



Legislation Text

File #: 17-1341, **Version:** 1

County Counsel recommending the Board:

- 1) Approve and Authorize the Chair to Execute an Agreement for Legal Services between El Dorado County and Abbott & Kindermann, Inc. for Legal Services Associated with the Representation and Defense of the County in the case Rural Communities United v. County of El Dorado, El Dorado County Board of Supervisors, El Dorado County Superior Court Case PC20170536, Petition for Writ of Mandate, California Environmental Quality Act (General Plan Biological Policies Update, Oak Resources Management Plan, Oak Resources Ordinance and In-Lieu Fee); and
- 2) Approve and authorize the Chair to sign a Budget Transfer transferring \$200,000 from the General Fund Contingency to the County Counsel's budget for contracted legal services. (4/5 vote required).

FUNDING: General Fund. (No Federal Funds)

DEPARTMENT RECOMMENDATION

County Counsel recommending the Board (1) Approve and authorize the Chair to execute an Agreement for Legal Services between El Dorado County and Abbott & Kindermann, Inc. for the representation and defense of the County in the case Rural Communities United v. County of El Dorado, El Dorado County Board of Supervisors, El Dorado County Superior Court Case No. PC20170536 and (2) Approve and authorize the Chair to sign a Budget Transfer transferring \$200,000 from the General Fund Contingency to the County Counsel's budget for contracted legal services. (4/5 vote required)

DISCUSSION / BACKGROUND

1. Approval and authorization of Chair to execute the Agreement for Legal Services

At the December 5, 2017 board meeting, the Board of Supervisors authorized the defense of the Rural Communities United (RCU) Petition which is a challenge to the County's certification of the EIR and adoption of the General Plan Biological Policies Update, Oak Resources Management Plan, Oak Resources Ordinance and In-Lieu Fee. The Board also authorized the retention of the law firm of Abbott & Kindermann to represent and defend the County in the litigation. Abbott & Kindermann has worked closely with the County during the development of the General Plan Biological Policies Update, Oak Resources Management Plan, and Oak Resources Ordinance and In-Lieu Fee.

Following execution of the Agreement, County Counsel will work with Abbott & Kindermann on all legal services connected to and associated with the representation and defense of the County in this matter.

This agreement is for professional services and as such does not require competitive bidding.

2. Budget Transfer

Under certain circumstances, County Counsel needs to contract with outside counsel in relation to County matters or litigation. The retention of outside law firms is done with Board of Supervisor

approval. The County Counsel budget includes an amount for outside counsel contracts with such amount being estimated at the beginning of the fiscal year since there is no way to accurately predict what the actual cost of outside counsel will be over the course of the fiscal year. County Counsel currently has contracts with several law firms to handle ongoing legal matters of various types, including: (1) A contract with the Law Offices of Abbott & Kindermann, Inc. in the matter of Rural Communities United v. County of El Dorado et al. relating to the County's Targeted General Plan Amendment and Zoning Ordinance Update; and (2) A contract with Robert G. Holderness of the Holderness Law Firm to represent the Auditor in relation to matters arising under the Mitigation Fee Act. This agenda item seeks to add a third contract to that list to employ the law office of Abbott & Kindermann, Inc. to represent the County in the matter of Rural Communities United v. County of El Dorado et al. relating to the General Plan Biological Policies Update, Oak Resources Management Plan, Oak Resources Ordinance and In-Lieu Fee. The County Counsel budget for the current fiscal year included \$110,000 for outside counsel contracts; however legal fees for the three contracts are expected to exceed this amount potentially by the end of the calendar year. Presently there is approximately \$28,000 remaining in the County Counsel budget for outside counsel expenses. As a result of the existing litigation and legal services agreements, an additional appropriation is necessary to ensure that the legal defense of the County proceeds uninterrupted. Additionally, there is always the potential for more legal issues to arise or for more litigation to be filed that will require the assistance of outside counsel.

This additional amount is estimated to be sufficient to cover the outside counsel expenses through the end of the fiscal year.

ALTERNATIVES

There are no viable alternatives to the proposed approvals. As to the proposed contract, the Board could not approve the contract which would result in the County being unable to retain the services of Abbott & Kindermann, Inc. As to the Budget Transfer, the Board could deny the request which would result in the inability to pay the outside attorneys for future services in effect resulting in an inability to provide the uninterrupted provision of the legal services.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Chief Administrative Office

CAO RECOMMENDATION

The Chief Administrative Office supports this request.

FINANCIAL IMPACT

This budget transfer will result in an increase in Net County Cost of \$200,000 in County Counsel's budget. Department 15, General Fund Appropriation for Contingency will be reduced by \$200,000.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Following Board approval of the contract, the Board Clerk will forward 3 fully executed original agreements to County Counsel for administration. Following the Board approval of the Budget Transfer, the Chair to sign Budget Transfer and forward to Auditor-Controller for processing.

STRATEGIC PLAN COMPONENT

Good Governance and Infrastructure

CONTACT

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