



Legislation Text

File #: 23-0012, **Version:** 1

County Counsel recommending the Board authorize the Chair to sign Agreement for Legal Services between El Dorado County and Baron & Budd, PC., Dixon Diab & Chambers, LLP, for representation on a contingency fee basis in litigation against PG&E arising from the Mosquito Fire. (4/5 vote required)

FUNDING: Contingency fee from net recovery.

DISCUSSION / BACKGROUND

At 6:27 p.m. on September 6, 2022, a fire broke out near OxBow Reservoir in Placer County. The fire spread rapidly with very hot and dry conditions in very steep terrain. It crossed into El Dorado County. It was not 100% contained until October 27, 2022. By then, it had burned 76,788 acres, destroyed 78 structures, and damaged 13 structures. (The figures are for the entire burn area, over both counties.) El Dorado County had 22 parcels with damaged structures. Preliminary investigation had identified electrical activity at a PG&E transmission pole near the OxBow Reservoir as a possible cause.

Baron & Budd, P.C. and Dixon Diab & Chambers, LLP are law firms that specialize in municipal law and wildfire litigation. The firms are highly qualified to assist the County in recovery of its damages arising from this fire. The proposed agreement specifies that the firms will be compensated through a contingency fee based on eighteen percent (18%) of any net settlement or net recovery that the firms obtain for the County. The fee shall be based on a percentage of any settlement or recovery after the deduction of any expense or cost, i.e., the "net" recovery. The fee will be paid solely from amounts recovered from defendants, their insurance companies, or third-party liable companies. If no recovery is made, no fees, expenses, or costs will be charged or received by the firms.

County Counsel will work with Baron & Budd, P.C. and Dixon, Diab & Chambers, LLP on all legal services connected with the Mosquito Fire litigation. In addition to El Dorado County, additional public agencies are considering joining in this litigation.

ALTERNATIVES

The County can choose to not enter into the subject agreement and not pursue litigation against PG&E seeking recovery of damages it has incurred, including the amounts it has expended or will expend in connection with the debris removal program it instituted on December 6, 2022 (Resolution No. 181-2022).

PRIOR BOARD ACTION

On September 13, 2022, the Board of Supervisors found that conditions of extreme peril exist due to an imminent and proximate threat to the safety of persons and property within the territorial limits of the County (Resolution 142-2022). On December 6, 2022, the Board of Supervisors approved Resolution No. 181-2022, which authorized a county-led debris removal program.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Environmental Management Department

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

No public funds will be expended for this litigation. The litigation is contingency-based, with fees being paid out of any net recovery. If no recovery is made, no fees, expenses, or costs will be charged or received by the firms.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Following Board approval, the Board Clerk will forward one fully executed original of the Agreement to County Counsel for distribution and administration.

STRATEGIC PLAN COMPONENT

Good Governance -- Promote the development of resources to identify and pursue additional revenue including local, state, federal and private funding for new and existing projects. Healthy Communities -- Lead and facilitate the creation and maintenance of fire-adapted communities.

CONTACT

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