

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: November 1, 2022 [X] Consent [ ] Regular [ ] Workshop [ ] Public Hearing

Department: Administration Submitted By: COUNTY ATTORNEY Submitted For: ADMINISTRATION

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Fifth Amendment to the Contract for Professional Legal Services (Fifth Amendment) with Manson Bolves Donaldson Varn, P.A. (MBDV), increasing the not-to-exceed amount to Three Hundred Seventy Thousand Dollars (\$370,000.00).

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 (R2020-0761) increasing the not-to-exceed amount from Fifty Thousand Dollars (\$50,000.00) to One Hundred Thousand Dollars (\$100,000.00). On July 13, 2021, The Board approved the Third Amendment to the Contract (R2021-0885) which increased the not to exceed amount to Two Hundred Thousand Dollars (\$200,000.00), due to the continuing need to consult with MBDV on general water management issues and additional needs related to the County's appeal of the Federal Emergency Management Agency's (FEMA) 2019 Preliminary Flood Insurance Rate Maps (FIRMs) and the State Road 7/Northlake Blvd permit challenges. On March 8, 2022 The Board approved the Fourth Amendment to the Contract (R2022-0163) which increased the not to exceed amount to Two Hundred Seventy Thousand Dollars (\$270,000.00), due to the continuing need to consult with MBDV on general water resources management issues, anticipated activities related to FEMA's response to the County's appeal of the 2019 Preliminary FIRMs and the State Road 7/Northlake Blvd permit challenges.

(Continued on page 3)

Attachments:

Two (2) copies of Fifth Amendment.

Recommended by: [Signature] For D. Coffman Date: 10/5/22 County Attorney

Approved: N/A Date: County Administration



This Fifth Amendment increases the not to exceed amount by One Hundred Thousand Dollars (\$100,000) to Three Hundred Seventy Thousand Dollars (\$370,000.00), and is required due to the continuing need to consult with MBDV on general water resources issues, including anticipated activities related to FEMA's response to the County's appeal of the 2019 Preliminary FIRMs, legal support on the contracts for the C-51 Cell 12 and Cell 13 reservoir project, the Corbett Levee Upgrade grant, and the water resource feature of the GL Homes land swap. Countywide (MJ)

**Background and Justification:** MBDV possesses specialized expertise on water resources law, including specialized expertise on water permitting and policy issues. This Fifth Amendment will allow for the County to continue to seek MBDV's advice on these issues. There are cost savings due to the continuity of MBDV staff, the fixed hourly rates from 2019, and MBDV providing similar legal services for Lake Worth Drainage District on Lake Okeechobee and the Lower East Cost Water Supply Plan.

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

THIS FIFTH AMENDMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, 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”) on

July 7, 2020 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 entered into that Third Amendment to the CONTRACT (hereinafter referred to as the "THIRD AMENDMENT") on July 13, 2021 to increase the not-to-exceed amount from ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) to TWO HUNDRED THOUSAND DOLLARS (\$200,000.00); and

WHEREAS, the COUNTY and OUTSIDE COUNSEL entered into that Fourth Amendment to the CONTRACT (hereinafter referred to as the "FOURTH AMENDMENT") on March 8, 2022 to increase the not-to-exceed amount from TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) to TWO HUNDRED SEVENTY THOUSAND DOLLARS (\$270,000.00); and

WHEREAS, the COUNTY and OUTSIDE COUNSEL now wish to increase the not-to-exceed amount of the CONTRACT from TWO HUNDRED SEVENTY THOUSAND DOLLARS (\$270,000.00) to THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00).

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 THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00) 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 THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00) 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 TWENTY SEVEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$27,750.00). The reimbursable expenses and costs provided for this Article are included in, and not in addition to, the total not-to-exceed amount of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00) provided for in Article 3(a) and 3(b) above. In no event will OUTSIDE COUNSEL receive more than a total of THREE HUNDRED SEVENTY THOUSAND DOLLARS (\$370,000.00) under this Agreement, regardless of the purpose of the payment.

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

**THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK**

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

(COUNTY SEAL)

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

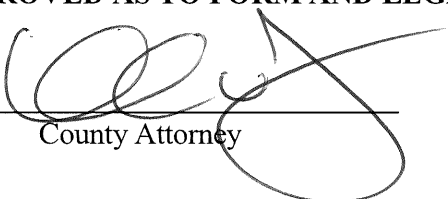
ATTEST:

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

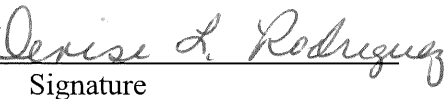
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Robert S. Weinroth, Mayor

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

By:  \_\_\_\_\_  
County Attorney

**WITNESSES:**

By:  \_\_\_\_\_  
Signature

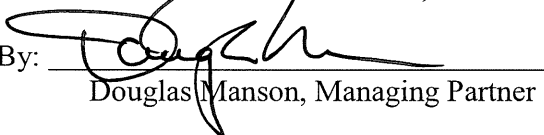
Denise L. Rodriguez  
Print Name

By:  \_\_\_\_\_  
Signature

Chris Dunne  
Print Name

**OUTSIDE COUNSEL:**

**Manson Bolves Donaldson Varn, P.A.**

By:  \_\_\_\_\_  
Douglas Manson, Managing Partner