



## Legislation Details (With Text)

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**File #:** 2017-0374      **Version:** 1      **Name:**

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**On agenda:** 8/8/2017      **Final action:** 8/8/2017

**Title:** RESOLUTION AUTHORIZING GENERAL COUNSEL TO EXECUTE AMENDMENT NO. 4 TO AGREEMENT WITH MURPHY & EVERTZ FOR LEGAL SERVICES INCREASING THE NOT-TO-EXCEED AMOUNT FROM \$490,000 TO \$940,000 AND AMENDMENT NO. 1 TO AGREEMENT WITH WALDRON & ASSOCIATES FOR EXPERT LEGAL SERVICES INCREASING THE NOT-TO-EXCEED AMOUNT FROM \$150,000 TO \$360,000

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 10. 2017-0374 Draft Resolution

Date	Ver.	Action By	Action	Result
8/8/2017	1	Board of Port Commissioners	adopted	

**DATE:** August 8, 2017

**SUBJECT:**

**RESOLUTION AUTHORIZING GENERAL COUNSEL TO EXECUTE AMENDMENT NO. 4 TO AGREEMENT WITH MURPHY & EVERTZ FOR LEGAL SERVICES INCREASING THE NOT-TO-EXCEED AMOUNT FROM \$490,000 TO \$940,000 AND AMENDMENT NO. 1 TO AGREEMENT WITH WALDRON & ASSOCIATES FOR EXPERT LEGAL SERVICES INCREASING THE NOT-TO-EXCEED AMOUNT FROM \$150,000 TO \$360,000**

**EXECUTIVE SUMMARY:**

The Office of the General Counsel is responsible for providing legal advice and representation to the Board of Port Commissioners, the CEO and executive team, as well as all departments of the District. This includes defending the District in litigation and administrative procedures, as well as advising the District on transactions, policies and other matters. In order to best advise and defend the District, in addition to the in-house attorneys, the Office of the General Counsel sometimes utilizes the services of outside law firms to provide legal services in specific areas of law and to supplement the services of the in-house resources. Furthermore, litigation often requires the use of expert witnesses and consultants. This agenda seeks Board approval of authorization for the General Counsel to execute amendments to an outside counsel agreement and an expert legal services agreement. Details regarding the specific matters for which these amendments are proposed are protected by the attorney/client and work product privileges and are discussed in a separate confidential attorney-client privileged memoranda to the Board.

**RECOMMENDATION:**

Adopt a resolution authorizing the General Counsel to execute Amendment No. 4 to an agreement with Murphy & Evertz for legal services increasing the not-to-exceed amount from \$490,000 to \$940,000 and Amendment No. 1 to an agreement with Waldron & Associates for expert legal services increasing the not-to-exceed amount from \$150,000 to \$360,000.

### **FISCAL IMPACT:**

In total the amendments authorize expenditure of additional funds not-to-exceed \$660,000. Funds for these amendments are available in the current FY2017-18 budget for the Office of the General Counsel.

### **COMPASS STRATEGIC GOALS:**

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port that is a safe place to visit, work and play.
- A financially sustainable Port that drives job creation and regional economic vitality.

### **DISCUSSION:**

The Office of the General Counsel is responsible for providing legal advice and representation to the Board of Port Commissioners, the CEO and executive team, as well as all departments of the District. This includes defending the District in litigation and administrative procedures, as well as advising the District on transactions, policies and other matters. In order to best advise and defend the District, in addition to the in-house attorneys, the Office of the General Counsel sometimes utilizes the services of outside law firms to provide legal services in specific areas of law and to supplement the services of the in-house resources. Furthermore, litigation often requires the use of expert witnesses and consultants. This agenda seeks Board approval of authorization for the General Counsel to execute amendments to an outside counsel agreement and an agreement for expert legal services:

- Amendment No. 4 to the Amended and Restated Agreement for Legal Services with Murphy & Evertz LLP increasing the maximum amount payable from \$490,000 to \$940,000; and
- Amendment No. 1 to the Agreement for Expert Legal Services with Waldron & Associates Inc. increasing the maximum amount payable from \$150,000 to \$360,000.

Details regarding the specific matters for which these amendments are proposed are protected by the attorney/client and work product privileges and are discussed in a separate confidential attorney-client privileged memoranda to the Board.

### **General Counsel's Comments:**

The Office of the General Counsel has drafted, reviewed and approved this agenda and the proposed amendments as to form and legality.

**Environmental Review:**

The proposed Board action does not constitute a “project” under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

In addition, the proposed Board action allows for the District to implement its obligations under the Port Act and/or other laws. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed Board action is consistent with the Public Trust Doctrine.

Finally, the proposed Board action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit Regulations. Therefore, issuance of a Coastal Development Permit or exclusion is not required.

**Equal Opportunity Program:**

Not applicable.

**PREPARED BY:**

Simon M. Kann  
Deputy General Counsel