



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** July 1, 2014

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Authorization For Agreement For Legal Services

### RECOMMENDATION:

That Council authorize the Public Works Director to execute a professional services agreement with the law firm of Best, Best & Krieger, LLP, in a form acceptable to the City Attorney, in an amount not to exceed \$200,000 for special legal services to the City on matters related to the renewal of the National Pollutant Discharge Elimination System Permit for the Desalination Plant.

### DISCUSSION:

The combined discharges of the Desalination Plant (when operating) and the El Estero Wastewater Treatment Plant are regulated by a National Pollutant Discharge Elimination System (NPDES) permit that is issued by the Regional Water Quality Control Board. The Board is a subsidiary agency to the State Water Resources Control Board (SWRCB) and has been delegated authority for issues related to water quality. The SWRCB retains responsibility for water rights issues.

The maximum term for an NPDES permit is five years. The City's permit was last renewed in 2010 and is scheduled for renewal in 2015. The SWRCB is currently drafting an update to the California Ocean Plan to establish consistent policy for the regulation of desalination plants. It is unlikely that the Ocean Plan amendments will be finalized prior to reissuance of the NPDES permit, and the drafting of a revised permit during a period of changing policy is expected to present a new complexity to the NPDES permit renewal, particularly as it relates to the permitted status of the Desalination Plant, and specifically the intake structure. Because of the complex legal nature of this issue, staff is recommending that a legal firm with expertise in the area of NPDES permitting and the Clean Water Act be retained.

Best, Best & Krieger, LLP (BBK) has done extensive work in support of NPDES permits for wastewater treatment plants and for desalination plants and will provide the City with expert advice in the permit renewal process. BBK will also be asked to provide

assistance in legal matters related to the California Coastal Commission permit, should they arise.

**BUDGET/FINANCIAL INFORMATION:**

Staff is recommending a contract with BBK in the amount of \$200,000. There are sufficient appropriated funds in the Water Drought Fund for this cost. The funds will be taken from budgeted costs for water purchases in Fiscal Year 2015 totaling \$3 million. Staff does not anticipate needing all of these funds.

**SUSTAINABILITY IMPACT:**

The City's NPDES permit regulates the conditions by which the City may discharge treated effluent into the ocean. Operating in compliance with the NPDES permit ensures protection of the offshore marine environment.

**PREPARED BY:** Joshua Haggmark, Acting Water Resources Manager/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office