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COUNTY OF NEVADA**

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November 30, 2018

Honorable Board of Supervisors
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

DATE OF MEETING: December 11, 2018

SUBJECT: Resolution Authorizing Participation in the Northern California Wildfires Coordinated Proceedings, Approving a Professional Services Agreement Between the County of Nevada and Baron & Budd, P.C., et al, for Legal Services Related to the October 2017 Wildfires, and Authorizing the County Counsel to Execute the Agreement and Related Documents

RECOMMENDATION: Adopt the attached Resolution

FUNDING: The Professional Services Agreement is funded solely from the recovery of monies, if any, as result of the proposed litigation and would be paid only if and when the litigation successfully concludes. The General Fund and various department budgets may be positively impacted, and a budget amendment will be brought to the Board of Supervisors when any funds are received. There is no charge to the County for attorneys' fees or costs if the County does not recover anything from the litigation.

BACKGROUND: In October 2017, the County experienced two wildfires, the Lobo and McCourtney fires, in western Nevada County fires (also referred to as the Wind Complex Fires). According to the CalFire investigation, both fires were the result of PG&E's failure to comply with state law. The Nevada County fires were just two of several Northern California wildfires that broke out at the same time, all allegedly due to similar failures by PG&E.

Several counties, cities and special districts filed litigation against PG&E in state court to recover unreimbursed public agency costs and other damages associated with these fires, including but not limited to response and recovery costs and damages to public infrastructure and services as a result of these wildfires. Staff is supportive of this effort.

The litigation has been consolidated into a state court coordinated proceeding in San Francisco ("Wildfires JCCP"). Nevada County has a unique opportunity to join with these other Northern California counties, cities and public agencies, for the purpose of joining in the JCCP. To date, all but one of the California counties affected by the October 2017 Northern California wildfires are participating in this litigation, including Sonoma, Napa and Mendocino counties.

This approach allows counties to consolidate their collective resources, use their collective knowledge and experience to address this situation and make it as efficient and cost effective as possible for counties and other public agencies to participate in this effort. At the same time, consistent with California law, the County Counsel retains complete control over the course and conduct of our individual County's case, veto power over any decisions made by outside counsel and either I or a senior Deputy from my office will remain actively involved in overseeing the litigation of our case.

To participate in this type of litigation, the County must hire a highly specialized firm with the resources, experience and expertise to handle the unique demands of the litigation. The County Counsel recommends joining with the other Northern California wildfire counties and retaining the law firm of Baron & Budd for this litigation. Baron & Budd has demonstrated experience representing public entities in wildfire litigation, an established and well developed client support structure for handling everything from discovery to closed sessions, its solid and sophisticated understanding of the governmental relationships and the legislative process, the positive references we received from the other wildfire counties who are already working with this firm on this case and our own positive experience working with Baron & Budd on the opioid litigation.

While Baron & Budd is our primary counsel and point of contact, Baron & Budd is also coordinating with the consortium of private firms identified in the Professional Services Agreement which means we will also benefit from the combined expertise, skills and resources of multiple firms in this litigation. The Professional Services Agreement provides for a contingency fee of 18%, plus certain costs. Baron & Budd will advance and cover all litigation costs and attorneys' fees and its only right to recovery will be against any monies the County receives as a result of this litigation. If the County does not prevail for any reason, or if the County determines that it is no longer in our best interests to continue with the litigation, the County may withdraw with no further obligation to pay any attorneys' fees or costs.

I recommend that you approve participation in the Northern California Wildfires Coordinated Proceedings, approve the Professional Services Agreement in

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substantially the form attached, and authorize the County Counsel to execute all documents necessary to participate in and work with the Consortium for purposes of participating in this litigation effort.

Respectfully submitted,



Alison A. Barratt-Green
County Counsel

Attachments: Resolution Approving Participation in the Northern California Wildfires
Coordinated Proceedings and Professional Services Agreement
Professional Services Agreement between the County of Nevada and
Baron & Budd, P.C., et al

