



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 Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: County Counsel Michael C. Ghizzoni 805-568-2950
Contact Info: Michelle Montez 805-568-2950
SUBJECT: Outside Counsel Contract--Goodin, MacBride, Squeri & Day, LLP

County Counsel Concurrence

As to form: Yes

Other Concurrence:

Risk Management: Yes

Office of Emergency Management: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

- a) Approve, ratify, and authorize the Chair to execute an Agreement for Professional Legal Services with the law firm of Goodin, MacBride, Squeri & Day, LLP -- which will support the County of Santa Barbara's participation in ongoing regulatory rulemaking by the California Public Utilities Commission about electric power line de-energization events -- with a not-to-exceed amount of \$75,000 and a term commencing October 1, 2020 and ending September 30, 2021; and
- b) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(5) of the CEQA Guidelines, because they consist of administrative activities of government that will not result in direct or indirect physical changes in the environment.

Summary Text:

On October 16, 2019, the Board approved a one-year agreement with Goodin, MacBride, Squeri & Day, LLP ("Goodin MacBride") for representation before the California Public Utilities Commission (CPUC) related to electric power line de-energization events, also referred to as "Public Safety Power Shutoffs."

In order to both increase impact and reduce costs, County Counsel coordinated for the County of Santa Barbara to participate in that Phase 2 rulemaking along with these other California jurisdictions that have expressed similar concerns about notification and mitigation during electric power line de-energization events: Sonoma County, Napa County, Mendocino County, San Luis Obispo County, Nevada County, Marin County, and the City of Santa Rosa (hereinafter collectively referred to as "Joint Local Government Coalition" or "the Coalition").

Since October 2019, the Coalition had a major role in CPUC, PG&E, and SCE adopting a number of de-energization regulations and protocols, including but not limited to:

- Community Resource Centers (CRCs) provide charging for medical devices, not just small personal electronics;
- PG&E and SCE must site CRCs in consultation with local governments to ensure the locations are rational and will serve the impacted communities;
- PG&E and SCE are now required to:
 - Participate in practice de-energization exercises with local governments to troubleshoot issues and improve practices before a real event;
 - Work with local governments to improve the utility's medical baseline registry and to develop ways to improve outreach to Access and Functional Needs (AFN) populations;
 - Establish de-energization advisory boards and working groups comprised of community stakeholders to improve de-energization practices and procedures; and
 - Develop notification protocols for circumstances where telecommunications systems are not working.

Goodin MacBride also supported the Coalition with the following efforts:

- CPUC Investigation: The Coalition responded to the CPUC's investigation into all three large utilities' 2019 de-energization events and the extent to which the utilities failed to implement the CPUC's regulations. CPUC Safety and Enforcement Division Staff issued a report on the 2019 de-energization events, which relied extensively on the Coalition's input. The investigation remains open for additional fact-finding and input from the parties.
- PG&E Order to Show Cause: The CPUC issued an order directing PG&E to show cause why it should not be fined for the way it conducted the October 2019 de-energization events. The Coalition provided written testimony addressing PG&E's failings and proposing refunds to impacted local governments. The proceeding will continue through the remainder of 2020.
- Meetings with CPUC Commissioners and Staff: The Coalition's elected officials, emergency managers, and attorneys have met with CPUC Commissioners, and Safety and Enforcement Division management and staff, all in accordance with the CPUC's *ex parte* rules, to discuss a number of issues related to de-energization and impacts to local governments.
- PG&E's Advice Letter 5883-E: The Letter proposed to implement certain aspects of the new microgrid/resiliency framework, including PG&E's plan to charge certain critical facilities for emergency backup generation PG&E provides during de-energization events. On August 17, 2020, CPUC staff suspended the Advice Letter on the grounds that further staff review was necessary. CPUC staff may order PG&E to revise its proposal or take other actions to address the Coalition's concerns.
- COVID-19: In April 2020, the Coalition filed a joint motion, with a number of other local governments and AFN community representatives, for special de-energization regulations during the COVID-19 pandemic. The CPUC issued a ruling on August 24, 2020, stating the CPUC's belief that the existing de-energization protocols mandate the robust coordination between utilities and local governments, and held the motion in abeyance. The CPUC pledged to continue to closely monitor COVID-19 issues that arise in connection with de-energization events and take any necessary action to protect public safety. Notwithstanding the decision to hold the motion in abeyance, the CPUC and the utilities have taken the concerns raised in the motion seriously.

The recommended, updated Agreement would provide for:

- The County of Santa Barbara's continued shared representation by the law firm of Goodin, MacBride, Squeri & Day, LLP concerning de-energization CPUC rulemaking; and
- Continued, expected savings by the County of Santa Barbara, from splitting the cost of most of Outside Counsel's work.

This Agreement is for a not-to-exceed amount of \$75,000 with a term commencing on October 1, 2020 and ending September 30, 2021. The attorney responsible for providing the legal services is Megan Somogyi.

Fiscal and Facilities Impacts:

Budgeted – Funding will come from the use of the Litigation Fund Balance component of the General Fund.

Special Instructions:

Please forward a signed copy to County Counsel.

Attachments:

Agreement for Professional Legal Services

Authored by:

Michelle Montez, Division Chief