



Midpeninsula Regional
Open Space District

PROCUREMENT AGENDA ITEM

R-24-126
Meeting 24-28
October 23, 2024

AGENDA ITEM 6

AGENDA ITEM

Amend a Legal Services Agreement with Sater Law

GENERAL MANAGER'S RECOMMENDATION *den*

Authorize a \$45,000 amendment to an existing agreement with Sater Law to provide specialized local government legal advice for a new not-to-exceed contract amount of \$95,000.

DISCUSSION

The Midpeninsula Regional Open Space District (District) has an existing agreement with Sater Law that was first entered into by the General Manager and General Counsel in Spring 2024 for a not to exceed amount of \$50,000. The District retained Sater Law to implement a recommended action from the Financial and Operational Sustainability Model (FOSM) refresh, which was to obtain a legal opinion on specific aspects of the District's enabling legislation and other related state laws that provide the agency with self-regulating authority, and how they interact with regulations adopted by cities and counties within the District's jurisdictional boundaries.

The scope of the project includes analyzing relevant statutes, regulations, and case law that govern the District's jurisdiction and authority over its projects, and identifying potential legal barriers or challenges to obtaining self-regulating legal authority for project entitlements. During the course of the project, it has become apparent that the level of effort and the need to obtain detailed legislative history will result in cumulative fees and costs exceeding the General Manager's contract authority. Accordingly, the General Counsel and General Manager recommend increasing the contract value by \$45,000 for a total not to exceed amount of \$95,000.

BUDGET / FISCAL IMPACT

The current fiscal year budget contains:

- sufficient funds.
- insufficient funds; the next quarterly budget update will include a reallocation of unspent funds from other project budgets to cover for this expenditure.
- insufficient funds; approval of this item requires a fiscal year budget augmentation.
- future fiscal year budgets will include additional funds to complete the contracted work.

Measure AA

- No, this contract is not part of a Measure AA project.
- Yes, this contract is part of a Measure AA project.

PROCUREMENT PROCESS AND SELECTION

The District 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 personal injury. The legal department budget is used to obtain assistance on issues that are not easily attributed to a project budget within a specific District department, and/or for temporary services in the event of urgent or special projects, such as the project recommended as part of the FOSM refresh.

In selecting counsel, the General Counsel's office seeks well-qualified attorneys with a strong background in public law who are available to provide accurate and efficient advice. Sater Law is owned by an attorney who handled recent litigation on behalf of the East Bay Regional Park District on issues relevant to the District. Prior to that she served as longtime partner at Moscone Emblidge Sater & Otis, a highly regarded law firm that represents a wide variety of public entities in trial and appellate courts.

District legal staff examined qualifications and rates of other firms in California and found them to be less qualified to for this project, as well as less competitive in their fees.

Sater Law is highly qualified and uniquely situated to provide legal advice for this project at a fair and reasonable price.

PRIOR BOARD ACTION SUPPORTING THE PROJECT

This agreement was initiated in April 2024 under the General Manager's contracting authority in response to Board direction to implement recommended actions in the FOSM refresh. As the project has developed, the need for a detailed examination of legislative history and other factors has increased the projected agreement amount above the General Manager's contracting authority.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project under CEQA.

NEXT STEPS

If approved, the General Manager and General Counsel will increase the not-to-exceed contract amount. The General Counsel will continue work on this project and provide further information to the Board of Directors in 2025.

Responsible Department Head/Prepared by/Contact person
Hilary Stevenson, General Counsel