

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



ITEM: 12.3  
(ID # 14306)

MEETING DATE:  
Tuesday, January 26, 2021

FROM : DEPARTMENT OF WASTE RESOURCES:

SUBJECT: DEPARTMENT OF WASTE RESOURCES: Approval of Amendment No. 3 to the Legal Services Agreement with Murphy & Evertz, LLP for Legal Representation for the Lamb Canyon Preserve Land Acquisition; District 5 [Total Amendment Cost \$0 - 100% Waste Resources Enterprise Funds]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve Amendment No. 3 to the Legal Services Agreement with Murphy & Evertz, LLP for legal representation for the Lamb Canyon Preserve Land Acquisition to extend the term of the agreement an additional one year through December 31, 2021; and
2. Authorize the Chair of the Board to sign Amendment No. 3 on behalf of the County.

ACTION: Policy

Frans Kemkamp, General Manager - Chief Engineer 1/6/2021

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MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Hewitt, seconded by Supervisor Spiegel 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: January 26, 2021  
xc: Waste Resources

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> 100% Department of Waste Resources Enterprise Funds			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 20/21-21/22	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On March 20, 2018, the Board approved Resolution No. 2018-039, authorizing the Resolution of Necessity for the Lamb Canyon Landfill (LCL) Expansion Project, as well as funding for the acquisition of two contiguous parcels (Preserve), measuring approximately 70 acres along the northerly boundary of the landfill property, through an eminent domain process (Minute Order 9.1).

Due to the complex and unique legal issues for this land acquisition project, and based on County Counsel's recommendation, outside legal services were obtained. On May 18, 2018, a Legal Services Agreement (Agreement) between the County and Murphy & Evertz, LLP, in an amount of \$50,000, was prepared and processed through Central Purchasing. Additional funds were needed due to the lengthy legal procedures that are unique to this case, such as the need to obtain relief from bankruptcy stay prior to filing eminent domain in State court. Therefore, on November 20, 2018, Amendment No. 1 to Agreement was processed to increase the total compensation from \$50,000 to \$100,000 annually under the Purchasing Agent's authority.

On February 27, 2019, the Superior Court of the State of California granted the County's motion for prejudgment possession of the Preserve property.

On March 13, 2019, the Preserve representative, Scott Krentel, and the bankruptcy trustee challenged the County's "right to take" the property; moreover, Mr. Krentel filed a writ with the court of appeal asking the court to reverse the court ruling.

On June 25, 2019 the Board approved Amendment No. 2 to the Agreement extending the term to December 31, 2020 and increasing the total not to exceed amount of compensation to \$465,000 due to various bankruptcy matters and unique procedural issues being raised by Mr. Krentel and the bankruptcy trustee (Minute Order 12.1).

Due to the COVID-19 pandemic and court closures, the litigation process is expected to extend to mid to late 2021. However, no additional expenses have been incurred due to these delays. Therefore Amendment No. 3 was prepared to extend the term of the agreement through December 31, 2021.

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**Prev. Agn. Ref.:** M.O. 12.1 of 6/25/19  
M.O. 12.2 of 2/6/18  
M.O. 9.1 of 3/20/18

**California Environmental Quality Act (CEQA) Findings**

On February 6, 2018, the Board of Supervisors adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring Program (MMP) for the Land Acquisition and Site Improvement Project at the Lamb Canyon Landfill based on the findings incorporated in Environmental Assessment (EA) No. 2017-01, concluding that with mitigation, the Project would not cause significant environmental impacts. As such, a Notice of Determination (NOD) was filed and the statute of limitations has expired.

The item only involves the extension of the Agreement term for continued assistance with the legal issues for the land acquisition project, previously assessed in the above-mentioned environmental document. Therefore, all environmental impacts have been previously evaluated and nothing further is required for the purposes of CEQA.

**Impact on Residents and Businesses**

The 70 acres land represents the "Head Canyon" for the next planned landfill expansion at LCL, and without this acquisition the future expansion at this site will be limited due to surface drainage issues; hence, the corresponding disposal capacity will be significantly reduced. Therefore, the acquisition of this land will help the Department continue to provide uninterrupted disposal services to County residents, and is also necessary to promote and protect the safety, health and welfare of County residents and property.

**Additional Fiscal Information**

All costs associated with this land acquisition project, including legal services, are fully funded by the Department of Waste Resources Enterprise Fund and in the Department of Waste Resources budget. No net County costs will be incurred as a result of this extension to the term of the Agreement.


**Price Reasonableness**

The rate of \$340.00 per hour for legal services is significantly below the average rates for counsel of comparable experience and expertise. These rates have not changed for the county since at least March 8, 2012 when the Department of Transportation and Land Management entered into an agreement with Murphy and Evertz, LLP.

**ATTACHMENT:**

Amendment No. 3

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

  
Gregory A. Pappas, Director County Counsel 1/13/2021

COUNTY OF RIVERSIDE  
AMENDMENT NO. 3 TO THE LEGAL SERVICES AGREEMENT  
WITH  
MURPHY & EVERTZ, LLP.

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Original Contract Term:	May 18, 2018 through December 31, 2019
Contract Term Extended To:	December 31, 2021
Effective Date of Amendment:	January 1, 2021
Original Total Maximum Contract Amount:	\$50,000
Amended Annual Maximum Contract Amount:	\$465,000 [w/Amend. No. 2]
Amended Contract ID:	WMARC-96149-001-10/19 [w/Amend. No. 1]

This Amendment No. 3 to the Legal Services Agreement for the Lamb Canyon Landfill Preserve Land Acquisition (Contract ID No. WMARC-96149-001-10/19) is entered into by and between the County of Riverside, a political subdivision of the State of California, on behalf of its Department of Waste Resources (“COUNTY”) and MURPHY & EVERTZ, LLP, a California Limited Liability Partnership (“ATTORNEY”), effective January 1, 2021. COUNTY and ATTORNEY are collectively referred to herein as the “Parties”, and individually as the “Party”.

**RECITALS**

WHEREAS, COUNTY and ATTORNEY entered into that certain Legal Services Agreement for the Lamb Canyon Landfill Preserve Land Acquisition for a contract term of May 18, 2018 through December 31, 2019 (the “Agreement”); and

WHEREAS, the Parties have since amended the Agreement two times as follows:

- a. **Amendment No. 1** effective September 30, 2018, added reference to Contract ID No. WMARC-96149-001-10/19, and increased total compensation to \$100,000 annually; and
- b. **Amendment No. 2** effective April 1, 2019, extended the period of performance through December 31, 2020, and increased the total maximum compensation to \$465,000.

WHEREAS, the Parties now desire to extend the period of performance through December 31, 2021.

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

1. The above recitals are true and correct and are incorporated herein by reference.
2. The first sentence of Section 1. TERM OF AGREEMENT is hereby deleted in its entirety and replaced in its entirety with the following: “This Agreement shall commence on May 18, 2018, and continue until December 31, 2021, or completion of the last work assignment, whichever occurs first, unless sooner terminated.”
3. All other terms and conditions of the Agreement not modified herein shall remain unchanged.
4. The “Effective Date” of this Amendment No. 3 shall be January 1, 2021.

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AMENDMENT NO. 3 TO THE LEGAL SERVICES AGREEMENT  
WITH  
MURPHY & EVERTZ, LLP.

5. This Amendment No. 3, Amendment No. 2, Amendment No. 1, and the Agreement contain the entire understanding of the Parties. There are no other oral or written representations, understandings, ancillary covenants, undertakings, or agreements that are not contained or expressly referred to within this Amendment No. 3.
6. The Parties agree to execute such other documents and to take such other actions as may be necessary to further the purpose of this Amendment No. 3 and the Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment No. 3.

COUNTY OF RIVERSIDE, a political subdivision of the State of California

By: Karen S. Spiegel  
KAREN SPIEGEL

CHAIR, BOARD OF SUPERVISORS

Dated: JAN 26 2021

ATTORNEY, Murphy & Evertz, LLP, a California Limited Liability Partnership

By: Douglas J. Evertz  
DOUGLAS J. EVERTZ

PARTNER

Dated: 12-15-20

**ATTEST:**

Kecia R. Harper  
Clerk of the Board

By: Gregory P. Priamos  
DEPUTY

**APPROVED AS TO FORM:**

Gregory P. Priamos  
County Counsel

By: Amrit P. Dhillon  
AMRIT P. DHILLON  
DEPUTY COUNTY COUNSEL