

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR COURSEY AND MEMBERS OF THE CITY COUNCIL

FROM: SUE GALLAGHER, CITY ATTORNEY

SUBJECT: APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH A CONSORTIUM OF LEGAL FIRMS, LED BY THE LAW FIRM OF BARON & BUDD, P.C., TO PROVIDE LEGAL REPRESENTATION ON BEHALF OF THE CITY OF SANTA ROSA IN CONNECTION WITH POTENTIAL LITIGATION AGAINST PG&E ARISING FROM THE WILDFIRES OF OCTOBER 2017

AGENDA ACTION: MOTION

RECOMMENDATION

It is recommended that the Council, by motion, approve a Professional Services Agreement with a consortium of legal firms, led by the law firm of Baron & Budd, P.C., for legal representation on behalf of the City of Santa Rosa in connection with potential litigation against PG&E arising from the wildfires of October 2017.

EXECUTIVE SUMMARY

The City of Santa Rosa suffered extensive property and economic damages as a result of wildfires that swept into the City beginning on October 8, 2017. Evidence has emerged that points to Pacific Gas & Electric, Co. and PG&E Corporation ("PG&E") equipment and infrastructure as the cause and origin of the fires.

Hundreds of lawsuits have been filed against PG&E by individuals, businesses, and public entities. The cases have been consolidated in the Superior Court of San Francisco and now moving forward. In light of the extensive damages suffered by the City, and the substantial evidence pointing to potential responsibility on the part of PG&E, the City Attorney recommends that the City initiate litigation against PG&E, and that the City engage outside legal counsel to assist in that lawsuit.

After careful evaluation, it is recommended that Council, by motion, approve a Professional Services Agreement with a consortium of law firms led by the law firm of Baron & Budd, P.C., a national firm that specializes in public entity representation in tort

litigation. Under the Agreement, the consortium, working closely with the City Attorney's Office, will provide all necessary legal services to represent the City of Santa Rosa in a lawsuit for damages against PG&E. The Office of the City Attorney will retain control over all key decision-making in that action.

BACKGROUND

Late in the evening of October 8, 2017, fast moving wildfires swept into the City, leaving a large swath of destruction. The fires continued for days thereafter, ultimately killing at least 24 people in Sonoma County, destroying more than three thousand residences within the City of Santa Rosa alone, destroying or damaging hundreds of commercial and other structures, and causing the evacuation of tens of thousands of City residents. The City itself suffered destruction and damage to its municipal buildings, roads, sidewalks, water, sewer and stormwater systems, and other infrastructure and facilities, as well as extensive economic losses including, but not limited to, costs of fire suppression, law enforcement, evacuation and emergency response, overtime, community security and support, debris clearing, rebuild permitting and oversight, and the loss of tax and proprietary revenues of unknown scope and for an unknown period of time.

Although no formal liability determinations have yet been issued, significant evidence indicates that equipment and infrastructure installed, operated, and/or maintained by PG&E was the cause and origin of the wildfires.

As a result, hundreds of lawsuits have been filed against PG&E by individuals, businesses and public entities affected by the fires. A hearing was held in San Francisco Superior Court on January 2, 2018, and, at that time, the Court ordered that all of the cases be coordinated through a Judicial Council Coordinated Proceeding. A Case Management Conference was held on February 27, 2018. Executive committees have been formed to take the lead in the proceedings, and Master Complaints and Answers have been filed. Motion work has begun and discovery is likely to soon get underway.

Baron & Budd, P.C, has a leadership role in the Consolidated Proceeding, and its consortium is currently representing the Counties of Sonoma, Napa and Mendocino in the action.

PRIOR CITY COUNCIL REVIEW

Council has previously met in closed session to discuss potential litigation against PG&E and selection of outside counsel.

ANALYSIS

Baron & Budd, P.C., has joined with a consortium of law firms, including Singleton Law Firm, Thorsnes Bartolotta McGuire, Dixon Diab & Chambers, and Terry Singleton, Esq. to offer legal representation for public entities and individuals in connection with the

Northern California wildfires. Baron & Budd, P.C. has extensive experience in representing public entities in large scale tort litigation. Members of Baron & Budd, P.C. have been appointed by the Court in the Coordinated Proceeding to be the Public Entities' Lead Counsel and to serve as Liaison to the Public Entity Plaintiffs.

The Professional Services Agreement provides for compensation to the consortium on a contingency fee basis at the negotiated rate of eighteen percent (18%) of the net recovery obtained for the City in the action. The consortium will front all litigation costs, including expert witness fees. Those costs are recouped only if a successful recovery is obtained. If no recovery is obtained, no costs or fees will be owed.

The Office of the City Attorney will oversee the litigation and, pursuant to the Agreement, will retain complete control of all decisions in the action. City Attorney, legal assistant and other in-house litigation fees and costs will be reimbursed prior to calculation of any contingency fee.

It is recommended that Council, by motion, approve a Professional Services Agreement with a consortium of legal firms, led by the law firm of Baron & Budd, P.C., for legal representation on behalf of the City of Santa Rosa in connection with potential litigation against PG&E arising from the wildfires of October 2017.

FISCAL IMPACT

Unknown at this time.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment - Professional Services Agreement

CONTACT

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