



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:** March 10, 2020  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** 4/5<sup>ths</sup>

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**TO:** Board of Supervisors  
**FROM:** County Counsel Michael C. Ghizzoni (805) 568-2950  
Contact Info: Martin G. McKenzie, Chief of Litigation (805) 568-2950  
**SUBJECT:** Approve Third Amendment to Agreement for Professional Legal Services with Outside Counsel Meyers/Nave

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**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 and authorize the Chair to execute the attached Third Amendment to Agreement for Professional Legal Services between the County of Santa Barbara and the Meyers/Nave law firm, increasing the contract payment limit from \$1,500,000 to \$2,250,000; 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) and 15378(b)(5) because it consists of government administrative or fiscal activities that will not result in direct or indirect physical changes in the environment.

**Summary Text:**

On August 28, 2018, the Board executed the attached Agreement for Professional Services between the County of Santa Barbara and the Meyers/Nave law firm. The primary purpose of the contract was for Meyers/Nave to provide needed legal advice and representation in defending against tort and real property claims and litigation arising from the Thomas Fire and resulting debris flow. A major part of that litigation is an attempt by Southern California Edison to shift billions of dollars of SCE's potential liability to the County, the Flood Control and Water Conservation District, and other public entities.

Meyers/Nave has been coordinating closely and effectively with County Counsel to defend against SCE's allegations. County Counsel previously recommended, and the Board approved, increasing the Agreement's payment limit to \$1,500,000. Because the County's defense in this complex litigation continues to require a high volume of legal work by Outside Counsel, County Counsel recommends

increasing the Agreement's payment limit from \$1,500,000 to \$2,250,000. All other terms of the contract will remain as previously approved by the Board.

We expect the County's excess insurer, CSAC-EIA, ultimately will reimburse the County for most of the County's costs in defending against SCE's litigation, including the County's payments to Outside Counsel under this contract. However, that reimbursement is not likely to occur this Fiscal Year, and may not occur until after the litigation is concluded.

**Performance Measure:** N/A

**Contract Renewals and Performance Outcomes:** N/A

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Key Contract Risks:**

The Office of County Counsel reviewed the Contract Risk Assessment Worksheet as part of our process.

Exhibit A of the Agreement ("Statement of Work") provides that the Board of Supervisors, acting through its County Counsel, expressly retains the authority to direct and control the course and conduct of the litigation, including the exclusive right to make decisions regarding settlement.

A Request for Proposals was not required for this selection.

**Staffing Impacts:** None

**Special Instructions:** Please forward a signed copy to Martin McKenzie in County Counsel.

**Attachments:**

- a) Agreement for Professional Legal Services [8/28/18]
- b) Amendment to Agreement for Professional Legal Services [7/16/19]
- c) Second Amendment to Agreement for Professional Legal Services [10/15/19]
- d) Third Amendment to Agreement for Professional Legal Services [3/10/20]

**Authored by:** Martin McKenzie, County Counsel Chief of Litigation

**cc:**