



Legislation Text

File #: 18-594, Version: 1

Report Prepared by: Phaedra Norton, City Attorney

SUBJECT: Approval of Supplemental Appropriation in the Amount of \$50,000 and Approval of a Fee Agreement with Rutan & Tucker, LLP. to Provide Legal Services in the Matter *Merced Citizens for Responsible Planning et. al. v. City of Merced*, et al. in the Not to Exceed Amount of \$50,000

REPORT IN BRIEF

Recommends approving a fee agreement with Rutan & Tucker, LLP. for an amount not to exceed \$50,000 to provide legal services on behalf of the City in the case of *Merced Citizens for Responsible Planning et. al. v. City of Merced, et al.*, and approving a supplemental appropriation of \$50,000 from the unreserved, unencumbered fund balance of Fund 557- Water System Enterprise to cover the cost of the legal services.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving the fee agreement with Rutan & Tucker, LLP; and,
- B. Approving a supplemental appropriation of \$50,000 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 City Charter, section 200.

CITY COUNCIL PRIORITIES

N/A.

DISCUSSION

On August 20, 2018, the City was served with an Amended Petition for Writ of Administrative Mandate or Traditional Mandate in the matter entitled *Merced Citizens for Responsible Planning et. al., v. City of Merced et. al.* This matter concerns the City's approval of its 2015 Urban Water Management Plan.

The City Attorney's Office is requesting approval to hire Katherine Jenson, who is a partner with the law firm Rutan & Tucker, LLP., 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 Superior Court proceedings and before the Court of Appeal in a matter challenging the City's approval of a proposal to build a regional distribution center.

Based on the foregoing, it is recommended that the City Council approve the attached fee agreement with Rutan & Tucker, LLP., for an amount not to exceed \$50,000. The approved amount is an estimate based upon the information known to date. If additional funding is necessary, a contract amendment and a request for an additional appropriation will be brought forward at the appropriate time.

IMPACT ON CITY RESOURCES

A supplemental appropriation of \$50,000 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, LLP.