



Agenda Date: 8/8/2006  
Agenda Placement: 6F

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Brandi Periera, Paralegal, 251-1090  
**SUBJECT:** Approving Third Amendment to Professional Services Agreement No. 4097

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### **RECOMMENDATION**

County Counsel requests approval of and authorization for the Chair to sign Amendment No. 3 to Agreement No. 4097 with Shute, Mihaly and Weinberger, LLP amending the Scope of Work to include services involving implementation measures, actions and performance milestones required by the Regional Water Quality Control Board's proposed Basin Plan Amendment (Napa River Sediment Reduction and Habitat Enhancement Plan).

### **EXECUTIVE SUMMARY**

In 1998 the County entered into an agreement with Shute, Mihaly & Weinberger to provide supplementary legal services on an as needed basis.

County needs to amend the agreement to enable Shute, Mihaly & Weinberger to provide certain supplementary legal services in connection with the Regional Water Quality Control Board's proposed Basin Plan Amendment (Napa River Sediment Reduction and Habitat Enhancement Plan). This will involve preparing summaries of the implementation measures as well as evaluating certain actions and performance milestones that will be required by the Plan. Shute, Mihaly & Weinberger will also provide a list of comments for possible inclusion in the comment letter being prepared by the County.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Funds are appropriated in County Counsel's FY 06/07 budget for use of outside counsel to complete various legal tasks that cannot be completed in house due to a lack of expertise or, as in this case, because of extremely short

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	time deadlines.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Shute, Mihaly & Weinberger is able to provide the needed specialized legal services within the short two week turnaround time deadline. They have significant experience in this area of law. Sufficient funding is included in the County Counsel's adopted FY 06/07 budget.
Is the general fund affected?	Yes
Future fiscal impact:	None. The need for this type of legal service is not expected to recur or if it does will be handled internally. There may be other needs for specialized legal services from Shute, Mihaly and Weinberger but it is unlikely to involve the types of services contemplated by this contract amendment.
Consequences if not approved:	The advice would have to be provided by County Counsel staff or the Conservation, Development and Planning Department would have to proceed without receiving legal advice regarding the matter. The requested two week turn around time cannot be accomplished by County Counsel due to other pressing matters and thus without the involvement of Shute, Mihaly & Weinberger it is likely the Department would have to proceed without the benefit of legal advice.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On December 8, 1998 the County entered into an agreement with Shute, Mihaly & Weinberger for the purpose of authorizing and funding the filing of an action in the Federal District Court contesting the scheduled implementation of the Bureau of Land Management (BLM) Knoxville Final Recreation Area Management Plan (RAMP Plan) in the Knoxville/Berryessa area. County continues to require such service and Shute, Mihaly & Weinberger provides supplementary legal services on an as needed basis in regard to other housing, land use or environmental issues, including but not limited to litigation in the state or federal courts.

County needs to amend the agreement today to enable Shute, Mihaly & Weinberger to provide certain supplementary legal services in connection with the Regional Water Quality Control Board's proposed Basin Plan Amendment (Napa River Sediment Reduction and Habitat Enhancement Plan). This will involve preparing summaries of the implementation measures as well as evaluating certain actions and performance milestones that will be required by the Plan. Shute, Mihaly & Weinberger will also provide a list of comments for possible inclusion in the comment letter being prepared by the County.

**SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Maiko Klieman