



CITY OF BUELLTON

CITY COUNCIL AGENDA

**Regular Meeting of November 8, 2018 at 6:00 p.m.
City Council Chambers, 140 West Highway 246
Buellton, California**

Materials related to an item on this agenda, as well as materials submitted to the City Council after distribution of the agenda packet, are available for public inspection in the Office of the City Clerk, located at 107 West Highway 246, during normal business hours.

CALL TO ORDER

Mayor Holly Sierra

PLEDGE OF ALLEGIANCE

ROLL CALL

Council Members Ed Andrisek, Art Mercado, Vice Mayor Dave King, and Mayor Holly Sierra

REORDERING OF AGENDA

PUBLIC COMMENTS

Speaker Slip to be completed and turned in to the City Clerk prior to commencement of meeting. Any person may address the Council on any subject pertaining to City business, including all items on the agenda not listed as a Public Hearing, including the Consent Agenda and Closed Session. Limited to three (3) minutes per speaker. By law, no action may be taken at this meeting on matters raised during Public Comments not included on this agenda. Public Speakers using a translator are allotted a total of six (6) minutes to speak, unless simultaneous translation equipment is used.

CONSENT CALENDAR

(ACTION)

The following items are considered routine and non-controversial and are scheduled for consideration as a group. Any Council Member, the City Attorney, or the City Manager may request that an item be withdrawn from the Consent Agenda to allow for full discussion. Members of the Public may speak on Consent Agenda items during the Public Comment period.

- 1. Minutes of October 25, 2018 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2018/19**

PRESENTATIONS

- 3. Proclamation Supporting the Healthy Eating Active Living Campaign in the City of Buellton**

PUBLIC HEARINGS**COUNCIL MEMBER COMMENTS/ITEMS****WRITTEN COMMUNICATIONS**

Written communications are included in the agenda packets. Any Council Member, the City Manager or City Attorney may request that a written communication be read into the record.

COMMITTEE REPORTS

This Agenda listing is the opportunity for Council Members to give verbal Committee Reports on any meetings recently held for which the Council Members are the City representatives thereto.

BUSINESS ITEMS**(POSSIBLE ACTION)**

- 4. Award of Contract for City Attorney Services**
❖ (Staff Contact: City Manager Marc Bierdzinski)
- 5. Review and Approval of One-Year Contract Extensions for MNS Engineers and Tetra Tech, Inc.**
❖ (Staff Contact: Public Works Director Rose Hess)
- 6. Resolution No. 18-21 – “A Resolution of the City Council of the City of Buellton, California, Adopting Updated Personnel Rules for City Employees”**
❖ (Staff Contact: H.R. Director Linda Reid)

CITY MANAGER’S REPORT**CLOSED SESSION ITEMS****(POSSIBLE ACTION)**

- 7. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Threat of litigation pursuant to Government Code Section 54956.9(d)(2) [Letter from Kevin I. Shenkman dated September 28, 2018]
- 8. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Initiation of litigation pursuant to Government Code Section 54956.9, subdivision (d)(4) (one case)

ADJOURNMENT

The next meeting of the City Council will be held on Thursday, December 13, 2018 at 6:00 p.m.

CITY OF BUELLTON

CITY COUNCIL MEETING MINUTES
Regular Meeting of October 25, 2018
City Council Chambers, 140 West Highway 246
Buellton, California

CALL TO ORDER

Mayor Sierra called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Council Members Ed Andrisek and Art Mercado, Vice Mayor Dave King and Mayor Holly Sierra

Staff: City Manager Marc Bierzinski, City Attorney Greg Murphy, Public Works Director Rose Hess, Planning Director Andrea Keefer, Finance Director Shannel Zamora, Lt. Eddie Hsueh, and City Clerk Linda Reid

PUBLIC COMMENTS

Caroline Abate, spoke about school curriculum and the Santa Barbara school elections.

Shawn Steiner, Buellton spoke about the marijuana plant odor coming from the county and how it affects residents of Buellton.

Michael Baker, representing the United Boys and Girls Clubs of Santa Barbara County handed out gold cards to Buellton students who have not missed any school days this year.

CONSENT CALENDAR

- 1. Minutes of September 27, 2018 Regular City Council Meeting**
- 2. List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2018/19**
- 3. Financial Report for First Quarter Ending September 30, 2018**
- 4. Monthly Treasurer's Report – September 30, 2018**

5. **Extension of Existing Contract with Metro Ventures Ltd. for Irma L. Tucker to Provide Professional Planning Services**
6. **Filing of an Amended 2018-19 Claim with the Santa Barbara County Association of Governments (SBCAG) for State Transit Assistance (STA) Fund 2017-18 Apportionments**
7. **Acceptance and Filing of Stormwater Management Program (SWMP) Annual Report FY 2017-2018**

MOTION:

Motion by Vice Mayor King, seconded by Council Member Mercado, approving Consent Calendar Items 1 through 7 as listed.

VOTE:

Motion passed by a roll call vote of 4-0.

Council Member Andrisek – Yes

Council Member Mercado – Yes

Vice Mayor King – Yes

Mayor Sierra – Yes

PRESENTATIONS

8. **Proclamation Honoring the Parent Teacher Student Association (PTSA)**

Mayor Sierra presented Tracy Hawxhurst with a proclamation honoring Jonata-Oak Valley Parent Teacher Student Association (PTSA). Ms. Hawxhurst accepted the proclamation on behalf of the PTSA and thanked the Council for their support.

PUBLIC HEARINGS

None

COUNCIL MEMBER COMMENTS/ITEMS

Mayor Sierra announced that she and Council Member Andrisek attended the SpaceX launch and said it was amazing. Mayor Sierra announced she toured the Santa Maria Valley Humane Society and met with Goleta City staff regarding the Buellton Library. Mayor Sierra stated she attended the Santa Barbara County Association of Governments Bike Workshop and said it was well attended. Mayor Sierra requested that residents take a survey at peopleforbikes.org so Buellton can receive free bike gear.

WRITTEN COMMUNICATIONS

None

COMMITTEE REPORTS

Council Member Andrisek announced that he attended the Central Coast Water Authority (CCWA) Board Meeting and provided an oral report regarding the meeting.

Mayor Sierra announced that she attended board meetings for Santa Barbara County Association of Governments (SBCAG) and Air Pollution Control District (APCD) and provided oral reports regarding the meetings.

BUSINESS ITEMS

- 9. Resolution No. 18-19 - “A Resolution of the City Council of the City of Buellton, California, Supporting the Region’s Election to Become Exempt from the State’s Congestion Management Program”**

RECOMMENDATION:

That the City Council consider adoption of Resolution No. 18-19.

STAFF REPORT:

Public Works Director Hess presented the staff report.

DOCUMENTS:

Staff report with attachments as listed in the staff report.

SPEAKERS/DISCUSSION:

Marjorie Kirn, representing Santa Barbara County Association of Governments (SBCAG) spoke about the Congestion Management Program.

MOTION:

Motion by Council Member Mercado, seconded by Vice Mayor King approving Resolution No. 18-19 – “A Resolution of the City Council of the City of Buellton, California, Supporting the Region’s Election to Become Exempt from the State’s Congestion Management Program”

VOTE:

Motion passed by a roll call vote of 4-0.

Council Member Andrisek - Yes

Council Member Mercado – Yes

Vice Mayor King - Yes

Mayor Sierra – Yes

10. Resolution No. 18-20 – “A Resolution of the City Council of the City of Buellton, California, for the Purpose of Budget Amendments from Operational Changes Related to Fiscal Year 2018-19 Budget through the First Quarter Ending September 30, 2018”

RECOMMENDATION:

That the City Council consider adoption of Resolution No. 18-20.

STAFF REPORT:

Finance Director Zamora presented the staff report.

DOCUMENTS:

Staff report with attachments as listed in the staff report.

MOTION:

Motion by Vice Mayor King, seconded by Council Member Andrisek approving Resolution No. 18-20 – “A Resolution of the City Council of the City of Buellton, California, for the Purpose of Budget Amendments from Operational Changes Related to Fiscal Year 2018-19 Budget through the First Quarter Ending September 30, 2018”

VOTE:

Motion passed by a roll call vote of 4-0.

Council Member Andrisek - Yes

Council Member Mercado – Yes

Vice Mayor King - Yes

Mayor Sierra - Yes

CITY MANAGER’S REPORT

City Manager Bierdzinski provided an informational report to the City Council.

CLOSED SESSION ITEMS

**11. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Threat of litigation pursuant to Government Code Section 54956.9(d)(2) [Letter from Kevin I. Shenkman dated September 28, 2018]**

The City Council met in closed session to discuss anticipated litigation. No reportable action was taken.

ADJOURNMENT

Mayor Sierra adjourned the regular meeting at 6:35 p.m. The next regular meeting of the City Council will be held on Thursday, November 8, 2018 at 6:00 p.m.

Holly Sierra
Mayor

ATTEST:

Linda Reid
City Clerk

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: MPB
Council Agenda Item No.: 2

To: The Honorable Mayor and City Council

From: Shannel Zamora, Finance Director

Meeting Date: November 8, 2018

Subject: List of Claims to be Approved and Ratified for Payment to Date for Fiscal Year 2018/19

BACKGROUND

Staff is required to submit a check register to the City Council for approval every council meeting for the most recently completed check register (Attachment 1).

The check register for the period 10/17/2018 through 10/30/2018 has been prepared in accordance to Government Code 37202 and City Code 3.08.070. The check register lists all vendor payments for the specified period above, along with claimant's name, a brief description of the goods or service purchased, amount of demand, check number, check date and the account number(s) associated with each payment.

The total amount of checks, 10/17/2018 through 10/30/2018, and electronic fund transfers issued for the period of 10/17/2018 through 10/30/2018 was \$622,009.26.

FISCAL IMPACT

Payments made to the various vendors were consistent with the approved City's Biennial Budget for FY 2017/18 and FY 2018/19. Cash is available for the payment disbursements of the above liabilities.

RECOMMENDATION

That the City Council review and accept the check register for the period 10/17/2018 through 10/30/2018.

ATTACHMENTS

Attachment 1 – Claims

ATTACHMENT 1

CONSOLIDATED CLAIMS DISBURSEMENT

BACK-UP/SUPPORT DATA IS AVAILABLE FOR COUNCIL REVIEW IN CITY HALL

The following is a list of claims to be ratified and approved for payment by the City Council at the **November 8, 2018** Council Meeting.

Listed below is a brief summary of the attached claims:

EXHIBIT A *	A/P Packet #APPKT00881	10,315.95
	A/P Packet #APPKT00878	340,568.68
	A/P Packet #APPKT00877	47,157.24
	A/P Packet #APPKT00873	154,361.70
	Total A/P Packets:	<u>\$552,403.57</u> (9 pages)

Utility Packet #UBPKT01324	115.93 (1 page)
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Total Packets:	<u>\$552,519.50</u>
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EXHIBIT B	<u>\$21,020.10</u>
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CC Payroll	10/25/2018	1,791.28
Staff Payroll	10/26/2018	46,678.38

Total Payroll:	<u>\$48,469.66</u>
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TOTAL AMOUNT OF CLAIMS:	<u><u>\$622,009.26</u></u>
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* The A/P Packets above will be approved on Council Agenda date of 11/08/2018

Checks to be signed on 11/08/2018 tie to A/P Packet #APPKT00881

Checks previously signed by staff to avoid late fees relate to:

A/P Packet # APPKT00873, APPKT00877 and APPKT00878

Utility Packet # UBPKT01324

Payments via Electronic Fund Transfer (EFT):
From 10/17/2018 through 10/30/2018

CA Dept Tax Fee (BOE)	10/25/2018	463.00
CalPERS - Classic	10/26/2018	150.94
Payroll Tax - EDD	10/26/2018	100.96
CalPERS - PEPR	10/26/2018	60.57
Payroll Tax - IRS	10/26/2018	69.82
CalPERS - Classic	10/29/2018	6,549.28
Payroll Tax - EDD	10/29/2018	2,828.60
CalPERS - PEPR	10/29/2018	2,812.99
Payroll Tax - IRS	10/29/2018	7,983.94

Total

21,020.10



City of Buellton, CA

Check Report - City Council - November 8, 2018

By Payment Number

Payment Dates 10/17/2018 - 10/30/2018

Payment Number	Payment Date Payable Number	Vendor # Description	Vendor Name	Account Number	Project Account Key	Payment Amount Item Amount
36960	10/17/2018 INV0009810	011105 10/13/2018 - CYCLE TRAINING	ADRIENNE WALTER	001-511-67140		18.00 18.00
36961	10/17/2018 INV0009815	001303 9/10-10/10/2018 - BALLET	AMANDA RUSSELL	001-511-67140		259.00 259.00
36962	10/17/2018 INV0009811	001199 10-6-9-2018 - CA-APA ANNUAL CONF	ANDREA KEEFER	001-565-60710		906.23 906.23
36963	10/17/2018 INV0009809 INV0009809	000028 SEPT 2018 - MATS/TOWELS SERVICE SEPT 2018 - MATS/TOWELS SERVICE	ARAMARK UNIFORM SERVICES INC	001-558-60800 005-701-60800		449.01 359.21 89.80
36964	10/17/2018 INV0009808	001099 10/9-13/2018 - CACEO - 2018 ANNUA	Ben Hernandez	001-565-60710		1,053.76 1,053.76
36965	10/17/2018 INST118046	000088 10/8/2018 - SUPPLIES - POSTAGE MA	CCI CENTRAL, INC.	001-410-61130		34.66 34.66
36966	10/17/2018 INV0009807	001312 FY2018-2019 - Payment - Buellton Lib	COUNTY OF SANTA BARBARA - CSD	001-510-60800		141,641.00 141,641.00
36967	10/17/2018 INV0009818	011169 9/10-10/10/2018 - VIOLIN	DIANE BYINGTON dba	001-511-67140		84.00 84.00
36968	10/17/2018 INV0009812	011236 8/29-10/10/2018 - GYMNASTICS	GARY GENE JOHNSON dba	001-511-67140		1,431.00 1,431.00
36969	10/17/2018 INV0009813	001089 9/13-10/10/2018 - FLOW YO-YOGA	GINA SIGMAN	001-511-67140		90.00 90.00
36970	10/17/2018 INV0009816	011300 9/13-10/10/2018 - KUNDALINI/FUN&	KAREN PALMER	001-511-67140		227.50 227.50
36971	10/17/2018 INV0009817	011308 9/13-10/10/2018 - BAND	KAY D. DOMINGUEZ	001-511-67140		72.00 72.00
36972	10/17/2018 INV0009814	001132 9/13-10/10/2018 - PERSONAL TRAINI	MAILE INEMAN	001-511-67140		270.00 270.00
36973	10/17/2018 INV0009819	011343 9/13-10/10/2018 - YOGA CLASS	MARIANNE MADSEN	001-511-67140		380.00 380.00
36974	10/17/2018 2018-1005-buel 2018-1005-buel	000835 SEPT 2018 - PROF SERVICES - CITY PL SEPT 2018 - PROF SERVICES - CITY PL	METRO VENTURES LTD	001-22416 001-565-60800	90052-070	6,682.50 567.00 6,115.50
36975	10/17/2018 INV0009820	011475 8/29-10/10/2018 - NATURE TRACK	SUE EISAGUIRRE dba	001-511-67140		80.00 80.00
36976	10/17/2018 9816081987 9816081987 9816081987 9816081987 9816081987	000556 10/9-11/8/2018 - PW/CM- Wireless T 10/9-11/8/2018 - PW/CM- Wireless T 10/9-11/8/2018 - PW/CM- Wireless T 10/9-11/8/2018 - PW/CM- Wireless T 10/9-11/8/2018 - PW/CM- Wireless T	VERIZON WIRELESS	001-410-67705 001-511-61290 001-558-67705 005-701-67705 020-601-67705		542.04 67.27 41.82 124.27 124.05 184.63
36977	10/17/2018 INV986682	001207 SEPT 2018 - FSA/AFLAC ADMIN FEES	WAGeworks INC.	001-401-50400		141.00 21.69

Payment Number	Payment Date	Vendor #	Vendor Name	Account Number	Project Account Key	Payment Amount
	Payable Number	Description				Item Amount
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-402-50400		10.85
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-403-50400		10.85
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-420-50400		18.52
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-511-50400		19.25
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-558-50400		17.35
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		001-565-50400		9.45
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		005-701-50400		16.52
	INV986682	SEPT 2018 - FSA/AFLAC ADMIN FEES		020-601-50400		16.52
36978	10/24/2018	000326	MNS ENGINEERS, INC.			41,700.99
	71175	8/1-31/2018 - CITY ENGINEER/PUBLI		025-554-60800		6,190.00
	71176	8/1-31/2018 - CITY/TRANSPORTATIO		029-557-60800		3,987.50
	71177	8/1-31/2018 - CITY/TRAFFIC SAFETY S		025-554-67265		1,780.00
	71178	8/1-31/2018 - CITY STORM WATER M		001-551-60800		16,249.74
	71179	8/1-31/2018 - CrsRdsCntr@Vllg - Eng		001-22416	90010-070	150.00
	71180	8/1-31/2018 - PED SFTY IMPRVMENTS		092-306-60800		525.00
	71181	8/1-31/2018 - NghbrhdPrk@Vllg - En		001-22416	90017-070	150.00
	71182	8/1-31/2018 - BACKFLOW PREVENTI		020-601-60830		2,437.50
	71183	8/1-31/2018 - VllgTwnhms - Engrng S		001-22416	90021-070	360.00
	71184	8/1-31/2018 - INDUSTRIAL WAY STRE		092-311-60800		667.50
	71185	8/1-31/2018 - FigMtnBrwryExpnsn - E		001-22416	90037-070	240.00
	71186	8/1-31/2018 - 2017/18 RdMaint & Cit		092-316-60800		5,253.75
	71187	8/1-31/2018 - 2018-19 RdMaint & Cit		092-317-70000		3,710.00
36979	10/24/2018	001111	TETRA TECH, INC.			5,456.25
	51331512	EngrngSrvcs thru 6/29/2018 - Nghbr		001-22416	90017-070	125.00
	51352993	EngrngSrvcs thru 8/24/2018 - Encroa		025-557-60800		1,031.25
	51352994	EngrngSrvcs thru 8/24/2018 - McMur		001-22416	90010-070	110.00
	51352996	EngrngSrvcs thru 8/24/2018 - Townh		001-22416	90021-070	656.25
	51352997	EngrngSrvcs thru 8/24/2018 - 73 Ind		001-22416	90037-070	343.75
	51352998	EngrngSrvcs thru 8/24/2018 - 270 Ind		001-22416	80000-070	501.25
	51363887	EngrngSrvcs thru 9/28/2018 - Encroa		025-557-60800		461.25
	51363888	EngrngSrvcs thru 9/28/2018 - McMur		001-22416	90010-070	312.50
	51363889	EngrngSrvcs thru 9/28/2018 - Townh		001-22416	90021-070	1,005.00
	51363890	EngrngSrvcs thru 9/28/2018 - 73 Ind		001-22416	90037-070	228.75
	51363891	EngrngSrvcs thru 9/28/2018 - 270 Ind		001-22416	80000-070	633.75
	51363892	EngrngSrvcs thru 9/28/2018 - 5-acre		001-22416	90044-070	47.50
36980	10/24/2018	000005	ABALONE COAST ANALYTICAL, INC.			1,222.25
	4277	Sept 2018 - Chemicals/Analysis		005-701-61111		641.00
	4277	Sept 2018 - Chemicals/Analysis		020-601-61111		15.00
	4281	Sept 2018 - Chemicals/Analysis		020-601-61111		566.25
36981	10/24/2018	000509	ALAN NEEDHAM dba			24,002.80
	25271	9/5/2018 - CH - Irrigation Repair		001-556-60250		170.42
	25272	9/4/2018 - RVP - Irrigation Repair		001-552-60258		312.66
	25273	9/20&22/2018 - Clean-up		001-558-60250		675.00
	25274	9/17/2018 - Grass Clean-up		001-556-60800		285.00
	25275	9/12-24/2018 - AOF Medians - Irrigati		001-552-60254		7,399.72
	25281	Sept 2018 - Parks & Medians - Landsc		001-552-60800		11,200.00
	25281	Sept 2018 - Facilities & Streets - Land		001-556-60800		3,960.00
36982	10/24/2018	001184	ALBERTSONS/SAFEWAY			76.63
	INV0009830	Sept2018 - Misc Supplies		001-410-61130		76.63
36983	10/24/2018	001269	ANDREW MARTIN MENDOZA			2,127.48
	354631	9/21/2018 - RVP - PLUMBING REPAIR		001-552-60258		2,127.48
36984	10/24/2018	000027	AQUA BEN CORPORATION			2,306.48
	37971	9/25/2018 - Chemicals		020-601-61111		2,306.48

Payment Number	Payment Date Payable Number	Vendor # Description	Vendor Name	Account Number	Project Account Key	Payment Amount Item Amount
36985	10/24/2018 INV0009832	000034 2019 Annual Agency Dues	ASSOC OF CA WATER AGENCIES	001-410-60650		9,450.00 9,450.00
36986	10/24/2018 2201 2202 2210 2211	000718 2018-09-27 - IT Programming Well 3 2018-9-25 - Programming - WWTP/S 9/27-10/11/2018 - InFieldTechSrcv - 10/4-5/2018 - IT Programming/SCAD	AUTOSYS, INC.	020-601-60800 005-701-60800 020-601-60800 005-701-60800		5,430.00 435.00 1,377.50 2,892.50 725.00
36987	10/24/2018 843244-C	000047 9/27/2018 - Flags	BETSY ROSS FLAG GIRLS, INC.	001-558-60250		2,180.00 2,180.00
36988	10/24/2018 INV0009826	000868 10/14/2018 - PLANNING COMMISSIO	BRIAN DUNSTAN	001-565-50010		50.00 50.00
36989	10/24/2018 INV0009834	000121 OCTOBER 2018 - VISITOR'S BUREAU P	BUELLTON VISITORS BUREAU	001-410-67790		50,000.00 50,000.00
36990	10/24/2018 1810-532786 1810-533370 1810-533434 18-10-533474 CM 1810-533480	000076 10/2/2018 - Misc Supplies 10/10/2018 - WWTP - Misc Maint/Re 10/11/2018 - WWTP - Misc Maint/Re 10/11/2018 - WWTP - Misc Maint/Re 10/11/2018 - WWTP - Misc Maint/Re	CAL-COAST IRRIGATION, INC.	005-701-60250 005-701-60250 005-701-60250 005-701-60250 005-701-60250		969.31 39.68 898.65 30.00 -11.63 12.61
36991	10/24/2018 93928293	001316 FY 18/19 - Rd Maint Proj - City Concre	CalPortland Construction	092-317-74100		29,087.10 29,087.10
36992	10/24/2018 4885 4886 4910 4911	000800 2018-10-16 - Uniform Pants 10/16/2018 - Safety Shoes 10/22/2018 - Work Pants (qty 5) 10/22/2018 - Safety Shows (qty 1)	CARR'S BOOT SHOP, INC. dba	020-601-60131 020-601-67600 005-701-60131 005-701-67600		825.90 155.50 199.78 300.00 170.62
36993	10/24/2018 INV0009824	000091 7/1/18-6/30/19 - DWR Supplement	CENTRAL COAST WATER AUTHORITY	020-601-67635		100,010.51 100,010.51
36994	10/24/2018 22872075	000112 10/20/2018 - CH - Pest Control	CLARK PEST CONTROL	001-558-60800		123.00 123.00
36995	10/24/2018 20623 20623	000655 10/16&17/18-CH-Install new Barracu 10/2/2018 #T20181017.034 - REC INS	COAST NETWORK, INC.	001-410-60210 001-511-60210		840.00 420.00 420.00
36996	10/24/2018 817709	000118 9/16-11/15/2018 - Overage Fees	COASTAL COPY, INC.	001-410-61130		45.39 45.39
36997	10/24/2018 INV0009821	000122 10/18-11/17/2018 - CCChamber - Int	COMCAST CABLE	001-410-61292		139.94 139.94
36998	10/24/2018 112736 112736	001255 Sept 2018 - Water Sample Deliveries Sept 2018 - Water Sample Deliveries	DELIVER-IT	005-701-60800 020-601-60800		150.00 75.00 75.00
36999	10/24/2018 89X00077	000598 Sept 2018 - WWTP - Bio Solid - Waste	ENGEL & GRAY, INC.	005-701-60800		4,725.06 4,725.06
37000	10/24/2018 93536999	000664 12/20/18-12/19/19 Desktop ArcGID	Environmental Systems Research Institute, Inc. (ESRI)	001-565-60210		1,385.25 1,385.25
37001	10/24/2018 34260	000187 10/17/2018 - WWTP - Misc Maint/W	FARM SUPPLY COMPANY	005-701-61111		224.08 224.08

Payment Number	Payment Date Payable Number	Vendor # Description	Vendor Name	Account Number	Project Account Key	Payment Amount Item Amount
37002	10/24/2018 6703815	000191 10/17/2018 - Misc Maint/Repair Item	FERGUSON ENTERPRISES, INC	#1350 020-601-60250		285.54 285.54
37003	10/24/2018 7754 7838	000203 7/24/2018 - HVAC - City Council Cha 10/17/2018 - CH - HVAC Preventative	Gary Brown Service & Repair, Inc.	001-558-60800 001-558-60800		480.00 120.00 360.00
37004	10/24/2018 697430	000543 10/1/2018 - Misc Mats/Supplies	HD SUPPLY FACILITIES MAINTENANCE, LTD.	005-701-61127		149.37 149.37
37005	10/24/2018 1236	000395 OCT2018 - RVP/OAK VLLY - MNTHLY J	JOSE RAFAEL RUIZ dba	001-552-60800		1,750.00 1,750.00
37006	10/24/2018 4442724	000310 9/11/2018 - Mulch & Delivery	MARBORG INDUSTRIES	001-552-60254		200.00 200.00
37007	10/24/2018 INV0009828	001225 10/4/2018 - PLANNING COMMISSION	MARCILO SARQUILLA	001-565-50010		50.00 50.00
37008	10/24/2018 5254	000954 5/4/2018 - WWTP - Clean out Channe	MICHAEL MacEACHERM dba	005-701-60800		1,325.00 1,325.00
37009	10/24/2018 671154 INV0009829	000342 10/19/2018 - Misc Maint/Repair Item 10/2018 - Misc Maint/Repair Items	NIELSEN BUILDING MATERIALS, INC	005-701-60250 001-558-60250		133.69 76.85 56.84
37010	10/24/2018 2162	001315 FY2018-2019 - H4G SUPPORT/GRAND	NORTHERN SANTA BARBARA COUNTY UNITED WAY	001-410-69600		605.00 605.00
37011	10/24/2018 30204432	000669 10/2/2018 - USPO - Pest Control	O'CONNOR & SONS dba	001-558-60800		105.00 105.00
37012	10/24/2018 125232	000350 10/19/2018 - Vehicle Maintenance	OLIVERA'S REPAIR, INC	001-511-60270		90.00 90.00
37013	10/24/2018 4372-427563	000801 10/5/2018 - Misc Mat/Supplies	O'REILLY AUTOMOTIVE STORES, INC.	001-552-60258		26.92 26.92
37014	10/24/2018 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822 INV0009822	000352 9/5-10/3/2018 - Electrical Service 9/5-10/3/2018 - Electrical Service	P G & E	001-410-61241 001-501-61241 001-510-61241 001-550-61241 001-552-61241 001-556-61241 001-565-61241 005-701-61241 020-601-61241		32,088.79 671.86 282.55 264.67 5,251.77 433.68 81.90 192.38 9,531.85 15,378.13
37015	10/24/2018 INV0009827	001187 10/4/2018 - PLANNING COMMISSION	PATTY J HAMMEL	001-565-50010		50.00 50.00
37016	10/24/2018 PCI000000089 RET	001290 COB 2017-18 Road Maintenance - Re	PAVEMENT COATINGS CO.	092-316-74100		13,168.27 13,168.27
37017	10/24/2018 121820 121820 121820	000382 October 2018 - Misc Supplies October 2018 - Misc Supplies October 2018 - Misc Supplies	PROCARE JANITORIAL SUPPLY, INC.	001-552-61140 001-558-61140 005-701-61140		986.79 582.20 345.37 59.22
37018	10/24/2018 INV0009825	000408 10/9-11-2018 - Landscapers Expo - Lo	ROBERT COVARRUBIAS	001-558-60710		105.64 105.64
37019	10/24/2018 INV0009831	000438 Sept 2018 - Misc Maint/Repair Items	SANTA YNEZ VALLEY HARDWARE	001-552-60258		362.69 8.30

Payment Number	Payment Date Payable Number	Vendor # Description	Vendor Name	Account Number	Project Account Key	Payment Amount Item Amount
	INV0009831	Sept 2018 - Misc Matls/Supplies		001-558-60250		259.56
	INV0009831	9/30/2018 - Misc Supplies		001-558-60900		5.28
	INV0009831	Sept 2018 - Misc Maint/Repair Items		005-701-60250		14.20
	INV0009831	Sept 2018 - Misc Chemicals		005-701-61111		75.35
37020	10/24/2018	000894	Santa Ynez Valley Hotel Assn., Inc. dba			32,455.15
	CM0000110	SEPT 2018 - SYVTBID ADMIN FEES		001-44250		-662.35
	INV0009833	SEPT 2018 - SYVTBID FEES		001-22160		33,117.50
37021	10/24/2018	000427	SB CO APCD			442.00
	R 13260-R3	10/10/2018 - WWTP PTO# 13260-R3		005-701-67575		442.00
37022	10/24/2018	000131	SB CO. TREASURER-TAX COLLECTOR			10.86
	20181072056	7/1/18-6/30/19 - Basic Property Taxe		020-601-60900		10.86
37023	10/24/2018	000823	SB COUNTY EHS / CUPA			291.00
	IN0053110	July&Sept2018 - Risk Mgmt Plan Inv		020-601-67575		291.00
37024	10/24/2018	000465	SP MAINTENANCE SERVICES, INC.			2,516.50
	68126	Sept 2018 - Street Sweeping per Cont		001-558-60800		2,516.50
37025	10/24/2018	001051	THOMAS T PETERSEN dba			1,353.75
	1327	10/12/2018 - Water, Backflow & Irrig		020-601-60800		1,353.75
37026	10/24/2018	000535	UNDERGROUND SERVICE ALERT			28.15
	920180069	09/2018-New Tckt Chrgs/10/2018-M		005-701-60800		14.07
	920180069	09/2018-New Tckt Chrgs/10/2018-M		020-601-60800		14.08
37027	10/24/2018	000563	VORTEX INDUSTRIES, INC.			989.00
	01-1268544	8/9/2018 - RVP - Door Repair		001-552-60256		989.00
37028	10/24/2018	000677	WALLACE GROUP			12,690.75
	46938	Srvcs->9/30/2018-COB Reg Complian		005-701-60800		12,690.75
37029	10/24/2018	001239	WateReuse Association			722.25
	INV0009823	Jan-Dec2019 - WateReuse Assoc Ann		005-701-60650		722.25
37030	10/24/2018	000768	WEX BANK			1,735.39
	56049156	SEPT 2018 - FUEL CHARGES		001-511-61280		377.59
	56049156	SEPT 2018 - FUEL CHARGES		001-558-61280		452.60
	56049156	SEPT 2018 - FUEL CHARGES		005-701-61280		452.60
	56049156	SEPT 2018 - FUEL CHARGES		020-601-61280		452.60
37035	10/30/2018	000019	AMERICAN INDUSTRIAL PIPE & SUPPLY			183.97
	0324548-IN	10/23/2018 - WWTP - MISC TOOLS/S		005-701-61127		183.97
37036	10/30/2018	001214	AVAYA Financial Services			384.38
	32596247	Nov 2018 - Phone System Lease		001-410-60310		384.38
37037	10/30/2018	000105	CITY OF BUELLTON			1,059.70
	INV0009867	9/25-10/25/2018 - Irrigation 595 2nd		001-552-61211		1,059.70
37038	10/30/2018	000107	CITY OF LOMPOC			1,686.66
	101585	September 2018 - Live Scan Finger Pri		001-410-60022		20.00
	101586	November 2018 - Monthly Transit Ser		027-559-67445		1,666.66
37039	10/30/2018	000112	CLARK PEST CONTROL			159.00
	22872110	10/23/2018 - PD/LIB Pest Control		001-558-60800		159.00
37040	10/30/2018	000649	FLUID RESOURCE MANAGEMENT, INC.			6,274.86
	C17589	10/25/2018 - Pump Replacement		005-701-60250		6,274.86
37041	10/30/2018	000881	KIMBERLY A. LeCLAIRE dba			69.00
	91067	10/25/2018 - Random Urine Drug Tes		001-410-67370		69.00

Check Report - City Council - November 8, 2018

Payment Dates: 10/17/2018 - 10/30/2018

Payment Number	Payment Date Payable Number	Vendor # Description	Vendor Name	Account Number	Project Account Key	Payment Amount Item Amount
37042	10/30/2018	000379	POSTMASTER			450.00
	INV0009868	NOVEMBER 2018 - UB POSTAGE		005-701-61131		225.00
	INV0009868	NOVEMBER 2018 - UB POSTAGE		020-601-61131		225.00
37043	10/30/2018	000380	PRAXAIR DISTRIBUTION, INC.			48.38
	85691435	9/20-10/20/2018 - Chemical Cylinder		005-701-61111		48.38
Payment Total:						552,403.57

Report Summary

Fund Summary

Fund	Payment Amount
001 - General Fund	315,846.00
005 - Sewer Fund	41,723.66
020 - Water Fund	127,305.63
025 - Gas Tax Fund	9,462.50
027 - Local Transportation Fund	1,666.66
029 - Transportation Planning	3,987.50
092 - Capital Improvement Proj Fund	52,411.62
Grand Total:	552,403.57

Account Summary

Account Number	Account Name	Payment Amount
001-22160	SYVTBID Payable	33,117.50
001-22416	Developer Deposit	5,430.75
001-401-50400	Medical Benefit	21.69
001-402-50400	Medical Benefit	10.85
001-403-50400	Medical Benefit	10.85
001-410-60022	Recruitment Expense	20.00
001-410-60210	Computer Maintenance	420.00
001-410-60310	Equipment Rental	384.38
001-410-60650	Membership & Publicati	9,450.00
001-410-61130	Office Supplies	156.68
001-410-61241	Utilities - Electric	671.86
001-410-61292	Internet Access/ Websit	139.94
001-410-67370	H/R Expense	69.00
001-410-67705	Telephone	67.27
001-410-67790	Visitors Bureau	50,000.00
001-410-69600	Undesignated Misc Supp	605.00
001-420-50400	Medical Benefit	18.52
001-44250	Miscellaneous	-662.35
001-501-61241	Utilities - Electric	282.55
001-510-60800	Contract Services	141,641.00
001-510-61241	Utilities - Electric	264.67
001-511-50400	Medical Benefit	19.25
001-511-60210	Computer Maint & Soft	420.00
001-511-60270	Maintenance-Vehicles	90.00
001-511-61280	Fuel-Vehicles	377.59
001-511-61290	Telephone/Internet	41.82
001-511-67140	Buellton Recreation Pro	2,911.50
001-550-61241	Utilities - Electric	5,251.77
001-551-60800	Contract Services	16,249.74
001-552-60254	Maintenance/Repair-A&	7,599.72
001-552-60256	Maintenance/Repair-Oa	989.00
001-552-60258	Maintenance/Repair-Riv	2,475.36
001-552-60800	Contract Services	12,950.00
001-552-61140	Operational Supplies	582.20
001-552-61211	Utilities - Water	1,059.70
001-552-61241	Utilities - Electric	433.68
001-556-60250	Maintenance/Repair	170.42
001-556-60800	Contract Services	4,245.00
001-556-61241	Utilities - Electric	81.90
001-558-50400	Medical Benefit	17.35
001-558-60250	Maintenance / Repair	3,171.40
001-558-60710	Travel & Training	105.64
001-558-60800	Contract Services	3,742.71
001-558-60900	Miscellaneous	5.28
001-558-61140	Operational Supplies	345.37
001-558-61280	Fuel - Vehicles	452.60

Account Summary

Account Number	Account Name	Payment Amount
001-558-67705	Telephone	124.27
001-565-50010	Planning Commission Sal	150.00
001-565-50400	Medical Benefit	9.45
001-565-60210	Computer Maintenance	1,385.25
001-565-60710	Travel & Training	1,959.99
001-565-60800	Contract Services	6,115.50
001-565-61241	Utilities - Electric	192.38
005-701-50400	Medical Benefit	16.52
005-701-60131	Laundry / Uniforms	300.00
005-701-60250	Maintenance / Repair	7,335.22
005-701-60650	Membership & Publicati	722.25
005-701-60800	Contract Services	21,022.18
005-701-61111	Chemicals / Analysis	988.81
005-701-61127	Tools	333.34
005-701-61131	Postage	225.00
005-701-61140	Operational Supplies	59.22
005-701-61241	Utilities - Electric	9,531.85
005-701-61280	Fuel - Vehicles	452.60
005-701-67575	Regulatory Compliance	442.00
005-701-67600	Safety Equipment	170.62
005-701-67705	Telephone	124.05
020-601-50400	Medical Benefit	16.52
020-601-60131	Laundry / Uniforms	155.50
020-601-60250	Maintenance / Repair	285.54
020-601-60800	Contract Services	4,770.33
020-601-60830	Contract Services-Engine	2,437.50
020-601-60900	Miscellaneous/CalPers U	10.86
020-601-61111	Chemicals / Analysis	2,887.73
020-601-61131	Postage	225.00
020-601-61241	Utilities - Electric	15,378.13
020-601-61280	Fuel - Vehicles	452.60
020-601-67575	Regulatory Compliance	291.00
020-601-67600	Safety Equipment	199.78
020-601-67635	State Water Project	100,010.51
020-601-67705	Telephone	184.63
025-554-60800	Contract Services	6,190.00
025-554-67265	Development Permit Pro	1,780.00
025-557-60800	Contract Services	1,492.50
027-559-67445	Lompoc- Wine Country	1,666.66
029-557-60800	Contract Services	3,987.50
092-306-60800	Contract Services	525.00
092-311-60800	Contract Services	667.50
092-316-60800	Contract Services	5,253.75
092-316-74100	Improvements	13,168.27
092-317-70000	Design/Permitting	3,710.00
092-317-74100	Improvements	29,087.10
	Grand Total:	552,403.57

Project Account Summary

Project Account Key	Payment Amount
None	546,972.82
80000-070	1,135.00
90010-070	572.50
90017-070	275.00
90021-070	2,021.25
90037-070	812.50
90044-070	47.50

Project Account Summary

Project Account Key
90052-070

Payment Amount
567.00
552,403.57

Grand Total:



UBPKT01326 - Refunds 01 UBPKT01324 Regular

Account	Name	Date	Check #	Amount	Code	Receipt	Amount	Type
04-15800-001	CAMPA, CRYSTAL	10/26/2018	37031	0.13			0.13	Generated From Billing
04-16100-002	WAYE, HARRY	10/26/2018	37032	17.87			17.87	Generated From Billing
04-19200-001	BROOKS, BRYSON J	10/26/2018	37033	86.81			86.81	Generated From Billing
04-19600-002	PEREZ, EUGENIO	10/26/2018	37034	11.12			11.12	Generated From Billing
Total Refunds: 4			Total Refunded Amount:	115.93				

Revenue Code Summary

Revenue Code	Amount
996 - UNAPPLIED CREDITS	115.93
Revenue Total:	115.93

General Ledger Distribution

Posting Date: 10/26/2018

Account Number	Account Name	Posting Amount	IFT
Fund: 020 - WATER FUND			
020-10000	Claim On Pooled Cash	-115.93	Yes
020-22420	Unapplied Credits	115.93	
	020 Total:	0.00	
Fund: 999 - POOLED CASH			
999-10001	Pooled Cash - General Checking	-115.93	
999-27000	Due To Other Funds	115.93	Yes
	999 Total:	0.00	
	Distribution Total:	0.00	



City of Buellton



PROCLAMATION SUPPORTING THE HEALTHY EATING ACTIVE LIVING CAMPAIGN IN THE CITY OF BUELLTON

WHEREAS, the League of California Cities (League) led the way with a resolution in 2004 which encouraged cities to embrace healthier lifestyles and communities; and

WHEREAS, two years later, the League adopted a resolution to work together with the Institute for Local Government, and the Cities, Counties and School Partnerships to develop a clearinghouse of information that cities can use to promote wellness and healthier cities. The Healthy Eating Active Living Cities Campaign grew out of these resolutions and is a partnership of the California Center for Public Health Advocacy and the League; and

WHEREAS, more than one half of California adults are overweight or obese and therefore at risk for many chronic conditions, including diabetes, heart disease, cancer, arthritis, stroke and hypertension; and

WHEREAS, local land use policy governs the development of the built environment, including pedestrian and bicycling infrastructure in which individuals make personal nutrition, transportation and physical activity choices; and

WHEREAS, supporting the health of residents and the local workforce could decrease chronic disease and health care costs and increase productivity; and

WHEREAS, health educators assist eligible schools, agencies and coalitions in developing and implementing programs that promote healthy eating, nutrition education and physical activities, toward the prevention of obesity and related health problems.

NOW, THEREFORE, I, Holly Sierra, Mayor of the City of Buellton, on behalf of the Buellton City Council, hereby recognize and endorse the goals that support the Healthy Eating Active Living Campaign and declare Buellton a Healthy Eating Active Living City.

PASSED, APPROVED, and ADOPTED this 8th day of November 2018.



Mayor

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: MPB
Council Agenda Item No.: 4

To: The Honorable Mayor and City Council

From: Marc Bierdzinski, City Manager

Meeting Date: November 8, 2018

Subject: Award of Contract for City Attorney Services

BACKGROUND

At the direction of the City Council, a Request for Proposals (RFP) for Contract City Attorney services was released on July 1, 2018. The RFP was posted on the City's website and an ad was placed in Western City Magazine. Proposals were due on August 24, 2018. The City Council also created an Ad Hoc Committee to review the proposals and make a recommendation to the full City Council. The Ad Hoc Committee is comprised of City Manager Marc Bierdzinski, and Council Members Ed Andrisek and Art Mercado.

The City received seven proposals from the following firms:

- Aleshire & Wynder
- Alvarez-Glasman & Colvin
- Burke Williams & Sorensen
- Colantuono, Highsmith & Whatley
- Jones & Mayer
- Kirk & Simas
- Prentice, Long & Epperson

The Ad Hoc Committee screened the proposals (attached) and invited the following firms to an interview on October 29, 2018:

- Burke Williams & Sorensen (Attachment 1)
- Colantuono, Highsmith & Whatley (Attachment 2)
- Jones & Mayer (Attachment 3)
- Kirk & Simas (Attachment 4)

After the interviews, the consensus of the Ad Hoc Committee was that Burke, Williams & Sorensen (BWS) was the top candidate. Staff suggests an initial 5-year contract with a 3-year extension subject to City Council approval. The reasons for recommending BWS include:

- Existing excellent relationship with the City of Buellton and their partners, including CJPIA and Carl Warren and Associates
- The proposed retainer amount is only \$13.50 more than the current retainer and includes the standard retainer tasks including work on human resources and code enforcement, ordinance development, finance and public works issues, along with travel time (no change from what we currently receive)
- Familiarity with anticipated litigation matters
- The firm has an excellent working relationship with all department heads and understands the issues each department is facing

The Ad Hoc Committee also felt that the second ranked firm, Colantuono, Highsmith & Whatley, is qualified and should be reviewed by the full City Council, but the Committee had a few reservations regarding this firm, including:

- Although the retainer amount of \$10,000 is within range of the other firms, it does not include basic human resources or code enforcement tasks, ordinance development, review of capital improvement projects, and municipal finance matters, among others. The firm has attorneys to work in these areas but would bill their time outside of the retainer
- Only half the travel time is included with the retainer

Kirk & Simas, a local law firm from Santa Maria, was interviewed. However, the consensus of the Ad Hoc Committee was that the proposed attorney from that firm that would be the City Attorney had no prior experience as a municipal attorney and struggled with questions on how a City Attorney interacts with a City Council. With the changes coming forward in 2019, the Committee felt that an experienced attorney is what the City needs. In addition, their retainer cost was the highest of all proposals. A member of the Ad Hoc Committee asked that staff contact the firm and invite them to the City Council meeting in case they desire to provide further input.

The firm of Jones & Mayer was not selected as a finalist and was not invited to the City Council meeting.

FISCAL IMPACTS

The BWS proposal is a fixed monthly retainer of \$10,250 per month, for a yearly total of \$123,000. The current monthly retainer is \$10,237.50 per month for a yearly total of \$122,850. Both existing and proposed retainers allocate up to 50 hours of attorney time per month.

The BWS proposal indicates that the fixed retainer would stay at \$10,250 for 18 months (until June 30, 2020). At that time, subject to City Council approval, BWS would request a CPI increase.

The existing budget has adequate funds to accommodate the proposed minor increase in the retainer amount and the next two-year budget will also reflect the retainer amount.

RECOMMENDATION

That the City Council authorizes the Mayor to execute a 5-year agreement (Attachment 5) with Burke Williams, & Sorensen for City Attorney Services in accordance with the August 24, 2018, proposal (Attachment 1), with a 3-year extension period subject to City Council approval.

ATTACHMENTS

- Attachment 1 – Burke Williams & Sorensen Proposal
- Attachment 2 – Colantuono, Highsmith & Whatley Proposal
- Attachment 3 – Jones & Mayer Proposal
- Attachment 4 – Kirk & Simas Proposal
- Attachment 5 – Draft Agreement



burke

BURKE, WILLIAMS & SORENSEN, LLP

ATTACHMENT 1

Proposal to Provide City Attorney Services to the **City of Buellton**

Proposed City Attorney:

Gregory M. Murphy
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071

Phone: 213.236.0600 | Fax: 213.236.2700

Submitted: August 24, 2018

August 24, 2018

Marc Bierdzinski
City Manager
City of Buellton
107 West Highway 246
Buellton, California 93427

Re: Proposal to Provide City Attorney Services to the City of Buellton

Dear Mr. Bierdzinski:

On behalf of Burke, Williams & Sorensen, LLP ("Burke"), I am pleased to submit this response to the Request for Proposals issued by the City of Buellton ("City"). Burke is extremely interested in continuing to provide cost-effective and first-class City Attorney services to the City. In addition, we believe that your Request for Proposals allows Burke to modify the team that serves the City in a way that will maintain our strong relationship while bringing you a fresh approach and new ideas that will greatly benefit the City.

As described in the attached materials, we propose that partner Gregory M. Murphy serve as City Attorney. Greg's background and approach are more fully described in our Proposal, but know that he is exclusively an advisory and transactional attorney who will become a part of the fabric of your team while putting the City first in his professional life. Burke is committed to supporting Greg in this, and as you will find in the attached proposal we have put together a team, a rate structure, and internal controls that will allow Greg to serve the City unimpeded by his other obligations. Greg will be assisted by Kane Thuyen as Assistant City Attorney and Christina M. Burrows as Deputy City Attorney. Partner Katy A. Suttorp will continue to take care of all of the City's labor and employment issues and partner Brian I. Hamblet will take lead on litigation and code enforcement matters.

As background on our firm, Burke was founded in 1927 and is a diverse, dynamic, and preeminent public law firm. For nearly 80 years, the representation of public agencies has been the cornerstone of Burke's legal practice. The firm has grown from a primarily Los Angeles-based legal practice to one that serves public and private entity clients throughout the State of California. Our Public Law Practice Group currently serves the legal needs of over 200 local governmental entities spanning the length and breadth of the California, including cities, counties, joint powers authorities, and water and school districts. We take pride in our long-standing tradition of providing excellent legal services at reasonable rates. Ours is a rich tradition of providing high quality advice and services to public agencies, and we have restructured our Public Law Practice Group over the last fifteen years through the attraction and retention of municipal law specialists in both southern and northern California.

Burke offers a full range of general municipal and special services to respond to the City's legal needs. Our sixty-five member Public Law group is composed of skilled city attorneys and municipal specialists who actively participate in organizations like the League of California

Marc Bierdzinski
August 24, 2018
Page 2

Cities, the Institute for Local Government, the Contract Cities Association, and others to help shape the evolving world of municipal law. We also have talented attorneys in the areas of public transactions, land use and environmental law, construction, real estate, labor and personnel matters, and litigation. I personally believe our current team is as strong as or stronger than any municipal law practice group in the state. We offer the depth, expertise, and commitment that the City seeks from its counsel.

Certainly as your City Attorney's Office we are concerned with assessing and limiting legal risk for the City, but that is just the foundation of our commitment to you and your community. We believe the best attorney is one who understands the client's goals, history, culture, operations, and priorities and then utilizes his or her legal acumen to solve problems, to foresee issues, and to implement the client's vision. We endeavor to be part of the fabric of the communities in which we serve. Sometimes that means sponsoring local events, which Greg will work on with you, but it always means being an active member of the City's own team and maintaining an onsite presence. We are open to whatever level of involvement is right for you, as we have proven over the years. We are prepared to work closely with you in budgeting, performing, reporting on, and updating the legal services you need. You will find our proposed team's commitment to customer service second to none.

Thank you for considering us. If you have any questions regarding this proposal, or if you would like additional information, please feel free to contact me at the number listed above. I look forward to hearing from you.

Very truly yours,

Burke, Williams & Sorensen, LLP



Eric S. Vail
Partner and Chair
Public Law Practice Group

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BURKE, WILLIAMS & SORENSEN, LLP

Burke, Williams & Sorensen, LLP is a California limited liability partnership. Burke is comprised of 26 owners under the leadership of a Management Committee and Managing Partner. Firm management includes owners who practice substantially or entirely in the area of municipal law, and the firm has a longstanding commitment to the needs of its municipal clients. Details of our firm are listed below.

Firm Name	Burke, Williams & Sorensen, LLP
Founded	1927
Headquarters Office	Burke, Williams & Sorensen, LLP 444 South Flower Street, Suite 2400 Los Angeles, California 90071 Tel: 213.236.0600 Fax: 213.236.2700
Name, Address, Telephone Number, and Email Address of the Proposer's Point of Contact	Gregory M. Murphy Burke, Williams & Sorensen, LLP 444 South Flower Street, Suite 2400 Los Angeles, California 90071 Tel: 213.236.2835 Email: gmurphy@bwslaw.com
Number of Attorneys	108
Number of Staff	80
Additional Firm Offices	
Inland Empire 1770 Iowa Avenue, Suite 240 Riverside, California 92507 Tel: 951.788.0100 Fax: 951.788.5785	San Francisco 101 Howard Street, Suite 400 San Francisco, California 94105 Tel: 415.655.8100 Fax: 415.655.8099
Oakland 1901 Harrison Street, Suite 900 Oakland, California 94612 Tel: 510.273.8780 Fax: 510.839.9104	Silicon Valley 1503 Grant Road, Suite 200 Mountain View, California 94040 Tel: 650.327.2672 Fax: 650.688.8333
Orange County 1851 East First Street, Suite 1550 Santa Ana, California 92705 Tel: 949.863.3363 Fax: 949.863.3350	San Rafael 181 Third Street, Suite 200 San Rafael, California 94901 Tel: 415.755.2600 Fax: 415.482.7542
Palm Desert 73-929 Larrea Street, Suite 4A Palm Desert, California 92260 Tel: 760.776.5600 Fax: 760.776.5602	Ventura County 2310 East Ponderosa Drive, Suite 25 Camarillo, California 93010 Tel: 805.987.3468 Fax: 805.482.9834

QUALIFICATIONS

Burke is a mid-sized law firm serving a variety of public and private clients throughout California. We offer the services of 108 attorneys and 80 management and support staff distributed in nine regional offices in California. Providing a full range of legal, advisory, transactional, and litigation services, the firm's practice is organized into eight major practice groups:

- Public Law
- Labor and Employment
- Litigation
- Environmental, Land Use and Natural Resources
- Construction
- Real Estate and Business
- Insurance Coverage and Litigation
- Education

Public Law

Our **Public Law Group** represents over 200 public entities as city attorney, general counsel, or special counsel throughout the state, and provides all advisory, transactional, and litigation services required by cities. As the professional biographies provided below will demonstrate, our attorneys have distinguished themselves in every major field of public law, including:

- Adult Businesses
- Annexations
- Cannabis Regulation
- Code Enforcement & Receivership
- Election Contests, Recalls & Initiatives
- Franchises & Utilities
- Land Use
- Mobilehome Park Regulations & Rent Control
- Police & Civil Rights Issues
- Public Transactions
- Signs
- Telecommunications
- Water & Water Quality
- Affordable Housing
- Brown Act Issues
- CEQA & Environmental Issues
- Conflicts of Interest
- First Amendment Issues
- Labor Negotiations
- Massage Parlors
- Personnel Matters
- Public Records Act Issues
- Public Works Issues
- Successor Agency Issues
- Tort Liability

Burke’s attorneys currently serve as City Attorney for the following 23 California cities and towns.

City	Contract Started
City of Alhambra	1980
City of Atascadero	2007
City of Buellton	1991
City of Calistoga	2010
City of Camarillo	1980
City of Cathedral City	2016
City of Delano	2017
City of Eastvale	2018
City of Healdsburg	2017
City of Hemet	1998
Town of Moraga	2010
City of Pacifica	2010

City	Contract Started
City of Piedmont	2010
City of Rohnert Park	2010
City of Rolling Hills Estates	1979
City of Rosemead	2007
City of Santa Clarita	1987
City of South Lake Tahoe*	2017
City of St. Helena	2010
City of Temple City	2008
Town of Tiburon	2015
City of Wildomar	2008
Town of Yucca Valley	2018

*Interim City Attorney

As the City of Buellton has learned through our nearly three-decade relationship, Burke addresses virtually every need and circumstance confronted by a local government entity in California, including not only general public law issues but employment issues and litigation as well. Burke is truly a one-stop show, earning an excellent reputation as one of the leading legal services firms for public agencies throughout California. In addition to providing legal advice, we try to anticipate your needs in a proactive fashion. We welcome the chance to continue to work collaboratively with the City while offering you a team that will bring a fresh outlook and approach to helping you achieve your goals for the City.

Preparation and Review of Ordinances and Resolutions

Preparing ordinances and resolutions requires skill with language and faithful attention to the requirements of the law, as well as the intentions of the governing body enacting them. This is one of the most fundamental roles of the municipal law practitioner, and as City Attorneys and Assistant City Attorneys, our team has drafted hundreds of ordinances and resolutions addressing virtually every municipal issue imaginable. We have reviewed and written ordinances regarding everything from land use and zoning to code enforcement to the establishment of municipal programs. We have prepared creative and innovative ordinances on hot topics such as medical marijuana, wireless facilities, group homes, and sex-offender and parolee residing regulations.

Recognizing that every municipality is different, we work with our municipal clients to tailor these ordinances to each community’s needs rather than adopting a one-size-fits-all approach. The City of Buellton will benefit from the expertise of the proposed team and in particular their years of experience serving a number of different municipal clients, each of which has its own approach and focus. A major benefit of Burke’s statewide presence is our belief that each city

is a distinct entity made up of human beings that benefit only when we properly match our knowledge to their needs.

Brown Act, Public Records Act, Conflicts of Interest, and Elections Code

If skillfully preparing legal documents is one of the most fundamental roles of the municipal law practitioner, the other is advising governing bodies and chief executives on California's central legal requirements for public agencies. The team proposed to serve the City includes experts in the application of the Brown Act. They have experience in all aspects of the Brown Act, including litigation and grand jury issues. They work closely with staff in the preparation of agendas and agenda packets, including reviewing agenda descriptions for open and closed session items and preparing and reviewing agenda reports prepared by staff. As a firm, we regularly participate in Council meetings and have substantial experience in advising public clients on meeting procedures, including those involving Robert's Rules of Order and similar parliamentary systems. Members of the firm serve on the Brown Act Committee for the League of California Cities and have been editors and contributors to the Municipal Law Handbook chapter covering the Brown Act.

The attorneys who will serve Buellton regularly assist clients with responding to public records requests. They, and all of our attorneys, review the requests for exemptions, draft written responses to requests, and review responsive documents for confidential and exempt material. Similarly, our municipal advisors regularly advise clients on conflict of interest matters, including seeking Fair Political Practices Commission review when necessary. Our attorneys are familiar with the FPPC procedures and practices and can often obtain clear decisions from the FPPC in short order. Burke's attorneys have conducted training and workshops on the Brown Act, the Public Records Act, and governmental conflicts of interest and are thoroughly familiar with these laws. Burke attorneys routinely conduct AB 1234 ethics training for our municipal clients as well as for other public agencies.

Elections law work is ever more important in California, with the recent spate of challenges to the at-large election process being a key issue for many cities. Our attorneys have dealt with these challenges and the redistricting that sometimes follows them, but our experience goes well beyond this contemporary issue. Our attorneys, including proposed City Attorney Greg Murphy, have drafted ballot summaries for initiatives and referenda, advised city clerks on procedural matters before and during elections, and litigated election challenges.

Land Use and Planning/Real Property

Land use is a multi-faceted area of the law and few firms are better equipped to deal with it than Burke, Williams and Sorensen. While your proposed City Attorney Greg Murphy is extremely well-versed in this area and has practiced as a land use advisor for over a decade, he will also call on a statewide lineup of subject-area experts that offers a broad range of knowledge and experience in all areas of land use, planning, and environmental issues. Our experienced land use attorneys regularly work on and litigate disputes growing out of complex development projects that address zoning, environmental, transportation, economic, cultural, and community issues, among others. Our experience includes:

- Planning & Zoning Law
- General Plans
- Specific Plans
- Permit Streamlining Act
- Density Bonus Law
- Transit Oriented Development

- Subdivision/Maps
- CEQA/NEPA
- Endangered Species Act
- Habitat Conservation Plans
- Religious Land Use Issues
- Vesting Issues
- Development Agreements
- Mitigation Fee Act
- Fees & Exactions
- Regulatory Taxes
- Affordable Housing
- Mixed Use Development

Being trusted land use advisors and litigators for decades, we recognize that there is no single correct approach to the land use process or land use litigation. We consider it our responsibility to understand our clients' goals and objectives so we can work with your staff and others deemed appropriate to help determine the best way to handle contentious or complicated land use projects. As explained more fully below, your proposed City Attorney Greg Murphy has a deep land use background and stands ready to assist the City with any issues that may arise, while his team includes other attorneys who regularly advise planning departments in some of the firm's largest client agencies.

Litigation

Burke prides itself as being the firm of choice for clients facing challenging lawsuits and administrative hearings. We have a strong, proven track record in winning cases. We successfully handle jury trials, court trials, administrative hearings, arbitrations, mediations, and appeals in federal court, state court, and before public agencies. We have a number of lawyers who have extensive appellate experience in the 9th Circuit Court of Appeals, California Supreme Court, and State Courts of Appeal. When a case goes to trial, we draw upon our deep talent pool to prepare the best possible case. We train our attorneys on cutting edge litigation practices, the practical realities of litigation, and legal developments.

Burke provides a full range of litigation services whether the issue is tort liability, employment, environmental, land use, eminent domain, condemnation, municipal finance, writ of mandate, or complex litigation services. Our attorneys regularly counsel and defend public agencies in a variety of litigation matters at all phases, including law and motion, trial, and appeal. We are experienced in state court and federal court, at both the trial, appellate, and Supreme Court levels.

Our attorneys have decades of experience successfully representing public agencies in:

- Trials
- Writs
- Enforcement of Judgments
- Tort Liability Act Matters
- Free & Political Speech Issues
- Regulatory Agency Actions
- Public Tax Challenges
- Breach of Contract Actions
- Appeals
- Law & Motion Procedures
- Administrative Procedures
- Civil Rights Violations
- Land Use & Environmental Suits
- NIMBY Suits
- Water Rights Adjudications

We have worked with many public joint powers insurance authorities (CJPIA, PORAC, REMIF, ABAG, etc.), as well as private insurers, and are experienced with handling claims in a manner meeting strict claim administration requirements. We pride ourselves on regular and effective communication with our clients and insurers to meet their needs throughout all aspects of litigation. Most of all, we pride ourselves on winning cases and on good results.

Labor and Employment

Burke's Labor and Employment Practice Group consists of 35 attorneys specializing in employment consultation services, investigations, employment litigation, and labor relations. Burke's labor and employment attorneys regularly advise public and private entities on employment law issues, participate in personnel investigations, and provide training and resource materials to ensure compliance with statutory mandates. Because of our public law expertise, we are familiar with the unique procedural rights that apply to investigations involving public employees. Katy Suttorp, proposed to continue her longstanding relationship with the City, will lead a labor and employment team ready, willing, and able to take on all of your matters with a short lead time.

In addition, we regularly represent numerous public sector clients in all aspects of labor work, including collective bargaining, impasse procedures, binding interest arbitration, employee grievances, factfinding, PERB hearings, and arbitrations.

We place a premium on advanced planning for negotiations to ensure that the agency has well-considered goals, and that the agency's efforts will be focused on a consistent strategic plan. We have negotiated agreements with many public agencies to secure economic concessions in recent years. We work to maintain and improve relationships between the agency and its unions even when we are negotiating regarding difficult and contentious issues. It is not always possible to reach agreement and our experience allows us to guide public agencies successfully through the impasse procedures, including requirements to allow unilateral implementation when necessary.

Finally, we regularly provide contract administration services, including training City managers and supervisors regarding implementing MOUs and minimizing grievances, and assisting as needed with the processing of grievances through arbitration.

Environmental Law

Burke regularly assists public agencies with the preparation and defense of environmental documents prepared pursuant to the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). Because of our many public entity clients, Burke deals with CEQA issues on almost a daily basis and provides regular legal advice, opinions, and comments regarding all aspects of the process, including compliance and adequacy of documents. Our team also has extensive trial and appellate court experience litigating CEQA and other environmental related cases, as well as experience overseeing environmental work and permitting activities for regional planning entities.

Our team is very familiar with federal and state environmental regulations and regulatory agencies, such as the California Department of Fish and Game, the U.S. Fish and Wildlife Service, Regional Water Quality Control Boards, the U.S. Department of Interior, the Department of Water Resources, and county flood control districts. Burke's experience includes negotiation and permitting with federal, state and local regulatory agencies, working with

regional water quality control boards on water conveyance systems and wastewater facilities, and advising and litigating on the Endangered Species Act and the Clean Water Act.

Contracts and Franchises

Our team has great depth in public transactions, public contract work, and development. While Burke features a specialized team of professionals wholly dedicated to public contract and construction work, our general practitioners deal with municipal contracting on a daily basis. Our development experience includes drafting and negotiation of Memorandums of Understanding, Exclusive Right to Negotiate Agreements, letters of intent, leases, purchase and sale agreements, statutory development agreements, loan agreements, agreements for other financial incentives, and special purchase agreements. We also assist with the creation of corporations, limited liability corporations, partnerships, and joint ventures, and with all phases of property acquisition and due diligence, including options, purchase and sale agreements, reversionary interests, deeds, escrow instructions, and special instructions. Finally, our team excels in structuring transactions with multiple parties and multiple sources of funding. The firm currently represents numerous cities and other public entities in these capacities.

Proposed Legal Team

We propose Gregory Murphy as City Attorney, Kane Thuyen as Assistant City Attorney, and Christina M. Burrows as Deputy City Attorney. In addition, Katy Suttorp will continue as lead labor and employment counsel and Brian Hamblet will continue to provide code enforcement and other litigation support. Their qualifications are discussed below and their professional summaries are included in Attachment A. We believe that this core team combines new attorneys who will refresh Burke's approach to the City with existing practitioners who have provided strong legal services to you over the years. Ultimately, this combination will give Buellton the highest level of service as we move forward together.

Gregory M. Murphy, Proposed City Attorney

Gregory M. Murphy received his B.A. from the University of Notre Dame in 1996, his J.D. *cum laude* and Order of the Coif from Loyola Law School in 2002, and was admitted to the State Bar of California in 2002. He is a member of the California State Bar Association and the Los Angeles County Bar Association. He is also an active member of the League of California Cities city attorney division, for which he served on the *Municipal Law Handbook* editorial board and the Municipal Law Institute committee.

Greg brings a can-do attitude to the practice of law. He is fond of saying that a lawyer's duty is to solve problems early, often, and for the benefit of the client. Greg will never start a project by believing that something *cannot* be done, but will find the best way to meet a client's goals while keeping the client on the right side of the law. Sometimes this means working with the client to get to the heart of what the client really wants rather than just dealing with a surface-level solution that the client *thinks* they want. Many times, however, it simply means providing services in the most cost-effective manner possible. At *all* times it means listening to the client, being flexible, and really understanding who the client is and where the client wants to go.

Greg currently serves as Assistant or Deputy City Attorney for the cities of Alhambra, Santa Clarita, and Temple City, including serving as counsel to the planning commission in Alhambra. He served as General Counsel to the Alameda Corridor-East Public Construction Authority until its recent integration into the San Gabriel Valley Council of Governments and now advises that

entity on public construction matters. He has significant experience working with elected and appointed officials, including the navigation of delicate issues with politically-divergent governing bodies. In the course of his general municipal work, Greg has focused on Brown Act compliance and conflict of interest issues, prevailing wage law and public contract matters, and advising on election law.

In his work as Assistant or Deputy City Attorney in both his current roles and for a number of other Burke clients in the past, Greg has over a decade of advising community development departments and planning commissions on all issues that arise in the planning context. He has assisted in the development and adoption of general plans and specific plans, the wholesale revision of zoning codes, and the drafting of specialized planning ordinances and moratoria. Greg has advised cities on issues ranging from charter school siting and First Amendment issues to religious land use complications and affordable housing. He is readily familiar with the California Environmental Quality Act, the CEQA Guidelines, and the application of that body of law to development projects. In addition to his advisory work, Greg negotiates and drafts development agreements, purchase and sale agreements, affordable housing restrictions, and economic development incentive agreements.

He has substantial experience in public contract law including bid protests, claims, terminations, and advisory work. Greg works with clients to enforce bond obligations against contractors for failure to properly perform public works projects and to properly position clients who believe that contract disputes are occurring or about to occur. He also enforces bond obligations on private contractors who fail to meet public works obligations imposed on their projects. Greg regularly advises clients on regulatory takings and inverse condemnation issues with an eye to avoiding litigation by understanding the limits of regulatory takings law and communicating early with potentially-affected private interests. He has also aided several cities with complex and sometimes-urgent issues related to marijuana and he regularly consults with the firm's chief marijuana litigators to understand the ever-changing nature of marijuana regulation in the state.

While he usually relies on Burke's experts to handle conflict of interest work that involves coordination with the Fair Political Practices Commission, Greg has a working knowledge of and consults directly with clients on potential and actual conflicts of interest, focusing on preventing conflicts and warding off the appearance of conflicts while still allowing officials to engage in the political process whenever legally feasible.

Greg began the practice of law in 2002 with the international firm McKenna Long & Aldridge, LLP. At that firm, he served as an associate in the government contracts department, working on the side of government contractors, while also gaining experience in environmental compliance and remediation law. Greg came to Burke in 2005 and since that time has specialized in municipal law and land use and planning. While he has been involved in litigation and continues to oversee litigation in his work with the Alameda Corridor-East Public Construction Authority, Greg generally relies on dedicated litigators to do the primary litigation work and instead focuses on strategic decisions related to achieving organizational goals. His biography contains more specifics about his current clients, work history, and specialties.

Kane Thuyen, Proposed Assistant City Attorney

Kane Thuyen has a strong background in public law, and has represented numerous cities, county agencies, and special districts in both an advisory and litigation capacity.

In his advisory capacity, Kane has provided advice and opinions on various public law issues, including the Public Records Act, the Brown Act, the Government Tort Claims Act, and the Political Reform Act, among others. In his litigation capacity, Kane has not only successfully defended governmental entities against writs of mandate and tort claims, but has also prosecuted code enforcement and criminal matters as a city prosecutor.

Kane currently serves as Deputy City Attorney or counsel for the cities of Alhambra, Atascadero, Camarillo, Cathedral City, Hemet, Rolling Hills Estates, Rosemead, Santa Clarita, Temple City, and Wildomar. Previously, Kane served as Deputy City Attorney for the cities of Baldwin Park, Garden Grove, Hawaiian Gardens, Indio, Laguna Hills, Lynwood, Palm Springs, San Juan Capistrano, Rancho Santa Margarita, and Tustin.

Christina M. Burrows, Proposed Deputy City Attorney

Christina Burrows has worked with public agencies for over five years. Christina serves as counsel for planning commissions, and advises staff and officials on issues related to land use and planning, CEQA, general plans, and municipal code compliance. She also drafts contracts, resolutions, and ordinances for city clients.

In addition to her advisory work, Christina has litigated breach of contract, employment, and Public Records Act cases on behalf of city clients. She also assists clients in gaining municipal code compliance through administrative citations, civil actions, and criminal actions.

Christina was admitted to the California Bar in 2013 and works out of Burke's Los Angeles office. She received her B.A. from UC San Diego in 2009 and her J.D. from UCLA School of Law in 2013.

Katy A. Suttorp

Katy Suttorp is a partner in Burke's Orange County office. Katy has been with Burke her entire legal career, starting at the firm as a law clerk in September 2003 before being admitted to the California Bar in December 2003. Her entire 14-year practice has focused on representing and counseling public agency employers, including the City, with whom Katy has worked closely since 2010, in all aspects of employment law, including employee discipline and due process, disability accommodation and interactive process, wage and hour audits and disputes, workplace investigations, effective evaluations and strategies for addressing performance issues, leaves and benefits, drug testing issues, employee speech and privacy, pension audits and compliance, and Affordable Care Act compliance. In doing so, Katy addresses not only the immediate issues, but also works with clients to implement changes to practice and policy to avoid future potential liability. To further educate clients regarding many of these issues, Katy has developed in-depth, customized trainings focused on clients' particular problems and areas of concern. In addition to these trainings, Katy regularly presents harassment prevention training for supervisors, general employees, and elected officials.

Katy also has significant experience with labor negotiations and disputes, including potential representation and recognition issues for agencies without recognized bargaining units. Currently, Katy serves as the lead negotiator for the City of Temple City and also provides labor

negotiations advice to numerous other public agencies with recognized units. Katy has also drafted and revised a variety of personnel rules and policies, resolutions, and staff reports for the City and other public agencies to facilitate adoption of new rules, policies, and practices for employees.

Katy has both conducted numerous workplace investigations and has also overseen workplace investigations for the City and several other public agencies. She also has represented public agencies in a number of administrative complaints, including PERB, DLSE, DFEH, and EEOC, and in obtaining workplace violence TROs.

Brian I. Hamblet

Brian Hamblet, who graduated magna cum laude (Rank #1) from Loyola Law School in 2000, has successfully represented public entities for the past 13 years in both state and federal courts. He has handled the tort defense of numerous public entities, including many with significant self-insured retentions in a wide variety of areas of law including personal injury claims, class actions, civil rights, and anti-SLAPP litigation.

Brian has experience in receivership matters for Burke's municipal clients, obtaining abatement of the nuisance conditions as well as recovery of fees and costs. He has also handled numerous code enforcement matters for the past nine years, utilizing administrative abatement procedures, civil nuisance abatement lawsuits, and criminal prosecutions. Brian has obtained guilty verdicts from a jury on all counts in a number of criminal code enforcement matters and has obtained numerous preliminary and permanent injunctions in code enforcement matters, including the closure of medical marijuana dispensaries

Training and Professional Development

The firm ensures that each of its attorneys completes the continuing education requirements of the California State Bar, as well as receiving two hours of harassment prevention training every two years as required pursuant to AB 1825. Beyond these minimum requirements, we encourage and provide funding for each attorney to obtain additional professional development or specialization to best serve the firm's clients. Burke's attorneys are frequent presenters at conferences on legal topics, teachers of law or law related courses, and provide various types of legal trainings for clients. All of these activities require our attorneys to be on the cutting edge of legal knowledge in their area of practice. Each of our general counsel attorneys participates in or conducts Ethics Training (AB 1234) for public officials.

Specialty Services Not Provided

Burke does not provide workers' compensation or bond counsel services. We will work with the City Council and City Manager to determine whether the City's current counsel in those areas is adequate or, if not, would recommend firms with which we have a working relationship for interview and selection by the City Council.

Response Times and Accessibility

The City Council and City Manager will have telephonic access to Greg Murphy and other necessary team members at all times, and other Burke attorneys working for the City will coordinate with the City Manager and appropriate staff to ensure prompt responses to communications. Because of the existing relationship between Burke and the City, the primary

change the City will see is the presence of Greg Murphy leading the team of attorneys who serve you. All of our team, including Katy Suttorp and Brian Hamblet, will remain immediately accessible to those staff members who are used to approaching them directly.

It is Greg's goal for his team to provide a substantive response to routine questions immediately when possible and at all times within 24 hours. When a response requires additional research or review of documents, a response time will be arranged to fit the needs of the City. Typically, our average response time for these matters is between three and seven business days. There is no average time to perform substantive tasks like drafting agreements or modifying ordinances, as each of these situations differs in complexity and exigency. With this type of work, our goal is to respond to each client's needs in a way that is efficient but also provides an excellent work product.

Burke attorneys utilize smartphones, tablets, laptops, and the firm's remote server to seamlessly work from any location. The physical location of Burke's attorneys presents no barrier to timely responses.

Monthly Reporting

If desired, Burke can provide monthly (or at the direction of the Council, quarterly) reports to the City Council and other key decision-makers. Sample reports are included at Attachment B.

- **Litigation Report:** This report provides the Council, City Manager, and where requested, the department heads with a summary of all existing litigation, the status of each matter, and the legal fees and costs incurred to date in defending or prosecuting the matter.
- **Legal Service Cost Report:** This report would provide the Council and City Manager with the running total of all legal service fees and costs per service area with a comparison to the adopted legal service budget.
- **Periodic Project Status Reports:** It is our practice to provide periodic oral and/or e-mail work status reports to the City Manager and appropriate department heads on a project-by-project basis. For work directed by the City Council or of special interest to the Council, Greg will provide similar oral or e-mail status reports to the individual Council Members.

Transmittal of Requests

We can accommodate any method of work transmittal requested by the City. While we transition the team serving the City we will prefer requests in writing (e-mail is sufficient) in which a response timeframe is provided. We recommend the following procedures:

- **Work from the Full Council:** When we receive work from the full Council in open session, the direction is reflected in the Clerk's minutes. Greg Murphy will then discuss it the following day with the City Manager and estimate the amount of time required to complete it. We provide periodic e-mail reports to the City Manager and Council if the work will take longer than the next Council meeting to complete.
- **Work from Individual Council Members:** Typically city councils have policies that allow individual members to inquire about legal issues and conflict issues of the City Attorney,

provided the amount of work required is limited. If the amount of work will require more than three to five hours of work, we request authorization from the full Council. Any response will be provided to the full Council.

- **Work from the City Manager:** Requests for work by the City Manager may be provided either orally or in writing. We prefer for them to be in writing, but when time does not allow, we receive them orally and then confirm the project by means of a written e-mail. If the project will take more than three to five hours to complete, we provide notice to the City Manager and request direction as to how to proceed.
- **Work from Department Heads:** As Greg and the new team continue in the relationship with the City, it may be preferable to have department heads directly contact Greg or other members of the team. This will particularly be the case on employment matters handled by Katy Suttorp and litigation matters handled by Brian Hamblet. Receipt of work from department heads is handled in the same fashion as receipt of work from the City Manager, with the exception that we copy the City Manager on written communications where appropriate, and Burke attorneys will copy Greg on all communications. This way, both the City Manager and Greg are aware of all work and can brief the Council on it when asked.
- **Work from Other Employees:** When appropriate for City staff to contact directly those attorneys with whom they have developed a working relationship, Burke is ready to handle that kind of communication. Where it is appropriate for the City, we handle the receipt of this work in the same fashion as receipt of work from the department head, with the exception that we copy the City Manager only on communications containing significant steps toward resolution of an issue.

Staffing

Burke is fortunate to have long-tenured, well-trained, and very capable attorney, secretarial, and paralegal staff available to serve our attorneys and our clients efficiently. Whenever possible, we rely on our in-house resources in an effort to contain and reduce legal costs for our clients.

As of the date of this proposal, Burke employs 108 attorneys and 80 support staff in our 9 offices. Burke maintains a word processing department, a librarian, litigation support professionals, information technology, accounting, and managerial staff in its Los Angeles office who are available by e-mail or phone to assist other offices or attorneys in the field. We have attorneys and experienced support staff to handle very large, complex, and document intensive cases.

As the City is a current client and we are simply proposing a change in the City Attorney position, no staffing changes are anticipated. In particular, Kane Thuyen, Katy Suttorp, and Brian Hamblet will all continue in their current roles. Notwithstanding this immediate-term continuity, we are proud of the size and depth of talent in the pool of attorneys we offer to the City. When new issues arise and Greg wishes to bring in attorneys with talents useful to the City's legal needs, he will discuss them with the City Council or City Manager prior to utilizing them for any City of Buellton work.

Monthly Statements

Bills are sent out each month invoicing charges for the prior month. Fees for our services are charged in increments of 1/10th of an hour. The bills provide a specific description of the work performed by all attorneys, the time actually spent on the work item, and the billing rate of the attorney. These bills also contain itemized descriptions of any out-of-pocket expenses incurred during the prior month. A sample billing statement is included in Attachment C.

In-Service Training

We offer training programs focused on your needs.

Basic training programs may be prepared and presented by either the core municipal team or specialists and are included within the retainer rate proposed for Buellton. These programs are intended to help keep Council Members, Commissioners, and employees up-to-date on current laws and practices. This component includes:

- Focused Trainings on the Brown Act, Conflicts of Interest, or Public Ethics
- Land Use 101
- AB 1234 Training
- Basic Contract Drafting and Administration
- Public Document Retention and Destruction
- Living with CEQA
- Basic Code Enforcement
- Public Records Act Training

Specialized Presentations: For a modest price that can be negotiated after the relationship is commenced, you pick the topic and we will prepare the presentation for you. Recent specialized presentations have included:

- Making Project Findings and Avoiding Writs
- Prevention of Sexual Harassment
- Compliance with Federal and State Disability Laws
- Updating Employee Handbooks
- Handling Public Contract Bid Disputes
- Boundary Issues and Easement Law
- AB 2188 Implementation Requirements for Rooftop Solar Systems
- Local Public Employee Discipline, Discharge, and Procedure: Avoiding Costly Mistakes
- Social Media: Policies and Best Practices
- Discrimination Training
- Compliance with Leave of Absence Laws
- Addressing Workplace Violence
- Public Employee Retirement Benefits
- FLSA Compliance
- Update on Post-Redevelopment Legislation and Litigation
- Let's Be Clear: Plain Language for Local Government

Insurance

The firm's Lawyers Professional Indemnity program provides \$15M in coverage for each claim and \$30M in the aggregate for all claims made during the policy period in connection with acts by or on behalf of the firm by its attorneys, employees and others in the firm's capacity as Attorneys, Counselors at Law, or Notaries. The Policy is subject to a Self Insured Retention (SIR) on the part of the firm which requires the firm to satisfy \$250K for each claim, \$500K in the aggregate for all claims after which a \$50K SIR will apply to each remaining claim.

CONFLICTS OF INTEREST

As the City is an existing Burke client, we anticipated no conflicts of interest to arise as we reviewed your Request for Proposals. But in the interest of fully informing the City of our processes, we offer the following.

Before representation is undertaken by the firm for each new client and each additional matter for an existing client, the responsible partner must perform a conflict check and obtain the approval of the Managing Partner. The conflict check consists of a search through Burke's computerized database of billing records, client matter lists, and related names/parties to identify potential conflicts. This database is regularly and routinely updated. The responsible partner is provided with the results of this search and must then review and follow up on each potential conflict listed to determine whether a conflict has arisen under the Rules of Professional Conduct and under any special conflict rules imposed by the client. The matter is then discussed with and approved by the Managing Partner.

If a potential conflict of interest arises in Burke's representation of two clients and if such conflict is only speculative or minor, the firm shall seek waivers from each client with regard to such representation. However, if real conflicts exist, Burke will withdraw from representing either client in the matter and assist each in obtaining outside special counsel.

We undertook this review with respect to this proposal notwithstanding our current relationship with the City of Buellton, and we are pleased to note that, as expected, our review resulted in no known conflicts of interest.

Political Contributions

As a matter of firm policy, Burke does not contribute to city or town council candidates regardless if they are incumbents or challengers. Burke has implemented the policy of the City Attorney Section of the League of California Cities with regard to contributions in municipal elections. While Burke does not and cannot monitor private contributions made by members of the firm independently to various election campaigns due to first amendment privacy issues, the proposed team members have confirmed that they have not made any reportable political contribution, in-kind services, or loans to any member of or candidate for election to the City Council of Buellton.

Public Agency Clients

Lists of Burke's current and former public agency clients are included as Attachment D.

Professional Commitments

Greg Murphy currently serves as Assistant or Deputy City Attorney to the cities of Alhambra, Temple City, and Santa Clarita. He has served as General Counsel to the Alameda Corridor-East Construction Authority (“ACE”) and now advises the San Gabriel Valley Council of Governments on construction matters, in that entity’s capacity as successor to ACE. He attends the Council/ACE board meetings on the fourth Monday of the month at noon and Alhambra’s planning commission meetings on the first and third Mondays of the month in the evenings. Greg sometimes attends City Council meetings in Temple City on the first and third Tuesdays of the month, but there will not be any meetings or obligations that would interfere with him being able to attend all scheduled Council meetings in Buellton. In the case of special meetings set for other times, Greg will make Buellton his priority and will be present to advise the City Council if needed. The firm is fully supportive of Greg in this matter and will arrange for coverage of his other obligations as needed.

Kane Thuyen currently serves as Deputy City Attorney for the cities of Camarillo, Temple City, and Rosemead. He attends Camarillo Planning Commission meetings on the first and third Tuesdays of the month, Temple City Planning Commission meetings on the second and fourth Tuesdays of the month, and Rosemead Planning Commission meetings on the first and third Mondays of the month. Katy Suttorp and Brian Hamblet provide services to a number of Burke clients, but both will continue to support the City in the manner to which you are accustomed.

RETAINER

Fixed Monthly Retainer

Burke proposes to provide legal services to the City under a fixed monthly retainer of \$10,250.00 for up to 50 hours. We propose that this fixed retainer amount remain in place until July 1, 2020, at which time we will reevaluate and adjust the amount if needed, as set forth in the “Adjustments” section below. In the experience of the firm, and in Greg Murphy’s experience in working with other clients, this retainer is intended to represent the basic municipal services required of a City Attorney on a monthly basis for the City of Buellton, including attendance at meetings, general legal advice, review and drafting of ordinance and resolutions, review and drafting of contracts, employment law advice, and code enforcement advice and litigation. Additional time will be billed at the hourly rates listed in the section immediately following.

Travel time and mileage will not be billed by the City Attorney. Compensation for travel time of any other Burke attorney who is required to attend meetings at the request of the City or to represent the City in court will be billed at the rate of \$180 per hour to a maximum of \$540 per attorney per month. Travel time will not count against the 50 hours per month of Retainer Services.

Hourly Rates / General Legal Services

General legal services include the panoply of municipal law issues that confront cities. Work on substantial planning and land use projects, complex employment law issues, defense of the City against lawsuits brought by third parties, responding to investigations brought by State agencies, and the like will all fall into this category of work. And as noted above, retainer work in excess of 50 hours per month will also fall into this category.

We propose that the hourly rates for general legal services below set for the City until July 1, 2020, at which time the rates will be adjusted as set forth below. Until that time, the rates will be as follows:

Staffing	Hourly Rate
Partners	\$260
Associate Attorneys	\$235
Paralegals	\$135

Special Legal Services

This proposal defines “special” services to include those legal services that are of a non-routine nature or tasks that are unique or complex and require deep levels of research and analysis or a heightened level of specialization to complete. In short, this is the type of work for which the City would consider both Burke and other firms before deciding on the appropriate counsel. Rates for this type of work can be discussed if and when issues arise, but will be based on Burke’s rates for this type of work performed for public entities throughout the state.

Remaining Within Budget

Our approach is realistic, straightforward, and based on experience:

- We prepare a realistic legal services budget created with your input.
- We perform monthly monitoring and reporting of the legal service costs.
- We routinely monitor effectiveness of cost containment measures.
- We obtain feedback from Management, Finance, and Council.
- City Manager, City Attorney, and department heads review and approve monthly billings.

Payment Terms

Bills are sent out each month invoicing charges for the prior month. Fees for our services are charged in increments of 1/10th of an hour. The bills provide a specific description of the work performed by all attorneys, the time actually spent on the work item, and the billing rate of the attorney. These bills also contain itemized descriptions of any out-of-pocket expenses incurred during the prior month.

Reimbursements

We routinely charge our clients for our direct out-of-pocket expenses and costs incurred in performing the services. These costs and expenses commonly include such items as reproduction of documents, facsimile, mileage reimbursement for travel at the IRS approved

rate, and other costs reasonably and necessarily incurred in performing services for the City. We do not charge a service fee or overhead for cost reimbursement items. We also do not charge for computer or word processing time. Reimbursement amounts may be adjusted annually.

Expense	Rate
In-house reproduction charges	
black and white	20¢ per page
color	\$1 per page
Mileage	54.5¢ per mile (or current IRS rate)
Facsimile	\$1 per page
All other costs reasonably and necessarily incurred in performing services for Buellton	at cost

In-Service Training Rates

As noted above, Burke will provide the following in-service trainings to the City at no cost (i.e., contained within the retainer) upon request.

- Focused Trainings on the Brown Act, Conflicts of Interest, or Public Ethics
- Land Use 101
- AB 1234 Training
- Basic Contract Drafting and Administration
- Public Document Retention and Destruction
- Living with CEQA
- Basic Code Enforcement
- Public Records Act Training

Adjustments

The rates for legal services quoted in this proposal will remain in effect until July 1, 2020. Thereafter, unless otherwise negotiated, rates may be adjusted based on a standard annual adjustment upon consultation with the City Manager and approved by the City Council as part of the Council's standard budget adoption process, equal to the greater of the average Consumer Price Index for the previous four quarters or any across the board salary increase granted to represented management personnel within the district.

Maximum Annual Expenditure Cap

Burke is willing to discuss a maximum expenditure cap after Greg Murphy and his team have worked with the City for one year and evaluated its legal needs, as part of the budgeting process for the City's 2020/21 fiscal year. We find that expenditure caps that include litigation work often force cities to choose between vigorous defense of their positions in litigation and high-level legal advice on non-litigation work. It is likely therefore that an annual cap on general services that leaves litigation, labor and employment, and high-level development

services and negotiations outside the fixed cap will be more beneficial than a true hard cap. That said, it is our continuing goal to be a trusted part of the City’s team and once Greg has gained a full appreciation for the City’s legal needs we can enter into this conversation.

REFERENCES

We are proud of our service record with our clients. We encourage you to contact the existing client references listed below about the merits of Burke, its personnel, and its services.

Client Name and Address	Contact Tel Email
City of Temple City 9701 Las Tunas Drive Temple City, CA 91780	Bryan Cook, City Manager 626.285.2171 bcook@templecity.us Cynthia Sternquist 626.285.2171 csternquist@templecity.us
City of Atascadero 6500 Palma Avenue Atascadero, CA 93422	Rachelle Rickard, City Manager 805.470.3400 rrickard@atascadero.org
San Gabriel Valley Council of Governments (Alameda Corridor-East Project) 4900 Rivergrade Road, Suite A120 Irwindale, CA 91706	Mark Christoffels, Chief Engineer 626.962.9292 mchristoffels@theaceproject.org

CONCLUSION

Burke has the experience, dedication, and resources to serve the City’s needs ethically, efficiently, and cost-effectively. We will be happy to provide you with any additional information you require about our firm and welcome the opportunity to meet face-to-face to discuss Burke’s capabilities and readiness to continuing serving as City Attorney for the City of Buellton. We appreciate your consideration of our proposal.

ATTACHMENT A – PROFESSIONAL SUMMARIES



Gregory M. Murphy

Partner

Los Angeles

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Los Angeles, California 90071

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213.236.2835 D
213.236.0600 T

Gregory Murphy is a trusted advisor, counselor, and transactional attorney for public entities throughout California. He has served as general counsel to the Alameda Corridor-East Construction Authority and for over 12 years has been an Assistant or Deputy City Attorney to a number of the firm’s clients.

Greg regularly advises elected and appointed officials, navigating delicate issues with politically-divergent boards. He presents clearly and in real-world terms the impacts of legal constraints on agency activities. Greg takes time to understand clients’ long- and short-term goals and how the law affects those objectives, finding ways to achieve them whenever possible. His focus on crafting legal advice that is practical, workable, and client-centered creates confidence and lasting relationships.

Experienced in the areas of land use and development, the California Environmental Quality Act (CEQA), public contract law, prevailing wage law, purchases and sales of real property, and municipal economic issues, Greg has advised developers and public contractors and municipal entities. He attends planning and community development commission meetings and handles closed-session briefings of legislative bodies. He also advises on a number of election law issues ranging from charter amendments to ballot designations to election contests and post-contest litigation. Greg also engages in litigation related to land use, tax, contract, and election issues.

What I’ve Learned: Be creative. If you start a project thinking you can find a way to accomplish it, you’ll often be right. If you start by thinking you can’t accomplish it, you’ll always be right.

RESULTS

Land Use and Real Estate

- Greg aided a city and its redevelopment agency in the negotiation and drafting of a complex disposition and development agreement designed to transform underutilized housing into a medical office building.
- He advises on pre-litigation eminent domain and takings matters, including inverse condemnation arising out of regulatory takings and physical invasions.
- Greg worked with three cities to update their general plans, adopt specific plans, and substantially or wholly rewrite their zoning codes to modernize land use and development within their jurisdiction.
- Greg worked with a county redevelopment agency to set up a unique community services program whereby enhanced levels of code enforcement, law enforcement, and public works services are provided to the redevelopment project area and funded in part with redevelopment moneys.

PRACTICE GROUPS

Environmental, Land Use, and Natural Resources

Public

Real Estate and Business

EDUCATION

J.D., cum laude and Order of the Coif, Loyola Law School, 2002

B.A., University of Notre Dame, 1996

ADMISSIONS

State Bar of California

United States District Court for the Central District of California

AFFILIATIONS

California State Bar Association

Los Angeles County Bar Association

City Attorneys Association of Los Angeles County

League of California Cities, former member Municipal Law Handbook Editorial Board

Municipal Law Institute, former steering committee member

- Greg advised a redevelopment agency on the purchase of a commercial/residential building and the subsequent negotiation of a long-term building lease for a community art space and live/work lofts for artists. His work included analyses of agency options, drafting the purchase agreement and long-term lease, as well as negotiating deferred rental payments.
- He negotiated and drafted an Owner Participation Agreement under which a historic commercial/residential building would be substantially renovated to provide restaurant, retail, and commercial uses and live/work space. Greg negotiated relocation assistance and long-term operating covenants.
- Greg negotiated the \$3 million+ redevelopment agency assembly of vacant parcels and sale of the parcels to the California Administrative Office of the Courts (AOC) for a new courthouse. The transaction involved complex negotiations such as clearing title of a number of liens, tax liens, and judgment debts; drafting purchase and sale agreements; negotiations on title issues, property condition, and redevelopment issues; processing lot line adjustments and other land use approvals to allow for the sale; and oversight of environmental remediation.
- He has advised on approvals related to charter schools and to religious land use, in each case avoiding potential challenges to application denials by focusing on legally sound reasons for denial supported by record evidence.

General Municipal and Public Advisory

- Greg aided several cities with complex and sometimes urgent issues related to medical marijuana.
- He has significant legal experience in public contract law including bid protests, claims, terminations, and advisory work. He has recently worked with clients to enforce bond obligations against contractors for failure to properly perform public works projects. He also enforces bond obligations on private contractors who fail to meet public works obligations imposed on their projects.
- Greg regularly consults on conflicts of interest issues, focusing on preventing potential conflicts and warding off the appearance of conflicts.
- He drafts form and single-project contracts for client use, including form public works agreements and form consultant and design consultant agreements, and regularly advises clients on the intricacies of indemnity and waiver issues in public contracting.

Litigation and Advocacy

- Greg represented a city in a contentious election contest concerning the validity of signatures on vote by mail and provisional ballot envelopes. The court upheld the results of the election. Greg has also litigated the validity of ballot measures, including seeking an emergency writ from the California appellate court to stay an interlocutory order of a trial court that would have barred an initiative from the ballot.
- Greg represented a community services district in proceedings before the Central Coast Regional Water Quality Board relating to the Board's requirement that the CSD implement a sewer system in a prohibition zone. His advocacy resulted in the enforcement of cease and desist orders against individual violators to accommodate the County's takeover of the sewer project such that the individuals have not been fined under the orders to date.
- Greg advocated on behalf of a community services district against a private corporation that had purchased a small-scale water distribution company and was seeking to expand operations. After nearly 18 months of litigation, the administrative judge crafted an order limiting the corporation to its current provision of service.

INSIGHTS

Presentations

Sanctuary Cities: A Legal Guide, 2017 City Attorney Association of Los Angeles County (CAALAC) Biennial Conference, Huntington Beach, March 19, 2017

Publications

City of Arlington v. Federal Communications Commission: The Fifth Circuit Upholds the FCC Shot Clock Rule, *Public Law Update*, February 2012



Kane Thuyen

Senior Associate

Los Angeles

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213.236.2738 D
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PRACTICE GROUPS

Public

EDUCATION

J.D., Loyola Law School Los Angeles,
2008

B.A., History and Legal Studies, University
of California, Berkeley, 2004

ADMISSIONS

State Bar of California

AFFILIATIONS

Los Angeles County Bar Association

Orange County Bar Association

City Attorneys Association of Los Angeles
County

Tri-Counties Local Government Attorneys
Association

Kane Thuyen is an attorney specializing in public law with experience representing numerous cities, county agencies, special districts, school districts, and nonprofit organizations in both an advisory and litigation capacity.

In his advisory capacity, Kane has provided advice and opinions on various public law issues, including the Public Records Act, the Brown Act, the Government Claims Act, and the Political Reform Act, among others. He also regularly serves as counsel during Planning Commission and City Council meetings.

In his litigation capacity, Kane has not only successfully defended governmental entities against writs of mandate and tort claims, but has also prosecuted code enforcement and criminal matters as a city prosecutor.

Kane regularly contributes to the League of California Cities as a Reviewer for the California Municipal Law Handbook. In addition, he contributes to the California Special Districts Association's Brown Act Manual and California Public Records Act Manual.

Kane received his dual B.A. in History and in Legal Studies in 2004 from the University of California at Berkeley, and his J.D. from Loyola Law School in 2008.

During law school, Kane was a Note and Comment Editor for the Loyola of Los Angeles Entertainment Law Review. He also served as a judicial extern to the Honorable Margaret M. Morrow of the U.S. District Court – Central District of California.

INSIGHTS

Presentations

"Advanced Training in the Public Records Act," California Special Districts Association Webinar, April 11, 2018

"Planning Commission 101," Client Presentation, April 2017

"Public Business + Private Account = Public Record: Navigating the California Supreme Court's Landmark Public Records Act Decision," CaliforniaCityNews Webinar, March 2017

"Update on Significant Public Law Cases," EXED Forum for Local Leaders, USC Sol Price School of Public Policy, October 2016

Publications

Co-Author, "Brown Act Compliance Manual for Special Districts," *California Special Districts Association*, 2017

“Update on Significant California Public Law Cases,” *USC Sol Price School of Public Policy Newsletter*, November 1, 2016

Co-Author, “California Public Records Act Compliance Manual for Special Districts,” *California Special Districts Association*, 2015



Christina M. Burrows

Associate

Los Angeles

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PRACTICE GROUPS

Public

EDUCATION

J.D., University of California, Los Angeles
School of Law, 2013

B.A., University of California, San Diego,
2009

ADMISSIONS

State Bar of California

United States Court of Appeals for the
Ninth Circuit

United States District Court for the Central
District of California

Christina Burrows is an associate attorney in the firm's Los Angeles office and is a member of the Public Law Practice Group. Christina regularly advises cities and other public agencies on a variety of public law issues, including the Government Claims Act, the Public Contract Code, the Public Records Act, and the Brown Act. She has served as counsel during City Council, Planning Commission, and Board of Directors meetings. In addition, Christina has successfully defended cities and other public agencies in breach of contract, tort, and employment lawsuits.

INSIGHTS

Presentations

"Advanced Training in the CA Public Records Act," California Special Districts Association Webinar, April 11, 2018

"Abstentions and Disqualifications – Conflicts of Interest and When One Must or Should Step-Aside," Webinar, October 11, 2017



Katy A. Suttorp

Partner

Orange County
1851 East First Street, Suite 1550
Santa Ana, California 92705

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949.265.3403 D
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PRACTICE GROUPS

Education
Labor and Employment
Public

EDUCATION

J.D., University of California, Davis, 2003
B.A., Environmental Sciences, University of California, Berkeley, 1998

ADMISSIONS

State Bar of California
United States District Court for the Central District of California

Katy Suttorp is a partner in Burke’s Orange County office, representing public sector clients in labor and employment law matters.

Katy has represented and counseled a wide range of employers, including municipalities, special districts, school districts, community college districts, and private entities, in numerous matters. These include disability accommodation and interactive process, employee discipline and due process, leaves and benefits, state and federal wage and hour audits and disputes, wrongful termination, workplace investigations, Firefighters Procedural Bill of Rights Act/Public Safety Officers Procedural Bill of Rights Act, employee speech and privacy, workplace violence, pre-employment and privacy issues, including drug and alcohol testing, Affordable Care Act, HIPAA/California Confidentiality of Medical Information Act, and CalPERS and CalSTRS audits and disputes. Katy has also drafted and revised a variety of personnel rules and policies, employee handbooks, memoranda of understanding, collective bargaining agreements, and employer-employee resolutions.

In addition, Katy provides advice and representation for a variety of labor matters, including acting as lead negotiator, representing agencies in proceedings before PERB, and providing workplace training addressing challenges in supervising represented employees. She also provides training and seminars and is a frequent presenter on other particular areas of concern for public employers, including interactive process and reasonable accommodation, discipline and due process, performance evaluations, investigations, and prevention of harassment, discrimination, retaliation, and abusive conduct.

During law school, Katy clerked at the U.C. Davis office of the Campus Counsel and served as a summer extern for the Honorable Gary A. Feess, a judge of the United States District Court for the Central District of California. She also served as editor-in-chief of the environmental law and policy journal, *Environs*. Katy recently completed a two-year appointment to the Program Review Committee for the American Inns of Court.

INSIGHTS

Presentations

“Avoiding a Bumpy Landing: Lighting the Approach to an Effective Interactive Process,” ACSA Personnel Institute, October 4, 2017

“Education is Your Passport to the Future: HR Back to Basics,” CalJPIA Risk Management Educational Forum, October 12, 2017

“Health Insurance Opt-Outs After the Affordable Care Act and *Flores v. City of San Gabriel Decision*,” County Counsels’ Association of California Employment Law Conference, Santa Barbara, November 2016

“Preventing Workplace Harassment, Discrimination, Retaliation and Abusive Conduct,” Client Presentation, December 2015

“Staff Training Requirements for Bilingual and English as a Second Language (ESL) Classrooms,” National Business Institute, English Language Learner Law Seminar, December 2015

“Preventing Workplace Harassment, Discrimination, Retaliation, and Abusive Conduct,” Client Presentation, November 2015

“Tap Dancing at Club Obi-Wan: Choreographing the Interactive Process,” California Public Employers Labor Relations Association Annual Training Conference, October 2015

“Diving in the Deep End of Disability Discrimination,” Association of California School Administrators Personnel Institute, October 2015

“Effective Return to Work Programs and the Interactive Process,” California Worker’s Compensation & Risk Conference & Expo, September 2015

“Diving in the Deep End of Disability Discrimination,” Los Angeles County Office of Education, Employment Practice Liability Workshop, May 2015

“HR Boot Camp,” County of San Bernardino, April 2015

“Employee Handbook Update 2015,” Montebello Land & Water Company, April 2015

“Preventing Workplace Harassment, Discrimination, Retaliation and Abusive Conduct,” City of Industry, December 2014

“Preventing Workplace Harassment, Discrimination, and Retaliation in the Legal Profession,” September 2014

“They’re Represented...Now What?!,” Irvine Ranch Water District, April 2014

Publications

“Clear as Mud Redux: California Leaves of Absence in the Public Sector,” *The Authority*, CJPIA Newsletter, Issue 59, January 2017

“Body Piercings and Tattoos in the Workplace: Can Employers Place Limits on Them?” *Carl Warren Connects*; Carl Warren, December 2015

“Pocket Guide to Disability Discrimination in the California Workplace,” *CPER*, October 2015

“Dress and Grooming Standards for California Public Employers ...It’s a Bit More Complicated than You Might Expect,” *The Authority*, CJPIA, August 2015

“Legal Trends,” *Burke, Williams & Sorensen, LLP*, 2008-2015

“Significant Changes to the FEHA: Are You Prepared for 2015?” *CALPELRA Alert*, December 2014

“Significant Changes to the FEHA: Are You Prepared for 2015?” *Employment Law Alert*, December 2014

“Healthy Workplaces, Healthy Families Act of 2014: What Does It Mean for Our Agency?” *The Authority*, CJPIA, November 2014

“School Districts Must Provide School-Wide Assessment Data as Part of a Special Education Determination,” *Education Law Alert*, October 2014



Brian I. Hamblet

Partner

Los Angeles

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PRACTICE GROUPS

Labor and Employment
Litigation
Public
Real Estate and Business

EDUCATION

J.D., *magna cum laude*, Loyola Law School, 2000
B.A., University of California, Los Angeles, Dean's List, 1987

ADMISSIONS

State Bar of California
United States District Court for the Central District of California

AFFILIATIONS

City Attorneys Association of Los Angeles County
Los Angeles County Bar Association
St. Mel School, Woodland Hills, Vice-President of the PTO

Brian Hamblet is a partner at Burke, Williams & Sorensen, LLP with over 15 years of litigation experience. His interest in defending public entities began in 1995 while he was a law clerk at a firm defending the cities of Beverly Hills and Ventura. Since then, Brian has developed a strong background defending governmental entities and their employees in tort litigation, particularly premises liability, dangerous condition of public property, wrongful death, constitutional law, and civil rights litigation. He has also successfully litigated and tried cases to verdict for both public agencies and private clients in the areas of bodily injury, contract disputes, employment discrimination, products liability, motor vehicle warranty, toxic tort, and unfair business practices, as well as bankruptcy, preference and fraudulent transfer litigation.

Brian also serves as the City Prosecutor for numerous cities including Rosemead, Camarillo, and Santa Clarita where he successfully handles criminal litigation and prosecution of code enforcement matters. Serving in these capacities has given Brian a broad range of litigation experience which he continues to expand upon to successfully represent his clients.

Brian received his B.A. in philosophy with a minor in business administration from UCLA in 1987. He graduated magna cum laude from Loyola Law School, in 2000 where he was ranked number one in his division and received numerous honors including the Order of the Coif, the Sayre MacNeil Scholars Award, the Dean's Scholarship for Academic Excellence, the American Jurisprudence Award for Excellence in Ethical Lawyering, and First Honors Awards in 1st Amendment Law, as well as Initiative and Referendum Law. Brian was also appointed a member of the Order of the Coif, the St. Thomas More Law Honor Society, and Alpha Sigma Nu Honor Society and was an Editor on the Loyola Law Review. Brian has also lectured extensively for the City Attorneys Association of Los Angeles County ("CAALAC") as well as the University of Southern California, Loyola Law School, and Mount Saint Mary's College.

Prior to becoming an attorney, Brian was an apprentice editor on the movie, *Father of the Bride II*.

RESULTS

- *Palassanian v. Mercedes-Benz USA, LLC* (2011) WL 227992
- *Nunan v. Mercedes-Benz USA, LLC* (2010) WL 4122706
- *Bell v. Pierce* (2009) WL 475783
- *Chase v. County of Los Angeles* (2007) WL 646241
- *Melek v. City of Ontario* (2006) WL 2925376
- *Acker v. City of Ontario* (2006) WL 540888

INSIGHTS

Presentations

“Public, Private, Protected? What Public Entities Can (and Cannot) Do to Keep Personnel and Litigation Issues Confidential,” City Attorney's Association of Los Angeles County, November 2012

Publications

Contributing Editor, *Municipal Law Handbook*

“USERRA Rights and Obligations: Traps for the Unwary Employer,” *On the Burke Beat - Law Enforcement Liability Update*, June 2017

“Making Drug Dealers Pay For Law Enforcement,” *Western City Magazine*, February 2013

“Make the Drug Dealers Pay for Law Enforcement,” *Burke Public Law Update*, July 2012

“Strategic Implication of the Expedited Jury Trial Act,” *Burke Public Law Update*, April 2012

“Employers’ Legal Obligations Under the Uniformed Services Employment and Reemployment Rights Act,” *Burke Public Law Update*, August 2011

ATTACHMENT B – SAMPLE REPORTS

CONFIDENTIAL

THIS MATERIAL IS SUBJECT TO THE ATTORNEY-CLIENT AND/OR THE ATTORNEY WORK PRODUCT PRIVILEGES. DO NOT DISCLOSE THE CONTENTS HEREOF. DO NOT FILE WITH PUBLICLY ACCESSIBLE RECORDS.

_____, 2016

City Manager
City Council
City of _____

Re: Litigation Status Report – May 2016

Dear City Manager and City Council Members:

Please accept this letter as the May 2016 update on the status of pending litigation involving the City. There are currently 11 pending matters. This letter addresses all current litigation to which the City is a party, including litigation being handled by counsel other than Burke, Williams & Sorensen, LLP. The cases being handled by outside counsel are presented in a separate section at the end of this report. This litigation status report is intended as a brief update on the progress of pending matters listed and not as an exhaustive review of the merits or strategy of any particular case.

Be advised that this litigation status report contains attorney-client and attorney work product information that is confidential and privileged from disclosure to the public. You are advised not to disclose this letter or its contents without prior consultation with the City Attorney. Please do not file or store this letter with publicly accessible records.

CASES BEING HANDLED BY BURKE, WILLIAMS & SORENSEN

GENERAL LITIGATION

Gordon Gadfly v. City

Case No. _____; (File No. _____)

Plaintiff: Gordon Gadfly
Defendants: City, et al.
Resp. Attys: Attorney A, Attorney B

Description: Plaintiff filed an action alleging civil rights violations, based on an alleged pattern of code enforcement harassment against him. He contends that the City illegally took code oaths against him in retaliation for his criticism of the City and the City Council over the years.

Status: ***Motion for Summary Judgment Granted.*** At the City's direction, we vigorously defended this case, including preparing and filing a summary judgment motion, which was heard on April 1, 2015. The court has granted that motion in full and

has entered judgment in the City's favor, dismissing Plaintiff's lawsuit. We filed a costs bill seeking cost recovery from Plaintiff.

Fees & Costs: Incurred to date: Legal fees: \$125,763.60; Costs: \$15,294.12

PUBLIC WORKS LITIGATION

John Q Property Owner v. City

Case No. _____; (File No. _____)

Plaintiff: John Q. Property Owner
Defendants: City
Resp. Attys: Attorney C

Description: This is an action for inverse condemnation, dangerous condition of public property, and nuisance. Plaintiff alleges that a City water leak caused soil subsidence and damage to its insured's building. .

Status: ***Discovery Underway.*** We inspected the property on February 15, 2016, and March 1, 2016, have propounded written discovery and taken two depositions. In connection with this analysis, we are working with expert witnesses on evaluating Plaintiff's claims and possible defenses. A trial setting conference is scheduled for June 13, 2016.

Fees & Costs: Incurred to date: Legal Fees: \$45,778.50; Costs: \$7,274.30

PERSONNEL

Johnny B. Gone v. City, et al.

Case No. _____; (File No. _____)

Plaintiffs: Johnny B. Gone
Defendants: City, City Police Department, HR Director
Resp. Attys: Attorney E

Description: Plaintiff has brought a petition for writ of mandamus seeking to overturn an arbitration decision in favor of the City upholding former employee's discharge.

Status: Oral argument on the Writ was held on March 15, 2016. After the argument, the judge held in favor of the City and denied Plaintiff's petition in all respects. Former employee's time to appeal will expire on April 1, 2016.

Fees & Costs: Incurred to date: Legal fees: \$24,156.00; Costs: \$1,093.48

TORT LIABILITY LITIGATION

Tommy Tortfeaser v. Defendant, City, et al.

Case No. _____; (File No. _____)

Plaintiffs: Tommy Tortfeaser
Defendants: Plaintiff, City, Defendant A, Defendant B, County
Resp. Attys: Attorney A, Attorney B

Description: Plaintiff was a passenger in a car accident that occurred when Defendant A struck Defendant B's vehicle, which was parked outside of Defendant B's home on Main Street. Plaintiff is suing the City for negligently maintaining the portion of East Stetson where the accident occurred.

Status: ***Trial Setting Conference Set.*** A trial setting conference will be held on May 20, 2016. We have given Plaintiff until May 1, 2016 to dismiss the City from this case or else we will file a Motion for Summary Judgment.

Fees & Costs: Incurred to date: Legal fees \$5,917.50; Costs: \$540.99

POLICE MISCONDUCT/CIVIL RIGHTS CASES

Smokey Dubage v. City

Court Case No. _____; (File No. _____)

Plaintiffs: Smokey Dubage
Defendants: City, Officer A
Resp. Attys: Attorney A, Attorney B

Description: Complaint for Damages was removed to federal court. Plaintiff alleges that a Police Department Officer unlawfully arrested him for possession of marijuana. He alleges he was an authorized user of medical marijuana, obtained a medical marijuana ID card from his doctor and showed the card to the arresting officer.

Status: ***Discovery Continuing and Trial Date Set.*** The Court issued a scheduling order on February 16, 2016. Amongst other things, the Court's order set a number of dates and deadlines, including trial on October 31, 2016. We plan to file a motion for summary judgment before the motion cutoff date.

Fees & Costs: Incurred to date: Legal fees: \$49,579.00; Costs: \$2,246.26

We hope that this Report provides you with a brief overview of the pending litigation that our firm is handling. If you would like to receive additional information, please contact me.

Respectfully submitted,

BURKE, WILLIAMS & SORENSEN, LLP

Gregory M. Murphy

I. Introduction

On behalf of Burke, please allow me to express our pleasure to serve as the Office of the City Attorney for the City. Since _____, Burke has provided the City with quality legal services, and placed a wide array of expertise at the City's disposal. Drawing upon such practice areas as water law, intellectual property, telecommunications, and housing law, as the City Attorney, I routinely utilize the services of 18 Burke attorneys to satisfy the legal demands of the City.

I may say with confidence that over the past _____ years Burke has provided the City with an unprecedented level of availability and access to legal services. We are providing office hours each week (time which is generally filled with meetings and city projects), as well as making ourselves available to attend meetings at other times most convenient for your staff. Access to Burke has allowed you to navigate the often tumultuous course of rapid development the City has experienced.

Certainly, there is a cost associated with the skill, expertise, access and availability that Burke provides to the City, however, we believe the cost is reasonable in relation to the service. The total legal fees (attorney time) for calendar year 2016 were \$1,367,846.80.¹ The total fees for 2015 were \$1,286,834.00. This modest increase is attributable to handling significant personnel matters and increased advisory work. However, 2016 did see a material reduction in litigation expense to \$192,990.00 from \$256,209.00.

We value the City as an important client of the Firm. We will always strive to prove ourselves worthy of being considered a valuable member of your team.

Respectfully

Jim Legal Counsel
City Attorney

¹ The City contracts with another law firm to provide basic Code Enforcement prosecution services, worker's compensation, personnel investigations, and other specialty legal work. Those firms' fees are not included in this report. The fees reported are such services as Burke, Williams & Sorensen, LLP have provided.

II. Your City Attorney's Office
City Attorney Office
18 attorneys

[Organizational chart of City Attorney's office inserted here]

III. Description Of Service Categories

The following descriptions are intended for illustrative purposes only and do not represent a certified audit of services provided to the City. The descriptions are brief and general in nature and are not a complete listing of all services provided under a general category heading or to any particular City Department or Department head.

Administrative Services

This category represents general advisory services provided by the City Attorney's office to the City Council, the City Manager's office, the City Clerk's office, personnel and labor related issues, and general litigation and risk management. Advisory services include attendance at City Council meetings, conflict-of-interest reviews, Brown Act and agenda issues, review and preparation of ordinances and resolutions, review and preparation of contracts for the City, research on legal issues of general applicability, and general advisory work.

Administration Services also includes services provided primarily to the City Manager's office and other Department heads regarding pending or threatened litigation. Such services include review of claims, risk management activities, review of indemnity and insurance provisions, liability assessments, and consultation with the City Manager and Department heads on potential litigation.

Services provided to the City Manager's office and the Human Resources Department related to personnel and labor issues are also within this category. Such services include advice concerning discipline, termination, and hiring practices, review and revision of personnel rules, research regarding personnel issues and interpretation of insurance and benefit provisions, and arbitration and/or litigation of personnel matters and labor negotiations.

Economic Development and Redevelopment

This category represents services provided to the Governing Board of the Redevelopment Agency and Housing Authority and to the office of the Executive Director. Such services include drafting and negotiating redevelopment and affordable housing agreements, research of redevelopment and housing issues, attendance at RDA and Housing Authority Board meetings, and general advisory work for those Agencies.

Development Services

This category represents services provided to the Planning Department, the Building Official, the City Engineer, the Public Works Department, and Code Enforcement and Housing. Such services include attendance at Planning Commission meetings, review of staff reports, assistance in the preparation of zoning ordinances and resolutions, preparation of development agreements, research of land use, CEQA, and building issues, assistance with interpretation and implementation of TUMF and the MSHCP, attendance at meetings with developers on large projects, and general advisory work for those Departments. This category also includes land use litigation.

Services provided to the Public Works Department and representation of the City at Groundwater Policy and working group meetings are included as well. Such services include general advisory services, legal research on related issues, review of construction contract documents as needed, consultation regarding potential bid disputes, review of specialty contracts, real property and right-of-way acquisition services.

Public Safety

This category represents services provided to the Police and Fire Departments. Such services include general advisory work for the Police and Fire Chief and their designees, legal research on related issues, review of Department policies and practices, and consultation on record's requests. This category includes defense of the Police Department and its officers in related litigation.

IV. Representative Projects for 2016

- **General Services**
 - Implement Bighorn Decision regarding Utility Rates and Use of Funds
 - Universal Appeal Ordinance
 - AB 1234 Expense Reimbursement Resolution/Ethics Training
 - Public Records Requests
- **Planning Services**
 - Development Agreement & Specific Plan & CFD
 - Reimbursement Agreement
 - Interim Urgency Ordinance
 - Adult Business Ordinance
 - Pole Sign Ordinance
 - Sign Code Reorganization
 - Senior Housing Conversion Ordinance
 - TTM
 - EIR/Annexation
 - Agreement for Construction of Model Homes
- **Redevelopment & Economic Development**
 - Improvement Agreements and OPAs
 - Participation and Lease Back
 - Finance Agreement
 - Purchase Agreement
 - Assistance Agreement
 - CFD Lease
 - Exchange Agreement
 - Clean-up RDA Land Exchange with MWD
- **Personnel**
 - City Manager – At-Will Agreement for New City Manager
 - Comprehensive Policy on Employee Use of City Equipment
 - Discharge Procedure for prior Finance Director
 - Various Discipline Procedures
 - HIPHA Privacy Policy
 - FMLA Policy
- **Litigation**
 - Smith v. City*
 - Jones v. City*
 - Chavez v. City*
 - Chorie v. City*
 - Nobble & Co. v. City*
 - Construction Co. v. City*
 - Putman v. City*
 - Duckert v. City*
 - Mendoz v. City*
- **Public Works**
 - Revise Consultant Service Agreement
 - Overhaul Public Works Contract Documents
 - Various Reimbursement Agreements

LEGAL MEMORANDUM TO CITY COUNCIL

TO: Mayor and Council Member **CC:** City Manager
FROM: City Attorney
DATE: November 5, 2031
RE: **City Attorney Work Report – First Quarter 2031/2032**

INTRODUCTION

This is the City Attorney's Work Report for the first quarter of fiscal year 2031/2032. The purpose of this report is to keep you informed of the work being done by my office, and to assist you in setting priorities for legal work.²

This report will cover major projects, pending litigation, and legal fees relating to the months of July, August & September 2031. *Major projects* are those projects assigned by Council, City Manager, or Department heads, involving more than five (5) hours of work to complete. We provide a brief list of *Pending Litigation* matters with a notation of any major work incurred during the term. You also currently receive monthly our Monthly Litigation Status Report on all matters. The total of *Legal Fees* for each month and cumulatively for the quarter are provided with a reconciliation to the budget. Legal Fee are provided only for services provided to Wonderland by Burke, Williams & Sorensen, LLP.

As this report is intended to help keep you informed, should you have any questions please contact me. If you find that any specific type of additional information would be helpful in this report, we are most happy to include it in future installments.

MAJOR PROJECTS UNDERTAKEN

A. Routine Work. The City Attorney's Office provides a number of ongoing routine services that are not detailed in this report. Routine legal services include:

- Attendance of all regular and special meetings of the City Council and Planning Commission;
- Attendance of the City Manager's Executive Team meetings;
- Review of routine contracts, resolutions, and ordinances;
- Review of staff reports involving legal issues;
- Attendance of meetings with staff and/or other persons or entities as directed;
- Response to legal questions posed by Council, the City Manager, and Department heads;
- Prepare conflict-of-interest analyses as issues are presented to my office.

B. Major Projects. The City Attorney's Office has undertaken significant work on the following major projects³ between July 1, 2031 through September 30, 2031.

² This report will not report on the work being undertaken by law firms or attorneys other than Burke and the fee amounts and budget numbers reported does not relate to the services of such other firms and attorneys.

- **Personnel Issues.** Ongoing work in implementing City budget reductions and modification of existing policies.
- **Public Records Requests.** The City has been inundated during this quarter with public records act requests from the regional newspapers, local citizens, and various law firms. Two of these requests involved production of 25 bankers boxes of material. Review of exempt materials and research re exemptions.

CLOSING

On behalf of Burke, it is our pleasure to continue to provide City Attorney and related legal services to the City of Wonderland. Should you require any additional information regarding any item contained in this report, please feel free to contact me.

Respectfully submitted,

Susan Attorney
Burke, Williams & Sorensen, LLP

³ Major projects are those of a non-routine nature requiring more than five (5) hours of work, or a routine task that, due to its import or complexity, needs to be noted in the report.

ATTACHMENT C – SAMPLE BILL

LAW OFFICES
BURKE, WILLIAMS & SORENSEN, LLP
444 SOUTH FLOWER STREET
SUITE 2400
LOS ANGELES, CALIFORNIA 90071-2953
TELEPHONE (213) 236-0600
TELECOPIER (213) 236-2700

IN ACCOUNT WITH:

FEDERAL I.D. NO.
95-1705973

Attn: _____

[DATE]
Invoice: _____

FEE FOR PROFESSIONAL SERVICES RENDERED
THROUGH _____:

DISBURSEMENTS MADE TO YOUR ACCOUNT
THROUGH _____:

TOTAL CURRENT CHARGES:

_____ \$

LAW OFFICES
BURKE, WILLIAMS & SORENSEN, LLP
444 SOUTH FLOWER STREET
SUITE 2400
LOS ANGELES, CALIFORNIA 90071-2953
TELEPHONE (213) 236-0600
TELECOPIER (213) 236-2700

FEDERAL I.D. NO.
95-1705973

IN ACCOUNT WITH:

Attn: _____

[DATE]
Invoice: _____

Our File No.: _____ - _____
Re: _____

<u>Date</u>	<u>Description of Services Rendered</u>	<u>Hours</u>	<u>Tkpr</u>
00/00/00	REVIEWED _____ FOR STATUS OF _____	_____	_____

<u>Date</u>	<u>Description of Disbursement</u>	<u>Quantity</u>	<u>Amount</u>
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____

ATTORNEY NAME _____ x _____ = _____

TOTAL FEES _____

TOTAL DISBURSEMENTS _____

BALANCE DUE: _____ \$ _____

LAW OFFICES
BURKE, WILLIAMS & SORENSEN, LLP
444 SOUTH FLOWER STREET
SUITE 2400
LOS ANGELES, CALIFORNIA 90071-2953
TELEPHONE (213) 236-0600
TELECOPIER (213) 236-2700

FEDERAL I.D. NO.
95-1705973

IN ACCOUNT WITH:

CITY OF _____

[DATE]

Invoice: _____

Attn: _____

Our File No.: _____ - _____

Re: _____

<u>Date</u>	<u>Description of Services Rendered</u>	<u>Hours</u>	<u>Tkpr</u>
00/00/00	REVIEWED _____ FOR STATUS OF _____	_____	_____
00/00/00	REVIEWED _____ FOR STATUS OF _____	_____	_____

<u>Date</u>	<u>Description of Disbursement</u>	<u>Quantity</u>	<u>Amount</u>
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____
00/00/00	POSTAGE		_____
00/00/00	DUPLICATION		_____
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____
00/00/00	_____; VENDOR: _____; INVOICE#: _____; DATE: _____		_____

ATTORNEY NAME _____ x _____ = _____

TOTAL FEES _____
TOTAL DISBURSEMENTS _____
BALANCE DUE: _____

ATTACHMENT D – CLIENTS

Current Public Agency Clients

Alameda Corridor East Construction Authority	City of Camarillo Successor Agency	City of Moreno Valley
Alameda Unified School District	City of Capitola	City of Moreno Valley Planning
Alisal Union School District	City of Carmel-by-the-Sea	City of Morgan Hill
Alum Rock Union Elementary School District	City of Cathedral City	City of Morro Bay
American Purlington University	City of Chino	City of Mountain View
Angeles Institute	City of Chula Vista	City of Napa
Bear Valley Community Services District	City of Concord	City of Napa Redevelopment Successor Agency
Berkeley Unified School District	City of Corona	City of National City
Berryessa Union School District	City of Coronado	City of Newark
Beverly Hills Unified School District	City of Culver City	City of Oakland
Brentwood Downtown Redevelopment Successor Agency	City of Cupertino	City of Oroville
Calaveras County Water District	City of Daly City	City of Oxnard
California Department of Corrections and Rehabilitation	City of Daly City Successor Agency to the Daly City Redevelopment Agency	City of Pacifica
California Joint Powers Insurance Authority	City of Delano	City of Palm Springs
California School Boards Association	City of Downey	City of Palmdale
Camarillo Community Development Commission Successor Agency*	City of Duarte	City of Palo Alto
Camarillo Sanitary District	City of Eastvale	City of Pasadena
Cambrian School District	City of El Centro	City of Patterson
Capistrano Unified School District	City of Emeryville	City of Petaluma
Carmichael Water District	City of Eureka	City of Petaluma/Successor Agency to the Petaluma RDA
Centinela Valley Union High School District	City of Fort Bragg	City of Piedmont
Central Basin Municipal Water District	City of Foster City	City of Placentia
Chatsworth Hills Academy	City of Fremont	City of Pleasanton
Chico Unified School District	City of Fresno	City of Redding
China International Medicine University	City of Galt	City of Redondo Beach
City of Agoura Hills	City of Garden Grove	City of Redwood City
City of Alameda	City of Gilroy	City of Richmond
City of Alhambra	City of Glendale	City of Riverside
City of American Canyon	City of Glendale/Successor Agency to the Glendale RDA	City of Rohnert Park
City of Anaheim	City of Goleta	City of Rolling Hills Estates
City of Antioch	City of Half Moon Bay	City of Rosemead
City of Atascadero	City of Hawthorne	City of Roseville
City of Beaumont	City of Healdsburg	City of Sacramento
City of Belvedere	City of Hemet	City of Salinas
City of Benicia	City of Hermosa Beach	City of San Bruno
City of Berkeley	City of Hollister	City of San Buenaventura
City of Big Bear Lake	City of Huntington Beach	City of San Carlos
City of Bishop	City of Imperial	City of San Diego
City of Brawley	City of La Palma	City of San Gabriel
City of Brentwood	City of Laguna Niguel	City of San Jose
City of Buellton	City of Lake Elsinore	City of San Luis Obispo
City of Burlingame	City of Lancaster	City of San Marino
City of Calistoga	City of Lathrop	City of San Mateo
City of Camarillo	City of Lemon Grove	City of San Rafael
	City of Livermore	City of Santa Barbara
	City of Long Beach	City of Santa Clara
	City of Los Angeles	City of Santa Clarita
	City of Lynwood	City of Santa Cruz
	City of Manhattan Beach	City of Santa Rosa
	City of Martinez	City of Sausalito
	City of Merced	City of Seaside
	City of Milpitas	City of Simi Valley
	City of Modesto	City of Soledad
	City of Monterey	City of South Gate
	City of Moorpark	City of South Lake Tahoe
		City of South Pasadena
		City of St. Helena

City of Stockton
 City of Sunnyvale
 City of Tehachapi
 City of Temple City
 City of Temple City
 Redevelopment Successor
 Agency
 City of Tracy
 City of Union City
 City of Union City/Union City
 Successor Agency
 City of Vacaville
 City of Vallejo
 City of Vernon
 City of Watsonville Successor
 Agency
 City of West Sacramento
 City of Wildomar
 Coachella Valley Association of
 Governments
 Coast Community College
 District
 Codemed School of Nursing and
 Technology
 Community College League of
 California
 Community Development
 Commission of Rohnert Park
 Successor Agency
 Compton Community College
 Compton Unified School District
 Concord Redevelopment
 Successor Agency
 Conejo Valley Unified School
 District
 County of Alameda
 County of Kern
 County of Mariposa
 County of Monterey
 County of Orange
 County of Placer
 County of Riverside and
 Riverside County Registrar
 County of San Bernardino
 County of San Bernardino -
 CFSB
 County of San Bernardino
 Successor Agency
 County of Santa Clara
 County of Sonoma
 County of Stanislaus
 County of Ventura
 County Sanitation Districts of
 Los Angeles
 Crescenta Valley Water District
 Diablo Community Services
 District
 Eastern Contra Costa Transit
 Authority (ECCTA)
 Eastside Union High School
 District
 El Rancho Simi Cemetery District
 Evergreen Elementary School
 District

Fairfield-Suisun Unified School
 District
 Franklin-McKinley School District
 Fremont Union High School
 District
 Friant Water Authority
 Friant Water Political Action
 Committee
 Hayward Unified School District
 Hemet Housing Authority
 Hemet Redevelopment
 Successor Agency
 Hesperia Unified School District
 Housing Authority of the City of
 Glendale
 Housing Authority of the City of
 Los Angeles
 Housing Authority of the City of
 Napa / City of Napa
 Housing Authority of the County
 of Contra Costa
 Housing Authority of the County
 of Santa Clara
 Hueneme School District
 Inglewood Unified School
 District
 Ironhouse Sanitary District
 Irvine Ranch Water District
 Jamul Indian Village
 Jurupa Area Recreation and
 Parks District
 Jurupa Unified School District
 Kelseyville Fire Protection
 District
 L.A. Care Health Plan
 Lake Elsinore Unified School
 District
 Las Lomas Elementary School
 District
 Liberty Union High School
 District
 Livermore Valley Joint Unified
 School District
 Livermore-Amador Valley Water
 Management
 Lompoc Unified School District
 Los Altos School District
 Los Angeles Department of
 Water and Power (LADWP)
 Los Angeles Unified School
 District Bond Oversight
 Committee
 Los Angeles World Airports
 (LAWA)
 Los Gatos/Saratoga Dept. of
 Community/Recreation
 Los Gatos-Saratoga Joint Union
 High School District
 Manton Joint Unified School
 District
 Marina View Preschool
 Marymount College
 Menlo Park City School District
 Mesa Water District
 Milpitas Unified School District

Mono County
 Monte Vista Water District
 Montebello Land and Water
 District
 Monterey County Water
 Resources Agency
 Monterey Regional Water
 Pollution Control
 Moreland School District
 Morgan Hill Unified School
 District
 Moss Landing Harbor District
 Mountain View Whisman School
 District
 Mountain View/Los Altos Union
 High School District
 Mt. Diablo Unified School
 District
 Mt. Pleasant Elementary School
 District
 Oak Grove School District
 Oakland Redevelopment
 Successor Agency
 Oakland Unified School District
 Olivehurst Public Utility District
 Omnitrans
 Orange County Employees
 Retirement System (OCERS)
 Orange County Flood Control
 District
 Orange County Healthcare
 Agency
 Orange County Water District
 Oroville City Elementary School
 District
 Otis School of Arts and Design
 Paradise Unified School District
 Peralta Community College
 District
 Placer County Office of
 Education
 Placer County/Placer County
 Successor Agency
 Placer Mosquito and Vector
 Control District
 Pleasant Hill Redevelopment
 Successor Agency
 Portola Valley School District
 Prison Industry Authority
 Rancho Santiago Community
 College District
 Rancho Simi Recreation and Park
 District
 Ravenswood City School District
 Rio Hondo Community College
 District
 Riverside Community College
 District
 Rolling Hills Preparatory School
 Rosamond Community Services
 District
 Roseville City School District
 Ross Valley Sanitary District
 Ryokan College

Sacramento Housing & Redevelopment Agency
 San Bernardino Associated Governments
 San Bernardino Community College District
 San Francisco City College
 San Francisco Unified School District
 San Gabriel Valley Council of Governments
 San Jacinto Unified School District
 San Jose Unified School District
 San Mateo Community College District
 San Mateo County Mosquito & Vector Control District
 Sanitary District No. 5 of Marin County
 Santa Clara Family Health Plan
 Santa Clara Unified School District
 Santa Clara Valley Habitat Agency
 Santa Clara Valley Transportation Authority
 Santa Clara Valley Water District
 Santa Clara Waste Water Company
 Santa Cruz Metropolitan Transit District
 Santa Cruz Port District
 Santa Monica-Malibu Unified School District

Santa Rosa City Schools
 Santa Ynez River Water Conservation District
 Saratoga Union School District
 Sausalito-Marín City Sanitary District
 School of Healing Arts
 Silver Valley Unified School District
 Solano County Office of Education
 Sonoma County Library
 Sonoma County Transportation Authority
 Sonoma Marin Area Rail Transit District
 Southern California Regional Rail Authority (SCRRA)
 Southern California University School of Oriental Medicine and Acupuncture
 Southwestern Community College District
 St. Helena Unified School District
 St. John Bosco High School
 Successor Agency for the County of San Bernardino
 Sunline Transit Agency
 Sunnyvale School District
 Superior Court of California, County of Los Angeles
 Superior Court of California, County of Orange
 Sylvan Union School District

Tahoe Transportation District
 Torrance Unified School District
 Town of Apple Valley
 Town of Danville
 Town of Los Gatos
 Town of Mammoth Lakes
 Town of Moraga
 Town of Ross
 Town of San Anselmo
 Town of Tiburon
 Town of Truckee
 Town of Woodside
 Town of Yucca Valley
 Tracy Unified School District
 Travis Unified School District
 Truckee Tahoe Airport District
 Tuolumne Utilities District
 U.S. Bureau of Prisons
 Union Sanitary District
 University of California Los Angeles
 University of California, Riverside
 University of California, Santa Cruz
 Val Verde Unified School District
 Vallejo Flood & Wastewater District
 West Basin Water District
 West Bay Sanitary District
 Willows Unified School District
 Woodside School District
 Yucaipa-Calimesa Joint Unified School District

Former Public Agency Clients

Azusa Light & Water
 California Statewide Communities Development Authority
 Cathedral City Redevelopment Agency
 City of Albany
 City of Arroyo Grande
 City of Cerritos
 City of Chico
 City of Chico/Chico Successor Agency
 City of Chowchilla
 City of Galt/Galt Successor Agency
 City of Industry
 City of Inglewood

City of Menifee
 City of Newport Beach
 City of San Marcos
 City of Santa Fe Springs
 City of Solana Beach
 Civic Recreational Industrial Authority
 County of Lake - Lake County Board of Supervisors
 County of San Diego
 East Bay Municipal Utility District
 Inland Empire Health Plan (IEHP)
 Inland Empire Utilities Agency
 Lake Hemet Municipal Water District

Morgan Hill Economic Development Corporation
 Pauma Valley Community Services District
 Port of Hueneme, Oxnard Harbor District
 Port of Oakland
 Richmond Housing Authority
 Santiago Geological Hazard Abatement District
 Sonoma County Water Agency
 South Coast Air Quality Management District (SCAQMD)
 Southern California Public Power Authority

Practice Groups

Construction Law
Education Law
Environmental, Land Use
& Natural Resources
Labor & Employment Law
Litigation
Public Law
Real Estate & Business

Locations

Los Angeles
Inland Empire
Marin County
Oakland
Orange County
Palm Desert
San Francisco
Silicon Valley
Ventura County

800.333.4297
www.bwslaw.com

420 Sierra College Dr., Ste. 140
Grass Valley, CA 95945-5091
(530) 432-7357 | www.chwlaw.us



ATTACHMENT 2

790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101-2109
(213) 542-5700 | www.chwlaw.us

PROPOSAL

TO THE CITY OF BUELLTON

FOR

CITY ATTORNEY SERVICES

August 24, 2018

SUBMITTED BY:

Matthew T. Summers, Esq.
Lindsey Zwicker, Esq.
Teresa L. Highsmith, Esq.
Holly O. Whatley, Esq.
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd, Suite 850
Pasadena CA 91101

Telephone: (213) 542-5700
Facsimile: (213) 542-5710
E-mail: MSummers@chwlaw.us



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Lindsey Zwicker – Proposed Assistant City Attorney.....	13
Holly Whatley – Primary Litigation Counsel	15
Teresa Highsmith – Primary Labor Counsel.....	19
State Bar Complaints – None	22
Additional Questions	22
b) Specify the individual that you propose for appointment as City Attorney.	22
c) Specify the individual(s), that you would propose as Assistant City Attorney and/or who would be designated as competent, substitute/backup legal representation for the City, in the event of the absence or unavailability of the City Attorney.....	22
d) Specify accessibility (phone and e-mail) to the City’s needs. Office hours are currently not provided by the current law firm nor a requirement of the RFP.....	22
e) Describe systems/mechanisms that would be established to ensure timely responses to City Council and City staff.	23
f) Describe the response time we can expect from the City Attorney to inquiries made by the City Council/City Manager.	24
g) Describe systems/mechanisms that would be established for monthly reporting of status of projects, requests, and litigation.	24
h) Identify the types of reports your firm would provide to the City Council and City Manager.....	24
i) Describe your firm’s suggested process for transmittal of requests and other material to City Attorney.	25
j) Describe the staffing of your office, including permanent and temporary employees and their general duties and work schedules. Include any changes you would propose, now or in the future, should you be awarded a contract to provide legal services to the City.	26



k) It is anticipated that the City will contractually require monthly-itemized statements for all services and will subject these statements to audit at least annually. Describe how you would provide for this reporting..... 26

l) Please submit an example of a typical invoice your firm would provide. Please redact any references to specific costs. Also, you may redact any sensitive information. We are interested in the format, type of information included, and readability. 26

m) Identify the types of in-service training (such as ethics and AB 1234, commission roles and responsibilities, how to conduct performance evaluations, harassment, etc.) your firm is capable of providing to the City. 27

n) Insurance 27

Clients & Potential Conflicts of Interest..... 27

a) Please list any political contributions of money, in-kind services, or loans made to any member of a city council within the last three years by the applicant law firm and all of its attorneys, including the attorney being proposed to represent the City of Buellton..... 27

b) Please list all public agency clients for which your firm currently provides services or are under retainer..... 28

c) Please list all public agency clients for which your firm previously provided services over the last five years..... 28

d) Please specify current or known future professional commitments, so that the City may evaluate your continuing availability for providing legal services to the City.... 28

e) Please explain how you will address conflicts of interest between work for the City and other clients, if and when they occur. 29

Retainer-General and Special Services..... 30

a) Provide the fixed monthly retainer amount along with a fee schedule for additional “special” services. 30

b) Please give your definition of “general” legal services. Would all general services be included in your monthly retainer? 31

c) Please define any “extra” services such as litigation, and describe if such services will be billed at a different hourly rate or basis. 32



d) Please give your definition of “special” legal services? How are they differentiated from general legal services? Would any special services be included in your retainer? If so, please identify them..... 33

e) How would you help the City remain within its adopted budget for legal services? 34

f) Describe your preference for method of payment, payment terms, and your procedure for billing of retention, hours, and expenses and any other accounting requirements..... 35

g) Define the type and unit rates for reimbursement of expenses; for example, rate for travel time, mileage, reproduction of documents or word processing charges, unit costs for telephone costs, etc..... 36

h) Please provide the costs of any in-service training you can provide to the City. 37

i) If you expect to have a cost-of-living adjustment incorporated into the agreement with the City, please explain how you propose it be computed and implemented. ... 37

j) Would you be willing to operate under a maximum annual expenditure cap with the City? If so, please explain how it might be structured..... 37

References 38

 City of Ojai: 38

 City of Calabasas..... 39

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Qualifications

Firm Introduction

We believe we are able to meet all of the legal needs of the City of Buellton, whether transactional/advisory or litigation, through high-quality, cost-effective direct legal support. Our firm has significant experience in representing cities in every aspect of their legal needs. Mr. Summers has over six years of experience representing cities in both Southern and Northern California, including attending City Council and other public agency meetings. He presently serves as City Attorney to the City of Ojai and as Assistant City Attorney and Planning Commission Counsel to the City of Calabasas. He is an experienced legal advisor at City Council, Planning Commission, and other public entity meetings and can provide advice on the Brown Act, Political Reform Act, Public Records Act, matters of parliamentary procedure and internal City Council policies and procedures as may arise during public meetings. We propose Mr. Summers as City Attorney and he is available to attend the regular meetings of the Buellton City Council on the second and fourth Thursdays of every month.

Colantuono, Highsmith & Whatley, PC is a municipal law firm with offices in Pasadena and Grass Valley that represents public clients throughout California in all aspects of municipal law. The Firm's core values are to provide understandable, practical, helpful, and fairly priced advice to local government clients. The firm was recognized as one of California's Top Ranked Law Firms by Martindale-Hubbell in 2014 and Michael Colantuono, Terri Highsmith, Jenni Pancake, Michael Allderdice and Scott Howard have each achieved the highest AV rating from Martindale-Hubbell.

In our service as City Attorney and in our special counsel practice, we provide advice to cities on all facets of public agency law, including the Brown Act, election law, conflicts of interest law, matters arising under the Public Records Act, land use and planning, public revenues and financing, labor and employment, redevelopment, including the dissolution process pursuant to AB 1x26 & AB 1484, housing, the California Environmental Quality Act and any related litigation. Our land use practice serves both regulators and municipal property owners on zoning, planning, subdivisions and environmental issues throughout California. Our labor and employment law practice includes advice (including negotiation of MOU's with various bargaining units),



training, and representation in administrative proceedings and litigation in a wide variety of matters, including wrongful termination, disability and other discrimination, discipline, and leaves, for both miscellaneous employees and public safety employees (police and fire). The Firm prides itself on its extensive public law experience, its commitment to problem-solving, and a focus on ethical, creative, affirmative and intelligent advice and representation, which our clients find both helpful and understandable.

Colantuono, Highsmith & Whatley, PC is unique for its approach in the delivery of legal services. Our philosophy is to anticipate and find solutions to our clients' problems, and to help our clients achieve their goals. We are particularly adept at devising creative solutions to complex issues, with the goal of ensuring that whenever possible, we identify a path to accomplish the client's objectives. We focus on preventative law directed at addressing legal problems before the parties find that they must resort to time-consuming and expensive litigation. Often, we find that a matter can be resolved with a creative, legal negotiated solution that takes into account and meets the goals of our client and the other parties. If litigation is required, however, we are well equipped to vigorously represent our clients' interest in court. At the same time, we are alert for opportunities to settle litigation and thereby to reduce our clients' costs.

As part of our everyday practice for public entities, we have drafted legislation on every imaginable topic of interest to a public entity, as well as supporting staff reports. We regularly review and draft simple and complex agreements including but not limited to agreements pertaining to real property (whether for acquisition or regulation, including easements, right of way access or abandonment), construction and subdivision agreements, professional services agreements, Memoranda of Understanding with bargaining units, and public works project bidding documents. We also regularly advise cities and other public agencies on election law issues, from advising cities on initiatives and referendum, to preparing ballot measures, arguments for and against and, of course, impartial analyses.

The Firm has significant experience supporting our clients in various economic development projects, whether or not within a former redevelopment project area. Members of our Firm have negotiated and drafted real property contracts with several major housing and commercial developers (with and without affordable housing components), the United States Department of Defense, individual tenants proposed for



publically-owned facilities, and several affordable housing advocates. Our participation at the negotiating table has resulted in the full range of real property agreements drafted to protect our client’s principle interests and minimize risk while also addressing the realistic goals and achievable deliverables of the developer or tenant. In our experience, an “interest-based bargaining” approach yields an agreement that is more likely to stand the test of time and result in a project that is consistent with what was initially represented to the community. We have drafted Exclusive Negotiating Agreements, Owner Participation Agreements, Development Agreements and Disposition and Development Agreements for many clients (even in the wake of the dissolution of redevelopment), as well as commercial leases, licenses, real property financing instruments (including promissory notes and deeds of trust), and restrictive covenants. We have experience providing defense in inverse condemnation matters, as well as advising our clients on the process to initiate eminent domain proceedings and representing our clients in eminent domain litigation.

The Firm also maintains a labor and employment team, of which Ms. Highsmith is lead counsel with assistance as needed from Ms. Whatley and Mr. Summers in both transactional and litigation matters. Ms. Highsmith has more than 25 years of experience advising public agency clients regarding all aspects of public employment law. Our labor and employment law practice includes advice, training, and representation in administrative proceedings and litigation in a wide variety of matters, including wrongful termination, disability and other discrimination, discipline, and leaves. We have also advised cities through alternative dispute resolutions for labor and employment matters, including complex employee discipline cases subject to binding arbitration.

The Firm includes California’s leading experts on local government revenues, including Propositions 13, 26 and 218. Michael Colantuono, one of the Firm’s founding members, leads the team on all public financing matters, with a particular focus on setting, defending, and challenging retail and wholesale water rates. He recently chaired the League of Cities Committee that wrote the League of Cities’ Propositions 26 and 218 Implementation Guide. More information about our public finance practice is included as Attachment F.

The Firm also has depth in water law, including under the state Porter-Cologne Act and the federal Clean Water Act, representing both cities which are urban water suppliers and cities as they oversee independent water suppliers to their residents. Mr. Summers



has direct experience advising cities on compliance with state drought response requirements for their water systems and on compliance with National Pollutant Discharge Elimination System (NPDES) permits for their municipal storm sewer systems, including under the rigorous permit imposed by the Los Angeles Regional Water Quality Control Board in 2012. Mr. Summers and Ms. Whatley also litigated a challenge to that permit before the State Water Resources Control Board and continue to litigate challenges on behalf of Sierra Madre and South Pasadena pending in the trial court.

In addition to advisory work in all areas of interest to a public entity, our firm also represents public entities in litigation matters, as needed, from simple code enforcement to complex matters of first impression impacting cities on a statewide basis. Our litigators have broad experience in public-sector litigation and such private-sector topics as general commercial litigation, employment law, and unfair competition. We have a successful litigation track record at all levels, including an extensive practice in the California Courts of Appeal and the California Supreme Court. (A list of examples of some of the Firm's significant appellate representations is attached as Attachment B.)

Our attorneys are among a small number of attorneys in private practice with deep expertise in LAFCO law, the Cortese-Knox-Hertzberg Act. We have advised cities on annexations, the creation of subsidiary districts, spheres of influence and municipal service reviews, as well as handling a number of significant LAFCO-related litigation. We also regularly advise cities and other public agencies on election law issues, from advising cities on initiatives and referendum, to preparing ballot measures, arguments for and against and, of course, impartial analyses.

Although we do not serve as "bond counsel," we are experienced in drafting components of Official Statements and in interpreting bond covenants and purposes.

In sum, we are able to provide legal advice to the City Council and members of staff via telephone, email, and written memoranda on both routine and complex legal matters, **both advisory and litigation**, including but not limited to:

- Open and closed meeting requirements of the Ralph M. Brown Act,
- Parliamentary procedure,
- Regulatory land use,
- Real property development, disposition, and acquisition,

- Eminent domain and inverse condemnation,
- Historic preservation laws,
- Conflict of interest advice, including regarding Political Reform Act issues (including AB 1234 training), Government Code section 1090 issues, and common law conflicts concerns,
- Public Records Act;
- Election law,
- General liability, compliance with Government Claims Act and risk management,
- California Environmental Quality Act and other environmental laws,
- Employment and labor (including Fair Labor Standards Act, various state leave laws, and workers compensation, for both miscellaneous and public safety, and pension laws and reform, such as AB 340 (Public Employees' Pension Reform Act) advice, legal support during the bargaining process for both issue and effects bargaining, and preparation of disciplinary documents),
- Public works construction and bidding advice,
- Claims advice and litigation related to public works projects,
- Code compliance and enforcement,
- Public financing matters (including Props. 218 and 26, assessment formation and taxation matters impacting municipalities, an area of specialty for which the Firm is well known),
- Insurance coverage requirements,
- Post-redevelopment and dissolution support,
- Drafting and implementation of ordinances regulating massage establishments and other high-impact special land uses
- Affordable housing,
- Economic development,
- Prosecution of misdemeanor violations,
- Annexation law under the Cortese-Knox-Hertzberg Act,
- Water law, including advice to urban water suppliers, and
- Clean Water Act and NPDES requirements regarding stormwater systems.



Matthew T. Summers – Proposed City Attorney

Matthew Summers is a Senior Counsel in Colantuono, Highsmith & Whatley’s Pasadena office with over six years of extensive experience representing cities and other public agencies in every aspect of municipal law, including three years’ service as City Attorney for the City of Ojai and six years as Assistant City Attorney and Planning Commission Counsel for the City of Calabasas. We propose Mr. Summers as City Attorney. His practice covers the full range of public law issues, including land use, elections, conflicts of interest, open meetings law, CEQA, public works and public contracting compliance, labor and employment, post-redevelopment advice, and litigation. Mr. Summers has specialized in representing public agencies his entire career.



Year admitted to the California Bar and Bar Number:
State Bar Number 280496, Admitted December 9, 2011

Length of Employment with Firm: Six Years

Education:

J.D., 2011, University of California, Hastings College of the Law, San Francisco, CA
B.A., Economics, Phi Beta Kappa, 2008, Reed College, Portland, OR

Professional Background:

Contract City Attorney Positions Held with Colantuono, Highsmith & Whatley, PC:

- City of Ojai
City Attorney, August 2015 to Present
Interim Assistant City Attorney, February 2015 to August 2015
- City of Calabasas
Assistant City Attorney and Planning Commission Counsel, October 2012 to Present



- City of La Habra Heights
Assistant City Attorney, January 2013 to January 2014

League of California Cities Positions Held:

- Municipal Law Handbook, City Attorneys' Department
 - Chair, Chapter 3, Elections, 2017 & 2018
 - Reviewer, Chapter 10, Land Use, 2015 & 2016
- Environmental Quality Policy Committee
 - Member, Appointed by GLBTLO Caucus, 2017 & 2018

Member of Tri-Counties City Attorneys' Association, Ventura, Santa Barbara, and San Luis Obispo Counties

Member of City Attorneys' Association, Los Angeles County

Years of Public Law Experience: Seven Years

California Municipal Law Experience, Expertise, and Training:

Mr. Summers serves as City Attorney for the City of Ojai, including serving as counsel to the Planning Commission and Historic Preservation Commission. He is also Assistant City Attorney and Planning Commission and Communications and Technology Commission (a cellular telecommunications and cable television-specific Planning Commission) Counsel for the City of Calabasas, and has served in this role for the past six years. He was previously Assistant City Attorney for La Habra Heights, attending all Planning Commission meetings and advising on all land use and CEQA compliance matters. Additionally, he advises the Cities of Barstow, Sierra Madre and South Pasadena, including Sierra Madre's water utility, and Eco-Rapid Transit, a fifteen-city joint powers agency, as well as work for our other general and special counsel clients. He has extensive land use experience, with a particular focus in complex mixed-use projects and telecommunications issues, water issues and NPDES compliance and is experienced at advising public bodies at City Council, Planning Commission, and other public entity meetings. He is experienced with all aspects of the Brown Act, the Public Records Act, the Political Reform Act, Government Code section 1090, common law conflict of interest rules, elections law, and public contracting and has provided formal and informal advice to the Firm's city and special district clients on these issues. He can provide advice on these issues and on matters of parliamentary procedure and internal city policies and procedures as may arise during



public meetings. He is also familiar with the unique concerns that arise for cities with contract police and fire services, and is skilled at advising cities as they manage those contracts. Mr. Summers works out of the Pasadena Office, is regularly in western Ventura County, and is always available by telephone and email.

He has a robust elections law practice, including advising Ojai, Calabasas, and several special counsel cities on candidate qualification and nomination issues, advising Calabasas on a referendum, and advising Ojai on two proposed initiatives and a referendum just in the past two years. He has also advised several cities considering pre and post-election challenges to proposed initiatives and referenda and is experienced in the elections issue that arise with elections for Council Members and directly elected Mayors, City Clerks, and Treasurers. He advised Ojai as it held its first and second elections for a directly elected Mayor in this year and 2016, and has advised it as the City Council placed a measure on this year's ballot to return to an appointed Mayor. Additionally, he served as the Chair for 2017 and 2018 for the League of California Cities, Municipal Law Handbook's Chapter on Elections, leading a statewide team of reviewers keeping the League of Cities' invaluable resource on municipal law up to date. As such, he is familiar with recent developments in elections law, particularly the new amendments to the California Voting Rights Act that provide a limited safe harbor to cities that declare an intention to move to district elections from litigation while completing that process.

Mr. Summers has extensive experience with land use, planning, and CEQA issues raised by projects large and small moving through City entitlement processes, including typical single-family homes, complex, large, and contentious single-family homes with extensive environmental issues, a City Hall renovation, a 72-unit condominium complex, and several mixed-use hotel, commercial, and residential multi-building projects. He has experience in advising planning and community development departments, Planning Commissions, and City Councils on particular projects and on specific and comprehensive amendments to zoning and development codes and General Plans, and associated CEQA compliance. Recently, he drafted and was the principal negotiator for a development agreement for Calabasas enabling a hundred-plus room hotel that entailed a transfer of vacant land to the City for use for a public parking lot and resolution of several zoning code challenges inherent in the project's characteristics. He also negotiated a development agreement for a commercial project in Ojai's downtown that involves a like-for-like transfer of public and private land and raises complex historic preservation, aesthetic, and community character preservation



issues. He has drafted ordinances amending zoning codes and General Plans. He has also advised Ojai on an on-going comprehensive rewrite of its historic preservation ordinance. Additionally, he has litigated several land use disputes. Most recently, he advised the City of Calabasas regarding several large hotel and residential development projects that raised novel General Plan and zoning ordinance interpretation issues, involved an extensive public engagement process, and one of which was subjected to a referendum and a pending CEQA challenge. On a smaller scale, he has developed creative negotiated solutions to neighbor-level land use disputes regarding modifications to several properties that avoided litigation while meeting the City Council and Planning Commission's goals for the project. He has extensive experience in working with Cities to accomplish their larger community development goals, not just in processing individual projects, and is adept at identifying creative solutions to land use problems that avoided litigation.

The firm has deep experience with the Brown Act, both advising cities on compliance and defending cities when their actions are challenged under it. Mr. Summers advises cities on a near daily basis regarding Brown Act compliance, and is adept at identifying lawful approaches to meet the client's needs, e.g. utilizing adjourned meetings to allow discussions to continue as needed to another day. That base of knowledge and experience allows Mr. Summers to be able to advise cities on all aspects of the Brown Act, and also the Public Records Act, Political Reform Act, Government Code section 1090, common law conflict of interest rules, and parliamentary procedure and internal city policies and procedures — all issues that can arise quickly during the course of a public meeting and require swift, effective resolution.

He is our firm's lead attorney on telecommunications law and has assisted Calabasas in a number of vigorous disputes regarding cell tower siting under that city's complex and ambitious ordinance. Working together He drafted Calabasas' recent amendment to its wireless ordinance in response to the Federal Communications Commission's adoption of new regulations implementing the "Section 6409" federal exemption from local zoning power for certain modifications to existing wireless facilities. Additionally, he revised Ojai's similar amendment to its wireless ordinance, and advised the Planning Commission as it adopted the ordinance amendment. He has also drafted comprehensive wireless telecommunications facilities siting ordinances, designed to be defensible in light of recent changes in federal and state law for several cities.



Mr. Summers is experienced in advising cities on water system operations and how to comply with National Pollutant Discharge Elimination System (NPDES) permits for their municipal storm sewer systems, including under the vigorous permit imposed by the Los Angeles Regional Water Quality Control Board in 2012. He, together with Holly Whatley, litigated a challenge to that permit before the State Water Resources Control Board. They continue to litigate challenges to this permit on behalf of several cities pending in the trial court. He has drafted low-impact development and “Green Streets” ordinances for several cities and is skilled at identifying cost-effective and reasonable approaches for cities to comply with the rigorous requirements imposed on storm sewer systems by the federal Clean Water Act, the state Porter-Cologne Water Quality Act, and NPDES permits issued under those laws. Additionally, he has advised cities operating their own water systems and cities overseeing independent water suppliers on drought mitigation techniques and on compliance with the state’s water conservation mandates.

Mr. Summers has advised cities on environmental law and CEQA issues raised by various development projects. Notably, he has advised Calabasas as Planning Commission Counsel regarding a large single-family home with significant wildlife corridor issues for which an environmental impact report was prepared and successfully processed without legal challenge and regarding the complex CEQA issues raised by several large commercial projects that were iterations of earlier, stalled projects, necessitating advice on addenda to past environmental impact reports and negative declarations and determinations regarding the validity of earlier CEQA documents. Additionally, he has drafted extensive comment letters for cities on negative declarations and environmental impact reports for projects proposed by other public agencies, identifying flaws and legal vulnerabilities in those documents. This experience enables him to assist our general counsel clients in identifying and repairing issues with their CEQA compliance documents.

He also specializes in redevelopment and post-redevelopment matters. In this role, he has advised a number of successor agencies to former redevelopment agencies on the dissolution process and working with the Department of Finance, including in Recognized Obligation Payment Schedule and Due Diligence Review disputes.

Mr. Summers has successfully litigated a variety of land use, elections, post-redevelopment, and general public law matters. Mr. Summers, together with Ms. Whatley, successfully defended the majority of Calabasas’ wireless telecommunications



facilities siting ordinance against a facial challenge regarding novel issues of federal and state law. In the elections arena, Mr. Summers recently won, on demurrer, a challenge to a ballot statement and question for a proposed City sales tax measure. Mr. Summers' current litigation cases include a published appellate victory in a successful constitutional challenge under Proposition 22 to the self-help provisions of A.B. 1484, the post-redevelopment legislation, decided by the Third District Court of Appeal on behalf of 4 cities and their successor agencies, *City of Bellflower v. Cohen*, (2016) 245 Cal.App.4th 438; a constitutional challenge to the San Diego County Auditor-Controller's method for allocating funds from the redevelopment agency dissolution process, now pending in the Third District Court of Appeal after a trial court victory; and several challenges by cities to decisions by the Department of Finance relating to redevelopment agency dissolution, including Recognized Obligation Payment Schedule and Due Diligence Review disputes. Also notably, Mr. Summers, Ms. Whatley, and Mr. Colantuono, the firm's Managing Shareholder and an expert in municipal finance, were selected by a coalition of seven San Diego County cities to bring a constitutional challenge to the San Diego County Auditor-Controller's method for allocating funds from the redevelopment agency dissolution process, also now pending in the Third District Court of Appeal after a trial court victory.

Mr. Summers is also experienced in advising public agencies regarding labor and employment law, including advising on implementation and interpretation of employment agreements for non-represented "at-will" personnel, and on recruitment, discipline, and retention matters for small cities with unrepresented employees. He is experienced in advising public agencies during the employee discipline and termination process for miscellaneous, public safety, and management employees, including negotiated departures, and in guiding agencies through executive management transitions. He has also drafted and revised personnel regulations.

Prior to joining the firm, Matt was an intern, then a volunteer attorney upon passing the Bar at the City Attorney's Office for the City of Berkeley from August 2011 through July 2012, where he was involved with a wide range of municipal law topics. Matthew's work for the City encompassed advice and litigation, including research and analysis regarding the extent of the City's Americans with Disabilities Act obligations in novel cases concerning access to pools and non-motorized small boat launches. He also wrote memoranda concerning labor and employment issues, public nuisances, federal civil rights disputes under 42 U.S.C. Section 1983, public finance, and the Political Reform Act.



He was admitted to the California State Bar later that year on December 9, 2011, State Bar Number 280496. While at Hastings, Matt worked as a judicial extern for the Honorable Marilyn H. Patel of the U.S. District Court, Northern District of California. He was also an Articles Editor of the Hastings West-Northwest Journal of Environmental Law & Policy. He graduated from Reed College with a B.A. in Economics in 2008 and is a member of Phi Beta Kappa.

Practice Areas:

- Public Law
- Elections Law
- Land Use
- Telecommunications Law
- Conflicts of Interest
- Open Meetings Law
- Public Records Act
- Brown Act
- Public Contracting Law
- Post-Redevelopment
- Americans with Disabilities Act

Resume for Mr. Summers, Post-Law School:

- Colantuono, Highsmith & Whatley, PC
Senior Counsel, August 2015 to Present
Associate Attorney, July 2012 to August 2015
- City of Berkeley
Volunteer Deputy City Attorney, December 2011 to July 2012
City Attorney's Office Intern, August 2011 to December 2011



Lindsey Zwicker – Proposed Assistant City Attorney

Lindsey is a member of the municipal advisory and litigation practice groups in Colantuono, Highsmith & Whatley’s Pasadena office.

Lindsey’s expertise encompasses the myriad of issues specific to public agencies, including land use, government transparency and ethics, contracts, public works contracting, other contracts, open meetings and records laws, LAFCO issues, and conflicts of interest. Current projects include sale of a municipal hospital, proposed dissolution of a healthcare district, and the implications under LAFCO law of sale city land in a noncontiguous part of city.

Prior to joining CH&W, Lindsey provided counsel to California cities and special districts through her work with a public agency law firm in the Bay Area. She also worked in a number of government, judicial and non-profit posts working on public law issues before that position.

Lindsey graduated with highest honors from UC Santa Barbara in 2003 with a B.A. in Women’s Studies. She earned her joint Juris Doctor/Master in Public Policy degrees from the University of California, Los Angeles, School of Law and School of Public Affairs. While in law school, she founded the UCLA chapter of the “Law Students for Reproductive Justice” student organization and served as Editor-in-Chief of the *UCLA Women’s Law Journal*.

Year admitted to the California Bar and Bar Number:

State Bar Number 271355, Admitted November 2010

Years of Public Law Experience: Five Years

Length of Employment with Firm: One Year

Education:

J.D., 2010, University of California, Los Angeles, CA

M.P.P., 2010, University of California, Los Angeles, CA

B.A., Women’s Studies, 2003, University of California, Santa Barbara, CA

Practice Areas:

- Public Law



- Elections Law
- Contracts
- Public Works Contracting
- Labor and Employment Law
- Municipal Finance Law
- Conflicts of Interest
- Constitutional Law
- Code Enforcement
- Land Use, Planning, and CEQA
- Open Meetings and Records Law
- Special Districts



Holly Whatley - Primary Litigation Counsel

Ms. Whatley is a Shareholder of the firm, serves as the Assistant City Attorney of Sierra Madre, South Pasadena, and Ojai and has practiced law since 1992. She was previously City Attorney of La Habra Heights and Assistant City Attorney of Calabasas. She heads the firm's Litigation Department, focusing on public law disputes including post-redevelopment and other municipal finance issues, matters involving Local Agency Formation Commissions (LAFCOs), land use, California Public Records Act, CEQA, election, public works and employment law disputes. In 2013, the *Daily Journal* recognized her as one of the top 20 municipal lawyers in California. We propose Ms. Whatley as the City's primary litigator for any lawsuits that may arise or that the City intends to transfer to new counsel.



Year admitted to the California Bar and Bar Number: State Bar Number 160259,
Admitted December 2, 1992

Length of Employment with Firm: Twelve Years

Education:

J.D., 1992, University of Texas School of Law, Austin, TX
B.A., cum laude 1988, University of Texas, Austin, TX

Professional Background:

Contract City Attorney Positions Held with Colantuono, Highsmith & Whatley, PC:

- City of Sierra Madre
Assistant City Attorney, 2013 to Present
- City of South Pasadena
Assistant City Attorney, July 2014 to Present
- City of Ojai



Assistant City Attorney, August 2015 to Present

- City of La Habra Heights
City Attorney, January 2013 to January 2014
- City of Calabasas
Assistant City Attorney, 2011 to 2012

City Attorneys' Association, Los Angeles County
Secretary, 2017 & Treasurer, 2016

League of California Cities
Municipal Law Institute, Chair, 2017

Years of Public Law Experience: Twelve Years

California Municipal Law Experience, Expertise, and Training:

Ms. Whatley heads the firm's Litigation Department focusing on public law disputes, including employment law disputes, class actions, municipal finance issues, matters involving Local Agency Formation Commissions (LAFCOs), land use, CEQA, and elections. Holly's experience in litigation ranges from pre-suit strategy and negotiations through both jury and bench trials, as well as judicial and private arbitrations and practice before personnel commissions. She has experience representing cities in municipal finance litigation, including writ actions involving multi-million dollar claims. These include a state Supreme Court victory in a \$10 million per year dispute between Los Angeles County and 47 of its cities regarding property taxes, *City of Alhambra, et al. v. County of Los Angeles, et al.* (2012) 55 Cal.4th 707, and a \$24 million per year dispute between Chevron and the City of Richmond regarding business license taxes. Holly also has expertise in defending public agencies in class action disputes, and utility tax and rate refund class claims in particular. Examples include representing the City of Los Angeles in a class refund claim over its telephone taxes and representing the City of Pasadena in a water rate class refund claim. Holly has experience representing LAFCO's throughout the state, including numerous suits involving annexation disputes. She also has significant experience representing cities in land use disputes, CEQA challenges to city actions, and defending local land use regulatory



power, including successfully defending Sierra Madre's hillside zoning ordinance against eight separate suits.

In the employment law area, examples of Holly's work include representing the appointing authority in employee appeals before a personnel commission to challenge the city's disciplinary actions, including termination. Holly has represented multiple municipalities to defend suits involving a wide range of employment-related claims, such as FEHA and due process violations, sexual harassment and wrongful termination. She also has experience representing a state agency in defending sexual harassment and retaliation claims and, in another matter, defending its employees from charges they violated federal and state civil rights laws. Holly has additional experience conducting internal investigations of allegations of sexual harassment and gender discrimination.

Holly also leads our Elections Law practice and has litigated many elections disputes, including initiative proposals, ballot argument disputes and the like, including recent writ matters involving a voter-approved measure to increase business license taxes on Richmond manufacturers and an initiative cap on a special property tax to fund a new hospital for the Plumas Hospital District.

Holly started her career in the Litigation Department of the Los Angeles office of Sheppard, Mullin, Richter & Hampton. She later worked for the Enforcement Division of the United States Securities and Exchange Commission investigating and prosecuting violations of federal securities laws.

Holly graduated with a Bachelor of Arts degree *cum laude* from the University of Texas at Austin in 1988. She received her J.D from the University of Texas, School of Law in 1992 and joined the California Bar later that year on December 2, 1992, State Bar Number 160259. While she was at law school, she taught legal research and writing to first-year students.

Practice Areas:

- Municipal Advisory
- Public Finance Law
- Post-Redevelopment
- California Public Records Act
- Land Use / CEQA
- Election Law
- LAFCO Law
- Class Action Defense

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Pasadena, CA 91101-2109
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- Employment Law
- Complex Litigation
- Intellectual Property



Teresa Highsmith – Primary Labor Counsel

Ms. Highsmith is a shareholder of Colantuono, Highsmith & Whatley and has specialized in municipal law her entire career. She presently serves as the City Attorney for the cities of Barstow, Sierra Madre, and South Pasadena. She has twenty-six years of broad experience in all areas of concern to local governments, including personnel and labor matters, land use regulation, post-redevelopment, contracts, affordable housing, economic development, historic preservation, Joint Powers Authority formation and agreements, open meetings law, Public Records Act requests, and conflicts of interest. Ms. Highsmith has been included in the Los Angeles magazine, *Best Lawyers in America* for 2016 and 2017 in the field of Municipal Law. We propose Ms. Highsmith as primary labor and employment counsel.



Year admitted to the California Bar and Bar Number: State Bar Number 155262,
Admitted December 16, 1991

Length of Employment with Firm: Seven Years

Education:

J.D., Honors, 1991, John F. Kennedy University School of Law, Concord, CA
B.A., Honors, 1977, University of Nevada, Reno, NV

Professional Background:

Contract City Attorney Positions Held with Colantuono, Highsmith & Whatley, PC:

- City of Barstow
City Attorney, 2012 to Present
- City of Sierra Madre
City Attorney, 2013 to Present
- City of South Pasadena



City Attorney, July 2014 to Present

Member of City Attorneys' Association, Los Angeles County
Best Lawyers in America, Best Municipal Lawyers, 2016 and 2017

In-House Positions:

- City of Alameda
City Attorney, 2006–2011 & Assistant City Attorney, 1997–2006

Years of Public Law Experience: Twenty-Six Years

As a member of the municipal advisory team in Colantuono, Highsmith & Whatley, PC's Pasadena office, Terri currently serves as City Attorney to the Cities of Barstow, Sierra Madre, and South Pasadena including each City's role as Successor Agency to its former Redevelopment Agency. She also serves as General Counsel to the South East Los Angeles County Work Force Investment Board and the SELACO WIB's Policy Board (a 5-city JPA which appoints members of the WIB) and as General Counsel to Orangeline Development Authority, also known as Eco-Rapid Transit, a 15-city JPA formed to pursue development of a high speed transit system in Southern California.

Terri leads the Firm's personnel and labor team, providing legal service for the Firm's clients in all aspects of public employment law, including but not limited to drafting and negotiating terms in various Memorandum of Understanding documents for both public safety and miscellaneous bargaining groups and employment agreements for non-represented "at-will" personnel, drafting Employer/Employee Relations Resolutions and Personnel Rules and Regulations, advising clients on disciplinary and termination procedures and drafting required documents for both public safety and miscellaneous personnel, advising on various employee leave laws, providing employee training regarding discrimination and harassment policies, advice on Fair Labor Standards Act requirements for public safety personnel, preparation of Position Statements in response to unfair labor charges before Public Employees Relations Board ("PERB"), representing the public entity in disciplinary appeal hearings, and responding to employee discrimination and harassment claims under the Fair Housing and Employment Act ("FEHA"). Currently, Terri provides ongoing labor and employment advice to the cities of Auburn, Barstow, Grass Valley, Lakeport, Ojai, Sierra Madre, and South Pasadena, including their police and fire departments, as applicable.



In the wake of AB X1 26 & AB 1484, Terri currently provides legal advice to various Successor Agencies regarding the redevelopment dissolution process, including advice in preparation of Recognized Obligation Payment Schedules, responses to the State Controller's Office and the formation and role of Oversight Boards. Terri was also General Counsel, prior to their dissolution, for several Oversight Boards, and provided advice in their review of Recognized Obligation Payment Schedules, Long Range Property Management Plans and the property transfer process, and Bond Expenditure Agreements.

Prior to joining Colantuono, Highsmith & Whatley, Terri served the City of Alameda as its City Attorney (2006 –2011) and Assistant City Attorney (1997 – 2006) and was General Counsel to the Alameda Reuse and Redevelopment Authority, a joint powers authority created to acquire and redevelop the former Naval Air Station, Alameda. Prior to her 14 years with Alameda, Terri represented Lafayette, Moraga, Orinda, and Pittsburg as Assistant and Deputy City Attorney and provided special counsel and litigation services to Fremont, Livermore and Livingston on a contract basis.

Terri graduated with a Bachelor of Arts degree with honors from the University of Nevada, Reno in 1977. Several years and three children later, she attended law school at John F. Kennedy University, graduating with honors in 1991 and joined the California Bar that same year. While she was at law school, she was an editor of the John F. Kennedy Law Review and taught contracts and legal research & writing to first-year students while juggling the duties of a "soccer mom."

Practice Areas:

- Public Law
- Post-Redevelopment & Affordable Housing
- Labor & Employment Law
- Land Use
- Water Law
- Contracts and Agreements
- Public Works Contracting
- Joint Powers Authority Formation and Representation
- Military Base Conversion & Reuse (under Federal BRAC)



State Bar Complaints – None

None of the attorneys at Colantuono, Highsmith & Whatley, PC have been sued by a client for malpractice, been the subject of a State Bar complaint, nor had discipline imposed by the State Bar.

Additional Questions

b) Specify the individual that you propose for appointment as City Attorney.

We propose Matthew T. Summers serve as the Buellton City Attorney. He is available to attend the regular meetings of the Buellton City Council on the second and fourth Thursdays of every month.

c) Specify the individual(s), that you would propose as Assistant City Attorney and/or who would be designated as competent, substitute/backup legal representation for the City, in the event of the absence or unavailability of the City Attorney.

We propose Lindsey Zwicker serve as the Buellton Assistant City Attorney and Planning Commission Counsel. She is available to attend the regular Planning Commission meetings on the first and third Thursdays as needed, and to attend City Council meetings and fill in in the rare event of Mr. Summers' unavailability.

d) Specify accessibility (phone and e-mail) to the City's needs. Office hours are currently not provided by the current law firm nor a requirement of the RFP.

Accessibility is of vital importance in the relationship between the City Council, the City Manager, and the City Attorney. We have a policy of returning all client calls within 24 hours or less. Mr. Summers is always attached to his smart-phone and is accessible by telephone and email. Mr. Summers is also regularly in western Ventura County, and can make himself available on an as-needed basis for any in-person meetings, if needed, in addition to the biweekly City Council meetings. We are adept at working together with our clients remotely, using email, dropbox, and other online systems to assist with preparation and review of agenda items and staff reports, warrants, contracts, and other legal documents.



e) Describe systems/mechanisms that would be established to ensure timely responses to City Council and City staff.

Our philosophy is to anticipate and find solutions for our clients' problems and to help our clients achieve their goals. We are particularly adept at devising creative solutions to complex issues. We focus on preventative law directed at addressing legal problems before the parties find that they must resort to time-consuming and expensive litigation. If litigation is required, however, we are well equipped to vigorously represent our clients' interest in court. At the same time, we are alert for opportunities to settle litigation and thereby to reduce our clients' costs. In working with the City Council, City Manager, Department Heads, and other City staff, we define our role as a member of the management team, working to help the City achieve its goals. That said, our client is the City Council and the duty of loyalty resides there.

We track the progress of legislation likely to impact public agencies, as well as significant case law developments and forward this information to our clients on a "shared cost" basis for those clients for which the information is relevant. We provide these legislative updates and significant case law developments as they become applicable. Generally, the City would receive legislative updates by or before the first quarter of the year when most new legislation is applicable. Additionally, the Firm publishes a quarterly newsletter regarding developments in the law of concern to public entities (including land use, CEQA developments, labor and employment, and public financing, to name a few topics) which is provided at no cost. An example of a recent Firm newsletter is attached as Attachment D.

Further, as part of this process, we work to anticipate when the City Council may need to act on a matter, and advice on the relevant options as early as possible. An example of this was our advice to Ojai and drafting of an urgency amendment to its second unit ordinance after the adoption, but before the effective date, of new legislation last year amending the state's second unit law — thereby preserving the city's second unit ordinance from potential vulnerability and creating time for the city's recently adopted comprehensive amendments to that ordinance. As a sample of our client communications, attached as Attachment C is a staff report by Mr. Summers to the Ojai City Council regarding a then-proposed further amendment to the City's second unit/accessory dwelling unit ordinance.



In working to achieve the goals set by the City Council, we will maintain regularly, at least weekly and generally more often, communication with the City Manager and Department Heads on the status of current projects and the current and anticipated future needs for legal services. We expect to take our day-to-day direction from the City Manager and work with him and the Department Heads to plan for and prepare needed deliverables, including contracts, memoranda, and staff reports. In coordinating our work, we will integrate our planning process with the City's existing future projects and City Council agenda tracking system, as we do in each of our other general counsel cities.

f) Describe the response time we can expect from the City Attorney to inquiries made by the City Council/City Manager.

It is our practice to respond to telephone calls and e-mails from Councilmembers and the City Manager within one business day and provide our lawyers' direct-dial and cell numbers to all our clients. Mr. Summers always has his smart-phone and is accessible by telephone and email at all times.

We further pledge to assess with reasonable accuracy the time that a particular matter should take, and then do what is necessary to honor that commitment. Many inquiries can be handled immediately, as our attorneys have significant experience. Most other items can be handled in short order. Some projects, of course, will take longer, but we are always conscious of the need to meet the City's schedule and to establish mutually agreed deadlines that do not interfere with the City's goals.

g) Describe systems/mechanisms that would be established for monthly reporting of status of projects, requests, and litigation.

We can provide a monthly significant activities report, apprising the City Council and City Manager on the status of major projects and any significant updates in litigation. This would be in addition to the on-going close communication on pending projects between the City Attorney and City Council and City Manager.

h) Identify the types of reports your firm would provide to the City Council and City Manager.



In addition to a monthly significant activities report, we regularly communicate in writing with our City Councils and City Managers by email and memoranda as projects progress, legislation develops, and new cases come down. In particular, when significant new cases are issued, we provide updates to the City Council and City Manager describing the case, its impact, and required or recommended changes in the City's practice. A recent example of this was the Supreme Court's decision last year finding that emails on on-City servers were nonetheless public records if sent or received by City officials. We had warning, via the Supreme Court's tracking system, of the impending opinion the day before, advised cities to completed pending records request responses that day under the old regime, then on the day the case came down, advised cities on immediate next steps to implement the ruling and on the range of long-term options.

We also recommend that the City authorize us to provide a biannual detailed report on all outstanding litigation matters which shows legal costs to date, the status of settlement discussions, and the status of the litigation. This is a powerful tool to make sure that litigation files do not "sleep" or drag on well past the point when the City's budget would be better served to settle. We also recommend closed session status reports on ongoing litigation matters at least quarterly, in order to permit the Council to discuss the status, ask questions, and get direct responses from the City Attorney in a permissible closed session group setting.

i) Describe your firm's suggested process for transmittal of requests and other material to City Attorney.

We have found that each city manager, department head and elected official has his or her own preferred method of communication – and we are able and available to accommodate a variety of communication styles. We will work with the City to establish the most effective way for our attorneys to receive requests and assignments and to send our product to you. Many of our clients prefer e-mail over other alternatives, due to its speed, the facility of tracking requests and responses and the ability to share access to documents.



j) Describe the staffing of your office, including permanent and temporary employees and their general duties and work schedules. Include any changes you would propose, now or in the future, should you be awarded a contract to provide legal services to the City.

The firm includes 23 attorneys, working from our Pasadena and Grass Valley offices and remotely or on-site at our clients as needed. Our Pasadena and Grass Valley offices are staffed Monday through Friday from 8:30 a.m. until 5:30 p.m. each day. The firm also employs paralegals and legal secretaries, both those that specialize in litigation and those in transactional matters. Our paralegals also support litigation matters in a variety of ways, including by preparing documents for discovery responses, reviewing documents that provided by opposing parties, managing and preparing exhibits for hearings and trials, and supporting depositions and trials. Our legal secretaries are trained to provide word processing and other support, including use of our sophisticated macro packages to simplify document development. We do not, however, charge for word processing or secretarial overtime. We do not anticipate changes in our staffing if awarded this contract.

k) It is anticipated that the City will contractually require monthly-itemized statements for all services and will subject these statements to audit at least annually. Describe how you would provide for this reporting.

We bill on a monthly basis (the 1st through the end of the month), with bills transmitted to you by the first half of the next month. The invoice for retainer services will include an itemized statement of the professional services provided and the time expended to provide those services in the form customarily submitted by the Firm to clients which are billed on an hourly basis. Invoices for Special Services will bill for time charged by the Firm in increments of 1/10 of an hour (i.e., six-minute units) at the applicable rates. We maintain receipts for at least three years for any expenses incurred on your behalf and will make those records available upon request to facilitate audits. We can also provide any additional information required to audit our monthly itemized invoices.

l) Please submit an example of a typical invoice your firm would provide. Please redact any references to specific costs. Also, you may redact any sensitive information. We are interested in the format, type of information included, and readability.

Please see Attachment E, a redacted sample invoice.



m) Identify the types of in-service training (such as ethics and AB 1234, commissioner roles and responsibilities, how to conduct performance evaluations, harassment, etc.) your firm is capable of providing to the City.

The firm is qualified to and routinely provides: ethics, Brown Act and AB 1234 training; commissioner and council member orientation and best management training; election and campaign orientations for candidates and poll workers; employment-related training, including topics such as sexual harassment and discrimination prevention and employee evaluation, retention, and discipline best practices; and the basics of land use and due process. We have provided these trainings to City Councils, Commissions, and staff and can adjust to accommodate the desired training approaches of the City. The firm is also a certified provider of continuing education services by the California State Bar. Mr. Summers and Ms. Highsmith are experienced public presenters of training for our clients and for the City Attorneys' Association of Los Angeles County, the League of Cities, and the California State Association of Counties.

n) Insurance

The Firm carries a liability insurance policy, including non-owned automobile coverage, which provides coverage of \$2,000,000 per occurrence and \$2,000,000 aggregate. The Firm only carries non-owned automobile coverage because it owns no automobiles. That insurance policy provides coverage to the City and its Redevelopment Agency Successor Agency and their officers and employees for any damages or losses they might suffer as a result of any negligence by the Firm. The Firm also carries \$4,000,000 in professional errors and omissions insurance and workers' compensation insurance in accordance with the California Labor Code.

Clients & Potential Conflicts of Interest

a) Please list any political contributions of money, in-kind services, or loans made to any member of a city council within the last three years by the applicant law firm and all of its attorneys, including the attorney being proposed to represent the City of Buellton.

None.



b) Please list all public agency clients for which your firm currently provides services or are under retainer.

The Firm represents public entity clients almost exclusively. The Firm’s recent and current public agency clients are listed in Attachment A. The clients marked with an asterisk (*) are those for whom we provide general counsel services. All others receive specialized legal services. (To protect client confidentiality, we do not generally disclose the nature of the specialized services we provide for specific clients unless that information is public. If there are particular clients for whom you would like to know the nature of the services provided, we will provide that information if public or seek client consent.)

c) Please list all public agency clients for which your firm previously provided services over the last five years.

Please see Attachment A.

d) Please specify current or known future professional commitments, so that the City may evaluate your continuing availability for providing legal services to the City.

Mr. Summers is currently City Attorney for the City of Ojai and Assistant City Attorney for the City of Calabasas. He is scheduled to attend the following meetings:

AGENCY	MEETING DATES
Ojai City Council	2nd and 4th Tuesdays (afternoon and evening)
Ojai Planning Commission	1 st and 3 rd Wednesdays (evening)
Calabasas Planning Commission	1 st and 3 rd Thursdays (afternoon and evening)
Calabasas City Council	Occasional 2nd and 4th Wednesdays (afternoon and evening)

In Mr. Summers’ absence, Ms. Zwicker will attend Buellton City Council meetings. Additionally, Ms. Zwicker will attend Buellton Planning Commission meetings, as needed. She is available to attend these meetings.



e) Please explain how you will address conflicts of interest between work for the City and other clients, if and when they occur.

We are not aware of any other foreseeable conflicts of interest between the City and our current clients. We represent the Goleta Water District, Montecito Water District, and City of Santa Barbara in rate-making and defense matters. We are not aware of any present conflicts between Buellton and these entities.

We previously represented the City of Solvang adversely to the Santa Ynez River Water Conservation District, Improvement District No. 1. We also previously represented the Santa Barbara County Association of Governments in a land use and transportation funding matter. We do not anticipate any conflicts arising from these past matters.

As new matters arise for our existing clients or potential new clients, we complete a comprehensive conflict check for each proposed new client or matter to identify any possible conflicts of interest, then either refuse the representation or secure client consent to the representation, as appropriate for each matter. Further, the Firm represents public entity clients almost exclusively. While we may occasionally represent a private client, we have only done so when we can be certain that the private matter cannot pose a potential conflict of interest with any of our public clients. Accordingly, we can state that we have no private clients which could potentially pose a conflict of interest should we represent the City of Buellton.



Retainer-General and Special Services

a) Provide the fixed monthly retainer amount along with a fee schedule for additional “special” services.

We are prepared to work with the City to structure an appropriate agreement for legal services that meets the City’s needs. **Initially, we can accept the \$10,000 monthly retainer for General Services that we understand is presently in place.** We generally manage our retainers with a goal of \$200 per hour of lawyer’s services – not substantially above our break-even point in terms of overhead and staff attorney salaries. Accordingly, we propose to work with your existing retainer for an interim period, seeking to manage it to provide approximately 50 hours of General Services per month, and to work with the City Council and City Manager to prioritize the use of available service hours to provide maximum benefit to you. We will be in a better position to advise you about the appropriate size and scope of a retainer after a few months experience as your City Attorney and, if we are selected, suggest that we agree to revisit the retainer after 6 months or so.

Alternatively, in the past with other general counsel clients, we have found it beneficial to work at an established hourly rate for some months prior to determining the appropriate monthly retainer amount. If the City would be interested in doing so, the hourly rate for all General Services would be \$200 per hour for the first 40 hours, and \$205 per hour for any additional hours; pending mutual agreement as to a monthly retainer arrangement. The hourly rates for litigation and special services under this approach would be the same as stated above.

Cities vary considerably in the way they use counsel and we pride ourselves on our ability to meet our clients’ varied needs efficiently and at the lowest cost consistent with effective representation. In the end, we pledge that the financial arrangement between the City and the firm will be fair to both parties and we will never send a bill to the City without first reviewing it with that commitment in mind.

Litigation Rates. We are prepared to provide litigation services upon request of the City, charged at the firm’s standard rates, but capped at \$265 per hour, and \$325 per hour for appellate work. Work to be reimbursed to the City by developers and others is at our standard rates capped at \$350 per hour.



Special Services Rates. We are also prepared to provide additional services upon request of the City, defined below as **Special Services**, outside of the monthly retainer, at the firm's standard rates, but capped at \$265 an hour; with the exception of special projects, as stated below under Question D, Special Services, Item #13, likely to require more than 10 hours of work within a month, which will be billed at the rate of \$200 per hour. Work to be reimbursed to the City by developers and others is at our standard rates capped at \$350 per hour.

Within this proposed retainer structure, we will try to minimize the impact of cost of Special Projects (those requiring more than 10 hours of work within a month which are billed outside of retainer) by including hours otherwise billed to Special Projects within the retainer whenever the retainer hours drop below a certain minimum. For example, if the hours of general legal services drop below 40, we would bill any Special Projects for that month back into the retainer, up to a maximum of 50 hours.

b) Please give your definition of "general" legal services. Would all general services be included in your monthly retainer?

We propose that the scope of City Attorney services to the City to be included in a proposed monthly fixed-fee retainer agreement as **General Services** be defined as follows:

1. Attend all regular meetings of the City Council, including closed sessions, and Planning Commission meetings as needed.
2. Provide routine legal assistance, advice and telephone consultation to the City Council and to City staff relating to general public law issues, conflict and ethics questions, Brown Act, potential tort liability and risk management.
3. Prepare and review agenda items for City Council meetings.
4. Review and approve City Council and Planning Commission meeting minutes.
5. Review agendas for City Council and Planning Commission meetings.
6. Review public hearing notices.
7. Review Planning Commission staff reports.
8. Review all tort claims received by City.
9. Review and approve risk management and administrative policies.
10. Review and approve requests for proposals for City projects.
11. Review and approve document destruction requests per records retention schedule.



12. Review public records requests, review responsive records, and advise as to applicable privileges.
13. Review all contracts with third party providers and other agencies.
14. Prepare ordinances, resolutions, and related routine documents.
15. Provide training on ethics, conflicts, Brown Act and other routine topics for city staff, appointed and elected officials.
16. Monitor pending state and federal legislation and regulations, and new case law, as appropriate.
17. Provide routine advice and drafting of required documents for property acquisitions, property dispositions, public improvements and works, easement dedications, and right of way abandonment.
18. Prepare correspondence and perform such other or additional routine legal services (not identified as Special Services below) as may be requested by the City, acting by and through the City Council or the City Manager.

c) Please define any “extra” services such as litigation, and describe if such services will be billed at a different hourly rate or basis.

Litigation Rates. We are prepared to provide litigation services upon request of the City, charged at the firm’s standard rates, but capped at \$265 per hour, and \$325 per hour for appellate work. Work to be reimbursed to the City by developers and others is at our standard rates capped at \$350 per hour. Our current rates range from \$110-\$145 per hour for the work of legal assistants and paralegals, and from \$185 to \$495 per hour for the work of our attorneys, thus these caps provide a substantial discount to the City.

Special services other than litigation are discussed below under Question D, special legal services.



d) Please give your definition of “special” legal services? How are they differentiated from general legal services? Would any special services be included in your retainer? If so, please identify them.

Special Services, defined as follows, may be provided by the Firm to the City but are *not* included in the General Services monthly retainer:

1. Litigation services, including advice and representation concerning actual or threatened litigation, administrative proceedings and court proceedings.
2. Attend special meetings of the City Council and Planning Commission, and other meetings of any other Commissions or Boards as may be specified by the City.
3. Advice on major special issues, including, by way of example, cannabis or short-term rental regulation ordinance drafting and implementation.
4. Advice on and drafting of agreements for economic development, including exclusive negotiating agreements, disposition and development agreements, development agreements, and related Real Estate and Eminent Domain Services other than routine review of escrow documents, title reports and standard sale or purchase contracts.
5. Redevelopment agency dissolution and Successor Agency matters.
6. Review of plans, specifications, and proposed construction agreements for capital improvement plan projects.
7. Review of CC&Rs for approved development projects.
8. Work on major reimbursable projects, such as hotels or other development projects for which the City can charge staff and consultant time to a third party.
9. Legal research and analysis, negotiation, bargaining, and dispute resolution pertaining to labor, employment and personnel matters.
10. Advice regarding revenue measures, local taxes, fees and assessments and other advice regarding the law of municipal finance, including Propositions 218 and 26.
11. Environmental Legal Services other than normal, cursory review of negative declarations, environmental impact reports and project-level environmental documentation as needed.
12. Insurance Coverage Services, such as advice and representation regarding disputes with the City’s risk pool or other insurance provider.
13. Other significant projects, commissions or committees requiring more than 10 hours of research or meeting attendance outside of regular meetings (for example, regular attendance and staffing of a newly formed, single purpose



committee, such as a General Plan Advisory Committee or an ad hoc committee considering zoning code amendments). These projects are referred to as Special Projects.

14. Such other specialized services as may be required by the City.

Among the items listed as Special Services, we propose that attendance at Closed Sessions during regular meetings would be within the retainer as General Services, but that attendance at Closed Sessions during special meetings would be outside the retainer as Special Services.

Special Services Rates. We are also prepared to provide additional services upon request of the City, defined above as **Special Services**, outside of the monthly retainer, at the firm's standard rates, but capped at \$265 an hour; with the exception of special projects, as stated above under Special Services, Item #13, likely to require more than 10 hours of work within a month, which will be billed at the rate of \$200/hour. Work to be reimbursed to the City by developers and others is at our standard rates capped at \$350 per hour.

Within this proposed retainer structure, we will try to minimize the impact of cost of Special Projects (those requiring more than 10 hours of work within a month which are billed outside of retainer) by including hours otherwise billed to Special Projects within the retainer whenever the retainer hours drop below a certain minimum. For example, if the hours of general legal services drop below 40, we would bill any Special Projects for that month back into the retainer, up to a maximum of 50 hours.

We are not proposing to provide City Prosecutor services at this time. We are also not Bond Counsel. We can recommend other qualified firms to provide that service if desired.

e) How would you help the City remain within its adopted budget for legal services?

The firm is very sensitive to the City's need to control costs. We are experienced in developing cost management strategies in cooperation with our public clients to ensure the most effective and efficient use of our services. It is our goal to provide high-quality legal services to the City while working with City staff to minimize our fees.



Our practice is to bill in increments of one-tenth of an hour. Thus, if six minutes are spent on an item, the City will be billed for one-tenth of an hour, not for one quarter hour, or some other higher increment, as is done in some firms. We also do not charge a minimum flat amount for court appearances regardless of the actual time spent in court. Further, we keep legal bills to a minimum by utilizing research and documents previously drafted, and only billing for the time spent in updating and tailoring a matter to the particular client's needs. We have a sophisticated document management system (iManage/FileSite) which allows us to reuse work and to avoid billing the City for "reinvented wheels."

The Firm frequently shares costs among our many municipal clients throughout the state of California. For example, we provide annual and periodic legislative updates, as well as important and relevant case law updates and direction to our public agency clients, where each agency pays a proportionate fraction of the total cost of research and preparation of the memoranda. The Firm maintains a comprehensive electronic library of legal memoranda, training materials, and agreements and documents of every kind which have been prepared for its various public agency clients. Unlike some firms who charge a flat rate for client use of the Firm's work product, this extensive body of knowledge and information is recycled, updated and customized for individual client needs, charging the client only for the time to update and customize the existing work. The Firm also shares litigation costs among public agency clients on matters of similar importance to those clients involved.

f) Describe your preference for method of payment, payment terms, and your procedure for billing of retention, hours, and expenses and any other accounting requirements.

Unless otherwise requested by our clients, we bill on a monthly basis (the 1st through the end of the month), with bills transmitted to you by the first half of the next month.

The invoice for retainer General Services will include an itemized statement of the professional services provided and the time expended, in tenth hour increments (i.e., six-minute units), to provide those services. Invoices for Special Services will bill for time expended in tenth hour increments at the applicable rates. We maintain receipts for at least three years for any expenses incurred on your behalf and will make those records available upon request to facilitate audits.



The Firm has a fully integrated timekeeping, billing and accounting system. Our system allows us to tailor the monthly bills for the City in the manner that is most useful for its needs, including cost recovery by Department and/or project. We strive to make our bills more than a means to be paid, but also a management tool to allow your City Council, City Manager, and other City staff to work with us to manage our services for maximum benefit to the City's programs and at efficient cost. We will provide timely documentation requested by the City or its auditors for any audits of our legal bills.

In our periodic reports on work we handle for the City, we will identify opportunities and strategies to contain costs. These reports will assist the City in determining how best to dispose of work and avoid the common situation where matters are allowed to flow along, generating bills for the City, well past the point where a considered judgment should be made regarding the settlement or disposition of the matter. Managing the cost of legal services requires a team effort and we will make every effort to provide the City with the information you need to help us control the cost of legal services, whether we provide them or they are provided by other counsel.

g) Define the type and unit rates for reimbursement of expenses; for example, rate for travel time, mileage, reproduction of documents or word processing charges, unit costs for telephone costs, etc.

We charge 20 cents per page for in-house photocopies, one dollar per outgoing page for facsimile transmissions and mileage at the IRS rate for non-local travel. We also propose to charge half of the travel time incurred for travel to and from City Hall, to be incurred within the General Services monthly retainer for attendance at regular meetings and charged at applicable rates for litigation or special services. As to other costs, we simply pass on to you, without mark-up, the costs of any expenses incurred, such as outside copying, Federal Express charges, etc. We do not charge for word processing or secretarial overtime. Moreover, the firm does not charge additional fees for basic computer-assisted research or investigation. In the event a separate fee is charged to the firm for unusual research, we would pass that expense on to the City without mark-up. We will also agree not to charge the City for office support services and similar operational costs.



h) Please provide the costs of any in-service training you can provide to the City.

The firm is qualified to and routinely provides: ethics, Brown Act and AB 1234 training; commissioner and council member orientation and best management training; election and campaign orientations for candidates and poll workers; employment-related training, including topics such as sexual harassment and discrimination prevention and employee evaluation, retention, and discipline best practices; and the basics of land use and due process. We can generally provide these trainings within the course of retainer General Services, provided that the applicable month is not otherwise overloaded with General Services. We would work with the City Manager to schedule trainings so as to not displace other necessary services.

i) If you expect to have a cost-of-living adjustment incorporated into the agreement with the City, please explain how you propose it be computed and implemented.

We would not expect an automatic increase and generally only adjust our rates by mutual agreement with our general counsel clients.

j) Would you be willing to operate under a maximum annual expenditure cap with the City? If so, please explain how it might be structured.

At the present time, the Firm is not open to operating under a maximum annual expenditure cap with the City. We would require further information as to the City's past use of legal services and expected future use of legal services to intelligently consider such a cap.



References

Although our firm is well known in local government, the following are especially familiar with Mr. Summers. Ms. Zwicker, Ms. Whatley, and Ms. Highsmith's work as City Attorney or Assistant City Attorney:

City of Ojai

Paul Blatz
Council Member
City of Ojai
401 S. Ventura Street
Ojai CA 93023
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blatzlawfirm@gmail.com

Steve McClary
City Manager
City of Ojai
401 S. Ventura Street
Ojai CA 93023
805.646.5581
mcclary@ojaicity.org

Brief description of services provided: Mr. Summers is City Attorney for Ojai, providing general legal services to the City including advice to the City Council and City staff relating to general public law issues and risk management; preparing legal opinions, ordinances, resolutions, agreements and related documents for the City; attending all meetings of the City Council, and Planning Commission and other Commission meetings upon request; and providing litigation, labor and employment and other special counsel services upon request. Mr. Summers has served as City Attorney since August 1, 2015, and previously served for six months as Interim Assistant City Attorney.

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City of Calabasas

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Mark Sikand
Member, Planning Commission
City of Calabasas
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msikand@sikand.com

Brief description of services provided: Mr. Summers has served for six years as Assistant City Attorney for the City of Calabasas, providing general legal services to the City including routine legal assistance, advice and consultation to the City Council and to City staff relating to general public law issues; attending all meetings of the Planning Commission and occasional City Council and other Commission meetings; and monitoring pending state and federal legislation and regulations, and new case law — with a particular focus on land use, CEQA, and telecommunications and wireless facility siting issues.

City of Barstow

Curt Mitchell
City Manager
City of Barstow
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Brief description of services provided: Ms. Highsmith has served as Barstow’s City Attorney for six years. Mr. Summers has also served as an Assistant City Attorney in Barstow for the past several years, attending occasional City Council meetings and providing ongoing advice on special projects, including labor and employment and property acquisition and disposition actions.

We would be happy to provide additional references upon request.

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Additional Information and Attachments



Attachment A - List of Client Agencies—Current and Previous Five Years

The Firm is general counsel to those agencies marked with an asterisk (*)

- | | |
|--------------------------------------|---|
| Anaheim, City of | Escondido, City of |
| Antioch, City of | First Five Yuba |
| *Auburn Urban Development Authority | Fresno, City of |
| *Auburn, City of | *Garden Valley Fire Protection District |
| *Barstow Redevelopment | Glendale, City of |
| Agency/Successor Agency | Glendora, City of |
| *Barstow, City of | Gold Coast Health Plan |
| Belmont, City of | Goleta, City of |
| Benicia, City of | Goleta Water District |
| Bighorn Desert View Water Agency | Goleta West Sanitary District |
| Brentwood, City of | *Grass Valley, City of |
| Broad Beach Geologic Hazard | *Higgins Fire District |
| Abatement District | Humboldt, City of |
| Burbank, City of | Huntington Beach, City of |
| *Calabasas, City of | Huntington Park Oversight Board |
| Calaveras County Local Agency | Imperial Irrigation District |
| Formation Commission (LAFCo) | Incorporate Olympic Valley |
| Calexico, City of | *Lakeport, City of |
| Calleguas Municipal Water District | Lakewood, City of |
| Central Coast Water Authority | Lathrop, City of |
| Cerritos, City of | Livermore, City of |
| Buellton Basin Water Conservation | Lodi, City of |
| District | Long Beach, City of |
| ChangeLab Solutions (formerly Public | Los Angeles, City of |
| Health Institute) | Marin Municipal Water District |
| Chula Vista, City of | Marina, City of |
| Cupertino, City of | Mariposa County |
| East Palo Alto, City of | Midpeninsula Regional Open Space |
| *East Buellton Valley Consortium dba | District |
| “LA Works” | MJM Management Group |
| El Cajon, City of | Modesto Irrigation District |



Montecito Water District
Monterey, City of
Monterey County Local Agency
Formation Commission (LAFCo)
Monterey Peninsula Water Management
District
Mountain View, City of
Nevada County
Newhall County Water District
Newport Beach, City of
North San Juan Fire District
Ocean Avenue Association
*Ojai, City of
*Ophir Hill Fire Protection District
Orange County Mosquito and Vector
Control District
Orange County Local Agency Formation
Commission (LAFCo)
*Orangeline Development Authority
(also known as Eco-Rapid Transit)
Oxnard, City of
Pacific Grove, City of
Pajaro Valley Water Management
Agency
Palo Alto, City of
Paramount, City of
Pasadena, City of
Pico Rivera, City of
*Pomona Oversight Board
Poway, City of
Redding, City of
Redlands, City of
Rialto, City of
*Rialto Oversight Board
Richmond, City of
Riverside, City of
Riverside County

*Rough & Ready Fire District
San Benito, County of
San Bernardino Local Agency Formation
Commission (LAFCo)
*San Bernardino Oversight Board
San Diego, City of
*San Diego County Local Agency
Formation Commission (LAFCo)
San Diego County Water Authority
San Diego Unified Port District
*San Gabriel Oversight Board
San Juan Capistrano, City of
San Jose Water Company
San Luis Obispo, City of
San Luis Obispo County Local Agency
Formation Commission (LAFCo)
San Marcos, City of
Santa Ana, City of
Santa Barbara, City of
Santa Fe Springs, City of
Santa Maria, City of
Sausalito, City of
*SELACO Workforce Investment Board,
Inc.
Shasta County Local Agency Formation
Commission (LAFCo)
*Sierra Madre CRA Successor Agency
*Sierra Madre, City of
SMUD
Solano County Local Agency Formation
Commission (LAFCo)
Solvang, City of
South Gate, City of
*South Pasadena, City of
*Tahoe Forest Hospital District
*Temple City Oversight Board
Torrance, City of



Truckee Fire Protection District
Tulare, City of
Turlock Irrigation District
Ukiah Sanitation District
Union Sanitation District
Vallejo Sanitation and Flood Control
District
Vallejo, City of
Ventura County

Ventura, City of
Vernon, City of
Vista, City of
Watsonville, City of
*Yountville, City of
Yuba City, City of
*Yuba County Local Agency Formation
Commission (LAFCo)

The Firm also currently represents numerous cities in a lawsuit over PTAF administration fees against the County of Los Angeles (currently pending before the Los Angeles Superior Court). In addition, the Firm represents approximately forty cities in defense of a claim for a refund of telephone users' taxes which was filed against approximately 130 cities statewide, and 13 cities in a lawsuit against the Department of Finance and other state agencies challenging certain provisions of AB 1484 (redevelopment dissolution legislation).



Attachment B – Significant Appellate Representations

Colantuono, Highsmith & Whatley, PC (as of August 2018)

California Supreme Court

American Civil Liberties Union Foundation of Southern California v. Superior Court (City of Los Angeles) (2017) 3 Cal.5th 1032 (automated license plate reader data exempt from disclosure under Public Records Act unless anonymized) (counsel for amicus)

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 (inadvertent release of attorney-client privileged documents on public records request did not waive privilege)

Ardon v. City of Los Angeles (2011) 52 Cal.4th 241 (class action challenge to local taxes, assessments and fees permitted by California Government Claims Act but may be barred by claiming ordinance)

Bighorn-Desert View Water Agency v. Verjil (2006) 39 Cal.4th 205 (Prop. 218 applies to metered water rates; initiative to reduce water rates prohibited to extent it would require voter approval of subsequent rate increases) (counsel for amici)

Bonander v. Town of Tiburon (2009) 46 Cal.4th 646 (general validation procedure for public agency action does not apply to actions to contest assessments under Municipal Improvement Act of 1915) (counsel for amici)

California Cannabis Coalition v. City of Upland (2017) 3 Cal.5th 924 (Prop. 218 requirement that general taxes appear on ballots with Council or Board seats does not apply to initiative tax proposal) (counsel for amici)

Citizens for Fair REU Rates, Feefighter, LLC v. City of Redding (to be argued mid-2018), Case No. S224799 (Is PILOT transfer from electric utility to City's general fund grandfathered by Proposition 26?)

City and County of San Francisco v. UC Regents (pending), Case No. S242835 (power of cities and counties to tax parking fees imposed by UC on campus visitors (counsel for local government amici)

City of Alhambra, et al. v. County of Los Angeles, et al. (2012) 55 Cal.4th 707 (counties misapplied property tax administration fees to taxes received in lieu of Vehicle License Fees and sales taxes under the VLF Swap and Triple Flip)

City of Fontana v. California Department of Tax & Fee Administration (review pending) Case No. S246278 (petition for review of decision affirming allocation of sales taxes among competing jurisdictions)

City of Grass Valley v. Cohen, et al., (review denied) Case No. S246191 (petition for review of post-RDA dispute over contract with County Transportation Commission to fund freeway interchange)

City of Hayward v. Board of Trustees of the California State, Case No. S203939 (reviewed granted, held for lead case, and vacated and remanded) (duty of CSU to seek funding to make feasible mitigation of impacts of expansion of CSU East Bay on fire services of City) (author of amicus support for review)

City of Oroville v. Superior Court (California Joint Powers Risk Management Authority), Case No. S243247 (fully briefed and awaiting argument) (inverse condemnation liability for sewer flooding cause by plaintiff's failure to install back water valve required by Uniform Plumbing Code)

City of Pasadena v. Superior Court (Mercury Casualty Co.) (2014) 228 Cal.App.4th 1228 (unsuccessful petition for review) (inverse condemnation liability for fallen tree)

City of San Buenaventura v. United Water Conservation District (2017) 3 Cal.5th 1191 (groundwater augmentation charge subject to Proposition 26, not 218)

Concerned Citizens for Responsible Government v. West Point Fire Protection District (Case No.195152) (dismissed as moot after briefing regarding application of Prop. 218's requirements of special benefit and proportionality to fire suppression benefit assessment) (counsel for amici; request for depublication, amicus brief on the merits, opposition to post-dismissal request for publication)

Great Oaks Water Co. v. Santa Clara Valley Water Dist. (pending), Case No. S231846 (request to re-publish Court of Appeal decision pending grant-and-hold review of Prop. 218 challenge to groundwater augmentation charges)

Greene v. Marin County Flood Control & Water Conservation District (2010) 49 Cal.4th 277 (property owner ballots on property related fees under Prop. 218 not subject to ballot secrecy)

Haas v. County of San Bernardino (2002) 27 Cal.4th 1017 (County counsel's unilateral selection of temporary administrative hearing officers on an ad hoc basis violates due process) (counsel for amici)

Homebuilders Ass'n of Tulare / Kings Counties v. City of Lemoore (2010) 185 Cal.App.4th 544 (upholding development impact fees) (author of pro per opposition to request for depublication)

Howard Jarvis Taxpayers Ass'n v. City of La Habra (2001) 25 Cal.4th 809 (continued imposition and collection of a utility user's tax without voter approval was an ongoing or continuous violation of Proposition 62, with statute of limitations beginning anew with each collection) (counsel for amici)

In re Transient Occupancy Cases (2016) 2 Cal. 5th 151 (bed taxes do not apply to full priced charged by on-line resellers of hotel rooms) (counsel for local government amici)

Jacks v. City of Santa Barbara (2017) 3 Cal.5th 248 (supplemental franchise not a tax even though passed through to utility customers if reasonably related to value of right of way made available)

Kurwa v. Kislinger (2017) 4 Cal.5th 109 (application of final judgment rule to appeal from case in which some claims were voluntarily dismissed and subject to tolling agreement) (counsel for amicus California Academy of Appellate Lawyers)

Leider v. Lewis (2017) 2 Cal.5th 1121 (no taxpayer standing to enforce criminal laws in challenge to confinement of elephants in LA Zoo) (counsel for local government amici)

McWilliams v. City of Long Beach (2013) 56 Cal.4th 613 (Government Claims Act preempts local tax and fee claiming ordinances and allows class claims)

People ex rel. Lockyer v. R.J. Reynolds Tobacco Co. (2005) 37 Cal.4th 707 (tobacco company's distribution of free cigarettes violated statute regulating non-sale distribution of cigarettes) (counsel for amici)

Plantier v. Ramona Municipal Water District (pending) Case No. S243360 (exhaustion of administrative remedies defense to Prop. 218 challenge to sewer rates) (counsel for local government amici)

Richmond v. Shasta Community Services Dist. (2004) 32 Cal.4th 409 (increased capacity charge and fee for fire suppression imposed on applicants for new service connections was not an "assessment" subject to Proposition 218)

Court of Appeal for the First Appellate District

Brooktrails Township CSD v. Board of Supervisors (2013) 218 Cal.App.4th 195 (successfully requested publication on behalf of League of California Cities)

Building Industry Association v. City of San Ramon (2016) 4 Cal.5th 62 (citywide Mello-Roos District to fund supplemental municipal services to new development complied with statute) (counsel for amicus League of California Cities)

City of Scotts Valley v. County of Santa Cruz (2011) 200 Cal.App.4th 97 (calculation of no- and low-property tax city subvention) (counsel for amici)

City of Vallejo v. NCORP4, Inc. (2017) 15 Cal.App.5th 1078 (City properly limited marijuana dispensary licenses to those who complied with its earlier tax)

Green Valley Landowners Association v. City of Vallejo (2015) 241 Cal.App.4th 425 (effort to enjoin sale of part of City water utility subject to successful demurrer without leave to amend as seeking to enforce an implied contract and to compel subsidized water rates in violation of Prop. 218)

Kahan v. City of Richmond (pending) Case No. A150866 (class action challenge to collection of delinquent trash fees on tax roll did not violate assessment provisions of Proposition 218)

Paland v. Brooktrails Township CSD Bd. of Directors (2009) 179 Cal.App.4th 1358 (monthly minimum water service fee for account inactivated for non-payment not subject to assessment provisions of Prop. 218) (counsel for amici)

Walker v. Marin Municipal Water District (pending), Case No. A152048 (amicus brief for local government associations; case tests whether exhaustion of administrative remedies requires participation in protest hearing before challenging a property related fee under Prop. 218)

Court of Appeal for the Second Appellate District

AB Cellular LA, LLC v. City of Los Angeles (2007) 150 Cal.App.4th 747 (City's decision to implement federal law to expand cell tax to cover all airtime was a tax "increase" requiring voter approval under Proposition 218 but earlier instructions to carriers enforceable to require payment of tax)

Arcadia Redevelopment Agency v. Ikemoto (1991) 16 Cal.App.4th 444 (agency challenge to application of property tax administration fees to tax increment) (counsel for amici)

Birke v. Oakwood Worldwide (2009) 169 Cal.App.4th 1540 (pervasive outdoor secondhand smoke may form the basis for private nuisance claim) (counsel for amicus California Chapter of the American Lung Association) (filed amicus brief and argued)

City of Glendale v. Superior Court (Glendale Coalition for Better Government) (2016) Case Nos. B270135, B283819 (alternate writ issued to reverse order allowing discovery in water rates case limited to administrative record; appeals from judgment and fee award pending)

City of Pasadena v. Medical Cannabis Caregivers (unpublished) Case Nos. B277868, B277827 (3/5/18) (won affirmance of preliminary injunctions against unpermitted marijuana dispensaries and related judgment upholding zoning ordinance)

Glendale Coalition for Better Government v. City of Glendale (pending) Case No. B281994; *Saavedra, IBEW v. City of Glendale* (pending) Case No. B281991 (Prop. 26 challenge to transfer from electric utility to general fund)

Glendale Coalition for Better Government v. City of Glendale (pending) Case No. B282410 (Prop. 218 challenge to tiered water rates)

Goleta Ag Preservation v. Goleta Water District (pending), Case No. B277227 (defense of Proposition 218 challenge to tiered water rates and notice to customers not property taxpayers)

Newhall County Water District v. Castaic Lake Water Agency (2016) 243 Cal.App.4th 1430 (successful challenge to wholesale water rates based on use of groundwater not managed by wholesaler)

Re-Open Rambla, Inc. v. Board of Supervisors (City of Malibu) (1995) 39 Cal.App.4th 1499 (county's title to closed road vested in city upon incorporation despite city's effort to avoid accepting the street)

Ruskey v. Goleta Water District (pending), Case No. B275856 (appellate defense of successful demurrer for lack of standing in Prop. 218 challenge to water rates)

San Luis Obispo Local Agency Formation Commission v/ Central Coast Development Co. (pending) Case No. B279000 (appeal from denial of attorneys' fees under developer's written indemnity agreement following successful defense of challenge to denial of annexation)

Schmeer v. County of Los Angeles (2013) 213 Cal.App.4th 1310 (plastic bag ban ordinance provision for \$0.10 fee on paper bags was not a tax under Prop. 26 because proceeds did not fund government) (counsel for local government amici)

Sipple v. City of Hayward (2014) 225 Cal.App.4th 349 (standing and claiming defenses to quasi-class refund claim for allegedly overpaid telephone taxes) (petition for review denied)

Court of Appeal for the Third Appellate District

City of Auburn v. Sierra Patient & Caregiver Exchange, Inc. (unpublished), Case No. C069622 (upholding preliminary injunction against medical marijuana dispensary opened in violation of zoning and business license ordinances)

Auburn Police Officers Association v. City of Auburn (unpublished), Case No. C067972 (stipulated reversal regarding availability under Meyers-Milias-Brown Act of writ review of City Council's denial of grievance from exercise of escape clause from salary increases pursuant to MOU)

City of Bellflower, et al. v. Cohen, et al. (2016) 245 Cal.App.4th 438 (self-help provisions of post-redevelopment legislation violate Prop. 22's protection for local government revenues)

City of Chula Vista, et al. v. Sandoval (pending), Case No. C080711 (defense of trial court victory in challenge to County's calculation of post-RDA RPPTF revenues)

City of Fountain Valley v. Cohen, et al. (pending) Case No. C081661 (representing taxing agency in Successor Agency's appeal of post-RDA dispute with Department of Finance over recognized obligations)

City of Grass Valley v. Cohen, et al. (2017) 17 Cal.App.5th 567 (contract with County Transportation Commission to fund freeway interchange likely a recognized obligation of former RDA)

City of Lakewood v. Cohen, et al. (pending) Case No. C078788 (appeal of post-RDA dispute with Department of Finance over recognized obligations)

City of Paramount v. Cohen, et al. (settled on appeal) Case No. C078968 (defense of trial court win in post-RDA dispute regarding enforceable obligation to maintain project funding to third party)

County of Nevada v. Superior Court (unpublished), Case Nos. C076851, C082927 (interlocutory writ review of trial court writ of mandamus overturning use permit conditions for ridge-top residence; appeal from judgment pending)

Davies v. Martinez (unpublished), Case No. C078986 (appeal dismissed as to our defense of summary judgment for attorney in breach of fiduciary duty claim by incarcerated former client suing in pro per)

Howard Jarvis Taxpayers Ass'n v. City of Roseville (2002) 97 Cal.App.4th 637 (in-lieu franchise fee charged to water and sewer utilities for benefit of general fund violated Prop. 218) (counsel for amici on request for rehearing)

Inyo County LAFCO v. Southern Mono Healthcare District (pending) Case No. C085138 (defense of trial court victory in dispute involving LAFCO power to regulate out-of-boundary service by healthcare district)

Lockyer et al. v. County of Nevada et al. (unpublished), Case No. C075249 (successful appellate defense of land use permits for cell tower)

Court of Appeal for the Fourth Appellate District, Division I (San Diego)

California Taxpayers Action Network v. City of San Diego (pending) Case No. D072987 (defense of dismissal on demurrer of challenge to business improvement district assessment)

Howard Jarvis Taxpayers Ass'n v. City of San Diego (1999) 72 Cal.App.4th 230 (BID assessment on businesses collected as surcharge on business license tax neither levy on real property nor special tax within meaning of Proposition 218) (counsel for amici)

Jentz v. City of Chula Vista (unpublished), Case No. D055401 (consistency of specific plan with slow-growth initiative)

Plantier v. Ramona Municipal Water District (2017) 12 Cal.App.5th 856 (rev. granted) (exhaustion of administrative remedies defense to Prop. 218 challenge to sewer rates) (counsel for local government amici)

Reid v. City of San Diego (San Diego Tourism Marketing District) (pending) Case No. D072493 (defense of dismissal on initial demurrer of class action challenge to business improvement district assessment)

San Diegans for Open Government v. City of San Diego (San Diego Tourism Marketing District) (pending) Case No. D072181 (appeal from award of attorney fees to unsuccessful challenger to tourism assessment on catalyst theory)

San Diegans for Open Government v. City of San Diego (San Diego Tourism Marketing District) Case Nos. D064817, D065171, D068022, D069965 (writ review of denial of demurrer to Prop. 26 challenge to renewal of tourism marketing district, re discovery of plaintiff association's members, discovery of computer of late founder of plaintiff association, and discovery of extra-record evidence for use on the merits)

San Diegans for Open Government v. City of San Diego (Downtown San Diego Partnership) (settled on appeal), Case No. D065940 (defense of trial court victory in taxpayer challenge to expenditures of PBID assessment on homeless programs)

San Diegans for Open Government v. City of San Diego (57 Municipal Assessment Districts) (unpublished), Case No. D065929 (successful defense of trial court dismissal of

challenge to MADs for lack of standing; petition for review pending; successful defense of petition for review)

Webb v. City of Riverside (pending) Case No. D073449 (defense of trial court dismissal of challenge to general fund transfer from electric utility)

Court of Appeal for the Fourth Appellate District, Division 2 (Riverside)

Beutz v. County of Riverside (2010) 184 Cal.App.4th 1516 (Landscaping and Lighting Assessment engineer's report insufficient to satisfy standards of Prop. 218)

City of Barstow v. Fortunye (settled on appeal), Case No. E0355595 (implementation of decree adjudicating Mojave River)

City of Riverside v. Superior Court (Bailey) (pending) Case No. E070235 (writ to stay trial and obtain neutral venue in dispute between mayor and city over scope of veto power)

Crystaplex Plastics, Ltd. v. Redevelopment Agency (2000) 77 Cal.App.4th 990 (supplier may recover against agency for amount of check where subcontractor received and negotiated check without knowledge, consent, or endorsement of supplier even though Agency made check to both subcontractor and supplier)

Inland Oversight Committee v. City of Ontario (2015) 240 Cal.App.4th 1140 (sustaining dismissal of Prop. 26 challenge to Tourism Marketing District Assessment for lack of standing and due to untimely appeal) (counsel for amici)

Mission Springs Water District v. Verjil (2013) 218 Cal.App.4th 892 (suit to bar initiative repeal of water rates from ballot subject to SLAPP, but SLAPP motion properly denied because evidence showed initiative would violate District's statutory duty to fund adequate water supply) (counsel for amici)

San Bernardino Public Employees Association v. City of Barstow (settled on appeal), Case No. E032858 (City refusal to implement bargained for pension enhancement due to bargaining conduct of self-interested City negotiator)

Trask v. Riverside City Clerk (unpublished), Case No. E065817 (defense of election challenge to proposed charter amendment; remanded for dismissal as moot)



Court of Appeal for the Fourth Appellate District, Division 3 (Santa Ana)

Citizens Ass'n of Sunset Beach v. City of Huntington Beach (2012) 209 Cal.App.4th 1182 (Prop. 218 does not apply to extension of City taxes into annexation area)

City of El Cajon v. San Diego County LAFCO (unpublished), Case No. G041793 (DCA upheld challenge to denial of island annexation)

City of San Juan Capistrano v. Capistrano Taxpayers Association (2015) 235 Cal.App.4th 1493 (inclining block conservation rates failed under Prop. 218, but recovery of recycled water program costs from all customers permissible)

Wetlands Restoration v. City of Seal Beach, et al. (unpublished), Case No. G010231 (defense of City's housing element)

Court of Appeal for the Fifth Appellate District

Citizens for Constitutional Government v. Board of Supervisors of Mariposa County (pending), Case No. F074986 (defense of trial court victory in Prop. 218 challenge to fire suppression benefit assessment)

City of Clovis et al. v. County of Fresno (2014) 222 Cal.App.4th 1469 (interest rate applicable to repayment of PTAF following *Alhambra v. Los Angeles County*) (argued for amicus League of California Cities)

Foster Poultry Farms, Inc. v. City of Livingston, Case No. F059871 (appeal dismissed by City following recall of Council majority) (procedures for increase in water rates under Proposition 218) (co-author of amicus brief)

Howard Jarvis Taxpayers Ass'n v. City of Fresno (2005) 127 Cal.App.4th 914 (transfer from utility enterprise to general fund pursuant to voter-approved charter provision as payment in lieu of property taxes violated Proposition 218's restrictions on use of property related fees)

Neilson v. City of California City (2005) 133 Cal.App.4th 1296 (flat-rate parcel tax not an unconstitutional general tax, but rather a special tax dedicated to specific purposes; equal protection does not entitle absentee landowners to vote) (counsel for amici)

Vagim v. City of Fresno Case Nos. F068541, F068569, F069963 (2014) (defense of writ seeking to compel provision of title and summary of initiative to lower water rates, defense contends resulting rates would be illegally low, appeal and writ petition from denial of declaratory relief in same dispute, writ regarding stay on appeal)



Court of Appeal for the Sixth Appellate District

Award Homes v. County of San Benito Case No. H044894 (pending)(defense of trial court victory and new trial motion in dispute as to development fees)

Citizens for Responsible Open Space v. San Mateo County LAFCO (2008) 159 Cal.App.4th 717 (rejecting procedural challenges to annexation to open space district) (ghost-writer of amicus brief)

Eiskamp v. Pajaro Valley Water Management Agency (2012) 203 Cal.Ap.4th 97) (challenge to groundwater charge barred by res judicata effect of earlier settlement) (successfully opposed review and depublication)

Griffith v. Pajaro Valley Water Management Agency (2013) 220 Cal.App.4th 856 (successful defense of Proposition 218 challenge to groundwater augmentation charges)

Holloway v. Vierra, San Lorenzo Valley Water District (argued 3/6/18) Case Nos. H044492, H044505, H044704, H044800 (taxpayer's Government Code § 1090 and Political Reform Act enforcement action against Water District and former director; appeals from judgments and attorney fee award)

Monterey Peninsula Taxpayers Assn v. Monterey Peninsula Water Management District (argued 2/27/18), Case No. H042484 (appeal from successful defense of District's refusal to place referendum on ballot to repeal water supply charge)

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Attachment C – Sample Written Client Communication



Administrative Report

CONSENT ITEM

TO: CITY COUNCIL

FROM: Steve McClary, City Manager
Matthew Summers, City Attorney

**DATE REPORT
PREPARED** July 13, 2017

MEETING DATE: July 25, 2017

SUBJECT: Second Reading and Adoption of an Ordinance Amending Ojai Municipal Code Section 10-2.1709 Governing Second Residential Units and Accessory Dwelling Units to Conform to New State Statutory Mandated Accessory Dwelling Unit Ordinance Requirements and to Further Modify Accessory Dwelling Unit Standards; and
Adoption of a Finding that the Adoption of the Amendments is Exempt from the California Environmental Quality Act.

Recommendation

1. Adopt an Ordinance Amending Ojai Municipal Code Section 10-2.1709 Governing Second Residential Units and Accessory Dwelling Units to Conform to New State Statutory Mandated Accessory Dwelling Unit Ordinance Requirements and to Further Modify Accessory Dwelling Unit Standards and Finding that the Adoption of the Amendments is Exempt from the California Environmental Quality Act.

Commission Recommendation

The Planning Commission unanimously recommended the City Council adopt the proposed ordinance, with a split vote on two particular provisions. The Planning Commission voted 5-2 to recommend deletion of the existing minimum lot size requirement, which limits second units/ADUs to lots with a minimum of 10,900 square feet generally and 8,500 square feet for the VMU. The proponents of deleting the minimum lot size stated deleting this requirement will allow more, smaller lots to be developed with ADUs. The opponents of deleting the minimum lot size requirement stated this requirement is necessary to limit ADUs to larger lots better situated to accommodate an ADU. The Planning Commission also voted 6-1 to recommend that the

ordinance set the maximum unit size requirement for all ADU types as 1,200 square feet or 50% of the existing living area of the legal primary unit, inclusive of any basement and attic, whichever is smaller. The proponents stated this standard will ensure that units be sized to suit the lot and be compatible with the primary unit. The opponent stated this standard should not be imposed on detached ADUS because the default state rule only imposes that requirement on attached ADUs, not also detached ADUs.

Discussion

On July 11, 2017, the City Council voted to introduce the attached ordinance amending Ojai Municipal Code section 10-2.1709, the second unit, now accessory dwelling unit ordinance. This is the culmination of an extensive review process by the City Council and Planning Commission considering amendments to this ordinance. The amendments build on the City Council's previous approval of an Urgency Ordinance on November 15, 2016 that amended section 10-2.1709 as necessary to ensure that the second unit ordinance met the minimum standards of the new Government Code section 65852.2 as of January 1, 2017.

The introduced ordinance expands and modifies the definitions in section 10-2.1709(b). Specifically, the following terms are defined: attached unit, attic, basement, detached unit, efficiency unit, passageway, habitable area, home split, living area, lot coverage, manufactured home, neighborhood, guest house, and short-term rental. "Second unit" is redefined to be "accessory dwelling unit" throughout, reflecting the state's name change. The ordinance's Table A converts the existing narrative standards in section 10-2.1709(c) into a table stating the applicable development standards for six types of ADUS, described as follows:

1. New Detached Accessory Dwelling Unit
2. New Attached Accessory Dwelling Unit attached to an Existing Legal Primary Unit
3. New Attached Accessory Dwelling Unit Solely by Conversion of Existing Interior Space in an Existing Legal Primary Unit
4. New Accessory Dwelling Unit Solely by Conversion of an Existing Legal Accessory Building
5. New Unit within a New Second Story over Existing Legal Primary Unit
6. Home-Split as Defined by Section 10-2.3602(H)(5)

The seventh type of ADU, existing accessory dwelling units, which existed prior to June 23, 2015, and are not recognized as lawfully permitted, continue to be eligible for legalization as legal nonconforming ADUs under the ADU/Second Unit Compliance Program as extended and modified by the Council on April 25, 2017.

All ADU types are permitted in the A, VMU, OS, or R zones. The list of permitted zones for ADU now also includes the C-1 and B-P zones, if the property's existing single-family dwelling is legal, conforming or nonconforming, but not if the existing dwelling is illegal. Each ADU type is subject to specified development standards that vary slightly by type and govern the following aspects of the unit: setbacks, height, number of stories, lot coverage, maximum unit size, parking, and guest houses and accessory structures. The ordinance prohibits short-term rental of ADUs. The

ordinance also requires applicants for ADUs to agree in writing that the property shall be owner-occupied and to record a deed restriction stating this requirement, and provides a waiver process for certain hardship cases. The ordinance maintains the existing requirement, adopted by the urgency ordinance, that a design review permit is only required for an ADU that is two-stories, taller than 24', or on the second story, or outside the existing building envelope of the second story if the ADU solely entails interior conversion of existing legal primary unit space. ADUs that meet all applicable requirements and are shorter than these triggers are subject solely to ministerial review by the Community Development Director.

The ordinance further provides that an accessory dwelling unit on a property with an existing private sewage disposal system, e.g. septic system, may connect to the existing private sewage disposal system, if approved by the Building Official and in compliance with all applicable regulations. The ordinance also allows an applicant to choose whether the ADU will be separately connected to utility services or will be commonly metered with the primary unit. The ordinance states that the City will not assess connection fees, capacity charges, school district fees, or similar impact fees on accessory dwelling units, but will charge applicable application and permit fees. This reflects the City Council's decision on April 25, 2017 to not charge impact or connection fees to accessory dwelling units. Additionally, in implementation of that resolution, the City will also not require "will-serve" letters as a condition of approving accessory dwelling units. The City will instead verify compliance with applicable building code standards requiring working utilities by alternative means.

The proposed amendments are described in further detail in the staff report for the introduction of the ordinance presented to the City Council on July 11, 2017.

Council Amendments

On July 11, 2017, the City Council introduced the ordinance, with the following amendments:

- In Table A, the maximum floor area size of the ADU for all ADU types is now specified as "1200 square feet or 50% of the existing habitable area of the legal primary unit, whichever is smaller." By referencing the primary unit's existing habitable area, defined as "an area within a building designed for general living, sleeping, eating, or cooking purposes" and further defined in the building code, this change means that the primary unit's size, used for the maximum 50% calculation, includes the unit's living areas, including any finished, habitable attic or basement, but does not include any non-habitable crawl spaces, attics, basements, or other auxiliary spaces not designed for general living.
- The height trigger requiring approval of a design review permit for a proposed ADU is now set at 24' tall, not 15' tall, consistent with the design review permit requirement for new single-family residences taller than 24' in Ojai Municipal Code section 10-2.2003(a)(1).
- The list of permitted zones for ADU now includes the C-1 and B-P zones, if the property's existing single-family dwelling is legal, conforming or nonconforming, but not if the existing dwelling is illegal.
- Decisions regarding requested exemptions from the owner occupation requirement are to be made by the Community Development Director, not the Planning Commission.

These amendments are incorporated in the attached ordinance proposed for adoption.

Environmental Review

This text amendment is exempt from review under the California Environmental Quality Act under California Code of Regulations, Title 14, Sections 15301 and 15308 of the CEQA Guidelines because it does not meet the definition of a project under CEQA Guidelines section 15061, subdivision (b)(3) and section 15378, subdivision (a) and subdivision (b)(5). The changes to the second residential unit/ADU ordinance, changing the standards for second residential units as required and authorized by state law, has no potential for resulting in physical changes in the environment, directly or indirectly, because it consists of changes in the standards governing issuance of ministerial permits for accessory dwelling units and does not directly or indirectly approve any applications for particular accessory dwelling units

Fiscal Impact

The cost of implementing these amendments to the ADU/second unit ordinance can be accommodated in the existing budget. The proposed amendments are expected to result in additional applications for ADUs, which will increase the level of activity in the Community Development and Building Departments, but are expected to be covered by applicable application fees. The Council’s previous action, on April 25, 2017, to prohibit the City from assessing connection fees, capacity charges, school district fees, or similar impact fees on accessory dwelling units will reduce those fee collection levels, but the reduction in impact fees is not expected to negatively impact the provision of services by the City.

Conclusion

The City Council is asked to adopt the proposed, modified accessory dwelling unit ordinance amending Section 10-2.1709.



Prepared by:
Matthew Summers, City Attorney

Submitted by:
Steve McClary, City Manager

Attachments

A –Ordinance No. __ Amending Section 10-2.1709

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Grass Valley, CA 95945-5091
(530) 432-7357 | www.chwlaw.us



790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101-2109
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Attachment D – Firm Newsletter

Update on Public Law California Constitution Prohibits Promises Not to Tax

By Michael G. Colantuono

A recent San Francisco Court of Appeal decision highlights an obscure provision of our Constitution barring contracts that limit governments' taxing power. There are ways to protect contractors against taxes, but a promise not to tax is unenforceable.

Russell City Energy Co. v. Hayward arose on these facts: Russell contracted with Hayward to develop a multi-million-dollar, natural-gas-fired, power plant. The parties agreed Russell would pay \$10 million for a City library but not taxes other than those "generally applicable to similarly situated owners of real property ... in the City." Voters adopted a 5.5% utility users tax (UUT) and the City applied the tax to natural gas Russell used to generate power. The City successfully defended the resulting suit, citing article XIII, § 31 of the state Constitution: "The power to tax may not be surrendered or suspended by grant or contract." Russell appealed and the Court of Appeal affirmed, but remanded to allow Russell to argue for return of the library payment.

Russell unsuccessfully argued article XIII, § 31 was limited to perpetual tax exemptions and this contract exempted it from tax only while it operated a power plant. Its reliance on an Arizona Supreme Court case allowing a one-time settlement of a tax dispute was similarly unsuccessful. Its effort to limit § 31 to tax-exemption provisions of corporate charters (one of the motivations for this clause) failed, too. Nor could it persuade the Court the no-tax provision of the contract was an exercise of the City's taxing power.

The Court of Appeal allowed Russell to amend its complaint on remand to state a "quasi-contractual restitution claim." The City cited cases holding contracts cannot implied against government — only written contracts approved as required by law may be. For most local governments, this requires a writing approved by the legislative body and signed by one authorized to bind the agency, like a mayor. The Court noted that this case involved such a contract. The holding seems driven by the unfairness of letting the City keep \$10 million without giving Russell the tax exemption it bargained for.

A public agency can protect a private party from future taxation by: (i) settling tax disputes, but such settlements must look backward, not forward; (ii) public landlords can pay taxes for tenants and public agencies might be able to agree to pay taxes for other private parties if there is adequate consideration to the agency; (iii) agencies can explain how to comply with taxes and be bound by those instructions; (iv) they can credit private payments against future taxes.

This case reminds us of an old, and somewhat overlooked, rule affecting public-private partnerships.

There is still time for a petition for Supreme Court review of *Russell*, so things could change. If so, we will keep you posted!

For more information on this subject, contact Michael at MColantuono@chwlaw.us or (530) 432-7357.

Legal Bills Remain Protected Under PRA

By Gary B. Bell

The California Supreme Court recently concluded in *County of Los Angeles Board of Supervisors v. Superior Court (ACLU of Southern California)* that legal bills are exempt from disclosure under the Public Records Act while litigation is pending, but might be disclosable when it ends. Less noticed was that the Court remanded to the lower courts to decide whether the bills in question should be released. The Los Angeles Court of Appeal held it is a factual question to be resolved in the trial court whether fee totals in concluded litigation can be disclosed. It also held the services descriptions in such invoices are not subject to disclosure. This is a narrower disclosure than many public lawyers expected.

Following public allegations of excessive force at County jails, the ACLU submitted a PRA request for bills of law firms defending nine suits claiming excessive force. Los Angeles County disclosed invoices related to concluded cases, but redacted the descriptions of services. It withheld invoices for pending suits, arguing the information withheld was privileged and nondisclosable under the PRA.

The Supreme Court stated that, although invoices are not completely privileged, information in them may be, such as information about the nature or amount of work performed in a pending case. Whether fee totals as to concluded litigation should be disclosed is a factual question: “the contents of an invoice are privileged only if they either communicate information for the purpose of legal consultation or risk exposing information that was communicated for such a purpose” – including an invoice for active litigation.

On remand, the ACLU argued it was entitled to an evidentiary review of the withheld information. The Court of Appeal found the Supreme Court opinion to be limited to “fee totals.” Other information in a bill **does** communicate the substance of legal services and is therefore privileged under the Court of Appeal’s reading of the Supreme Court opinion.

Thus, while fee totals may be disclosable in concluded cases, service descriptions are privileged in both pending and concluded cases. The Court of Appeal noted what it saw as the “logical reason” the Supreme Court limited post-litigation disclosure to fee totals: A court generally may not require a litigant to disclose to the Court assertedly attorney-client privileged information to decide a privilege claim.

For more information on this subject, contact Gary at GBell@chwlaw.us or (530) 208-5346.

Charter Cities and State Elections

By Matthew T. Summers

The California Attorney General recently opined that the California Voter Participation Rights Act applies to charter cities, not just general law cities, despite charter cities’ broad power over local elections.

The Act requires cities and other agencies to hold regular elections after January 1, 2018, on statewide June or November election dates if turnout in past elections on other dates was at least 25 percent less than the average voter turnout in the past four statewide elections. This is almost always true and the law will therefore affect most cities and special districts. A city or district with past low voter turnout may act before January 1, 2018, to move its elections effective by the November 8, 2022, statewide election. Special elections, such as those required by an initiative or referendum, are exempt.

The California Constitution empowers charter cities to govern municipal affairs, including elections, in ways that are inconsistent with state law. Home rule power is not absolute, however, as State law may preempt charter city legislation as to matters of statewide concern. The California Supreme Court

(continued on page 3)

Court Overturns Malibu Growth-Control Initiative

By Aleks R. Giragosian

The California Constitution reserves to the People the initiative power, but that power has its limits — as a recent court decision demonstrates. *Park at Cross Creek, LLC v. City of Malibu* holds that local initiatives can only initiate legislative (not administrative or judicial) acts and cannot contravene State land use law.

In 2014, Malibu voters approved Measure R to limit large development and chain establishments (“formula retail”) of more than 20,000 square feet. The measure required the City Council to approve a specific plan and to report on it at a public hearing. It required all future specific plans to be submitted for voter approval.

The courts invalidated the measure. Although the adoption or amendment of a specific plan is a legislative act, Measure R required what amounted to project-by-project review by voters exercising adjudicative power by applying existing policies (like Measure R itself) to particular developments.

Additionally, initiative ordinances (unlike initiative amendments to city charters) that broadly limit the power of legislative bodies are not legislative measures. Measure R withdrew the City Council’s authority under the State Planning and Zoning Law to issue discretionary land use entitlements or ministerial development permits until voters approve a specific plan. Thus, Measure R stripped the City Council and Planning Commission of authority the Legislature had conferred and effectively amended the Planning and Zoning Law as applied in Malibu. That, a local initiative cannot do.

A conditional use permit (“CUP”) authorizes a land owner to use property in a particular way subject to conditions. A CUP relates to a property, not an individual person or business, and typically runs with the land. The Court held Measure R violated the Planning and Zoning Law by tying the permit to a project applicant, rather than a specific use of a particular parcel.

The initiative power allows voters to limit development in their communities. *Park at Cross Creek, LLC* demonstrates limits on that power. Land use initiatives, it seems, require land use lawyers.

For more information, contact Aleks at AGiragosian@chwlaw.us or (213) 542-5734.

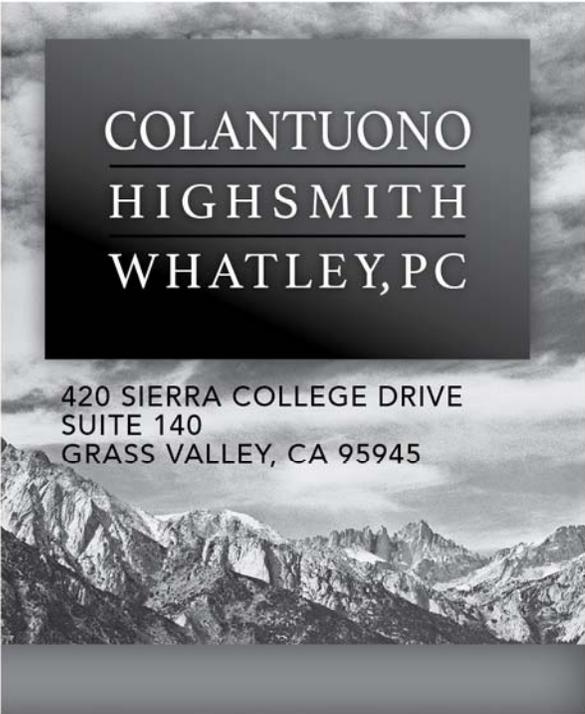
Charter Cities (cont.)

adopted a four-part charter city home rule power preemption test: If (1) a charter city law regulates a municipal affair; (2) the city law and State law actually conflict; (3) the State law addresses a matter of statewide concern; and, (4) the State law is reasonably related to that statewide interest and is narrowly tailored to avoid unnecessary local interference, the State law preempts the contrary local rule.

Applying these factors, the Attorney General concluded the Act applies to charter cities. The timing of local elections is definitively a municipal affair. A charter or ordinance requiring an off-cycle election conflicts with the Act for any agency with sufficiently low voter turnout. The Attorney General cited *Jauregui v. City of Palmdale* holding the California Voting Rights Act, requiring district elections in cities with meaningful minority populations, applies to charter cities. He concludes that existing low voter turnouts undermine electoral integrity — a matter of statewide concern. He also determined that requiring consolidated elections only if there is a history of lower voter turnout is reasonably and narrowly tailored to address that problem.

Accordingly, all cities and local agencies — including charter cities — should examine voter turnout levels and decide whether to move election dates or adopt a plan to do so before January 1, 2018.

For more information on this subject, contact Matt at MSummers@chwlaw.us or (213) 542-5719.



COLANTUONO
HIGHSMITH
WHATLEY, PC

420 SIERRA COLLEGE DRIVE
SUITE 140
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Phone _____ Fax _____

E-mail _____

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Attachment E – Redacted Sample Invoice

Colantuono, Highsmith & Whatley, PC

420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

530/432-7357

Invoice submitted to:

City of Ojai

[REDACTED]
401 S. Ventura Street
Ojai, CA 93023

Invoice Number: 33085
Invoice Date: June 02, 2017
Federal EIN: 75-3031545

In reference to: GENERAL SERVICES

[REDACTED]

Billing Summary for services through
May 31, 2017

Total fees	\$12,000.00
Total disbursements	0.00
Total charges for this bill	\$12,000.00
Total previous balance	24,000.00
Total payments and other transactions	(12,000.00)
Balance Due	\$24,000.00

Colantuono, Highsmith & Whatley, PC

420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

530/432-7357

Invoice submitted to:

City of Ojai

[REDACTED]
401 S. Ventura Street
Ojai, CA 93023

Invoice Number: 33085
Invoice Date: June 02, 2017
Federal EIN: 75-3031545

In reference to: GENERAL SERVICES [REDACTED]

Professional Services

Hours

CITY CLERK

5/2/2017	[REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED], [REDACTED] REGARDING [REDACTED]	0.40
[REDACTED]	EXCHANGE CORRESPONDENCE WITH [REDACTED] AND [REDACTED]. [REDACTED] REGARDING [REDACTED]	0.10
[REDACTED]	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.40
5/5/2017	DRAFT PUBLIC NOTICE FOR COUNCIL CONSIDERATION [REDACTED] [REDACTED] AMENDMENTS AND EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.20
5/8/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] [REDACTED]	0.10
5/15/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] [REDACTED]	0.10
5/16/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] [REDACTED]	0.10
[REDACTED]	EXCHANGE CORRESPONDENCE WITH [REDACTED] [REDACTED]	0.10

		<u>Hours</u>
5/17/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/18/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/19/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/24/2017	CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
	CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
5/25/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.30
	LEGAL RESEARCH REGARDING [REDACTED]	1.00
5/26/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10
5/30/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10
5/31/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
SUBTOTAL:		[4.00]
CITY MANAGER _____		
5/2/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10

		<u>Hours</u>
5/8/2017	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.70
5/9/2017	CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.70
5/11/2017	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.50
	TELEPHONE CONFERENCE WITH [REDACTED] AND [REDACTED] REGARDING [REDACTED]	0.40
5/12/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
5/15/2017	RESEARCH REGARDING [REDACTED] (SHARED COST)	0.10
5/16/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
5/18/2017	REVIEW AND REVISE MEMORANDUM OF UNDERSTANDING [REDACTED] TELEPHONE CONFERENCE WITH [REDACTED], EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.40
5/19/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/22/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
5/23/2017	ATTEND OFFICE HOURS: CONFERENCE WITH [REDACTED]RY REGARDING [REDACTED]; CONFERENCE WITH [REDACTED] REGARDING [REDACTED] AND [REDACTED]; CONFERENCE WITH [REDACTED] WITH [REDACTED] REGARDING [REDACTED]; CONFERENCE WITH [REDACTED] REGARDING [REDACTED] CONFERENCE REGARDING [REDACTED]; CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	3.00
5/24/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10

		<u>Hours</u>
5/25/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING POTENTIAL NEW MIXED-USE PROJECT	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/26/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.70
SUBTOTAL:		[7.70]
<u>COMMUNITY DEVELOPMENT</u>		
5/1/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10
	DRAFT RESOLUTION FOR COUNCIL CONSIDERATION REGARDING [REDACTED]	1.40
5/2/2017	REVIEW AND REVISE ORDINANCE AND STAFF REPORT FOR [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	REVIEW AND REVISE [REDACTED] ORDINANCE	0.60
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.50
5/3/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.30
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.30

		<u>Hours</u>
5/3/2017	████ TELEPHONE CONFERENCE WITH ██████ REGARDING ██████	0.10
5/8/2017	████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.40
	████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.10
	████ DRAFT PROPOSED NEW CONDITION FOR ██████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.20
	████ █████ HPC ██████ EVALUATE ██████	0.10
5/9/2017	████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.20
	████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████ PROJECT	0.10
	████ CONFERENCE WITH ██████ REGARDING ██████ PROJECTS	1.50
5/10/2017	████ REVIEW ██████ REGULAR AND SPECIAL MEETING AGENDAS AND REVISED ██████ AND EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.20
	████ REVIEW STATUS OF ██████ ENFORCEMENT EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████	0.20
	████ EXCHANGE CORRESPONDENCE WITH ██████ ENFORCEMENT ██████	0.20
	████ TELEPHONE CONFERENCE WITH ██████ REGARDING ██████	0.70
	████ EXCHANGE CORRESPONDENCE WITH ██████ REGARDING ██████ MEETING ██████	0.20
	████ EXCHANGE CORRESPONDENCE WITH ██████ AND ██████ REGARDING ██████ DEVELOPMENT AGREEMENT ██████	0.20

		<u>Hours</u>
5/12/2017	REVIEW AND REVISE PLANNING COMMISSION RESOLUTION AND STAFF REPORT [REDACTED] AND EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	1.90
	EXCHANGE CORRESPONDENCE WITH [REDACTED] AND [REDACTED] REGARDING [REDACTED] REGARDING [REDACTED]	0.30
5/14/2017	EVALUATE [REDACTED] ORDINANCE [REDACTED] REGARDING [REDACTED]	0.60
5/15/2017	REVIEW AND REVISE [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.70
5/17/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	CONFERENCE WITH [REDACTED] REGARDING [REDACTED] AND [REDACTED]	0.80
	PREPARE FOR PLANNING COMMISSION MEETING, INCLUDING REVIEW OF [REDACTED]	0.80
5/20/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/23/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/26/2017	TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20

		<u>Hours</u>
5/26/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/30/2017	CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	ANALYZE [REDACTED] FOR [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
	LEGAL RESEARCH REGARDING [REDACTED]	0.60
5/31/2017	CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
	EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.30
	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
	REVIEW AND REVISE PLANNING COMMISSION RESOLUTION [REDACTED]	0.20
	LEGAL RESEARCH REGARDING [REDACTED]	0.30
SUBTOTAL:		[16.40]
COUNCIL _____		
5/2/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10

	<u>Hours</u>
5/2/2017 [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
[REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/8/2017 [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
[REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/9/2017 [REDACTED] TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
[REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/10/2017 [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED] REGARDING [REDACTED]	0.10
[REDACTED] TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
5/11/2017 [REDACTED] DRAFT MEMO REGARDING [REDACTED] [REDACTED]	2.20
5/17/2017 [REDACTED] TELEPHONE CONFERENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/18/2017 [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10
5/22/2017 [REDACTED] REVISE AND FINALIZE MEMORANDUM REGARDING [REDACTED]	0.30
[REDACTED] DRAFT LEGAL ANALYSIS SECTION FOR UPDATE TO COUNCIL REGARDING [REDACTED]	0.30
5/23/2017 [REDACTED] EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20
SUBTOTAL: [4.20]	
<u>COUNCIL REGULAR MEETING</u>	
5/9/2017 [REDACTED] ATTEND SPECIAL JOINT AND REGULAR CITY COUNCIL MEETINGS, INCLUDING OPEN AND CLOSED SESSIONS	5.60

		<u>Hours</u>	
5/9/2017	████ TRAVEL TO COUNCIL MEETING	1.00	████
5/10/2017	████ TRAVEL FROM COUNCIL MEETING	1.50	████
5/23/2017	████ ATTEND OPEN AND CLOSED SESSIONS OF REGULAR AND SPECIAL CITY COUNCIL MEETING	5.90	
	████ TRAVEL TO AND FROM COUNCIL MEETING	2.00	████
SUBTOTAL:		[16.00]
<u>CRIMINAL CODE ENFORCEMENT</u>			
5/24/2017	████ TELEPHONE CONFERENCE WITH ██████████ REGARDING ██████████	0.20	
SUBTOTAL:		[0.20]
<u>FINANCE</u>			
5/18/2017	████ EXCHANGE CORRESPONDENCE WITH ██████████ REGARDING ██████████	0.10	
SUBTOTAL:		[0.10]
<u>HISTORIC PRESERVATION COMMISSION</u>			
5/11/2017	████ TRAVEL TO AND FROM OJAI FOR JOINT HISTORIC PRESERVATION COMMISSION/CAPA MEETING	2.00	████
	████ ATTEND JOINT HISTORIC PRESERVATION COMMISSION/CAPA MEETING	1.00	
SUBTOTAL:		[3.00]
<u>PLANNING COMMISSION MEETING</u>			
5/17/2017	████ ATTEND PLANNING COMMISSION MEETING	2.40	
	████ TRAVEL TO AND FROM PC MEETING	2.00	████
SUBTOTAL:		[4.40]

Hours

PUBLIC WORKS

5/4/2017	█ EXCHANGE CORRESPONDENCE WITH █ █ REGARDING █	0.20
5/8/2017	█ CORRESPONDENCE WITH █ REGARDING █	0.10
	█ REVIEW SAMPLE █ ORDINANCES REFLECTING NEW COUNTY ORDINANCE AND EXCHANGE CORRESPONDENCE WITH █	0.30
	█ CONFERENCE WITH █ REGARDING █	0.10
5/9/2017	█ DRAFT AMENDED █ ORDINANCE	4.10
5/10/2017	█ EXCHANGE CORRESPONDENCE WITH █ █ REGARDING █	0.10
	█ DRAFT AMENDMENT TO █ ; CORRESPONDENCE WITH █	1.10
5/11/2017	█ REVIEW AND REVISE █	0.50
	█ TELEPHONE CONFERENCE WITH █ REGARDING █	1.20
	█ REVIEW AND REVISE █ EXCHANGE CORRESPONDENCE WITH █ █ REGARDING █	0.50
5/15/2017	█ REVIEW AND REVISE █ ORDINANCE AND EXCHANGE CORRESPONDENCE WITH █	0.10
5/19/2017	█ EXCHANGE CORRESPONDENCE █ █ REGARDING █	0.40
5/23/2017	█ TELEPHONE CONFERENCE WITH █ REGARDING █	1.00
5/24/2017	█ REVIEW STAFF REPORT FOR PLANNING COMMISSION CONSIDERATION OF █ AND EXCHANGE CORRESPONDENCE WITH █ █ REGARDING █	0.30

		<u>Hours</u>		
5/25/2017	REVIEW REVISED STAFF REPORT [REDACTED] AND EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20		
5/26/2017	REVIEW REVISIONS TO [REDACTED] CONTRACT AND EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.30		
5/31/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.10		
	REVIEW AND REVISE RESOLUTION AND RELATED STAFF REPORT REGARDING [REDACTED]	0.20		
SUBTOTAL:		[10.80]	
<u>RECREATION</u>				
5/4/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED]	0.20		
5/10/2017	EXCHANGE CORRESPONDENCE WITH [REDACTED] REGARDING [REDACTED] AND EXCHANGE CORRESPONDENCE WITH [REDACTED]	0.10		
	REVIEW AND REVISE [REDACTED] MEMORANDUM OF UNDERSTANDING	0.30		
SUBTOTAL:		[0.60]	
<u>STAFF MEETING</u>				
5/9/2017	ATTEND STAFF MEETING	2.10		
5/23/2017	ATTEND STAFF MEETING	1.50		
SUBTOTAL:		[3.60]	
		<u>71.00</u>		
For professional services rendered		71.00	<u>Amount</u>	\$12,000.00

Timekeeper Summary

Name	Hours	Rate	Amount
[REDACTED]	10.40	184.00	\$1,996.80
[REDACTED]	0.10	184.00	\$19.20

Name	Hours	Rate	Amount
	52.00	184.00	\$9,984.00
	8.50	0.00	\$0.00

Current	30 Days	60 Days	90 Days	120 Days
12,000.00	12,000.00	0.00	0.00	0.00

Attachment F – Public Revenues and Rate-Making Practice Information

California’s leading experts on local government revenues

Colantuono, Highsmith & Whatley, PC is California’s leading expert on our complex laws governing local government revenues, including Propositions 13, 62, 218 and 26. Our attorneys argued 10 government revenue cases to the California Supreme Court:

- *Richmond v. Shasta CSD* (2004) (water connection charges not subject to Prop. 218)
- *Bonander v. Town of Tiburon* (2009) (statute of limitation for challenge to 1911 Act assessment)
- *Greene v. Marin County Flood Control & Water Conservation District* (2010) (property-owner elections on fees not subject to election secrecy that applies to registered-voter elections)
- *Ardon v. City of Los Angeles* (2011) (Government Claims Act allows class action claims for tax and fee refunds in cities without contrary local claiming ordinances)
- *Alhambra & 46 Other Cities v. County of Los Angeles* (2012) (calculation of property tax administrative fees with respect to property taxes paid to cities in lieu of sales taxes and VLF under Triple Flip and VLF Swap)
- *McWilliams v. City of Long Beach* (2013) (Government Claims Act preempts local claiming ordinances as to tax and fee refund claims; class actions permitted)
- *Greene v. Marin County Flood Control & Water Conservation District* (2010) 49 Cal.4th 277 (property owner ballots on property related fees under Prop. 218 not subject to ballot secrecy)
- *Jacks v. City of Santa Barbara* (2017) 3 Cal.5th 248 (supplemental franchise not a tax even though passed through to utility customers if reasonably related to value of right of way made available)
- *City of San Buenaventura v. United Water Conservation District* (2017) 3 Cal.5th 1191 (groundwater augmentation charge subject to Proposition 26, not 218)
- *Citizens for Fair REU Rates, Feefighter, LLC v. City of Redding* (argued May 30, 2018), (Is transfer from electric utility to City’s general fund grandfathered by Proposition 26?)



Public finance laws

We have been leaders in speaking, writing, advising and litigating matters under California's initiative public finance laws since 1995. Our experience includes:

Proposition 26

- Chair, League of California Cities Proposition 26 Task Force
- Contributor, League of California Cities **Proposition 26 Implementation Guide**
- Counsel for Defendant City of Redding in *Citizens for Fair REU Rates v. City of Redding*, among the first-filed Prop. 26 cases. The Supreme Court's decision is due by August 2018. The case challenges a payment in lieu of taxes (PILOT) by Redding Electric Utility to the City's general fund. The trial court was persuaded by our argument that Prop. 26 is not retroactively applicable to local government fees of this sort.
- Counsel for local government amici in *Schmeer v. County of Los Angeles (2013)* which found the 10-cent fee Los Angeles County required retailers to charge for paper bags in its plastic-bag-ban ordinance not to violate Proposition 26 because the revenue from the fee does not flow to government
- Counsel for the City of San Buenaventura in a challenge to groundwater augmentation charges under Propositions 26 and 218. The Supreme Court ruled that Proposition 26 controls the case and remanded it to the Court of Appeal where we await further argument.
- In addition, we are advising local governments around the state on how to comply with this measure as to power rates, groundwater charges, gas charges, and other rates.

Proposition 218

- Chair, League of California Cities Proposition 218 Task Force
- Editor and Contributor, League of California Cities **Proposition 218 Implementation Guide** (1996, 1997, 1997, and 2000 editions)
- Contributor, California **Municipal Law Handbook** discussion of Proposition 218
- Counsel for local government associations as amici in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 Cal.4th 205 (Prop. 218 applies to metered water rates; initiative to reduce domestic water rates prohibited to extent it would require voter approval of subsequent rate increases).

- Counsel for five local government associations as amici in *Concerned Citizens for Responsible Government v. West Point Fire Protection District* (application of Prop. 218's requirements regarding special benefit and proportionality to fire suppression benefit assessment) (Supreme Court dismissed appeal as moot)
- Counsel for successful local government in *Greene v. Marin County Flood Control & Water Conservation District* (2010) 49 Cal.4th 277 (property owner ballots on fees subject to Prop. 218 not subject to ballot secrecy requirement)
- Counsel for successful local government in *Richmond v. Shasta Community Services Dist.* (2004) 32 Cal.4th 409 (increased capacity charge and fee for fire suppression imposed on applicants for new service connections not an "assessment" subject to Proposition 218)
- Counsel for amici in *Mission Springs Water District v. Verjil* (2013) 218 Cal.App.4th 892 (allowing pre-election judicial review of initiative to repeal water rate hikes because District could show the measure would set rates unlawfully low)
- Counsel for numerous cities, counties and special districts in Court of Appeal cases arising under Proposition 218.
- We provide Proposition 218 advice to local governments of all kinds on advisory matters and in litigation.
- We are frequent speakers, writers, and commenters in the press on issues arising under Proposition 218.

Proposition 62

- Counsel for local government associations as amici in *Howard Jarvis Taxpayers Ass'n v. City of La Habra* (2001) (continued imposition and collection of a utility user's tax without voter approval was an ongoing or continuous violation of Proposition 62, with statute of limitations beginning anew with each collection)
- Application of Proposition 62's remedy of reducing property taxes dollar-for-dollar of allegedly illegal taxes is at issue in the *Redding* case described above.
- We provide advice to local governments of all kinds in complying with Proposition 62, including requirements for proposing general taxes to voters.
- We are frequent speakers, writers, and commenters in the press on issues arising under Proposition 62.



Proposition 13

Although Proposition 13 was approved in 1978, well before our practice leaders were active lawyers, we are active in current developments under the measure and similar property tax and post-redevelopment disputes, as follows:

- Counsel for 47 Cities in *City of Alhambra, et al. v. County of Los Angeles, et al.* (2012) 55 Cal.4th 707 (calculation of property tax administration fees on taxes received in lieu of Vehicle License Fees and sales taxes under the VLF Swap and Triple Flip)
- Counsel for the League of California Cities as amicus in *City of Scotts Valley v. County of Santa Cruz* (2011) 200 Cal.App.4th 97 (calculation of no- and low-property tax city subvention) (counsel for amici)
- Counsel for local government amici in *Arcadia Redevelopment Agency v. Ikemoto* (1993) 16 Cal.App.4th 444 (agency challenge to application of property tax administration fees to tax increment)
- Counsel for local government amici in *Neilson v. City of California City* (2005) 133 Cal.App.4th 1296 (flat-rate parcel tax not an unconstitutional general tax, but rather a special tax dedicated to specific purposes; equal protection does not entitle absentee landowners to vote)
- Counsel for respondent local government in *Griffith v. Pajaro Valley Water Management Agency* (2013) 220 Cal.App.4th 586 upholding groundwater augmentation charges under Props. 13 and 218)
- We provide advice to local governments of all kinds in complying with Proposition 13.
- We are frequent speakers, writers, and commenters in the press on issues arising under Proposition 13.

In short, Colantuono, Highsmith & Whatley, PC and its lawyers have unmatched experience and expertise in the complex laws governing municipal revenues under California's constitution and related laws. Whether you seek new revenues, advice about maintaining those you have or representation in litigation, we have the skill to provide the most sophisticated representation possible.



**PROPOSAL TO PROVIDE LEGAL SERVICES
ON BEHALF OF
THE CITY OF BUELLTON**



2646 Industrial Pkwy, Suite 200A

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Santa Maria, California 93455

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J & M

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Associates

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Jamaar Boyd-Weatherby
Paul R. Coble
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Harold DeGraw
Deborah Pernice-Knefel
Dean J. Pucci
Steven N. Skolnik
Peter E. Tracy

*a Professional Law
Corporation

Consultant

Mervin D. Feinstein

August 22, 2018

Sent Via Overnight Delivery

Marc Bierdzinski, City Manager
City of Buellton
P.O. Box 1819
107 West Highway 246
Buellton, CA 93427

Re: Proposal for City Attorney Services - Letter of Transmittal

Dear Mr. Bierdzinski,

Let me begin by thanking you for the opportunity to present this Proposal to provide City Attorney services for the City of Buellton. Enclosed please find our firm's proposal.

Jones & Mayer is exclusively a municipal law firm, and for over thirty years has provided legal services in all areas of the law associated with the representation and legal needs of our cities and other governmental entities. Jones & Mayer is a premier municipal law firm focused on providing the full spectrum of legal services to cities, special districts and municipal agencies around the state.

The firm currently serves as City Attorney for the cities of Bishop, Clearlake, Colusa, Costa Mesa, Fullerton, Fort Bragg, La Habra, Nevada City, Placentia, Westminster, Whittier, Blythe, Grand Terrace, Upland, Lakewood, West Covina, and California City. The firm also represents public entities such as the South San Luis Obispo County Sanitation District, Ridgecrest, Vallejo, Vacaville, Redding, Placerville, Grass Valley, and Truckee as special counsel or on single litigation matters, generally arising out of conflicts of interest regarding its city

Marc Bierdzinski, City Manager
City of Buellton - Proposal for City Attorney Services
August 22, 2018

attorney or our given expertise in a particular area. We are also General Counsel for the Gateway Cities Council of Governments and the San Gabriel Valley Council of Governments in Los Angeles County, and represent a number of other joint powers authorities. We believe that each of our client cities benefits from the firm's extensive experience in municipal law, including but not limited to environmental law, personnel and employment law, labor negotiations, complex and tort litigation, code enforcement and public nuisance abatement, zoning and land use, real estate acquisitions, and airport issues.

We believe we are qualified to serve as City Attorney for the City of Buellton because we have the right combination of experience and flexibility to provide high quality, comprehensive, and affordable services to the City. Due to the firm's exclusive focus on representing public agencies, our attorneys have extensive experience handling the wide variety of issues cities confront. We are fully prepared to provide the legal services required by the City, and to do so in a timely and cost efficient manner. Our office will also perform such other legal duties as may be required by the City Council, City Manager, or department heads.

This includes continually working with the City Manager and staff in the prevention of lawsuits to reduce litigation against the City. We realize that sometimes litigation cannot be avoided. In those cases, our firm offers the full complement of litigation attorneys so that the litigation work is kept "in-house" with our firm. This benefits the City because it is cheaper and also gives the City more control over the handling of the litigation.

We propose Keith F. Collins and Baron J. Bettenhausen to serve as City Attorney and Assistant City Attorney to the City of Buellton, respectively. Ms. Wendy Stockton will be a member of the team of attorneys serving the City of Buellton. Mr. Collins and Mr. Bettenhausen are both experienced municipal attorneys. Mr. Collins currently serves as Assistant City Attorney in a number of cities and as special counsel to the South San Luis Obispo County Sanitation District. As you will see in our Proposal, we are extremely well qualified to serve the City's legal interests.

We believe strongly in being on site often and whenever required by the City. The firm will of course attend all City Council and other meetings as directed by the City. We believe that an important way to become a part of the City's team is by attending any staff meetings that may be required of us. Being on site regularly will help develop an in-person relationship with the City Council and City staff and ensure that the City Attorney is kept current on the legal issues at the City. Our commitment to being on site as often as necessary consistently allows us to better coordinate legal activities within the various arms of the City's government and with outside agencies.

Jones & Mayer believes in being involved with the communities it represents, including being active in local chambers of commerce and charities. The firm annually budgets funds for local charities located in our client communities. Our firm has been recognized several times as

Marc Bierdzinski, City Manager
City of Buellton - Proposal for City Attorney Services
August 22, 2018

businesses of the year in the cities we represent. We believe it is important for us to be a part of the fabric of the community.

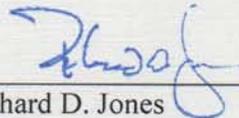
If you look at our firm's track record, you will see that we have attorneys that have served as legal counsel for our clients for decades. That would be our goal for the City of Buellton as well. While we do have experts in particular fields of municipal law, your point person will always be Mr. Collins, Mr. Bettenhausen or Ms. Stockton. Thus, all projects will flow through them. In our experience, this model is best for the City because it ensures that projects are completed in an efficient manner and there is no question from staff on who to contact on a particular matter.

We appreciate that no proposal could possibly cover every situation in which the City might require legal assistance. It is our mission, however, to be there for the City in any circumstance where we can be of assistance. If it relates to laws impacting City operations or governance, Jones & Mayer can and will provide the needed services. As an exclusively municipal law firm, we are on the cutting edge regarding the dynamic world of California municipal law. As a result, you would receive our "Client Alert" memos and "All Cities" memos regarding changes in the law that will impact the City.

We invite your close review of the General Proposal contained in this transmittal and believe that you will find that Jones & Mayer will exceed the City's needs and expectations as its City Attorney.

I look forward to an opportunity to meet with you to discuss how we can provide City Attorney services to the District. If there are any questions concerning our firm's proposal and/or qualifications, please do not hesitate to contact me. Thank you once again for this opportunity, and we look forward to working with you in the future.

Very truly yours,



Richard D. Jones
Jones & Mayer
2646 Industrial Pkwy, Suite 200A
Santa Maria, California 93455
(805) 862-4143
rdj@jones-mayer.com

RDJ:sf
Enclosure

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PROPOSAL FOR LEGAL SERVICES

Jones & Mayer submits this proposal to provide legal services for the City of Buellton (“City”). Jones & Mayer is a premier municipal law firm focused exclusively on providing the full spectrum of legal services to cities and public agencies around the state and has over 40 years of experience advising public agencies on all aspects of the California and federal laws. For this reason, we are well suited to provide the specialized legal services identified in the Request for Proposal (“RFP”).

As a law firm focused almost exclusively on the representation of public entities, Jones & Mayer has a long history of providing all of the services required and desired by your City.

Jones & Mayer law firm began as the Law Offices of Shay, Stirling, Jones & Jones in the mid-1960s. In 1986, the firm became the Law Offices of Richard D. Jones. In January 2001, the Law Offices of Richard D. Jones merged with the firm of Mayer & Coble to become Jones & Mayer.

In 1976, the firm was appointed City Attorney by the City of La Habra, and later gained the cities of Westminster and Whittier as clients in the late 1980's, the City of Fullerton in 1995, and the City of Costa Mesa in 2004. Since then, the firm has added the cities of Blythe, Grand Terrace, California City, West Covina, Clearlake, Colusa, Bishop, Nevada City, Placentia, Santa Fe Springs, Lakewood and Fort Bragg. The firm became General Counsel for Gateway Cities Council of Governments in 2005, the San Gabriel Valley Council of Governments in 2009, the Rossmoor Community Services District in 2015, the South Montebello Irrigation District in 2016, and the Palo Verde Valley Transit Agency in 2017.

3. Qualifications for providing legal services

(a) Overall capabilities, qualifications, training and areas of expertise for each of the attorneys that may be assigned to work for the City.

A. KEITH F. COLLINS - Proposed City Attorney

Mr. Collins’ legal experience is entirely in representing public entities. Mr. Collins currently serves as the Assistant City Attorney for La Habra, Blythe, and Bishop and is the Deputy City Attorney for Westminster, Placentia, Whittier, Colusa and Fullerton. Mr. Collins also serves as Special Counsel to the South San Luis Obispo County Sanitation District. With regard to Bishop and Colusa, which provide city water, Mr. Collins is the Assistant General Counsel for those water utilities. He has provided expert transactional counsel to numerous other public agencies, including the Midway Cities Sanitation District, the Gateway Cities Council of Governments, the cities of Fullerton, Costa Mesa, Grand Terrace, La Habra, Placentia, Pittsburg, California City, and many others. Having worked for public agencies his entire career, Mr. Collins is very knowledgeable in the areas of the law affecting public agencies, particularly with respect to the emerging area of law governing cannabis prohibition and permitting schemes, including enforcement. He has drafted

ordinances, resolutions and agreements, and has provided legal advice and memorandums on many different subjects. He has advised on conflict of interest matters and open meeting laws.

Mr. Collins is also a knowledgeable civil litigation attorney who specializes in representing public clients. He has successfully litigated complex cases including Health & Safety Code receiverships, public nuisances, breach of contract, oil pipeline franchise agreement disputes, and municipal tort defense. Mr. Collins has tried numerous civil and criminal matters in all phases of litigation to include motion practice, trial practice, and post-trial appellate matters.

The following are some highlights of Mr. Collins' experience in areas that would impact the City of Buellton:

- Project negotiation, development agreements, and other contracts
- Eminent domain/inverse condemnation
- Proposition 218 and elections law
- Brown Act and conflict of interest laws
- General litigation
- Public Works contracts, bidding and prevailing wage
- Public Records Act
- Land Use and CEQA, including application of the California Coastal Act
- Personnel, employee relations, and labor relations

Mr. Collins joined Jones & Mayer in 2011 as a law clerk and then as an attorney in 2012 upon passing the California Bar exam. Mr. Collins has spent his entire legal career representing public entities. He primarily works in Jones & Mayer's transactional department advising municipal clients on all types of legal issues, but has experience in providing litigation support and analysis to the firm's law enforcement agency clients. Mr. Collins has extensive legal research experience and has drafted many legal opinions on a range of topics affecting public agencies. He also regularly prepares contracts, ordinances and resolutions. Mr. Collins has extensive experience in the Brown Act, the Public Records Act, land use, conflicts of interest, taxation, prevailing wages, CEQA, the California Coastal Act, nuisance abatement, inclusionary housing, redevelopment, First Amendment, solar permitting, law enforcement, discretionary land-use entitlements and Health & Safety Code receiverships.

Mr. Collins also regularly advises and represents law enforcement agencies. He counsels and advises police and sheriff departments across the state in matters involving excessive force, unlawful entries, misconduct, and the impact of state and federal court decisions on department policies and practices. Mr. Collins gives legal updates to law enforcement personnel as part of POST (Peace Officer Standards and Training) training courses, and is experienced in defending

allegations of POBR (Public Safety Officers Procedural Bill of Rights) violations at the Administrative and Superior Court level.

Mr. Collins has extensive knowledge with respect to land use matters. He has been primary legal advisor to the Westminster and La Habra Planning Commissions and currently serves as the primary legal advisor to the Grand Terrace Planning Commission. He is also frequently called upon to provide legal advice on issues such as development agreements, CUP revocations, variances, the Subdivision Map Act, CEQA, environmental issues, site plan review, design review, easements, and historical resources. He works with staff in drafting and reviewing all resolutions, ordinances, zoning code and general plan amendments. He also handles zoning land use litigation, writs taken from public agency decisions, and landlord-tenant litigation. Mr. Collins is knowledgeable on the authority cities have to regulate other public agency operations when those activities occur within city limits, and has successfully mediated potential disputes between cities and sanitation districts involving the payment of franchise fees.

Mr. Collins has experience handling personnel and labor issues. He negotiates employer/employee MOUs and handles employee disciplinary matters throughout the state. Mr. Collins has been involved in many administrative investigations, hearings and appeals.

Mr. Collins has an exceptional amount of experience negotiating and drafting agreements and contracts. Over the years he has dealt with most of the agreements agencies confront. This includes development agreements, professional service agreements (architectural, engineering, audit services, construction management), real estate purchase and sale agreements, leases, easements, deeds, city loan documents, RFPs, RFQs, public works contracts, employment agreements, affordable housing covenants, density bonus agreements, CDBG, HUD and HOME agreements, software licensing agreements, and contracts to purchase various goods and services, just to name a few. Mr. Collins has also drafted franchise agreements in many different contexts, including water, oil/gas, cable, and waste hauling. Mr. Collins recently negotiated a successful conclusion to a dispute involving an oil pipeline franchise who refused to provide environmental pollution insurance coverage as required by the franchise agreement that saved the agency thousands of dollars in litigation costs.

He is also regularly involved in the resolution of public works disputes. Issues typically involve problems related to competitive bidding, issuance of stop notices, retention, insurance questions, and enforcement against sureties/performance bonds. In recent years, Mr. Collins has been actively involved in major commercial projects in La Habra.

Mr. Collins is very familiar with the laws involving open meetings, public records, and elections. In fact, Mr. Collins regularly provides training on the Brown Act and Public Records Act. He has also consulted with public agencies regarding elections and voting rights matters. He has helped city clerks on a variety of ballot measures including sales tax measures and medical Marijuana measures, to name a few.

Mr. Collins graduated from California State University Fullerton, earning a Bachelor's Degree in History. He then earned a Master's Degree in Education from Whittier College, and graduated magna cum laude from Whittier Law School. During law school, Mr. Collins served as an editor for the Whittier Law review and published an article on First Amendment issues in public schools. He clerked for the Los Angeles County District Attorney's office and handled preliminary hearings and a variety of misdemeanor cases.

B. BARON J. BETTENHAUSEN - Proposed Assistant City Attorney

Mr. Bettenhausen has been with Jones & Mayer since 2010 and during his entire tenure with Jones & Mayer, he has been focused exclusively in the field of municipal law. He was admitted to the State Bar of California on December 1, 2004 and is licensed to practice in the United States District Court for the Central District of California and the Southern District of California.

Mr. Bettenhausen has a B.A., Communication Arts, University of the Nations, Kona, HI (2001) and a Juris Doctorate, Regent University School of Law (2004).

Mr. Bettenhausen is a respected transactional attorney, with significant experience in the representation of Public Agencies. Mr. Bettenhausen commenced his legal career in 2004 in the general practice of law, with an emphasis in business and real estate transactions. Mr. Bettenhausen has served as City Attorney to the City of Blythe since 2015, Assistant City Attorney for the Cities of Grand Terrace and California City since 2014, and General Counsel for the Palo Verde Valley Transit Agency since 2017. He also served as Assistant City Attorney for the City of Maywood from 2014 to 2016.

Mr. Bettenhausen specializes in the practice of municipal law and has served in and is familiar with a wide variety of issues related to municipal law. He is the primary legal advisor to the City of Blythe and the Planning Commission of Grand Terrace. He has also served as Deputy City Attorney since 2010 for a number of our other municipal clients.

Mr. Bettenhausen is extremely knowledgeable in the areas of the law affecting general law cities. On a daily basis he works directly with City Council members, City Managers and department heads to identify and solve problems. He has worked with every department in the City, and understands the specific issues affecting each. He has drafted numerous ordinances, resolutions and agreements, and has provided legal advice and memorandums on many different subjects. Most recently he has assisted the City of Blythe through the negotiation and implementation of a multi-million dollar design-build energy efficiency project with the goal of saving the city millions of dollars for the next thirty years, and in the creation and implementation of ordinances regulating and taxing marijuana related businesses. He has also helped his clients with economic development through the preparation and implementation of Economic Development Agreements, Disposition and Development Agreements, and policies encouraging

growth of local business and increasing the cities' share of sales tax revenue. He also works as primary legal advisor on land use, planning, general plans, environmental laws, and CEQA.

Mr. Bettenhausen has particular expertise with respect to the Brown Act, Conflict of Interests (Political Reform Act, Government Code 1090), the Public Records Act, and parliamentary procedures. Mr. Bettenhausen has extensive knowledge with respect to zoning and land use matters including CEQA. He is primary legal advisor to the City Council of the City of Blythe and the Planning Commissions for the City of California City and Grand Terrace and is frequently called upon to provide legal advice on issues such as development agreements, CUP revocations, variances, the Subdivision Map Act, CEQA, environmental issues, site plan review, design review, easements, and historical resources. He works with staff in drafting and reviewing all resolutions, ordinances, zoning code and general plan amendments.

Mr. Bettenhausen also has significant experience negotiating and drafting agreements. Over the years he has dealt with most of the agreements cities confront. This includes development agreements, professional service agreements (architectural, engineering, audit services, construction management), real estate purchase and sale agreements, leases, easements, deeds, city loan documents, RFPs, RFQs, public works contracts, employment agreements, affordable housing covenants, CDBG, HUD and HOME agreements, software licensing agreements, and contracts to purchase various goods and services, just to name a few.

He is also regularly involved in the resolution of public works disputes such as problems related to competitive bidding, issuance of stop notices, retention, insurance questions, and enforcement against sureties/performance bonds. In recent years Mr. Bettenhausen has been actively involved in public works projects including successful negotiation for and acquisition of real property necessary for expansion of major thoroughfares, the construction of public works and multi-million dollar projects, and has worked directly with the city managers, public works directors and community development directors in helping to negotiate and draft all of the associated agreements and negotiate with principal parties in acquisition of the underlying real property.

C. SCOTT PORTER - Proposed Deputy City Attorney

Mr. Porter's primary practice areas are land use, zoning, the California Environmental Quality Act (CEQA), telecommunications, and municipal law. Mr. Porter has served as Planning Commission Counsel for four cities, and has advised at more than a hundred public meetings.

Mr. Porter advises elected officials and staff in all areas of municipal law, including contracts, conflicts of interest, general plans, coastal land use plans, zoning, development agreements, public works, telecommunications, and CEQA. Mr. Porter specializes in land use, zoning, real estate and development.

Mr. Porter has assisted in the creation of Goleta's first General Plan/Coastal Land Use Plan, the overhaul of Sierra Madre's General Plan, and the creation and implementation of numerous

specific plans and new or substantially revised zoning ordinances. He has advised and negotiated multiple multi-million dollar transactions and development projects.

Mr. Porter has been practicing law since 2000 when he graduated from UCLA School of Law. Mr. Porter graduated magna cum laude from UCLA in 1997 with a degree in history.

Mr. Porter has provided dozens of trainings on land use and CEQA. He has also served as a guest lecturer at California State University Northridge on governmental ethics and the planning process. Mr. Porter has published three articles in the California Real Estate reporter relating to real estate and telecommunications. In 2006, He presented his paper to the League of California Cities: "Implementing the Digital Infrastructure and Video Competition Act of 2006 (DIVCA)."

D. GREGORY P. PALMER - Proposed City Prosecutor

Mr. Palmer is currently the police legal advisor for a large number of cities throughout California. He has represented various police departments on disciplinary matters, internal affairs investigations, Public Records Act requests and Pitchess motions since 1991. Mr. Palmer has extensive experience acting as a legal advisor to more than 100 Chiefs of Police and Sheriffs throughout the State of California. In that capacity, he has provided legal assistance in all aspects of operating a police department. He has represented Chiefs of Police in more than 200 disciplinary appeal hearings and arbitrations with a 90% success rate. He has also handled disciplinary hearings involving firefighters and public works employees. He is experienced in excessive force, dishonesty, insubordination, off-duty criminal conduct and other matters. He has extensive experience in court on Pitchess motions and has prepared and argued three dozen Appellate Court writs challenging improper trial court decisions on these motions. Mr. Palmer is also conversant in all aspects of the criminal prosecution of city code enforcement cases. He has performed as the City Prosecutor or Assistant City Prosecutor in eleven local cities. He has developed unique expertise in prosecuting sexually oriented businesses, both criminally and by administratively suspending or revoking city permits.

E. WENDY STOCKTON - Of Counsel

Wendy Stockton has thirty-four years' experience representing public entities on the central coast of California. She served in-house with the City of Santa Maria for over twenty-five years. Other public clients include Lompoc, Morro Bay, Paso Robles, Cambria Community Services District, Cayucos Sanitary District, Cambria Community Healthcare District, and (most recently) South San Luis Obispo County Sanitation District. Ms. Stockton has also worked on a fill-in basis for other local public entities.

This decades-long, stable, public practice has given Ms. Stockton the opportunity to work extensively in virtually every area of municipal law, advising city councils, boards, commissions and staff. She has given practical and creative advice in the drafting and implementation of:

- Land-use and permitting documents for the public entity and for regulation of private applicants, including general plan elements (especially land-use and housing), specific plans and implementing procedures, conditions for use permits, development agreements, affordable housing and density bonus agreements, and waste-management plans; as well as accompanying procedures, ordinances, resolutions, agreements, improvement security and instruments
- Environmental issues and documents, including environmental impact reports, findings and statements of overriding considerations, administrative records, mitigated negative declarations, mitigation monitoring programs; solid waste and storm water regulations and ordinances; hazardous-waste management and cleanup; oil development remediation documents; as well as accompanying procedures, notices, ordinances, resolutions, and agreements
- Municipal ordinances regulating adult businesses, development agreements, density bonuses, subdivisions, mobile home park closure, reasonable accommodation in land use, signs, cannabis, developer fees, loitering, aggressive panhandling, vehicle and vessel repair, operation of catering vehicles, administration of code enforcement (administrative citation, administrative penalties, public nuisances), taxicabs, tobacco, massage, nuisance events and activities (“good neighbor” ordinance); and annual updates to municipal code based on local need and changes in State and Federal law
- Hundreds of general municipal contracts with public and private entities, valued between a thousand and millions of dollars, including innovative standard forms for day-to day use and specialized forms for use in information technology, communications, and public-transit applications
- Ordinances, front-end documents, forms and policies for compliance with State and Federal requirements for public bidding and payment of prevailing wages
- Municipal real property administration, including purchase, sale, lease, licensing, and easements to and from the public entity
- Assessments and property-related fees, including proper spreading of special benefit, appropriate notices, and use of receipts.

Ms. Stockton has founded, developed, and provided training in programs to:

- Address municipal code enforcement using administrative, civil and criminal court remedies
- Comply with Federal and State requirements to accommodate people with disabilities. In this capacity she served as Accessibility Coordinator, liaised extensively with members of the community with disabilities, updated transition plan documents and secured funding to complete accessibility improvements
- Provide for administrative hearings under mobile home rent control
- Process civil liability claims electronically
- Properly collect, confidentially transmit and preserve information relating to potential liability claims
- Promptly and correctly respond to requests under the California Public Records Act
- Comply with conflict of interest and government-in-the-sunshine laws.

Ms. Stockton has advised and assisted in all aspects of municipal human resources, including drafting policy-level and individual documents, investigations, hearings, and litigation.

Ms. Stockton's litigation experience includes extraordinary writ practice in trial and appellate court, and code enforcement cases in civil and criminal court.

Resumes for Keith F. Collins, Baron J. Bettenhausen, Scott Porter, Gregory P. Palmer and Wendy Stockton are attached at Addendum 1 to the Proposal. While many other attorneys at Jones & Mayer are available to assist the City, Mr. Collins, Mr. Bettenhausen, Ms. Stockton, and Mr. Porter will be your primary contacts.

- (b) We propose Keith F. Collins to serve as City Attorney.
- (c) We propose Baron Bettenhausen to serve as Assistant City Attorney, who would serve as a substitute for Mr. Collins in the event of his unavailability or absence.
- (d) The primary locations serving your needs will be the main office in Fullerton and our central coast office. All attorneys at Jones & Mayer are issued cell phones with email access ensuring the City of Buellton 24-hour access to its attorneys. At the City's direction, we can provide office hours every Council meeting day and are willing and able to provide more or less, as directed.

Main office:	3777 North Harbor Blvd. Fullerton, CA 92835 714-446-1400 Tel. 714-446-1448 Fax.
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Central Coast:	2646 Industrial Pkwy., Suite 200A Santa Maria, CA 93455 805-862-4143 Tel. 805-862-4930 Fax.
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- (e) Systems/mechanisms to ensure timely responses to City Council and City Staff.

Coordinated calendaring and communication assures that response time and deadlines are clearly defined and that projects are timely completed. A staff attorney is assigned to each project and is given the designated deadline before work commences. All projects and requests are logged into a computer program and are updated daily by the office staff. With the City Attorney designated as the point person for contact, the City is able to receive updates at any time with regard to the status of any pending matter.

We make every effort to avoid unnecessary delays in communicating with the client which can occur if firm attorneys are required to report to the client only through the City Attorney. Thus, firm attorneys will often be in direct contact with staff working on a project, and communications will be copied to supervising attorneys with whom attorneys will regularly consult. This system helps ensure both accurate and timely response to client needs.

(f) Response time to inquiries from City Council and City Manager.

We believe that communication is critical at every level. A close working relationship with the Council and City Manager and his/her department heads allows our office to efficiently and effectively respond to issues as they arise. Our attorneys are dedicated to affecting a close working relationship through efficient communications via phone, email, and electronic transmission of documents. Within any parameters set forth by the City, we are prepared to be similarly available to staff. We believe in a close working relationship to help avoid the evolution of problems into costly litigation. It is our policy that all inquiries received from a Councilmember, City Manager, or staff receives a response in no less than 2 hours from the time of the inquiry. Should an inquiry require more time to provide a complete response, then an immediate initial response will be given to the extent possible and an appropriate time frame to provide a more complete response will be discussed with the inquiring party. Our attorneys all carry mobile phones 24 hours a day. We understand that the business of government can often exceed regular working hours and as such our practice is to be available 24 hours a day.

(g) Monthly reporting of project status.

With regard to litigation, regular status reports are provided through our litigation department and are generated on a monthly basis. Of course, depending upon the stage of the legal proceedings, weekly updates may be appropriate. All other non-litigation assignments are coordinated through the City Attorney, and reports on the status of assignments are provided through department heads meeting or, if the request was generated outside of the department heads meeting, through individual departments. Ready access to our attorneys, and the ability to obtain updates and details, are two of the distinguishing features of our representation.

(h) Types of reports Jones & Mayer provides.

Jones & Mayer also has internal policies for regular reporting on litigation case status to responsible City staff and third-party claims administrators. When Council action is required, handling attorneys prepare detailed memoranda for review and consideration by the Council in closed session, in accordance with the Brown Act. Memoranda are drafted to provide necessary case status information in a concise and understandable format, with clearly articulated recommended action (if appropriate), and specific requests for Council action. Litigation expense estimates will be generated on a case-by-case basis in our monthly litigation reports. The City Council and the City Manager will be kept apprised of all substantive developments.

Sample reports and legal updates are attached as Addendum 3, Legal Update – Janus Agency Shop Case, and Addendum 4, Staff Report – Adult Use of Marijuana Act.

(i) Transmittals of requests to the City Attorney.

It is our practice to attend weekly staff meetings as well as to conduct weekly office hours if requested so that the City Attorney is working directly with staff to ensure that we are advising staff and Council at each phase of a project, unless otherwise directed by the City Manager. At all times, the City Manager and staff will have access to the firm's attorneys through email, office phone or cellphone. The response of our staff to requests for assistance will be immediate. All phone calls will be returned the same day unless received at the end of the working day, in which event the call will be returned the next morning. All other electronic communications are responded to upon receipt, whenever possible. If necessary, our firm also employs a staff of runners able to transport documents between our clients and our office as requested or on a routine basis.

(j) Jones & Mayer staffing.

Currently Jones & Mayer consists of 39 attorneys, 6 of which are "of counsel" and 2 paralegals. The firm maintains 20 additional support staff employees performing secretarial, bookkeeping, and administrative functions who work Monday through Friday, 8:30 a.m. to 5:30 p.m. Professional staff is available after hours through our answering service and/or by cell phone, thus providing the City 24/7 access to its legal counsel. We constantly evaluate staffing needs for the firm based on client needs. We will hire enough staff to ensure that the needs of the client are met in a timely way. We currently have the staffing expertise and depth necessary to assist the City of Buellton in all aspects of its operations. No staffing changes are anticipated to be necessary should Jones & Mayer be selected to serve as City Attorney.

(k) Reporting of monthly-itemized billing statements.

In addition to timely quality work, Jones & Mayer understands that public agency clients must have cost-effective responses. Jones & Mayer only serves public agency clients, and understands the economic climate for municipalities in California.

Our dedication to client service and responsiveness does not come with a sacrifice of our commitment to cost-effective and efficient service. We are always mindful of the demands on municipal resources and the need to provide value in our services. We work with client representatives to formulate appropriate budgets on individual projects if we are billing by the hour or for work which is not included within an agreed monthly retainer. On complex litigation matters, we provide cost estimates for each segment of the litigation, from the pleading stage through trial, and notify the client in advance of embarking on motions or other procedures that would involve significant expense. Our objective is to be a long-term resource for our clients by providing them the most efficient and cost-effective representation available. As we work with City/City staff on the annual budget, we will seek Council input on any special projects which would

need to be included in the budget above the monthly retainer and anticipated litigation costs to ensure that adequate funds are budgeted for Council priorities.

Jones & Mayer employs the Timeslips automated billing system whereby our attorneys include a description of the billing activity sufficient for the client to readily recognize the request, activity or event to which the billing relates. The firm bills in .10 hour increments in compliance with industry and insurance standards for tracking and controlling costs. The managing attorney for each client reviews all invoices prior to submission to the client and makes any necessary adjustments. Finally, we work with the client to break out our invoicing to specific departments and/or cases or activities to better enable the client to track and control budgets for use of legal counsel. Attorneys are responsible for entering their time directly into the Timeslips system. Costs are paid by Accounting through the QuickBooks system, and then entered separately into Timeslips for billing to the client. The time entries and costs appear on the bill in line item form, enabling the client to easily review and approve individual entries. Prior to monthly invoices being sent to the client, the City Attorney reviews each entry to ensure accuracy and efficiency, and to make any necessary adjustments. These practices allow our office to provide legal services in a cost effective, transparent and efficient manner.

(l) Typical Jones & Mayer invoice.

Please see Addendum 5 for a sample invoice.

(m) In-service training.

Because Jones & Mayer operates exclusively as a municipal law firm providing legal services in all areas of the law affecting cities and other public entities, the daily work of our attorneys in emerging areas of municipal law and our legal knowledge and skills remain current and are constantly refined. Jones & Mayer regularly offers continuing education credit to its attorneys, and our experienced staff regularly offers courses on a variety of areas of law affecting city governance including health and safety receiverships, the Brown Act, the Public Records Act, and other areas. Mr. Collins has personally conducted numerous workshops on such matters as AB1234 Ethics, Conflicts of Interest Training, Brown Act compliance, disciplinary procedures, and drafting of ordinances and resolutions.

(n) Insurance.

Jones & Mayer is willing and able to meet all of the requested insurance requirements, as we do for all of our clients. The firm's current malpractice coverage is with an A-rated company with limits of \$2,000,000/\$4,000,000. Our general liability and auto policy is also with an A-rated company and has limits of \$2,000,000/\$4,000,000 for general liability and \$2,000,000 combined single limit for auto (hired & non-owned).

Our Workers' Compensation policy meets all state requirements of coverage. Certificates of coverage will be provided at such time as necessary.

4. Conflicts of Interest

- (a) Neither the firm nor any of its attorneys have given political contributions of money, in-kind services, or loans to any member of City Council within the last three years.
- (b) A list of our public agency clients (past and present) is attached in Addendum 2 to this General Proposal. There are no foreseeable conflicts of interest that would result from our representation of the City of Buellton, but in the event that one arises, Jones & Mayer will contract out those services to eliminate the conflict.
- (c) Please also refer to Addendum 2 for a complete list of all public clients our firm previously provided services to over the last 5 years.
- (d) Jones & Mayer has no future professional commitments that may impact its availability to serve as City Attorney for the City of Buellton.
- (e) In the event that Jones & Mayer has a conflict of interest arising out of its representation of the City of Buellton, we would of course comply with all applicable ethics laws outlined in the Rules of Professional Responsibility. We would also withdraw from any involvement in the matter and contract with outside counsel to advise the City with the explicit instructions that the outside firm's involvement is limited strictly to the issue at hand.

5. Retainer

- (a) Retainer for Basic Services.

We propose either of two options with respect to a retainer:

Option 1: A hard retainer of \$9,000 per month (\$108,000 annually) which would cover all general legal services provided by Jones & Mayer. This amount is based on an hourly rate of \$200 and assumes 45 hours of legal work from our office per month. Under this option, the retainer agreement would provide for a six-month review period during which time we would evaluate monthly invoices to see if any adjustment in the retainer amount is necessary based on actual hours worked.

Option 2: A soft retainer of \$7,800 per month (\$93,600 annually) which would cover forty (40) hours of general legal services per month. This amount is based on an hourly rate of \$195.00. General Services provided over the initial forty (40) hours would be billed at a rate of \$210.00 per hour.

Jones & Mayer is flexible with respect to the number of hours to be included in the retainer. We are willing to adjust the hours based upon what the City believes its anticipated need will be. In such case the monthly retainer fee would be adjusted based on the number of hours chosen. The City Manager would then oversee the provision of services to ensure the retainer is not exceeded.

Basic or General Services are defined below. General Services include most of the day-to-day services provided by the firm to the City. The firm would provide a detailed breakdown of all time spent and work performed in our monthly billing report so that the City is aware of the actual time spent under the retainer.

When legal work is applicable to a number of clients, each client will be billed an equal share of the total cost involved. In addition, the City will benefit from, and not be billed for, our prior work product that is applicable to the City's current legal needs.

- (b) General Services would be included in our monthly retainer. General Services are those services which involve regular, recurring legal and factual issues. General legal services include: Attendance at City Council, Planning Commission and other subordinate City agency meetings, attendance at regular Staff meetings, representing the City in intergovernmental projects, providing legal counsel and advice, both written and oral, to elected and appointed officials as to City business, work with City staff on all agenda items for City meetings, negotiation, drafting, review and revision of City agendas, agreements, contracts, instruments, ordinances, reports, resolutions, orders, forms, notices, deeds, leases and other documents as requested by City, and providing legal advice concerning Brown Act, CEQA, Public Records Act, Political Reform Act and other conflict of interest compliance, supervision and coordination of legal services performed by special counsel, and recurring City Council and Staff in-service training as requested by the City. Jones & Mayer would not bill travel time for general legal services.
- (c) Litigation services are included within the definition of "special" legal services, as discussed below.
- (d) Special Services and Litigation.

Special Services would be provided at a rate of \$225 per hour.

Special Services include those matters which concern unique subject matter, present unique legal and/or factual issues, or which require more than 10 hours to complete. Special Services differ from general legal services in that they typically occur on an irregular non-recurring basis. Examples include litigation, whether civil or criminal, code enforcement, any work that is of unusual complexity, or which require an

extraordinary dedication of attorney time. Some examples might include work on ballot initiatives, negotiation and drafting of complex development agreements, public financing, franchising, EIRs, or major updates to the City's General Plan or Zoning Code, etc. The City Attorney may not unilaterally designate any matter as a special project. The decision as to what constitutes a Special Service/Special Project will be made by the City Manager or City Council. Jones & Mayer would bill travel time associated with special legal services.

Any special projects billed outside of the retainer would require prior approval of the City Council or City Manager. It is anticipated that a substantial majority of legal services provided would be within the retainer/basic services.

- (e) In addition to timely quality work, Jones & Mayer understands that public agency clients must have cost-effective responses. Jones & Mayer only serves public agency clients, and understands the current economic climate for municipalities in California.

Our dedication to client service and responsiveness does not come with a sacrifice of our commitment to cost-effective and efficient service. We are always mindful of the demands on municipal resources and the need to provide value in our services. We work with client representatives to formulate appropriate budgets on individual projects if we are billing by the hour or for work which is not included within an agreed monthly retainer. On complex litigation matters, we provide cost estimates for each segment of the litigation, from the pleading stage through trial, and notify the client in advance of embarking on motions or other procedures that would involve significant expense. Our objective is to be a long-term resource for our clients by providing them the most efficient and cost-effective representation available. As we work with City staff on the annual budget, we will seek Council input on any special projects, which would need to be included in the budget above the monthly retainer and anticipated litigation costs to ensure that adequate funds are budgeted for Council priorities.

Further, the City Attorney will be proactive in advising staff and the City Council to avoid unnecessary litigation, ensure that the Council is fully informed about the legal risks and alternatives to any proposed course of action, and offer solutions to the myriad of issues which face the City daily.

- (f) A monthly invoice is sent to the client by the 15th of each month. Payment in full is due within 45 days of receipt. Our current practice with our clients is to bill by 1/10th of an hour every month on the first of the month for the prior months' services and costs. Jones & Mayer uses the Timeslips billing system to track attorney fees and expenses. Attorneys are responsible for entering their time directly into the system. Costs are paid by Accounting through the QuickBooks system, then entered

separately into Timeslips for billing to the client. The time entries and costs appear on the bill in line item form, enabling the client to easily review and approve individual entries. The invoices will include an itemized statement which indicates work completed and hours of service rendered. Individualized billing entries are made for both retainer and non-retainer services to allow tracking and evaluation of services rendered.

- (g) Expense Reimbursement. We generally do not bill fax, word processing, or small reproduction matters (under 100 pages). The firm will charge the client for actual necessary costs incurred for all of the following, included but not limited to: court filing fees, attorney services (includes service of process fees, arbitrators, and mediators), messenger services, online legal research fees, overnight or express delivery services, mileage at the current IRS rate, travel expenses, if applicable, including hotel, air travel and car rentals, parking fees, actual costs for large reproduction projects if performed by an outside service, or \$0.10 per page (b/w) and \$0.20 per page (color) if performed in-house, and any other expense not listed above which becomes necessary to the successful resolution of a client matter.
- (h) In-service training is included within the definition of basic legal services.
- (i) We would guarantee our rates for the first two years of a contract. Each year thereafter we would propose a CPI adjustment only.
- (j) Jones & Mayer would be willing to discuss operating within a maximum annual expenditure cap with the City, with the understanding that certain unplanned legal issues may arise and necessitate an adjustment of the cap by the client. Such an arrangement might be structured in such a way as to not exceed prior year's total annual spending on legal services. In this way, the City could be confident that it is not spending more on legal fees than it has in prior years absent unforeseen projects, while simultaneously obtaining the highest level of legal representation available to municipalities.

F. References

References for Keith F. Collins:

Jeremy Ghent, District Administrator
South San Luis Obispo County Sanitation District
1600 Aloha Place
Oceano, CA 93445
805-489-6666
jeremy@sslco.us

Jim Sadro, City Manager
City of La Habra
110 E. La Habra Blvd
La Habra, CA 90631
(562) 383-4000
jsadro@lahabracaca.gov

Eddie Manfro, City Manager
City of Westminster
8200 Westminster, CA 92683
Westminster, CA 92683
(714) 373-4684
emanfro@ci.westminster.ca.us

References for Baron J. Bettenhausen:

Mallory Crecelius, Interim City Manager
City of Blythe
235 N. Broadway
Blythe, CA 92225
(760) 922-6161
msutterfield@cityofblythe.ca.gov

Bob Stockwell, City Manager
City of California City
21000 Hacienda Blvd
California City, California 93505
(760) 770-0399
bstockwell@californiacity-ca.gov

G. Harold Duffey, City Manager
City of Grand Terrace
22795 Barton Road
Grand Terrace, CA 92313
(909) 824-6621
hduffey@grandterrace-ca.gov

G. Additional Information

We look forward to the opportunity of working with you.

We greatly appreciate the opportunity to submit this proposal, are confident of our ability to exceed the City's expectations in its legal counsel, and look forward to the opportunity to discuss this more fully in person.

In the interim, please do not hesitate to contact the undersigned with any questions or concerns, or if we may be of further assistance in any way.

Very truly yours,



Richard D. Jones
JONES & MAYER

ADDENDUM 1

KEITH COLLINS

Associate



Practice Areas

Law Enforcement
Litigation
Transactional

Education

J.D., Whittier Law School,
2012
M.A., Education, Whittier
College, 2009
B.A. History, California
State University, Fullerton,
2005

Bar and Court Admissions

State Bar of California

Keith Collins joined Jones & Mayer in November of 2012, focusing primarily on issues facing municipalities and law enforcement agencies. Prior to this he served as a law clerk at Jones & Mayer during the summers of 2011 and 2012. Before joining the firm, Mr. Collins worked as a certified law clerk at the Los Angeles County District Attorney's Office. Mr. Collins also worked as a Law Clerk at the Whittier Special Education Local Plan Area Office. He has experience in the area of land use, redevelopment, public nuisance, elections, First Amendment, prevailing wages, labor and employment, cannabis, the Brown Act, Public Records Act, criminal prosecution, special education law, litigation, and law enforcement. Mr. Collins' current duties include providing legal updates to law enforcement personnel, conducting legal research, document review and preparation, pretrial document preparation, analysis of proposed ordinances, resolutions & contracts, and providing support to each of Jones & Mayer's departments.

Mr. Collins received his Juris Doctorate at Whittier Law School where he graduated in the top 6% of his class. He served as an editor on Whittier Law Review, authored a published article on free speech in public schools, and competed as a member of the moot court honors board. Mr. Collins has a single subject teaching credential, and teaches legal classes to employees of law enforcement agencies throughout California.

Mr. Collins is also highly involved and engaged in providing pro bono legal assistance and volunteers his time at the Orange County Public Law Center.

**BARON J.
BETTENHAUSEN**
Associate

(714) 466 – 1400



Baron J. Bettenhausen joined the law offices of Jones & Mayer in October of 2010. Prior to joining, Mr. Bettenhausen was the principal of a law firm specializing in business transactional law and corporate and real estate litigation. Mr. Bettenhausen served as the legal advisor for several small to medium sized corporations in their ongoing business transactions as well as advising them through a multitude of special or unique situations that arose. Mr. Bettenhausen's current duties include serving as City Attorney for the City of Blythe and as Deputy City Attorney for various cities. He specializes in researching and preparation of municipal code sections, drafting and reviewing agreements, handling Public Record Act requests, preparing legal opinions and analysis on a variety of issues affecting public entities, and providing litigation support.

Practice Areas

Estate Planning
Contracts
Municipal Law
Land Use

Education

J.D. Regent School of Law,
Dean's List

Bar and Court Admissions

United States District Court for the
Southern District of California
California Supreme Court

Professional Affiliations

State Bar of California
Orange County Bar Association

Mr. Bettenhausen graduated in the top 20% of his class at Regent University School of Law in 2003. He received an Academic Scholarship and the Deans Scholarship for academic excellence. Mr. Bettenhausen interned with the Chief Judge James A. Cales, Jr., Portsmouth Circuit Court, where he researched and wrote bench memos addressing civil motions. He subsequently interned at the Portsmouth Commonwealth Attorney where he prosecuted criminal misdemeanors and appeals arising there from, researched and drafted criminal pleadings and prepared motions in support thereof.

Mr. Bettenhausen received a Bachelor of Arts from University of the Nations in Kona, Hawaii.

SCOTT E. PORTER

(714) 446-1400

Associate



Mr. Porter has been with the law firm of Jones & Mayer since 2015. He currently serves as Assistant City Attorney to the City of California City, and has acted as City Attorney or Assistant City attorney in other jurisdictions. His primary practice areas are municipal law, public finance, land use, conflicts of interest and telecommunications. Mr. Porter has advised at more than a hundred public meetings, and routinely advises Mayors, Councilmembers and Planning Commissioners.

Mr. Porter advises elected officials and staff in all areas of municipal law, including contracts, conflicts of interest, general plans, coastal land use plans, zoning, development agreements, public works, telecommunications, and the California Environmental Quality Act (CEQA).

Practice Areas

Land Use and Zoning
Public Finance
Telecommunications
Municipal Law

Mr. Porter has assisted in the creation of Goleta's first General Plan/Coastal Land Use Plan, the overhaul of Sierra Madre's General Plan, and the creation and implementation of numerous specific plans and new or substantially revised zoning ordinances. He has advised and negotiated multiple multi-million dollar transactions and development projects.

Education

J.D. UCLA School of Law, 2000
Moot Court
B.A., History, UCLA, 1997
Magna cum laude

Mr. Porter has assisted multiple cities on public finance matters. He has assisted cities conduct elections on parcel taxes, business license taxes, utility users taxes, transient occupancy taxes, and transactions and use (sales) taxes. Mr. Porter has advised on special assessment proceedings, water and utility rate increases, development impact fees and fee studies.

Bar and Court Admissions

California Supreme Court
United States Court of Appeals for the
Ninth Circuit
United States District Court for the
Central District of California

Mr. Porter has been practicing law since 2000 when he graduated from UCLA School of Law. Mr. Porter graduated *magna cum laude* from UCLA in 1997 with a degree in history.

Professional Affiliations

State Bar of California
City Attorney Association of Los
Angeles County

Mr. Porter has provided dozens of trainings on land use and CEQA. He has also served as a guest lecturer at California State University Northridge on governmental ethics and the planning process. Mr. Porter has published three articles in the California Real Estate reporter relating to real estate and telecommunications. In 2006, He presented his paper to the League of California Cities: "Implementing the Digital Infrastructure and Video Competition Act of 2006 (DIVCA)."

Publications

Three articles in the *California Real Estate Reporter*
Implementing the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) League of California Cities

GREGORY P. PALMER

Senior Associate

(714) 446-1400



Practice Areas

Police Legal Advisor
City Prosecutor
Personnel and Employment
Pitchess Motions
Writs and Appeals

Education

J.D. Western State University
College of Law, Fullerton, 1987
B.S.L. Western State
University College of Law,
Fullerton, 1985

Bar and Court Admissions

California Supreme Court

Professional Affiliations

Los Angeles County Bar
Association
California Police Chiefs
Association
California State Sheriffs'
Association
California Police Officers'
Association

Gregory P. Palmer joined the Law Offices of Jones & Mayer as a Senior Associate in 1999. Prior to that, Mr. Palmer spent almost ten years with the Law Offices of Mayer, Coble & Palmer. He has extensive experience acting as a legal advisor to more than 100 chiefs of police and sheriffs throughout the State of California. In that capacity, he has provided legal assistance in all aspects of operating a police department. Mr. Palmer has represented Chiefs of Police in more than three hundred disciplinary appeal hearings and arbitrations with a ninety percent success rate. He has also handled several disciplinary hearings involving firefighters and public works employees. Mr. Palmer is experienced in handling excessive force, dishonesty, insubordination, off-duty criminal conduct, and other matters. He has appeared in court on "Pitchess" motions hundreds of times, and has prepared and argued a dozen appellate court writs challenging improper trial court decisions on these motions. Mr. Palmer has also briefed and argued approximately twenty administrative writ petitions on discipline cases and AB 301 issues. Prior to entering the practice of law, he was a police officer for ten years in La Palma, California.

Mr. Palmer is also conversant in all aspects of the criminal prosecution of city code enforcement cases. He has performed as the City Prosecutor in two local cities and Assistant City Prosecutor in several more cities. Mr. Palmer has developed unique expertise in prosecuting sexually-oriented businesses, both criminally and by administratively suspending or revoking city permits.

Mr. Palmer has handled several high profile cases. In 1997, he prosecuted the First Southern Baptist Church and its pastor for illegally housing the homeless on its grounds. This case gained national notoriety and the city prevailed on appeal. He filed an injunctive action and negotiated the final closure of the last remaining X-rated theater in Orange County. Mr. Palmer has also assisted in municipal code prosecutions arising out of the multi-department task force approach to critical problem areas. In 1998, Mr. Palmer and fellow members on the Buena Park Neighborhood Improvement Task Force were nominated for the Orange County Human Relations Commission Community-Oriented Policing Award.

Mr. Palmer has lectured at POST-approved programs, conferences, and numerous police departments on topics such as civil liability, sexual harassment, legal update, force, discipline, and "Pitchess" motions. He has also lectured on topics related to city prosecutor functions to code enforcement associations in Southern California and Texas. He is the author of the 2012 revision of the CPOA's "Pitchess Motion Manual," and in 2005 he was named the State Chair of the CPOA, Police Legal Advisors Committee. Mr. Palmer is the instructor of the CPOA Pitchess Motion Update and Public Records Act Classes.

Wendy Stockton

Of Counsel



Practice Areas

General Municipal Law
Land Use
Environmental Law
Municipal Utilities

Education

J.D., University of California, Los Angeles, 1983; Co-Editor-in Chief, UCLA Journal of Environmental Law and Policy; Author "Putting it Down: Hazardous-Waste Management in the Throwaway Culture"
Bachelor of Arts undergraduate degree summa cum laude from University of California, Santa Barbara, 1980

Bar and Court Admissions

California Supreme Court
U. S. District Court for the Central District of California

Professional Affiliations

State Bar Public Law Section
Northern Santa Barbara County Bar Association
Part-Time Professor, Allan Hancock College Paralegal Program (2014-2015)

Publications

"Due Process Meets Unwanted Presence: The Quest for Certainty in Curfew, Loitering and Trespass Ordinances" (1989); "Recipe for Special Assessment Success" (2004)

Ms. Wendy Stockton is currently Of Counsel to the law firm of Jones & Mayer and serves public entities on the central coast of California with general municipal legal services. As a second-generation public servant, she has dedicated herself to municipal law for thirty-four years. The City of Santa Maria employed Ms. Stockton as legal counsel for more than twenty-five years. In this capacity she regularly and innovatively handled complex and sensitive projects--such as adult business ordinances, anti-loitering ordinances aimed at juvenile delinquency, and a "good neighbor" ordinance to prevent un-neighborly consequences of private events--through drafting, presentation to Council, administrative implementation, and court.

After being recruited by Lompoc and Santa Maria to initiate code enforcement programs, Ms. Stockton pioneered civil and criminal court compliance in these cities. She later added public recording, administrative fines and penalties, reasonable accommodation, and public and private funding to available enforcement tools.

The City of Santa Maria assigned Ms. Stockton to its Planning Commission for over twenty years, a time of explosive growth. Ms. Stockton oversaw the City's compliance with State Planning and Zoning Law, the California Environmental Policy Act, Subdivision Map Act, developer fee law, assessment law, endangered species law, public bidding/prevaling wages law, solid and hazardous-waste law, and stormwater regulation. In this assignment she regularly drafted notices, ordinances, resolutions, instruments, implementing procedures, standard conditions, and agreements, and advised the Commission concerning open-meeting requirements and conflict-of-interest restrictions. She also handled litigation arising out of challenges to project approvals and denials.

As cities embraced paperless technology, Ms. Stockton designed and implemented the central coast's first electronic system to process liability claims, headed records management and document imaging projects, and developed a specialty negotiating contracts for software and services. Working closely with staff, she also developed user-friendly contract and resolution forms for everyday use and efficient legal review. To address skyrocketing public requests for access to information, she instituted policy and training for responding promptly and properly to public records requests.

Ms. Stockton coordinated Santa Maria's accessibility programs for persons with disabilities for over a decade. Her efforts included community outreach, staff training, obtaining grant funding, and assisting with physical improvements to City facilities.

Ms. Stockton has recently assisted Santa Maria and South San Luis Obispo County Sanitation District in achieving major goals of state-certifying a housing element, receiving permitting for a 90-year landfill, and raising fees to fund a critical redundancy project.

In the community, Ms. Stockton volunteers with Camp Fire USA, mentors young lawyers and plays banjo with family and friends.

ADDENDUM 2

Jones & Mayer
Public Client List

As City Attorney

Bishop – 2014
Blythe – 2010
California City – 2013
Clearlake - 2014
Colusa – 2015
Costa Mesa – 2004
Fort Bragg - 2017
Fullerton – 1995
Grand Terrace - 2011
La Habra – 1985
Lakewood - 2015
Nevada City - 2015
Placentia - 2015
Santa Fe Springs - 2017
West Covina – 2014
Westminster – 1989
Whittier - 1989

As City Prosecutor/Code Enforcement

Brea
Buena Park
California City
Clearlake
Costa Mesa
Fullerton
Grand Terrace
La Habra
Lakewood
Newport Beach
Placentia
Rolling Hills Estates
San Bernardino
Santa Fe Springs
West Covina
Westminster
Whittier

As General Counsel

California Peace Officers' Association
California Police Chiefs Association
California State Sheriffs' Association
Gateway Cities Council of Governments
Palo Verde Valley Transit Authority
Rossmoor Community Services District
San Gabriel Valley Council of Governments

As Police Legal Advisor

Alpine County Sheriff
Antioch
Bakersfield
Bay Area Rapid Transit Authority

As Police Legal Advisor (Cont'd)

Bishop
Blythe
Brawley
Brisbane
Buena Park
Burlingame
California Highway Patrol
Cal State University - Northridge
Cal State University – Sacramento
Cal State University – San Bernardino
Cal State University – San Marcos
Chino
Contra Costa Chiefs and Sheriff
Delano
Del Rey Oaks
East Palo Alto
El Camino Community College District
El Monte
El Segundo
Exeter
Folsom
Fontana
Fontana Unified School District
Fremont
Grass Valley
Hawthorne
Humboldt County
Huntington Beach
Ione
Irvine
Laguna Beach
Lassen County Sheriff
Marina
Marysville
Montebello
Morgan Hill
Oakdale
Orange Police Department
Pittsburgh Police Department
Redding
Redlands
Regents of the University of California
Riverside Community College District
Riverside County Probation
San Joaquin Delta College
San Luis Obispo, City of
San Pablo
San Ramon
Sanger
Santa Ana Unified School District
Santa Barbara
Seaside
Sebastopol
Siskiyou County Sheriff

Jones & Mayer
Public Client List

As Police Legal Advisor (Cont'd)

South Gate
Stallion Springs Community Services District
Stanislaus Sheriff
Stockton Unified School District
Sunnyvale
Susanville
Truckee
UC Berkeley
UC Irvine
UC Merced
UC San Francisco
UC Santa Cruz
USC Department of Public Safety
Vallejo
Ventura County Sheriff

As Special Counsel

Allan Hancock College
Auburn
Beaumont
Benicia
Brentwood
Calaveras County Counsel /Sheriff
California District Attorneys' Association
California State Coroner's Association
Chaffey Community College District
Contra Costa Office of the District Attorney
Chino
Citrus Heights
Claremont
Corona
Culver City
Daly City
El Dorado County Sheriff
Fresno
Gilroy
Glendale
Glenn County Sheriff
I-5 JPA
Irvine
Lake County Sheriff
Lakewood
Madera County
Mendocino County
Merced County
Mono County Sheriff
Montclair
Monterey County Sheriff
Morro Bay
Nevada County

As Special Counsel (Cont'd)

Palmdale
Palomar Community College district
Paradise
Pomona
Regents of the University of CA
Regional Human Rights Fair Housing Division
Riverside Sheriff's Office
Salida Fire Protection District
San Benito
San Bernardino
San Diego
San Diego Unified Port District
San Francisco B.A.R.T.
San Luis Obispo Sheriff's Office
San Mateo
Santa Fe Springs
Santa Ana
SASSFA
Seal Beach
Siskiyou County
South Coast Air Quality Management District
South San Luis Obispo County Sanitation District
Southern California Library Cooperative
Stockton
Susanville
Upland
Tulare
Vernon

Receivership Litigation

Fresno
Los Angeles
Oakland
Ridgecrest
Santa Ana
Santa Maria
Vacaville
Vallejo

Attorney Conflicts Panel

Los Angeles
Claremont

Jones & Mayer
Public Client List

Past Public Clients (Last 5 years)

Anaheim (2016)
Baldwin Park (2013)
Beaumont (2013)
Chowchilla (2017)
Eureka (2017)
Fairfield (2017)
Delano (2014)
Hayward (2013)
Kings County Sheriff (2013)
Los Altos (2017)
Maywood (2016)
Oxnard (2013)
Point Arena (2015)
Rancho Cucamonga (2017)
South Lake Tahoe (2015)
South Pasadena (2017)
Stanton (2013)
Willows (2016)

ADDENDUM 3

MEMORANDUM

CONFIDENTIAL/ATTORNEY-CLIENT PRIVILEGED ATTORNEY WORK PRODUCT

To: Jeremy Ghent, District Administrator
South San Luis Obispo County Sanitation District

From: Keith F. Collins, Special Counsel
Jamaar M. Boyd-Weatherby, Special Counsel

Date: July 17, 2018

Subject: United States Supreme Court determines that forcing employees to pay union dues violates the First Amendment of the United States Constitution

I. SUMMARY

In a recent decision, the United States Supreme Court ruled that “agency shop” agreements where non-member union public employees are required to pay a portion of union dues are unconstitutional. As such, Agency shop agreements and arrangements can no longer be used to require all public employees pay union dues. Public employers who are currently doing so should stop collecting agency shop fees as soon as possible and comply with new California laws that were enacted in response to this decision.

II. DISCUSSION

The Court in Janus v. American Federation of State, County and Municipal Employees, 138 S. Ct. 2448 (2018) (“Janus”) overruled long standing precedent (Abood v. Detroit Board of Education, 97 S. Ct. 1782 (1977)) which required public employees to pay union dues. The Court in Abood had determined that employees could be required to pay “agency fees” without violating the employees’ First Amendment rights. The Court in Abood held that employees who did not want to belong to the Union (i.e. non-members) may be charged for the portion of union dues attributable to activities that are “germane to [the union’s] duties as collective bargaining representative,” but non-members may not be required to fund the union’s political and ideological projects. Abood created a “chargeable v. unchargeable” dichotomy. The “chargeable” union dues were mandatory and could be considered a condition of employment. The employee had discretion whether he/she would contribute to the unchargeable union dues associated with the union’s political and/or ideological activity.

In the present action, Mark Janus, an employee of the state of Illinois, brought an action due to a perceived violation of the First Amendment of the United States Constitution (“First Amendment”). Mr. Janus stated that he did not want to financially contribute to the union because “many of the public policy positions that [it] advocates does not appreciate the current fiscal crises in Illinois and does not reflect his best interests or the interests of Illinois citizens.” However, Mr. Janus’ case was dismissed at the District Court due to the fact that “agency fees” had been determined to be lawful pursuant to Abood in 1977. The Seventh Circuit also upheld the dismissal of his case.

While the district court and the 7th Circuit were not receptive to Mr. Janus' position, the Supreme Court granted review and determined that Abood should be overruled. The Court eliminated the "mandatory" nature of the "chargeable" union dues (i.e. agency fees). The basis for the Janus decision is that the court determined that forcing employees to pay union dues violated the employees' First Amendment rights. Essentially, the employees were being forced to "speak" (i.e. "financially support") organizations that the employee may not agree with and/or want to be associated with. For this reason, public employers who are currently collecting agency shop fees should cease doing so as soon as possible.

The California legislature has already responded to the Janus decision with the passage of Senate Bill 866 ("SB 866") which the Governor signed into law June 27, 2018. Effective immediately, SB 866 provides that public employers must allow unions to deduct "membership dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization".¹ In addition, public employers must rely on a union's certification of an employee's authorization for payroll deductions, and requires the union to indemnify the public employer for claims made by an employee for deductions made in reliance on that certification.² SB 866 also requires a public employer to meet and confer with the union concerning the content of a "mass communication" sent to employees concerning their right to join, support or refrain from joining or supporting the union.³ However, it should be emphasized that public employers are not allowed to "deter or discourage public employees or applicants to be public employees from becoming or remaining members of an employee organization, or from authorizing representation by an employee organization, or from authorizing dues or fee deductions to an employee organization."⁴

In addition, employers are required to provide the union representative with "access" to new hire orientations.⁵ The union shall be notified of the new hire orientation ten days in advance of the orientation. "The structure, time, and manner of exclusive representative access shall be determined through mutual agreement between the employer and the exclusive representative[.]" As such, the parties are required to meet and confer regarding the "structure, time and manner" of the union's access to the orientations.

III. CONCLUSION

Based upon the Janus decision, public employees are no longer required to pay union dues as a part of an "agency fee" arrangement. The immediate impact of the decision is that "agency shop" arrangements that require all employees to pay dues to the union are unenforceable and such dues should no longer be collected by public employers. Rather, public employers should comply with SB 866 and only deduct union dues from those employees who the union has identified. To the extent that employers would like to inform employees of the change of law, agencies should be cautious not to advocate against employees participating in union activities and/or paying dues.

Should you have any questions or require further clarification of the above, please contact Jamaar Boyd-Weatherby at our office at (714) 446-1400, or by email jbw@jones-mayer.com.

¹ Cal. Gov. Code § 1152

² Cal. Gov. Code § 1157.12(a).

³ Cal. Gov. § 3553(b). If, after meeting and conferring, the union and employer cannot come to an agreement on the content of the employer's mass communication, the employer may still send the communication along with "a communication of reasonable length" authored by the union.

⁴ Cal. Gov. Code § 3550

⁵ Cal. Gov. Code § 3556

ADDENDUM 4



Agenda Report

Date: September 13, 2016
To: Honorable Members of the Whittier City Council
From: Conal McNamara, Director of Community Development
Prepared by: Keith Collins, Deputy City Attorney
Subject: Regulation of Nonmedical Marijuana Dispensaries & Cultivation

RECOMMENDATION

It is recommended the City Council direct staff to prepare an ordinance prohibiting nonmedical marijuana cultivation and nonmedical marijuana commercial activity to be effective only if the Adult Use of Marijuana Act is approved by the voters this November.

BACKGROUND

Proposition 64, known as the "Adult Use of Marijuana Act" ("AUMA") has qualified for the November 8, 2016 ballot. The Act has two primary components: (1) a right to non-medical/recreational marijuana use, possession, and cultivation, and (2) a state licensing and taxing scheme for non-medical/recreational marijuana businesses similar to those licensed by the state under the Medical Marijuana Regulation and Safety Act. The AUMA also reduces criminal penalties for specified marijuana crimes, including possession and use of marijuana by minors. If approved by the voters at the November 8, 2016 election, the AUMA would be effective immediately. The AUMA gives cities and counties some authority to regulate and even ban some of these activities, and although there is no deadline for cities and counties to adopt regulations or bans, the City should quickly adopt an ordinance that would be in place by November 8, 2016 in order to prevent nonmedical outdoor marijuana cultivation and nonmedical commercial cannabis activity from legally occurring within the City.

DISCUSSION

Nonmedical/Recreational Use and Cultivation of Marijuana

The AUMA decriminalizes the possession, processing, transporting, purchasing, obtaining or giving away of not more than 28.5 grams of marijuana or 8 grams of marijuana in the form of concentrated by persons 21 years of age or older.¹ It also permits persons 21 year and older to cultivate up to 6 plants indoors or outdoors on the grounds of a private residence; although, Health and Safety Code section 11362.2 added by the Act would limit the total number of plants grown at any one single private residence (which is defined to include a house, apartment unit, mobile home, or other similar dwelling) to no more than six (6) plants.

¹ Proposed Health and Safety Code section 11362.1.

The AUMA specifically prohibits cities and counties from completely prohibiting indoor cultivation for non-medical use, but allows cities and counties to completely ban cultivation outdoors upon the grounds of a private residence.² The AUMA also expressly allows cities and counties to enact and enforce reasonable regulations to regulate the indoor cultivation of marijuana for non-medical use.³

Also of note, the AUMA prohibits smoking or ingesting marijuana or marijuana products in the following places:

- In any public place (unless in inside a business that is authorized by state and local law to allow use of marijuana on its premises);
- In places where smoking tobacco is prohibited;
- Within 1,000 feet of a school, day care center, or youth center while children are present, except in or upon the grounds of a private residence or inside a business that is authorized by state and local law to allow the use of marijuana on its premises; and
- While driving in, operating, or riding in a motor vehicle, boat, vessel, aircraft or other vehicle.⁴

The AUMA also allows cities, counties and public employers to maintain a drug and alcohol free workplace and to have policies prohibiting the use of marijuana by employees and prospective employees.⁵ The City should therefore review its current personnel policies related to the use of drugs and make sure marijuana use is addressed.

City Authority to Regulate Nonmedical Use and Cultivation of Marijuana

The AUMA specifically allows cities to ban outdoor cultivation of non-medical marijuana at private residences. Cities may also adopt reasonable regulations on the indoor cultivation of non-medical marijuana.

However, since under AUMA, all persons over 21 will be permitted to cultivate marijuana inside their private residence (up to a total of 6 plants at a single private residence), the City should amend its existing marijuana cultivation ordinance to permit this activity to be effective only if AUMA passes.

Nonmedical Marijuana Businesses

The second primary component of the AUMA is a newly established state licensing and regulation scheme for commercial non-medical marijuana businesses, similar to the categories of businesses permitted under the MMRSA.⁶ The AUMA renames the Bureau of Medical Marijuana Regulation the Bureau of Marijuana Control and charges them with issuing licenses to marijuana-

2 Proposed Health and Safety Code section 11362.2(b)(2) and (3).

3 Proposed Health and Safety Code section 11362.2(b)(1).

4 Proposed Health and Safety Code section 11362.3.

5 Prospective Health and Safety Code section 11362.45.

6 Proposed Business and Professions Code sections 26000 et. seq.

related retail, manufacturing, distribution, transport, dispensary and delivery businesses catering to recreational users in addition to licensing medical marijuana businesses.⁷ The Department of Food and Agriculture is tasked with issuing licenses to non-medical marijuana cultivation businesses. The AUMA requires all state licensing authorities to issue licenses by January 1, 2018.⁸

The AUMA permits local jurisdictions to adopt and enforce local ordinances to regulate recreational MJ businesses, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke. The AUMA also expressly authorizes cities and counties to completely prohibit the establishment or operation of businesses within their jurisdictions.⁹

The AUMA imposes a 15% state tax on the retail sales of non-medical marijuana. Funds from the tax will be used in part to fund research on the health effects of marijuana. The AUMA does not prohibit local taxes of non-medical marijuana.¹⁰

Also of note, under the AUMA non-medical marijuana businesses may not locate within 600 feet from schools, day care centers, or youth centers.¹¹

City Authority to Regulate Nonmedical Marijuana Businesses

The City may regulate or completely ban non-medical marijuana businesses. Since the state will not begin licensing until January 1, 2018 under AUMA, there is adequate time for the City to evaluate whether to ban or allow with regulations these types of businesses. If the Council prefers to allow and regulate these types of businesses, our office will develop draft regulations that are consistent with state law requirements. The City may also consider adopting a local tax on the sales of marijuana. If Whittier prefers to ban non-medical marijuana businesses, the City Attorney's office can draft the appropriate enactments.

Currently, the City of Whittier's municipal code prohibits both medical and recreational marijuana cultivation, and prohibits some but not all commercial cannabis activity with respect to medical cannabis only,¹² but the prohibition on recreational nonmedical cultivation should be more explicit. Recreational commercial cannabis activity is not currently prohibited by the municipal code, so if the AUMA passes this November, recreational marijuana businesses could legally operate within the City if a prohibition is not put in place before then. Staff is prepared to draft the necessary enactments if instructed, including a provision that authorizes indoor recreational cultivation as authorized by state law, to be effective only if AUMA passes.

Conclusion

7 Proposed Business and Professions Code section 26010.

8 Proposed Business and Professions Code section 26012(c).

9 Proposed Business and Professions Code section 26200.

10 Proposed Revenue and Taxation Code sections 34021 and 34021.5.

11 Proposed Business and Professions Code section 26054.

12 Whittier Municipal Code Sections 18.45.030-040.

Polls are showing that the AUMA has enough support to pass at the November 8, 2016 election. The City should consider adoption of an ordinance that would ban nonmedical marijuana cultivation and commercial activities to be effective in the event that AUMA passes this November.

FISCAL IMPACT

Directing staff to prepare a nonmedical marijuana ban will have no fiscal impact.

Submitted by:

Department Head Name
Department Head Title

Prepared by:

Author's Name
Author's Title

Attachments: A – Attachment Name
 B – Attachment Name

Exhibits: 1 – Exhibit Name
 2 – Exhibit Name

ADDENDUM 5

Law Offices of Jones & Mayer
Customer Balance Detail
As of May 31, 2014

		<u>Date</u>	<u>Invoice</u>	<u>Amount</u>
[REDACTED]				
Litigation -	[REDACTED]	5/31/14	[REDACTED]	[REDACTED]
Litigation -	[REDACTED]	5/31/14	[REDACTED]	[REDACTED]
Litigation -	[REDACTED]	5/31/14	[REDACTED]	[REDACTED]
Litigation -	[REDACTED]	5/31/14	[REDACTED]	[REDACTED]
Retainer		5/31/14	[REDACTED]	[REDACTED]
	Total Due:			<u>[REDACTED]</u>

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Invoice

Invoice submitted to:



Invoice #



Invoice date

5/31/2014

Client ID:



Previous balance

Payments and other transactions

Total fees

Total expenses

Interest

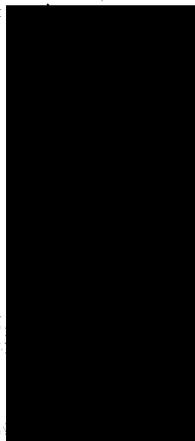
Finance charge

Taxes

Total new charges

Requested funds replenishment

Balance Due



Please detach this section and return it with your payment to ensure that your account is properly credited.

City of



Client ID:



Invoice #



Invoice date

5/31/2014

Check #



Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Previous balance

Transactions

New charges

Funds replenishment

Balance due

Payment amount

\$



Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
5/6/2014	RJ	Draft [REDACTED] offer and prepare to send to Plaintiff's counsel.	[REDACTED] 0.60 /hr	[REDACTED]
5/13/2014	RJ	Email exchange re case status update to [REDACTED]	[REDACTED] 0.20 /hr	[REDACTED]
5/16/2014	RJ	Draft Trial Report for [REDACTED]	[REDACTED] 0.80 /hr	[REDACTED]
5/21/2014	RJ	Trial preparation. Review discovery and medical records.	[REDACTED] 1.20 /hr	[REDACTED]
5/22/2014	RJ	Phone conference with [REDACTED] regarding status and future handling of case.	[REDACTED] 0.30 /hr	[REDACTED]
5/23/2014	RJ	Email exchange with [REDACTED]	[REDACTED] 0.10 /hr	[REDACTED]
5/29/2014	RJ	Phone conference with Dr. [REDACTED] assistant re declaration.	[REDACTED] 0.30 /hr	[REDACTED]
	RJ	Phone conference with attorney [REDACTED] re deposition of Plaintiff and potential settlement	[REDACTED] 0.40 hr	[REDACTED]
	RJ	Draft/review amended notice of deposition of plaintiff with cover letter to opposing counsel.	[REDACTED] 0.50 hr	[REDACTED]
	RJ	Draft proposed judgment for filing with the Court.	[REDACTED] 1.00 /hr	[REDACTED]
5/30/2014	RJ	Draft expert declaration per [REDACTED] for Dr. [REDACTED]	[REDACTED] 1.20 /hr	[REDACTED]
	RJ	Email exchange with [REDACTED] regarding witness availability, [REDACTED]	[REDACTED] 0.20 /hr	[REDACTED]
For professional services rendered				\$ [REDACTED]

Additional Charges

			<u>Qty/Price</u>	
5/29/2014		Norco Delivery Services Inv# [REDACTED]	1 \$29.42	\$29.42
Total additional charges				\$29.42
Total amount of this bill				[REDACTED]

City of [REDACTED]

	<u>Amount</u>
Previous balance	[REDACTED]
<i>Accounts receivable transactions</i>	
5/6/2014 Payment - Thank You. Check No. [REDACTED]	[REDACTED]
Total payments and adjustments	[REDACTED]
Balance due	[REDACTED]

Aged Balances

Current	30 Days	60 Days	90 Days	120+ Days
[REDACTED]				

City of [REDACTED]

Client ID: [REDACTED]

Previous balance	\$0.00
Payments and other transactions	\$0.00
Total fees	\$0.00
Total expenses	\$120.00
Interest	\$0.00
Finance charge	\$0.00
Taxes	\$0.00
Total new charges	\$120.00
Requested funds replenishment	\$0.00
Balance Due	\$120.00

Please detach this section and return it with your payment to ensure that your account is properly credited.

City of [REDACTED]

Invoice # [REDACTED]

Client ID: [REDACTED]

Invoice date

5/31/2014

Check # _____

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Previous balance	\$0.00
Transactions	\$0.00
New charges	\$120.00
Funds replenishment	\$0.00
Balance due	\$120.00
Payment amount	\$ _____

Additional Charges

	<u>Qty/Price</u>	<u>Amount</u>
5/16/2014 Case Anywhere LLC Inv# [REDACTED]	1 \$120.00	\$120.00
Total additional charges		<u>\$120.00</u>
Balance due		<u><u>\$120.00</u></u>

City of [REDACTED]

Client ID: [REDACTED]

Previous balance	[REDACTED]
Payments and other transactions	[REDACTED]
Total fees	[REDACTED]
Total expenses	[REDACTED]
Interest	[REDACTED]
Finance charge	[REDACTED]
Taxes	[REDACTED]
Total new charges	[REDACTED]
Requested funds replenishment	[REDACTED]
Balance Due	[REDACTED]

Please detach this section and return it with your payment to ensure that your account is properly credited.

City of [REDACTED]
Client ID: [REDACTED]

Invoice # [REDACTED]
Invoice date 5/31/2014
Check # _____

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Previous balance	[REDACTED]
Transactions	[REDACTED]
New charges	[REDACTED]
Funds replenishment	[REDACTED]
Balance due	[REDACTED]
Payment amount	\$ _____

Professional Services

	<u>Hrs/Rate</u>	<u>Amount</u>
5/1/2014 GSK Review 1038 letter to plaintiff's counsel.	0.20 [REDACTED]/hr	[REDACTED]
CFN Revise settlement offer, 1038 notice, overdue sanctions letter; attachments; have emailed and mailed	0.40 [REDACTED]hr	[REDACTED]
5/2/2014 DLR Emails to/from attorney Neumeyer re settlement offer	0.30 [REDACTED]hr	[REDACTED]
For professional services rendered		[REDACTED]
Previous balance		[REDACTED]
<u>Accounts receivable transactions</u>		
5/6/2014 Payment - Thank You. Check No. [REDACTED]		[REDACTED]
Total payments and adjustments		[REDACTED]
Balance due		[REDACTED]

Aged Balances

Current	30 Days	60 Days	90 Days	120+ Days
[REDACTED]				

City of [REDACTED]

Client ID: [REDACTED]

Previous balance	[REDACTED]
Payments and other transactions	[REDACTED]
Total fees	[REDACTED]
Total expenses	[REDACTED]
Interest	[REDACTED]
Finance charge	[REDACTED]
Taxes	[REDACTED]
Total new charges	[REDACTED]
Requested funds replenishment	[REDACTED]
Balance Due	[REDACTED]

Please detach this section and return it with your payment to ensure that your account is properly credited.

City of [REDACTED]
Client ID: [REDACTED]

Invoice # [REDACTED]
Invoice date 5/31/2014
Check # _____

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Previous balance	[REDACTED]
Transactions	[REDACTED]
New charges	[REDACTED]
Funds replenishment	[REDACTED]
Balance due	[REDACTED]
Payment amount	\$ _____

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
4/24/2014	RJ	Review and assess merits of attorney [REDACTED] meet and confer letter regarding written discovery responses provided by City.	0.50 [REDACTED]/hr	[REDACTED]
5/5/2014	EQG	Preparation of pleadings - reply to opp to motion for judgment on pleadings/FAC	7.60 [REDACTED]hr	[REDACTED]
	RJ	Review Plaintiff's Requests for Admissions and Form Interrogatories, Set Two.	1.00 [REDACTED]hr	\$215.00
5/6/2014	EQG	Preparation of pleadings - reply to opp to [REDACTED]	8.00 [REDACTED]/hr	[REDACTED]
	EQG	Preparation of pleadings - evidentiary objections to rjn and notice of lodging in support of plaintiffs' opp to city's mjp as to first amended complaint	0.60 [REDACTED]/hr	[REDACTED]
5/7/2014	EQG	Finalized reply to opp to mjp re fac; evidentiary objections	0.60 [REDACTED]hr	[REDACTED]
	JRT	Revise reply brief re motion for judgment on the pleadings re first amended complaint	1.10 [REDACTED]/hr	[REDACTED]
5/8/2014	RJ	Phone conference with attorney [REDACTED] regarding discovery responses.	0.40 [REDACTED]hr	[REDACTED]
5/9/2014	RJ	Draft discovery responses to Plaintiff's Requests for Admissions and Form Interrogatories, Set 2. Research responses.	2.50 [REDACTED]/hr	[REDACTED]
5/12/2014	RJ	Draft supplemental responses to Plaintiff's Form Interrogatories. Research responses.	1.80 [REDACTED]hr	[REDACTED]
5/14/2014	KMJ	Review tentative ruling on motion for judgment on the pleadings and legal issues re: hearing on same	0.40 [REDACTED]/hr	[REDACTED]
5/15/2014	EQG	Preparation mjp hearing	1.20 [REDACTED]hr	[REDACTED]
	EQG	Court Appearance motion for judgment on the pleadings	2.00 [REDACTED]/hr	[REDACTED]
5/22/2014	RJ	Review ruling from Court on Motion for Judgment on the Pleadings. Draft proposed judgment for filing with Court.	0.70 [REDACTED]/hr	[REDACTED]
5/23/2014	RJ	Draft letter to attorney [REDACTED] regarding order from court and impact on discovery responses.	0.60 [REDACTED]hr	[REDACTED]

	<u>Hrs/Rate</u>	<u>Amount</u>
5/28/2014 EQG Preparation of pleadings - judgment	1.10 [REDACTED] hr	[REDACTED]
BER Research motion for judgment on the pleadings and proposed order.	0.20 [REDACTED] hr	[REDACTED]
5/29/2014 EQG Preparation of pleadings - finalize judgment for filing and service	0.40 [REDACTED] hr	[REDACTED]
For professional services rendered		[REDACTED]

Additional Charges

	<u>Qty/Price</u>
4/7/2014 Court Call, 3/24/14	[REDACTED]
FedEx, 4/1/14	
Parking Concepts, [REDACTED]	
5/16/2014 Norco Delivery Services Inv# [REDACTED] - [REDACTED] 5/8/14	
5/29/2014 Ace Attorney Services, Inc. Inv# [REDACTED] - [REDACTED]	
Court Parking 5/15/14 Elena Gerli	
Total additional charges	

Total amount of this bill [REDACTED]

Previous balance [REDACTED]

Accounts receivable transactions

5/6/2014 Payment - Thank You. Check No. [REDACTED]

Total payments and adjustments [REDACTED]

Balance due [REDACTED]

Aged Balances

Client ID: [REDACTED]

Previous balance

Payments and other transactions

Total fees

Total expenses

Interest

Finance charge

Taxes

Total new charges

Requested funds replenishment

Balance Due



Please detach this section and return it with your payment to ensure that your account is properly credited.

City of [REDACTED]

Client ID: [REDACTED]

Invoice # [REDACTED]

Invoice date

5/31/2014

Check # _____

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

Previous balance

Transactions

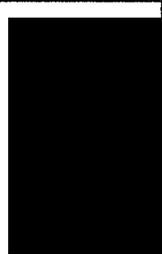
New charges

Funds replenishment

Balance due

Payment amount

\$ _____



Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
4/28/2014	BJB Legal Analysis of nonconforming uses.	0.80 [REDACTED]/hr	
4/29/2014	BJB Phone call from [REDACTED] and [REDACTED] to discuss non conforming use issue.	0.90 [REDACTED]/hr	
	BJB Attend planning commission special meeting.	4.00 [REDACTED]/hr	
5/1/2014	RLA Review and respond to Email; review agenda report and resolutions; legal research; prepare comments; re: Assessment District Annual Renewal	0.80 [REDACTED]/hr	
	RLA Legal Research into Moratorium Urgency Ordinance procedural requirements;	0.30 [REDACTED]/hr	
	RLA Phone conference with [REDACTED] re: Pending Agenda Reports	0.30 [REDACTED]/hr	
	RLA Phone call from client [REDACTED] review and respond to Email; review draft notice and legal research; provide direction and answer procedural questions; re: Notice of Public Hearing (Moratorium)	0.60 [REDACTED]/hr	
	CFN Draft legal analysis of new AB 813 mandate that City must post all election results online in downloadable spreadsheet format	0.20 [REDACTED]/hr	
5/5/2014	BJB Review agenda report.	0.40 [REDACTED]/hr	
	RLA Review and forward Email; assign agenda report review; re: Agenda Report (LRPMP)	0.20 [REDACTED]/hr	
	RLA Review and respond to Email; review agenda report and attachments; phone conference with [REDACTED] (Easement Dedication)	0.60 [REDACTED]/hr	
	RLA Review and respond to several Email; review draft encroachment permit; re: [REDACTED]	0.40 [REDACTED] hr	
	RLA Review and file Email and documents; prioritize assignments; re: Pending Matters	0.30 [REDACTED]/hr	
5/6/2014	RLA Review and respond to Email; review documents to be attached to Council Agenda Report; re: [REDACTED]	0.20 [REDACTED] hr	

		<u>Hrs/Rate</u>	<u>Amount</u>
5/7/2014	BJB Review and revise agenda report, resolution, and psa re Graffiti abatement.	1.00 [REDACTED]/hr	
5/8/2014	RLA Meeting with [REDACTED] finalize agreement; re: Pending Matters	0.90 [REDACTED]/hr	
	RLA Review and respond to Email; review and revise agenda; two phone conference with [REDACTED] re: City Council Meeting 5-12-14	0.50 [REDACTED]/hr	
	CFN Review Town of Greece v Galloway decision on prayer at city council meetings; legal research re memo on city council prayer after new US Supreme Court ruling; review critical analysis of ruling	0.40 [REDACTED]/hr	
5/12/2014	BJB File Review in preparation for Council meeting.	0.20 [REDACTED]/hr	
	BJB Attend city council meeting	5.80 [REDACTED]/hr	
5/13/2014	ZBG Research code sections for when a public hearing is required.	0.40 [REDACTED]/hr	
5/14/2014	KC Drafting brief on recent tow truck case affecting city authority to regulate tow companies.	0.40 [REDACTED]/hr	
	BJB Receipt and review email from [REDACTED] re notice.	0.30 [REDACTED]/hr	
5/15/2014	KC Further drafting of memo on impact of recent Towing case on city authority to regulate tow companies.	0.20 [REDACTED]/hr	
	BJB Phone call from [REDACTED]	0.10 [REDACTED]/hr	
	BJB Review notice letter received from [REDACTED] and law regarding notice requirement for recording assessment for failure to pay garbage disposal fees.	0.30 [REDACTED]/hr	
5/16/2014	CFN Draft legal memo re impact on city council prayer policies pursuant to Town of Greece v Galloway decision by US Supreme Court	0.50 [REDACTED]/hr	
5/20/2014	BJB Review street lighting assessment district agenda report.	0.20 [REDACTED]/hr	
5/21/2014	RK Review Agenda reports for June 11, 2014 council meeting	0.90 [REDACTED]/hr	
	RK Review and revise agenda reports for June 11, 2014 meeting	0.80 [REDACTED]/hr	
5/22/2014	CFN Revise memo on city council invocation/prayer policies after US Supreme Court decision in Town of Greece v Galloway; further discussion of Court's reasoning; legal research re elements offering practical guidance for City;	0.80 [REDACTED]/hr	

Hrs/Rate Amount

context of prior court decisions on prayer before council meetings; legal research whether CA Constitution will preempt the new decision's impact on CA cities

5/23/2014 RK Review and revise various agenda reports and resolutions for June 11, 2014 Council meeting 0.90
[REDACTED]/hr

5/27/2014 RLA Phone call from client [REDACTED] re: Legal Non-conforming Properties [REDACTED] 0.40
[REDACTED]/hr

RLA Phone call from client [REDACTED] re: Legal Non-conforming Properties [REDACTED] 0.40
[REDACTED]/hr

5/28/2014 KC Drafting memo on update of FPPC real property conflict of interest regulations. 0.70
[REDACTED] hr

RLA Phone call from client [REDACTED] re: Police Services RFP 0.10
[REDACTED]/hr

CFN Attend seminar on impact of Greece v Galloway decision on local govts re city council invocation/prayer client alert; further legal analysis on recommended policies for City; further review of possible state law challenges to permissible federal law policies; finalize legal memorandum for City 0.20
[REDACTED]/hr

5/29/2014 RLA Phone call from client [REDACTED] review and respond to several Email; re: Review of Personnel File by Sheriff (CCW Permit) 0.70
[REDACTED]/hr

EQG Finalized memo re impact of [REDACTED] case on city's ability to regulate tow companies headquartered outside of city 0.40
[REDACTED] hr

5/30/2014 RLA Phone call from client [REDACTED] review and approve agenda report related to Street Improvement Project; review and revise agenda report related to NPDES compliance; review and revise agenda; re: City Council Meeting 6-11-14 1.00
[REDACTED] hr

Total charges covered by flat fee
For professional services rendered

[REDACTED]

[REDACTED]

Retainer Hours Balance : [REDACTED]
May Retainer Hours: [REDACTED]
Less Serv. Hours: [REDACTED]
Unused Hours: [REDACTED]

Available Hrs: 2/28/14, [REDACTED]
Banked Hrs: 5/31/14, [REDACTED]

Previous balance

[REDACTED]

Amount

Accounts receivable transactions

5/6/2014 Payment - Thank You. Check No. [REDACTED]

Total payments and adjustments

Balance due

[REDACTED]

Aged Balances

Current	30 Days	60 Days	90 Days	120+ Days
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

PROPOSAL TO PROVIDE LEGAL SERVICES
TO THE CITY OF BUELLTON

Submitted by

KIRK & SIMAS
a professional law corporation

August 24, 2018

PROPOSAL TO PROVIDE LEGAL SERVICES TO THE CITY OF BUELLTON

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Resume – Alexander F. Simas.....B
Resume – Karen A. O’Neil.....C
Invoice ExemplarD

3. Qualifications:

A. The overall capabilities, qualifications, training, and areas of expertise for each of the attorneys that may be assigned that may be assigned to work with the City, including but not limited to:

• Name of individual(s) with resume(s), specialization areas and legal training:

Maribel A. Aguilera, would serve as the primary attorney assigned to provide legal services to the City. Ms. Aguilera has served on the City of Santa Maria's Planning Commission for the last four years. She is well versed in the Brown Act, the Public Records Act, conflicts of interest, contracts and franchises, real estate and other property transactions, procedural issues and due process, land use, zoning, and subdivision matters, environmental law (CEQA), code enforcement, proposition 218 and current state and federal legislation. She is an associate attorney at the law firm of KIRK & SIMAS (the "Firm") and would be available to handle day to day operations. See resume attached as Exhibit A.

Alexander F. Simas, would serve as Assistant City Attorney assigned to provide legal services if Ms. Aguilera is not available or to assist on matters requiring additional expertise. Mr. Simas has been practicing law for more than 40 years, all on the Central Coast. For nearly 30 of those years his practice involved a substantial amount of public agency work. Mr. Simas served as the City Attorney for the City of Guadalupe from 1985 to 2003. He also served as District Legal Counsel for the Oceano Community Services District from 2001 to 2011. He regularly served as special counsel to the Allan Hancock Community College District on a variety of projects from 1998 through 2013 and has served as special counsel on selected projects for the cities of Santa Maria and Lompoc. Finally he served as counsel for the Santa Maria Cemetery District from 1993 through 2010.

He has extensive knowledge in representing and advising public agency boards and commissions as well as agency personnel in all matters of law pertaining to their offices. As City Attorney to the Guadalupe City Council, Mr. Simas provided guidance and direction to the City Council and planning commission, the City's redevelopment agency board and legal opinions, advice, assistance and consultation to the City Manager and City staff in the following areas of municipal law: the Brown Act, the Public Records Act, conflicts of interest, election law, contracts and franchises, real estate and property transactions, due process and procedural issues, land use, zoning, and subdivision matters, environmental law (CEQA), public contracts/capital projects, personnel, code enforcement, tort liability and risk management, taxes, fees, assessments and Proposition 218.

Mr. Simas holds the prestigious "AV" rating by Martindale-Hubbell and his resume is attached hereto as Exhibit B.

Karen A. O'Neil, also would serve as Assistant City Attorney to provide the legal services to the City whenever she is needed. Ms. O'Neil has been practicing law

for 17 years, with the last 10 years focusing on public entities and employment law. As a result she has represented and advised multiple special districts on all manner of litigation and employment related cases. In addition, as district legal counsel to multiple special districts, Ms. O’Neil advises the special districts on the topics of ethics and the Brown Act. She also provides bi-annual mandated ethics training for public officials.

Ms. O’Neil is rated “AV” by the Martindale-Hubbell Law Directory, its most prestigious rating. Her resume is attached as Exhibit C.

- **Municipal or other local public sector experience and knowledge of and experience with California Municipal Law:**

This is generally discussed in the information provided on the individual attorneys above, but as a group the Firm has represented a variety of public agencies throughout California on virtually every type of problem routinely confronting the public sector.

Ms. Aguilera earned her knowledge and experience in municipal law by serving on the Santa Maria Planning Commission for the last four years. She gained extensive knowledge in general plans, the Brown Act and Public Records Act while sitting on the Planning Commission. She also worked in the oil and gas industry for ten years and gained extensive knowledge in land acquisitions and divestitures, long and short term leases, land use, zoning, subdivisions, CEQA, environmental laws, hazardous waste, permitting, ordinances, contracts and franchises.

Mr. Simas has broad experience representing municipalities and special districts, including serving as City Attorney for the City of Guadalupe for 18 years and as District Legal Counsel for the Oceano Community Services District for ten years. Guadalupe is a full service municipality similar to Buellton and Oceano was a community services district that provided water, sewer and fire services. He also served as special counsel to the Allan Hancock Community College District on a variety of real estate development and construction projects for more than a decade and has served as special counsel on selected projects for the cities of Santa Maria and Lompoc.

Ms. O’Neil has represented special districts for over ten years, including the broad range of projects within their jurisdictions. Those typically range from personnel matters to land acquisition and leases, and litigation. Ms. O’Neil routinely represents approximately 8-10 special districts throughout California.

- **Years and statement of other types of clientele represented:**

KIRK & SIMAS has served the central coast community for over 60 years. Within that overall time frame, Alex Simas have more than 40 years of practice experience representing small and large scale private industry and public sector clients. Karen O’Neil has more than 17 years of experience across the same broad

range of clients and Maribel Aguilera has more than four.

The Firm represents clients in a very broad range of areas of law including business entity formation and operations, real estate acquisition, development, leasing and disposition, public and private agency employment law, wine, vineyard, and general agriculture law, trusts and estates and civil litigation. The firm represents and does work on a routine basis for the following public agencies: Santa Maria Cemetery District, Guadalupe Cemetery District, North Kern Cemetery District, South Kern Cemetery District, Westside Cemetery District, Kern County No. 1 Cemetery District, Pomerado Cemetery District and. Additionally, the firm completed a significant special project for the City of Santa Maria within the past year.

- **Litigation experience and track record:**

Ms. O’Neil is a principal and chair of the Firm’s Civil Litigation and Employment Law Department. Ms. O’Neil has over 17 years of employer-side transactional and litigation experience, serving across a diverse range of industries as counsel to the region’s leading large and small scale enterprises. Ms. O’Neil has successfully defended and / or resolved numerous and varied employment matters as well as actions specific to public agencies. Ms. O’Neil has successfully persuaded courts to dismiss her public agency clients from lawsuits by filing skillfully prepared demurrers and Anti-SLAPP motions.

- **Knowledge and use of Alternative Dispute Resolution (ADR) techniques; ADR training and experience; and success record of advocacy in mediation and arbitrations:**

As an AV Rated litigation attorney, Ms. O’Neil has extensive experience with mediation and informal meet and confer sessions, and she enjoys a high resolution rate for her clients. Such mediations range from localized agricultural disputes to wage and hour class actions.

- **Knowledge and practice of law relating to land use and planning, CEQA, NEPA, general plans, real estate, environmental issues, hazardous waste and other related law:**

The Firm, through its attorneys, has experience in land use and planning, CEQA, NEPA, general plans, including land acquisition, long-term, and short-term leases, along with the related environmental issues, hazardous waste and other related law.

Ms. Aguilera has extensive knowledge in general plans, land use and zoning due to her experience as a Santa Maria Planning Commissioner for the City of Santa Maria. When she worked for the oil and gas industry she specialized in land use, short and long term leases, subdivision matters, CEQA, environmental matters, hazardous waste and real estate.

Ms. O’Neil’s experience with special districts regularly involves land use planning and leasing considerations as the Districts expand to serve a larger constituency. Such expansions often include land acquisition, public works contracts, and at times, eminent domain.

Mr. Simas’ experience as a City Attorney involved the full range of land use and planning issues facing cities. His experience as District Legal Counsel for the Oceano Community Services District was more limited but nonetheless involved land acquisition, leasing and disposition issues from the public agency perspective. Finally, Mr. Simas’ private sector work often involves commercial and agricultural land acquisition, leasing and development issues.

- **Experience in the area of personnel, workers’ compensation, general liability and employee relations:**

The Firm represents many public sector and both small and large scale private employers. That work involves counseling and preventive advice to employers, and aggressively representing employers in litigation. The broad range of employment matters includes, but is not limited to, discrimination, harassment, class actions, drug and alcohol testing, wrongful discharge, wage-and-hour disputes, leave laws (i.e. FMLA), defamation and union negotiations.

Ms. O’Neil is a member of the Association of Workplace Investigators and so the firm also conducts independent workplace investigations. She conducts investigations, counsels employers on how to conduct investigations, and defends employers in lawsuits relating to investigations. Ms. O’Neil also is a regular speaker at industry groups to provide training to employers and employer groups on employment related topics, including but not limited to, hiring, firing, discipline, harassment and discrimination prevention, workplace investigations, and employment law developments and trends.

Recent speaking engagements include conferences and seminars sponsored by AgSafe, the Employer Advisory Council (EAC), the California Association of Public Cemeteries (CAPC), the Santa Maria Chamber of Commerce and the Santa Maria Human Resources Association. She also guest lectures at Allan Hancock College on union topics. Ms. O’Neil’s specialty is assisting employers to navigate the complicated and ever-changing landscape of California employment law.

- **Experience in the area of contracts and franchises and the Public Contracts Code:**

The Firm has decades of experience in negotiating, drafting and interpreting contracts on behalf of both public agencies and private parties contracting with public agencies. This includes contracts for public works, as well as RFPs, RFQs and documents for public works bid packages. Notable specific projects have included a three party power supply and easement maintenance agreement among a school district, a municipality and a public utility, development agreements for publicly owned land being disposed of by a City for development, negotiation of a

substantial revision to a trash hauling franchise, cell tower contracts and representation of both the public agency and private parties on various land acquisition agreements in lieu of eminent domain.

- **Experience in the preparation and review of ordinances and resolutions:**

Attorneys at the firm have routinely prepared ordinances and resolutions as part of the firm's representation of the City of Guadalupe, Oceano Community Services District, and other special districts.

During his service at both the City of Guadalupe and the Oceano Community Services District, Mr. Simas worked on projects to codify the agencies' uncodified ordinances.

In addition, and on an annual basis, Ms. O'Neil's public cemeteries are required by the Health and Safety Code to make certain inquiries and adopt certain resolutions.

Finally, Ms. Aguilera has worked on crafting ordinances and resolutions for the City of Santa Maria.

- **Experience in the area of the Public Records Act, the Brown Act, and the Elections Code:**

Over Mr. Simas and Ms. O'Neil's long experience, both have routinely dealt with Brown Act and Public Records Act matters. Ms. O'Neil also provides regional training to special districts on the Brown Act and how to respond to public records requests. Ms. O'Neil also provides bi-annual mandated ethics training for public officials at the state conferences for public cemeteries.

During Mr. Simas' experience with both the City of Guadalupe and the Oceano Community Services District he routinely provided Elections Code advice and handled one specialized elections law matter (Measure W) for the City of Santa Maria.

- **Experience in the area of municipal code enforcement:**

Code enforcement is at the discretion of the public agency and the Firm's experience is that generally the public agency uses the criminal sanctions as a last resort. We have generally found that direct and open contact with the public by well trained code enforcement officers is usually the best starting point. When that fails we have been involved in letter writing campaigns that, if necessary can escalate to a municipal hearing board and ultimately to citations and infraction or misdemeanor enforcement proceedings. As a practical matter we have found it to be the very rare case that requires resort to the criminal courts.

B. Specify the individual that you propose for appointment as City Attorney.

Maribel Aguilera

- C. Specify the individual(s), if any, that you would propose as Assistant City Attorney and/or who would be designated as competent, substitute / backup legal representation for the City, in the event of the absence or unavailability of the City Attorney.**

Alexander F. Simas and Karen A. O'Neil would serve as the backup to Ms. Aguilera if she is not available. Additionally, they each would be regularly available to provide specialized expertise within their areas of specialty when appropriate.

- D. Describe the response time we can expect from the City Attorney to inquiries made by the City Council / City Administrator.**

Ms. Aguilera understands the need for accessibility of counsel and therefore an initial contact would be nearly immediate, as Ms. Aguilera would provide a cell phone number where she can be reached daily from 7:00 AM to 11:00 PM. While a more thorough follow up response may be necessary to the initial inquiry depending on the complexity and nature of the inquiry Ms. Aguilera will be available via cell phone to respond to any inquiries. If desired, Ms Aguilera and Ms. O'Neil will also make themselves available for office hours that may be coordinated with City Council and City Staff to accommodate their schedules.

- E. Describe systems/mechanisms that would be established to ensure timely responses to City Council and City staff.**

Maribel Aguilera will be the primary point of contact for the City so that the City can be assured of special attention. She will promptly respond to requests or inquiries. If she is not available Mr. Simas or Ms. O'Neil will respond. Mr. Simas typically is in the office and available early in the mornings (before 7:00 AM) and after a full day, works from home at night and on weekends so his e-mail is constantly monitored. Similarly Ms. O'Neil frequently works late into the evenings at the office.

If they are not available, the other two firm associates, Mr. Nash and Mr. Principe will be available to at least ascertain the nature of the inquiry and pursue a response.

The attorneys do not take vacations at the same time so someone would always be available to address the City's issues. Moreover, all the attorneys carry e-mail enabled smart phones and routinely respond to e-mails while away from the office. Finally the attorneys are supported by paralegals and a law clerk that can field questions and ensure the City receives a timely response.

- F. Describe the response time we can expect from the City Attorney to inquiries made by the City Council/City Manager.**

Responses to inquiries generally can be made within not more than 24 hours.

- G. Describe systems/mechanisms that would be established for monthly reporting of**

status of projects, requests, and litigation.

The Firm routinely will provide a detailed billing invoice that can serve as a report of the status of projects and litigation. That invoice can be on an aggregate basis or broken down by department or project. Additionally, on litigation projects it is customary to provide clients with a monthly or quarterly narrative report that focuses on not only the recent case history but also anticipated actions. In the case of other, transactional type projects, clients typically have less interest in periodic reports unless the project is a very large one that will span several months.

Regardless what is typical in the industry, the Firm is committed to providing the City whatever it needs to track the legal work on a regular or ad hoc basis.

J. Describe the staffing of your office, including permanent and temporary employees and their general duties and work schedules. Include any changes you would propose, now or in the future, should you be awarded a contract to provide legal services to the City.

The Firm has two principal attorneys (Alex Simas and Karen O'Neil), three associate attorneys (Maribel Aguilera, Matthew Nash and Anthony Principe), three paralegals, one law clerk and four administrative support staff, including an office manager. All the employees listed are regular full-time employees. The work schedule for paralegals, the law clerk and support staff is Monday through Friday, 8:00 AM to 5:00 PM.

The attorneys' general duties are to provide legal services to clients and they make themselves available when and where the clients' needs dictate.

The paralegals' general duties are to support the attorneys with routine research and drafting projects as well as administrative work related to client matters.

The law clerk's general duties are similar to the paralegals except that he is more focused on research and drafting projects (primary in litigation matters) with little client interface or other administrative duties.

The administrative support staff provides receptionist, billing, supply and facilities management and other typical administrative functions.

The Firm does not anticipate any changes to its overall staff associated with the City's work but is always planning for and reacting to changing circumstances. If necessary the Firm has the means to adjust on a short time frame.

K. It is anticipated that the City will contractually require monthly-itemized statements for all services and will subject these statements to audit at least annually. Describe how you would provide for this reporting.

The Firm routinely provides monthly itemized invoices to its clients. Depending upon the City's desires the invoices be prepared through a single account for all work or in multiple accounts broken out by Department or by project. When accounts are broken

into subaccounts a summary cover statement can also be provided.

Invoices can be presented in hard copy or by e-mail.

Electronic copies of the statements and back up detail are retained at least five years and can be available for audit for at least that long.

- L. Please submit an example of a typical invoice your firm would provide. Please redact any references to specific costs. Also, you may redact any sensitive information. We are interested in the format, type of information included, and readability.**

See Exhibit D attached.

- M. Identify the types of in-service training (such as ethics and AB 1234, commission roles and responsibilities, how to conduct performance evaluations, harassment, etc.) your firm is capable of providing to the city.**

As noted above, Ms. O'Neil has the experience and otherwise is qualified to provide training on topics, including but not limited to, AB1234 (Ethics), public records requests, hiring, firing, discipline, harassment and discrimination prevention, workplace investigations, and employment law developments and HR trends.

- N. The City of Buellton will require the firm with which a contract is established, prior to commencement of work, to provide evidence of appropriate general liability and automobile liability insurance (\$1,000,000 per occurrence and \$2,000,000 aggregate), professional liability/errors and omissions insurance (\$2,000,000 per occurrence). Such coverage must be provided by an insurance company(ies) authorized to do business in the State of California. Certificates must name the City of Buellton and its respective officials, officers, employees, agents and volunteers as additional insureds and shall provide that contractor's policy is primary over any insurance carried by the City of Buellton and that the policy will not be cancelled or materially changed without thirty (30) days prior notice in writing to the City of Buellton. The successful proposer must agree, if awarded a contract as a result of its proposal, to indemnify and hold harmless the City of Buellton, its officers, agents, and employees from any and all claims and losses accruing or resulting to persons engaged in the work contemplated by its proposal or to persons who may be injured or damaged by the firm or its agents in the performance of the work. Prior to commencement of any work, these and other provisions will be established contractually.**

Agreed

4. CONFLICT OF INTEREST:

- A. Please list any political contributions of money, in-kind services, or loans made to any member of a city council within the last three years by the applicant law firm**

and all of its attorneys, including the attorney being proposed to represent the City of Buellton.

None

B. Please list all public agency clients for which your firm currently provides services or are under retainer.

The firm currently represents and does work on a routine basis for the following public agencies:

Santa Maria Cemetery District, Guadalupe Cemetery District, North Kern Cemetery District, South Kern Cemetery District, Westside Cemetery District, Kern County No. 1 Cemetery District, Pomerado Cemetery District and Lompoc Public Cemetery District. Additionally, the firm completed a significant special project for the City of Santa Maria within the last year.

C. Please list all public agency clients for which your firm previously provided services over the last five years.

Within the past five years the Firm provided services to the following public agencies:

City of Santa Maria, Santa Maria Cemetery District, Guadalupe Cemetery District, North Kern Cemetery District, South Kern Cemetery District, Westside Cemetery District, Kern County Cemetery District No. 1, Tehacapi Cemetery District, Pomerado Cemetery District, Artesia Cemetery District, Little Lake Cemetery District, Oak Hill Cemetery District, Soledad Cemetery District, Pajaro Cemetery District, and Lompoc Public Cemetery District.

D. Please specify current or known future professional commitments, so that the City may evaluate your continuing availability for providing legal services to the City.

Maribel Aguilera is committed to serving as a Santa Maria Planning Commissioner until January 2019, the Planning Commission meetings are held the first and third Wednesday of the month at 6:30pm. Ms. Aguilera does not anticipate a conflict with availability but if one arises she is able to resign as Planning Commissioner. Neither Ms. O'Neil nor Mr. Simas has on-going professional commitments that would interfere with the ability to provide legal services.

E. Please explain how you will address conflicts of interest between work for the City and other clients, if and when they occur.

The Firm has done work for many years for several Santa Ynez Valley private party clients, two of which are headquartered within the City. Only one of those clients has had any business with the City within the past ten years of which we are aware. It is not anticipated that a conflict would arise however, if one did, our firm would, recuse itself as to the matter. We also anticipate making arrangements with a locally based and experienced public agency lawyer who is independent of our firm but can handle conflict

matters on an ad hoc basis.

5. MONTHLY RETAINER / BILLABLE HOURS:

A. Provide the fixed monthly retainer amount along with a fee schedule for additional “special” services.

Fixed Monthly Retainer: \$12,250 based upon an anticipation of 50 routine services hours per month (+/- \$245 per hour on average regardless which attorney may work on the file.)

Additional Special Services:

For training matters the Firm charges \$375 per session.

For all other Special Services the Firm bills its public agency clients at reduced hourly rates of \$265 per hour for attorneys (regardless the attorney working on the file) and \$100 per hour for paralegal or law clerks.

B. Please give your definition of “general” legal services. Would all general services be included in your monthly retainer?

General Services Definition: All legal services other than those associated with training sessions and litigation, including alternative dispute resolution processes. All general services would be included in the monthly retainer.

C. Please define any “extra” services such as litigation, and describe if such services will be billed at a different hourly rate or basis.

Extra Services Definition: All services associated with litigation, including alternative dispute resolution process is an extra service because the extent of services cannot be accurately anticipated. The Firm bills its public agency clients for such extra services at reduced rates of \$265 per hour for attorneys (regardless the attorney working on the file) and \$100 per hour for paralegal or law clerks.

D. Please give your definition of “special” legal services? How are they differentiated from general legal services? Would any special services be included in your retainer? If so, please identify them.

For the Firm’s purposes, “Special Legal Services” are defined in the same way as “Extra Legal Services except that training sessions are billed at \$375 per session.

E. How would you help the City remain within its adopted budget for legal services?

In providing legal services to the City the Firm sees its primary obligation as responding competently and effectively to requests from authorized City representatives. Consequently the City will largely control its own budget. That said the Firm’s billing system allows for monitoring costs and fees incurred against an established budget. If desired by the City the Firm can establish budget controls and reports on a monthly or

quarterly basis on a per project, department or overall basis.

F. Describe your preference for method of payment, payment terms, and your procedure for billing of retention, hours, and expenses and any other accounting requirements.

Generally the firm will produce a bill detailing services and costs by the fifth of each month for the fees and costs incurred during the prior calendar month. Bills can be tendered in hard copy or electronically. If subaccounts for specific projects or departments are requested the Firm also can provide a summary billing compiling the subaccount totals.

The general expectation is that bills will be paid before the end of the month within which tendered.

G. Define the type and unit rates for reimbursement of expenses; for example, rate for travel time, mileage, reproduction of documents or word processing charges, unit costs for telephone costs, etc.

Routine travel time (to and from the Firm's office and locations in the Buellton area), mileage, postage, copying, telephone costs and word processing on general matters would be included in the retainer.

All out of pocket costs, regardless whether related to general or litigation matters, such as overnight courier or third party vendor charges (filing fees, investigators, appraisers, title insurance, etc) would be billed at the actual cost with no overhead added.

In ligation matters: (including alternative dispute resolution):

1. Travel outside the Santa Maria and Buellton area would be billed for time only (no charge for mileage).
2. Postage would be billed at the actual cost with no overhead charge.
3. Photocopying would be charged a \$0.20 per page.

H. Please provide the costs of any in-service training you can provide to the City.

Trainings are charged at a flat rate of \$375 per session.

I. If you expect to have a cost-of-living adjustment incorporated into the agreement with the City, please explain how you propose it be computed and implemented.

The Firm does not expect to have a cost-of-living adjustment incorporated into the agreement with the City unless the City seeks a fixed term contract of more than three years.

J. Would you be willing to operate under a maximum annual expenditure cap with the

City? If so, please explain how it might be structured.

The Firm would be willing to consider a maximum annual expenditure cap with the City but in order to provide an intelligent answer to the question we would need to discuss the City's anticipated future needs further and consider what exceptions might need to apply.

6. REFERENCES:

Becky Badenell (Referral for Karen A. O'Neil)
District Manager
Santa Maria Cemetery District
(805) 925-4595
Fax (805) 928-9665
Email: Beckie@SantaMariaCemetery.com

Danny R. Brown (Referral for Karen A. O'Neil)
District Manager
South Kern Cemetery District
(661) 845-2540
Fax (661) 845-3861

Rueben Pascual (Referral for Karen A. O'Neil)
Board Chair
North Kern Cemetery District
(661) 229-7795
Email: PRueben764@AOL.com

Maynard Silva (Referral for Alex Simas)
Past Guadalupe City Administrator
(805) 714-8185
Email: SilvaMaynard@gmail.com

Henry Lawrence (Referral for Alex Simas)
Past Guadalupe City Administrator
(253) 282-1558
Email: Henry@CityofEaglePoint.org

Gil Trujillo (Referral for Maribel Aguilera)
City Attorney
City of Santa Maria
(805) 925-0951 Ext. 2310
Email: GTrujillo@CityofSantaMaria.org

Alice Patino (Referral for Maribel Aguilera)
Mayor
City of Santa Maria
(805) 680-0722

Email: APatino@CityofSantaMaria.org

Etta Waterfield (Referral for Maribel Aguilera)
Councilmember
City of Santa Maria
(805) 714-1379
Email: Waterfield.Etta@gmail.com

7. **ADDITIONAL INFORMATION:**

None

**EXHIBIT A TO
PROPOSAL TO PROVIDE LEGAL SERVICES
TO THE CITY OF BUELLTON**

RESUME OF MARIBEL A. AGUILERA

[Resume follows on next page.]

MARIBEL AGUILERA

2550 Professional Parkway, Santa Maria, CA 93455 ♦ C: 805-714-2750 ♦ MAguilera@KirkSimas.com

PROFESSIONAL SUMMARY

Motivated attorney with solid experience seeking a position as City Attorney with the City of Buellton where I am able to utilize my experience and skills to provide great legal service to the city.

SKILLS

- Business advice
- Real estate matters
- Zoning
- Land Use
- Oil and gas litigation
- Extensive research experience
- Discovery
- Trial experience
- Excellent communication skills
- Public relations

WORK HISTORY

Associate, 6/2018 to Present

Kirk & Simas, LPC – Santa Maria, CA

- Assist clients in business, real estate, oil and gas law and business entity formation.
- Land use, zoning, permitting, land development projects.
- Conduct due diligence on property matters.
- Conduct due diligence in order to clear title on properties.

Solo Practitioner, 11/2014 to 6/2018

Law Offices of Maribel Aguilera – Santa Maria, CA

- Advice clients in property law, landlord/tenant law, oil and gas law, business entities and real estate matters.
- Interpreted laws, rulings, ordinances and regulations for individuals and businesses.
- Draft purchase and sale agreements and various agreements for business clients.
- Researched and analyzed land development issues for large development project.
- Conduct title work and draft title opinions.
- Resolve Landlord/Tenant disputes
- Developed strategies and arguments in preparation for presentation of cases.
- Presented key evidence and exhibits during trials.
- Questioned and cross-examined witnesses throughout the course of trials.
- Researched, wrote and filed all motions, oppositions, and briefs for each case.
- Drafted objective memoranda for each matter.
- Interviewed witnesses and gathered public record research relevant to each case.

Attorney, 11/2014 to 06/2016

Legal Aid Foundation – Santa Maria, CA

- Mediate Landlord/Tenant disputes.
- Questioned and cross-examined witnesses throughout the course of trials.
- Proposed requests for admission and requests for production of documents.
- Represent clients in divorce, custody, visitation and paternity actions, domestic violence and U-Visa process.

Petroleum Landman and Public Relations, 10/2011 to 11/2014

ERG Operating Company – Santa Maria, CA

- Perform legal research and draft memoranda in environmental, land use, oil and gas and real property law.
- Provide advice regarding land matters to company executives and managers.
- Analyze and interpret oil and gas leases, contracts and county ordinances.
- Negotiate and draft deeds, easements, right of ways, contracts, oil and gas leases, assignments, joint operating agreements to expand the development and production of the oil and gas field.
- Conduct oil and gas lease review.
- Negotiate large business transactions.
- Assist in acquisitions and divestitures of company property.
- Work collaboratively with Environmental Department to assist in analyzing and complying with regulations and permitting requirements.
- Engage in proactive activities to ensure that the legal exposure of the company is minimized.
- Educate landowners on state and county property law.
- Serve as primary contact for landowners to resolve all land issues in order to establish excellent working relationships.
- Develop public relations for the company.

Petroleum Landman, 06/2009 to 10/2011

Greka Oil & Gas Inc – Santa Maria, CA

- Work for General Counsel.
- Legal research
- Assist General Counsel in discovery, document production, interrogatories, request for admissions and depositions.
- Prepare cases for trial.
- Draft legal memorandum on real property issues, oil and gas law and real estate law.
- Negotiate and obtain right of ways and easements.
- Review contracts, oil & gas leases, purchase and sale agreements, license agreements and other legal agreements to determine rights and obligations.

- Manage royalty owner's legal conveyances, change of ownership and royalty payments.
- Review, renew and edit oil and gas lease, surface lease and grazing agreements.
- Coordinate title date down for corporation to assist in corporate transaction.
- Review and interpret title documents to ensure accuracy and determine title defects.
- Prepare and file documents with secretary of the state for fictitious business name registration.
- Provide litigation support to in-house general counsel and outside counsel.

EDUCATION

Juris Doctorate:

Santa Barbara College of Law - Santa Barbara

Memberships: Student Bar President, Student Bar Secretary and Delta Theta Phi-Tribune

Bachelor of Arts: Psychology

La Sierra University - Riverside, CA

Student Body Secretary, Dorm president and Psi Chi Honors Society.

LANGUAGES

Bilingual, able to read, write and converse fluently in Spanish.

AFFILIATIONS AND PUBLIC SERVICE

Board Member, National Association of Royalty Owners, (2014 - Present)

Planning Commissioner, City of Santa Maria, (2015-Present)

Board Member Econ Alliance, (2018-Present)

Member, North County Bar Association, (2018-Present)

REFERENCES

References provided in RFP.

**EXHIBIT B TO
PROPOSAL TO PROVIDE LEGAL SERVICES
TO THE CITY OF BUELLTON**

RESUME OF ALEXANDER F. SIMAS

[Resume follows on next page.]

ALEXANDER F. SIMAS

Kirk & Simas
2550 Professional Parkway
Santa Maria, CA 93455
(805) 934-4600
ASimas@KirkSimas.com

Education and Licenses:

Santa Clara University School of Law, J.D., 1976 (magna cum laude)
Santa Clara University, B.A. (History), (1972) (cum laude)
California State Bar, admitted to practice, 1976
United States District Court, Central District of California, 1977
United States District Court, Eastern District of California, 2009

Employment History:

Law Offices of Daniel J. Kirk, associate attorney, 1976-1980
Kirk & Simas, shareholder/principal attorney, 1981-present (President, 1993-2017)
(Same firm. Name change upon becoming a shareholder.)

Relevant Practice Experience:

City Attorney / Redevelopment Agency Counsel, City of Guadalupe / Guadalupe Community
Redevelopment Agency (1985-2003)
District Counsel, Oceano Community Services District (2001-2011)
Special Counsel, Santa Maria Cemetery District (regular and special projects - 1993-2008)
Special Counsel, Allan Hancock Community College District (special projects - 1997-2013)
Special Counsel, City of Santa Maria (miscellaneous special projects - 2003-present)

Civic Activities:

Board of Directors, Heritage Oaks Bank (2003-2017)
Board of Directors, Hacienda Bank (1998-2003)
Board of Directors, Northern Santa Barbara County Bar Association (1976-present, Treasurer
2009-2018)
Board of Directors, Santa Maria Valley Boys and Girls Club (1977-1982, president - 1980-1981)
Board of Directors, Santa Maria Valley Boys and Girls Club Foundation (1991-present)
Board of Directors, Santa Maria Valley Chamber of Commerce (1985-2003, president-1993)
Board of Directors, Allan Hancock College Foundation (1998-2004)
Board of Directors, Marian Medical Center Foundation (2002-2008)
Board of Advisors, St. Joseph's High School (1998-2002)

**EXHIBIT C TO
PROPOSAL TO PROVIDE LEGAL SERVICES
TO THE CITY OF BUELLTON**

RESUME OF KAREN A. O'NEIL

[Resume follows on next page.]

KAREN A. O'NEIL
Kirk & Simas
2550 Professional Parkway
Santa Maria, Ca 93455
(805) 934-4600
Koneil@kirksimas.com

CAREER SUMMARY

17 years of general civil litigation experience with an emphasis on employment and labor law, public agencies, and agribusiness. Worked in small and large private firms as well as the U.S. and California Departments of Justice. Experienced in all phases of litigation, including ADR, trial work and appeals. Represent and advise public agencies on various aspects of public governance, including but not limited to, operations, policies, personnel, land management, ethics, and statutory compliance.

PROFESSIONAL HISTORY

KIRK & SIMAS, PLC

Santa Maria, CA

3/11-
Present

Principal / Department Chair

Joined preeminent "AV" law firm and then within one year became a Principal and Department Chair. Practice areas focus on public agencies, employment and labor law, and agribusiness. Counsel employers on how to navigate the complicated legal landscape of California employment law, defend employers in all levels of litigation from DLSE hearings to class actions, and represent and advocate for client in ADR settings.

- Successfully represented clients in class action lawsuits.
- Implemented regional training for public cemeteries on a range of legal and operational issues.
- Received the California Association of Public Cemeteries President's Award for dedication and service in the training and education of trustees and district managers.
- Earned Martindale-Hubbell "AV" preeminent peer review rating for legal ability and ethical standards.

TWITCHELL AND RICE, LLP

Santa Maria, CA

7/03-
2/11

Litigation Attorney

Joined well-established Central Coast firm as an associate in 2003 and then promoted to partner in 2006. Practice areas included agriculture, contract law, employment law, and cemetery law. Represented clients during all phases of litigation. Researched and drafted motions, trial briefs, and appeals.

- Successfully defended client in a jury trial in 1.5 million dollar fraud claim.

- Established regional cooperation and exchange of information between public cemeteries

7/02 – **LITTLER MENDELSON, P.C.** **Santa Rosa, CA**
 5/03 **Litigation Attorney**

Attorney with the nation’s largest management-side labor and employment law firm. Represented and advised management clients in connection with all types of labor and employment matters arising under federal and state laws. Argued motions, took and defended depositions, prepared pleadings, opinion letters, employee handbook reviews, represented clients at mediations, prepared witnesses for trial, conducted cross-examination at trial, and negotiated settlements.

- Second-chaired high profile trial, the first brought under new statute governing union claims against trial courts.
- Successfully defended claims before the Division of Labor Standards Enforcement.

8/00- **O’BRIEN WATTERS & DAVIS, LLP** **Santa Rosa, CA**
 7/02 **Litigation Associate**

Litigation attorney with prominent Sonoma County law firm. Practice focused on insurance defense, wrongful discharge, and fraud. Experience in all phases of litigation, including ADR and appeals. Represented clients in numerous depositions, mediations, and settlement negotiations. Conducted both direct and cross-examination in jury trial.

- Second-chaired jury trial defending former CEO against claims for fraud, misrepresentation, and conversion.

1999 **CALIFORNIA DEPARTMENT OF JUSTICE** **Sacramento, CA**
Summer Law Clerk

Clerked for the Appeals, Writs and Trials Section of the California Department of Justice. Analyzed, researched, and prepared responses to criminal appeals.

- Prevailed on 4 out of 4 appeals
- Researched and prepared an appellate brief that resulted in a published opinion and established new law. (*People v. Saepanh* (2000) 80 Cal.App.4th 451).

1998 **U.S. DEPARTMENT OF JUSTICE** **Washington, D.C.**
Summer Law Clerk

Clerked for the Violence Against Women Office. Researched and analyzed the Hate Crimes Prevention Act and researched jurisdictional issues in Indian Country for the Office of Tribal Justice.

EDUCATION & CREDENTIALS

2000 Admitted to the California Bar

2000 J.D. (with distinction) University of the Pacific, McGeorge School of Law, Sacramento, California

- **Class Ranking: Top 13/217 (Top 6%)**
- Order of the Coif
- Top Oral Advocate (McGeorge Moot Court Competition)
- Best Oralist Award (National Moot Court Competition, Regional Rounds)
- AMJURS in Appellate Advocacy and Constitutional Law

1997 B.A. Political Science (cum laude) San Diego State University, San Diego California

- GPA: Major (4.0) All schools (3.5)
- 1997 Most Outstanding Senior, Department of Political Science (selected by faculty)

**EXHIBIT D TO
PROPOSAL TO PROVIDE LEGAL SERVICES
TO THE CITY OF BUELLTON**

INVOICE EXEMPLAR

[A redacted exemplar of a billing invoice follows on the next page.]

KIRK & SIMAS

— A Professional Law Corporation —

2550 Professional Parkway
Santa Maria, CA 93455-1602

(805) 934-4600 (Voice) - (805) 934-1184 (Fax)

Internet e-mail: Info@KirkSimas.com

Billing Office e-mail: Billing@KirkSimas.com



Statement Date: May 31, 2018
Statement No.: 153495
Account No.: 11221.01 M
Page: 1

Attn:

RE:GENERAL BUSINESS

Previous Balance as of 04/30/2018 \$

Services through 05/31/2018

			Hours
05/01/2018	KAO	Research updates in the law as to specific code section cited to in the installment and analyzed their applicability to same.	1.00
05/03/2018	KAO	Telephone call with General Manager regarding e-mail from financing Company regarding income; Review and analyze audit report; send explanatory e-mail to client regarding Section 18 debt limit and review of audit.	0.40
05/07/2018	KAO	Finalize resolution; series of e-mails regarding project and financing.	0.50
	KAO	Continue to work on modifications to the financing agreement' prepare counsel legal opinion letter; research tax exempt financing.	1.50
05/08/2018	KAO	Telephone conference with regarding tax exempt financing in general and this Installment Sale Agreement in particular.	0.30
	KAO	Tailor certificate of incumbency and district certificate for the financing agreement; prepare and send comprehensive explanatory e-mail regarding necessary steps to execute the financing documents.	1.40
05/10/2018	KAO	Final review of financing documentation and signatures; e-mail to Bill Morton.	0.30
05/15/2018	KAO	Review terms of agreement, model release for situations similar to the one involving the family, and provided instructions for initial draft for review.	0.40
	KAO	E-mail regarding mandated legal description for closed session as well as issue relating to harassment by a vendor.	0.40
	KW	Receipt of instructions from Attorney O'Neil; Prepare draft Settlement Agreement and correspondence to .	0.80
05/16/2018	KAO	Attorney work on release to refine provisions and provide additional release language; e-mail exchange with General Manager regarding to incorporate into the release.	0.50

			Hours
	KW	Receipt of instructions from Attorney O'Neil; Update Settlement Agreement and correspondence to [REDACTED] regarding the settlement agreement.	0.40
05/17/2018	KW	Telephone conferences with [REDACTED] regarding [REDACTED]; Update settlement agreement and cover letter to [REDACTED].	0.50
	ST	Legal research regarding video recording public employees on public property. Reviewed facts of case and reviewed the state of the law regarding video recording.	2.50
05/18/2018	ST	Legal research regarding video recording public employees on public property. Reviewed the law regarding illegal recording of audio and video as it pertains to public employees.	2.10
05/21/2018	KW	Telephone conferences with Client regarding settlement with [REDACTED]; Prepare e-mail to Client with Settlement Agreement and cover letter. Prepare e-mail to Attorney O'Neil.	0.40
	ST	Legal research regarding video recording public employees on public property. Reviewed the law as it relates to employees protection from invasion of privacy.	3.10
05/22/2018	ST	Legal research regarding video recording public employees on public property. Researched harassment as it applies to public employees and the standard to obtain restraining orders. Drafted e-mail memorandum to attorney regarding analysis.	3.50
	KAO	Final review and approval of [REDACTED] release and agreement.	0.10
05/24/2018	ST	Review research and prepare memorandum to client regarding the status of the law when a private citizen is video recording employees doing work on a public premises.	1.80
05/29/2018	KW	E-mail exchange with Client regarding signed Settlement Agreement with [REDACTED]	0.20
05/30/2018	KW	Telephone conferences with [REDACTED] regarding [REDACTED] paperwork and her request for [REDACTED]. Prepare e-mails to Attorney O'Neil. Receipt of instructions from Attorney O'Neil; Prepare e-mails to Client.	0.60
	KAO	Provide response to staff regarding damage to [REDACTED] and public records request.	0.20
05/31/2018	KAO	Provide further feedback to General Manager regarding [REDACTED]. For Current Services Rendered	0.20 23.10

Expenses through 05/31/2018

05/14/2018	Photocopies at \$0.20 per page.
05/14/2018	Postage.
	Total Expenses
	Total Current Work

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT (“Agreement”) is made and entered into by and between the CITY OF BUELLTON, a general law city (hereinafter “CITY”), and the law firm of BURKE, WILLIAMS & SORENSEN, LLP (hereinafter “BWS”):

WITNESSETH:

The parties hereto do agree as follows:

SECTION 1. RECITALS.

This Agreement is made and entered into with respect to the following facts:

A. BUELLTON has heretofore engaged the services of BWS to act as the City Attorney for CITY to perform all legal services as needed by CITY; and

B. The CITY went through the Request for Proposals process to select a City Attorney and held interviews for said position; and

C. Based on the results of the interview process and the decision of the Buellton City Council, CITY desires, pursuant to this Agreement, to provide for the continuation of such legal services to the CITY by BWS, in the time and manner set forth in this Agreement; and

D. The legislative body of CITY has heretofore determined that the public interest, convenience and necessity require the execution of this Agreement.

SECTION 2. APPOINTMENT OF CITY ATTORNEY-GENERAL COUNSEL.

Gregory M. Murphy, a BWS partner, is hereby appointed as the City Attorney of CITY. City Attorney shall serve at the pleasure of the legislative body of CITY, and may be replaced at anytime, with or without cause, by the legislative body, without amending this Agreement. The City Attorney, or his approved successor, shall be responsible for providing or causing to be provided the legal services contemplated by this Agreement.

SECTION 3. DESIGNATION OF ASSISTANT CITY ATTORNEY-GENERAL COUNSEL.

The City Attorney, with the consent of the legislative body of the CITY, has designated Kane Thuyen as Assistant City Attorney. Mr. Thuyen shall serve at the pleasure of the legislative body of the CITY and may be replaced, at any time, with or without cause, by the legislative body.

SECTION 4. LEGAL SERVICES.

BWS shall perform the legal services necessary to serve CITY which shall include, but are not limited to, the items outlined in their August 24, 2018, proposal to CITY incorporated into this agreement as Attachment A. Other legal items as requested by the City Manager and/or City Council shall also be provided at the firm's approved billing rate.

SECTION 5. COMPENSATION.

BWS shall be compensated for providing the legal services contemplated by this Agreement, in accordance with the following:

A. Retainer Services. "Retainer Services," for the purpose of this Agreement, shall mean those services performed by the City Attorney and designated Assistant City Attorney including, but not limited to, the items noted in the BWS August 24, 2018, proposal included with this agreement as Attachment A. BWS's compensation for such Retainer Services shall be in the sum of \$10,250 per calendar month for the first fifty (50) hours expended in providing such services. Said retainer shall remain in effect until June 30, 2020. Prior to June 30, 2020, BWS may request the CITY to approve an increase to the retainer amount equal to the average Consumer Price Index for the previous four quarters.

B. Legal Services above Retainer and Non-Retainer Legal Services. For Retainer Services above the retainer hours and for non-retainer legal services, BWS's compensation shall be in accordance with the fee schedule contained in the August 24, 2018, BWS proposal included as Attachment A to this Agreement. Said rates shall remain in effect until June 30, 2020. Prior to June 30, 2020, BWS may request the CITY to approve an increase to the rate structure in an amount equal to the average Consumer Price Index for the previous four quarters.

C. Travel Time. The City Attorney and designated Assistant City Attorney shall not be entitled to any compensation for travel time or reimbursement of mileage expenses. Compensation for travel time of any other attorney of BWS who is required to attend meetings at the request of CITY or represent CITY in court shall be at the rate contained in the August 24, 2018, BWS proposal included as Attachment A to this Agreement. Said rates shall remain in effect until June 30, 2020. Prior to June 30, 2020, BWS may request the CITY to approve an increase to the rate in an amount equal to the average Consumer Price Index for the previous four quarters.

D. Reimbursement Expenses. BWS shall be entitled to reimbursement for all reasonable and necessary expenses incurred by it in the performance of legal services hereunder. "Reimbursable expenses" shall mean and include, but not be limited to reproduction of documents (currently \$.20 per black and white page, \$1 per color page), facsimile (currently \$1.00 per page); mileage reimbursement (currently \$.54.5 per mile – Note: will not include the City Attorney and Assistant City Attorney), and other costs reasonably and necessarily incurred in performing services for the CITY.

E. Invoices and Payment for Services.

(1) Invoices. BWS shall submit monthly invoices to CITY for all services provided and costs incurred pursuant to the terms of this Agreement. Said invoices shall set forth by date the type of work performed, the time spent on a task and the identity of the attorney performing the task. Fees are charged in increments of 1/10th of an hour. Invoices shall contain itemized descriptions of any out-of-pocket expenses incurred during the prior month.

(2) Payment. Payment to BWS shall be made by CITY within thirty (30) days of receipt of the statement.

SECTION 6. TERM AND TERMINATION.

The term of this Agreement shall commence on January 1, 2019, and shall continue until December 31, 2024. Subject to City Council approval, the Agreement may be extended an additional three years. Agreement may be terminated earlier as follows:

A. Termination by CITY. The legislative body of CITY may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to BWS.

B. Termination by BWS. BWS may at any time, with or without cause, terminate this Agreement upon ninety (90) days written notice to CITY.

C. Compensation in the Event of Termination. BWS shall be compensated for its services and reimbursed for costs rendered through and including the effective date of such termination.

SECTION 7. COMPLIANCE WITH LAWS.

BWS shall comply with all obligations required of it pursuant to the State Bar Act and other applicable laws, in connection with its provision of legal services hereunder.

SECTION 8. NOTICES.

Notices required pursuant to this Agreement shall be given by personal service upon the party to be notified, or by delivery of same into the custody of the United States Postal Service, or its lawful successor, postage prepared and addressed, or via e-mail, as follows:

BUELLTON: City of Buellton
107 West Highway 246,
P. O. Box 1819
Buellton, California 93427
Attn: City Manager
Marcb@Cityofbuellton.com
805-686-7429

BWS: Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, CA 90071
Attn: Gregory M. Murphy
GMurphy@bwslaw.com
213-236-2835

Service of a notice by personal service shall be deemed to have been given as of the date of such personal service. Notices given by deposit with the United States Postal Service shall be deemed to have been given five (5) consecutive business days following the deposit of the same in the custody of said Postal Service. Either party hereto may, from time to time, by written notice to the other, designate a different address or person which shall be substituted for that above specified.

SECTION 9. INDEMNIFICATION.

BWS does hereby agree to hold CITY and their respective elected and appointed officers and employees free and harmless from any claim, demand or judgment which may arise based upon personal injury to a third party or damage to property of a third party arising out of the performance of services by BWS pursuant to this Agreement.

SECTION 10. INSURANCE.

Not in derogation of the provisions of Paragraph 9 hereof, BWS does hereby agree to take out and maintain, in full force and effect, during the term or extended terms of this Agreement, the following insurance coverage:

- A. Liability insurance coverage, as is customary for law firms; and
- B. Such insurance coverage as is required pursuant to the Workers' Compensation Laws of the State of California; and
- C. Professional Liability Insurance.

SECTION 11. GENERAL PROVISIONS.

A. Assignment. BWS shall not assign this Agreement, or any of the rights, duties or obligations hereunder.

B. Status of Independent Contractor. Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal or agent, or of a partnership, or of a joint venture, or of any other association of any kind or nature between the CITY and BWS, nor shall any employee of BWS be deemed to be an employee of CITY. BWS is an independent contractor. Employees of BWS shall not be deemed to be employees or agents of CITY. Neither CITY nor any of their respective officers, employees, servants or agents shall have control over the conduct of BWS or any of BWS's officers, employees or agents.

C. Discrimination. In the performance of this Agreement, BWS shall not engage in any unlawful discrimination of any kind, including without limitation, in its employment practices.

D. Entire Agreement. This Agreement constitutes the entire Agreement of the parties concerning the subject matter hereof and all prior agreements or understandings, oral or written, are hereby merged herein. Except as expressly set forth herein, this Agreement shall not be amended in any way except by a writing expressly purporting to be such an amendment, signed and acknowledged by both of the parties hereto.

E. Interpretation. Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

F. Waiver. No waiver of any provision of this Agreement by either party hereto shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless executed in writing by the party making the waiver.

SECTION 12. EFFECTIVE DATE.

This Agreement shall be effective on **January 1, 2019**.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their representatives as follows:

CITY OF BUELLTON

DATE: November 8, 2018

By: _____
Holly Sierra
Mayor

ATTEST:

Linda Reid
City Clerk

BURKE, WILLIAMS & SORENSEN, LLP

DATE: _____

By: _____
Managing Partner

Attachment A

August 24, 2018, Proposal/ Scope of Services/Cost Structure

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: MPB
Council Agenda Item No.: 5

To: The Honorable Mayor and City Council

From: Rose Hess, Director of Public Works

Meeting Date: November 8, 2018

Subject: Review and Approval of One-Year Contract Extensions for MNS Engineers and Tetra Tech, Inc.

BACKGROUND

On September 22, 2016, Council awarded contracts for engineering services to MNS Engineers, Inc. and Tetra Tech. General city engineering services contract was assigned to MNS Engineers, Inc., and development, encroachment and utilities plan check/inspection services contract was assigned to Tetra Tech.

The development, encroachment and utilities plan check/inspection services were segregated from the original scope of work due to complaints from developers regarding the efficiency of the inspection time provided by MNS Engineers. Since Tetra Tech has begun performing review of private projects, inspection coverage has been reduced on private work, but is still required for full oversight for public improvements. Over the past two years, City staff has found numerous illegal water connections and issues with dumping, which is being followed up on by Tetra Tech. While the amount of inspection time has decreased, unfortunately, Tetra Tech's presence on overall construction inspections has decreased, leading to the failure to catch illegal dumping and illegal water connections. The level of service for inspections/development oversight has been discussed with Tetra Tech stressing the need to preserve the City's interest and protection of our infrastructure. In other words, they need to be more proactive on their inspections.

The initial contract time period was for 2 years from December 8, 2016 with the Council's option of three one-year additional contract extensions. Attachments 1 and 2 are the proposed hourly rates for MNS Engineers and Tetra Tech, respectively. The rates for MNS remain the same as the original contract. The rates for Tetra Tech reflect a 3% increase from their original contract.

FISCAL IMPACT

General City engineering services are funded through the General Fund, Enterprise Funds (Water and Sewer), Measure A, Gas Tax, and Grant Funds, as appropriate by project. Development services are provided through developer deposits. Utility encroachment permits are partially funded by General Fund for costs exceeding their blanket permit fees. Work for both MNS and Tetra Tech are within the amounts contained in the budget.

RECOMMENDATION

Staff recommends that the City Council approve the additional one-year contract extension for engineering services for MNS Engineers, Inc and Tetra Tech, with the proposed hourly rate sheets noted in Attachments 1 and 2.

ATTACHMENTS

Attachment 1 – MNS Engineers 2018 Rate Sheet
Attachment 2 – Tetra Tech 2018 Rate Sheet

ATTACHMENT 1

2018-2019

STANDARD SCHEDULE OF FEES

PROJECT MANAGEMENT

Principal-in-Charge	(230)	\$250
Principal Project Manager	(220)	230
Project Manager	(185)	200
Project Coordinator		120



This fee schedule is proprietary to the City of Buellton only and shall not apply to any other jurisdiction. The prices shown in () are the job titles currently in use for the City on a regular basis with their associated discounted fees. These reductions are shown next to the standard fee schedule rate and are made part of this proposal. In the case where no () is shown, it is either because that service is not utilized or prevailing wage is in effect.

ENGINEERING

Principal Engineer	(200)	\$220
Principal Structural Engineer	(200)	220
Lead Engineer	(190)	200
Supervising Engineer	(175)	185
Senior Structural Engineer		185
Senior Project Engineer	(160)	170
Structural Engineer		170
Project Engineer	(135)	150
Associate Engineer	(125)	135
Assistant Engineer		115
Engineering Intern		95

SURVEYING

Principal Surveyor	(190)	\$200
Supervising Surveyor	(175)	185
Senior Project Surveyor		170
Project Surveyor		150
Senior Land Title Analyst		130
Assistant Project Surveyor		125
Party Chief		140
Chainperson		120
One-Person Survey Crew		180

CONSTRUCTION MANAGEMENT

Principal Construction Manager		\$200
Senior Construction Manager		185
Resident Engineer		170
Structure Representative		160
Construction Manager		150
Assistant Resident Engineer		145
Construction Inspector (PW)		138
Office Engineer		105

TECHNICAL SUPPORT

CADD Manager	(120)	\$140
Senior GIS Analyst		140
GIS Analyst		120
Supervising CADD/Engineering/GIS Technician		120
Senior CADD/Engineering/GIS Technician		110
CADD/Engineering/GIS Technician		100

ADMINISTRATIVE SUPPORT

Administrative Analyst		\$110
IT Technician		105
Graphics/Visualization Specialist		95
Administrative Assistant		70

GOVERNMENT SERVICES

City Engineer	(190)	\$200
Deputy City Engineer	(175)	185
Assistant City Engineer	(160)	175
Plan Check Engineer	(145)	160
Permit Engineer	(125)	140
City Inspector		125
City Inspector (PW)		138
Principal Program Manager		200
Senior Program Manager		175
Program Manager		150
Principal Stormwater Specialist		150
Senior Stormwater Specialist	(120)	135
Stormwater Specialist	(110)	120
Stormwater Technician		110
Principal Environmental Specialist		150
Senior Environmental Specialist	(125)	135
Environmental Specialist		115
Environmental Technician		95
Building Official		150
Senior Building Inspector		138
Building Inspector		125
Planning Director		185
Senior City Planner		160
Assistant Planner		145
Senior Grant Writer		160
Grant Writer		135

DIRECT EXPENSES

Use of outside consultants as well as copies, blueprints, survey stakes, monuments, computer plots, telephone, travel (out of area) and all similar charges directly connected with the work will be charged at cost plus fifteen percent (15%). Mileage will be charged at the current federal mileage reimbursement rate. Expert Witness services will be charged at three (3) times listed rate and will include all time for research, deposition, court appearance and expert testimony, but are not charged as part of this proposal.

PREVAILING WAGE RATES

Rates shown with Prevailing Wage "(PW)" annotation are used for field work on projects subject to federal or state prevailing wage law.





ATTACHMENT 2

EXHIBIT A

City of Buellton (November 2018)

HOURLY CHARGE RATE AND EXPENSE REIMBURSEMENT SCHEDULE

Project Management

Project Manager	\$169.95
QA/QC Manager	\$180.25
Principal in Charge	\$226.60

Engineers

Engineering Technician	\$87.55
Engineer 1	\$103.00
Engineer 2	\$118.45
Engineer 3	\$128.75
Project Engineer 1	\$133.90
Project Engineer 2	\$144.20
Project Engineer 3	\$164.80
Sr Engineer	\$221.45

Scientists / SWPPP Inspectors

Scientist 1	\$82.40
Scientist 2	\$103.00
Scientist 3	\$136.99
Sr Scientist	\$164.80

Construction

Construction Technician	\$97.85
Assistant Construction Manager	\$139.05
Senior Construction Manager	\$175.10
Construction Inspector	\$128.75
Senior Construction Inspector	\$149.35

General & Administrative

Project Assistant	\$87.55
Graphic Artist	\$133.90
Technical Writer	\$103.00

Surveyors

Survey Tech	\$97.85
Survey Associate	\$123.60
Party Chief	\$123.60
Licensed Land Surveyor	\$144.20
Sr. Licensed Land Surveyor	\$164.80
Two Man Survey Crew	\$216.30

Designers & Technicians

CAD Designer	\$97.85
Sr CAD Designer	\$123.60
GIS Analyst	\$108.15

Engineering Review / Permit / Inspection Fees:

Encroachment Permits	\$1,000.00
Blanket Permits	\$250.00
Storage/Trash Bins	\$250.00
Driveway Improvements - Residential Widening	\$500.00
Driveway Improvements - Residential New Driveway	\$1,000.00
Driveway Improvements - Commercial	\$250.00
Sidewalk/Drainage (simple scope)	10% of construction cost
Sidewalk/Drainage (large area, complex scope)	10% of construction cost, \$200 min.
Underground Utilities (private sewer repairs, etc)	T&M
Major Underground Utilities	10% of construction cost, \$500 min.
Walls	No Fee
Newspaper Racks/Mailboxes	\$100.00

Development Review: Fees for review and inspection will be based on "Time and Materials" and will depend on the size of the development.

All other direct costs, such as production, special photography, postage, delivery services, overnight mail, printing and any other services performed by subcontractor will be billed at cost plus 15%.

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: MPB
Council Agenda Item No.: 6

To: The Honorable Mayor and City Council

From: Linda Reid, H.R. Director

Meeting Date: November 8, 2018

Subject: Resolution No. 18-21 – “A Resolution of the City Council of the City of Buellton, California, Adopting Updated Personnel Rules for City Employees”

BACKGROUND

The City’s current Personnel Rules were last amended and adopted August 27, 2015. Certain state and federal laws have been enacted since then which affect the Personnel Rules. The proposed update and restatement of the Personnel Rules will implement the new laws and other sections have been updated to reflect current City policies. All of the proposed changes are outlined in Attachment 1, revised Personnel Rules.

Over the past several months, staff has worked closely with Katy Suttorp of Burke, Williams and Sorensen, to review and update the Personnel Rules. For clarity, these Rules have been restated to incorporate all of the previous provisions and amendments that continue in effect along with the most recent revisions into one comprehensive document.

RECOMMENDATION

That the City Council consider adoption of Resolution No. 18-21 - “A Resolution of the City Council of the City of Buellton, California, Adopting Updated Personnel Rules for City Employees”

ATTACHMENTS

Resolution No. 18-21
Attachment 1 – Revised Personnel Rules

RESOLUTION NO. 18-21

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF BUELLTON, CALIFORNIA,
ADOPTING UPDATED PERSONNEL RULES FOR
CITY EMPLOYEES**

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 01-08 implementing Personnel Rules for its employees on June 21, 2001; and

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 02-09 approving and adopting Amendment No. 1 of the Personnel Rules for its employees on April 25, 2002; and

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 08-04 Updating and Restating Personnel Rules for City Employees on February 28, 2008; and

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 10-06 Updating Personnel Rules for City Employees and Revising Certain Employee Job Descriptions on February 25, 2010; and

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 12-19 Updating and Restating Personnel Rules for City Employees on June 28, 2012; and

WHEREAS, the City Council of the City of Buellton adopted Resolution No. 15-21 Updating and Restating Personnel Rules for City Employees on August 27, 2015; and

WHEREAS, certain state and federal laws have been enacted since that time which affect the Personnel Rules; and

WHEREAS, updating and restating the Personnel Rules to reflect the statutory changes and other minor modifications will result in one comprehensive document; and

WHEREAS, attached hereto, marked as Attachment 1 to the staff report and incorporated herein by this reference, are the updated and revised Buellton Personnel Rules; and

WHEREAS, the City Council desires to amend the Personnel Rules to more fully reflect the needs of the City of Buellton and its employees.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Buellton as follows:

1. The City Council hereby finds that the above recitations are true and correct and, accordingly, are incorporated as a material part of this Resolution.

2. The Buellton Personnel Rules are hereby adopted as shown in Attachment 1 to the staff report.
3. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 8th day of November, 2018.

Holly Sierra
Mayor

ATTEST:

Linda Reid
City Clerk

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RULE I. GENERAL PROVISIONS

SEC. 1.1 PURPOSE

These Rules are intended to implement and supplement the Personnel Ordinance and the Classification and Salary Resolution in the establishment and maintenance of an efficient and uniform personnel program for the City of Buellton ("City").

SEC. 1.2 APPLICABILITY

A. The provisions of these Rules apply to all employees in the Classified Service. Unless otherwise required by law or expressly stated herein, the applicability of these Rules to individuals in the Exempt Service (as defined in 1.4(B)(16)), is limited to the following Rules: **Rule I** (General Provisions) **Rule XVIII** (Policy Against Workplace Violence).

B. In addition to the Rules identified in Section 1.2(A), the following Rules will also apply to Department Directors: **Rule II** (Classification); **Rule III** (Compensation); **Sections 4.1-, 4.2, 4.3.A.1, 4.3.E., and 4.2 4.3.F. of Rule IV** (Applications, Recruitment and ~~Examining~~Examinations); **Rule V** (Appointments); **Rule VII** (Performance Reports); **Rule VIII** (Hours of Work/Overtime); **Rule IX** (Leaves of Absence); **Rule X** (Layoff/Separation/Retirement); **Rule XI** (Outside Employment/Political Activities); **Sections 12.1, 12.2, and 12.3 of Rule XII** (Disciplinary Actions); **Rule XIV** (Employee Benefits); **Rule XV** (Educational Assistance); **Rule XVI** (~~Uniforms~~City-Provided Attire and Equipment), and **Rule XVII** (Dress Code), **Rule XIX** (Personnel Files and Records), and **Rule XX** (Whistleblowing).

C. In addition to the Rules identified in Section 1.2(A), the following Rules will also apply to all temporary, seasonal, and part-time employees: **Section 3.15 (Pay Periods)**, **Sections 4.3.A.1, 4.3.E, 4.3.F of Rule IV (Applications, Recruitment and Examinations)**; **Section 5.6 of Rule V (Nepotism)**; **Section 9.3 of Rule IX** ~~Rule VIII~~, **except Sections 8.6 (Rest Periods) and 8.7 (Meal Periods)**, **Sections 9.3** (Sick Leave), **9.6 (Military Leave)**, **9.7 (Jury Duty)**, **9.8 (Voting Leave)**, **9.9 (Election Official Leave)**, **9.10 (Lactation Breaks)**, **9.11 (Unpaid Leaves of Absence)**, **9.12 (Unauthorized Leaves of Absence and Failure to Return from Leave)**, **9.15 (Victim Leave)**, **9.16 (School Visitation or Participation Leave)**, and **Section 9.17 (Leave for Emergency Duty as Volunteer Firefighter, Reserve Peace Officer, or Emergency Rescue Personnel)**; **Rule X (Layoff/Separation/Retirement)**; **Rule XI** (Outside Employment/Political Activities); **Sections 12.1, 12.2, and 12.3 of Rule XII (Disciplinary Actions)**; **Rule XVI** (~~Uniforms~~City-Provided Attire and Equipment); ~~Rule XVII~~ (Dress Code); ~~Rule XIX~~ (Personnel Files and Records); ~~and Rule XX~~ (Whistleblowing). Also, **Rule IV** (Applications, Recruitment and Examinations) will apply in full to part-time employees, but not temporary or seasonal employees.

SEC. 1.3 AMENDMENT OF RULES

The City Council shall have authority to adopt, amend, or repeal these Rules as provided in the Personnel Ordinance. The Personnel Officer shall have authority to prepare and recommend revisions to the Personnel Rules.

SEC. 1.4 DEFINITION OF TERMS

- A. General Definition: All words and terms used in these Rules and in any resolution or ordinance dealing with personnel policies, system, or procedures shall be defined as they are normally and generally defined in the field of personnel administration unless a specific definition is provided for herein.
- B. Specific Definitions:
1. Acting Appointment: An interim appointment to temporarily perform the duties of a higher position. The person filling this position must meet the minimum standards or qualifications of the position. Acting appointments are held on an at-will basis by current City employees. [Acting appointments to a vacant position during a pending recruitment will last no longer than 960 hours in a fiscal year.](#)
 2. Advancement: A salary increase within the limits of a pay range established for a Class.
 3. Allocation: The assignment of a single Position to its proper Class in accordance with the duties performed, and the authority and responsibilities exercised.
 4. Appointing Authority: The City Manager or his/her designee shall make the appointments to Positions in the Classified Service. The City Manager or his/her designee shall make the appointments to Positions in the Exempt Service except that the City Council shall appoint the City Manager, City Clerk, City Attorney, and City Treasurer.
 5. Career Advancement: Employees who obtain a Grade II Operator Certificate for Water or Wastewater from the State Water Resources Control Board while in a Maintenance & Utility Worker I position are eligible to advance to a Journey level classification within the same position in accordance with Section 3.8 of these Personnel Rules. This process shall be exempt from requirements regarding promotion and reclassification.
 6. Class: All Positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

7. Classified Service: All Positions of employment in the service of the City except those in the Exempt Service.
8. Compensation: The salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any Position, but does not include expenses authorized and incurred incidental to employment.
9. Continuous Service: Service in the employ of the City without a break or interruption. A severance of the employee from his/her employment initiated by either the City or the employee for periods of more than fifteen (15) days constitutes a break in continuous service, except where otherwise required by law.
10. Council: The City Council of the City of Buellton.
11. Days: Calendar days unless otherwise stated.
12. Demotion: The movement of an employee from [a Position in](#) one Class to [a Position in](#) another Class having a lower maximum base rate of pay.
13. Department Director: Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees with the concurrence of the Personnel Officer, or the responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
14. Disciplinary Action: The written reprimand, discharge, demotion, reduction in pay, or suspension of a regular or management employee for punitive reasons.
15. Domestic Partner: A person who has filed a Declaration of Domestic Partnership with the California Secretary of State pursuant to California *Family Code* section 297 *et seq.*
16. Eligibility List: The list which contains the names of successful applicants according to relative performance on the total weighted examinations.
17. Exempt Service: The Exempt Service shall include the following:
 - a. All elected officials and members of boards and commissions;
 - b. The City Manager, City Attorney, City Clerk, and City Treasurer;
 - c. All Department Directors;
 - d. Architects, consultants, counsel and others rendering temporary professional services;

- e. Voluntary personnel and personnel appointed to service without pay;
 - f. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood or earthquake which threatens life or property;
 - g. Such other Positions involving seasonal or part-time employment; and
 - h. Any new Position created at the Department Director, Assistant Department Director, or staff level, if it is specified as exempt by the City Council at the time of creation.
18. Full-Time Employees: Employees whose Positions work more than one thousand (1,000) hours per fiscal year. All Positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work.
19. Human Resources Director: The City Clerk/Human Resources Director or his/her designee.
20. Internal Recruitment: A recruitment for a particular Position that is open to Regular and probationary Employees only.
21. Lay-Off: The separation of employees from the active work force due to lack of work or funds, or to the abolition of Positions by the City Council for the above reasons or due to organization changes.
22. Management: Those employees holding the position of Department Director or higher.
23. Minimum Qualifications: The minimum requirements for an applicant to be considered for a particular City position, which vary according to the position sought.
24. Non-exempt Employees: Employee who hold Positions that, by the nature of the job requirements or the salary earned, is entitled to earn compensation at an overtime rate. Non-exempt status is based on applicable state and federal law, including, but not limited to guidelines under the Fair Labor Standards Act ("FLSA").
25. Open-Competitive Recruitment: A recruitment for a particular Position that is open to all interested applicants.
26. Part-Time Employees: Employees whose Positions work less than one thousand (1,000) hours per fiscal year, are paid on an hourly basis and only receive fringe benefits that are specifically provided to part-time employees by separate resolution of the City Council, or as may be expressly provided in these Rules.

27. Position: A group of duties and responsibilities in the Classified Service requiring the full-time or part-time employment of one person.
28. Personnel Officer: The City Manager or his/her designee.
29. Personnel Ordinance: Ordinance No. 92-16 which creates a personnel system for the City.
30. Probationary Period: A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the Position to which the employee is appointed by actual performance of the duties of the Position.
31. Promotion: The movement of an employee from a Position in one Class to a vacant Position in another Class having a higher maximum base rate of pay.
32. Provisional Appointment: An appointment of a person who is not a current employee and who possesses the minimum qualifications established for a particular Class due to the absence of available eligible candidates.
33. Reduction in Pay: A temporary or permanent decrease in an employee's rate of pay for disciplinary reasons.
34. Reemployment List: A list of names of Regular Employees who have been laid off from a Position.
35. Regular Employee: An employee in the Classified Service who has successfully completed the Probationary Period and has been retained as hereafter provided in these Rules.
36. Reinstatement: The restoration without examination of a former employee or probationary employee to a classification in which the employee formerly served.
37. Rejection: The involuntary separation from the City service of an employee who has not successfully completed the Probationary Period for a Position, or the demotion of an employee who did not successfully complete the employee's promotional probationary period.
38. Resignation: The voluntary separation of a City employee from the City service.
39. Salary Range: The range of Salary Rates for a Class.
40. Salary Rate: The dollar amount of each step in a Salary Range, or the flat dollar amount for a Class not having a Salary Range.
41. Salary Step: The minimum through maximum salary increments of a Salary Range.

42. Seniority: An employee's status in relation to other employees based first on years of service in a particular Class and then on total years of service at the City.
43. Suspension: The temporary separation from service of an employee without pay for disciplinary purposes.
44. Temporary Employee: An employee who is appointed for a limited period of time for a specified, limited purpose and is only entitled to benefits as provided by resolution of the City Council. A Temporary Employee is not appointed to a Position.
45. Transfer: The movement of an employee from one Position to another vacant Position in the same Class or to a vacant Position in another Class with the same maximum base rate of pay.

SEC. 1.5 NON-DISCRIMINATION

A. Equal Employment Opportunity

The City is committed to a policy of equal opportunities for applicants and employees. The City does not discriminate against applicants or employees with respect to terms or conditions of employment based on race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation (including homosexuality, heterosexuality, and bisexuality), gender identity, gender expression, age, religious or political affiliation or belief, ethnicity, national or geographical origin, creed, physical or mental disability, medical condition, genetic information, marital or registered domestic partner status, membership in or attitude toward any employee organization, military or veteran status, or any other characteristic protected by state or federal law or local ordinance, nor does the City discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants.

B. Disabled Applicants and Employees

Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The City will engage in the interactive process, as defined by the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA"), to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

1. **Request for Accommodation.** An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Director. The request must identify: 1) the job-related functions at issue; and 2) the desired accommodation(s). Reasonable accommodation can include, but

is not limited to job restructuring, reassignment to a vacant Position for which the employee is qualified, leaves of absence, and making facilities accessible.

2. Reasonable Documentation of Disability. Following receipt of the request, the Human Resources Director may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform his/her essential functions, but will not require disclosure of diagnosis or genetic history.
3. Interactive Process. The City will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, the City, and, if necessary, the employee or applicant's health care provider.
4. Case-by-Case Determination. The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The City will not provide an accommodation that would pose an undue hardship upon the City or that is not required by law. The City will inform the employee of any decisions made under this section in writing.
5. Fitness for Duty Leave. While the City is engaged in the interactive process with an employee, [or while otherwise awaiting the outcome of a medical examination based on an employee's possible lack of fitness for duty.](#) the City may require that the employee be placed on a fitness for duty leave ~~in accordance with Article 22, Section 14.~~
6. Medical Examinations.
 - a. Depending on the essential functions of a position, a medical examination may be required for:
 - (1) Applicants who have received a conditional offer of employment;
 - (2) Employees seeking a transfer from one position requiring general physical abilities to another position requiring physical abilities of a more different nature;
 - (3) Employees returning to work from a medical leave of absence. The physician conducting the medical examination will be supplied with a current job description indicating the essential functions of the position; or

(4) When a supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.

b. The results of all medical examinations will be kept confidential. Examination results for newly hired employees and employees transferring to another position will be kept in the employee's confidential medical file. No employee will hold any position in which the employee is not able to perform the essential functions of the job, with or without reasonable accommodation.

C. Prevention of Harassment/ Discrimination/Retaliation

1. City policy prohibits harassment and discrimination based on an employee's race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation (including homosexuality, heterosexuality, and bisexuality), gender identity, gender expression, age, religious or political affiliation or belief, creed, physical or mental disability, medical condition, genetic information, marital or registered domestic partner status, membership in or attitude toward any employee organization, military or veteran status, and/or any other category protected by federal and/or state law. In addition, City policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment investigation, proceeding, or hearing.

2. Employees who believe they have been harassed, discriminated against, or retaliated against, should report that conduct to the City, and the City will investigate those complaints. For more information regarding the policy and complaint procedures, employees should review the City's policy against harassment, discrimination, and retaliation.

RULE II. CLASSIFICATION

SEC. 2.1 PREPARATION OF PLAN

The Personnel Officer shall ascertain and record the duties, responsibilities, minimum standards, and minimum qualifications of all Positions in the City and shall recommend a classification/compensation plan for all Positions to the City Council for adoption. The classification/compensation plan need not be contained in only one document, but may be comprised of various documents. The classification/compensation plan shall consist of Classes of Positions defined by Class specifications or job descriptions, including the title. The classification/compensation plan shall be so developed and maintained so that all Positions substantially similar with respect to duties, responsibilities, authority,

and character of work are included within the same Class, and that the same schedules of compensation may be made to apply with equity under similar working conditions to all Positions in the same Class. The classification/compensation plan will contain the General Salary Schedule and a General Benefits Schedule.

SEC. 2.2 ALLOCATION OF POSITIONS

Following the adoption of the classification/compensation plan, the Personnel Officer shall allocate every Position in the Classified Service to one of the Classes established by the plan.

SEC. 2.3 NEW POSITIONS

A new Position shall not be created and filled until the classification plan has been amended by the Personnel Officer and adopted by the City Council to provide therefore and an appropriate eligibility list established for such Position.

SEC. 2.4 RECLASSIFICATION AND REALLOCATION

If the Personnel Officer determines that the assigned duties for a Position have been materially changed by the City so as to warrant reclassification, to a new or already created Class, the Personnel Officer shall determine whether to recommend that the Position be reclassified by the City Council and reallocated by the Personnel Officer to a more appropriate Class following adoption of an amended classification/compensation plan by the City Council. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant, ongoing change in assigned duties and responsibilities.

The Personnel Officer shall consider input from the incumbent Employee in the Position and from the Department Director but shall have sole discretion in determining whether to recommend reclassification of a Position to the City Council.

SEC. 2.5 ~~SEC. 2.5~~ CLASS SPECIFICATIONS/JOB DESCRIPTIONS

A. The Personnel Officer with the assistance of the Department Directors will prepare written job descriptions for each Class of positions.

B. Each job description will include the Class title, a brief description of the scope, nature, and responsibility of the Class, a description of the tasks or duties ordinarily performed in the Positions allocated to the Class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Job descriptions are not restrictive. The job descriptions, shall not be construed as an all-inclusive list of tasks performed; or be interpreted as restricting the assignment of related tasks not specifically listed therein; or as limiting the authority of supervisory personnel to assign, direct and control the work of subordinate employees. A Department Director may assign other related duties and responsibilities or otherwise direct the work of employees.

C. Substantive revisions to job descriptions that are associated with substantive changes to the duties performed by a particular Class shall be subject to approval by the City Council. Non-substantive changes, such as to reflect previous, gradual changes in the conditions in which work is currently performed or to improve accuracy in describing the Class or Position title or non-substantive details associated with job duties already performed, may be approved administratively by the Personnel Officer and are not subject to approval by the City Council.

D. Each job description will identify the date of approval or last revision.

RULE III. COMPENSATION

SEC. 3.1 SALARY ON APPOINTMENT

- A. New Employees: New employees shall be paid at the first step of the salary range for the Position to which the employee is appointed except as provided for elsewhere in these Rules.
- B. Advanced Step Hiring: The Personnel Officer may appoint a new employee to an advanced step of the pay range if it is determined that qualified applicants cannot be successfully recruited at the first step of the salary range.
- C. Reemployment: A person who previously held a Position with the City and was in good standing may, at the discretion of the City Manager, when reemployed in a Position with the same or lower pay range than held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination, or the nearest lower applicable step for the range to which the person is appointed.

SEC. 3.2 SALARY ANNIVERSARY DATES

Employees shall have a salary anniversary date ~~of the first or sixteenth day of the month, whichever is closer to the~~ on the same date of his/her initial hire date, promotion, demotion, reinstatement or reemployment, whichever is most recent. The salary anniversary date may be modified by the action of the Appointing Authority under Section 7.6.A.4.

SEC. 3.3 INCREASES WITHIN SALARY RANGE

Employees will normally become eligible for an adjustment in pay after twelve (12) months of service in the first or starting step. The adjustment shall be made only if recommended by the Department Director, and if approved by the City Manager. The remaining steps are incentive adjustments, based on performance evaluation, to encourage an employee to perform at his/her highest level, and to recognize seniority and increased skill on the job. Employees are normally eligible for these adjustments any time after the completion of twelve (12) months of service at the preceding step. This period may be shortened or extended in conjunction with the performance report recommendations and as approved by the City Manager.

SEC. 3.4 SALARY UPON PROMOTION

Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the salary range, any employee who is promoted to a Position in a Class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of a full step over the step he/she held in his/her former range. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the range. An employee thus promoted is assigned to a new salary anniversary date effective on the date of promotion.

SEC. 3.5 SALARY UPON TRANSFER

Any employee who is transferred from one Position to another Position in the same Class, or to another Position in a Class having the same salary range, shall be compensated at the same step in the salary range as he/she previously received and his/her salary anniversary date shall not change.

SEC. 3.6 SALARY ON CHANGE IN RANGE ASSIGNMENT

Whenever a Class is reassigned to either a higher or lower salary range by the Council, the salary of each incumbent in such Class on the date the reassignment is effective shall be adjusted to the step/salary Position in the new range that corresponds to the step/salary he/she was receiving in the former range and he/she shall retain the same salary anniversary date.

SEC. 3.7 SALARY ON REALLOCATION OF POSITION FOLLOWING RECLASSIFICATION

- A. If, following reclassification, the Position is reallocated to a Class having the same salary range, the salary and the salary anniversary date of the incumbent shall not change.
- B. If, following reclassification, the Position is reallocated to a Class which has a higher salary range, the City Manager shall adjust the salary of the incumbent employee to any step of the higher salary range which is at least as much as he/she was receiving in the former range and he/she shall retain the same salary anniversary date.
- C. If, following reclassification, the Position is reallocated to a Class with a lower salary range, and the employee's salary exceeds the top step of the Class to which his/her Position is reallocated, his/her salary shall not change until it is exceeded by the top step of the Class. The employee's salary anniversary date shall not change.

SEC. 3.8 CAREER ADVANCEMENT

- A. An employee who is currently employed in a Position in the Maintenance & Utility Field Worker I Class is eligible for Career Advancement to the Journey level

Maintenance & Utility Field Worker Class within the same Position, upon satisfaction of all of the following criteria:

1. Achieve ~~a~~ an overall rating ~~other~~ higher than "Does Not Meet Expectations" or equivalent on his/her most recent performance report.
 2. Complete the steps necessary to obtain a Grade II Operator Certificate for Water or Wastewater (whichever is required for the employee's assignment.)
 3. Submit a copy of the Grade II Operator Certificate to the City Manager.
 4. Receive and acknowledge written confirmation of Career Advancement from the City Manager.
- B. Career Advancement shall take effect on the first day of the next pay period following satisfaction of all of the above criteria, A.1 through A.4.
- C. An employee who attains Career Advancement shall be placed on the step of the salary range for the Journey level classification which is at least as much he/she was receiving in the former range. The employee's salary anniversary date shall not change.

SEC. 3.9 SALARY ON DEMOTION

Any employee who is demoted to a Position in a Class with a lower salary range shall have his/her salary reduced to a salary step in the range for the lower Class which is:

- A. If a disciplinary demotion, one or more steps less than that received in the salary range for the Class from which demoted. A new salary anniversary date shall be established on the basis of the demotion.
- B. If a non-disciplinary demotion, the step he/she would have attained in that lower Class if his/her services had been continuous in said lower Class with the same level of performance and length of service. He/she shall retain his/her salary anniversary date.

SEC. 3.10 ACTING PAY

- A. An employee who is ~~required on the basis of~~ assigned to an acting appointment ~~to serve in a Class with a higher salary range than that of the Class in which he/she is normally assigned, under Section 5.3 of these Rules~~ shall receive the entrance salary rate of the higher salary range or one rate higher than the rate he/she normally receives, whichever is greater, ~~provided the employee shall possess the Minimum Qualifications for the higher Class, and perform all the duties and assume all the responsibilities of the higher Class on a full-time basis.~~
- B. An employee is entitled to acting pay only after the employee has served for ten (10) consecutive working days in the higher classification. Acting ~~appointments will be made for an initial 30-day period and may be extended by the City~~

~~Manager for successive 30-day periods up to a maximum duration of six (6) months.~~ pay will be issued starting with the 11th consecutive working day that the employee serves in the acting appointment.

C. While receiving acting pay, the employee will not receive certificate pay or other premium or incentive pays unless an employee holding that higher position would also be eligible to receive that pay.

SEC. 3.11 ON-CALL PAY

Non-exempt employees in field positions who are placed on "on-call" status by the Department Director shall receive \$60.25 for each pay period for which they are in "on-call" status.

SEC. 3.12 MONTHLY SALARY

Monthly salary rates for Non-exempt employees are based on a 40-hour work week and no authorization may be made for such an employee to work less than said work week without a directly proportionate decrease in compensation, unless paid leave is used to make up the difference.

SEC. 3.13 LONGEVITY/SERVICE BONUS

As an incentive for continued employment with the City, employees will receive a ~~service~~ bonus on the following schedule:

- A. \$50 per month for completion of 5 to 9 consecutive or cumulative years of City employment.
- B. \$100 per month for completion of 10 to 14 consecutive or cumulative years of City employment;
- C. \$150 per month for completion of 15 to 19 consecutive or cumulative years of City employment.
- D. \$200 per month for completion of 20 or more consecutive or cumulative years of City employment.

Employees who were first hired on or before March 1, 1982 and have completed 20 or more consecutive years of City employment will receive \$286 per month.

SEC. 3.14 SPECIAL SALARY ADJUSTMENTS

Notwithstanding anything in these Rules to the contrary, in order to correct gross inequities, or in exchange for outstanding achievement and performance that the City Council may find justified, the City Council may by the affirmative vote of no less than three members, upon recommendation of the City Manager, adjust the salary rate of an incumbent of a particular Position to any step within the salary range for the Class to which the Position is allocated.

SEC. 3.15 PAY PERIODS

A. Timing of Pay Periods

1. The salaries and wages of all employees are paid ~~semi-monthly, on the 15th day and the last day of every month.~~ bi-weekly.
- ~~2. The Personnel Officer retains discretion to change the timing of future pay periods from semi-monthly to bi-weekly. Should the Personnel Officer decide to implement this change, employees will receive written notice of the intended change before the next pay day.~~
2. ~~3.~~In the event a pay day falls on one of the observed holidays listed in these ~~rules, or on a Saturday or Sunday~~Rules, the immediately previous working day shall become the pay day.

RULE IV. APPLICATIONS, RECRUITMENT AND EXAMINATIONS

SEC. 4.1 VACANCIES

- A. Vacant regular Positions in the Classified Service may be filled only by selection from an eligibility list, by acting or provisional appointment, by transfer, by reinstatement or by demotion. Selection of employees for Positions in the Classified Service is made by the Department Director for the Position, subject to approval by the City Manager.
- B. When a Classified Service Position becomes vacant, the Human Resources Director shall be notified by the Department Director responsible for the Position regarding the need to fill the vacancy, and the requested method for filling the vacancy.
- C. Announcements of all vacant Positions in the Classified Service will be posted on a bulletin board in City Hall.

SEC. 4.2 ANNOUNCEMENT OF VACANCIES/ACCEPTANCE OF APPLICATIONS

- A. If a continuing need for the Position exists, the Personnel Officer will determine whether to conduct an initial internal recruitment or proceed directly to an open-competitive recruitment.
- B. The Personnel Officer may conduct an internal recruitment when he or she determines, in his/her sole discretion, that doing so is in the best interest of the City.
 1. If the Position will be filled by open-competitive recruitment only, then the Human Resources Director will publicly advertise the Position by a written announcement setting forth the basic requirements for the job, a closing date for acceptance of applications, and information where applications and the job description can be obtained.

2. If the Personnel Officer determines that an initial internal recruitment will be conducted, then the Human Resources Director will limit all initial advertisement for the position to current employees only and will initiate the examination process in accordance with Section 4.3.A., ending with an interview with the responsible Department Director.
 - a. As part of an initial screening process, employees who achieved a any rating of “Does Not Meet Expectations” or equivalent, on their most recent performance report will be disqualified from further consideration at the first step of the internal recruitment.
3. Following completion of the interview process for internal applicants and scoring of candidates in accordance with Section 4.3.A.2.c., the Department Director will provide the Personnel Officer with a written recommendation, as follows:
 - a. The internal eligibility list should be used in accordance with Section 4.3.F. to extend a conditional offer of employment.
 - b. Cause exists as set forth in Section 4.3.B. to abolish the internal eligibility list and proceed with an open-competitive recruitment for which any prior internal candidates may re-apply.
- C. If the Personnel Officer finds cause to abolish the internal eligibility list, the affected applicants will receive written notice of this action and of the opportunity to re-apply in connection with the open-competitive recruitment.
- D. For all recruitments, applications will be available in the office of the Human Resources Director and online through the City’s website. Applications will be collected by the Human Resources Director until the closing date specified in the announcement for acceptance of applications.
- E. Applications lacking information deemed material by the Personnel Officer may not be accepted. The City may notify the applicant regarding missing information and provide an opportunity to re-submit. Any incomplete applications, including re-submitted applications that remain incomplete, that are received fewer than two full business days before the end of the filing period will not be given consideration.

SEC. 4.3 ELIGIBILITY LIST/SELECTION TESTING

Following the closing date for applications, and completion of the examination process, an eligibility list shall be created.

- A. Examination Process
 1. Criminal Conviction History
 - a. The City shall not ask any applicant for employment to disclose, through any written form or verbally, at any time, information

concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.

b. Unless otherwise required by law, the City shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until the City has ~~determined that the applicant meets the minimum~~ issued a conditional offer of employment ~~qualifications, as stated in any notice issued for the position.~~ The job announcement for the position in question will advise whether a lawful exception to this provision applies, such as for positions subject to the stringent requirements of Public Resources Code Section 5164.

~~c. Applicants who are invited to participate in an interview following initial screening for minimum qualifications will be requested to complete a supplemental application regarding criminal conviction history for review by the City, and a background screening, as part of the examination process.~~

2. Examination Process ~~and Background Screening~~

a. Examinations shall be conducted and used to aid in the selection of qualified employees. They shall consist of recognized selection techniques that will fairly test the qualifications of candidates and shall be job-related. Examinations may include, but are not limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combination thereof. The Human Resources Director may set minimum standards for all tests.

~~b. All employees will have their fingerprints submitted for clearance through the California Department of Justice and other agencies as deemed appropriate. Fingerprints will be submitted using the "LiveScan" process and in accordance with applicable state, federal, and local laws regarding the LiveScan process.~~

~~c. The City also retains the right to conduct a thorough background check of each applicant. When conducting background checks on applicants, the City shall comply with all requirements of the Federal Fair Credit Reporting Act and the California Investigative Consumer Reporting Agencies Act.~~

b. ~~d.~~ Upon scoring of all selection components, the names of applicants will be placed on eligibility lists, ranked according to scores.

c. ~~e.~~ In case of tied scores, the following rules shall apply:

- (1) For purposes of placement on the list of eligibles, if an applicant who has a tied score is a veteran, as that term is defined in Section 50088 of the California Government Code, or as may be amended, the tie will be broken in favor of the veteran, such that the veteran will be placed at a higher position than the non-veteran.
- (2) All other candidates with tied scores shall be listed in alphabetical order.

B. Duration of Eligibility Lists.

1. Eligibility lists shall become effective upon the Personnel Officer's certification that the lists represent the relative evaluations of the candidates whose names appear on them.
2. Unless otherwise provided in these Personnel Rules, eligibility lists shall be effective for a period of one (1) year from the date of their establishment, provided that the Personnel Officer may extend the period not to exceed an additional twelve (12) months. The Personnel Officer may abolish for cause an eligibility list at any time and request a new recruitment and the preparation of a new eligibility list for any Class or position. Two (2) or less names of qualified candidates available for appointment on an eligibility list constitutes sufficient cause for abolishing an eligibility list, but is not the sole reason constituting cause.

C. Removal of Names from Eligibility Lists. The Personnel Officer may remove the name of any eligible candidate from an eligibility list for any of the following reasons:

1. On evidence that the eligible candidate cannot be located by postal authorities. Failure to reply within five (5) business days to a letter requesting information as to availability for appointment, or failure to notify the Personnel Officer of any change of address resulting in the return of letters without forwarding by the U.S. Post Office, will be considered grounds for removal. A candidate who is notified of his/her removal under this section may request in writing that the Personnel Officer restore his/her name to the eligibility list. Such a request may be granted if, in the Personnel Officer's sole discretion, an acceptable reason exists for the candidate's failure to reply to a notice requesting availability for appointment or failure to file a notice of a changed address. Upon receipt of a verbal or written statement from the eligible candidate declining appointment and stating that he/she wishes his/her name to be removed from the eligibility list.
2. If an offer of regular full-time employment in the Class for which the eligibility list was established has been declined by the eligible candidate.

3. If an eligible candidate on a promotional eligibility list leaves the City service.
 4. After a determination has been made by the Personnel Officer that the candidate does not meet job-related standards.
- D. Availability of Candidates. It shall be the responsibility of eligible candidates to notify the Human Resources Department in writing of any change of address or other change affecting availability for consideration for appointment.

E. Offers of Employment and Related Procedures

1. Only the Personnel Officer may extend offers of employment to selected candidates. Employment offers for all positions will be made in writing and will include starting salary on an hourly, weekly, or monthly basis. An employment offer made in terms of annual salary does not imply a yearly contract.
2. ~~E. Disqualification based on Criminal Background Screening and Conviction History:~~
 - a. An offer may be conditioned on a requirement that the applicant be fingerprinted and/or undergo a background check prior to beginning employment. Refusal of an applicant to be fingerprinted, failure to report for fingerprinting, or failure to provide such information as is necessary to conduct a background check will be sufficient grounds for disqualification under Section 4.3.C.
 - b. All applicants will have their fingerprints submitted for clearance through the California Department of Justice and other agencies as deemed appropriate. Fingerprints will be submitted using the "LiveScan" process and in accordance with applicable state, federal, and local laws regarding the LiveScan process.
 - c. The City also retains the right to conduct a thorough background check of each applicant. A background investigation may include, but is not limited to reference checks, employment history, criminal history, and public records. When conducting background checks on applicants, the City shall comply with all applicable state and federal laws.
 - d. ~~4.~~ If the supplemental application or a subsequent background screening discloses a previous criminal conviction, the Personnel Officer will take conduct an individualized assessment, taking into account a number of factors in determining whether to disqualify the applicant or and rescind a the conditional offer, if any of employment. Such factors may include the nature of the position, nature of the conviction, length of time since conviction, and completion of any resulting incarceration or probation. ~~If the~~

~~Personnel Officer disqualifies the candidate based on the conviction, the City will provide written notification along with a copy of the criminal history report, if any.~~

~~F. Conditional Offer of Employment:~~

~~e. The Personnel Officer will then make a preliminary determination based on the results of the individualized assessment. If that preliminary determination is to disqualify an applicant based on conviction history, the Personnel Officer will issue a written notice of intent to the applicant, identifying the conviction at issue, including a copy of the conviction history report (if any), and advising of the applicant's right to respond within five business days to challenge the accuracy of the conviction history report and provide evidence of any mitigating circumstances. An applicant who notifies the Personnel Officer of efforts to obtain evidence disputing the conviction history information or report will receive a minimum of five additional business days to respond. The City Manager may permit additional time due to delay despite reasonable demonstrated efforts by the applicant.~~

~~f. After considering any information provided by the applicant, the Personnel Officer will make a final decision regarding disqualification.~~

~~(1) If the final decision is to disqualify the applicant based on conviction history, the Personnel Officer will provide written notice to the applicant of the decision and of the applicant's right to file a complaint with the California Department of Fair Employment and Housing.~~

3. Pre-Employment Medical Examinations

~~All~~ Following a conditional offer of employment, all job applicants are required to submit to a physician's examination, and depending on the Position, may also be required to submit to a drug screen, at the City's expense, upon being made a conditional offer of employment. No job commitment shall be made until a negative drug screen result is obtained, where applicable, and a physician has certified that the applicant is medically fit to perform the essential functions of the Position, with or without reasonable accommodation. When the applicant reports to the medical facility for the scheduled examination, personal identification shall be provided to the facility in the form of a photograph and verifiable signature (for example, a driver's license). The applicant may also be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. All test results will be kept confidential. The applicant will be told whether the tests were passed or failed, but only the Human Resources Director, the Personnel Officer and their assistant(s) will have access to the test results, on a need-to-know basis.

4. Firm Offer of Employment

The Personnel Officer will issue a firm offer of employment when the selected applicant has passed his or her background check and has passed his or her medical examination. The appointment will become effective when the applicant has signed all official papers required by the City, and those papers bear the appropriate signatures from City management confirming the appointment.

F. ~~G.~~ Employment Oath:

All employees of the City must complete and sign the Oath or Affirmation of Allegiance for Public Officers and Employees on the first day of employment or as soon thereafter as practicable in accordance with Article XX, Section 3 of the Constitution of the State of California. A signed copy will be included in the employee's personnel file.

RULE V. APPOINTMENTS

SEC. 5.1 APPOINTMENT OF NEW EMPLOYEE

The hire date of a new employee shall be that of the first day actually worked.

SEC. 5.2 PROVISIONAL APPOINTMENTS

- A. It shall be the policy of the City to require all Department Directors and other appointing authorities, whenever possible, to notify the Human Resources Director of impending or anticipated vacancies in their departments sufficiently in advance so as to allow for the establishment of an appropriate eligibility list. However, when the demands of the services are such that it is not practicable to give such notification and if it is not practicable to delay appointment until a new eligibility list can be certified, the Appointing Authority may make a provisional appointment to the Position. As soon as practicable, but not longer than six (6) months after a provisional appointment has been made, the Human Resources Director may cause an examination to be prepared, and all Positions filled provisionally shall be filled by an appointment from an eligibility list. No person shall be employed by the City under provisional appointment for a total of more than six (6) months in any fiscal year except that the City Manager may, with approval of a majority of the Council, extend the period of any provisional appointment for not more than ninety (90) days by any one action and shall not exceed a total of twelve (12) months.
- B. A person appointed to a Position on a provisional basis shall not be entitled to credit for the time served under the provisional appointment toward the completion of his/her Probationary Period and shall be entitled to the same salary and other benefits as an applicant appointed from an eligibility list except that he/she may not be employed under the provisional appointment for longer than the period authorized herein.

- C. No preference shall be allowed in any examination or the establishment of any eligibility lists for a Position for an applicant who rendered service in that Position under a provisional appointment.

SEC. 5.3 ACTING APPOINTMENTS TO A HIGHER CLASS

~~An acting appointment may be made of a current employee to a higher Class or Position occupied by a person on temporary leave or disability. Such acting appointment shall not exceed six (6) months. The City Manager may extend acting appointments for successive thirty (30) day periods. Acting appointments shall be made in accordance with the provisional appointments section of the Personnel Rules. The City Manager shall determine the amount of Acting Pay in accordance with Section 3.10. of these Rules. Upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume the duties and receive the compensation and privileges as if he/she had continued his/her duties in his/her previous classification.~~

- A. An acting appointment may be made of a current employee to a higher Class or Position that is vacant or from which an employee is absent temporarily due to an authorized leave of absence. During an acting appointment, the employee will perform all of the duties and assume all of the responsibilities of the higher Class on a full-time basis.
- B. Eligibility: The City Manager may assign an acting appointment to any employee who possesses the Minimum Qualifications for the higher Class.
- C. Maximum length of acting appointments:
1. An acting appointment to a position that is vacant during recruitment for a regular appointment will last no longer than 960 hours in a fiscal year.
 2. An acting appointment to a position that is vacant temporarily due to an employee's leave of absence will last no longer than the duration of the incumbent employee's leave of absence.
 - a. Appointments made under these circumstances may not initially exceed six (6) months. However, the City Manager may extend acting appointments in increments of up to 30 days, if the City Manager determines that doing so does not present an undue hardship for the City.
- D. End of acting appointments: Acting appointments are held on a temporary, at-will basis and may be terminated by action of the City Manager at any time with or without cause. In addition:
1. An acting appointment due to the authorized leave of absence of the incumbent employee will terminate automatically upon the release of incumbent employee, unless the incumbent employee is unable to perform

the essential functions of the position with or without reasonable accommodation.

2. An acting appointment to a vacant position for which recruitment is pending will terminate automatically upon the earlier of the following:

a. Completion of 960 hours in a fiscal year;

b. First date of employment by a new hire into the position;

c. Action by the City Council to re-classify or eliminate the position.

3. The employee may request to be reassigned back to his/her usual class and position at any time during an acting appointment. If the City Manager determines that reassignment is feasible, the employee will be reassigned within seven working days.

E. Return from acting appointments: After an acting appointment ends, the employee shall resume the duties and receive the same have the step status and merit increase eligibility date he/she would have achieved if the employee had remained in the lower class throughout the period of his/her service in the higher class.

SEC. 5.4 REINSTATEMENT

The Appointing Authority may, with the approval of the Personnel Officer, reinstate any person who has resigned in good standing, provided that such reinstatement is accomplished within one (1) year of the date of resignation, or as otherwise required by law. Such reinstatement action may, at the discretion of the Appointing Authority, take precedence over any eligibility list except a reemployment list. Any person so reinstated shall be subject to a new Probationary Period of the same length as established for new appointees to a Position in the Class, unless excused by Personnel Officer.

SEC. 5.5 TRANSFER

A. The Personnel Officer may institute a voluntary or involuntary transfer of an employee from one Position to another vacant Position in the same Class or to a vacant Position in a comparable Class at the same salary level.

B. An employee who has achieved a rating other than "Does Not Meet Expectations" on his/her most recent performance evaluation. may initiate a request for voluntary transfer to an available position in the same Class for which a recruitment has not yet opened pursuant to Section 4.2, and for which he/she meets the Minimum Qualifications, by submitting a request in writing to the Department Director. The Department Director will issue a written recommendation to the Personnel Officer as to whether to proceed with an internal recruitment in accordance with Section 4.2, proceed with an open-competitive recruitment, or to exercise the discretion to grant the employee's transfer request.

- C. While the Personnel Officer retains sole discretion whether to institute voluntary and involuntary transfers, consideration will be given to the affected employee's and the Department Director's wishes.

SEC. 5.6 NEPOTISM

A. Definitions.

1. Applicant. A person who applies for a position at the City and is not a Current Employee.
2. Change of Status. A change in the legal status or personnel status of one or more Current Employees.
 - a. Changes in legal status include but are not limited to marriage, divorce, separation, or any such change through which a Current Employee becomes a Family Member or ceases to be a Family Member of another Current Employee.
 - b. Changes in personnel status include but are not limited to promotion, demotion, transfer, resignation, retirement or termination of a Current Employee who is a Family Member of another Current Employee.
3. Current Employee. A person who is presently a City employee, or an elected or appointed City official.
4. Direct Supervision. One or more of the following roles, undertaken on a regular, acting, overtime, or other basis shall constitute Direct Supervision:
 - a. Occupying a position in an employee's direct line of supervision; or
 - b. Functional supervision, such as a lead worker, crew leader, or shift supervisor;
 - c. Participating in personnel actions including, but not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, assignments, approval of merit increases, evaluations, and grievance adjustments.
5. Family Member: A spouse, domestic partner, ~~parent~~child, ~~parent-in-law~~, ~~step-parent~~, legal guardian, ~~sister~~, ~~step-sister~~, ~~sister-in-law~~, ~~brother~~, ~~step-brother~~, ~~brother-in-law~~, ~~child~~, ~~step-child~~, legal ward, ~~daughter-in-law~~, ~~son-in-law~~, ~~grandchild~~, ~~or grandparent~~grandparent, grandchild, aunt, uncle, cousin, niece, or nephew, including step-relations and in-laws.
6. Prohibited Conduct. Conduct by Family Members including, but not limited to, one or more of the following:

- a. Participation directly or indirectly in the recruitment or selection process for a position for which a Family Member is an Applicant.
- b. Direct Supervision of a Family Member that does not comply with limitations set forth in this Rule;
- c. Conduct by one or more Family Members that has an adverse effect on supervision, safety, security or morale.

B. Guidelines for Applicants.

1. No qualified Applicant may be denied the right to file an application for employment and compete in the examination process. However, consistent with this Article, the City may reasonably regulate, condition, or prohibit the employment of an Applicant for a full-time position.
2. Disclosure: Each Applicant is required to disclose the identity of any Family Member who is a Current Employee.
3. Assessment by the Personnel Officer: For each Applicant who has a Family Member who is a Current Employee, the Personnel Officer shall assess whether any of the following circumstances exist:
 - a. Business reasons of supervision, safety, security or morale warrant the City's refusal to place the Applicant under Direct Supervision by the Family Member; or
 - b. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for Family Members than for other employees, which warrant the City's refusal to permit employment of Family Members in the same department, division, or facility.
4. Decision of the Personnel Officer: If the Personnel Officer determines that either of the above circumstances exist, the Personnel Officer shall exercise his or her discretion to either reject the Applicant or consider the Applicant for employment in a position that does not present either of the above circumstances.
5. Following examination, if the Applicant is successfully certified as eligible pursuant to Article VIII, he or she may be employed in a position for which the Personnel Officer has determined that neither circumstance exists pursuant to Section 5.6(B)(3).
6. When an eligible Applicant is refused appointment by virtue of this Article, his or her name shall remain on the eligibility list for openings in the same classification. For each opening, the Personnel Officer shall make a determination consistent with Section 5.6(B)(3).

C. Guidelines for Current Employees.

1. Employees shall report a Change of Status to the Personnel Officer within a reasonable time after the effective date of the Change of Status. Wherever feasible, Employees shall report a Change of Status in advance of the effective date.
2. Within thirty days from receipt of notice, the Personnel Officer shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.
 - a. The Personnel Officer shall consult with an affected Department Director to make a good faith effort to regulate, transfer, condition or assign duties in such a way as to minimize potential problems of supervision, safety, security, or morale.
 - b. Notwithstanding the above provisions, the City retains the right to exercise its discretion to determine that the potential for creating an adverse impact on supervision, safety, security, or morale cannot be sufficiently minimized and to take further action pursuant to Section 5.6(C)(3)(a).
3. Following a Change of Status or new hire of a Family Member, affected Department Directors shall reasonably monitor and regulate both Family Members' conduct and performance for a period of one year from the date of the Personnel Officer's determination. The Department Director shall document these actions. Successive Department Director may re-visit such a determination at their discretion.
 - a. If the Department Head determines, subject to any applicable requirements of due process, that an employee has engaged in Prohibited Conduct, the Department Director shall re-visit the Personnel Officer's determination. Depending on the severity of the Prohibited Conduct, the Department Director may recommend that the Personnel Officer take one or more of the following additional measures:
 - (1) Transfer one of the Family Members to a similar position that would not be in violation of this policy. The transfer will be granted provided the Family Member qualifies and there is an opening to be filled. There can be no guarantee that the new position will be within the same classification or at the same salary level.
 - (2) If the situation cannot be resolved by transfer, one of the Family Members must separate from City employment. If one of the employees does not voluntarily resign, the

employee with primary responsibility for the Prohibited Conduct will be discharged.

4. Department Directors who receive complaints from other employees that one or more Family Members has engaged in Prohibited Conduct shall respond in accordance with existing complaint and disciplinary procedures, where applicable.
 5. Where situations exist prior to the effective date of this Article that may be in conflict with this Article, every effort shall be made to reasonably address the situation so as to avoid any future conflict.
- D. Employee Complaints. Employees who believe that they have been adversely affected by Prohibited Conduct by one or more Family Member should submit complaints to a Department Head or to the Personnel Officer.
- E. Savings Clause. Should any provision of this Rule, or any application thereof, be unlawful by virtue of any federal, state, or local laws and regulations, or by court decision, such provision shall be effective and implemented only to the extent permitted by such law, regulation or court decision, but in all other aspects, the provisions of this Rule shall continue in full force and effect.

RULE VI. PROBATION

SEC. 6.1 PROBATIONARY STATUS

During the Probationary Period the employee, unless subject to the terms and conditions of an employment contract, may be rejected at any time, for any lawful reason, or no reason.

SEC. 6.2 PROBATIONARY PERIODS

- A. The Probationary Period shall not include time served under a temporary, acting or provisional appointment. Periods of time on leaves longer than thirty (30) days require that the Probationary Period be extended a period of time equal to the amount of time spent on leave.
- B. Length of Probationary Period:
1. All original and promotional appointments shall have a Probationary Period of one (1) year.
 2. Probationary Period - Transfers: Whenever a transfer is made, at the initial request of the employee, the transfer shall be subject to the employee satisfactorily completing a six (6) month probation period in the new Position or completing the remainder of the original Probationary Period, whichever is longer.
 3. Performance Reports for Probationary Employees. In accordance with Section 7.3, during the probationary period, all probationary employees

will be evaluated in three month increments for the duration of the probationary period.

4. Extension of Probationary Period: At the discretion of the Appointing Authority, any employee serving a Probationary Period may at the conclusion of such period have his/her Probationary Period extended for up to an additional six (6) months, but for no longer than a total of twelve months. The Appointing Authority shall notify the Personnel Officer of such contemplated extension of the Probationary Period, before taking such action. Employees shall be notified in writing of any extension Probationary Periods.

SEC. 6.3 REGULAR STATUS

- A. An employee's status shall be considered regular upon his/her completion of the applicable Probationary Period, including any extension implemented in accordance with Section 6.2.B.4.
- B. If ~~a probationary employee receives~~ the Personnel Officer issues a written notice of rejection ~~from the Personnel Officer to a probationary employee~~ prior to expiration of the applicable Probationary Period, the employee has not attained "completion" within the meaning of Section 6.3.A .

SEC. 6.4 REJECTION DURING PROBATIONARY PERIOD OF PROMOTED EMPLOYEES

- A. Regular Employees: A Regular employee who is rejected during the Probationary Period from a Position to which he/she has been promoted shall be reinstated to the Position from which he/she was promoted, if such Position is vacant and existing, unless he/she is discharged for cause, which would have been sufficient to cause his/her discharge from his/her former Position as well. In such case, the employee shall be entitled to appeal his/her discharge as provided in these rules.
- B. Probationary Employees: Employees promoted to a higher Class while on probation in a lower Class and who subsequently fail to perform satisfactorily in the promoted Position will be entitled to return to their former Position provided the Position has not been eliminated and is vacant. Such employee shall continue to serve a Probationary Period for the length of time remaining on the Probationary Period at the time of promotion.

RULE VII. PERFORMANCE REPORTS

SEC. 7.1 POLICY

It is the policy of the City that periodic and regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager and the Department Directors that these ratings be made. It is the responsibility of the Human Resources Director to provide and prescribe the forms and

procedures to be used in such reports of performance so that the program of performance reporting will be carried on in a sound, timely, and effective manner.

SEC. 7.2 AUTHORITY TO MAKE REPORTS

Department Directors shall have the authority to prepare reports of performance for those employees within his/her department, in consultation with Human Resources. The City Manager shall prepare reports of performance for the Department Directors. ~~The City Manager shall review and approve all personnel performance reports following review and signature by the employee and his/her Department Director.~~

SEC. 7.3 TIME FOR REPORTING

- A. Probationary Employees: Within ten (10) days prior to the completion of every ~~three (3)~~ six (6) months during the Probationary Period, the Department Director shall furnish the Human Resources Director with a report as to the progress and capacity of the probationary employee, a copy of which shall also be furnished to the probationer. The Department Director, in consultation with Human Resources, may exercise discretion to issue performance reports on a more frequent basis.
- B. Regular Employees: A report for an employee shall be prepared and received within thirty (30) days after his/her salary anniversary date, provided that the employee may in addition be given a report of performance at any other time during the year upon his/her request or at the discretion of the Appointing Authority, and provided further that any employee who has been rated "improvement needed" or "unsatisfactory" (or equivalent i.e. "does not meet expectations") shall be reported on again three (3) months from receiving such rating and again three (3) months subsequent to that in connection with a Performance Improvement Plan, as set forth in Section 7.6.B.
- C. Lack of Opportunity to Observe Performance: If, as a result of extended absence or other circumstances resulting in a Department Director's opportunity to observe an employee's performance for fewer than three (3) months, the employee and Department Director may mutually agree in writing to delay issuance of the report of performance by up to three (3) months. If the employee is eligible for a step advancement, and the Department Director determines that the employee's performance so warrants, he/she may recommend to the City Manager that the employee receive the step advancement retroactively to the salary anniversary date.

SEC. 7.4 REVIEW WITH EMPLOYEE

It is acknowledged that one of the prime benefits of a sound performance rating system is that it can bring together the employee and his/her Department Director in a frank and constructive discussion and appraisal of the employee's work and the specific ways in which it may be improved. Therefore, each performance report shall be thoroughly discussed with the employee with this view in mind. The employee shall sign the report to acknowledge its contents. Such signature shall not necessarily mean the employee

endorses the content of the report. The employee shall be entitled to submit a written response to his/her performance report within 10 calendar days of receipt of the performance report. Any such response will be attached to the employee's performance report and maintained in his/her regular personnel file. No administrative appeal of the rating or contents of a performance report may be had by the employee.

SEC. 7.5 DISTRIBUTION OF REPORTS

Reports shall be prepared in three (3) copies. After review and approval of the ~~Appointing Authority~~ Department Director, one copy shall be retained by him/her for his/her files, one copy provided to the employee, and one copy shall be transmitted to the Human Resources Director. The Human Resources Department copy, along with any response by the employee, shall be made a part of the employee's employment history and included in the employee's personnel file.

SEC. 7.6 PERFORMANCE RATINGS

A. Effects of "Improvement Needed" and "Unsatisfactory" Ratings:

1. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent "i.e. "does not meet expectations") will not be eligible to be appointed off of any eligibility list until a satisfactory rating is established.
2. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") will not receive any merit salary increase during the period following the report, except as provided in subsection 5 below.
3. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") may be subject to a Performance Improvement Plan, as provided in subsection 7.6.B., below.
4. In any case, where an employee receives an overall rating of "unsatisfactory" on two (2) consecutive occasions or "improvement needed" (or equivalent i.e. "does not meet expectations") on three (3) consecutive occasions, Disciplinary Action shall be taken by the Appointing Authority as provided for in these rules, if such action has not already been taken.
5. If an employee who has been denied a merit salary increase improves his/her performance to such an extent that the ~~Appointing Authority~~ Department Director believes a merit salary increase is now justified, the ~~Appointing Authority~~ Department Director shall indicate the improvement on a report of performance form and may ~~specifically award~~ recommend that the Personnel Officer approve a merit salary increase. Additionally, in ~~awarding~~ recommending the merit salary increase under this subsection, the ~~Appointing Authority may change~~ Department Director may

[recommend changing](#) the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same. Any merit salary increase awarded under this subsection shall not be made retroactive.

B. Performance Improvement Plan:

1. The Personnel Officer may authorize the use of a Performance Improvement Plan following an employee's receipt of an overall rating of "unsatisfactory" or "improvement needed" (or equivalent i.e. "does not meet expectations") in his/her most recent performance report, or upon request of a Department Director whose other efforts to have an employee conform to the Department's policies and procedures or other standards of performance have not been successful.
2. A Performance Improvement Plan is not a disciplinary action, and should not be used in place of appropriate disciplinary action.
3. A Performance Improvement Plan shall detail the specific reasons that performance is deficient or non-compliant, requirements for improvement, the number of special and/or regular evaluation periods that the Plan is intended to be in place, and a schedule for review of the employee's progress under the Plan.
4. The employee will receive an opportunity to meet with his/her Department Director or the Personnel Officer to provide input into the terms of the Performance Improvement Plan before the Plan takes effect. However, in the Personnel Officer's discretion, the Performance Improvement Plan may take effect prior to expiration of the employee's time to respond to his/her performance report; as set forth in Section 7.4.
5. The Personnel Officer shall retain discretion to determine at any time that an employee under a Performance Improvement Plan has not demonstrated reasonable improvement and that the Plan should be discontinued.
6. The Personnel Officer may further determine at any time that Disciplinary Action is warranted to address an employee's insufficient performance or other misconduct in accordance with Rule XII.
7. If the Personnel Officer determines that the employee has demonstrated sufficient improvement under the terms of the Performance Improvement Plan, and the employee then maintains acceptable performance over the full period of the Performance Improvement Plan, then the Plan shall be considered "successful."
 - a. After the completion of a "successful" Performance Improvement Program, the City shall maintain a record of the Program in the employee's personnel file.

8. If the Personnel Officer determines that a Performance Improvement Plan has not been “successful,” or that the employee’s performance has regressed in the evaluation period following completion of a “successful” Performance Improvement Plan, the Personnel Officer may determine that disciplinary measures are warranted in accordance with Rule XII.

RULE VIII. HOURS OF WORK/OVERTIME

SEC. 8.1 POLICY

It is the policy of the City that eight (8) hours shall constitute a day’s work and five (5) days shall constitute a week’s work, for all Full-Time Employees, except that work days and work weeks of a different number of hours may be established in order to meet the varying needs of the different City departments where permitted by law.

SEC. 8.2 WORK WEEK

The work week shall be seven (7) consecutive twenty-four (24) hour periods starting at 12:01 a.m. on ~~Monday~~ Saturday and ending at midnight on the following ~~Sunday~~ Friday.

SEC. 8.3 DAILY HOURS OF WORK

Daily hours of work or shifts for employees within departments shall be assigned by Department Directors as required to meet the operational requirements of said departments. The normal work shift for employees is eight (8) hours per day.

SEC. 8.4 CHANGE IN WORKING HOURS

Any foreseeable absence or deviation from scheduled working hours desired by an employee shall, in advance, be cleared in writing through the office of the Human Resources Director, and such absence shall be noted on the employee’s time sheet.

SEC. 8.5 OVERTIME AND COMPENSATORY TIME OFF

A. Overtime Compensation:

1. Employees shall not perform work outside of their regularly scheduled shifts unless requested to do so by a Department Director or with advance written authorization from a Department Director. This requirement applies to, but is not limited to:
 - a. Work performed before the start of the shift;
 - b. Work performed during meal periods;
 - c. Work performed after the end of the shift; and
 - d. Other work performed "off the clock" including work performed at home.

2. All employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts. Where required, time spent on such work shall be kept to a minimum.
 3. Department Directors shall adhere to the following guidelines in requesting or assigning work outside an employee's regularly scheduled shift:
 - a. An employee who may be required to perform work outside the regular shift shall be notified of the apparent need for such work as soon as practicable prior to when the work is expected to begin.
 - b. When practicable, opportunities shall be made available on an equal basis to employees capable of performing the work.
 4. Non-exempt employees shall be paid at one and one-half times the employee's regular rate of pay for all hours worked in excess of forty (40) hours in a work week. Vacation, sick leave, holidays, jury duty and compensatory time off shall not be considered hours worked. Although no Department Director shall be entitled to any compensation for overtime work, Department Directors shall receive management leave as specified in Section 9.13.
 5. Employees shall be subject to discipline, up to and including termination, for violation(s) of this section.
- B. Compensatory Time Off: Employees may elect to convert earned overtime to compensatory time off at the rate of one and one-half (1½) hours for each hour actually worked, subject to the prior approval of the Department Director. Employees may not accrue more than ~~eighty one hundred twenty~~ (80120) hours of compensatory time off. Employees shall be permitted to use compensatory time off within a reasonable period of time after the employee makes a request, provided that it does not unduly disrupt the City's operations. "Unduly disrupt" shall mean that it would impose an unreasonable burden on the City's ability to provide services of acceptable quality and quantity for the public during the time the employee requested off. Compensatory time off shall be used within one (1) year from the time overtime was performed. If the Department Director is unable to schedule and grant the time off within one (1) year, cash payment shall be made at the employee's current rate of pay in lieu of compensatory time off. An employee whose employment is terminated for any reason shall be paid for all unused compensatory time off at a rate of the higher of (1) the average hourly rate the employee earned during the last three (3) years of employment; or (2) the final hourly rate earned by the employee.

SEC. 8.6 REST BREAKS

Non-exempt employees shall be entitled to a paid 15-minute break for every four (4) hours worked. Such time shall be considered hours worked.

SEC. 8.7 MEAL PERIODS

- A. Non-exempt employees are entitled to unpaid, thirty minute meal periods during which they shall be entirely relieved of responsibilities and restrictions. Such time shall not constitute hours worked.
- B. Department Directors shall schedule meal periods to ensure appropriate coverage.
- C. Non-exempt employees who work during their meal periods shall be paid for time worked.

~~RULE IX.~~

RULE IX. LEAVES OF ABSENCE

SEC. 9.1 HOLIDAYS

- A. The following days shall be recognized and observed as paid holidays:
 - 1. New Year's Day (January 1)
 - 2. Martin Luther King Jr.'s Birthday
 - 3. Presidents' Day
 - 4. Memorial Day
 - 5. Independence Day (July 4)
 - 6. Labor Day
 - ~~7. Admission Day (September 9) (taken as a floating holiday)~~
 - 7. ~~8.~~ Veteran's Day (November 11)
 - 8. ~~9.~~ Thanksgiving Day
 - 9. ~~10.~~ Day After Thanksgiving Day
 - 10. ~~11.~~ Christmas Eve (December 24)
 - 11. ~~12.~~ Christmas Day (December 25)
- B. For purposes of this Rule, a holiday will be considered to be "observed" by the City solely on those days on which City Hall would usually be open but is closed due to the holiday.
- C. If a holiday falls on a Sunday and is observed nationally the following Monday, the City will observe the holiday on the following Monday.
- D. Full-Time and Probationary Employees shall receive one (1) day's pay for each of the holidays listed above for the number of hours they would have been scheduled to work.
- E. Whenever a holiday falls on a Saturday or Sunday and is not otherwise observed by the City, the employee will be granted an additional vacation day for each Saturday or Sunday holiday worked.
- F. If any employee works on the day the City observes any of the holidays listed above (excluding Admission Day), he/she shall be paid for all hours worked at

the rate of two (2) times his/her hourly rate of pay and shall be granted a different day off in lieu of the holiday.

G. Birthday Holiday: Each employee is entitled to one paid holiday in celebration of his/her birthday. The employee is required to observe this holiday on a date that falls within the period from seven calendar days before to seven calendar days after the employee's birthday. If the employee is unable to observe the birthday holiday during this time period because the Department Director has determined that it would cause a hardship to the department or to the City, the City Manager can approve an exception in writing to permit the employee to observe the birthday holiday at a later date in the same calendar year. An employee who does not observe his/her birthday holiday in the time period specified, and does not request an exception before the expiration of the birthday holiday observation period, shall not be permitted to observe the birthday holiday that year. A birthday holiday has no cash value and shall not be paid out or carried forward.

H. Admissions Day: Each full-time employee will accrue one additional vacation day per year in honor of Admissions Day. The extra vacation day will be added to the vacation bank in the next pay period following September 9th of each year.

SEC. 9.2 VACATION

- A. Full-time Regular and Probationary employees in all classifications shall accrue vacation, on a daily basis, according to the following schedule:
1. From the date of hire through five (5) years of service: ten (10) days per year.
 2. Beginning the sixth year through ten (10) years of service: fifteen (15) days per year.
 3. Beginning the eleventh year of employment: twenty (20) days per year.
- B. The City Manager may in his/her sole discretion, permit a Department Director to accrue vacation on a schedule other than as specified in Section 9.2.A. The City Manager shall specify the applicable schedule in writing at the time of hire.
- C. The maximum number of vacation days that may be accumulated by an employee is forty (40) days. Once an employee reaches the maximum accumulation, he/she shall cease vacation accrual until his/her total number of vacation hours falls below the maximum allowable.
- D. A maximum of five (5) vacation days per calendar year may be converted to compensation and shall be paid at the employee's rate of pay at the time of the conversion.
- E. An employee may also convert an additional five (5) vacation days per calendar year to compensation, which shall be paid at the employee's rate of pay at the time of the conversion, provided that the employee takes an additional five (5)

days of vacation off work during the same pay period in which the conversion occurs.

- F. At termination of employment for any reason, the City shall compensate the employee for the employee's accumulated vacation time at the employee's straight time rate of pay at the time of termination.
- G. The City will not require an employee to take vacation time in lieu of sick leave or leave of absence during periods of illness. However, the employee may elect to take vacation time in case of extended illness constituting a "serious health condition" within the meaning of the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy where sick leave has been fully used.
- H. If a holiday falls on a work day during an employee's vacation period, that day shall be considered as a paid holiday and not vacation time.
- I. Vacations may be scheduled at any time during the year upon written approval of the Department Director.

SEC. 9.3 SICK LEAVE

A. Definitions:

1. Immediate Family: Immediate Family means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*; biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* to either the employee or the employee's spouse or domestic partner as a minor; or an employee's spouse, registered domestic partner; grandparent; grandchild; or sibling, including half-siblings.
2. Permitted Use of Sick Time:
 - a. Permitted Use of Sick Time consists of any of the following:
 - (1) Diagnosis, care, or treatment of the existing health condition of an employee or a member of the employee's Immediate Family;
 - (2) Preventative care for an employee or a member of the employee's Immediate Family;
 - (3) For employees who are victims of domestic violence, sexual assault, or stalking, leave taken for the purposes described in Sections 230(c) and 230.1(a) of the California Labor Code.

(4) Extension of Bereavement Leave to which an employee is entitled under Section 9.4.

3. Full-Time Employees: For purposes of this policy a “Full-Time Employee” means any Regular or Probationary Full-Time Employee, as defined in Section 1.4.B.18.
4. PTS Employees: For purposes of this policy a “PTS Employee” means any employee who is not a Full-Time employee, including, but not limited to, part-time, temporary, and seasonal employees.
5. New Hires: For purposes of this policy, a “New Hire” refers to any employee hired to work at the City on or after July 1, 2015.
6. Employees: For purposes of this policy the term “Employees” without further modification includes all City employees, regardless of status or hire date.

B. Eligibility:

All Employees are eligible to accrue and use paid sick leave in accordance with the applicable terms of this policy.

C. Waiting Period Prior to Use of Sick Leave by New Hires:

All New Hires must complete an initial, one-time 90-calendar day waiting period before using sick leave. Employees who leave City employment before completion of the 90-day waiting period are not entitled to use any sick leave. However, New Hires who return to City employment within 12 months of separation will have their sick leave balances restored in accordance with Section 9.3.H and need only complete the remainder of the 90-day period before becoming entitled to use available sick leave.

D. Accrual:

1. Full-Time Employees

Full-Time Employees shall earn sick leave at the rate of 8 hours per month. There shall be no limit on sick leave accrual.

2. PTS Employees

- a. PTS Employees will receive a bank of 24 hours of sick leave on July 1, 2015 or on the first day of the next month following their first date of employment, whichever is later. New Hires must satisfy the waiting period set forth in Section 9.3.C. before using any time from the sick leave bank.
- b. The City will provide an additional bank of 24 hours of sick leave on January 1 of each subsequent calendar year to each PTS employee.

- c. PTS Employees shall accrue no additional sick leave beyond the 24-hour bank and shall have no right to carry over banked hours from year to year.

E. Notice:

1. Unscheduled Time Off: An Employee shall contact his/her immediate supervisor prior to the commencement of the assigned work shift, or as soon thereafter as is practical, to report absence from work due to a Permitted Use of Sick Time. Consideration shall be given to emergency situations that restrict the employee from contacting his/her immediate supervisor prior to his/her assigned work shift, including, but not limited to accident, injury, or hospitalization.
 - a. An employee shall notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to any unscheduled Permitted Use of Sick Time; however, the employee need not provide the reason that sick time is needed to the immediate supervisor.
2. Scheduled Time Off: Notice of time off for scheduled appointments involving a Permitted Use of Sick Time such as personal medical appointments must be provided to the Department Director at least one week in advance of the appointment, whenever feasible. Every effort should be made to schedule such appointments at times that do not conflict with the City's work schedule.
 - a. The employee shall again notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to the scheduled Permitted Use of Sick Time.

F. Medical Certification or Other Documentation:

Employees off work on sick leave for a period of four or more consecutive days may be required at any time to provide a doctor's note or other relevant documentation certifying that the reason for the employee's absence is a Permitted Use of Sick Time, and if the employee is unable to return to work, stating how long the employee is expected to be unable to do so.

G. Return to Work:

For any absence of four more or days due to an employee's own illness or injury, the supervisor may require that the employee provide a note from his/her physician, releasing the employee with or without restrictions, before the employee may return to work.

H. Reinstatement of Unused Sick Leave Balances:

An Employee who separates from employment with the City and returns to active employment within 12 months of his/her separation date shall have his/her unused sick leave balance reinstated, up to a maximum of 24 hours. For purposes of this provision, unused sick leave is leave that was accrued, but never taken by the Employee, and that was not converted to Personal Leave under Section 9.5.

I. Retention and Inspection of Records Pertaining to Sick Leave:

The City shall keep records documenting the hours worked and paid sick leave accrued and used by an employee for three years. Upon reasonable request, and within 21 calendar days after the request, the City shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick days accrued and used. Access to all other personnel records shall be governed by Rule XIX.

J. Abuse of Sick Leave:

Employees who do not comply with this policy, including providing insufficient notice of sick leave or using sick leave for reasons other than for a Permitted Use of Sick Time, are committing abuse of sick leave, which is grounds for discipline, up to and including termination. The City reserves the right to take reasonable steps to determine whether an employee is abusing sick leave, including, but not limited to, attempting in-person or electronic communication with an employee using sick leave, identifying and tracking consistent patterns of sick leave use, such as in connection with weekends, holidays, and scheduled days off, and considering social media content or other relevant evidence that is either publicly available or shared voluntarily by other employees or interested individuals.

K. Retirement Credit for Sick Leave:

When an employee retires under the California Public Employees Retirement System (CalPERS), a credit for his/her unused sick leave shall be converted to additional service credit at the rate of 0.004 years of service credit for each day of unused sick leave (i.e., 250 days of sick leave equals one additional year of service credit) per CalPERS contract with the City.

SEC. 9.4 BEREAVEMENT LEAVE

- A. ~~Employees~~ Full-time employees are entitled to paid bereavement leave in the event of death in their immediate family. Bereavement leave is a separate benefit from other paid leaves; however, sick leave may be used to supplement the periods provided in Section 9.4.B.
- B. Employees will receive up to three (3) working days of paid bereavement leave per calendar year, per immediate family member. Employees who provide documentation demonstrating a need for their attendance at a distance greater

than 300 miles from the City may be permitted up to a total of five (5) working days of paid bereavement leave, at the discretion of the Personnel Officer.

- C. For purposes of this Section 9.4, "immediate family" shall have the same definition as in Section 9.3.A.1. Requested exceptions to this definition may be approved in advance at the sole discretion of the Personnel Officer.

SEC. 9.5 PERSONAL LEAVE

- A. Full-time Employees may convert sick leave to personal leave in accordance with the procedure set forth in this Section. On January 1 of each year, if an employee has a minimum of ten (10) days (80 hours) of accumulated sick leave, ten percent (10%) of that accumulated sick leave will be available for conversion to, and use as, personal leave, during that calendar year. For example, an employee with twelve (12) days of sick leave on January 1 would have available 1.2 days of personal leave.
- B. No employee is required to convert sick leave to personal leave. However, when sick leave is converted and used as personal leave, the amount of the personal leave used will be deducted from the employee's accumulated sick leave balance. Thus, in the example above, if the employee used the 1.2 days of personal leave before earning any additional sick leave, the employee's accumulated sick leave balance would be 10.8 days.
- C. Any additional sick leave accrued, but not used, during the calendar year will be added to the employee's accumulated sick leave balance for calculating the amount of personal leave that will be available for the following calendar year.

SEC. 9.6 MILITARY LEAVE

Military leave shall be granted in accordance with Section 395 of the Military and Veteran's Code and the Federal Uniformed Services Employment and Reemployment Rights Act.

SEC. 9.7 JURY DUTY

~~A. This policy shall apply to full-time and probationary employees in all classifications.~~

A. ~~B.~~An employee summoned for jury duty will immediately notify the Human Resources Director. While serving on a jury, he/she will be given a leave of absence, in accordance with pay Section 9.7.B. or 9.7.C., below, for the duration of said jury duty as applicable. Said leave of absence ~~with pay~~ is conditional upon the employee returning to work upon his/her dismissal each day to complete his/her normal work day. ~~It is also conditional upon the employee's conveyance to the City of any compensation received as a juror, not including any travel allowance received.~~

B. Regular and probationary full-time employees will receive leave with pay for the duration of jury service. Employees must convey to the City any compensation received as a juror, not including any travel allowance received.

C. Part-time, temporary and seasonal employees will be permitted to take an unpaid leave of absence in accordance with Section 230 of the California Labor Code.

SEC. 9.8 VOTING LEAVE

In accordance with California *Election Code* sections 14000 and 14001, if a registered voter does not have sufficient time outside normal working hours within which to vote at general direct primary or presidential elections, he/she may take off such working time as will enable him/her to vote. The scheduling of the time referenced above shall be subject to the approval of the Department Director and shall normally be at the beginning or end of a work shift. A maximum of two (2) hours may be taken with pay. The employee must provide two (2) days' notice of the need for voting leave.

SEC. 9.9 ELECTION OFFICIAL LEAVE

Employees serving as an election official shall be permitted leave in order to so serve. Such leave is unpaid, but, at their option, employees may request to use vacation leave to serve as an election official. An employee taking leave to serve as an election official is required to give his/her Department Director at least ten (10) days' notice before the date of the election in which the employee is to serve as an election official. Employees serving as an election official are required to provide their Department Director with proof of service prior to taking leave.

SEC. 9.10 LACTATION BREAKS

- A. In accordance with California and federal law, the City will provide an employee with reasonable unpaid time off and an appropriate area for the purpose of the employee expressing breast milk for the employee's infant child.
- B. For purposes of this Section 9.10, an "appropriate area" is a ~~place~~ room or other than location that is not a bathroom and that is private and is in close proximity to the employee's work area ~~and that is shielded from view and free from~~. The City will ensure that while an employee is using the area to express milk, there will be no intrusion by other employees and/or the public and there will be no use of the area other than for lactation purposes. The City will consider input from the affected employee but retains sole discretion in identifying an "appropriate area" on a case-by-case basis.

SEC. 9.11 UNPAID LEAVES OF ABSENCE

- A. Upon the request of the employee and the recommendation of the Appointing Authority, a leave of absence without pay may be granted by the Council or City Manager to an employee, who immediately preceding the effective date of such leave, shall have completed at least one year of continuous service.

1. An employee shall not be entitled to a leave of absence as a matter of right, but only upon good and sufficient reason.
 2. Request for leave of absence without pay shall be made in writing to the Human Resources Director, and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return. The Human Resources Director will transmit the request to the Council, in the case of leaves of more than one hundred twenty (120) days. A request for a leave of one hundred twenty (120) days or less may be approved by the City Manager, upon recommendation of the Appointing Authority. A physician's statement will be required of employees who request leave of absence without pay as a result of a medical condition. However, employees are not required to include information regarding diagnosis.
 3. A leave of absence without pay may be granted by the Council for a period not to exceed one year provided that the Council may extend such leave for up to an additional year.
 4. An employee shall be entitled to reinstatement in his/her regular position upon completion of the authorized period of leave.
- B. The Appointing Authority may grant a leave of absence without pay for a reasonable period of time to any employee who is injured on the job, or has a "serious health condition" within the meaning of the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy even though the employee does not meet the one year of continuous service requirements as specified in Section .9.11.A.
- C. A leave of absence without pay granted by the Appointing Authority or the Council under Section [9-A.9.11.A.](#) or [9-B.9.11.B.](#) shall not be construed as a break in continuous service or employment, and rights accrued at the time leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward one month for each thirty (30) consecutive days taken.

SEC. 9.12 UNAUTHORIZED LEAVES OF ABSENCE AND FAILURE TO RETURN FROM LEAVE

- A. An employee may be considered to have voluntarily resigned from his/her employment with the City under any of the following circumstances:
1. Absence from his/her job for more than two (2) working days without compliance with applicable notice requirements under these Rules;

2. Any action taken during a leave of absence from the City that is inconsistent with an intention to return to employment with the City, such as accepting full-time employment with another employer;
 3. Failure to return to employment following the expiration of an authorized leave of absence, unless the City permits extension of the leave.
- B. The City shall provide written notice to employees who are considered to have voluntarily resigned. The notice shall describe the facts on which the voluntary resignation is based and the right to petition the Personnel Officer for reconsideration.
 - C. Employees who are considered to have resigned under Section 9.12.A. can petition the Personnel Officer for reconsideration by submitting a written statement within five (5) days of the date of notice. The Personnel Officer shall review the employee's statement to determine if good cause is present, and shall decide whether the employee's voluntary resignation will be withdrawn.
 - D. Any unauthorized absence may be cause for Disciplinary Action as provided in Rule XII.

SEC. 9.13 MANAGEMENT LEAVE

Department Directors shall receive eight (8) days of management leave per calendar year, which may be used at the Department Director's discretion, with advance approval by the City Manager. During their first year as a Department Director, they shall obtain a pro rata amount of management leave commensurate with the time remaining in the calendar year. Management leave may be carried forward from year to year. The maximum number of days that may be accumulated by an employee as management leave is sixteen (16) days. Once an employee reaches the maximum accumulation, he/she shall cease accrual of management leave until his/her total number of vacation hours falls below the maximum allowable. Department Directors will be compensated for management leave at the time of termination of employment at their straight time rate.

SEC. 9.14 SICK LEAVE DONATION POLICY

- A. Purpose: The purpose of this Policy is to establish a program and procedures for employees to volunteer to donate a portion of their accumulated sick leave time to fellow employees who meet the criteria for eligibility in Section 9.14.B. There have been occasions when an employee, due to a catastrophic illness or injury, has exhausted all forms of paid time off. Such seriously ill employees have been forced to go without compensation for a length of time. This Policy is designed to address such circumstances. Participation by donors or recipients in the Sick Leave Donation Program is entirely voluntary.
- B. Sick Leave Donation Banks: The Sick Leave Donation Program will allow an employee to request that a Sick Leave Donation Bank be established on his/her behalf. A Sick Leave Donation Bank shall not be established unless the City

Manager or the City Manager's designee has approved the employee's request. Leave donations will be credited to a particular recipient's Sick Leave Donation Bank and will be for use by that designated recipient only.

1. Eligibility of Employee for Sick Leave Donations: To be eligible to receive approval for establishment of a Sick Leave Donation Bank on his/her behalf, an employee must meet all the following conditions:

- a. Must meet the criteria for use of sick leave in accordance with Section 9.3; and,
- b. Must have been employed by the City in a full-time Position for at least one year; and,
- c. Must submit a confidential statement from a treating physician which indicates that the employee's absence is due to a qualifying reason under Section 9.14.B.2. and estimates the duration of the employee's absence from work; and,
- d. Must have applied for long-term disability insurance, if any, or for Workers' Compensation benefits, if eligible, and have authorized the City to integrate any such awarded benefits with available leave balances; and,
- e. Must have exhausted all earned leave balances (including sick, vacation, compensatory time, and management leave). However, the Human Resources Director may approve the solicitation and acceptance of sick leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the next two pay periods.

2. Qualifying Reasons to Request Donated Sick Leave:

- a. For purposes of [this](#) Section 9.14 a "qualifying reason" to request donated sick leave is one of the following:
 - (1) The employee has a "serious health condition" that requires the employee's absence from work for longer than two (2) pay periods, including intermittent absences that are related to the same "serious health condition"; or
 - (2) The employee is caring for an "immediate family member" who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.
 - (3) The employee needs additional time off after the death of an "immediate family member," beyond his/her entitlement under Section 9.4.

- b. For purposes of this Section 9.14, a "serious health condition" has the same meaning as in the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy.
 - c. For purposes of this Section 9.14, an "immediate family member" shall have the same definition as in Section 9.3.A.1.
 3. Sick Leave Donation Bank Guidelines: Leave donations will be credited to a recipient's Sick Leave Donation Bank on an hour-for-hour basis, regardless of the hourly pay rate of any particular employee. While using leave from the recipient's Sick Leave Donation Bank, the recipient will be treated as though he/she was merely using the recipient's own sick leave. Thus, the recipient will accrue additional vacation or sick leave, as usual, during the use of hours from the Sick Leave Donation Bank. Any hours of donated sick leave remaining in the Sick Leave Donation Bank at the time the Bank is abolished will be returned pro rata (in proportion to the number of hours each employee donated) to all employees who donated to the Sick Leave Donation Bank. The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.
 - C. Leave Donations: Donations of sick leave are subject to the following requirements:
 1. Minimum Donations: Participating employees must donate a minimum of four hours from their accumulated sick leave balance. No donation from an employee will be permitted that would result in the donor's accumulated sick leave balance, immediately after the donation, being below eighty (80) hours of accumulated sick leave.
 2. Whole Hour Donations: Leave donations must be in whole hours. No fractions of hours may be donated.
 3. Maximum Donation Per Employee: No individual employee may donate more than forty (40) hours to a particular Sick Leave Donation Bank.
 4. Maximum Donation per Sick Leave Donation Bank: The maximum cumulative amount of sick leave that may be donated to a particular Sick Leave Donation Bank is four hundred eighty (480) hours.
 - D. Responsibilities Under the Policy: The development and use of a Sick Leave Donation Bank carries with it a shared responsibility between City's management and individual employees desiring to participate in the program. The respective responsibilities are set forth below:
 1. The Requesting Employee: The requesting employee will prepare and submit to the Human Resources Director a "Request to Establish a Sick Leave Donation Bank" form. Additionally, the requesting employee should submit a "Certification of Physician or Practitioner" form to the Human

Resources Director in a sealed envelope labeled “Confidential – Request to Establish a Sick Leave Donation Bank.” If the requesting employee is unable to make the request on their own behalf, the employee’s Department Director may submit a request on the employee’s behalf.

2. The Program Administrator: The Human Resources Director will serve as the administrator of the Sick Leave Donation Program. The Administrator will receive the confidential statement from the requestor’s physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act. The Personnel Officer will approve or deny the establishment of a requested Sick Leave Donation Bank, in accordance with the requirements of this Policy. If the request is approved, the Bank shall be established and the Administrator will publicize the request with the statement approved by the requestor. The Administrator shall approve or deny each offered donation, if any, to the Sick Leave Donation Bank in accordance with the requirements of this Policy. The Administrator shall determine when the Sick Leave Donation Bank shall be abolished.
3. The Donating Employee: A donating employee will prepare and submit to the Human Resources Director a “Request to Donate to Sick Leave Donation Bank” form.
4. The Finance Department: The Finance Department will make the appropriate payroll and leave balance adjustments for both the recipient and any donors. The Finance Department will coordinate the usage of hours from the Sick Leave Donation Bank and the integration of any other benefits therewith, if applicable. If hours are remaining in the Sick Leave Donation Bank at the time it is abolished, the Finance Department will credit all donors’ leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed.

SEC. 9.15 VICTIM LEAVE

Victims of domestic violence and/or sexual assault shall be permitted unpaid leave in accordance with *Labor Code* sections 230(c) and 230.1. Victims of a violent or serious felony or a felony involving theft or embezzlement shall be permitted unpaid leave in accordance with *Labor Code* section 230.2. [Victims of offenses listed in Labor Code section 230.5 shall be permitted unpaid leave in accordance with that section.](#)

SEC. 9.16 SCHOOL VISITATION [OR PARTICIPATION](#) LEAVE

Employees shall be permitted to take unpaid leave in accordance with *Labor Code* sections 230.7 and 230.8.

SEC. 9.17 LEAVE FOR EMERGENCY DUTY AS VOLUNTEER FIREFIGHTER, RESERVE PEACE OFFICER, OR EMERGENCY RESCUE PERSONNEL

Employees shall be permitted to take unpaid leave to perform emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel in accordance with Labor Code section 230.3.

RULE X. LAYOFF/SEPARATION/RETIREMENT

SEC. 10.1 ELIMINATION OF POSITIONS

Decreased public interest or changes in the City's fiscal priorities may result in the elimination or curtailment of a public service activity which may therefore require the layoff of one or more employees.

SEC. 10.2 LAYOFF PROCEDURE

Any employee may be laid off because of either the abolishment of the Position or a determination by the City Manager that there is a shortage of work funds. Said layoff shall not be subject to appeal. The procedures of the City of Buellton Municipal Code Section 2.60.190 shall be followed.

SEC. 10.3 RESIGNATIONS

~~Resigning employees shall be required to file a written~~ Employees must provide notice of resignation stating the effective date and reason(s) at least two (2) weeks prior to leaving the City's service, unless the time limit is waived by the City Manager. The resignation date should be the last day the employee actually worked Notice must be submitted in writing to the City Manager for acceptance and must identify the date of the employee's last workday.

SEC. 10.4 TERMINATIONS

The City Manager may terminate:

- A. Employees at any time while they are on probation.
- B. Employees in the Exempt Service at any time. This authority applies only to those exempt employees the City Manager has the authority to appoint.
- C. Employees for disciplinary purposes in accordance with Rule XII, to the extent applicable.

SEC. 10.5 RETIREMENT/DISABILITY RETIREMENT

In accordance with the City's contract with the California Public Employees' Retirement System (CalPERS), employees who meet the age and service credit minimums may qualify for a service retirement from CalPERS. Under CalPERS laws, an employee who is unable to perform his/her job because of an illness or injury which is expected to be

permanent, or last for ~~an extended and uncertain period~~ at least 12 consecutive months, or result in death, may be entitled to receive a disability retirement. The cause of the disability need not be related to the employee's job.

RULE XI. OUTSIDE EMPLOYMENT/POLITICAL ACTIVITIES

SEC. 11.1 OUTSIDE EMPLOYMENT

- A. During the employees' work day, they are expected to devote full attention to their prescribed duties. Employees may engage in outside employment, enterprise or activity (collectively "outside employment") under the following circumstances only:
1. They notify the Appointing Authority prior to beginning outside employment, providing sufficient information for the Appointing Authority to determine whether the outside employment is consistent with this Rule.
 2. The Appointing Authority shall assess whether any of the following factors are involved in the proposed outside employment:
 - a. Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employee's City employment as a part of employee's duties as a City employee; or
 - b. Performance of an act in other than the employee's capacity as a City employee which act may later be directly or indirectly subject to the control, inspection, review, audit, or enforcement by such employee or the department by which the employee is employed; or
 - c. Conditions or factors which are likely to directly or indirectly lessen the efficiency of the employee in the employee's regular City employment, or conditions in which there is a substantial danger of injury or illness to the employee; or
 - d. Use of City time, facilities, equipment, and supplies, prestige, influence, or confidential information of the employee's City office or employment for private gain or advantage; or
 - e. Solicitation of future employment with a business doing business with the City over which the employee has some control or influence in employee's official capacity at the time of the transaction.
 3. The Appointing Authority will approve proposed outside employment that he/she determines does not:

- a. conflict with or is not incompatible or inconsistent with the employee's City responsibilities, including performance of overtime and emergency duties and any other aspect of City operations;
 - b. lessen the effectiveness of the employee; and
 - c. does not create a conflict of interest.
4. The Appointing Authority shall advise the employee in writing as to whether the outside employment is approved or prohibited.
 5. An employee may submit a written appeal to the Personnel Officer within fourteen (14) days from the employee's receipt of the Appointing Authority's written determination that a proposed outside employment is prohibited. The written appeal shall specify the grounds on which the employee challenges the Appointing Authority's determination and shall include an attachment with all relevant documentary evidence for the appeal. The Personnel Officer shall schedule a meeting with the employee and appointing authority to discuss the appointing authority's determination. The Personnel Officer shall issue a written decision to the employee and the Appointing Authority within fourteen (14) days from the date of the meeting. The decision of the Personnel Officer shall be final.
- B. An employee with approved outside employment must notify the Appointing Authority within one (1) working day regarding any changes to the terms or conditions of the outside employment that may have a potential adverse effect on the application of one or more of the factors under Section 11.1.A.2.
- C. Employees shall be subject to disciplinary action pursuant to Rule XII for violation of this Rule, including, but not limited to, failure to disclose outside employment, failure to provide timely updates regarding changes to outside employment, and intentional inclusion of material mis-statements or exclusion of material information in the employee's description of the outside employment.

SEC. 11.2 POLITICAL ACTIVITIES

Employees may not solicit political funds or contributions from other employees while on duty or on City property, nor may any employee participate in political activities while on duty or while in any uniform which would represent the City.

RULE XII. DISCIPLINARY ACTIONS

SEC. 12.1 CAUSES

- A. Disciplinary measures may be taken for any good and sufficient cause. The extent of the Disciplinary Action taken shall be commensurate with the offense provided that the prior employment history of the employee may also be considered pertinent. Cause may include, but is not limited to, the following:

1. Violation of City Personnel Rules, ordinances, regulations, rules, and/or administrative policies and procedures; or of standards established under California or federal law;
2. Failure to maintain job performance standards or to properly perform assigned duties;
3. Theft of or harm to City property or the personal property of another;
4. Lack of cooperation;
5. Insubordination;
6. Dishonesty;
7. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
8. Unauthorized absence from employment or excessive absenteeism;
9. Tardiness;
10. Failure to maintain satisfactory working relationships with other employees [officials](#), or the public;
11. Reporting for work, or being at work, under the influence of or in possession of alcohol, or non-prescribed controlled substances;
12. Assault, battery, or fighting while on duty or under the guise of office;
13. Gambling on City property or during working hours;
14. Sleeping on the job or leaving the job without authorization;
15. Improper use of City funds;
16. Acceptance of bribes or extortion;
17. Unauthorized use of City property;
18. Falsification of records, including information provided on an application for employment or on time sheets;
19. Failure to properly care for City property;
20. Acceptance of any gift, (other than as provided for by written City policy) reward or other form of compensation in addition to compensation for performance of official duties;
21. Carelessness or negligence;

22. Failure to maintain any employment qualification;
 23. Discourteous treatment of the public or fellow employees;
 24. Failure to comply with safety standards;
 25. Interfering with the work performance of others;
 26. Abuse of leaves of absence, including sick leave; and/or
 27. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.
- B. Reduction in Pay: Reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure are not disciplinary measures.

SEC. 12.2 AUTHORITY FOR DISCIPLINARY ACTIONS

- A. The Department Directors and/or City Manager shall have authority to take Disciplinary Action. As specified in Section 10.4, only the City Manager may terminate employees.
- B. The Personnel Officer shall be notified of any contemplated Disciplinary Action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Personnel Officer may be notified as soon as possible subsequent to the time the action is taken.

SEC. 12.3 TYPES OF DISCIPLINARY ACTION

- A. Lesser Disciplinary Action:
1. Oral Reprimand: Oral reprimand as a Disciplinary Action means the employee is informed of his/her poor performance verbally by his/her Department Director. The employee shall have no right to prior notice and no right of appeal.
 2. Written Reprimand: Written reprimand as a Disciplinary Action means an official notification of the employee that there is cause for dissatisfaction with his/her services and that further disciplinary measures may be taken if said cause is not corrected. Official reprimand shall be given in the manner and on forms prescribed by the Personnel Officer. Reprimand notices shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any appeal hearing. The employee shall have no right to prior notice and no right of appeal.
 3. Suspension Without Pay For Less Than Five (5) Working Days: Suspension without pay shall be a temporary separation from City service. Prior to the imposition of the suspension without pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective

date and specific reasons for the suspension without pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the suspension without pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.

4. Reduction In Pay: Reduction for a time period equivalent to less than a five (5) working day suspension. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. The maximum reduction in pay that may be given for any one Disciplinary Action shall be two (2) steps within the range for that Class. Reduction in pay shall become effective on the first of the month following the effective date of the Disciplinary Action. Prior to the imposition of the reduction in pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the reduction in pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the reduction in pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.

B. Serious Disciplinary Actions: Serious Disciplinary Actions require due process as set forth in Rule 12.4. Serious Disciplinary Actions include the following:

1. Reduction in range equivalent to a five (5) or more working day suspension without pay.
2. Suspension without pay for five (5) or more working days, but not more than thirty (30) working days. Suspension without pay shall be a temporary separation from City service.
3. Demotion without consent as Disciplinary Action, shall be a reduction in classification or rank, with reduction in salary.
4. Dismissal means the discharge of an employee from the City service on the initiative of the City Manager. Such termination of employment shall be permanent.

SEC. 12.4 PROCEDURES FOR SERIOUS DISCIPLINARY ACTIONS

A. Notice of Proposed Disciplinary Action: In instances of serious Disciplinary Actions as defined in Section 12.3.B, employees shall receive a written notice of proposed Disciplinary Action.

1. The notice of proposed Disciplinary Action shall state the proposed Disciplinary Action and the effective date and specific reasons for the proposed Disciplinary Action.
2. The notice of proposed Disciplinary Action shall include copies of all written materials supporting the proposed action.

3. The notice of proposed Disciplinary Action shall inform the employee of his/her right to respond, either orally or in writing, to the Department Director or City Manager, as appropriate, within five (5) working days of the date of the notice of proposed Disciplinary Action if it was personally delivered, or within seven (7) working days of the date of the notice of proposed Disciplinary Action if it was delivered by United States mail. If the employee requests to respond orally to the notice of the proposed Disciplinary Action, the Department Director or City Manager, as appropriate, shall schedule a meeting as soon as possible.
- B. Notice of Decision: After review of the employee's timely written response, if any, or following the conclusion of the meeting, the Department Director or City Manager, as appropriate, shall issue and deliver to the employee a Notice of Decision which shall be a written statement of the decision to uphold, modify, or reject the proposed Disciplinary Action. Such action to be taken may not include discipline more severe than that described in the notice of proposed Disciplinary Action. The Notice of Decision shall be served within seven (7) working days after the receipt of the written response or the conclusion of the meeting, whichever is later.
- C. Disciplinary Appeal Hearing:
1. Right to a Disciplinary Appeal Hearing: Any employee who has received a Notice of Decision imposing serious Disciplinary Action shall be entitled to request an evidentiary appeal of the imposition of discipline.
 2. Requesting a Disciplinary Appeal: An employee wishing to appeal the imposition of a serious Disciplinary Action shall initiate the appeal by filing a written request with the City Manager within five (5) working days of the date of the Notice of Discipline if it was personally delivered, or within seven (7) working days of the date of the notice of imposition of discipline if it was delivered by United States mail. The request shall be addressed to the City Manager, and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary appeal hearings shall be conducted in private unless the employee requests a public hearing.
 3. Designation of Hearing Officer:
 - a. When a person other than the City Manager imposes the Disciplinary Action, the City Manager may choose to act as the Hearing Officer and conduct the hearing himself/herself and make the final decision;
 - b. When a person other than the City Manager imposes the Disciplinary Action, the City Manager may refer the hearing to an outside Hearing Officer, who will be selected by a method mutually agreed to by the employee and City Manager, to conduct the

hearing and provide advisory findings and recommendations before the City Manager makes the final decision; or

- c. The City Manager may refer the hearing to an outside Hearing Officer who will be selected by a method mutually agreed to by the employee and City Manager to conduct the hearing and make the final decision on the appeal. The City Manager shall delegate authority to a Hearing Officer in this manner whenever the City Manager imposed the Disciplinary Action under appeal or whenever the appealing employee demonstrates significant bias on the part of the City Manager that disqualifies him/her as a neutral reviewer of that appeal.
 4. Scheduling the Disciplinary Appeal Hearing: The City Manager shall schedule the disciplinary appeal hearing within a reasonable time after the designation of a Hearing Officer, considering the availability of the Hearing Officer, the employee, and any witnesses.
 5. Representation and Employee Appearance at Disciplinary Appeal Hearing: The employee is entitled to be represented by counsel or other representative at the disciplinary appeal hearing. However, an employee who requests a disciplinary appeal hearing must be present during the disciplinary appeals hearing. Failure to be present shall constitute a waiver of the employee's right to an appeal. Waiver will not occur if the employee can demonstrate good cause for his/her failure to be present within three (3) working days from the date the employee fails to appear.
- D. Conduct of Disciplinary Appeal Hearings: The proceedings before the Hearing Officer shall be conducted as follows:
1. All parties shall have the following rights:
 - a. To call and examine witnesses;
 - b. To introduce exhibits;
 - c. To cross examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
 - d. To impeach any witness regardless of which party first called him/her to testify;
 - e. To rebut the evidence against them; and
 - f. To present oral and written arguments
 2. The City shall have the burden of proof, and the burden shall be by the preponderance of the evidence.

3. The hearing shall not be conducted in accordance with the technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in a court of law. The Hearing Officer's decision shall not be invalidated by any informality in the proceedings.
 4. Hearsay evidence may be used for the purpose of explaining any direct evidence but shall not be sufficient in and of itself to support a finding, unless it would be admissible over objections in civil actions.
 5. The Hearing Officer shall not take testimony from one (1) party outside the presence of the other.
 6. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
 7. Irrelevant evidence and unduly repetitious evidence shall be excluded.
 8. The Hearing Officer shall determine the relevancy, weight, and credibility of testimony and evidence.
 9. The Hearing Officer shall have the power to exclude any witnesses.
- E. Issuance of Decision: Within thirty (30) days after the close of the hearing, a written statement of decision, containing findings of fact and conclusions of law, shall be issued by the Hearing Officer. The Hearing Officer shall have the authority to affirm, revoke, or reduce the Disciplinary Action imposed against the employee. The Hearing Officer may not provide for discipline more stringent than that imposed by the City. When the Hearing Officer presents an advisory opinion to the City Manager, the City Manager shall have an additional fifteen (15) days to consider the advisory opinion and any written objections to the advisory opinion filed by the parties before the City Manager must issue a final decision. The parties shall have seven (7) days from the date the advisory opinion is issued to file written objections with the City Manager.

The Hearing Officer's decision constitutes a final resolution of any Disciplinary Action and no further appeal shall be permitted within the City's administrative process. A copy of the Hearing Officer's decision shall be provided to the employee.

Notwithstanding the above, the Hearing Officer shall not have binding authority to add, modify, or subtract from the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. Further, the Hearing Officer shall not have the authority or power to render a binding decision that requires the City to expend additional funds, to hire additional personnel, to buy additional equipment

or supplies, or to pay wages or benefits not specifically provided for in the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. The Hearing Officer shall not have the authority to require the City to perform any other action that would violate state or federal laws.

- F. Judicial Review: An employee may seek judicial review of the final decision by the Hearing Officer in accordance with Section 1094.5 of the California *Code of Civil Procedure* by filing a petition for a writ of mandate. Section 1094.5 of the *Code of Civil Procedure* requires that the petition writ of mandate must be filed not later than the ninetieth (90th) day following the date on which the Hearing Officer's decision becomes final.

SEC. 12.5 ADMINISTRATIVE LEAVE WITH PAY

An employee may be placed on an Administrative Leave with Pay to allow the City time to fully investigate the facts of an alleged violation, while the Disciplinary Action is in process, or when the Personnel Officer determines that it is in the best interests of the City. The employee must be reasonably available by telephone during his/her normal working hours and able to report to the City within sixty (60) minutes if directed to do so. When an employee is placed on Administrative Leave with Pay during this investigation, he/she shall not discuss the alleged violation or the Disciplinary Action with anyone, except a representative of his/her choice. Failure to remain reasonably reachable by telephone or to report to the City within sixty (60) minutes of being directed to do so ~~shall be considered insubordination, and could result in additional Disciplinary Action. The employee shall~~ will be a separate and independent ground for Disciplinary Action, unless the employee has requested and received authorization to use vacation, sick, or other leave time for the time in question. Where applicable, the employee shall also be informed that communicating with others, except a representative of his/her choice, about a pending investigation constitutes insubordination and is a separate and independent ground for discipline. This section is not intended to prevent the employee from communicating with his/her legal counsel.

SEC. 12.6 TIME EXTENSIONS

Any time limitations or requirements as set forth under this Rule may be extended or changed by mutual written agreement of the parties.

SEC. 12.7 DELIVERY OF NOTICES

When notice is required under this Rule, the notice shall be given to the affected employee either by delivery of the notice to the employee in person; or if the employee is not available for personal delivery, by placing the notice in the United States mail, first Class, postage paid, and by Certified Mail, return receipt requested, in an envelope addressed to the employee's last known home address. It shall be the responsibility of the employee to inform the City, in writing, of his/her current home address and of any change in such address, and the information so provided shall constitute the employee's "last known home address". Such personal delivery or mailing shall be presumed to provide actual notice to the affected employee.

RULE XIII. GRIEVANCE AND COMPLAINT PROCEDURE

SEC. 13.1 ESTABLISHMENT

These procedures are established in order to provide adequate opportunities for employees to bring forth their views relating to any unfair or improper aspect of their employment situation and to seek correction thereof. This Section 13.1 reflects a statement of intent and does not create any enforceable right beyond the procedures set forth in this Rule XIII.

SEC. 13.2 SCOPE OF PROCEDURES

The procedures set forth in this Rule shall apply to all employee complaints and grievances, as defined herein, except where other methods have been specifically prescribed in the Personnel Ordinance and in these Rules, such as in the matters of dismissal, demotion and reduction.

SEC. 13.3 DEFINITIONS

- A. Complaint: An allegation or charge that the complaining employee has suffered a wrong as a result of management action or inaction.
- B. Complaint Procedure: The process by which a determination is made as to whether or not a wrong has been committed. Complaints may not be filed over matters for which there is a separate appeal, which are subject to the grievance procedure, or which are expressly excluded from the grievance procedure pursuant to Sections 13.3.C.1-6.
- C. Grievance: An expressed claim by an employee that the City has violated, misinterpreted, or misapplied an obligation to the employee as such obligation is expressed and written in the Personnel Ordinance, a resolution, or these Rules. Specifically excluded from the grievance procedures are the following:
 - 1. Performance evaluations and Performance Improvement Plans;
 - 2. Deferred merit salary increases;
 - 3. All Lesser Disciplinary Actions;
 - 4. Policy decisions of the City Council;
 - 5. Transfer to another Position in the same classification without a loss of pay; and
 - 6. Matters for which there is a separate appeal, including, but not limited to, Disciplinary Action.
- D. Grievance Procedure: The process by which the validity of a grievance is determined.

SEC. 13.4 COMPLAINT PROCEDURE

- A. Step 1: The employee shall discuss any complaint with his/her Department Director within seven (7) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the complaint. The Department Director is required to review every complaint and attempt to settle it as quickly and fairly as possible. The Department Director shall issue a written decision to the employee within ten (10) days from the date of his/her meeting with the employee.
- B. Step 2: If the action taken by his/her Department Director is not satisfactory, the employee shall submit his/her complaint in writing to the Human Resources Director within seven (7) days of receipt of the Department Director's written decision. The Human Resources Director or designee shall meet and discuss the complaint with the employee within ten (10) days of his/her receipt of the complaint. The Human Resources Director or designee shall have twenty (20) days from the date of his/her meeting with the employee to issue a decision. The decision of the Human Resources Director or designee is final.

SEC. 13.5 GRIEVANCE PROCEDURE

- A. Step 1: The employee shall inform, in writing, his/her Department Director of his/her grievance and relevant facts within seven (7) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. At least one (1) conference shall be held between the employee and his/her Department Director after the employee has expressed his/her grievance. The Department Director shall advise the employee of his/her decision in writing within fourteen (14) days following notification of the grievance.
- B. Step 2: If the grievance is not satisfactorily resolved in Step 1, the grievant may, within seven (7) days of receipt of the Department Director's decision, submit the grievance to the Human Resources Director for consideration by the City Manager. Such submittal shall include the original grievance form, a written statement of any issues which are still in dispute, the specific basis upon which the grievant takes issues with the Position of his/her Department Director, the specific provision of the Personnel Ordinance, resolution, or Personnel Rules that the grievant asserts has been violated, and the remedy the grievant seeks. The City Manager or his/her designee shall take such review and investigative action as he/she deems necessary and inform the grievant of his/her decision in writing within fourteen (14) days of receipt of the grievance. The decision of the City Manager or his/her designee is final.

SEC. 13.6 GENERAL PROVISIONS

- A. No retribution or adverse employment action shall be taken against employees because of their use of the grievance or complaint procedures.

- B. All documents, communications, ~~and~~ records dealing with the processing of grievances and complaints shall be filed separately from personnel files.
- C. Failure by the City at any step of this procedure to communicate the decision on the grievance or complaint within the specified time limits shall permit the grievant or complainant to proceed to the next step.
- D. The grievant or complainant shall be present at all steps of the procedure.
- E. Failure at any step of these procedures to appeal a decision on a grievance or complaint within specified time limits shall be deemed acceptance of the decision rendered by the employee.
- F. The time limits specified at any step in this procedure may be extended by mutual written agreement of the City and grievant or complainant.
- G. The original grievance or complaint shall accompany all requests for institution of the next step in the grievance or complaint procedure.
- H. Communication with the grievant or complainant shall be processed by personal signed receipt of documents, or by certified mail, or registered mail.

RULE XIV. EMPLOYEE BENEFITS

SEC. 14.1 HEALTH BENEFITS

Accident, health, hospital, ~~and self-funded dental~~, and vision insurance to cover non-occupational injuries and sickness for probationary and Regular Full-Time Employees shall be provided by the City. The scope of coverage and the payment of premiums are subject to periodic review and revision by the City Council and shall be set by resolution of the City Council.

SEC. 14.2 RETIREMENT BENEFITS

The City has contracted with the California Public Employees' Retirement System (CalPERS) to enroll all City employees who meet the terms for CalPERS membership under applicable law and terms of the City's contract ("Members.") Members shall receive CalPERS retirement benefits in accordance with the following two-tier system. Except as specifically stated in Sections 14.2(A) and 14.2(B), below, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and any contribution credits (rebates) from CalPERS.

A. Tier I.

This Section 14.2(A) (including its subsections) shall apply to Members hired on or before December 31, 2012. In addition, this Section 14.2(A) (including its sub-sections) shall apply to Members who are qualified for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 55 Pension Formula

The two percent (2%) at age fifty-five (55) retirement formula shall apply to Members covered by this Section 14.2(A).

2. Final Compensation Based on Highest Twelve Month Period

For purposes of determining a retirement benefit, final compensation for Members covered by this Section 14.2(A) shall mean the highest twelve consecutive month period as set forth in the City's contract with CalPERS.

3. City Payment of Required Member Contribution

The City shall pay the full seven percent (7%) required Member contribution.

B. Tier II.

This Section 14.2(B) (including its subsections) shall apply to Members hired on or after January 1, 2013 who do not qualify for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 62 Pension Formula

- a. The two percent (2%) at age sixty-two (62) retirement formula shall apply to Members covered by this Section 14.2(B).

2. Final Compensation Based on Highest 36-Month Average

- a. For the purposes of determining a retirement benefit, final compensation for Members covered by this Section 14.2(B) shall mean the highest average pensionable compensation earned during 36 consecutive months of service, as set forth in Government Code Section 7522.32(a).

3. Required Member Contribution

- a. As required by Government Code Section 7522.04(g), Members covered by this Section 14.2(B) shall pay, through payroll deductions, fifty percent (50.0%) of normal costs.
- b. In the event that fifty percent (50.0%) of normal costs is less than seven percent (7.0%) percent, each Member covered by this Section 14.2(B) shall pay, through payroll deductions, the 50.0% of normal costs and an additional percentage of PERSable compensation up to a maximum of 7.0% towards the City's normal cost of pension benefits as permitted by Government Code Section 205616.

SEC. 14.3 DEFERRED COMPENSATION PLAN

Upon successful completion of the Probationary Period, Full-Time Employees shall be enrolled in the City's deferred compensation plan.

- A. Employees hired before January 1, 2012 are entitled to a contribution from the City equal to six (6) percent of base compensation.
- B. Employees hired on or after January 1, 2012 may choose to contribute to a deferred compensation plan with no entitlement to contribution from the City.
- C. At the discretion of the City Manager, and to the extent permitted by law, Department Directors hired on or after January 1, 2012 may be granted entitlement to a contribution to the City's deferred compensation plan. The City Manager shall specify applicable terms in writing at the time of hire.

RULE XV. EDUCATIONAL ASSISTANCE AND CERTIFICATION PAY

SEC. 15.1 EDUCATIONAL ASSISTANCE FOR TRAINING AND ADVANCEMENT

A. The responsibility for developing training programs for employees is with the Human Resources Director and Department Directors, jointly. When a training course to be taken by an employee will benefit the City, the City Manager may authorize payment by the City of tuition charges and books. Employees may be required to submit proof of satisfactory completion of coursework to the Human Resources Director as a condition of reimbursement.

~~B. If an employee is entitled to additional compensation by earning a degree, as specified in his/her job description, it will be the employee's responsibility to pay all fees for their courses and upon completing the course and earning a grade of C or better, to submit proof of payment for reimbursement of the tuition charges and books.~~

B. ~~C.~~ Non-exempt employees shall be compensated for travel time, attendance at training or meetings, and other similar time where required under applicable state and federal wage and hour laws.

C. ~~D.~~ Employees who separate from City employment voluntarily, shall be required to repay the City for reimbursements received under Section ~~15.1.B~~ 15.1.A., according to the following schedule:

TERMINATION <u>SEPARATION</u> DATE	PERCENTAGE OF REIMBURSEMENT TO BE REPAYED
0-6 months after reimbursement	100%
6-12 months after reimbursement	75%
12-18 months after reimbursement	50%
18-24 months after reimbursement	25%
24+ months after reimbursement	0%

SEC. 15.2 LICENSES AND CERTIFICATION ASSISTANCE

- A. In cases of enrollment for Operator-in-Training, or any other certification which is a condition of employment, the City shall pay application fees in advance.
- B. The cost of licensing fees, renewal fees, and test fees for all levels of certification are reimbursable, upon the City's receipt of the certification or license. To obtain reimbursement after successful completion of the test/renewal/license process, the employee is responsible for submitting proof of payment for test fees, renewal fees, and license fees, along with proof of the certification or license, to the City Manager. In unusual circumstances, the City Manager may authorize the payment of the test/renewal/license fees in advance.

SEC. 15.3 SWRCB OPERATOR CERTIFICATION PAY

- A. Employees in Positions in the Maintenance & Utility Fieldworker Classification who possess or obtain, and maintain continual eligibility for, certification by the State Water Resources Control Board that is not a Minimum Qualification for the Position shall be entitled to certification pay, as follows:

1. Water Distribution I Certificate	\$100.00 per month
2. Water or Wastewater Level II Certificate	\$100.00 per month
3. Water Distribution II Certificate	\$100.00 per month
4. Water Distribution III Certificate	\$100.00 per month
5. Other Higher Level Certificate	\$100.00 per month

- [B. An eligible employee will receive certificate pay starting with the first full pay period following receipt of notice by Human Resources that the employee passed the required examination for that certificate.](#)

SEC. 15.4 BILINGUAL PAY

- A. All full-time and part-time employees who are certified as bilingual by the City in accordance with these provisions and who are designated in writing by the Personnel Officer to provide bilingual services in the performance of their regular duties will receive an additional \$50.00 per pay period, unless or until the Personnel Officer rescinds the designation in writing.
 - 1. The City will offer certification for bilingual pay for oral fluency in the Spanish language only.
 - 2. The written designation issued by the Personnel Officer will provide details regarding the certification process, including the date, time, and location for administration of the bilingual examination.

3. The bilingual examination will be scored on a pass/fail basis. Examination scores are final and non-appealable.
4. Employees who do not earn a passing score can re-take the examination one time, for a maximum of two times per calendar year. Employees who pass the examination will be certified as bilingual by the City.
5. Employees who are certified as bilingual by the City are not required to re-take the examination to maintain eligibility for bilingual pay.
6. The Personnel Officer retains sole discretion to determine whether to limit the number of positions in which employees may receive bilingual pay.
7. [An eligible employee will receive bilingual pay starting with the first full pay period following receipt of notice by Human Resources that the employee passed the examination.](#)

SEC. 15.5 NOTARY PAY

- A. Full-time employees in the City's Administration or Planning Department who possess or obtain a commission as a notary public in the State of California and are authorized by the Personnel Officer in writing to act as a notary public for official City business in connection with their regular duties will receive an additional \$50.00 per pay period.
 1. Eligible employees will receive notary pay starting with the first full pay period following submission of a copy of his/her State of California commission certificate to Human Resources.
 2. Notary pay will continue unless and until the Personnel Officer rescinds the employee's eligibility in writing.
 3. Eligible employees are responsible for ensuring their continued eligibility for notary pay, including but not limited to, completing all necessary steps to obtain timely reappointment prior to expiration of their commission and providing a copy of the new commission certificate to Human Resources.
 4. Employees who intend to resign their commission must notify Human Resources in writing prior to the start of the next pay period and include a copy of the rescission letter to be sent to the California Secretary of State.

SEC. 15.6 EDUCATION INCENTIVE PAY FOR POST-SECONDARY DEGREE, CERTIFIED PUBLIC ACCOUNTANT DESIGNATION, OR PROFESSIONAL ENGINEER LICENSE

- A. All full-time employees are eligible for premium pay equal to 5% of monthly compensation for no more than one of the following reasons:
 1. Education Incentive Pay: The employee possesses or obtains a Bachelor of Arts degree, a Bachelor of Science degree, a Masters' degree, or other

advanced degree. The degree must be reasonably related to, but not required for, his/her job classification, and must be issued by an accredited institution.

2. Certified Public Accountant Certification Pay: The employee holds a position in the City's Finance Department and possesses or obtains a current California license as a Certified Public Accountant.
 3. Professional Engineer License Pay: The employee holds a position in the City's Public Works–Engineering Department and possesses or obtains a current California Professional Engineer License.
- B. Eligible employees will receive premium pay under this Section 15.6 starting with the first full pay period following submission of a copy of the degree or license to Human Resources.
- C. With the exception of Education Incentive Pay, eligible employees are responsible for ensuring their continued eligibility for premium pay under this Section 15.6, including but not limited to, completing all necessary steps to obtain timely renewal of their licenses prior to expiration and providing a copy of the renewed license to Human Resources.

SEC. 15.7 CMC PAY

- A. Full-time employees holding a position in the City Clerk classification who hold, or obtain, a Certified Municipal Clerk ("CMC") designation and certificate from the International Institute of Municipal Clerks ("IIMC") will receive an additional \$100 per pay period.
1. Eligible employees will receive CMC pay starting with the first full pay period following submission of a copy of the CMC certificate to the City Manager.
 2. CMC pay will continue unless and until the City Manager rescinds the employee's eligibility in writing.
- B. If the CMC Recertification Program is reinstated by the IIMC, employees will be responsible for ensuring that all necessary steps are completed to obtain timely recertification prior to expiration and providing proof of recertification to the City Manager.

RULE XVI. UNIFORMS CITY-PROVIDED ATTIRE AND EQUIPMENT

~~SEC. 16.1~~ UNIFORMS

SEC. 16.1 CLOTHING

- A. In general. The City shall either provide ~~uniform~~-clothing items that employees are required to wear to meet Department needs or shall bear the cost of required ~~uniform~~-clothing items.

B. Uniforms Dress for field employees.

1. The required uniform-clothing shall consist of collared or t-shirt-type shirts and jeans. Field employees shall be responsible for purchasing pants or other apparel that is generally usable in their occupations.
2. The City will provide required uniform items of clothing or an allowance to field employees, as follows:
 - a. Up to ten (10) shirts will be provided to each employee per fiscal year.
 - b. Employees will be reimbursed for purchase of up to five (5) pairs of jeans per fiscal year, up to a maximum amount of \$300 per fiscal year.
3. Field employees are responsible for the proper cleaning and maintenance of their uniform-clothing items.

SEC. 16.2 EQUIPMENT

- A. The City shall provide employees with the essential equipment to perform the duties of their Positions, as determined in the discretion of the Department Director.
- B. Employees are responsible for requesting training on equipment that they are unfamiliar with prior to using such equipment. Also, employees are responsible for the proper operation and maintenance of all equipment.

SEC. 16.3 SAFETY EQUIPMENT AND PROTECTIVE CLOTHING

- A. All field employees will be required to wear approved safety shoes and other safety equipment and protective clothing. Field employees who fail or refuse to wear such safety and protective items as appropriate will be subject to Disciplinary Action under Rule XII. If any employee is unable to wear one or more safety or protective items due to protected characteristics, the Personnel Officer may grant exceptions to this Rule where required by law as a reasonable accommodation.
- B. The City will provide one of each of the following safety equipment and protective clothing items to each field employee:
 1. Hard hats
 2. Pair of ear plugs
 3. Safety goggles
 4. Non-prescription safety glasses
 5. Safety vests
 6. High visibility raincoats
- C. Approved Safety Shoes:

1. The City requires that the approved safety shoes include both a steel toe and steel shank construction and meet the requirements of the American National Steel Institute (ANSI Z41.1). The shoes must be low quarter, three quarter or full boot.
2. Employees must choose their own approved safety shoes meeting the above requirements. After obtaining approval from the Public Works Director, the employee will purchase a safety shoe which is approved by OSHA from a vendor pre-selected by the Public Works Director. After purchase of the approved safety shoes, the employee will present a receipt of purchase to his/her Department Director for reimbursement. The maximum amount of reimbursement will be two hundred dollars (\$200.00), per fiscal year. Reimbursement will be made to the employee within ten (10) days after presentation of the receipt to the Public Works Director.

RULE XVII. DRESS CODE

SEC. 17.1 GENERAL POLICY

- A. The City is a professional organization, and customers, suppliers, and the general public (collectively “customers”) frequently form their initial impressions of professional credibility based solely on employee appearance. Therefore, all employees must present a professional appearance by wearing attire appropriate to their job classifications and must promote a positive image to customers.
- B. This Rule is intended to provide standards on dress and appearance and is not meant to address all situations. There may be differences in some Departments’ standards depending on the nature of the work environment, nature of work performed, involvement with the public, required ~~uniforms~~ attire under Rule XVI, or other circumstances identified by the Department Director. The standards in this Rule apply when the employee has officially reported to work. Department Directors shall be responsible for enforcement of this Rule and related Department Policies among their employees.

SEC. 17.2 GENERAL GUIDELINES FOR ATTIRE AND FOOTWEAR

- A. Business Casual. Employees are required to dress each day in business casual dress. Business casual wear is a style of dress which projects a professional, business-like image while still permitting employees to wear more casual and relaxed clothing. Business casual does not include athletic wear, leisure wear, or beach wear. Clothing and footwear should be clean and in good repair. It may not be faded, torn, frayed, or revealing.
- B. Professional Business Attire. Employees should always consider each day’s activities when determining what to wear. If an employee is representing the City at a meeting (including City Council and Planning Commission meetings), professional business attire should be worn.

SEC. 17.3 LIMITED EXCEPTIONS

- A. Department Directors may exercise their discretion regarding appropriate attire in light of weather conditions or requirements of special projects or assignments.
- B. The City may designate special casual days during which the dress code may be relaxed. Criteria for such casual days will be announced in advance.

SEC. 17.4 TATTOOS AND JEWELRY

- A. All tattoos must be covered.
- B. Facial piercing jewelry, including, but not limited to that displayed via nose piercing, tongue piercing, eyebrow piercing, lip piercing, or any other facial piercing, is prohibited.
- C. Employees may wear up to two (2) earrings in each earlobe.
- D. All other jewelry must be appropriate, not detract from a professional appearance, and not constitute a potential safety hazard for the employee or others due to its characteristics or the manner in which it is worn. Such a determination shall rest in the discretion of the Department Director.

SEC. 17.5 GROOMING

- A. All employees must maintain a clean, presentable appearance.
- B. When used, perfumes, colognes, after shaves, and scented lotions shall be applied in moderation.
- C. Beards, sideburns, and moustaches must be neatly groomed. Hair must be properly restrained as required for its length and the nature of the assignment. Hair coloring shall be within the range of natural hair colors.

SEC. 17.6 VIOLATIONS

- A. Should an employee wear inappropriate attire or footwear to work, the employee shall be asked to leave the workplace and promptly return after changing into appropriate attire and footwear. Non-exempt employees may deduct the missed time from their available paid leave, or in the absence of leave, shall be required to take the missing time as leave without pay. Failure by any employee to return to work promptly may be grounds for discipline, pursuant to Rule XII.
- B. Repeated violations of this Rule may be grounds for discipline, pursuant to Rule XII.

SEC. 17.7 ACCOMMODATION OF PROTECTED CHARACTERISTICS

- A. The Personnel Officer may grant exceptions to this Rule as required by law to accommodate an employee's protected characteristic(s).

RULE XVIII. POLICY AGAINST WORKPLACE VIOLENCE

SEC. 18.1 OBJECTIVES

The City is strongly committed to ensuring the safety of all employees. Consistent with this policy, acts or threats of violence, including intimidation, harassment, and/or coercion which involve or affect employees will not be tolerated, and will be subject to appropriate Disciplinary Action pursuant to Rule XII, up to and including termination. The following are the objectives of the City:

- A. To ensure that all workplace threats and violent behavior are addressed promptly.
- B. To ensure that the level of physical and facility security in City workplaces is sufficient to protect the health and safety of employees.
- C. To ensure that all employees are appropriately trained in workplace security, diffusing hostile situations, and steps to take during an emergency incident.
- D. To ensure that all Disciplinary Action taken for behavior prohibited under this Rule is reviewed, evaluated, and administered consistently and equitably throughout the City, and done so in a timely manner.

SEC. 18.2 THREATS OR ACTS OF VIOLENCE DEFINED

A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his/her safety, or the safety of his/her immediate family, and that serves no legitimate purpose. General examples of prohibited workplace violence include, but are not limited to the following:

- A. Threatening to harm or harming an individual or his/her family, friends, associates, or their property.
- B. Fighting or challenging another individual to a fight.
- C. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
- D. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, text messages, or other correspondence.
- E. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the City.
- F. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for his/her safety, or the safety of his/her immediate family, as defined in *Civil Code* section 1708.7.

- G. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
- H. Possession of firearms (loaded or unloaded), weapons, or any other dangerous devices on City property. This includes “look-alike” weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives having a blade longer than three and one-half (3½) inches, folding knives having a blade that locks into place, razor blades, and clubs.
- I. Use of a personal or City-issued tool or other equipment in a threatening manner toward another.

SEC. 18.3 REPORTING WORKPLACE VIOLENCE

Any employee who is the victim of a threat or act of violence, or any employee who witnesses such conduct, should immediately report the incident to his/her Department Director or other appropriate person in the chain of command. Should the employee perceive that he/she is in immediate danger of a violent act, or has just been victimized by a violent act, or is a witness of a violent act or imminent violent act, he/she shall whenever possible:

- A. Place themselves in a safe location.
- B. If appropriate, call the Police Department or 911 and request immediate response of a police officer and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed.
- C. Inform the Human Resources Director or the City Manager of the circumstances.
- D. Complete a written report as soon as possible and submit the original copy to the Human Resources Director.
- E. Cooperate fully in any administrative or criminal investigation, which shall be conducted within existing policy and laws.

SEC. 18.4 REPORTING POTENTIAL FUTURE WORKPLACE VIOLENCE

Employees who have reason to believe they or any employee may be the subject of a violent act in the workplace or as a result of their City employment, ~~should~~must immediately notify the Human Resources Director or the City Manager.

[The City will provide reasonable accommodation for the safety of an employee at work in accordance with Section 230\(f\) of the Labor Code.](#)

SEC. 18.5 VIOLATION OF RULE

The City's prohibition against threats and acts of violence applies to all persons in the City operation, including but not limited to City personnel, contract and temporary

workers, customers, and anyone else on City property. Violations of this Rule by any individual may be followed by legal action as appropriate, which may include, but is not limited to, seeking a temporary restraining order and/or injunction on behalf of employees if the situation warrants such action. In addition to appropriate legal action, violations of this Rule by employees, including making a false report under this Rule, may lead to appropriate Disciplinary Action pursuant to Rule XII, up to and including termination.

RULE XIX. PERSONNEL FILES AND RECORDS

SEC. 19.1 IN GENERAL

The City maintains a personnel file on each employee. An employee's personnel file will contain only material that the City determines is necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

A. Inspection of a Current or Former Employee's Personnel File:

1. A current or former employee wishing to inspect his/her personnel file must submit a written request to the Human Resources Director, along with reasonable proof of identity. A current or former employee who seeks to authorize another person to inspect copies of his or her personnel file must provide a satisfactory written authorization for inclusion with the written request along with proof of identity.
2. The City shall issue a written notice setting a date for inspection of the personnel file within thirty calendar days of receipt of the request, to take place during normal business hours. With the requesting person's written consent, the date for inspection may be extended on one occasion by up to five calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the City's expense instead of scheduling an in-person inspection.
3. A current employee may inspect his/her personnel file at the place the employee reports to work, or may instead consent to inspect his/her personnel file at City Hall without loss of compensation. Inspection by former employees and authorized representatives shall take place at the Human Resources Director's office, unless otherwise mutually agreed in writing by the City, and may require additional reasonable proof of identity.
4. A designated City employee must be present throughout the inspection. No personnel files nor contents of personnel files shall be removed from the place of inspection without advance written authorization from the Human Resources Director.

B. Obtaining Copies of a Current or Former Employee's Personnel File:

1. A current or former employee wishing to obtain copies of documents or other materials in his/her personnel file in person or by mail must submit a written request to the Human Resources Director along with reasonable proof of identity. A current or former employee who seeks to authorize another person to obtain copies of his/her personnel file must provide a satisfactory written authorization for inclusion with the written request. Reasonable proof of identity may be required at the time of in-person pick up of requested documents.
2. The City shall issue a written notice setting a date on which the requested copies may be picked up in person during normal business hours and identifying the cost of reproduction that must be paid to the City at the time of pick up. The date for in-person pick up of the documents shall be no more than thirty calendar days after receipt of the request by the City. With the requesting person's written consent, that date may be extended on one occasion by up to five calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the expense of the City instead of scheduling an in-person pick up.
3. If the requesting person chooses delivery by mail instead of in-person pick up, the notice provided by the City under Section 19.B.2. shall also identify the additional actual postage expenses for which the requesting person must reimburse the City prior to receipt of the copies.

C. Limits on Frequency of Exercise of Rights to Inspect or Receive Copies of Personnel Files:

1. Current employees shall be entitled to exercise rights under this policy to inspect and obtain copies of personnel records at reasonable intervals upon reasonable notice in accordance with this policy.
2. Former employees shall be entitled to exercise rights under this policy to inspect or receive copies of their personnel records once per year.
3. The City shall comply with a maximum of 50 requests per month filed under this policy by one or more representatives of current Employees.

- D. Each employee is responsible for keeping his/her file up to date by notifying the Personnel Officer of any changes to relevant personal information, including, but not limited to change of address, contact information, emergency contact information, and number and names of dependents for health benefit maintenance.

RULE XX. WHISTLE BLOWING POLICY

SEC. 20.1 DEFINITION OF "WHISTLE BLOWING"

- A. For purposes of this provision, "whistle blowing" consists of disclosure of information that the employee reasonably believes constitutes a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties, when that disclosure is made to one or more of the following:
1. A government or law enforcement agency;
 2. A person with authority over the employee;
 3. Another employee who has authority to investigate, discover, or correct the violation or noncompliance; or
 4. Any public body conducting an investigation, hearing, or inquiry, including, but not limited to, information given as testimony.

SEC. 20.2 SCOPE OF POLICY

- A. The City encourages employee complaints, reports or inquiries about practices believed to be unlawful or constitute serious violation of the City policies, including illegal or improper conduct by the City itself, by its leadership, or by others on its behalf. Other subjects for which the City has existing complaint procedures shall be addressed under those other procedures. This policy is not intended to provide a means of appeal from outcomes in those other procedures.

SEC. 20.3 PROCEDURE

- A. Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports or inquiries. They may be directed to the Personnel Officer or City Manager, or to the City Attorney if involving the Personnel Officer or City Manager. The City will conduct a prompt, discreet, and objective review or investigation in response. However, Employees must recognize that the City may be unable to fully evaluate or address a report or inquiry that is made anonymously or made in a vague or general manner.

SEC. 20.4 PROTECTION FROM RETALIATION BECAUSE OF GOOD FAITH COMPLAINTS, REPORTS, OR INQUIRIES:

- A. The City prohibits retaliation by or on behalf of the City against Employees for making good faith complaints, reports or inquiries under this policy or by participating in a review or investigation under this policy. Any Employee who makes a complaint using this procedure or otherwise engages in "whistleblowing" is protected against adverse employment actions (discharge, demotion, suspension, harassment, or other forms of discrimination) taken by the City or

any person acting on behalf of the City. This protection extends to those whose allegations are made in good faith but prove to be mistaken or unsubstantiated. Employees who participate or assist in an investigation will also be protected. Every reasonable effort will be made to protect the anonymity of the "whistleblowing" employee however, there may be situations where it cannot be guaranteed.

- B. The City reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

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**CITY OF BUELLTON
ACKNOWLEDGEMENT OF RECEIPT OF PERSONNEL RULES**

I acknowledge that I have received my copy of the City of Buellton Personnel Rules. I recognize that the Personnel Rules supersede any related Personnel Rules, policy statements, manuals, and/or administrative policies previously issued by the City of Buellton. I will read and abide by all Personnel Rules and regulations set forth in the Personnel Rules.

I understand that these Personnel Rules do not create a vested contractual right in the execution of the duties and responsibilities relating to these Personnel Rules.

Print Name

Signature

Date

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