



METROPOLITAN
TRANSPORTATION
COMMISSION

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
TEL 510.817.5700
TDD/TTY 510.817.5769
FAX 510.817.5848
E-MAIL info@mtc.ca.gov
WEB www.mtc.ca.gov

Memorandum

TO: Administration Committee

DATE: October 7, 2009

FR: General Counsel

W.I.: N/A

RE: Legal Services Contract - Special CEQA Counsel: Remy, Thomas, Moose, and Manley, LLP

Staff requests the Committee's approval of a sole source contract beginning in October 2009 and extending through June 30, 2013 with the law firm of Remy, Thomas, Moose, and Manley, LLP, in an amount not to exceed \$500,000, with \$150,000 for FY 2009-10 and future fiscal year's budgets subject to a review of future work assignments and additional budget appropriations.

Background

SB 375 (Steinberg), effective January 1, 2009, (Chapter 728, Statutes 2008, Government Code Section 65080, amended), mandates that regions in the state with a metropolitan transportation planning organization must begin a process that will lead to the adoption of a sustainable communities strategy (SCS) for incorporation, if appropriate, into their respective regional transportation plans. The SCS is to help achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks. Here in the Bay Area, MTC and the Association of Bay Area Governments (ABAG) share specific responsibilities for preparing the SCS. In addition, MTC and ABAG are working with the Bay Area Air Quality Management District and Bay Conservation and Development Commission, through the Joint Policy Committee, to establish guiding policies on how the Bay Area will implement the provisions of SB 375.

Both MTC and ABAG staffs believe it will be very helpful, even at this very early stage, to have additional legal assistance available to help with sorting through the provisions of SB375 and compliance with the California Environmental Quality Act (CEQA) in the context of greenhouse gas emissions. Everyone agrees that we are treading into uncharted legal environmental waters.

Tina Thomas, of the law firm of Remy, Thomas, Moose and Manley, LLP (Remy), has a well-earned reputation as a respected expert on CEQA law; she served as Senator Steinberg's CEQA advisor when SB 375 was being written. In addition, the firm previously represented MTC in an air quality litigation case and provided invaluable assistance to MTC when the 2035 Transportation Plan, adopted by the Commission in March, was being prepared. MTC staff recommends retaining Ms. Thomas and her firm for the duration of the SCS process, which will take up to a total of four years (until the adoption of the 2013 RTP) and ABAG staff is supportive of this recommendation..

It is difficult to estimate how much of Ms. Thomas' time (and of others at Remy, Thomas, Moose and Manley) we will be using, but after consulting with ABAG, we are recommending a four-year budget of \$500,000, of which \$150,000 is budgeted for the remainder of this fiscal year. Any funds not used in FY 2009-10 will be applied to the contract's next fiscal year. ABAG has agreed to provide half the funding for the contract.

In addition, other major metropolitan planning organizations in the state have expressed interest in providing funds to support this contract to help develop a consistent legal strategy for the coordinated development of their respective SCSs. MTC will be hosting a meeting of these MPOs, along with ABAG, on November 3, 2009 to discuss a host of topics regarding SB 375, including legal strategy and costs.

Recommendation:

We recommend that this Committee authorize the General Counsel to negotiate, and for the Executive Director or his designated representative to enter into a contract with Remy, Thomas, Moose, and Manley, LLP, for work as outlined above in this memorandum, beginning in October 2009 and extending through June 30, 2013, in an amount not to exceed \$500,000, with \$150,000 for FY 09-10 and subsequent years' budgets subject to a review of future work assignments and additional budget appropriations.

Francis Chin

FC:rc

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Legal Services Contract

Work Item No.:

Law Firm: Remy, Thomas, Moose, and Manley, LLP
Sacramento, CA

Work Project Title: Special CEQA Counsel – Sustainable Communities Strategy (SCS) and California Environmental Quality Act (CEQA) Assistance

Purpose of Project: Advise Office of the General Counsel's of MTC and ABAG regarding SCS and CEQA for a period extending through June 2013

Project Cost Not to Exceed: \$500,000

Funding Source: 50% MTC Legal Contingency Fund
50% ABAG funds

Fiscal Impact: \$150,000 (50% MTC legal contingency budget and 50% ABAG) from FY 2009-10, with unspent funds carried over into next fiscal year; future fiscal years subject to annual budget approval process.

Motion by Committee: That the General Counsel is authorized to negotiate, and the Executive Director or his designated representative, is authorized to enter into a contract with Remy, Thomas, Moose, and Manley, LLP extending through June 30, 2013 to provide advise on the preparation of the SCA as our Special CEQA Counsel, and the Chief Financial Officer is directed to set aside funds for such contract.

Administration Committee:

Tom Bates, Chair

Approved: Date: October 14, 2008