



Legislation Text

File #: 18-441, **Version:** 1

Report Prepared by: Kelly C. Fincher, Chief Deputy City Attorney

SUBJECT: Approval of Fee Agreement with Rutan & Tucker, LLP. to Provide Legal Services

REPORT IN BRIEF

Recommends approving a fee agreement with Rutan & Tucker, LLP. to provide legal services on behalf of the City in the case *Merced Citizens for Responsible Planning v. City of Merced, et al.*, for the not to exceed amount of \$95,000.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the fee agreement with Rutan & Tucker; and,
- B. Approving a supplemental appropriation of \$95,000 from the unreserved, unencumbered fund balance of Fund 557- Water System Enterprise to a professional service account 557-1106-532-17-00; and,
- C. Authorizing the City Manager or Assistant City Manager to execute the agreement.

ALTERNATIVES

- 1. Approve, as recommended by staff, or,
- 2. Approve, subject to other than recommended by; or,
- 3. Deny; or,
- 4. Refer to staff for reconsideration of specific terms; or,
- 5. Continue to a future meeting (date and time to be specified in the motion.)

AUTHORITY

Merced Municipal Code section 200.

CITY COUNCIL PRIORITIES

N/A.

DISCUSSION

In August 2018, the City was served with an Amended Petition for Writ of Administrative Mandate or Traditional Mandate which was filed by the Merced Citizens for Responsible Planning. This matter concerns the City's approval of their 2015 Urban Water Management Plan. As the City believes that the allegations in this Petition have no merit, it is important to vigorously defend this case.

The City Attorney's Office is requesting approval to hire Katherine Jenson, who is a partner with the law firm Rutan & Tucker to represent the City in this matter. Ms. Jenson has represented the City on prior occasions, most notably in the case, *Merced Alliance For Responsible Growth et al., v, City of Merced, Wal-Mart Stores East, L.P. et al.* In that case, Ms. Jenson successfully represented the City in the Superior Court and the Court of Appeal in a challenge to the City's approval of a proposal to build a regional distribution center.

The City Attorney's Office recommends that the City Council approve and enter into the attached fee agreement with Rutan & Tucker for the not to exceed amount of \$95,000.

IMPACT ON CITY RESOURCES

A supplemental appropriation of \$95,000 is needed from the unreserved, unencumbered fund balance of Fund 557 - Water System Enterprise to professional service account 557-1106-532-17-00 to cover the cost of the agreement.

ATTACHMENTS

1. Fee Agreement With Rutan & Tucker