



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Counsel
Department No.: 013
For Agenda Of: January 29, 2019
Placement: Administrative
Estimated Tme: N/A
Continued Item: No
If Yes, date from:
Vote Required: 4/5 Vote

TO: Board of Directors, Flood Control and Water Conservation District
FROM: Department Director Michael C. Ghizzoni, County Counsel
Contact Info: Johannah Hartley, Deputy (805) 568-2950
SUBJECT: Authorize Third Amendment to Agreement for Legal Services with Oliver, Sandifer and Murphy for Eminent Domain Litigation

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

County Counsel recommends that the Board of Directors:

- A. Approve, ratify, and authorize the Chair to execute the attached Third Amendment to the Agreement for Professional Services between the County of Santa Barbara and attorney Duff Murphy, of the firm Oliver, Sandifer and Murphy, to increase compensation \$60,000, for a total not to exceed amount of \$210,000.
- B. Find that the proposed contract is not a “project” under the California Environmental Quality Act (CEQA) Guidelines section 15378(b)(4) in that it does not involve a commitment to any specific project which may result in a potentially significant impact to the environment.

Summary Text:

On February 17, 2015, the Board executed the attached Agreement for Professional Legal Services between the District and the law firm Oliver, Sandifer, and Murphy. The primary purpose of the Agreement was to retain a law firm with expertise in the specialized area of law on eminent domain proceedings and litigation. Mr. Murphy and his firm have extensive expertise in this area of law, have represented the County of Santa Barbara in several eminent domain proceedings and have been representing the District in the case of *Santa Barbara County Flood Control and Water Conservation District v. The Funk Youth Hostel LLC* (Santa Barbara Superior Court Case Number 16CV01190). Increasing and extending the retainer agreement with Mr. Murphy at this time does not commit the District to initiating any additional eminent domain lawsuit, but will ensure that legal services resources and expertise are readily available as may be needed from time to time and continued assistance with the

Funk Youth Hostel litigation and other property acquisitions necessary for the Lower Mission Creek Project. A separate approval of your Board is required before the initiation of any additional eminent domain proceedings.

Performance Measure:

Not applicable.

Fiscal and Facilities Impacts:

Budgeted- Outside Counsel Designation: \$210,000 paid by Department 054, Fund 2610, Line Item 8400

Fiscal Analysis:

The contract will have a not-to-exceed amount of \$210,000. This cost will be paid from the District's project budget for each of the individual projects for which Outside Counsel is consulted on. No General Fund monies will be used to pay for work associated with this Agreement.

Key Contract Risks:

County Counsel views this Agreement as low risk due to the expertise of this firm in eminent domain law.

Staffing Impacts:

Contracting with outside counsel will allow the District to obtain the specialized legal services needed in this matter without hiring additional staff attorneys.

Special Instructions:

Please forward two copies of the certified stamped minute order and two executed original Third Amendment to the Agreement to the attention of Johannah Hartley in the County Counsel Office.

Attachments:

1. Third Amendment Agreement for Professional Legal Services
2. Agreement for Professional Legal Services and First and Second Amendments

Authored by:

Johannah Hartley, Senior Deputy County Counsel