



# Brevard County Board of County Commissioners

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Legislation Text

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**File #:** 1252, **Version:** 1

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### **Subject:**

Authorize the Chair to Execute Agreement with the Firm of Bell & Roper, P.A. (Dale A. Scott, Esquire) for Legal Services

### **Fiscal Impact:**

See estimated budget.

### **Dept/Office:**

County Attorney's Office

### **Requested Action:**

Request authorization for the Chair to Execute a retainer agreement with the firm of Bell & Roper, P.A. (Dale A. Scott, Esquire) for legal services to be provided on behalf of Brevard County with regard to a Bert Harris Claim in Waters Mark Development Enterprises, LC v. Brevard County, Case No. 05-2014-CA-41947-XXXX-XX.

### **Summary Explanation and Background:**

On September 16, 2014, Waters Mark Development Enterprises, LC filed a Bert Harris Act complaint against the County alleging that a 2009 Comp Plan amendment created an inordinate burden on property it owns in Merritt Island. The case was determined to be eligible for insurance coverage and assigned to outside counsel, Bell Roper, P.A. The case is scheduled for a bench trial in May 2020.

Even though the case was filed six years ago, the claims adjuster PGCS recently sent the County a reservation of rights letter explaining the limits of coverage on January 10, 2020. On the same date, PGCS sent a separate letter indicating that the coverage limits of \$150,000 are now exhausted and the County needs to take over the case.

Bert Harris Act cases involve two trials. The first is a bench trial where the judge decides whether the government's action caused an inordinate burden on the plaintiff's property. If the plaintiff is successful, a second jury trial is held to determine the damages. Appeals can be filed to both the bench and jury trial judgments.

Bell Roper has agreed to represent the County directly at the same rates under the insurance policy. Attached is a retention letter and estimated budget to handle the case through the bench trial, jury trial and two appeals. Risk Management has confirmed there are funds available in the County's self-insurance fund to cover the attorney's fees and costs.

The Board's policy on outside counsel, BCC-36, also attached, will be part of the agreement.

## **Clerk to the Board Instructions:**

Please return executed retainer agreement to the County Attorney's office.

## **List of Attachments:**

Estimated Litigation Budget

Retainer Agreement

BCC-36