

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



ITEM: 12.1
(ID # 19362)

MEETING DATE:

Tuesday, August 02, 2022

FROM : DEPARTMENT OF WASTE RESOURCES:

SUBJECT: DEPARTMENT OF WASTE RESOURCES: Ratify and Approve Amendment No. 4 to the Legal Services Agreement with Murphy & Evertz, LLP for Legal Representation for the Lamb Canyon Preserve Land Acquisition; District 5. [\$0 Total Amendment Cost - Waste Resources Enterprise Funds 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and Approve Amendment No. 4 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 for an additional two years through December 31, 2023, with no change to the amended contract amount of \$465,000, and authorize the Chair of the Board to sign the Amendment on behalf of the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved as to form by County Counsel, to sign amendments that exercise the options of the agreement including modifications of the statement of work that stay within the intent of the agreement; and sign amendments to the compensation provisions that do not exceed the sum total of ten percent (10%) of the total maximum amount of the agreement.


ACTION:Policy


Hans Kemkamp, General Manager - Chief Engineer 7/21/2022

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: August 2, 2022
xc: Waste

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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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: 100% Department of Waste Resources Enterprise Funds			Budget Adjustment: No	
			For Fiscal Year: 21/22-23/24	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

On March 20, 2018, the Board of Supervisors adopted 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 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. Scott Krentel filed a writ with the court of appeal asking the court to reserve the court ruling.

On June 25, 2019, the Board of Supervisors 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).

On January 26, 2021, the Board of Supervisors approved Amendment No. 3 to the Agreement extending the term to December 31, 2021 due to various bankruptcy matters and unique procedural issues being raised by Mr. Krentel and the bankruptcy trustee (Minute Order 12.3).

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Due to the COVID-19 pandemic, court closures, and the possible need to go to trial, the litigation process is expected to extend to mid-2023. However, no additional expenses have been incurred.

Prev. Agn. Ref.: M.O. 12.3 of 1/26/21
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 Mitigated Monitoring Program (MMP) for the Land Acquisition and Site Improvement Project at the Lamb Canyon Landfill based on the findings incorporated in Environmental Assessments (EA) No. 2017-01, concluding that with mitigation, the Project would not cause significant 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 of 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 wealth 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 Funds 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 March 8, 2012 when the Transportation and Land Management Agency entered into an agreement with Murphy & Evertz, LLP.

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ATTACHMENT A. WMARC-96149-001-1019 Amendment No 4 for Legal
Representation



Suzanna Hickley, Assistant Director of Purchasing and Fleet Service

7/25/2022



Jason Farin, Principal Management Analyst

7/27/2022

COUNTY OF RIVERSIDE
AMENDMENT NO. 4 TO THE LEGAL SERVICES AGREEMENT
WITH
MURPHY & EVERTZ, LLP.

Original Contract Term:	May 18, 2018 through December 31, 2019
Contract Term Extended To:	December 31, 2023
Effective Date of Amendment:	January 1, 2022
Maximum Contract Amount:	\$465,000.00
Amended Contract ID:	WMARC-96149-001-10/19

This Amendment No. 4 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, 2022. 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 three 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; and
- c. **Amendment No. 3** effective January 1, 2021, extended the period of performance through December 31, 2021; and

WHEREAS, CONTRACTOR has provided services for the COUNTY under the same terms of the Agreement since December 31, 2021; and

WHEREAS, the Parties now desire to enter into an amendment to ratify and extend the period of performance of the Agreement through December 31, 2023.

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 with the following: "This Agreement shall commence on May 18, 2018, and continue until December 31, 2023, or completion of the last work assignment, whichever occurs first, unless sooner terminated."


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COUNTY OF RIVERSIDE
AMENDMENT NO. 4 TO THE LEGAL SERVICES AGREEMENT
WITH
MURPHY & EVERTZ, LLP.

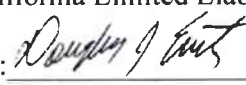
3. All other terms and conditions of the Agreement not modified herein shall remain unchanged.
4. The "Effective Date" of this Amendment No. 4 shall be January 1, 2022.
5. This Amendment No. 4, Amendment No. 3, Amendment No. 2, Amendment No. 1, and the Agreement contain the entire understanding of the 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. 4.
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. 4 and the Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Amendment No. 4.

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

By: 
Jeff Hewitt, Chair
Board of Supervisors
Dated: **AUG 02 2022**


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

By: 
Douglas J. Evertz
Partner
Dated: 7/13/2022

ATTEST:
Kecia R. Harper
Clerk of the Board

By: 
Deputy

**APPROVED AS TO FORM
COUNTY COUNSEL**

By: 
Lisa Sanchez
Deputy County Counsel

