

EAST BAY REGIONAL PARK DISTRICT

RESOLUTION NO.: 2008-10-

October 16, 2008

AUTHORIZATION FOR PAYMENT OF LEGAL EXPENSES INCURRED BY
DIRECTOR JOHN SUTTER IN LITIGATION ENTITLED SUTTER v. DAVE
MACDONALD, ALAMEDA COUNTY REGISTRAR OF VOTERS (CASE NO.
RG08414883)

WHEREAS, the Board of Directors approved Ordinance No. 2008-08-200 placing Measure WW on the ballot in Alameda and Contra Costa Counties for the November 4, 2008 election; and

WHEREAS, Ordinance No. 2008-08-200 set forth the ballot question and official title of Measure WW; and

WHEREAS, the District recently discovered that the Alameda County Registrar of Voters omitted the title of Measure WW from the official Alameda County ballots; and

WHEREAS, California Elections Code section 13103 provides that “[e]very ballot shall contain ... [t]he titles ... of measures submitted ...” and section 13207(d) provides that “[a]ny measure that are to be submitted to the voters shall be printed [to allow for space] to contain the title and summary of each measure”; and

WHEREAS, the omission of the ballot title in the official ballot of Alameda County is significant because the ballot no longer reflects the measure language approved by the Board and because the ballot measure will now read differently in Alameda and Contra Costa Counties despite being a single district election; and

WHEREAS, the General Manager and District Counsel have met with the Registrar of Voters in an effort to resolve this matter; and

WHEREAS, it was determined necessary to file a lawsuit in order assert the District’s interest in having a uniform ballot; and

WHEREAS, pursuant to the Elections Code an individual voter and elector must file a lawsuit alleging that an error has occurred in the printing of the ballot; and

WHEREAS, Director Sutter agreed to act as the plaintiff in the lawsuit pending designation by the Board; and

WHEREAS, the Board finds that the District and the public have a significant interest in an accurate and uniform ballot question being presented to the voters in Alameda and Contra Costa Counties; and

WHEREAS, the Board finds that the expenditure of funds for legal representation is appropriate and serves the public purposes and interests of the residents of the District;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors designates Director Sutter to act on behalf of the Board in the matter of Sutter v. Dave Macdonald, Alameda County Registrar of Voters and authorizes the General Manager to pay the fees of The Sutton Law Firm in the matter and to act on behalf of the District, to act and deliver such documents and to do such acts as may be deemed necessary to accomplish the intentions of this resolution.

Moved by Director _____, seconded by Director _____, and adopted at a special meeting of the Board of Directors this 16th day of October 2008, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT: