

**ATTACHMENT R**

**AGREEMENT FOR CONSULTING SERVICES**

**THIS AGREEMENT** for Consulting Services (“Agreement”) is made and entered into this 3<sup>rd</sup> day of January 2023 by and between the COUNTY COUNSEL of the County of Orange, State of California, hereinafter referred to as “COUNTY COUNSEL,” and BDG Law Group, hereinafter referred to as “CONSULTANT.”

**RECITALS**

**WHEREAS**, the COUNTY OF ORANGE (the “County”) is responsible for acquiring the property rights necessary for the widening of Brookhurst Street in Anaheim. The County will be required to adopt resolutions of necessity (“RONs”) to acquire subject property interests before outside counsel files eminent domain actions. The RONs will be presented to the Board of Supervisors on or around March 28, 2023, at which time the Board will also engage outside counsel.

**WHEREAS**, the Office of County Counsel, as the County’s attorneys, requires the assistance of CONSULTANT in investigating and analyzing certain issues, preparing the RONs and reviewing the property acquisitions; and

**WHEREAS**, COUNTY COUNSEL is authorized to enter into this contract pursuant to Government Code sections 27645, 29601 and 53065;

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants and conditions herein contained, the parties hereto agree as follows:

**ARTICLE I**

**SCOPE OF SERVICES TO BE PERFORMED**

Upon receipt of a request for services from COUNTY COUNSEL, CONSULTANT shall meet with the appropriate COUNTY COUNSEL personnel, either by person, or over the phone, to discuss the work required. CONSULTANT shall assist COUNTY COUNSEL and various County department and agencies with preparing to file eminent domain action(s) to obtain the property interests required for the Brookhurst Street widening project. The Orange County Legal Team (the “OC Legal Team”) will include the certain designated County employees from these departments and agencies, and/or other County consultants, and such individuals and staff necessary to the assist in the matter.

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**ARTICLE II  
INDEPENDENT CONTRACTOR**

CONSULTANT shall be considered an independent contractor and shall not be considered an agent or an employee of the County. CONSULTANT shall not qualify for workers’ compensation or other fringe benefits of any kind through the County.

**ARTICLE III  
COMPENSATION**

For CONSULTANT’s services, subject to a budget and any limitations to be approved and imposed, respectively, by COUNTY COUNSEL, CONSULTANT shall charge a fee as outlined herein: The hourly rates, reflected in Attachment “A”, incorporated herein by this reference, will apply through the term of this agreement.

The total billing budget for services under this Agreement is not to exceed \$35,000. Pursuant to the approval of County Counsel, the budget can be increased as necessary.

Pre-contractual expenses are not to be included in the compensation for CONSULTANT’s services. Pre-contractual expenses include time spent negotiating with COUNTY regarding the terms of this Contract and any other expenses incurred by the CONSULTANT prior to the date of execution of the Contract.

**ARTICLE IV  
METHOD OF PAYMENT**

CONSULTANT shall present itemized invoices indicating services rendered under this Agreement. The invoices shall indicate the number of hours worked, and shall in addition include the date, task and rate of each member or employee of the CONSULTANT whose services are the subject of the billing. COUNTY COUNSEL shall pay CONSULTANT at the hourly rates and shall reimburse CONSULTANT’s costs at the amounts listed in Attachment “A”. Invoices are to be submitted to County Counsel within 30 days following the performance of the services referenced therein. The responsibility for providing an acceptable invoice rest with the CONSULTANT.

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**ARTICLE V**

**PRIVILEGES AND CONFIDENTIALITY**

All communications and discussions with COUNTY COUNSEL and the OC Legal Team are subject to and protected by the Attorney-Client and Attorney Work Product Privileges and are confidential, not to be disclosed to third parties.

All reports, letters, etc., and communications prepared by or engaged in by CONSULTANT are being prepared and/or engaged in to serve as a basis for COUNTY COUNSEL’s advice to its client and for preparation for litigation. CONSULTANT acknowledges that such reports, letters, communications etc., are confidential and shall take all necessary steps to ensure that neither CONSULTANT nor his/her employees will divulge said reports, letters, communications etc., or the information therein contained to anyone other than COUNTY COUNSEL or a member of COUNTY COUNSEL staff. Accordingly, CONSULTANT agrees to mark all reports, letters, analyses, and communications “CONFIDENTIAL ATTORNEY WORK PRODUCT” unless otherwise directed by COUNTY COUNSEL. CONSULTANT also agrees to orally inform COUNTY COUNSEL as to the basic content of any report before it is prepared in writing.

**ARTICLE VI**

**ASSIGNMENT**

This Agreement is not assignable except upon written approval by COUNTY COUNSEL and any other purported assignment shall be void.

**ARTICLE VII**

**USE OF SUBCONTRACTORS**

The use of subcontractors is not authorized without the prior written consent of the County.

**ARTICLE VIII**

**OWNERSHIP OF DOCUMENTS**

All documents, notes, computations, detail and any other materials prepared by CONSULTANT shall become the property of COUNTY COUNSEL at the time of their preparation and shall be delivered to COUNTY COUNSEL by CONSULTANT at the request of COUNTY COUNSEL, except that

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CONSULTANT shall be permitted to retain a copy of such materials. CONSULTANT agrees not to use such documents for any other purposes without the written authorization of COUNTY COUNSEL.

**ARTICLE IX**

**INDEMNIFICATION**

CONSULTANT agrees to indemnify and hold harmless COUNTY COUNSEL and the County and their officers, agents, and employees from all claims and losses resulting or accruing to COUNTY COUNSEL, the County, and/or their officers, agents, and employees arising from any misconduct, negligence, or negligent omissions by CONSULTANT in the performance of this Agreement.

**ARTICLE X**

**NOTICES**

Notices, invoices and correspondence in connection with this agreement shall be addressed as set forth below or as either party may hereinafter designate by written notice to the other:

County of Orange  
Office of the County Counsel  
County Administration North (CAN) Building  
400 West Civic Center Drive, Suite 202  
P.O. Box 1379, Santa Ana, California 92702-1379  
Attn: Nicole M. Walsh, Senior Assistant County Counsel

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement on the day and year noted below.

DATED: January 24, 2023

LEON J. PAGE, COUNTY COUNSEL  
and NICOLE M. WALSH, SR. ASSISTANT

By: Nicole Walsh  
Nicole M. Walsh, Senior Assistant

Dated: January 24, 2023

BDG Law Group

By: Brian Bergman  
Brian Bergman, Esq.

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**ATTACHMENT R**

**ATTACHMENT A**

**COMPENSATION, INVOICING AND PAYMENT**

**A. Hourly Rate Schedule**

<b>STAFFING LEVEL</b>	<b>HOURLY RATE</b>
SUPERVISING (LEAD) ATTORNEY	\$350.00
PARTNERS	\$350.00
OF COUNSEL/SENIOR COUNSEL	\$325.00
SENIOR ASSOCIATES	\$290.00
ASSOCIATES	\$250.00
PARALEGALS	\$125.00
LAW CLERKS	N/A

CONSULTANT shall not be compensated for “travel time.” Itemized receipts/backup documentation for reimbursable expenses must be submitted with the invoice.

**THE COUNTY WILL NOT PAY ANY CONSULTANT HOURLY RATE FOR TIME SPENT TRAVELING, REGARDLESS OF THE FORM OF TRANSPORTATION (AUTOMOBILE, AIR, ETC.). FOR POLICIES RELATED TO TRAVEL EXPENSE REIMBURSEMENT SEE SECTION A.2, BELOW.**

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**ATTACHMENT A**

**COMPENSATION, INVOICING AND PAYMENT**

**B. Expenses**

County shall reimburse CONSULTANTS for their actual out-of-pocket expenses without mark-up, excluding expenses generally considered as overhead already reflected in the CONSULTANT's hourly rates.

1. Reimbursable ordinary expenses shall include, but not be limited to:

- a) Transcript fees.
- b) Postage.
- c) Messenger service.
- d) Process service.
- e) Document reproduction by outside vendor.
- f) In-house document production. If amount charged in any one month exceeds \$500.00, prior County Counsel approval shall be obtained.

2. Reimbursable extraordinary expenses include charges of which CONSULTANTS have obtained County Counsel's prior approval. Such expenses include, but shall not be limited to:

- a) Travel outside the Counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego. Such extraordinary expenses shall be reimbursed at the IRS prevailing rate for mileage only.
- b) Investigative services.
- c) Any expense item exceeding Five Hundred Dollars (\$500.00).

3. Non-Reimbursable expenses include, but shall not be limited to:

- a) Staff time or overtime for performing secretarial, clerical, or word processing functions.
- b) Charges for time spent to provide necessary information for County audits or billing inquiries.
- c) Charges for work performed which had not been authorized by County Counsel. Such work shall be gratuitous effort by CONSULTANT.

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- d) Mileage, travel expenses or telephone expenses within the counties of Orange, Los Angeles, San Bernardino, Riverside, Imperial, Kern, Ventura, Santa Barbara and San Diego.

**BILINGS AND PAYMENTS**

**C. Billings**

1. CONSULTANTS shall submit monthly billing statements in arrears, no later than the tenth (10th) of the month following the month service was rendered.

2. The original billing statement(s) and shall be submitted to:

County of Orange  
 Office of the County Counsel  
 County Administration North (“CAN”) Building  
 400 W. Civic Center Drive, Suite 202  
 Post Office Box 1379, Santa Ana, CA 92702-1379  
 Attn: Nicole M. Walsh, Senior Assistant County Counsel

- a) Matter names.
- b) Staffing level(s), hourly rates and specific activities for each CONSULTANT.
  - 1) Each activity shall be billed separately as a line item in a time reporting format acceptable to County Counsel.
  - 2) A detailed description of specific activities for each CONSULTANT.
- c) Total current cumulative monthly fees billed for each staffing level.
- d) Total current monthly expenses billed.
- e) The total cumulative expenses to date billed in (d) directly above.

**D. Payments**

County shall make payment(s) for services rendered under this Agreement monthly in arrears based on the monthly itemized billing statement(s) CONSULTANT submit to County. County shall make its best effort to process payments promptly after receiving CONSULTANT’s monthly billing statement. County shall not pay interest or finance charges on any outstanding balance(s).

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