

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

416



FROM: Assessor-County Clerk-Recorder

SUBMITTAL DATE:
February 5, 2014

SUBJECT: Amendment to Legal Services Agreement with outside counsel Barth, Tozer & Daly, LLP
[\$45,000] Source- General Fund, All Districts

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached amendment to the Legal Services Agreement with outside counsel Barth, Tozer & Daly, LLP, in an amount not to exceed \$205,000 in accordance with the provisions of Board Policy A-18, permitting waiver of a request for proposal;
2. Authorize the Chairman to execute the agreement; and
3. Approve and direct the Auditor-Controller to make the budget adjustments shown on Attachment A.

BACKGROUND:

Summary

Riverside County Superior Court Case No. RIC 1103506, *Tenet Healthsystem Desert, Inc., et al. vs. County of Riverside, et al.* (the "Lawsuit") is for a refund of Ad Valorem Real Property Taxes. The real property that is the subject of the Lawsuit is the Desert Regional Medical Center in Palm Springs, California, with the principal amount of property taxes in dispute being approximately \$1.1 million.

FISCAL PROCEDURES APPROVED
PAUL ANGIULO, CPA, AUDITOR-CONTROLLER
BY: [Signature]

[Signature]
Larry Ward
Assessor-County Clerk-Recorder

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 45000	\$ 0	\$ 45,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 45000	\$ 0	\$ 45,000	\$ 0	

SOURCE OF FUNDS: General Fund (10000-1102900000) **Budget Adjustment:** yes
For Fiscal Year: 2014

C.E.O. RECOMMENDATION: APPROVE
BY: [Signature]
Karen L. Johnson
County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: February 25, 2014
xc: AGR, Auditor

Kecia Harper-Ihem
Clerk of the Board
By: [Signature]
Deputy

Prev. Agn. Ref.: 5/15/12; 3.6 | District: ALL | Agenda Number:

3-6

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 2/7/14
DATE
L. ALEXANDRA FONG

Departmental Concurrence

- A-30
- Positions Added
- 4/5 Vote
- Change Order

BACKGROUND:

Summary (continued)

The Lawsuit is one to recover taxes that were assessed and paid over seven tax years. The Lawsuit concerns complex issues of fact and law dealing with property valuation, including 91 valuation opinions concerning the Desert Regional Medical Center.

The sum total budget for outside counsel defending the Lawsuit is estimated to be \$205,000, which is expected to be expended during the current fiscal year (2013 – 2014.)

The Lawsuit is nearing completion. To the extent this matter is appealed, the County Counsel will be handling the appeal.

Impact on Citizens and Businesses

N/A.

SUPPLEMENTAL:

Additional Fiscal Information

We are waiting for a decision from the Court on this matter. At least one post-trial hearing has been scheduled in March and more may be set by the Court or the parties in order to clarify the decision from the Court. The amount requested would include fees for any associated legal research and preparation of documents which may be necessary.

Contract History and Price Reasonableness

The original contract was approved by the Board of Supervisors on May 15, 2012 in the amount not to exceed \$160,000. This amount has been expended and additional cost of \$45,000 is required to finish this court case. We believe it is for the county's best interest that it retains its current counsel Barth, Tozer & Daly, LLP through the conclusion of the case which is now nearing conclusion.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Amendment to Legal Services Agreement with outside counsel Barth, Tozer & Daly, LLP**

DATE: February 5, 2014

[\$45,000] Source- General Fund, All Districts

PAGE: 3 of 3

**Attachment A
Budget Adjustments**

Decrease Appropriations:

10000-1109000000-581000 Appropriations for Contingency \$45,000

Increase Appropriations:

10000-1102900000-525020 Legal Services \$45,000

FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT

This FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT, dated as of April 29, 2014, is entered by and between COUNTY OF RIVERSIDE (hereinafter called "COUNTY") and Barth Tozer & Daly LLP (hereinafter called "ATTORNEYS.")

RECITALS

A. COUNTY and ATTORNEYS are parties to that certain Agreement approved by the Board of Supervisors on May 15, 2012, for Legal Services ("Agreement.")

B. The Agreement limits the total amount of compensation to be paid to the ATTORNEYS to One Hundred Sixty Thousand Dollars (\$160,000) for representation in *Tenet Healthcare System Desert Inc. and Tenet Healthcare Corporation v. County of Riverside*, Riverside Superior Court Case No. 1103506 (except for any appeal(s) or any extraordinary writ(s),) unless a written amendment to the Agreement is executed by both parties prior to the performance of any additional services.

C. COUNTY and ATTORNEYS desire to amend the Agreement to provide a revised and increased amount of total compensation to be paid to ATTORNEYS.

D. COUNTY and ATTORNEYS desire to amend the Agreement to provide a revised address for notices to be sent.

NOW, THEREFORE, the parties do hereby agree to amend that certain Agreement as follows:

1. Section 4. COMPENSATION shall be amended in its entirety to read as follows:

4. COMPENSATION. COUNTY shall pay ATTORNEYS at the following hourly rate for services rendered.

<u>Partner</u>	<u>Litigation/Special Project Rates</u>	<u>Transaction/General Advice Rates</u>
Thomas Barth	\$250 per hour	\$250 per hour

4.1 The total amount of compensation paid to ATTORNEYS under the terms of this Agreement shall not exceed the amount of Two Hundred Five Thousand Dollars and Zero Cents (\$205,000.00.)

This amount may be amended by the parties to this Agreement, provided a written amendment is executed by both parties prior to performance of any additional services. ATTORNEYS

02.25.14 34

1 shall notify the COUNTY immediately in writing when ATTORNEYS have expended seventy-five
2 (75%) of the total payment by COUNTY beyond the approved compensation.

3 2. Section 9. NOTICES shall be amended in its entirety to read as follows

4 9. NOTICES. Any and all notices and required reports shall be written and hand-delivered or
5 mailed by first class, postage prepaid, addressed to the COUNTY or ATTORNEYS at the
6 following addresses below, or at any other address COUNTY or ATTORNEYS shall provide in
7 writing to each other:

8 Riverside County Counsel
3960 Orange Street, Suite #500
9 Riverside, CA 92501
ATTN: L. Alexandra Fong

Barth Tozer & Daly LLP
431 I Street, Suite 201
Sacramento, CA 95814
ATTN: Thomas Barth

11 AGREEMENT IN FULL FORCE AND EFFECT. Except as provided above, the Agreement is
12 unmodified hereby and remains in full force and effect.

13
14 COUNTY OF RIVERSIDE

15 Dated: 4/29/14

16 By: Jeff Stone
17 Jeff Stone, Chairman
Board of Supervisors

18 BARTH TOZER & DALY LLP

19 Dated: 4/1/14

20 By: Thomas Barth
21 Thomas Barth, Esq.

22 APPROVED AS TO FORM
23 Pamela Walls, County Counsel

24 Dated: 4/29/14

25 By: L. Alexandra Fong
26 L. Alexandra Fong, Deputy County Counsel

27
28
ATTES t.
KECIA HARPER-IHEM Clerk
By: [Signature] DEPUTY