



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: July 8, 2014

SUBJECT: APPROVAL OF AN AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT FOR SPECIALIZED LEGAL SERVICES WITH EBBIN MOSER + SKAGGS, L.L.P. IN THE AMOUNT OF \$70,000 IN CONNECTION WITH DEVELOPMENT OF A NATURAL RESOURCE CONSERVATION STRATEGY AND SITE WIDE RESOURCE PERMITS FOR THE CONCORD REUSE PROJECT AREA PLAN. FUNDING WILL BE PROVIDED BY A LOAN TO THE LOCAL REUSE AUTHORITY (LRA) FROM THE GENERAL FUND. TOTAL FUNDING SINCE 2012 IS \$210,000.

Report in Brief

As part of the assembly of the professional consulting team to assist the City of Concord and its Local Reuse Authority (LRA) in developing the Concord Community Reuse Plan, the City Attorney requested Statements of Qualifications from legal firms to provide specialized legal support on environmental law issues to the City Attorney and LRA's Project Team. In December 2006, the City Attorney requested the City Council, acting as the LRA, to approve a professional services agreement for specialized legal service associated with the Endangered Species Act and the Clean Water Act with Ebbin Moser + Skaggs, L.L.P. The City and the LRA continue to require this specialized legal support for the U.S. Army Corp of Engineers Section 404 permit under the Clean Water Act and other site-wide resource permitting. The funding for this amendment (\$70,000) will be provided through a loan to the LRA from the General Fund that was approved and appropriated as part of the adoption of the FY 2014/2015 budget. The loan will be repaid, with interest, from land sales or leases within the former Concord Naval Weapons Station (CNWS). The agreement will cover a performance period of July 1, 2014 to June 30, 2015. Total funding since 2012, including this amendment, is \$210,000.

Background

Ebbin, Moser, and Skaggs, L.L.P. have been providing specialized CEQA and Endangered Species Act legal advice to City Staff during the development and adoption of the Reuse Plan, development/certification of the Final EIR on the Reuse Plan, adoption of the Concord Reuse Project Area Plan and amendment of the Concord 2030 General Plan. Staff requires these services to continue for preparation of a Section 404 permit under the Clean Water Act with the U.S. Army Corps of Engineer and site-wide resource management permits.

Discussion

The City Attorney and the Executive Director of the Local Reuse Authority are requesting legal services on an "as needed" basis as the site-wide permitting effort progresses.

APPROVAL OF AN AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT FOR SPECIALIZED LEGAL SERVICES WITH EBBIN MOSER + SKAGGS, L.L.P. IN THE AMOUNT OF \$70,000 IN CONNECTION WITH DEVELOPMENT OF A NATURAL RESOURCE CONSERVATION STRATEGY AND SITE WIDE RESOURCE PERMITS FOR THE CONCORD REUSE PROJECT AREA PLAN. FUNDING WILL BE PROVIDED BY A LOAN TO THE LOCAL REUSE AUTHORITY (LRA) FROM THE GENERAL FUND. TOTAL FUNDING SINCE 2012 IS \$210,000.

July 8, 2014

Page 2

The law firm of Ebbin Moser + Skaggs, L.L.P. has been successfully providing legal services to the City since 2006. Staff recommends they continue legal support on the Clean Water Act and related state laws administered by the Regional Water Quality Control Board and Department of Fish and Game and the federal Endangered Species Act and Migratory Bird Treaty Act and related state laws administered by the U.S. Fish and Wildlife Service and the California Department of Fish and Game. David Moser, a named partner of the firm, will be the lead attorney providing legal services and advice to the City Attorney and the LRA Executive Director on ESA and water/wetlands issues. He will be supported by Shawn Zovod.

Fiscal Impact

The City Attorney is requesting the City Council to approve an amendment to the Master Professional Services Agreement in an amount not to exceed \$70,000, with additional authority for the City Attorney to approve amendments for additional compensation, not to exceed \$20,000, during the approximately twelve (12) month term of the agreement. Contract period covered by this amendment will be July 1, 2014 to June 30, 2015. Funding will be provided through a loan to the LRA from the General Fund that was approved and appropriated as part of the adoption of the FY 2014/2015 budget. The loan will be repaid, with interest, from land sales or leases within the former Concord Naval Weapons Station (CNWS).

Public Contact

The agenda has been posted as required by law.

Recommendation for Action

Staff recommends approving an amendment to the Master Professional Services contract with Ebbin Moser + Skaggs, L.L.P. in an amount not to exceed \$70,000 and authorize the City Attorney to execute the agreement on behalf of the City.



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**THIRD AMENDMENT TO AGREEMENT FOR LEGAL SERVICES
RELATING TO THE CONCORD REUSE PROJECT**

This Third Amendment to the Agreement is entered into on July 1, 2014 (“EFFECTIVE DATE”) by and between the CITY OF CONCORD, a municipal corporation, (“CITY”) and Ebbin Moser + Skaggs L.L.P. (“ATTORNEY”) and is the second amendment to an Agreement for Legal Services dated June 5, 2012 referenced as the City’s document No. CCA-5225.

WHEREAS, the CITY and ATTORNEY entered into an agreement dated June 5, 2012, in the amount of \$50,000, for services in connection with development of a natural resource conservation strategy and site-wide resource permits for the Concord Naval Weapons Station, with a term ending date of June 30, 2013; and

WHEREAS, the Agreement has been amended on February 15, 2013, and was approved by Council as 5225-A, for an additional amount of \$50,000 and extending the term ending date to December 30, 2014; and

WHEREAS, the Agreement has been amended on July 24, 2013, and was approved by Council as 5225-B, for an additional amount of \$40,000; and

WHEREAS, the parties hereto desire to amend the agreement to extend the term of the contract and provide for additional compensation therefore.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

Section 1. Section 5, COMPENSATION, is hereby amended to read as follows:

SECTION 5 - COMPENSATION

5. COMPENSATION

With this amendment to the original agreement of June 5, 2012, the ATTORNEY shall be compensated in the additional amount of \$70,000 for a total amount not to exceed **\$210,000** for services rendered, as more particularly described in Exhibit A of the original agreement, in accordance with the terms and conditions included therein.

ATTORNEY may submit monthly statements for services rendered. It is intended that payments to ATTORNEY will be made by CITY within thirty (30) days of receipt of invoice.

Section 2. Section 6, TERM, is amended to read as follows:

SECTION 6 - TERM

6. TERM

The term of this Agreement, as amended, shall be from July 1, 2014 to June 30, 2015 unless earlier terminated in accordance with the terms of the Agreement.

Except as expressly amended herein all terms and conditions of the Agreement dated June 5, 2012 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment to Agreement the day and year written above.

CONSULTANT

Dated

By: _____
David Moser
Partner

CITY OF CONCORD

Dated

By: _____
Michael W. Wright
Executive Director
Local Reuse Authority

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

This signature page is part of this third amendment to the Agreement for Legal Services relating to the Concord Reuse Project entered into on July 1, 2014 by and between the City of Concord, a municipal corporation, (hereinafter "City") and Ebbin Moser + Skaggs L.L.P. (the "Attorney").