



# Board Agenda Item 36.1

DATE: November 24, 2020

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Retroactive Agreement for County Counsel to Provide Legal Services to Coalinga-Huron Cemetery District

RECOMMENDED ACTION(S):

**Approve and authorize Chairman to execute a retroactive Agreement for Legal Services, authorizing County Counsel to provide legal services to Coalinga-Huron Cemetery District in relation to personnel matters, effective November 16, 2020 through June 30, 2021, with automatic one-year renewals.**

Approval of the recommended action will establish a legal services agreement with the Coalinga-Huron Cemetery District (District). Under the recommended agreement, County Counsel will provide legal services related to personnel matters of the District, including advisory and litigation services. The District will pay hourly compensation to County Counsel at its then-current rate provided in the County's Master Schedule of Fees, and reimburse County Counsel for reasonable and necessary out-of-pocket costs related to legal services provided. This item pertains to locations in Districts 1 and 4.

ALTERNATIVE ACTION(S):

Your Board may decline to enter into the agreement, and the District will need to seek legal services elsewhere.

RETROACTIVE AGREEMENT:

The recommended agreement is retroactive to November 16, 2020, to cover initial interactions between County Counsel and the District.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended action. The total cost for County Counsel to provide legal services will be paid by the District. Compensation paid by the District will include hourly compensation for County Counsel's services at its then-current rate provided in the County's Master Schedule of Fees, Charges, and Recovered Costs. County Counsel's current rate is \$141 per hour. The District will also reimburse the County for reasonable and necessary out-of-pocket expenses, which would not exceed the total cost to the County for the services rendered. The total amount received by County Counsel for services rendered will depend on the extent to which the District uses the services available under the recommended agreement. Sufficient appropriations and estimated revenues are included in County Counsel's Org 0710 FY 2020-21 Adopted Budget.

DISCUSSION:

The Public Cemetery District Law, which is codified at Health and Safety Code, Division 8, Part 4, beginning with section 9000, provides that the District may engage legal counsel. Under Government Code sections 26529 and 26520, County Counsel may provide legal services to the District for a fee, which shall not exceed the total cost to the County for the services rendered.

Under the recommended agreement, County Counsel would provide the types of advisory and litigation legal services that the County Counsel customarily provides to internal departments in relation to personnel matters. That includes, for example, legal research, legal advice and opinions, as well as drafting, preparing, and reviewing legal documents, and representing the District in administrative hearings, court proceedings, or alternative dispute resolution proceedings such as mediation or arbitration. The recommended agreement does not cover legal services that are unrelated to personnel matters or specialized legal services, such as those related to workers compensation, health care, insurance, collections, bankruptcy, municipal securities and public finance, or federal taxation.

The recommended agreement is effective retroactively to November 16, 2020. The termination date is June 30, 2021, but the recommended agreement provides for automatic annual renewals, unless either party gives written notice of termination at least 90 days before the agreement expires.

Automatic annual renewals are consistent with other existing agreements by which the County Counsel provides legal services to other special districts. Automatic renewals are provided for three reasons. First, the agreement allows the District to engage the County Counsel at future times yet unknown, including minor matters for which separate agreements would be impractical, and the County Counsel cannot predict how long it will take to complete such matters. Second, automatic renewals help to avoid a situation where the County Counsel is required by independent obligations of professional responsibility to provide services, but the agreement has expired. Finally, because this is a contract by which the County Counsel provides services, rather than one where the County is obtaining services, the automatic annual renewals do not implicate concerns with competitive bidding, which underly the general disfavoring of automatically renewing contracts.

Under the recommended agreement, the District acknowledges that County Counsel's primary client is the County. County Counsel may withdraw from the recommended agreement for good cause as determined by County Counsel. For example, there might be good cause for County Counsel to withdraw from the recommended agreement if the interests of the District are in conflict with the interests of the County. County Counsel may also withdraw with the District's consent, or, if permitted under the rules of Professional Conduct of the State Bar of California and applicable law, upon giving no less than five days' prior written notice to the District.

The District also has the ability under the recommended agreement to discharge County Counsel at any time, upon giving at least five days' written notice to the County.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Coalinga-Huron Cemetery District

CAO ANALYST:

Sonia M. De La Rosa