



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 Directors, Flood Control and Water Conservation District
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 Rutan & Tucker, LLP for Eminent Domain Proceedings and Litigation

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

County Counsel recommends that the Board of Directors:

- 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 Santa Barbara County Flood Control and Water Conservation District (District) and currently

pending eminent domain litigation involving the Lower Mission Creek Project. A separate approval of your Board is required before the initiation of any additional eminent domain proceedings.

Performance Measure:

Not applicable.

Fiscal and Facilities Impacts:

Budgeted – Outside Counsel Designation: \$150,000 paid by Department 054, Fund 2610, Line Item 8400.

Fiscal Analysis:

The contact has a not-to-exceed amount of \$150,000. This cost will be paid from the District's project budget for each of the individual projects on which Outside Counsel is consulted. No General Fund monies will be used to pay for work associated with this agreement.

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