



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY COUNSEL

File #: 21-264

Board Meeting Date: 4/6/2021

Special Notice / Hearing : None
Vote Required : Majority

To: Honorable Board of Supervisors

From: John C. Beiers, County Counsel

Subject: Adopt an Ordinance Amending the San Mateo County Ordinance Code to Update Procurement-Related Provisions for Legal Services Performed by Outside Counsel

RECOMMENDATION:

Adopt an ordinance amending Section 2.14.040 (Use of Outside Counsel for Legal Services, Advice, or Representation) of Chapter 2.14 (County Counsel) of Title 2 (Administration) of the San Mateo County Ordinance Code to align the ordinance with changes to the Government Code and Administrative Memo B-1, previously introduced on March 23, 2021, and waive the reading of the ordinance in its entirety.

BACKGROUND:

Section 2.83.010 of Chapter 2.83 establishes that the County's Purchasing Agent is the County Manager, who may delegate his purchasing duties and responsibilities as he deems appropriate. Section 2.83.060 of Chapter 2.83 also provides that the County Manager has "the duty to engage independent contractors to perform services for the County." Consistent with his purchasing duties, the County Manager, through Administrative Memorandum B-1, has established procurement standards for the County's various departments that contract with independent contractors to perform services for the County. This Administrative Memorandum has been revised on several occasions over the years.

Government Code Section 31000 allows the Board of Supervisors to "contract for special services," including legal services, and "by ordinance" the Board of Supervisors may direct the purchasing agent to enter such contracts "within the monetary limit specified in Section 25502.5 of the Government Code." Effective January 1, 2019, Government Code Section 25502.5 was amended to increase that amount from \$100,000 to \$200,000.

Following this amendment to the Government Code, in 2020 the Board of Supervisors adopted Ordinance No. 4837 and the County Manager updated Administrative Memo B-1, to align the County's purchasing procedures with this new threshold. As a result of these changes, approval from the Board of Supervisors is no longer needed for contracts with not-to-exceed amounts up to and including \$200,000. However, Section 2.14.040 of Chapter 2.14-addressing the County Counsel's

procurement authority for legal services by outside counsel-has not been updated consistent with the new Government Code monetary threshold.

DISCUSSION:

The Ordinance Code change at issue aligns the County's contract requirements regarding outside-counsel legal services with the updates to Government Code Section 25502.5 and Administrative Memo B-1. Based on this amendment, the County Counsel's ability to contract with outside counsel for legal services will align with the new Government Code monetary threshold. Further, the amendment will promote the County's rapid and flexible access to specialized legal services.

FISCAL IMPACT:

None