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- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
 - San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies
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Supplemental Agenda Item No. 12

General Policy Committee Meeting

June 8, 2016

9:00 a.m.

Location:

SANBAG

First Floor Lobby

Santa Fe Depot, 1170 W. 3rd Street

San Bernardino, CA

DISCUSSION CALENDAR

Supplemental Agenda Item

12. General Counsel Staffing

That the General Policy Committee recommend the Board authorize the addition of one Assistant General Counsel position as a permanent SANBAG employee.

Eileen Teichert

This agenda item was made available after the posting of the agenda.

Minute Action

AGENDA ITEM: 12

Date: June 8, 2016

Subject:

General Counsel Staffing

Recommendation:

That the General Policy Committee recommend the Board authorize the addition of one Assistant General Counsel position as a permanent SANBAG employee.

Background:

On April 4, 2012, San Bernardino Associated Governments (SANBAG) Board of Directors hired SANBAG's first in-house General Counsel, who commenced work May 19, 2012. General Counsel serves the legal needs of the Board for the five SANBAG entities.

General Counsel provides direct legal advice and counsel to SANBAG's Board of Directors, the Executive Director, and SANBAG's employee and on-site contract staff, which serve the council of governments, freeway, transit and rail, planning, interchange, grade separation, fund administration, air quality and traveler services and numerous other programs and projects. The number and value of SANBAG's programs and projects, and the volume of contracts and staff reports included in the monthly Board and policy committee agendas for which General Counsel must provide timely advice, review and approval continues to grow. Many legal issues arise during the course of projects and contracts consuming significant amounts of attorney resources and requiring immediate attention.

General Counsel is responsible for representing SANBAG in litigation matters, ensuring that lawsuits filed against SANBAG are tendered to the appropriate insurance carriers or responsible parties for defense and indemnity, and overseeing outside defense and right-of-way counsel. Additionally, General Counsel continues to identify a number of governance and contracting concerns that need to be addressed to further enhance SANBAG's compliance with the law.

General Counsel's employee staff consists of one full-time Legal Assistant. The volume, nature and complexity of the day-to-day General Counsel services, as generally described above, exceed the capacity of one attorney. Accordingly, on October 3, 2012, the Board authorized General Counsel to enter into a one-year legal services agreement (C13036) with Robert D. Herrick, a highly qualified and experienced municipal law attorney to provide Assistant General Counsel services on a contract basis. Because the excellent legal services provided by Mr. Herrick have proven to be highly valuable to SANBAG, the Board approved two amendments to Mr. Herrick's contract which currently expires on December 31, 2017.

Utilizing Mr. Herrick on a roughly ¾ time, contract basis has provided flexibility for General Counsel to match legal services to demand while evaluating future growth needs for General

Entity: CMA, COG, CTA, CTC, JPA, SAFE

Counsel's Office and has been more cost effective to SANBAG than contracting with a law firm for the same level of attorney experience and expertise. However, the legal work load for the organization continues to expand and the General Counsel has determined that the long term interests of SANBAG will best be served by adding a full-time Deputy or Assistant General Counsel as an employee. Mr. Herrick has conveyed his desire to move toward retirement and/or greatly reduced hours due to family and health issues. He has agreed to continue under the current arrangement during the recruitment process for the proposed new position, and to be available for overflow or project work on a limited basis as needed thereafter. This will assure a smooth and cost effective transition.

The classification structure for potential attorney positions is currently being reviewed. It is customary to recruit for such positions with a range of potential classifications with the actual classification to be determined by the qualifications of the successful candidate. Likewise, the salary range for the position is currently under review. It is anticipated that some of the position's funding will come from reduction in the amount of Mr. Herrick's contract. Authorization is being sought in order to begin the recruitment while the classification and budget issues are finalized.

Financial Impact:

Approval of this item may require an amendment to Fiscal Year 2016/2017 Budget, Task 0350, Indirect General Fund, depending on the salary range selected. The amount budgeted for the contracted services of the current Assistant General Counsel is \$300,000.

Reviewed By:

This item is not scheduled for review by any other policy committee or technical advisory committee.

Responsible Staff:

Eileen Teichert, General Counsel

Approved
General Policy Committee
Date: June 8, 2016

Witnessed By: