



## Legislation Details (With Text)

**File #:** 22-1065      **Version:** 1

**Type:** Agenda Item      **Status:** Approved

**File created:** 6/7/2022      **In control:** Board of Supervisors

**On agenda:** 6/28/2022      **Final action:** 6/28/2022

**Title:** Department of Transportation and County Counsel recommending the Board:  
 1) Make findings in accordance with Chapter 3.13, Section 3.13.030 of the County Ordinance Code, Contracting Out, that there are specialty skills and qualifications not expressly identified in County classifications in the performance of litigation representation for property acquisition matters and eminent domain; and  
 2) Approve and authorize the Chair to sign retroactive, perpetual Agreement for Legal Services between County of El Dorado and Burke, Williams & Sorensen, LLP for legal advice and litigation representation, review of resolutions of necessity, and property acquisition matters inclusive of eminent domain, concerning various Capital Improvement Program Projects, beginning June 6, 2022.

**FUNDING:** For various Capital Improvement Program and Environmental Improvement Program projects, funding will be provided by associated Federal, State, and Local funding sources. Local funding sources may include any combination of the following: Traffic Impact Fee Program, Missouri Flat Area Master Circulation and Financing Plan, Road Fund, Tribe Funds, Accumulative Capital Outlay, Developer Advanced Funds, Sacramento Municipal Utility District, and/or General Fund.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Approved Contract Route Sheet, 2. B - Agreement Burke, Williams & Sorensen, LLP, 3. C - County Counsel Memo, 4. Executed AGREEMENT Burke, Williams & Sorensen, LLP

Date	Ver.	Action By	Action	Result
6/28/2022	1	Board of Supervisors	Approved	Pass

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**DISCUSSION / BACKGROUND**

Transportation obtains right-of-way to construct projects listed in the Capital Improvement Program (CIP). In the process of obtaining right-of-way, there may be a need for legal advice and litigation

representation, review of resolutions of necessity, and property acquisition matters inclusive of eminent domain in order to construct the CIP projects.

At the present time, the departments do not have staff with the necessary skills to perform this work as it requires very specialized skill sets that are not available in-house and it is not currently economically feasible to maintain those skill sets with full-time staff. Chapter 3.13 of the El Dorado County Code of Ordinances, Contracting Out, includes Section 3.13.030, Criteria, which establishes those instances where contracts may be awarded and work can be performed by independent contractors. It is recommended that the Board find that the legal advice and litigation work for property acquisition matter may be contracted out because the work requires specialty skills and qualifications not expressly identified in County classifications (Criteria 3.13.030 (B)).

Transportation and County Counsel currently have an agreement for these services with Meyers Nave, A Professional Corporation (Meyers Nave), but plans to terminate this agreement upon approval of the new Agreement with Burke, Williams & Sorensen. The termination is a result of County Counsel's main attorney from Meyers Nave leaving this firm to new employment with Burke, Williams & Sorensen. Meyers Nave has previously notified the County that they will not do any further work under the existing agreement unless the County agrees to a rate increase. The agreement with Burke, Williams & Sorensen rate is equal to the amount of the rate increase proposed by Meyers Nave. This will provide continuity on project litigation on various projects already in process.

#### **ALTERNATIVES**

The Board could choose not to enter into the agreement with Burke, Williams & Sorensen.

#### **PRIOR BOARD ACTION**

N/A

#### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Chief Administrative Office's Procurement and Contracts Division, County Counsel, Human Resources, and Risk Management have approved this proposed Agreement.

#### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

#### **FINANCIAL IMPACT**

There is no change to net County cost associated with this item. Rates are increasing as a result of the change in the legal firm, however, the firm that the County currently uses has indicated that an increase in rates is necessary, and the new agreement rates are equal to the amount of the rate increase proposed. Funding for the agreement is provided by various Capital and Environmental Improvement Program project budgets, including Federal, State, and Local funding sources. Local funding sources may include any combination of the following: Traffic Impact Fee (TIF) Program, Missouri Flat Area Master Circulation and Financing Plan (MC&FP), Road Fund, Tribe Funds, Accumulative Capital Outlay (ACO), Developer Advanced Funds, Sacramento Municipal Utility District (SMUD), and/or General Fund.

#### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain the Chair's signature on two (2) originals of the Agreement.
- 2) The Clerk of the Board will forward one (1) fully executed Amendment to the Chief Administrative

Office, Procurement and Contracts Division, for further processing.

**COUNTY COUNSEL FOLLOW UP ACTIONS**

1) Direct County Counsel to send a notice of termination to Meyers Nave regarding the existing legal services agreement.

**STRATEGIC PLAN COMPONENT**

Good Governance, Infrastructure

**CONTACT**

David Livingston, County Counsel

Rafael Martinez, Director, Department of Transportation