



Agenda Date: 4/10/2007
Agenda Placement: 6D

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Linda Holbrook, Legal Administrative Specialist, 253-4520
SUBJECT: Amendment No. 4 to Agreement No. 4761 with Trucker Huss

RECOMMENDATION

County Counsel requests approval of and authorization for the Chair to sign Amendment No. 4 to Agreement No. 4761 with the law firm of Trucker Huss increasing the firm's hourly rates charged when providing complex income tax, deferred compensation, and employee benefit legal advice to the County.

EXECUTIVE SUMMARY

Since 1998 the County of Napa has contracted with Trucker Huss to provide legal services when complex interpretations of the Internal Revenue Code are involved. The Agreement also provides that Trucker Huss will represent the County in any related tax litigation. Historically there has not been any such litigation and County Counsel sees none on the horizon.

The services of Trucker Huss are utilized by County Counsel, the Auditor and the Human Resources Division of the County Executive Office. Costs are paid out of the County Counsel budget to enable County Counsel to review the firm's billings regardless of the Department involved. This approach also centralizes the County's legal services costs within the County Counsel's budget.

The Agreement with Trucker Huss provides for a maximum annual expenditure of \$25,000. Today's amendment is required solely because the firm has increased its hourly rate and the new rate must be reflected in the Agreement. The maximum that may be charged annually is not increasing. Fees are based on services actually rendered so long as the annual total does not exceed \$25,000. This is not a flat fee legal services Agreement.

FISCAL IMPACT

Is there a Fiscal Impact? Yes

Is it currently budgeted?	Yes
Where is it budgeted?	County Counsel
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Trucker Huss provides specialized legal services in tax-related matters. The firm has significant experience in this field. Sufficient funding is routinely included in the County Counsel budget that is adopted each year.
Is the general fund affected?	Yes
Future fiscal impact:	The Office of the County Counsel is a General Fund budget. Thus, continuing to utilize Trucker Huss will have an unknown future effect on the General Fund since costs are based on actual services requested and rendered. Costs tend to average \$10,000 annually although it has exceeded that amount during this fiscal year due to unforeseen income tax issues arising. That type of extraordinary activity is not expected to recur in the foreseeable future. The current Agreement provides for a maximum annual expenditure of \$25,000 and that amount has not been exceeded, nor is expected to be exceeded, during the current fiscal year. Should the proposed services exceed that amount, approval by the Board prior to authorizing the work to be performed would be required.
Consequences if not approved:	The advice would have to be provided by County Counsel staff or another law firm with tax expertise. It is not expected that switching to a different law firm with the required expertise would result in any significant cost savings. Reassigning the responsibility to respond to these highly complex tax issues to the County Counsel's Office is unlikely to result in cost savings either. While County Counsel answers many tax related questions, the office does not have the level of tax expertise needed to answer the occasional highly complex technical questions that arise and require the use of Trucker Huss. Speciality tax firms have the ability to provide such answers much more efficiently due to the nature of a tax practice. Not continuing to retain Trucker Huss would, more likely than not, result in increased costs to the General Fund.

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

Since 1998 the County of Napa has contracted with Trucker Huss to provide tax and employee benefit related legal services. Virtually all of these legal services involve complex federal income tax issues related to the County's two deferred compensation plans, health and retirement benefits and actions by the California Public Employees'

Retirement System (CalPERS). These services are often requested by the Auditor or Human Resources. For cost-containment purposes, the proposed services as well as the subsequent billings must be approved by County Counsel.

The County utilizes two attorneys in the firm. The proposed amendment will increase the rates for those two attorneys as follows:

1. Lee Trucker: \$375 to \$425
2. Elizabeth Groenewegen: \$250 to \$325

The rates have not been changed for the past two years. This increase reflects cost of living adjustments and also a promotion of Ms. Groenewegen who is our principal contact. Due to the expertise that Trucker Huss provides in these specialized areas, the County Counsel recommends the continued retention of Trucker Huss at their revised hourly rates as set forth above.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Maiko Klieman