

254



**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FROM: Economic Development Agency

SUBMITTAL DATE:
February 4, 2010

SUBJECT: Second Amendment–Personal Service Agreement for Legal Services

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and execute the Second Amendment of a three year Personal Service Agreement with Luce, Forward, Hamilton and Scripps, LLC, Inc. in the amount of \$265,000;
2. Authorize the Assistant County Executive Officer/EDA, or his designee, to sign tasking letters; and
3. Authorize the Auditor-Controller to amend the Economic Development Agency's FY 2009/2010 Real Property budget as specified on Schedule "A."

BACKGROUND: (Commences on Page 2)

Robert Field
Assistant County Executive Officer/EDA

| | | | | |
|-----------------------|--------------------------------------|------------|--------------------------------|-------|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$ 265,000 | In Current Year Budget: | No |
| | Current F.Y. Net County Cost: | \$ -0- | Budget Adjustment: | Yes |
| | Annual Net County Cost: | \$ -0- | For Fiscal Year: | 09/10 |

| | | |
|--|---|-------------------------------------|
| SOURCE OF FUNDS: PSEC, DIF, TUMF and Developer Contribution Funds | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
| | Requires 4/5 Vote | <input checked="" type="checkbox"/> |

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature Jennifer L. Sargent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley

Nays: None

Absent: Tavaglione

Date: March 16, 2010

xc: EDA, Auditor, EO

Kecia Harper-Ihem
Clerk of the Board

By:
Deputy

Prev. Agn. Ref.: 3.27, 1/27/09,
3.34 6/30/09

District: All

Agenda Number:

3.28

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
DATE 2/25/10
BY:
MARSHAL VICTOR

FISCAL PROCEDURES APPROVED
ROBERT E. BYRD, AUDITOR-CONTROLLER
DATE 3/3/10
SUCANA GARCIA-BUCANEGRA

Policy Policy
Consent Consent
Dept't Recomm. Per Exec. Ofc.:

BACKGROUND:

Under the proposed second amendment to the contract, Luce, Forward, Hamilton and Scripps LLC, Inc. (LFHS, LLC) shall continue to provide legal services in regards to the Clinton-Keith Road Widening Project, the Eastvale Community Center and Fire Station, the Public Safety Enterprise Communication (PSEC) Project, and general legal services as required. The contract's ~~not-to-exceed spending limits of \$735,000 have almost been reached and the~~ Economic Development Agency (EDA) wishes to increase compensation paid to LFHS, LLC by \$265,000 (for a new not-to-exceed limit for legal services of \$1,000,000) in order to allow LFHS, LLC to finalize settlements of existing condemnation lawsuits that have been filed. The contract sets "not to exceed" limits and provides the county with the right without an obligation to buy services. If approved by the Board, EDA will have the ability and right, but no obligation, to contract for LFHS, LLC's services as needed over the next two years.

In order for the contract to function on demand, \$265,000 of the permitted services may be used in FY 2009/2010. Any unused funding authority may be carried into FY 2010/2011. The use of a master professional service contract avoids the delay and work effort to seek Board authorization for each legal task over \$25,000. Most requests for legal services are small clarifications, but sometimes the commitment goes past the \$25,000 limit, creating issues with continued service.

This Form 11 has been reviewed and approved by County Counsel as to legal form.

REIMBURSEMENT:

As with other EDA services, costs will be recovered from project budgets. A departmental budget adjustment is needed for EDA's Real Property FY 2009/2010 budget to cover the costs of anticipated legal services associated with these projects.

Schedule A

Increase Estimated Revenues:

| | | |
|-------------------------|-------------------------------------|------------|
| 10000-7200400000-778280 | Interfund Reimbursement for Service | \$ 265,000 |
|-------------------------|-------------------------------------|------------|

Increase Appropriations:

| | | |
|-------------------------|----------------|------------|
| 10000-7200400000-525020 | Legal Services | \$ 265,000 |
|-------------------------|----------------|------------|

SECOND AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

WITH LUCE, FORWARD, HAMILTON AND SCRIPPS, LLP

THIS SECOND AMENDMENT TO AGREEMENT is entered into as of January 20, 2010, and is made by and between THE COUNTY OF RIVERSIDE, on behalf of the Economic Development Agency, formerly known as the Department of Facilities Management, (hereinafter referred to as "COUNTY") and LUCE, FORWARD, HAMILTON & SCRIPPS, LLP (hereinafter referred to as "ATTORNEYS").

RECITALS

A. COUNTY and ATTORNEYS are parties to that certain Agreement With Luce, Forward, Hamilton and Scripps LLP For Professional Services, approved by the Board of Supervisors on January 27, 2009 ("Agreement").

B. The Agreement limits the total amount of compensation to be paid to the ATTORNEYS to Three Hundred Thousand Dollars (\$300,000) in any single Fiscal Year, or Four Hundred Thousand Dollars (\$400,000) over the three Fiscal Years of the Agreement (2008/09, 2009/10, 2010/11) unless a written amendment to this Agreement is executed by both parties prior to performance of any additional services.

C. COUNTY and ATTORNEYS are also parties to the First Amendment To Agreement For Professional Services With Luce, Forward, Hamilton And Scripps, LLP ("First Amendment").

D. The First Amendment revised the total amount of compensation paid to ATTORNEYS under the terms of the Agreement so that the total amount which may be paid for any single Fiscal Year totals Four Hundred Thousand Dollars (\$400,000), and so that the total amount which may be paid over the three Fiscal Years of the Agreement (2008/09, 2009/10, 2010/11) totals Seven Hundred And Thirty Five Thousand Dollars (\$735,000), unless a written amendment to the First Amendment is executed by both parties prior to performance of any additional services.

E. The First Amendment also allows any unused funding authority for the 2009/2010 fiscal year to be carried into the next fiscal year 2010/2011.

F. COUNTY and ATTORNEYS again desire to amend the Agreement to provide a revised amount of total compensation to be paid to ATTORNEYS and to allow any unused funding authority for the 2009/2010 fiscal year to be carried into the next fiscal year, 2010/2011.

NOW, THEREFORE, the parties do hereby agree to amend that certain Agreement as follows:

1. Section 10. COMPENSATION shall be amended in its entirety to read as follows:

10. COMPENSATION

10.1 The total amount of compensation paid to ATTORNEYS under the terms of the Agreement shall not exceed the sum of Six Hundred Thousand Dollars (\$600,000) for any single Fiscal Year, and shall not exceed the total sum of One Million Dollars (\$1,000,000) over the three Fiscal Years of the Agreement (2008/09, 2009/10, 2010/11), unless a written amendment to this Agreement is executed by both parties prior to performance of any additional services. ATTORNEYS shall notify the COUNTY immediately in writing when ATTORNEYS have expended seventy-five percent (75%) of the total compensation. A written amendment shall be a condition precedent to any obligation for payment by COUNTY beyond the approved compensation.

10.2 Any unused funding within any single Fiscal Year may be carried over into the next fiscal year.

2. AGREEMENT IN FULL FORCE AND EFFECT. Except as provided above, the Agreement is unmodified hereby and remains in full force and effect.

Dated: MAR 16 2010

COUNTY OF RIVERSIDE

ATTEST:
Kecia Harper-Ihem, Clerk

By: Marion Ashley
Marion Ashley, Chairperson, Board of Supervisors

By: [Signature]
Deputy

Dated: MAR 16 2010

ATTORNEYS

By: [Signature]
Partner (signature)
Print name: John C. Murphy

By: [Signature]
Partner (signature)
Print name: Jennifer W. Dienhart

FORM APPROVED COUNTY COUNSEL
BY: Marshall Victor 2/25/10
MARSHAL L. VICTOR DATE