

SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
11.2
(ID # 9937)

MEETING DATE:

Tuesday, June 18, 2019

FROM : FLOOD CONTROL DISTRICT:

SUBJECT: FLOOD CONTROL DISTRICT: Approval of First Amendment to Agreement for Professional Services Between the Riverside County Flood Control and Water Conservation District and Burhenn & Gest, LLP for Municipal Separate Stormwater System Permits and Other Related Regulatory Services for 1 Year, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the no-cost First Amendment to Agreement for Professional Services ("First Amendment") between the Riverside County Flood Control and Water Conservation District ("District") and Burhenn & Gest, LLP ("Burhenn & Gest") for Municipal Separate Stormwater System Permits and other related Regulatory Services for 1 year, and authorize the Chairwoman of the Board to execute the same on behalf of the District; and
2. Direct the Clerk of the Board to return three (3) copies of the executed First Amendment to the District.

ACTION: Policy

A handwritten signature in black ink, appearing to read "J. Uhley".

Jason Uhley, GENERAL MGR-CHF FLD CNTRL ENG

6/4/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: June 18, 2019
xc: Flood

Kecia Harper
Clerk of the Board
By: Deputy
11.2

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$0	\$0	\$0	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: N/A			Budget Adjustment:	No
			For Fiscal Year:	2019-2020

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The District requires specialized legal services in order to effectively support the development and implementation of these permits. Regulatory actions can carry significant legal and fiscal liabilities for both the District and the Permittees that the District represents as Principal Permittee in the administration of the Municipal Separate Stormwater System (MS4) Permits for the Santa Ana, Santa Margarita and Whitewater Regions. Due to the nature of the legal issues, the potential significance of the liabilities and the need to move quickly to engage legal support, County Counsel supports the solicitation of outside legal services.

Burhenn & Gest has provided accurate legal representation during the permit renewal processes with the Regional Boards and particular administrative civil liability issues, and provided legal review in preparation for Regional Board workshops, hearings and other meetings related to the MS4 Permits. Burhenn & Gest has also provided critical input on the issues of unfunded mandates and provided legal representation during the MS4 permit negotiations for Riverside and Los Angeles Counties.

On September 1, 2015, the Board of Supervisors approved an Agreement for Professional Services ("Agreement") between the District and Burhenn & Gest (Board Agenda Item No. 11-4). Pursuant to this Agreement, Burhenn & Gest was retained to provide professional legal services with regard to the District's various MS4 permits and other related regulatory services over the term of the Agreement (Fiscal Year 2015-2016 through Fiscal Year 2018-2019).

This no-cost First Amendment will extend the term of the Agreement by one year (Fiscal Year 2019-2020); however, the scope of services and contract pricing will remain the same. As the District enters into negotiations with the San Diego Regional Water Quality Control Board on the Santa Margarita Region MS4 permit and the Santa Ana Region MS4 permit, it is essential to have legal representation that is familiar with the stormwater pollution prevention program in Riverside County.

County Counsel has approved the First Amendment as to legal form. Burhenn & Gest has executed the First Amendment.

**SUBMITTAL TO THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD
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Prev. Agn. Ref.: 11-4 of 09/01/15
11.1 of 08/10/10

Impact on Residents and Businesses

Costs incurred under this First Amendment will be funded by ad valorem property tax revenue and entails no new fees, taxes or bonded indebtedness.

Additional Fiscal Information

Sufficient funds are included in the District's Fiscal Year 2019-2020 budget. The approved not-to-exceed agreement amount and contract pricing are not affected by the First Amendment.

Contract History and Price Reasonableness

Pursuant to County Board Policy H-7, on February 5, 2015, the District released a Request for Qualifications to provide professional legal services in support of the District's Watershed Protection Division from February 5, 2015 through March 5, 2015. Four vendors submitted Statement of Qualifications packages. A selection committee comprised of District and County Counsel representatives were established to review each firm's qualifications relative to the following: (i) Firm Relevant Experience, (ii) Personnel Qualifications, (iii) Record of Past Performance and (iv) Competence. Burhenn & Gest was selected as the most qualified firm. The firm's prices are competitive, and since the beginning of the Agreement, Burhenn & Gest has maintained its contract pricing.

ATTACHMENTS:

1. First Amendment to Agreement for Professional Services

RKM:blm
P8/225869



Jeanine Rey, Finance Director

6/3/2019



Jason Farin, Senior Management Analyst

6/10/2019



Gregory V. Priamos, Director County Counsel

6/5/2019

FIRST AMENDMENT TO
AGREEMENT FOR PROFESSIONAL SERVICES
Municipal Separate Stormwater System Permits
and other related Regulatory Services

This First Amendment to Agreement for Professional Services ("FIRST AMENDMENT"), dated as of June 18, 2019 is entered into by and between the Riverside County Flood Control and Water Conservation District, a body politic ("DISTRICT"), and Burhenn & Gest LLP, a California limited liability partnership, ("ATTORNEY"), sometimes collectively referred to as the "Parties".

RECITALS

A. DISTRICT and ATTORNEY previously entered into that certain Agreement for Professional Services ("ORIGINAL AGREEMENT"), dated September 1, 2015 for the provision by ATTORNEY of professional legal services with regard to the DISTRICT's various Municipal Separate Stormwater System (MS4) Permits and other related regulatory services.

B. The ORIGINAL AGREEMENT together with this FIRST AMENDMENT are collectively referred to herein as the "Agreement".

C. The Parties now desire to amend the Agreement to extend the term period.

NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. TERM. Section 1 of the Agreement is hereby amended to add a new subsection A by adding the following:

A. The term of this Agreement shall be extended for one (1) year and shall terminate at midnight on June 30, 2020.

2. CAPITALIZED TERMS. FIRST AMENDMENT to Prevail. Unless defined herein or the context requires otherwise, all capitalized terms herein shall have the

meaning defined in the Agreement, as heretofore amended. The provisions of this FIRST AMENDMENT shall prevail over any inconsistency or conflicting provisions of the Agreement as heretofore amended and shall supplement the remaining provisions thereof.

3. MISCELLANEOUS. Except as amended or modified herein, all the terms of the Agreement shall remain in full force and effect and shall apply with the same force and effect. Subject to the provisions of the Agreement as to assignment, the agreements, conditions and provisions herein contained shall apply to and bind the heirs, executors, administrators, successors and assigns of the parties hereto. If any provisions of this FIRST AMENDMENT or the Agreement shall be determined to be illegal or unenforceable, such determination shall not affect any other provision of the Agreement and all such other provisions shall remain in full force and effect. The language in all parts of the Agreement shall be construed according to its normal and usual meaning and not strictly for or against either DISTRICT or ATTORNEY.

4. EFFECTIVE DATE. This FIRST AMENDMENT to Agreement shall not be binding or consummated until it is fully executed by the Parties.

5. This FIRST AMENDMENT may be executed in any number of counterparts, each of which will be an original, but all of which together will constitute one instrument.

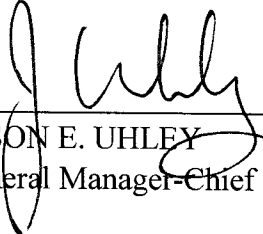
[Signature Provisions on Following Page]


IN WITNESS WHEREOF, the Parties hereto have executed this FIRST AMENDMENT on
JUN 18 2019

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL:

**RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT**

By: 
JASON E. UHLEY
General Manager-Chief Engineer

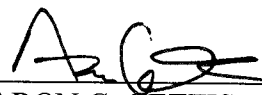
By: 
KAREN SPIEGEL, Chairwoman
Riverside County Flood Control and Water
Conservation District Board of Supervisors

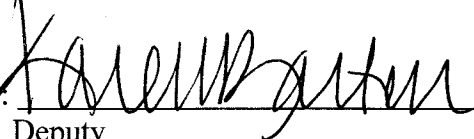
APPROVED AS TO FORM:

ATTEST:

GREGORY P. PRIAMOS
County Counsel

KECIA R. HARPER
Clerk of the Board

By: 
AARON C. GETTIS
Deputy County Counsel

By: 
Deputy

(SEAL)

BURHENN & GEST LLP

By 

DAVID W. BURHENN
Partner

(ATTACH NOTARY WITH CAPACITY
STATEMENT)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On May 23, 2019, before me, Jon-Paul Anderson, a Notary Public, personally appeared David Burhenm, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jon-Paul Anderson



My Office Hours: 9:00 AM - 5:00 PM
Commission # 214822
Los Angeles County
Notary Public - California
JON PAUL ANDERSON



STAMP