



STAFF REPORT

Meeting Type: Board of Directors
Title: Amendment No. 1 to Professional Service Agreement with Best, Best and Krieger LLP for Environmental Law and Litigation Legal Services
From: Molly MacLean, General Counsel
Through: Ben Horenstein, General Manager
Meeting Date: November 6, 2024

TYPE OF ACTION: X Action Information Review and Refer

RECOMMENDATION: Approve Amendment No. 1 to MA-6328, professional services agreement with Best, Best and Krieger to add \$200,000 for environmental law and litigation legal services

SUMMARY: Staff is seeking approval to amend the professional services agreement with Best, Best and Krieger to add funding to cover environmental law and litigation legal services provided to the District, in amount not to exceed two hundred thousand dollars (\$200,000), which will include litigation support associated with *California Native Plant Society, Marin Audubon Society, and Marin Conservation League vs. Marin Municipal Water District*, recently filed against the District.

DISCUSSION: The General Counsel's Office regularly retains outside legal services to support the District in specialized areas, such as labor and employment law and litigation. On April 17, 2024, the District issued a request for qualifications and circulated it to a number of law firms for legal services to support some of the environmental law work of the District, including in the areas of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), the federal equivalent of CEQA. Several proposals were received from law firms specializing in this area of practice. Staff conducted interviews with multiple firms and selected Best, Best and Krieger (BBK) to provide legal services for the District on these and related issues under the direction of the District's General Counsel. The District entered into a professional services agreement with BBK for an initial amount not to exceed seventy-five thousand dollars (\$75,000).

The District was recently served with a petition, *California Native Plant Society, Marin Audubon Society, and Marin Conservation League vs. Marin Municipal Water District*, challenging the District's adoption of the E-Bike Trial Program and the Trail Sharing Pilot Program on District watershed lands on the basis of CEQA. Legal counsel with BBK have been providing legal support in connection with this litigation and staff is seeking to augment the initial contract amount to assure the necessary funds are available for these services. Staff is seeking the Board's approval of Amendment No. 1, which would add a not to exceed amount of \$200,000, bringing the contract total not to exceed amount to \$275,000. The



contract has no end term, as the services will be provided on an as needed basis to support work on the CEQA litigation as well as to provide ongoing legal services on CEQA and NEPA issues, as needed.

ENVIRONMENTAL REVIEW: Not applicable.

FISCAL IMPACT: Funds for Legal Services are provided by the General Counsel Offices budget for Fiscal Year 2024-25, and will be included in the next two-year budget. Project specific services may be allocated to those projects, and general litigation services are covered under the Interdepartmental budget.

ATTACHMENT(S):

1. Proposed Amendment No.1 to MA-6328 for Legal Services
2. MA-6328 Professional Services Agreement for Legal Services

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
General Counsel's Office		
	Molly MacLean General Counsel	Ben Horenstein General Manager