



Legislation Details (With Text)

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File created: 6/14/2024 **In control:** Board of Supervisors

On agenda: 7/16/2024 **Final action:** 7/16/2024

Title: County Counsel recommending the Board consider the following for legal services pertaining to the Sheetz litigation:
 1) Make findings in accordance with Section 3.13.030 (C) of the County Ordinance that Due to the temporary or occasional nature of the work, the ongoing aggregate of work to be performed is not sufficient to warrant addition of permanent staff; and
 2) Approve and authorize the Chair to sign Amendment III to Agreement 990 (552-S1711) with Abbott & Kindermann, Inc., for Legal Services with a new amount not to exceed \$300,000, increasing by \$75,000.

FUNDING: Risk Fund.

Sponsors:

Indexes:

Code sections:

Attachments: 1. A- Approved CRS Amd 3, 2. B- Agreement Amd 3 552-S1711, 3. C- Agreement Amd 2 552-S1711, 4. D- Agreement Amd 1 552-S1711, 5. E- Agreement 552-S1711, 6. Executed Agreement 552-S1711

Date	Ver.	Action By	Action	Result
7/16/2024	1	Board of Supervisors	Approved	Pass

County Counsel recommending the Board consider the following for legal services pertaining to the Sheetz litigation:

- 1) Make findings in accordance with Section 3.13.030 (C) of the County Ordinance that Due to the temporary or occasional nature of the work, the ongoing aggregate of work to be performed is not sufficient to warrant addition of permanent staff; and
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FUNDING: Risk Fund.

DISCUSSION / BACKGROUND

The County currently has an agreement for legal services with Abbott & Kindermann, Inc. to provide legal services to the County in the action entitled George Sheetz & Friends of El Dorado County v. County of El Dorado, El Dorado Superior Court Case No. PC20170255. The existing agreement has a total amount not to exceed \$225,000 and is currently being run through Risk Management. There is the potential for the Risk Management reserves to be reimbursed for legal costs from the Mitigation Fee funds that are the subject of the litigation. Since the actual cost of the litigation is unknown and because of fees incurred to date, the not-to-exceed amount on the contract needs to be increased so that the representation and defense of the County can continue.

This litigation was originally filed on June 5, 2017. During the past seven years, the case went from

the El Dorado County Superior Court (Superior Court) to the Third District Court of Appeal (3rd DCA) to the California Supreme Court (CA SC) (petition for review denied) to the Supreme Court of the United States (SCOTUS) and now, it has been remanded back to the 3rd DCA for further proceedings in accordance with the decision of SCOTUS. Due to the nature and complexity of the issues involved, it is difficult to predict the ultimate cost of the litigation. All the legal questions that will be addressed are new legal questions, therefore, there is the potential for further appeals.

Although the County has been involved in this litigation for 7 years, the outside counsel costs to date have been relatively modest. The County was very fortunate that a law firm with extensive SCOTUS experience offered to represent the County, at no cost, during the proceedings before SCOTUS. SCOTUS practice is a very specialized area; therefore, the County gratefully accepted the offer.

The Notification of Conflict section is also being revised to address Levine Act requirements.

ALTERNATIVES

N/A

PRIOR BOARD ACTION

Legistar Item 17-0721 - June 17, 2017 - Original Agreement with Abbott & Kindermann

Legistar Item 18-1049 - July 24, 2018 - Agreement Amendment 1

Legistar Item 20-1287 - October 20, 2020 - Agreement Amendment 2

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

Currently Risk Fund (Risk Management). There is the potential for the risk management reserves to be reimbursed for legal costs from the Mitigation Fee funds that are the subject of the litigation.

CLERK OF THE BOARD FOLLOW UP ACTIONS

1. Obtain signatures on two copies of Amendment 3
2. Return one executed copy to County Counsel, keeping one for BOS records

STRATEGIC PLAN COMPONENT

N/A

CONTACT

Kathleen Markham, Sr. Deputy County Counsel