

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 13, 2021

Consent Regular
 Workshop Public Hearing

Department:

Submitted By: COUNTY ATTORNEY

Submitted For: ADMINISTRATION/ENGINEERING

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Third Amendment to the Contract for Professional Legal Services (Third Amendment) with Manson Bolves Donaldson Varn, P.A. (MBDV), increasing the not-to-exceed amount to Two Hundred Thousand Dollars (\$200,000.00).

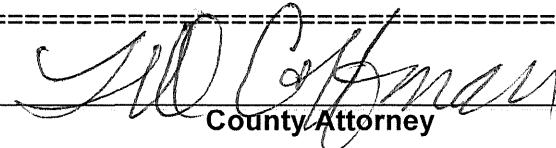
Summary: The County Attorney, in accordance with the delegation set forth in Section 305.04 of the Palm Beach County Administrative Code, entered into the Contract with MBDV on August 27, 2019 to provide certain legal services related to the U.S. Army Corp of Engineers, Jacksonville District's 2019 Planned Deviation to the Water Control Plan for Lake Okeechobee and Everglades Agricultural Area (LORS 2008), as well as other Lake Okeechobee operations that have the potential to impact the County. The original not-to-exceed amount under the Contract was Fifty Thousand Dollars (\$50,000.00). On October 29, 2019, the County Attorney entered into the First Amendment to the Contract in order to amend the scope of the legal services provided by MBDV to include general issues of Water Law and South Florida Water Management District matters including but not limited to the County's Loxahatchee River Restoration Local Initiative and Mecca Site Evaluation. The First Amendment did not modify the original not-to-exceed amount. On July 7, 2020, the Board approved the Second Amendment to the Contract increasing the not-to-exceed amount from Fifty Thousand Dollars (\$50,000.00) to One Hundred Thousand Dollars (\$100,000.00). Due to the continuing need to consult with MBDV on general water management issues and additional needs related to the imminent County appeal of the Federal Emergency Management Agency's 2019 Preliminary Flood Insurance Rate Maps and the State Road 7/Northlake Blvd permit challenges, this Third Amendment increases the not to exceed amount to Two Hundred Thousand Dollars (\$200,000.00). COUNTYWIDE (MJ)

Background and Justification: MBDV possesses specialized expertise on water resources law, including specialized expertise on water permitting and policy issues. This Third Amendment will allow for the County to continue to seek MBDV's advice on these issues.

Attachments:

Two (2) copies of Third Amendment.

Budget Availability Statement

Recommended by  County Attorney Date 6/23/2021

Approved By: _____ N/A Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs	100,000				
External Revenues					
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	100,000				
#ADDITIONAL FTE POSITIONS (CUMULATIVE)					

Is Item Included in Current Budget? Yes X No
 Does this item include the use of federal funds? Yes No X

Budget Account No:

Fund 3503 Agency 361 Organization 1511 Object 6120 (\$50,000)
 Fund 0001 Agency 760 Organization 7601 Object 3125 (\$50,000)

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

Ad valorem funds

C. Departmental Fiscal Review:

III. REVIEW COMMENTS:

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

Lisa Munte 6/28/21
 OFMB # 623 21 6/28/21

Joe S. [Signature] 6/30/21
 Contract Dev. & Control
 6-29-21 TW

B. Legal Sufficiency

[Signature] 6/21/21
 Assistant County Attorney

C. Other Department Review

[Signature]
 Department Director

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

**THIRD AMENDMENT TO CONTRACT FOR PROFESSIONAL LEGAL SERVICES
BY AND BETWEEN
PALM BEACH COUNTY AND MANSON BOLVES DONALDSON VARN, P.A.**

THIS THIRD AMENDMENT is made and entered into this _____ day of _____, 2021, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter referred to as “**COUNTY**”) and **MANSON BOLVES DONALDSON VARN, P.A.** a Professional Association authorized to do business in the State of Florida (hereinafter referred to as “**OUTSIDE COUNSEL**”), whose Federal Tax Identification number is 26-2553333.

WHEREAS, the **COUNTY** and **OUTSIDE COUNSEL** entered into a Contract for Professional Legal Services on August 27, 2019 (hereinafter referred to as the “**CONTRACT**”) to provide certain **LEGAL SERVICES** related to the U.S. Army Corp of Engineers, Jacksonville District’s 2019 Planned Deviation to the Water Control Plan for Lake Okeechobee and Everglades Agricultural Area (LORS 2008), as well as other Lake Okeechobee operations that have the potential to impact the **COUNTY**; and

WHEREAS, the **COUNTY** and **OUTSIDE COUNSEL** entered into that First Amendment to the **CONTRACT** (hereinafter referred to as the “**FIRST AMENDMENT**”) on October 29, 2019 in order to amend the scope of the **LEGAL SERVICES** provided by **OUTSIDE COUNSEL** to include general issues of Water Law and South Florida Water Management District matters including but not limited to the County’s Loxahatchee River Restoration Local Initiative and Mecca Site Evaluation; and

WHEREAS, the **COUNTY** and **OUTSIDE COUNSEL** entered into that Second Amendment to the **CONTRACT** (hereinafter referred to as the “**SECOND AMENDMENT**”) to

increase the not-to-exceed amount from FIFTY THOUSAND DOLLARS (\$50,000) to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00); and

WHEREAS, the COUNTY and OUTSIDE COUNSEL now wish to amend the CONTRACT to increase the not-to-exceed amount from ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) to TWO HUNDRED THOUSAND DOLLARS (\$200,000.00).

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

1. The recitals set forth above are true and correct and are incorporated herein by specific reference.

2. Article 3.a and 3.b are hereby amended in their entirety as follows:

a) The COUNTY shall pay OUTSIDE COUNSEL up to an amount not to exceed TWO HUNDRED THOUSAND DOLLARS (\$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, law clerks, and Florida Registered paralegals:

- | | | |
|------|------------|-------------------|
| i) | Attorneys | \$300.00 per hour |
| ii) | Law Clerk | \$125.00 per hour |
| iii) | Paralegals | \$100.00 per hour |

b) OUTSIDE COUNSEL understands that its LEGAL SERVICES will be capped at TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) and there will be no additions to that amount without the written consent of the Palm Beach County Board of County Commissioners.

3. Article 5.d is hereby amended in its entirety as follows:

d) The total amount of reimbursable expenses and costs shall not exceed FIFTEEN THOUSAND DOLLARS (\$15,000.00). The reimbursable expenses and costs provided for this

Article are included in, and not in addition to, the total not-to-exceed amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) provided for in Article 3(a) and 3(b) above. In no event will OUTSIDE COUNSEL receive more than a total of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) under this Agreement, regardless of the purpose of the payment.

4. All other provisions of the CONTRACT, as amended by the FIRST AMENDMENT and the SECOND AMENDMENT, are hereby confirmed and, except as provided herein, are not otherwise altered or amended and shall remain in full force and effect.

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

(COUNTY SEAL)

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

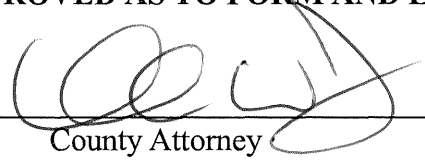
ATTEST:

JOSEPH ABRUZZO, CLERK OF THE CIRCUIT COURT AND COMPTROLLER, PALM BEACH COUNTY


By: _____ Deputy Clerk

By: _____ Dave Kerner, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:  County Attorney

WITNESSES:

By:  Signature

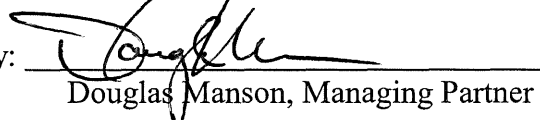
Denise Rodriguez
Print Name

By:  Signature

Paria Shirzadi
Print Name

OUTSIDE COUNSEL:

Manson Bolves Donaldson Varn, P.A.

By:  Douglas Manson, Managing Partner

**INTEROFFICE COMMUNICATION
PALM BEACH COUNTY
BUDGET AVAILABILITY STATEMENT**

DATE: June 24, 2021

TO: David Ottey, Chief Assistant County Attorney
County Attorney's Office
Attn: Jessica Borum

FROM: Johnathan Blanco, Fiscal Manager
Administrative Services

RE: Professional Legal Services Amendment # 3
SR7 Extension, 60th Street to Northlake Blvd.
Project # 2016601
Manson Bolves Donaldson Varn, P.A. (VS0000014360)
Agenda Item \$50,000.00

BOARD MEETING DATE: July 13, 2021

FISCAL IMPACT LOCATION: F:\COMMON\WP\AgendaPage2\ _____

FUNDING STATUS: FULLY FUNDED

Is Item Included in Current Budget?	Yes	X	No
Does this item include the use of federal funds?	Yes		No X

Budget Account No:

Fund 3503 Dept 361 Unit 1511 Object 6120

Recommended Sources of Funds/Summary of Fiscal Impact:

Road Impact Fee Fund - Zone 3
SR7 Extension, 60th Street to Northlake Blvd.

Professional Legal Services Amendment # 3 \$50,000.00

Note: Funded by a \$ 50,000 non-board transfer from FY 2015 Road Program Reserves for Right of Way

This BAS is valid for up to ninety days from its date of issuance.
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