



San Bernardino County

Legislation Text

File #: 8060, Agenda Item #: 35

REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO AND RECORD OF ACTION

May 23, 2023

FROM

TOM BUNTON, County Counsel

SUBJECT

Budget Increase to continue Legal Services with Reed Smith LLP

RECOMMENDATION(S)

1. Approve a budget adjustment in the amount of \$4,000,000 to continue legal services with Reed Smith LLP in connection with insurance recovery costs related to the Chino Airport Groundwater Remediation.
 2. Authorize the Auditor-Controller/Treasurer/Tax Collector to post budget adjustments, as detailed in the Financial Impact section (Four votes required).
- (Presenter: Tom Bunton, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will result in the use of additional Discretionary General Funding (Net County Cost). This item will authorize the use of \$4,000,000 from General Fund Contingencies. Reed Smith LLP (Reed Smith) is reimbursed for any consultants and experts retained for the services provided at specific hourly rates. At the time Agreement No. 20-1250 (Agreement) (Item No. 37) was initiated on December 15, 2020, the litigation costs were unknown. The litigation is against a major insurance company for cost recovery and has grown in breadth and scope. The additional funding will allow the County to continue to utilize Reed Smith's specialized insurance recovery services to litigate the County's case. The following recommended budget adjustments will fund anticipated legal fees for the current fiscal year and will be paid from the Litigation budget (1340001000):

Fund Center	Commitment/G L Account	Description	Action	Amount
1280001000	56006000	Contingencies	Decrease	\$4,000,000
1340001000	52002449	Outside Legal Counsel	Increase	\$4,000,000

BACKGROUND INFORMATION

The County tendered a claim for reimbursement from its insurer, Insurance Company of the State of Pennsylvania, for investigation and remediation costs to treat groundwater at the Chino Airport. This insurer reimbursed the County for one occurrence under the policy and in 2021 stopped reimbursing the County for its incurred expenses as a result of the groundwater contamination.

On December 15, 2020 (Item No. 37), the Board of Supervisors (Board) approved Agreement No. 20-1250 (Agreement) with Reed Smith for specialized legal services in connection with insurance recovery relating to the Chino Airport Groundwater Remediation to treat volatile organic compounds in groundwater under Regional Water Quality Control Board Order, in the City of Chino at the County's Chino Airport. The County entered into the Agreement with Reed Smith for the period of December 15, 2020 through December 14, 2025, to provide expertise in the area of insurance recovery needed to effectively assist, advise, litigate and otherwise represent the County in its recovery efforts from this insurer. On November 24, 2021, the County filed suit against the insurer for: breach of contract, breach of good faith and fair dealing, and declaratory relief.

Approval of the recommendations align with the County and the Chief Executive Officer's goal and objective to operate in a fiscally responsible and business-like manner by allowing the County to continue to fund recovery efforts for costs associated with the Chino Airport Groundwater Remediation.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Maria L. Insixiengmay, Deputy County Counsel, 387-5455) on April 25, 2023; Auditor-Controller/Treasurer/Tax Collector (Vanessa Doyle, Deputy Chief Controller, 382-3193, Charlene Huang, Auditor-Controller Manager, 382-7022, and Mima Ugbo, Supervising Accountant III, 382-3035) on May 2, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404) on May 2, 2023 and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on April 28, 2023.