



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:** May 2, 2017  
**Placement:** Administrative  
**Estimated Time:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** 4/5

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**TO:** Board of Directors, Santa Barbara County Flood Control and Water Conservation District  
**FROM:** Department  
Director(s): Michael C. Ghizzoni, County Counsel (805) 568-2950  
Contact Info: Johannah Hartley, Deputy County Counsel (805) 568-2950  
**SUBJECT: Agreement for Professional Legal Services with Outside Counsel (Rutan & Tucker, LLP) for Consultation on Validation Actions**

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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:**

County Counsel recommends that the Board of Supervisors:

- (a) Approve and authorize the Chair to execute the attached Agreement for Professional Legal Services with Rutan & Tucker, LLP, in an amount not to exceed \$50,000; 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:**

The primary purpose of the Agreement is to retain a law firm with expertise in validation proceedings. Douglas J. Dennington and Jeffery Melching with Rutan & Tucker, LLP specialize in government and regulatory law including validation actions. Initiating a retainer agreement with Rutan and Tucker, LLP at this time does not commit the District to initiate any validation proceedings, but will ensure that legal service resources and expertise are readily available as may be needed. A separate approval of your Board is required before the initiation of any validation proceedings.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund			
State			
Federal			
Fees			
Other:			\$ 50,000.00
<b>Total</b>	\$ -	\$ -	\$ 50,000.00

**Key Contract Risks:**

The contract does not include the District’s standard indemnity clause, however, Rutan & Tucker are required to and do maintain professional liability insurance. This professional liability insurance is likely to cover any malpractice claim that may arise. Even with the altered clause, County Counsel views this Agreement as low risk because Mr. Dennington and Mr. Melching with Rutan & Tucker, LLP are highly experienced and have worked successfully with other government agencies for many years.

**Staffing Impacts:**

**Legal Positions:**  
0

**FTEs:**  
0

**Special Instructions:**

Please forward two copies of the certified stamped minute order and one executed original agreement to the attention of Johannah Hartley in the County Counsel Office.

**Attachments:**

1. Agreement with Rutan & Tucker, LLP

**Authored by:**

Johannah Hartley, Deputy County Counsel

**cc:**