



# County of El Dorado

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## Legislation Details (With Text)

**File #:** 18-0275 **Version:** 1  
**Type:** Agenda Item **Status:** Approved  
**File created:** 2/9/2018 **In control:** Board of Supervisors  
**On agenda:** 2/13/2018 **Final action:** 2/13/2018  
**Title:** County Counsel recommending the Board authorize County Counsel to sign the Informed Consent Regarding Potential Conflict allowing Liebert Cassidy Whitmore to represent the Lake Tahoe Community College District in regards to the Greenway Shared Use Trail project.

FUNDING: N/A.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Informed Consent

Date	Ver.	Action By	Action	Result
2/13/2018	1	Board of Supervisors	Approved	Pass

County Counsel recommending the Board authorize County Counsel to sign the Informed Consent Regarding Potential Conflict allowing Liebert Cassidy Whitmore to represent the Lake Tahoe Community College District in regards to the Greenway Shared Use Trail project.

**FUNDING:** N/A.

### DEPARTMENT RECOMMENDATION

County Counsel recommending the Board authorize County Counsel to sign the Informed Consent Regarding Potential Conflict allowing Liebert Cassidy Whitmore to represent the Lake Tahoe Community College District in regards to the Greenway Shared Use Trail project.

### DISCUSSION/BACKGROUND

On February 6, 2018 the Office of County Counsel received the proposed Informed Consent Regarding Legal Services from the Los Angeles office of Liebert Cassidy Whitmore ("LCW"). The Informed Consent Regarding Legal Services seeks to have the County of El Dorado consent to LCW's representation of the Lake Tahoe Community College District ("LTCCD") in regards to the negotiation of agreements, access rights, development, and other arrangements related to the Greenway Shared Use Trail project ("Project"). Presently, LCW is under contract with the County to provide representation and advice in labor relations and personnel related matters. Although the County is not at this time formally involved in the Project, preliminary discussions regarding the County's involvement have begun with the anticipation that the County may well be involved in this Project in the future.

California Rules of Professional Conduct, Rule 3-310 provides that "A member shall not, without the informed written consent of each client: ...(3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter." [underline added].

LCW currently has the County as a client, providing labor relations and personnel advice and representation. LCW is seeking to represent LTCCD in regards to the Project. Given the potential for the County to become involved in the Project, LCW is pursuing the safest course of action to obtain the informed consent of the County for LCW to represent LTCCD in regards to the Project. While no conflict presently exists, there is a potential, though unlikely, that the interests of the County and of the LTCCD would diverge thereby resulting in an actual conflict of interest for the attorney at which point LCW may be required to withdraw from representation of LTCCD. It is not anticipated that such an event will occur but the possibility of such an occurrence is enough to require LCW to seek this informed consent.

#### **ALTERNATIVES**

The Board could decline to consent to the representation of LTCCD by LCW which would require LTCCD to obtain other counsel.

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

N/A

#### **CAO RECOMMENDATION**

Approve and authorize the County Counsel to sign the Informed Consent Regarding Potential Conflict.

#### **FINANCIAL IMPACT**

None

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

Following Board approval, County Counsel will execute the Informed Consent Regarding Legal Services for distribution and administration.

#### **STRATEGIC PLAN COMPONENT**

Good Governance/Infrastructure

#### **CONTACT:**

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