

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

537



FROM: County Counsel

SUBMITTAL DATE:
July 5, 2012

SUBJECT: Waiver of Conflict of Interest

RECOMMENDED MOTION: That the Board of Supervisors consent to the waiver of conflict of interest and authorize County Counsel to sign the letter of consent of waiver for the law firm of Best Best & Krieger to represent the Western Riverside County Regional Conservation Authority (RCA) in the conveyance of real estate transactions.

BACKGROUND: Currently, the County retains the law firm of Best Best & Krieger (BBK) to represent the County's interest in a number of environmental transactions and California Environmental Quality Act litigation. BBK also desires to now represent RCA on the conveyance of County-owned properties to RCA real estate transaction. In this matter, BBK plans to represent RCA in preparing and drafting a memorandum of understanding and the conveyance documents as well as reviewing any documentation relevant to the acceptance of the real property interests by RCA.

Pamela J. Walls, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:
SOURCE OF FUNDS:			Positions To Be Deleted Per A-30 <input type="checkbox"/>
			Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:

Denise C. Harden

County Executive Office Signature

Policy

☒

Consent

☐

Policy

☒

Consent

☐

Dep't Recomm.:

Per Exec. Ofc.:

Prev. Agn. Ref.:

District:

Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.10

BACKGROUND (continued):

The request for a conflict of interest waiver by the law firm of BBK is prompted by Rule 3-310 of the California Rules of Professional Conduct, which provides, in pertinent part:

“(C) A member [of the Bar] shall not, without the informed written consent of each client:

(1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or

(2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or

(3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.”

County Counsel and the Economic Development Agency, Real Estate staff have reviewed the attached waiver of conflict of interest letter and are of the opinion that a conflict of interest would not arise in connection with the firm's representation of RCA or that the County's interests would be adversely affected by the firm's representation of RCA in this matter concurrently with representing and advising the County on CEQA issues and litigation.

Attachment:
Conflict of Interest Waiver Request Letter

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(949) 263-2600

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Ontario
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June 28, 2012

Pamela J. Walls, County Counsel
Office of the County Counsel
County of Riverside
3960 Orange Street, 5th Floor
Riverside, CA 92501

Re: Conveyance of County-Owned Properties to RCA

Dear Pam:

As you know, Best Best & Krieger LLP ("BBK") serves as general counsel to the Western Riverside County Regional Conservation Authority ("RCA"). RCA has asked BBK to represent the RCA with regard to the conveyance to RCA of up to fifteen (15) properties currently owned by the County of Riverside.

On occasion, in unrelated matters, BBK has and continues to represent the County. Because of that relationship, we have to inform you about our representation of the RCA, discuss with you the potential impact of our representation of the RCA in this case, and obtain your informed written consent.

RULES OF PROFESSIONAL CONDUCT

Rule 3-310 of the California Rules of Professional Conduct provides in pertinent part:

(C) A member [of the Bar] shall not, without the informed written consent of each client:

- (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or
- (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or



- (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

(D) A member who represents two or more clients shall not enter into an aggregate settlement of the claims of or against the clients without the informed written consent of each client.

OUR REPRESENTATION

We will continue to represent the RCA as general counsel. As such, we plan to assist RCA in drafting a Memorandum of Understanding and the review of other associated documents related to the conveyance of up to fifteen (15) properties from the County to RCA. We will not be representing the County in this matter, but plan to continue working with the County in other, unrelated matters.

ADVERSE CONSEQUENCES

We are obliged to inform you of any actual or reasonably foreseeable adverse effects of this representation. It is possible that future, as yet not existing, conflicts between the RCA and the County could develop into contentious disputes and result in litigation. At this point, BBK would need to withdraw from representing either one or both parties. Furthermore:

- We may be tempted to favor the interests of one client over the other.
- Our exercise of independent judgment to the County may be impaired or clouded by our pre-existing relationship with the RCA.
- We may not be able to present the appropriate position, claims or defenses for a client in order to avoid taking adverse positions to the other client.
- We may be restricted from forcefully advocating a client's position for fear of alienating the other client.
- We may be forced to withdraw from representing either or both clients because of disputes or further conflicts of interest which could increase either or both clients' attorney's fees and costs.
- There may be an appearance of impropriety in our representation of both clients simultaneously.



YOUR CONSENT

It is understood that this consent will not waive any protection that you may have with regard to attorney-client communications with us. Those communications will remain confidential and will not be disclosed to any third party without your consent.

I believe that you are familiar with the factual background in this matter, and I have given you a sufficiently-detailed description for obtaining informed written consent. However, if you believe that there is any other information that you or I need to have before such consent can be granted, please let me know immediately.

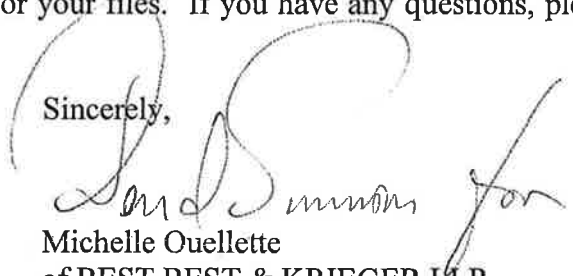
In the event that circumstances change or we become aware of new information that requires a new consent from the parties, you will be notified of that fact immediately, and continued representation will be subject to the informed written consent of involved parties.

I should emphasize that you are entitled to and should consider obtaining an independent legal opinion regarding the advisability of signing this consent form.

Your execution of this consent form will constitute an acknowledgment of full disclosure in compliance with the requirements of Section 3-310 of the California Rules of Professional Conduct previously quoted in this letter. Further, your execution of this consent form will also warrant that you are authorized to execute this consent form on behalf of the County.

A copy of this letter is enclosed for your files. If you have any questions, please do not hesitate to call.

Sincerely,



Michelle Ouellette
of BEST BEST & KRIEGER LLP

AGREED AND ACCEPTED:

By: _____

Dated: _____