



**Contra  
Costa  
County**

To: Board of Supervisors  
From: Sharon L. Anderson, County Counsel  
Date: December 19, 2017

Subject: Approve amendment to joint defense confidentiality agreement related to Contra Costa County Flood Control and Water Conservation District v. Eames

**RECOMMENDATION(S):**

As the governing body of the Contra Costa County Flood Control and Water Conservation District, AUTHORIZE the County Counsel, or designee, to extend the joint defense and cost share agreement between the District and the City of Antioch related to the lawsuit *Contra Costa County Flood Control and Water Conservation District v. Gary A. Eames, et al.* (Contra Costa Co. Super. Ct. Case No. C15-02052), as deemed necessary by the Chief Engineer, or designee, to facilitate the litigation, and to execute the agreement on the District's behalf.

**FISCAL IMPACT:**

The District's appraiser charges \$200 per hour for appraisal services and \$300 per hour for giving deposition and court testimony. The City will reimburse the District for one half of the appraiser's fees incurred in the litigation.

**BACKGROUND:**

The Contra Costa County Flood Control and Water Conservation District and the City of Antioch are currently parties to a joint defense agreement pertaining to an eminent domain action captioned

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **12/19/2017** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: December 19, 2017

David Twa, County Administrator and Clerk of the Board of Supervisors

Contact: Stephen M. Siptroth, Deputy  
County Counsel, 335-1817

By: Stephanie Mello, Deputy

cc:



### BACKGROUND: (CONT'D)

Contra Costa County Flood Control and Water Conservation District v. Gary A. Eames, et al. (Contra Costa Co. Super. Ct. Case No. C15-02052). The District and the City are named defendants in a cross-complaint for inverse condemnation filed by the defendants in that litigation. The joint defense agreement allows the District and the City to share privileged information that pertains to their joint defense of the cross-complaint without waiving any applicable privileges. The joint defense agreement also provides that the District and the City will designate the same expert appraiser to opine on valuation, and the agencies agreed that each would pay one-half of the appraiser's charges for services performed between May 1, 2017, and October 31, 2017. That cost-share period ended shortly before trial was set to begin on November 5, 2017.

Trial has been continued to June 11, 2018, and that trial date may be subject to change in the future. The appraiser may continue to perform services on behalf of the District and the City until the litigation ends. The District and the City desire to continue their cost-share arrangement for the appraiser's work. The joint defense agreement will be amended to extend the cost-share period based on this new trial date, and the Chief Engineer, or designee, may agree to additional extensions of the cost-share period.

District staff and the County Counsel's Office recommend that the Board of Supervisors approve extensions of the cost-share provision in the joint defense agreement.

### CONSEQUENCE OF NEGATIVE ACTION:

If the Board of Supervisors does not approve the amendment to the joint defense confidentiality agreement, the cost-share agreement for the appraiser's work will not be extended beyond October 31, 2017, and the City will need to contract directly with the appraiser for any appraiser services it requires.