



Midpeninsula Regional
Open Space District

R-23-42
Meeting 23-12
April 26, 2023

AGENDA ITEM 3

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Contract Amendment for Legal Services with Lawrence R. Jensen & Associates

GENERAL MANAGER'S RECOMMENDATION

Authorize a contract amendment in the amount of \$40,000 with the firm of Lawrence R. Jensen & Associates to provide specialized legal advice and litigation services, for a new not-to-exceed total contract amount of \$90,000.

SUMMARY

The General Manager and General Counsel recommend adding an additional \$40,000 to an existing \$50,000 contract agreement for a new total not-to-exceed amount of \$90,000. The Fiscal Year 2022-23 (FY23) budget does not include sufficient funding for the recommendation. A budget adjustment will be included in the next quarterly budget amendment process.

BACKGROUND

The Midpeninsula Regional Open Space District (District) has an existing contract agreement with Lawrence R. Jensen & Associates entered into by the General Manager and General Counsel in 2022, for a not to exceed amount of \$50,000. Additional funds are now needed to continue to engage the firm to represent the District in ongoing litigation.

The General Counsel initially selected and retained the firm in 2022 to provide advice particularly focused on real property rights and unlawful detainer litigation. In selecting this firm, the District examined qualifications from a number of practitioners/firms with a strong background and local reputation in the very specialized area of unlawful detainer actions and with availability to provide advice as needed, at a fair and reasonable price. The District selected Lawrence R. Jensen as a highly reputable attorney in the Bay Area who is very accessible and well versed in local court rules in the Santa Clara County Superior Court, at a fair and reasonable price.

The District's need for the services of Lawrence R. Jensen & Associates recently increased due to the complexity of a pending unlawful detainer case.

DISCUSSION

The legal department typically utilizes outside special counsel services on an as-needed basis to assist on specialized substantive areas of the law, such as personnel/employment, public contracts, and tort/personal injury. The legal department's annual services budget is limited. It

is typically used to obtain assistance on issues that are not easily attributed to a project budget within a specific District department, and/or to retain temporary services in the event of an urgent or special project that exceeds the legal office's capacity.

In December 2022, the Board of Directors authorized the General Counsel to initiate an unlawful detainer action, if necessary, to terminate the tenancy of a District tenant. Mr. Jensen is a highly qualified attorney practicing in this specialized area of the law. The District's need for Mr. Jensen's services increased in February and March 2023 because the case has grown increasingly complex. Due to the need to litigate this action to conclusion, there is a need for additional funds exceeding the General Manager's contracting authority.

FISCAL IMPACT

The Fiscal Year 2022-23 Budget does not include sufficient funding to execute a contract amendment with Lawrence R. Jensen & Associates to provide specialized legal advice and litigation services. The recommended action will require additional funds of \$40,000, which may be accomplished by shifting funds where a savings or lower than expected expenditures are anticipated. A budget amendment would be included in the next quarterly budget amendment process.

PRIOR BOARD AND COMMITTEE REVIEW

None.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project under CEQA.

NEXT STEPS

Pending Board approval, the General Manager and General Counsel will amend the agreement with Lawrence R. Jensen & Associates.

Responsible Department Head:
Hilary Stevenson, General Counsel

Prepared by:
Hilary Stevenson, General Counsel