



## Legislation Details (With Text)

**File #:** 20-1251      **Version:** 1

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

**File created:** 9/15/2020      **In control:** Board of Supervisors

**On agenda:** 9/29/2020      **Final action:** 9/29/2020

**Title:** County Counsel recommending the Board authorize the Chair to execute a funding agreement between El Dorado County and the El Dorado County Water Agency (Water Agency) wherein the County will provide a one-time contribution of \$55,000 to the Water Agency to assist with funding for water conservation project(s) and to find that such contribution serves a public purpose and provides a valuable public benefit because it will conserve water which is a vital public resource.

FUNDING: Risk Fund.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Settlement Agreement 9-29-2020, 2. B - Funding Agreement 9-29-2020, 3. Executed Funding Agreement

| Date      | Ver. | Action By            | Action   | Result |
|-----------|------|----------------------|----------|--------|
| 9/29/2020 | 1    | Board of Supervisors | Approved | Pass   |

County Counsel recommending the Board authorize the Chair to execute a funding agreement between El Dorado County and the El Dorado County Water Agency (Water Agency) wherein the County will provide a one-time contribution of \$55,000 to the Water Agency to assist with funding for water conservation project(s) and to find that such contribution serves a public purpose and provides a valuable public benefit because it will conserve water which is a vital public resource.

**FUNDING:** Risk Fund.

**DISCUSSION / BACKGROUND**

The proposed Funding Agreement contemplates a one-time \$55,000 contribution (Contribution) by the County to the Water Agency to be utilized through the Water Agency's existing Cost Share Grant Program (Program) to assist with funding for an eligible project or projects in order to achieve a water savings of at least 9 acre feet of water per year. The potential projects may include, but are not limited to, updates to and modernization of existing irrigation systems to bring them into conformity with the 2015 Model Water Efficient Landscape Ordinance (MWELO) which is an implementing regulation for the Water Conservation in Landscaping Act, Government Code §§ 65591-99, and/or repair or replacement of indoor or outdoor water systems that are outdated or in need of repair. The project(s) will increase water conservation in El Dorado County and will further the goal of ensuring that El Dorado County has adequate water now and in the future.

The Water Agency and the County intend that the Contribution be solely a one-time cash contribution to support the ongoing Program and that the Water Agency will remain solely responsible for managing the Program.

On September 22, 2020, The Board met in closed session on agenda item #20-1242 regarding

existing litigation titled Natural Resources Defense Council, Inc. v. El Dorado County (El Dorado County Superior Court Case No. PC20190271). The litigation involves a Petition for Writ of Mandate challenging the County's compliance with the Water Conservation in Landscaping Act and its implementing regulations. It was reported out from closed session that the Board had accepted a settlement offer signed by the opposing party. The basic terms of the settlement are as follows: the County will make a one-time contribution to the El Dorado County Water Agency in the amount of \$55,000 to be used by the Water Agency to assist with funding water conservation projects in the County, Natural Resources Defense Council and the County will each bear their own costs and attorney fees and Natural Resources Defense Council will dismiss its action with prejudice.

The September 22, 2020 closed session and the current agenda item are interrelated and dependent. Approval of the Funding Agreement will facilitate implementation of the Settlement Agreement.

### **ALTERNATIVES**

The Board could decide not to approve the Funding Agreement. The September 22, 2020 closed session acceptance of the Settlement Agreement and the current agenda item are interrelated and dependent. If the Board decides not to approve the Funding Agreement then the Settlement Agreement will be moot.

### **PRIOR BOARD ACTION**

N/A

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

Planning and Building Department and Risk Management.

### **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

### **FINANCIAL IMPACT**

The contribution will be paid out of the Risk Fund.

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

Clerk of the Board to obtain Chair's signature on three copies of the Funding Agreement. Forward one copy to the Chief Administrative Office and two copies to County Counsel's office.

### **STRATEGIC PLAN COMPONENT**

N/A

### **CONTACT**

David Livingston, County Counsel