

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Jessica Sandifer, Management Analyst 

DATE: April 29, 2013 (CC Meeting of May 15, 2013)

SUBJECT: Consider Amendment to Agreement with BJ Palmer and Associates, Inc. for Analysis of the Relocation of Electrical Utility Facilities for the Essex Site to Waive Conflict of Interest

BACKGROUND

In March 2009, the City entered into a Real Property Acquisition Agreement (the "Agreement") with Essex Portfolio L.P. to obtain the vehicular access driveway used by the United States Postal Service for their new building on High Street. Essex had previously designed the relocation of the power poles for their 200-unit apartment project to run through the area now occupied by the Post Office parking lot. A condition of the Agreement to purchase the driveway area for the Post Office requires the City to pay for a redesign of the Essex Southern California Edison 66kv Pole Relocation Plan, previously prepared by RJR Engineering for Essex.

On March 20, 2013, the City Council approved an Agreement with BJ Palmer and Associates for the redesign work. The City's standard Professional Services Agreement was signed for this work.

DISCUSSION

The City's standard Professional Services Agreement contains language restricting current contractors of the City from working for land developers with active entitlements within the City for one year before and after the Consultant's contract expires. After agreeing to work with the City, BJ Palmer was approached by Essex to design and prepare drawings for the dry utility runs that will service Essex's apartment project on Casey Road. BJ Palmer and Associates notified staff immediately and has requested the City's permission to work with Essex, only if the City does not believe a conflict exists. Staff does not believe that the work to design the dry utility service and the work to relocate the 66kv electrical service and distribution lines are conflicting in nature. Staff is recommending that the conflict of interest clause be waived in BJ Palmer's agreement to allow them to work on the dry utility plans for Essex. The conflict of

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interest waiver amendment would be approved only for the work identified in this report.

FISCAL IMPACT

There is no fiscal impact as a result of the conflict of interest waiver.

STAFF RECOMMENDATION

Approve Amendment to Agreement with BJ Palmer and Associates, Inc. subject to final language approval of the City Attorney and City Manager.

Attachment 1 – Amendment #1

ATTACHMENT 1

**AMENDMENT # 1
TO AGREEMENT BETWEEN THE CITY OF MOORPARK AND
BJ PALMER AND ASSOCIATES, INC. FOR ANALYSIS OF OPTIONS FOR ESSEX
66KV ELECTRICAL FACILITY RELOCATION, DESIGN, AND PERMITTING OF THE
SELECTED OPTION**

THIS FIRST AMENDMENT TO AGREEMENT, is made and effective as of this _____ day of _____, 2013, between the City of Moorpark, a municipal corporation, hereinafter referred to as "City" and BJ Palmer and Associates, Inc., a corporation, hereinafter referred to as "Contractor".

WITNESSETH

WHEREAS, on April 4, 2013, the City and Contractor entered into an Agreement for analysis of options for the Essex 66kv electrical facility relocation, design, and permitting of the selected option; and

WHEREAS, subsequent to the signing of that Agreement, BJ Palmer and Associates, Inc., was approached by Essex to perform utility planning work for their development project in Moorpark; and

WHEREAS, the nature of the two work scopes does not present a conflict of interest and are in fact complimentary to the other.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree to amend the aforesaid Agreement as follows:

I. Section 16, Conflict of Interest is amended to include:

Section 16 is waived only for work Consultant does to design and construct the dry utility plans for Essex Property Trust Inc.

II. Remaining Provisions

All other provisions of the aforesaid Agreement shall remain in full force and effect.

CITY OF MOORPARK:

BJ PALMER AND ASSOCIATES, INC.

Steven Kueny, City Manager

Bruce J. Palmer, President

ATTEST:

Maureen Benson, City Clerk