



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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Memorandum

TO: Administration Committee

DATE: January 7, 2015

FR: General Counsel

W.I.: Liability reserve

RE: Contract Amendment: Special CEQA Counsel - Thomas Law Group

Following the adoption by the Commission of Plan Bay Area on July 18, 2013, the following four law suits were brought against MTC challenging the Plan on environmental and other grounds:

- *Bay Area Citizens v. ABAG, et al.*, Alameda County Superior Court Case No.: RG-13690631; California First Appellate District, Division Two, Case No. A143058
- *Building Industry Association Bay Area v. ABAG, et al.*, Alameda County Superior Court Case No.: RG-13692098
- *Communities for a Better Environment and The Sierra Club v. Metropolitan Transportation Commission, et al.*, Alameda County Superior Court Case No.: RG-13692189
- *The Post Sustainability Institute; Rosa Koire; Michael Shaw v. ABAG and MTC, et al.*, Alameda County Superior Court Case No.: RG-13699215.

The Building Industry Association Bay Area and Communities for a Better Environment cases have settled. The Bay Area Citizens and Post Sustainability Institute cases are currently in litigation.

I will be briefing the Committee regarding the status of the two active cases in closed session.

Subject to that discussion and review, I will be requesting the Committee's approval to amend MTC's Special CEQA Counsel contract with the Thomas Law Group to increase the contract budget to accommodate the anticipated work required in assisting MTC to defend the remaining active suits. The request will be consistent with funds available in the FY 2014-15 agency budget for this purpose, contingent upon approval of the MTC budget amendment by the Commission later this month.

Tina Thomas, of Thomas Law Group, has represented MTC as Special CEQA Counsel since October 2009, advising MTC and ABAG regarding implementation of SB 375 and the development and adoption of the Sustainable Communities Strategy (SCS)/Regional Transportation Plan embodied in Plan Bay Area. Prior to 2009, Ms. Thomas represented MTC in an air quality litigation case.



Adrienne D. Weil

REQUEST FOR COMMITTEE APPROVAL

Summary of Proposed Legal Services Contract Amendment

Work Item No.: Fund 106 – Liability reserve

Law Firm: Thomas Law Group
Sacramento, CA

Work Project Title: Special CEQA Counsel

Purpose of Project: Assist Office of the General Counsel in the litigation in remaining outstanding lawsuits:

- *Bay Area Citizens v. ABAG, et al.*, Alameda County Superior Court Case No.: RG-13690631; California First Appellate District, Division Two, Case No. A143058
- *The Post Sustainability Institute; Rosa Koire; Michael Shaw v. ABAG and MTC, et al.*, Alameda County Superior Court Case No.: RG-13699215

Project Cost Not to Exceed: Amount confidential during the pending of this litigation, subject to funds available in MTC's liability reserve budget

Funding Source: General fund

Fiscal Impact: Included in the MTC FY 2014-15 litigation contingency budget, contingent upon approval of the budget amendment.

Motion by Committee: That the Executive Director or his designee is authorized to negotiate and enter into a contract amendment with Thomas Law Group as Special CEQA Counsel, effective as of December 1, 2014, and the Chief Financial Officer is directed to set aside funds for such contract amendment, contingent upon approval by the Commission of the MTC FY 2014-15 budget amendment.

Administration Committee:

Adrienne J. Tissier, Chair

Approved: Date: January 14, 2015