



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Counsel
Department No.: 013
For Agenda Of: October 6, 2020
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5 Vote

TO: Board of Supervisors
FROM: County Counsel Michael C. Ghizzoni, County Counsel (805) 568-2950
Contact Info: Amber Holderness, Division Chief (805) 568-2969
SUBJECT: Agreement for Professional Legal Services with Outside Counsel Rutan & Tucker, LLP

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- a) Approve, ratify, and authorize the Chair to execute the attached Agreement for Professional Legal Services between the County of Santa Barbara and attorney Douglas Dennington, of the law firm Rutan & Tucker, LLP, from September 10, 2020 through June 30, 2022, for a total not to exceed amount of \$150,000; and
- b) Determine that the above action is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15378(b)(4) in that it does not involve a commitment to any specific project which may result in a potentially significant impact to the environment.

Summary Text:

The primary purpose of the Agreement is to retain a law firm with expertise in the specialized area of law on eminent domain proceedings and litigation due to the recent retirement of the County's prior Outside Counsel for these matters, Duff Murphy, of Oliver, Sandifer and Murphy. Mr. Dennington and his firm have extensive expertise in this area of law and have represented public agencies over the last several years in several eminent domain proceedings. Establishing an agreement with Mr. Dennington does not commit the County to initiating any eminent domain lawsuit, but will ensure that legal services resources and expertise are readily available as may be needed from time to time, including on projects by the Public Works Department – Transportation and currently pending eminent domain litigation. This includes litigation related to projects by the Public Works-Transportation Division to acquire property necessary to complete certain bridge and road projects, including the Fernald Point Lane Project. A separate approval of your Board is required before the initiation of any additional eminent

domain proceedings. Contracting for outside counsel is allowed with a 2/3 vote pursuant to Government Code section 25203.

Performance Measure:

Not applicable.

Fiscal and Facilities Impacts:

Budgeted – Outside Counsel Designation: \$150,000 paid by Department 054, Fund 0014, Line Item 7460 and individual project budgets as appropriate.

Fiscal Analysis:

The contact has a not-to-exceed amount of \$150,000. This cost will be paid for by federal grant funds from the individual project budgets from the Public Work's Transportation Division budget as set forth above.

Key Contract Risks:

This contract does not include the County's indemnification clause; however, the firm is required to and does maintain professional liability insurance. This professional liability insurance is likely to cover any malpractice claims that may arise. Even without this clause, County Counsel views this Agreement as low risk because the involved partners from Rutan & Tucker, LLP are highly experience and have worked successfully with the County and with other government agencies for many years.

Staffing Impacts:

Contracting with Outside Counsel will allow the County to obtain the specialized legal services needed in these matters without hiring additional staff attorneys.

Special Instructions:

Please send an executed agreement to Amber Holderness in the County Counsel Office.

Attachments:

Agreement for Professional Legal Services

Authored by:

Amber Holderness, Division Chief