



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 24, 2009

TO: Mayor and Councilmembers

FROM: City Attorney's Office
Engineering Division, Public Works Department

SUBJECT: Authorization For Agreement For Legal Services Related To The
Cabrillo Bridge Replacement Project

RECOMMENDATION:

That Council authorize the City Administrator to execute a professional services agreement, subject to review and approval of the form of the agreement by the City Attorney, with the law firm of Best, Best Krieger, LLP (BBK) in the not-to-exceed amount of \$50,000 for special legal services to the City on matters related to the Cabrillo Bridge Replacement Project (Project).

DISCUSSION:

The City is currently undertaking the replacement of the Cabrillo Bridge located at the corner of State Street and Cabrillo Boulevard. The work involved with the Project will unavoidably impact some adjacent businesses. Three different sets of owners own the various parcels that will be affected by the Project: Romasanta Living Trust, Lighthouse & Corner, LLC, and Above Mission Creek, LLC. Appraisals have been completed on behalf of all three property owners and offer letters will be sent out shortly. Once the letters are sent out, the City's representatives and right of way agent will meet with the property owners in an attempt to reach an agreement on the value of the respective property interests that the City will need to acquire for the Project.

Regarding Lighthouse & Corner, LLC and Above Mission Creek, LLC properties; the negotiation process will most likely be made more difficult because the majority of the properties are owned by family members who are currently engaged in their own litigation over the status of these properties. As a result, it may be difficult to negotiate a fair and equitable settlement of all the property interests the City must obtain to move forward with the current scheduled construction contract award date of August 2009. Before the City can put the Project out to bid, all right of way issues must be settled between the City and the property owners within the next month. If voluntary negotiations do not result in the City obtaining the necessary rights of way in a timely manner, the City will be required to file eminent domain action against one or more of the property owners.

The firm of BBK is an experienced eminent domain law firm that has successfully worked on behalf of other local agencies in completing their respective public works projects, including successful litigation when necessary. The City Attorney's office conducted a Request for Proposals process involving four California law firms with eminent domain experience. We recommend BBK for retention by the City, due to their strong level of experience and competitive billing rate.

BUDGET/FINANCIAL INFORMATION:

Staff has negotiated an acceptable hourly rate for this agreement that is consistent with that typically paid by other public agencies for such expertise. The Federal Highway Administration will reimburse the City for 88.57% of the City Attorney's Office personnel costs, including the costs for a retained attorney as a part of the right of way acquisition expenses. There are adequate funds in the Streets Capital Program to pay for this work.

PREPARED BY: David C. McDermott, Assistant City Attorney/lp
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SUBMITTED BY: Stephen P. Wiley, City Attorney
Christine F. Andersen, Public Works Director

APPROVED BY: City Administrator's Office