



Midpeninsula Regional
Open Space District

R-15-80
Meeting 15-13
May 13, 2015

AGENDA ITEM 4

AGENDA ITEM

Contract for Legal Services in Litigation, *Mahronich et al v. Presentation Center, et al.*

GENERAL MANAGER'S RECOMMENDATION

A handwritten signature in black ink, appearing to be "SAA".

Approve a contract with Howard Rome Martin & Ridley LLP for an amount not-to-exceed \$30,000 for legal services relating to pending litigation.

SUMMARY

The Midpeninsula Regional Open Space District (District) was recently served in a lawsuit, *Matt Mahronich, et al. v. Presentation Center, et al.* The suit concerns the Alma Water Line, the ownership of which is shared by the Presentation Center and the District. The District needs to engage litigation defense counsel to represent its interests in this suit. A mid-year budget adjustment may be needed to increase the available funds for legal services to complete this work.

DISCUSSION

The Midpeninsula Regional Open Space District (District) was recently served in a lawsuit, *Matt Mahronich, et al. v. Presentation Center, et al.* The suit concerns the Alma Water Line, the ownership of which is shared by the Presentation Center and the District. While the complaint contains several causes of action for money damages, none of those are alleged against the District. Fortunately, this is due to a previous settlement agreement and full release executed between the plaintiffs and the District in 2013. However, with no monetary damages at issue as pertains to the District and with only equitable relief (as explained below) alleged against it, the District's defense in this matter is excluded from coverage by the California Joint Powers Pooling Authority (CJPIA). On this basis, the District received a formal denial of defense coverage for this lawsuit from the CJPIA on May 6, 2015.

Even though there are no monetary damages presently at issue in the case, the District still needs to maintain a defense in the matter to protect the District's rights to use the Alma Water line. One of the allegations seeks to have the easement for the water line over the plaintiff's property extinguished. That non-monetary relief, which is called in legal terminology "equitable" or "declaratory" relief, is not covered under our JPIA Memorandum of Coverage. The District therefore needs to arrange for its own defense, which is the purpose of this agenda item.

The law firm Howard Rome Martin & Ridley LLP has capably, effectively, and efficiently represented the District on numerous matters over the years, including the wrongful death case, *Haro v. Midpeninsula Regional Open Space District*. Most recently, the firm provided immediate backup in assisting the District by reviewing the settlement agreement discussed above, so they are very familiar with the case.

For these reasons, the General Counsel and General Manager recommend that the District Board of Directors approve the execution of a contract for an amount not-to-exceed \$30,000 with the law firm Howard Rome Martin & Ridley LLP to represent the District in this lawsuit.

FISCAL IMPACT

Real Property has \$35,000 in its legal services budget, which is intended to cover several ongoing matters. It is possible that if the other demands anticipated on that money remain low, the available funds will be sufficient for this contract as well. If not, staff may need to seek a mid-year budget adjustment to address this additional burden on that budget.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

No compliance is required as this action is not a project under CEQA.

NEXT STEPS

If approved, the General Counsel and General Manager will execute the agreement as described above.

Responsible Department Head:
General Counsel, Sheryl Schaffner.

Prepared by and Contact Person:
Same as above