialized legal services related to the matter entitled *City of Santa Ana v. County of Orange et al.*, United States District Court Case No. 8:20-cv-00069-DOC (KESx), to increase the amount to be expended under the agreement from \$350,000 to \$850,000, subject to non-substantive changes approved by the City Manager and the City Attorney.

DISCUSSION

On January 13, 2020, following authorization by the City Council, the City of Santa Ana initiated the above legal action against the County of Orange and the cities of Dana Point, San Clemente, and San Juan Capistrano over those cities' alleged plans to transport homeless individuals in their jurisdictions to the City of Santa Ana, and more generally, over the County's failure to provide homeless shelters and services elsewhere than in Santa Ana, which has resulted in disproportional burdens and impacts on Santa Ana. By the action, the City is seeking a more equitable sharing of homelessness-related solutions and also reimbursement for its substantial efforts in this area over the years.

While the cities are no longer parties to the action, the County remains a defendant. As alleged, this case raises important and sophisticated claims against the County and implicates various theories of relief.

On April 21, 2020, the Council approved a contract with the law firm of Boies Schiller Flexner LLP ("BSF") for a three-year term, with an option to extend the agreement for up to two years. The Council subsequently approved for assignment to the law firm of King & Spalding LLP, on May 5, 2020, following the transition of the BSF team to King & Spalding. King & Spalding continues to provide the City with a seamless legal representation.

Due to the complex and ongoing nature of the litigation, additional compensation detailed in the amendment for \$350,000 is required to meet the City's goals. Under the amendment, the total amount to be expended for this agreement shall not exceed \$850,000.

FISCAL IMPACT

Specialized legal services during the term for this Agreement will be paid out of the City Attorney Office's Contractual Services (Account No. 01108032-62300). As noted in the First Quarter Budget Update on November 17, litigation costs are tracking to exceed the budget. The cost of this contract amendment will be included in a proposed budget adjustment at Midyear.

Fiscal Year	Accounting Unit-Account #	Account Description	Amount
FY 20-21	01108032-62300	Contractual Services-Professional	\$500,000
FY 21-22	01108032-62300	Contractual Services-Professional	\$250,000
FY 22-23	01108032-62300	Contractual Services-Professional	\$100,000
		Total	\$850,000

Fiscal Impact Verified By: Kathryn Downs, CPA, Executive Director – Finance and Management Services Agency

Submitted By: Sonia R. Carvalho, City Attorney - City Attorney's Office

Exhibit: 1. Amendment to Agreement with King & Spalding for Legal Services

**FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT WITH
KING & SPALDING, LLP**

THIS FIRST AMENDMENT to the above-referenced agreement is entered into on December 1, 2020, by and between King & Spalding LLP (“Attorneys”), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California (“City”), collectively referred to as the “Parties”.

RECITALS

- A. The Parties entered into Agreement No. A-2020-190, on May 27, 2020, by which Attorneys agreed to provide legal services to the City (“Agreement”). The original term of the Agreement is for a three-year term until May 27, 2023, with an option to extend the term of the Agreement for up to two (2) years. The Agreement is current and in effect.
- B. The Parties now wish to amend the Agreement and increase the amount of compensation.

The Parties therefore agree:

1. **Section 3, Fees and Expenses**, is amended as follows:

The total sum to be expended under this Agreement shall not exceed \$850,000, including any extension periods.

2. Except as modified by this First Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to the Agreement on the date and year first written above.

ATTEST

CITY OF SANTA ANA

Daisy Gomez
Clerk of the Council

Kristine Ridge
City Manager

APPROVED AS TO FORM

Sonia R. Carvalho
City Attorney

KING & SPALDING LLP

By: 
John M. Funk
Senior Assistant City Attorney

Quyen Ta
Partner