

Agenda Item #: **3D-4**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: July 10, 2007

Consent Regular
 Public Hearing

Submitted By: COUNTY ATTORNEY

Submitted For: COUNTY ATTORNEY

I. EXECUTIVE BRIEF

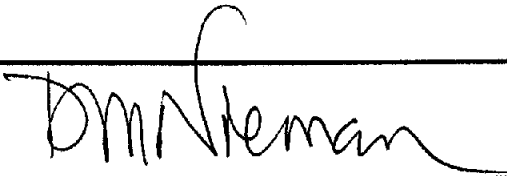
Motion and Title: Staff recommends motion to approve: First Amendment to Agreement with Billing, Cochran, Heath, Lyles, Mauro & Anderson, P.A., for Legal Services (R 2006-0539) in a law suit relating to countywide fire rescue dispatch funding. This First Amendment increases the not-to-exceed amount by One Hundred Thousand Dollars (\$100,000) for fees and Five Thousand Dollars (\$5,000) for costs, for a total not-to-exceed contract amount of Two Hundred Thirty Thousand Dollars (\$230,000) for legal services at trial, rehearing, and all appellate levels. This contract is effective retroactively to February 1, 2007.

Summary: Pursuant to the Agreement dated April 4, 2006, between the parties for legal services (R 2006-0539), the law firm of Billing, Cochran, et. al. was engaged to represent the County in a law suit initiated by the City of Boca Raton and the City of Delray Beach regarding the manner in which the County has chosen to fund its Countywide Fire Rescue Dispatch System. This law firm has expertise in governmental, constitutional and funding matters and challenges. Additional novel and complex issues arose during the course of litigation, including the intervention by numerous other municipalities, which resulted in additional, substantial time and effort by the law firm. Based upon the law firm's expertise and their knowledge of the issues raised at trial, approval of this First Amendment will allow the law firm to continue to assist the County through rehearing and all appellate levels, should the County decide to pursue an appeal. Countywide (SB)

Background and Justification: The Countywide Fire Rescue Dispatch System has been funded through the County General Fund since fiscal year 2005. Boca Raton and Delray Beach, and other intervening municipalities, challenged the County's use of countywide revenue based upon claims of double taxation and transfer of powers. This case presents complex and novel constitutional issues that may impact future funding decisions by the County.

Attachments:

1. First Amendment to Agreement Between Palm Beach County and Billing, Cochran, Heath, Lyles, Mauro & Anderson, P.A. for Legal Services

Recommended by:  6/20/07
County Attorney Date

Approved by: N/A

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	—	—	—	—	—
Operating Costs	105,000	—	—	—	—
External Revenues	—	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
NET FISCAL IMPACT	105,000	—	—	—	—
# ADDITIONAL FTE POSITIONS (Cumulative)	—	—	—	—	—

Is Item Included in Current Budget? Yes No

Budget Account No.: Fund 1300 Department 440 Unit 4213 Object 3125

Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The cost of this contract amendment will be charged to the Fire Rescue Fund (1300) and reimbursed by an interfund transfer from the general fund for expenditures during FY 2007 and from unincorporated revenues for any expenditures after FY 2007.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

cc 6/28/2007
6/28/07
OFMB
atm 6-20-07 CN 6/21/07
 Legal Sufficiency: *6-20-07*

Dr. J. Jacob
 Contract Dev. and Control
7/2/07
 This amendment complies with our review requirements.

Sharon Burrows 6-20-07
 Assistant County Attorney

At the time of coc's review, the Amendment was not executed.

C. Other Department Review:

Lerman Price
 Department Director *6-26-07*

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

**FIRST AMENDMENT TO AGREEMENT BETWEEN PALM BEACH COUNTY
AND BILLING, COCHRAN, HEATH, LYLES, MAURO & ANDERSON, P.A.
FOR LEGAL SERVICES (R 2006-0539)**

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2007, by and between PALM BEACH COUNTY ("COUNTY"), a political subdivision of the State of Florida, and BILLING, COCHRAN, HEATH, LYLES, MAURO & ANDERSON, P.A. ("OUTSIDE COUNSEL").

WHEREAS, pursuant to the Agreement dated April 4, 2006, between the parties for Legal Services (R 2006-0539) (hereinafter the "Agreement"), OUTSIDE COUNSEL was engaged to represent the COUNTY in a law suit initiated by the City of Boca Raton and the City of Delray Beach regarding the manner in which the County has chosen to fund its Countywide Fire Rescue Dispatch Program; and

WHEREAS, additional novel and complex issues arose during the course of litigation, including the intervention by numerous other municipalities, which resulted in additional, substantial time and effort by OUTSIDE COUNSEL; and

WHEREAS, the County desires to continue to utilize the assistance of OUTSIDE COUNSEL during the rehearing process and during the appellate process, should the County decide to pursue an appeal.

NOW, THEREFORE, in consideration of the mutual covenants and agreements expressed herein, the parties agree as follows:

I. Paragraphs (b) and (c) of Section 1 of the Agreement are amended to read as follows:

"(b) The LEGAL SERVICES that OUTSIDE COUNSEL will provide may include reviewing petitions received from the cities, reviewing any complaints, pleadings, or other documents that might be filed, assisting in developing legal strategies, performing legal research, preparing legal

memoranda, appearing and representing the County at hearings, depositions, and other proceedings at the trial level and all appellate levels.”

“(c) The term of the Agreement shall be from February 17, 2006, until the termination of all legal challenges and proceedings in the trial and appellate courts relating to the manner in which the COUNTY has chosen to fund its Countywide Fire Rescue Dispatch Program.”

II. Paragraphs (a) and (b) of Section 2 of the Agreement are amended to read as follows:

“(a) The COUNTY shall pay OUTSIDE COUNSEL fees up to an amount not to exceed TWO HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$200,000.00) for the LEGAL SERVICES rendered on a per hour basis according to the following hourly rates, for time reasonably, competently, and actually spent by lawyers:

i.)	Partners	\$225.00 per hour
ii.)	Associates	\$175.00 per hour
iii.)	Paralegals	\$ 90.00 per hour”

“(b) OUTSIDE COUNSEL understands that its LEGAL SERVICES, inclusive of all fees, expenses and costs, will be capped at a total contract amount of TWO HUNDRED THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$230,000.00) and there will be no additions to that amount.”

III. Paragraph (c) of Section 3 of the Agreement is amended to read as follows:

“(c) The total amount of reimbursable expenses and costs shall not exceed THIRTY THOUSAND DOLLARS AND ZERO CENTS (\$30,000.00).”

IV. This FIRST AMENDMENT shall take effect retroactively to February 1, 2007.

V. Except as specifically modified herein, all terms and conditions of the Agreement are hereby confirmed and shall remain in full force and effect; provided, however, that in the event of any

conflict, inconsistency, or incongruity between the provisions of this FIRST AMENDMENT and the provisions of the Agreement, this FIRST AMENDMENT shall control.

IN WITNESS WHEREOF, the parties have duly executed this FIRST AMENDMENT on the day and year first above written.

ATTEST:
Sharon R. Bock,
Clerk & Comptroller

PALM BEACH COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: Sham Baum
Assistant County Attorney

WITNESSES:

BILLING, COCHRAN, HEATH, LYLES,
MAURO & ANDERSON, P.A.

By: Shea Navakovic
Signature

By: Susan Delegal
Susan Delegal, Shareholder

SHEA NAVAKOVIC
Print Name

By: Rossana Méndez
Signature

Rossana Méndez
Print Name