

**REPORT TO REDEVELOPMENT AGENCY CHAIR  
AND AGENCY BOARD**

**TO THE HONORABLE REDEVELOPMENT AGENCY CHAIR  
AND AGENCY BOARD:**

DATE: May 25, 2010

**SUBJECT: APPROVE AN AGREEMENT WITH MCDONOUGH HOLLAND & ALLEN PC  
PROVIDING LEGAL SERVICES IN SUPPORT OF THE AGENCY'S  
REDEVELOPMENT ACTIVITIES**

**Report in Brief**

The City Council/Redevelopment Agency is requested to authorize the Executive Director to execute an agreement with McDonough Holland & Allen PC (MHA) in the amount of \$150,000 to continue to provide legal services in support of the Agency's redevelopment activities in its project area and Affordable Housing Program and complete work associated with Concord Community Reuse Redevelopment project adoption process. A copy of the agreement is included as Attachment 1 and a scope of work is attached as Exhibit A to the agreement.

**Background**

The Concord Redevelopment Agency has retained MHA to provide professional legal services to the Agency since 1995. Over the years MHA has provided legal services to the Agency for projects such as Legacy Park Central, Metroplex Office Centre, acquisition and dispositions of properties as well as negotiations of Owner Participation Agreements and Disposition and Development Agreements. MHA has also provided legal services concerning the Agency's Affordable Housing Program. Agency staff members have been satisfied with MHA work and response to Agency projects and programs.

**Discussion**

Staff recommends that the City Council/Redevelopment Agency authorize the Executive Director to execute an agreement with MHA for professional legal services in support of the Concord Redevelopment Agency's redevelopment activities in the project area in the amount of \$150,000. Redevelopment Agencies throughout California contract with outside legal firms to provide expert legal advice relating to California Redevelopment Law and redevelopment activities. Under the proposed agreement, MHA will provide legal services, assist the Agency in redevelopment negotiations, review and draft disposition and development agreements, leases, and provide advice on the Agency's Affordable Housing Program and issues related to California Redevelopment Law. A scope of work is attached to this report as Exhibit A to the Agreement. Existing agreements will be terminated and any residual funds will be returned to the Redevelopment fund balance.

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**Fiscal Impact**

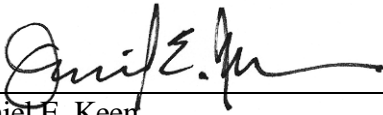
The base amount of the agreement is \$150,000 of which \$25,000 is from Housing set-aside funds. The term of the agreement is for a two year period with options to extend.

**Public Contact**

The agenda has been posted.

**Recommendation for Action**

Staff recommends the City Council/Agency Board approve an agreement with McDonough Holland & Allen PC providing legal services in support of the Agency's redevelopment activities in its project areas and authorize the Executive Director to execute the document.



Daniel E. Keen  
City Manager/Executive Director  
dan.keen@ci.concord.ca.us

Prepared by: John Montagh  
Redevelopment and Housing Manager  
johnm@ci.concord.ca.us

Reviewed by: James Forsberg  
Community Development Director  
jim.forsberg@ci.concord.ca.us

Attachment 1: McDonough Holland & Allen PC Agreement

1           **AN AGREEMENT** entered into on May 25, 2010 between the City of Concord  
2 Redevelopment Agency, (the “AGENCY”) and McDonough Holland & Allen PC, 1901 Harrison  
3 Street, 9<sup>th</sup> Floor, Oakland, CA 94612-3501 (the “CONSULTANT”).

4           **WHEREAS**, AGENCY requires the assistance of special counsel to assist it in carrying out its  
5 redevelopment activities in Concord:

6           **WHEREAS**, AGENCY desires to employ CONSULTANT who has an extensive background  
7 in working with the Concord Redevelopment Agency and is familiar with Redevelopment Agency  
8 projects;

9           **WHEREAS**, AGENCY desires to employ CONSULTANT who is working on ongoing  
10 AGENCY projects and who can provide continuity to the services provided to the AGENCY.

11           **NOW, THEREFORE**, in consideration of the mutual promises, covenants, and agreements  
12 subject to the terms and conditions set forth herein, the parties agree as follows:

13           **1.     Scope of Work.**

14           A.     CONSULTANT shall assist the AGENCY in connection with the  
15 redevelopment activities occurring in the City of Concord, including, but not  
16 limited to the following:

- 17                     1. Review and comment on Disposition and Development Agreements,  
18                             leases, and other related legal services.
- 19                     2. Provide advice and legal services regarding Affordable Housing.
- 20                     3. Provide advice on issues related to California Redevelopment Law  
21                             as they may arise.
- 22                     4. Provide and legal services in connection with the City’s/Agency’s  
23                             preparation and adoption of the proposed redevelopment plan for the  
24                             Concord Community Reuse Project.
- 25                     5. Provide other advice as may be requested by the City Attorney.

26           **2.     Term.** The term of this Agreement shall be from May 25, 2010, through May 24,  
27 2012, unless earlier terminated in accordance with the terms of this Agreement. The  
28 Executive Director may extend this agreement for an additional one year term upon the

1 same rates, terms and conditions, through May 24, 2013, not later than 30 days prior to  
2 the expiration date of the Agreement. Notice of the extension shall be given in writing  
3 in the manner provided in Section 12.

4 **3. Consideration.** As full consideration for the work to be performed by  
5 CONSULTANT, AGENCY shall pay CONSULTANT based upon the standard public agency hourly  
6 rates for its attorney(s) assigned to assist AGENCY to be paid upon submission and approval of  
7 invoices. The current standard public agency hourly rates for CONSULTANT's key personnel and a  
8 list of reimbursable expenses for CONSULTANT are attached hereto as Exhibit A and incorporated  
9 herein by this reference. The total fee under this Agreement shall not exceed \$150,000.

10 **4. Authorized Representatives.** Authorized representatives shall represent AGENCY  
11 and CONSULTANT in all matters pertaining to the services to be ordered by AGENCY or rendered  
12 by CONSULTANT under this Agreement except where approval for the AGENCY is specifically  
13 required by the City Council. All requirements of AGENCY pertaining to the services to be rendered  
14 under this Agreement by CONSULTANT shall be submitted through these representatives and  
15 AGENCY shall cooperate with CONSULTANT in all matters relating to this Agreement in such a  
16 manner as will result in the performance of such work without delay.

17 AGENCY's authorized representative is authorized to execute on behalf of AGENCY,  
18 amendments to the agreement, including amendments providing for additional compensation to  
19 CONSULTANT, not to exceed \$20,000, including the base contract amount, throughout the  
20 remaining term of the agreement. The Executive Director is authorized to execute on behalf of  
21 AGENCY, amendments to the agreement, including additional compensation to CONSULTANT, not  
22 to exceed \$40,000, including the base contract amount, throughout the remaining term of this  
23 agreement beyond that authorized in section 6 must be approved by the AGENCY board.

24 The AGENCY authorized representative is John Montagh, Redevelopment and Housing  
25 Manager. The CONSULTANT authorized representative is Gerald J. Ramiza, Shareholder.

26 **5. Records.** CONSULTANT shall maintain accounting records and other evidence  
27 pertaining to the cost incurred and shall make the records available to authorized representatives of  
28 AGENCY or other governmental agency or district authorized by AGENCY to inspect such records.

1 These records shall be available at all reasonable times during the Agreement period and for four (4)  
2 years from the date of final payment for work performed hereunder.

3 **6. Key Personnel.** All of the services required hereunder shall be performed by  
4 CONSULTANT or under his/her/its supervision, and all personnel engaged in the work shall be fully  
5 qualified to perform such services. Any change in the key personnel shall be subject to the written  
6 approval of AGENCY. The following is the key personnel for the subject of this Agreement:

7 Gerald J. Ramiza, Shareholder

8 **7. AGENCY-Authorized Representative.** An authorized representative shall represent  
9 AGENCY in all matters pertaining to the services rendered by CONSULTANT under this Agreement.  
10 All documents and requests for information shall be submitted through this representative and  
11 AGENCY will cooperate with CONSULTANT in all matters relating to this Agreement in such  
12 manner as will result in the performance of such work without delay. The AGENCY-authorized  
13 representative is the AGENCY Co-counsel.

14 **8. Termination.**

15 a. Either party may terminate this Agreement at any time, without cause, upon  
16 seven (7) days notice of discontinuance and termination of said Agreement given in  
17 writing. Such notice shall be sufficient and complete when same is deposited in the  
18 United States mail, first class postage prepaid, to the address shown in the paragraph  
19 herein concerning notice.

20 b. AGENCY may at any time, at its discretion, abandon or suspend any portion  
21 of work to be done under the terms of this Agreement.

22 c. In the event of AGENCY's abandonment or suspension of CONSULTANT's  
23 work under this Agreement, or in the event of the termination of this Agreement,  
24 CONSULTANT shall stop work at the stage directed by AGENCY and shall deliver to  
25 AGENCY all reports, plans, and other information developed as of such stage.  
26 CONSULTANT shall also cancel all orders for goods or services connected with this  
27 Agreement which have not been delivered or received.

28 d. CONSULTANT shall accept as full payment for the services rendered and for

1 all work performed and goods and services received at the time of termination,  
2 abandonment, or suspension of the work to be performed hereunder and in complete  
3 satisfaction of any and all claims against AGENCY accruing to CONSULTANT by  
4 reason of the abandonment or suspension of work or termination of this Agreement, a  
5 pro rata portion of the Agreement price, determined in a manner mutually agreeable to  
6 the parties.

7 **9. Equal Opportunity Assurance.** During the performance of this Agreement,  
8 CONSULTANT agrees as follows:

9 a. CONSULTANT will not discriminate against any employee or applicant for  
10 employment because of race, sex, creed, physical handicap, color, sexual orientation,  
11 or national origin. CONSULTANT will take affirmative action to ensure that  
12 employees are treated equally without regard to race, gender, creed, physical  
13 handicap(s), color, sexual orientation, or national origin. Such action shall include but  
14 not be limited to the following: employment, upgrading, demotion, or transfer;  
15 recruitment or recruitment advertising; layoffs and terminations, rates of pay or other  
16 forms of compensation; and selection for training, including apprenticeship.  
17 CONSULTANT agrees to post, in conspicuous places, available to employees and  
18 applicants for employment, notices setting forth the provisions of this  
19 nondiscrimination clause.

20 b. CONSULTANT will, in all solicitations or advertisements for employees  
21 placed by or on behalf of CONSULTANT, state that all qualified applicants will  
22 receive consideration for employment without regard to race, gender, creed, physical  
23 handicap, color, sexual orientation, or national origin.

24 c. In the event of CONSULTANT's noncompliance with the nondiscrimination  
25 clause of this Agreement, this Agreement may be canceled, terminated, or suspended in  
26 whole or in part.

27 **10. Insurance.** CONSULTANT shall hold AGENCY free, clear, and harmless from all  
28 claims of third persons for damages arising out of negligent acts of CONSULTANT and his/her/its

1 agents and in furtherance thereof, CONSULTANT shall, at his/her/its own expense, procure and  
2 maintain in full force at all times during the term of this Agreement the following insurance which  
3 shall be provided on an Occurrence basis (except for Professional Liability which may be on a claims  
4 made basis):

5 a. **Commercial General Liability Insurance.** CONSULTANT shall maintain  
6 limits of no less than:

7 1. **General Liability:** One Million Dollars (\$1,000,000) combined  
8 single limit per occurrence for bodily injury, personal injury, and  
9 property damage.

10 b. **Other Insurance Provisions.** The policies are to contain, or be endorsed to  
11 contain the following provisions:

12 1. **General Liability Coverages.**

13 a. AGENCY and the City of Concord, its officers, officials,  
14 employees, and volunteers are to be covered as insured as respects:  
15 Liability arising out of activities performed by or on behalf of  
16 CONSULTANT and operations of CONSULTANT, premises owned,  
17 occupied, or used by CONSULTANT, the coverage shall contain no  
18 special limitations on the scope or protection afforded to AGENCY and  
19 the City of Concord, its officers, officials, employees, or volunteers.

20 b. CONSULTANT's insurance coverage shall be primary  
21 insurance with respect to AGENCY, its officers, officials,  
22 employees, and volunteers. Any insurance or self-insurance  
23 maintained by AGENCY and the City of Concord, its officers,  
24 officials, employees, or volunteers shall be in excess of  
25 CONSULTANT's insurance and shall not contribute with it.

26 c. Any failure to comply with the reporting provisions of the  
27 policy shall not affect the coverage provided to the AGENCY  
28 and the City of Concord, its officers, officials, employees, or

1 volunteers.

2 c. **Automobile Liability Insurance Coverages.** CONSULTANT shall procure  
3 automobile liability insurance covering all vehicles used in the performance of this  
4 Agreement providing a One Million Dollar (\$1,000,000) combined single limit per  
5 occurrence for bodily injury, personal injury, and property damage which may arise  
6 from the operation of CONSULTANT in performing this Agreement.

7 d. **Compliance with State Workers' Compensation Requirements.**

8 CONSULTANT covenants that he/she/it will insure himself/herself/itself against  
9 liability for Workers' Compensation pursuant to the provisions of California Labor  
10 Code Section 3700, et seq. CONSULTANT shall, at all times, upon demand of the  
11 AGENCY Council and properly authorized agents, furnish proof that Workers'  
12 Compensation Insurance is being maintained by him/her/it in force and effect in  
13 accordance with the California Labor Code.

14 e. **Professional Liability Insurance Requirements.** CONSULTANT shall  
15 maintain professional liability insurance with coverage for negligent acts, errors, or  
16 omissions committed by CONSULTANT and its agents and employees in the course of  
17 work performed for the AGENCY under this Agreement in limits (including  
18 deductibles) in compliance with requirements of the State Bar of California for  
19 professional legal corporations.

20 Except for Professional Liability, which shall comply with the requirements of the California  
21 State Bar for professional legal corporations, the aforementioned policy(ies) shall be issued by an  
22 insurance carrier having a rating of Best A-7 or better which is satisfactory to the AGENCY Attorney  
23 and shall be delivered to AGENCY at the time of the execution of this Agreement or as provided  
24 below. In lieu of actual delivery of such policy(ies), a Certificate issued by the insurance carrier  
25 showing such policy to be in force for the period covered by the Agreement may be delivered to  
26 AGENCY. Such policy(ies) and certificate(s) shall be in a form approved by the City Attorney.

27 **11. Indemnification.** CONSULTANT shall indemnify, defend, and hold harmless  
28 AGENCY against and from any and all claims or suits for damages or injury arising from

1 CONSULTANT's performance of this Agreement or from any activity, work, or thing done,  
2 permitted, or suffered by CONSULTANT in conjunction with the performance of this Agreement, and  
3 shall further indemnify, defend, and hold harmless AGENCY against and from any and all claims or  
4 suits arising from any reach or default of any performance of any obligation of CONSULTANT  
5 hereunder, and against and from all costs, attorney's fees, expenses, and liabilities related to any claim  
6 or any action or proceeding brought within the scope of this indemnification.

7 **12. Independent Contractor.** CONSULTANT is an independent contractor retained by  
8 AGENCY to perform the work described herein. All personnel employed by CONSULTANT,  
9 including subcontractors and personnel of said subcontractors approved by AGENCY, are not and  
10 shall not be deemed to be employees of AGENCY. CONSULTANT and approved subcontractors  
11 shall comply with all State and Federal laws pertaining to employment and compensation of their  
12 employees or agents, including the provision of Workers' Compensation. AGENCY shall not, under  
13 any circumstances, be liable to CONSULTANT or any person or persons acting for him/her/it for any  
14 death, injury, or property destruction or damage received or claimed relating to or stemming from the  
15 activities undertaken pursuant to this Agreement.

16 **13. Notice.** All notices required herein shall be sent via First Class U.S. Mail with postage  
17 prepaid thereon to the parties as follows:

18 To AGENCY: Craig Labadie, City Attorney/Agency Co-Counsel  
19 City of Concord  
20 1950 Parkside Drive, M/S 08  
21 Concord, CA 94519

22 To CONSULTANT: Gerald J. Ramiza  
23 McDonough Holland & Allen PC  
24 1901 Harrison Street, 9<sup>th</sup> Floor  
25 Oakland, CA 94612-3501

26 Notices shall be deemed effectively served upon deposit in the United States Mail.

27 **14. Assignment.** AGENCY is entering into this Agreement in consideration of the  
28 rendition of the services required herein by CONSULTANT. CONSULTANT shall not assign any of  
the duties, responsibilities, or obligations of this Agreement to any other firm, company, entity, or  
individual, except with the express written consent of AGENCY. Nothing set forth in this paragraph  
shall preclude CONSULTANT from assigning any of the monies due any owing to him/her/it from

1 AGENCY.

2 **15. Amendment.** This Agreement may be amended, modified or changed by the parties  
3 provided that said amendment, modification, or change is in writing or approved by both parties.

4 **16. Entire Agreement.** This Agreement contains the entire agreement between the parties  
5 hereto. No promise, representation, warranty, or covenant not included in the Agreement has been or  
6 is relied upon by any party hereto.

7 **IN WITNESS WHEREOF**, the parties have executed this Agreement the day and  
8 year written above.

9 **MCDONOUGH HOLLAND & ALLEN**

**CITY OF CONCORD,  
REDEVELOPMENT AGENCY**

11 By: \_\_\_\_\_

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

12 Name: Edward J. Quinn, Jr.  
13 Title: Managing Shareholder

Name: Daniel E. Keen  
Title: Executive Director

14 APPROVED AS TO FORM:

ATTEST:

16 \_\_\_\_\_  
17 Agency Counsel

\_\_\_\_\_ Agency Secretary

18 Date: \_\_\_\_\_, 200\_\_

20 FINANCE DIRECTOR'S CERTIFICATION:

21 Concord, California

22 Date: \_\_\_\_\_, 200\_\_

24 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED  
25 DURING THE CURRENT FISCAL YEAR 2009/10 TO PAY THE ANTICIPATED  
26 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.

26 THE SUM OF \$150,000. Account Code 500 83001Z01 63158 \$125,000 and Account Code 240  
27 89001Z01 63158 - \$25,000.

28 \_\_\_\_\_  
Finance Director's Signature

1 EXHIBIT A

2 FEES AND COSTS

3  
4 CONSULTANT will bill time monthly on a straight hourly basis at the standard billing rates  
5 as established by the firm from time to time. A copy of the current billing rates for those attorneys  
6 who may perform work for the City of Concord / Concord Redevelopment Agency is incorporated  
7 below into this Exhibit A.

8 CONSULTANT charges clients for actual costs for travel and other extraordinary expenses  
9 such as courier services and express mail, but does not separately charge for long-distance telephone  
10 calls, copying, postage, etc., adding instead for these itemized charges a four percent (4%)  
11 administrative charge to the monthly billing.

12  
13 CURRENT BILLING RATES

14	Gerald Ramiza	\$295.00
15	Susanne Meyer Brown	\$255.00
16	Veronica Ramirez	\$235.00
17	Jennifer Peters	\$215.00
18	Catherine Dela Cruz	\$190.00