

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

323 A



FROM: TLMA – Transportation Department

SUBMITTAL DATE:
April 16, 2014

SUBJECT: Amendment No. 1 to the Legal Services Agreement Between the County of Riverside and Best Best & Krieger, LLP for Professional Services for the Magnolia Avenue Grade Separation Project and the Magnolia Avenue and Neece Street Traffic Signal Project. District 2/District 2; [\$400,000]; Local Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the attached Amendment No. 1 to the Legal Services Agreement Between the County of Riverside and Best Best & Krieger, LLP for the Magnolia Avenue Grade Separation Project and the Magnolia Avenue and Neece Street Traffic Signal Project; and
2. Authorize the Chairman of the Board of Supervisors to execute the same.

BACKGROUND:

Summary

The Magnolia Avenue Grade Separation Project will replace the existing Magnolia Avenue/Burlington Northern Santa Fe (BNSF) at-grade railroad crossing in the community of Home Gardens and improve safety and traffic operations by eliminating the conflict of trains passing through the flow of vehicular traffic. Construction will begin in April 2014.

Patricia Romo

Assistant Director of Transportation

Juan C. Perez

Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 150,000	\$ 150,000	\$ 400,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: Gas Tax (100%)

There are no General Funds used in this project.

Budget Adjustment: No

For Fiscal Year: 13/14, 14/15

C.E.O. RECOMMENDATION:

APPROVE

BY:

Karen L. Johnson

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Tavaglione 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: April 29, 2014
xc: Transp.

Kecia Harper-Ihem
 Clerk of the Board
 By:
 Deputy

Prev. Agn. Ref.: 2/5/13, Item 3-49

District: 2/2

Agenda Number:

3-22

FORM APPROVED COUNTY COUNSEL
 BY: ANNA W. WANG
 DATE: 4/16/14
 Departmental Concurrence

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

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Amendment No. 1 to the Legal Services Agreement Between the County of Riverside and Best Best & Krieger, LLP for Professional Services for the Magnolia Avenue Grade Separation Project and the Magnolia Avenue and Neece Street Traffic Signal Project. District 2/District 2; [\$400,000]; Local Funds 100%

DATE: April 16, 2014

PAGE: 2 of 2

BACKGROUND:

Summary (continued)

The Magnolia Avenue and Neece Street Traffic Signal Project was completed in the summer of 2013 and has improved the safety and operation of the intersection in the community of Home Gardens.

Both of these projects required the acquisition of property along Magnolia Avenue. The County of Riverside (County) has obtained possession of the needed properties for the projects; however, due to complex legal issues arising from the acquisition of the properties, legal counsel and services are needed. We have been able to successfully negotiate a settlement with 17 of the 20 property owners impacted, but still have three outstanding.

On February 5, 2013, the Board of Supervisors approved Agenda Item 3-49, a Professional Service Agreement between the County and Best Best & Krieger, LLP for legal counsel and services in the amount of \$250,000 for the Magnolia Avenue Grade Separation Project and the Magnolia Avenue and Neece Street Signal Project.

The legal services agreement between the County and Best Best & Krieger, LLP provides legal counsel and services necessary and appropriate to the defense and/or settlement of litigation brought against the County by property owners associated with the Magnolia Avenue Grade Separation Project and the Magnolia Avenue and Neece Street Traffic Signal Project. The bulk of these services are needed for negotiating and pursuing legal action, if necessary, with Union Pacific Railroad. The railroad owns the median corridor through Magnolia Avenue; and, although the County has been negotiating with the railroad for several years, we have been unsuccessful in reaching an agreement.

This amendment to the agreement increases the total amount of compensation to be paid to the attorneys to \$400,000 and extends the term of the agreement to December 31, 2015, or completion of the last work assignment, whichever occurs first. It is expected that this amended contract amount and revised contract term will provide the needed additional services to conclude negotiation and legal action for the remaining three properties.

County Counsel has approved the Agreement as to form.

Impact on Residents and Businesses

The project improvements along Magnolia Avenue will improve the safety and operation of the road for vehicles, trains, and pedestrians.

SUPPLEMENTAL:

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

1 **FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES WITH**
2 **BEST BEST & KRIEGER LLP**

3
4 THIS FIRST AMENDMENT is entered into as of April 29, 2014, and is made by and
5 between THE COUNTY OF RIVERSIDE, (hereinafter referred to as "County") and BEST BEST &
6 KRIEGER LLP (herein after referred to as "ATTORNEYS").

7
8 **RECITALS**

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10 A. COUNTY and ATTORNEYS are parties to that certain Legal Services Agreement
11 approved by the Board of Supervisors on February 5, 2013, for Legal Services ("Agreement").
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13 B. The Agreement increases the total amount of compensation to be paid to the
14 ATTORNEYS to an additional One Hundred and Fifty Thousand Dollars (\$150,000.00) for the Fiscal
15 Year of (2013/2014) and (2014/2015) and amends the prior Agreement in this matter to reflect this
16 monetary increase.
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18 C. COUNTY and ATTORNEYS desire to amend the Agreement to provide a revised amount
19 of total compensation to be paid to ATTORNEYS and to extend the term of the agreement to December
20 31, 2015, and to allow any unused funding within a single fiscal year to be carried over into the next fiscal
21 year.
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23 NOW, THEREFORE, the parties do hereby agree to amend that certain Agreement as follows:

- 24 1. Section 1. TERM OF AGREEMENT shall be amended in its entirety to read as follows:
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1. TERM OF AGREEMENT. This Agreement shall commence upon execution, and continue until December 31, 2015, or completion of the last work assignment, whichever occurs first, unless sooner terminated pursuant to Section 5 or Section 13.

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

4. COMPENSATION

4.1 The total amount of compensation paid to ATTORNEYS under the terms of this Agreement shall not exceed the sum of Four Hundred Thousand Dollars (\$400,000.00) in Fiscal Years 2013/2014 and 2014/2015, unless a written amendment to this agreement is executed by both parties prior to performance of any additional services. The amount of compensation paid to ATTORNEYS will include reimbursable costs including, but not limited to, appraisers and experts. ATTORNEYS shall notify the COUNTY immediately in writing when ATTORNEYS have expended seventy-five (75%) of the total payment by COUNTY beyond the approved compensation. A written amendment shall be a condition precedent to any obligation for payment by COUNTY beyond the approved compensation.

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

IN WITNESS WHEREOF, the parties have caused their duly authorized representative to execute this agreement on the date noted below:

COUNTY OF RIVERSIDE

Dated: _____


By: _____

Jeff Stone, Chairman

Board of Supervisors

BEST BEST & KRIEGER LLP

Dated: April 11, 2014

By:  _____

Kendall H. MacVey, Esq.

Mark A. Easter, Esq.

APPROVED AS TO FORM

Dated: _____

By: _____

Anna W. Wang, Deputy County Counsel

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COUNTY OF RIVERSIDE

Dated: 4/29/14

By: Jeff Stone
Jeff Stone, Chairman
Board of Supervisors

ATTEST:
KECIA HARPER-HEM, Clerk
BY: [Signature]
DEPUTY

BEST BEST & KRIEGER LLP

Dated: April 11, 2014

By: [Signature]
Kendall H. MacVey, Esq.
Mark A. Easter, Esq.

APPROVED AS TO FORM

Dated: 4/16/14

By: [Signature]
Anna W. Wang, Deputy County Counsel

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