

Meeting Date: 02-22-13

# AGENDA REPORT

Agenda Item # 4B



Oversight Board for Successor Agency  
to the City of Santa Clara, California  
Redevelopment Agency



**Date:** February 15, 2013

**To:** Oversight Board for the Successor Agency of the Redevelopment Agency of the City of Santa Clara for Action

**From:** Executive Officer to Successor Agency

**Subject:** Adoption of a Resolution approving amendment to contract with independent legal counsel for the Oversight Board (Montoy Law Corporation)

## **EXECUTIVE SUMMARY:**

The Oversight Board adopted Resolution No. 2012-01 on July 11, 2012 authorizing a contract with Hilda Cantú Montoy as legal counsel. Ms. Montoy has been providing legal counsel to the Oversight Board primarily in the defense of the Forty Niners litigation but also advising the Oversight Board during its meetings. The contract entered called for a cap of \$85,000. With the recent filing of the Opening Brief filed on February 6, 2013, the cap will be exceeded. The litigation continues; a reply brief is due on March 6, 2013; and a hearing before the Superior Court is scheduled for March 22, 2013. The proposed Amendment to Legal Services Agreement includes the addition of a new cap of \$60,000 as well as including the new name of the firm as Montoy Law Corporation.

## **FISCAL IMPACT:**

The current legal agreement was included in ROPS III and approved by Department of Finance (DOF). The request for reimbursement of the additional funds will be reported on ROPS 13-14A which is being reviewed by the Oversight Board at a regularly scheduled meeting on Friday, February 22, 2013.

## **RECOMMENDATION:**

That the Oversight Board adopt a resolution approving amendment to contract with independent legal counsel for the Oversight Board (Montoy Law Corporation).

  
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Julio J. Fuentes  
Executive Officer

## ***Documents Related to this Report:***

- 1) *Resolution*
- 2) *Amendment No. 1 to the Agreement with Montoy Law Corporation*

**RESOLUTION NO. 2013-03**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SANTA CLARA, APPROVING AMENDMENT  
TO LEGAL SERVICES AGREEMENT**

WHEREAS, on July 11, 2012 the Oversight Board adopted Resolution No. 2012-01 authorizing a contract for legal services with Hilda Cantú Montoy, Attorney at Law; and

WHEREAS, a legal services agreement was entered on July 17, 2012 for legal services to the Oversight Board; and

WHEREAS, the agreement contains a "Maximum Not to Exceed Contract Amount" provision; and

WHEREAS, litigation prompting the retention of Ms. Montoy as legal counsel continues and requires considerable work in the next few months; and

WHEREAS, Ms. Montoy has incorporated her firm as Montoy Law Corporation; and

WHEREAS, the Oversight Board desires to have Montoy Law Corporation continue to provide legal services under the agreement; and

**NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:**

1. The recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. Approval of Amendment No. 1 to Legal Services Agreement. The Oversight Board hereby approves Amendment No. 1 to Legal Services Agreement with Montoy Law Corporation expressly stating the Firm's incorporated name and including a new cap amount of \$60,000.00.
3. The Oversight Board hereby directs staff to submit to the Department of Finance and the County Auditor Controller, a copy of this resolution.
4. Pursuant to Health and Safety Code Section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

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**CERTIFICATION**

I hereby certify the foregoing to be a true copy of a resolution passed and adopted by the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Santa Clara at a regular meeting thereof held on the 22<sup>nd</sup> day of February 2013, by the following vote:

AYES: BOARD MEMBERS: Ameling, Chheng, Decker, Guthrie and Matthews and Chairperson Gage

NOES: BOARD MEMBERS: None

ABSENT: BOARD MEMBERS: Maduli

ABSTAIN: BOARD MEMBERS: None

APPROVE:

ATTEST:

  
\_\_\_\_\_  
Don Gage  
Chairperson

  
\_\_\_\_\_  
Bernadette DeSousa  
Acting Clerk to the Oversight Board

AMENDMENT NO. 1  
TO LEGAL SERVICES AGREEMENT FOR SERVICES TO THE  
THE OVERSIGHT BOARD BY MONTOY LAW CORPORATION

This Amendment No. 1 ("Amendment No. 1") is entered into as of February 22, 2013 and the City of Santa Clara acting as the Successor Agency to the Redevelopment Agency of the City of Santa Clara ("Successor Agency") and MONTOY LAW CORPORATION ("Firm").

RECITALS

A. Successor Agency and Hilda Cantú Montoy, Attorney at Law, entered into a Legal Services Agreement effective July 17, 2012, to have Ms. Montoy represent the Oversight Board and to provide legal services to the Oversight Board as required. The Firm has since incorporated and is now named Montoy Law Corporation.

B. The Agreement contains a "Maximum Not to Exceed Contract Amount."

C. The Oversight Board desires to have Montoy Law Corporation continue to provide legal services under the Agreement.

AGREEMENT

In consideration of the above recitals, which recitals are a part of this Amendment No. 1 to Legal Services Agreement and the mutual promises herein contained, the parties agree as follows:

1. The Legal Services Agreement is amended to reflect the name of Firm as "Montoy Law Corporation."
2. Section B of Exhibit A to the Agreement is amended to read as follows:

B. Maximum Not to Exceed Contract Amount

The Agreement heretofore provided for a maximum not to exceed contract amount of \$85,000.00. That maximum amount is increased by \$60,000.00 for a total of \$145,000, subject to budgetary appropriations.

3. Except as expressly modified in this Amendment No. 1, the terms and conditions of the Agreement and the rights, duties and obligations of the parties thereunder are unchanged and remain in full effect.

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**THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE  
CITY OF SANTA CLARA, CALIFORNIA**

APPROVED AS TO FORM:

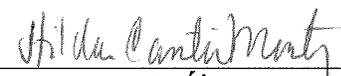
  
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RICHARD E. NOSKY, JR.  
Agency General Counsel

  
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JULIO J. FUENTES  
Executive Director  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone No.: (408) 615-2210  
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ATTEST:  
  
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ROD DIRIDON, JR.  
Agency Secretary

“SUCCESSOR AGENCY”

**MONTOY LAW CORPORATION**  
a California Corporation

By:   
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**HILDA CANTÚ MONTOY**  
President  
2125 Kern Street, Ste. 308  
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“FIRM”