



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 September 20,  
**For Agenda Of:** 2022  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item: If** No  
**Yes, date from:**  
**Vote Required:** 4/5<sup>th</sup>S

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**TO:** Board of Supervisors  
Board of Directors, Flood Control and Water Conservation District  
**FROM:** County Counsel Rachel Van Mullem, County Counsel (805) 568-2950  
Contact Info: Amber Holderness, Chief Assistant County Counsel (805)  
5682950  
**SUBJECT:** **Approve Sixth 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, ratify, and authorize the Chair to execute, on behalf of the County of Santa Barbara and the Santa Barbara County Flood Control & Water Conservation District, the attached Sixth Amendment to Agreement for Professional Legal Services with the law firm Meyers Nave, to extend the term of the Agreement to August 30, 2024 and to increase the contractor's hourly rates under the Agreement; 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:**

The Board first approved the attached Agreement for Professional Services with Meyers Nave on August 28, 2018. The primary purpose was to secure legal advice and representation from Outside Counsel in defending the County of Santa Barbara and the Santa Barbara County Flood Control & Water Conservation District against tort and real property claims and litigation arising from the Thomas Fire and resulting debris flow. A major part of the pending litigation is an attempt by Southern California Edison to shift billions of dollars of Edison's potential liability to the County, the District, and other public entities.

Since entering into the contract in 2018, the County and District have extended the contract term to four years. We anticipate, however, that the litigation will continue for many more months, if not years. With the expiration of the four-year term, Meyers Nave has requested an increase to its hourly rates. County Counsel recommends increasing the hourly rates for Meyers Nave as set forth in the Sixth Amendment. For the past four years, Meyers Nave has been coordinating closely and effectively with County Counsel to defend against SCE's allegations. During that time, Meyers Nave rate structure for complex wildfire litigation of this type has increased, as have the market billing rates for the handling attorneys in general. The proposed rates in this Sixth Amendment still are considerably discounted from Meyers Nave's hourly rates for other complex wildfire litigation.

By this Sixth Amendment, County Counsel also recommends extending to August 30, 2024 the Agreement's current expiration date of August 27, 2022. Except for the two recommended changes, all other provisions of the agreement will remain as previously approved by the Board.

We expect that the excess insurer for the County and the District—PRISM, formerly CSAC-EIA—will reimburse most of the costs of defending against Edison's litigation, including the costs of Meyers Nave's services under this contract. Risk Management and County Counsel asked PRISM to begin those reimbursements immediately, which PRISM began to make in February 2021.

**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, 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.

**Staffing Impacts:** None

**Special Instructions:** Please forward a signed copy to Amber Holderness at [aholderness@countyo.fsbo.org](mailto:aholderness@countyo.fsbo.org).

**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) Second [*sic*] Amendment to Agreement for Professional Legal Services [3/10/20]  
e) Fourth Amendment to Agreement for Professional Legal Services [9/01/20]  
f) Fifth Amendment to Agreement for Professional Legal Services [1/26/21]  
g) Sixth Amendment to Agreement for Professional Legal Services

**Authored by:** Amber Holderness, Chief Assistant County Counsel

cc: Risk Management

Meyersli\lave Fifth Amendment