

ITEM 9.E.

MOORPARK CITY COUNCIL AGENDA REPORT

TO: Honorable City Council

FROM: Steven Kueny, City Manager 

DATE: October 31, 2012 (CC Meeting of 11/7/12)

SUBJECT: Consider Legal Services Agreement between the City of Moorpark and Richards, Watson & Gershon for the Provision of City Attorney Services

BACKGROUND

On April 18, 2012, the City Council authorized the City Manager to proceed with Request for Proposals (RFP) for City Attorney services. The RFP document was part of the agenda report. The City Council concurred to appoint Mayor Pro Tem Pollock and Councilmember Millhouse as an Ad Hoc Committee to recommend a limited number of proposers for consideration by the City Council in closed session.

The City sent the RFP to 24 firms known to provide city attorney services in the Southern California area and published the opportunity to respond to the RFP in a few publications as well as on the City's website. The City received 13 responses to the RFP including Burke, Williams & Sorensen (BWS), the firm currently providing City Attorney services to the City. After review of the responses, the City Council interviewed seven (7) firms in closed session.

Under a separate agenda item on November 7, 2012, the City Council will consider terminating the current agreement the City has for providing City Attorney services.

DISCUSSION

At the conclusion of the interviews with selected firms and after much consideration, the City Council directed that this report be prepared to consider an agreement with Richards, Watson & Gershon (RWG) to provide City Attorney services. Attached are relevant sections of the RWG proposal, which describes its experience and qualifications. RWG has an excellent reputation for providing legal services to public agencies, and RWG provides the full range of legal services generally needed by the City.

Honorable City Council

City Council Meeting of 11/7/12

Re: Consider Agreement with Richards, Watson & Gershon for City Attorney Services

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A copy of the proposed Legal Services Agreement is attached. It provides for RWG to serve as City Attorney effective December 1, 2012, and transitional services between November 8 and November 30. These legal services will also include the Moorpark Industrial Development Authority, Moorpark Public Financing Authority, Successor Agency of the Redevelopment Agency of the City of Moorpark, and any other public agency for which the City Council serves as the governing body. Kevin Ennis will serve as City Attorney, and Gena Stinnett as Assistant City Attorney.

In the proposed Legal Services Agreement, "Exhibit A – Rates," sets forth the rates for the types of services that will be provided. For General Services, the first 20 hours of service each month will be \$165 per hour. Thereafter, such services will be at the rate of \$195 per hour for associates and \$210 per hour for all other attorneys. Special services, code enforcement litigation, and general litigation will be at hourly rates between \$190 and \$290 depending on the specific work and who works on the matter. All rates will remain at the proposed amounts through June 30, 2014. At that time, rates may be adjusted consistent with the Consumer Price Index up to three percent (3%) per year. Any annual adjustment above three percent (3%) or any other adjustment to the rates requires prior written approval of the City Council.

STAFF RECOMMENDATION

Approve Legal Services Agreement between the City of Moorpark and Richards, Watson & Gershon and authorize Mayor to sign on behalf of the City.

SK:db

Attachments:

- 1) Sections of RWG Proposal
- 2) Proposed Legal Services Agreement with Exhibit A – Rates

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**CITY OF MOORPARK
REQUEST FOR PROPOSALS
CITY ATTORNEY SERVICES**

Prepared by

Kevin G. Ennis

June 6, 2012

For more information contact:

kennis@rwglaw.com

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Los Angeles, California 90071-3101
www.rwglaw.com



June 6, 2012

Ms. Deborah S. Traffenstedt
Deputy City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

Reference: City of Moorpark
Proposal for City Attorney Services

Dear Ms. Traffenstedt:

The law firm of Richards, Watson & Gershon (RWG) is pleased to respond to Moorpark's City Attorney Services Request for Proposals. We propose Kevin G. Ennis to serve as City Attorney and primary contact person, Steven L. Dorsey to serve as Senior Counsel, and Gena Stinnett to serve as Assistant City Attorney.

Identification of Proposer. The person submitting this Proposal is Kevin G. Ennis, a shareholder of RWG. His address is 355 South Grand Avenue, 40th Floor, Los Angeles, California, 90071. His telephone number is (213) 626-8484 and his facsimile number is (213) 626-0078. Kevin's e-mail address is kennis@rwglaw.com.

Identification of Person Authorized to Represent Proposer. I, Kayser Sume, am the Chairman of the Board of Directors of RWG and am authorized to represent the firm in connection with this proposal. My contact information is the same as Kevin's except that my e-mail address is ksume@rwglaw.com.

RWG is a professional corporation that specializes in representing public entities of all types. The firm was founded in 1954 when the law offices of Richard Richards joined with the law firm of Watson & Beverly to create a new law partnership. The firm incorporated in 1978 and has offices in Los Angeles, Orange County, Temecula, and San Francisco. We currently serve as City/Town Attorney, Special Counsel, or General Counsel to over 50 cities, towns, counties, joint powers authorities, airports, school districts, community services districts, water districts, and other special districts throughout California.

Our proposal to Moorpark makes the same pledge we have made to our clients and upheld for 58 years: we will provide the highest quality professional legal services in a prompt and cost-effective manner. Following this transmittal letter is the information requested in the Request for Proposals.

City of Moorpark
Proposal for City Attorney Services



We appreciate the opportunity to submit this proposal. We believe that the experienced team we are proposing, backed by the full and extensive resources of RWG, would provide excellent representation to Moorpark and we look forward to discussing our proposal with you. In the meantime, if you have any questions or comments, please do not hesitate to contact Kevin or me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kayser O. Sume'.

Kayser O. Sume
Chairman, Board of Directors

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RWG Exhibits

- Exhibit 1 Sample Litigation Log
- Exhibit 2 Sample Written Communication
- Exhibit 3 Proposed Legal Services Agreement



C. Summary

RWG has a successful history of representing cities like Moorpark in achieving their goals and protecting their history and unique identity. We understand how cities are under pressure to conform to changes in state and federal law mandates and how those mandates often conflict with a community's identity and goals. We are proposing a team with substantial experience in representing prestigious cities that desire to have a City Attorney to work as a member of the City's management team.

Kevin G. Ennis is proposed to be City Attorney. Kevin Ennis has over 25 years of experience as an attorney representing cities and other public entities, and has served in the position of City Attorney for over 15 years. He has particular expertise in the Brown Act, meeting management, complex land use projects, the Subdivision Map Act, and conflicts of interest law.

Steven L. Dorsey is proposed as Senior Counsel. Steve Dorsey has over 35 years of experience serving in the position of City Attorney. He is also a past president of the City Attorneys Department of the League of California Cities and currently serves as the League's Parliamentarian.

Gena M. Stinnett is proposed as Assistant City Attorney. Gena Stinnett is a senior attorney at RWG having served as assistant city attorney for several cities and having developed a particular expertise in matters relating to public records, wireless telecommunications issues, and land use.

Roy A. Clarke and Saskia T. Asamura are attorneys with the firm who both provide employment law services. Roy is a shareholder who provides employment law advisory services. Saskia Asamura is a shareholder and employment law litigator.

D. Statement of Understanding

RWG will provide the City of Moorpark all legal services described in the RFP's scope of services, including employee relations/human resource services. We have experienced attorneys who are qualified to handle virtually all public entity needs for legal services.

E. Background and Experience

1. Official Firm Name, Address and Type of Entity:

Richards, Watson & Gershon
A Professional Corporation
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071



RWG is a California professional corporation.

2. Describe your firm's background and history; include number of years in business. Describe the expertise your firm is able to provide the City.

RWG was founded in 1954 and has been providing public entity legal services for 55 years. Glenn R. Watson incorporated many cities in southern California, including the City of Dairy Valley (now Cerritos) and became its first city attorney in 1956.

RWG is a full service law firm with expertise in the wide variety of legal issues faced by public entities. Our areas of specialization include: assessments, taxes and public financing; Brown Act; CEQA; conflicts of interest; Coastal Act; elections; eminent domain and inverse condemnation; labor and employment; land use, planning, subdivisions, and zoning; successor agency; police practices; Public Records Act; public works; real estate; solid waste; telecommunications; trial and appellate litigation; water rights and water law.

3. Describe your firm's municipal and public agency Legal Services' experience and training.

The core of the firm's practice is serving public entities in California. We are qualified to handle virtually all public entity needs for legal services. Most of our attorneys practice exclusively in the public entity field. While each public law attorney is familiar with all areas of municipal and public law, our firm is large enough to enable each attorney to become more specialized in specific areas such as successor agency/redevelopment law, public finance, litigation, real estate, construction, environmental law, CEQA, DTSC compliance, eminent domain, labor relations and personnel law, and business and procurement advisory services. This expertise enables us to offer efficient and cost-effective services and to complete work within reasonable budgets.

4. List the location of office(s) that would serve the City of Moorpark.

Los Angeles
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071
Telephone: (213) 626-8484
Facsimile: (213) 626-0078



5. Identify support staff services available (clerical support, paralegals, other non-attorney staff).

In addition to Kevin, Steve, Gena, Roy, and Saskia, the firm has over 65 attorneys and numerous management and support staff including a records center, word processing department, office services center (including a courier service), and information technology professionals. This broad range of staff and professionals, paired with the latest in technology and management practices, allows us to serve each of our client's unique needs in a timely, cost-effective, and productive manner.

F. Approach to Legal Services

1. Describe your view of the role of the City Attorney.

The City Attorney is a member of the city team and we seek to work cooperatively with city staff to achieve the goals of the City Council while protecting the city from legal risk. The City Attorney helps find solutions to city problems within the requirements of the law and helps develop programs and policies with city staff that achieve city goals in a legally compliant manner. RWG has a strict philosophy that the role of the City Attorney is to be a legal advisor and facilitator, not a policy maker or a sixth council member. The firm's attorneys are professional, responsible, and non-partisan at all times when providing legal services.

2. Describe how you will keep the City informed about the status of litigation and other legal matters.

In order to effectively monitor pending lawsuits and control litigation costs, RWG has developed a litigation log that is updated on a monthly or quarterly basis, as preferred by the client. This report tracks the status of each lawsuit, the risk of liability and potential monetary exposure, and the legal fees and costs incurred to date. A sample litigation log is attached as Exhibit 1. In addition, the City Attorney ensures that regular updates of the status of litigation are provided to the City Council in closed sessions.

3. Provide an example of a written communication to a governing body about a legal issue, in which options are explained and a recommendation is given.

An example of a written communication to a governing body is attached as Exhibit 2.

4. Describe how you track and manage legal fees and costs.

RWG aids public entity clients in the management of legal expenses in many ways. First, the City Attorney will regularly provide the City Manager with a chart of the monthly and year-to-date costs incurred for each matter handled by the City Attorney compared against the annual budget for City Attorney expenses. This chart also provides a column that shows if the expenditures are on pace consistent with the annual budget or are above or below the budget



targets. This chart allows city staff and the City Attorney to monitor expenses throughout the year and to coordinate the use of legal resources so that the city can know at any point during the year if there are remaining resources to incur additional legal services.

Second, our extensive library of forms minimizes the time spent by attorneys on routine documents such as standard contracts and standard easements. We provide training to staff to properly utilize these forms and handle routine matters, such as public records requests and small contracts. This assists in reducing, over time, the use of attorney time for certain routine matters.

RWG's large public entity client base means that any one entity client will pay only a small fraction of the cost for legal work on matters that are common to all public entity clients. Examples of such matters include annual reports on new legislation and the drafting of ordinances or policies in response to new court decisions.

- 5. Describe how you would proactively advise the city about legal developments or issues of concern, without being asked. If you use Newsletters, News Briefs, or other communications, please describe general content and frequency of publication.**

RWG periodically publishes E-alerts that describe recent accomplishments and activities of the firm and our attorneys, as well as provides summaries of noteworthy legislation or court decisions.

RWG believes that training by the City Attorney's office for elected officials and staff is a vitally important element of risk management. The firm regularly conducts presentations for our public entity clients on a variety of topics including: ethics and open government (AB 1234); records retention and the Public Records Act; employee evaluation; sexual harassment prevention; and conducting internal investigations. All training sessions are designed to increase efficiency, improve performance, and reduce legal costs.

- 6. Describe the computer resources currently used within your office.**

The firm's network uses the Microsoft Windows operating systems and the firm uses the Microsoft Office suite of applications such as Word, Excel, and PowerPoint. We have a centralized document management system that allows for quick and easy access to all documents, from e-mail to memoranda to pleadings, while simultaneously ensuring robust security. Attorneys also have voicemail and are assigned conference call numbers for use with clients. Kevin, Steve, Gena, Roy and Saskia are all adept and experienced at sending and receiving e-mailed draft staff reports, resolutions and ordinances, producing redlines or changes in track-change format and in assisting city staff in quickly completing documents when required to meet agenda deadlines. All of the attorneys in our office can be reached by telephone, cell



phone, and e-mail. Each attorney has 24-hour access to e-mail, the Internet, database services, and legal research facilities, as well as word processing.

7. Please list specialty services you do not provide.

The firm does not provide bankruptcy law services or criminal defense services. The firm does provide criminal prosecution services.

G. Proposed Attorney(s)

We propose a team comprised of Kevin Ennis as City Attorney, Steve Dorsey as Senior Counsel, Gena Stinnett as Assistant City Attorney, and Roy Clarke and Saskia Asamura as Employee Relations/Human Resources Counsel.

Proposed City Attorney: Kevin G. Ennis

Kevin G. Ennis. Kevin is a shareholder of the firm and has been representing local government entities for 25 years. Kevin serves as City Attorney for the Cities of Artesia and Calimesa, as General Counsel for several special districts and as Special Counsel to a wide variety of cities in land use matters. The sampling below illustrates Kevin's areas of expertise:

- Kevin specializes in municipal law, land use, planning, CEQA, the Subdivision Map Act, the Brown Act, and conflicts of interest.
- Kevin has been the lead land use attorney for the Cities of Palmdale, Rancho Cucamonga, Hawthorne, and Seaside, as well as the Burbank-Glendale-Pasadena Airport Authority in a variety of large residential, commercial, and institutional land use projects.
- Kevin has been a co-instructor of UCLA's Advanced Seminar on the Subdivision Map Act for the last 15 years. In addition, he has provided annual presentations for the last eight years to various groups on current land use legislation and court decisions.
- A sample of land use matters handled by Kevin, including those as special counsel, include:
 - *Burbank-Glendale-Pasadena Airport Authority.* Kevin was the lead land use attorney on a complex land use approval with the City of Burbank for the Burbank-Glendale-Pasadena Airport Authority that involved the simultaneous approval of a Mitigated Negative Declaration, a development agreement, and 12 other companion agreements and approvals. He is currently working on the next phase of long-range planning between the Authority and the City of Burbank.



- *City of Seaside.* Kevin provided special counsel services for the Seaside Resort project which involved negotiating and preparing an EIR, tentative maps, a Disposition and Development Agreement and related approvals for a 330-room luxury hotel, 15 bungalows, 160 timeshare units and residential subdivision on 84 acres surrounded by a 36-hole golf course in a former portion of Fort Ord.
- *City of Rancho Cucamonga.* Kevin prepared and negotiated amendments to the General Plan, two specific plans, a development agreement and a supplemental EIR to permit additional high-rise housing projects within a perimeter area around the Victoria Gardens shopping center.
- *City of Artesia.* Kevin prepared a specific plan, zoning code amendment, development agreement and settlement agreement as a result of a redevelopment lawsuit in connection with the reconstruction of a concrete batch plant into a state-of-the art facility. He has also assisted with innovative and unique land use regulations to assist in the revitalization of the historic downtown.
- Kevin has participated in numerous seminars for public officials and attorneys on such topics as Admission Taxes (City Attorneys Association of Los Angeles County - 1987), mansionization (League of California Cities – 1989), advanced issues involving the Subdivision Map Act (UCLA Extension – annually since 1992), and legal issues involving neighborhood traffic controls (UCLA Extension – 1996, League of California Cities – 1997, and San Diego Traffic Council – 2002).
- Kevin is a past President of the State and Local Government Law Section of the Los Angeles County Bar Association, a past President of the Claremont McKenna College Alumni Association and a former Alumnus Trustee of Claremont McKenna College. He also served on the League of California Cities’ committees on Housing Community and Economic Development and the *Municipal Law Handbook*.
- Kevin graduated from Loyola Law School in 1985. He received his undergraduate degree at Claremont McKenna College in 1982, graduating with honors. Kevin was admitted to the California State Bar in 1986.

Public Entity Clients Represented: Kevin G. Ennis

- City of Artesia – City Attorney (1997 – present);
- City of Calimesa – City Attorney (2007 – present);
- Palos Verdes Library District – General Counsel (1996 – present);
- City of Rolling Hills – Assistant City Attorney (1989 – 2000);
- City of Palmdale – Assistant City Attorney (1990 – 2000);



- City of Rancho Cucamonga – Assistant City Attorney (1998 – 2008)
- City of Seaside – Special Land Use Counsel (2004 – Present)
- Burbank-Glendale-Pasadena Airport Authority – Special Land Use Counsel (2003 – Present)
- City of Hawthorne – Special Counsel (2005 – Present).

Proposed Senior Counsel – Steven L. Dorsey

Steven L. Dorsey. Steve joined RWG in July 1973, and became a shareholder in 1978. Since joining the firm, he has specialized in the areas of conflicts of interest, public law, public agency construction contracts and projects and subdivisions.

- Steve currently serves as City Attorney for the Cities of Buena Park, Norwalk, and San Marino. He previously served as City Attorney for the Cities of Cudahy, Rancho Palos Verdes, and South El Monte.
- Steve has been very active in the League of California Cities, serving as a member of the League's Board of Directors, as President of the City Attorneys' Department, Chair of the Department's Legal Advocacy Committee, member of the Department's Legislative Committee and Chair of the City Attorneys' Department Fair Political Practices Commission Committee. He served on the Editorial Board that wrote the first edition of the League's *Municipal Law Handbook*, and edited the chapters on Public Property, Public Works, and Public Utilities. Steve has also served as a member of the City Attorney task force that wrote *Practicing Ethics*, an ethical guide for city attorneys and was Chair of the Department's task force that prepared the recently adopted ethics rules for city attorneys.
- Steve has presented numerous seminars for public officials on such topics as the Brown Act, meeting procedures, conflicts of interest and charitable solicitation regulations. He taught a course on the Subdivision Map Act for the UCLA Public Policy Institute for many years.

Proposed Assistant City Attorney: Gena Stinnett

Gena M. Stinnett. Gena is a senior attorney of the firm and has been representing local government entities for six years. Gena serves as Assistant City Attorney and Planning Commission Counsel for the City of Monrovia. She also serves as Assistant City Attorney for the Cities of Beverly Hills and Rancho Palos Verdes. The sampling below illustrates Gena's areas of expertise:

- Gena regularly advises cities on Brown Act, CEQA, conflict of interest, Public Records Act, land use, medical marijuana, records retention, solid waste, subdivision, and



telecommunications issues. Her telecommunications practice includes the review and preparation of wireless telecommunications facility ordinances, drafting of cell tower leases, and advising cities on land use issues related to distributed antenna system installations in the right-of-way. She has negotiated real estate transactions and drafted land purchase agreements, easement agreements, license agreements, right-of-way use agreements, and covenants. She also has experience preparing and reviewing contracts between cities and various providers of municipal services.

- Gena drafted legislation to bolster Good Samaritan liability immunity for cities' disaster service workers and testified before the California State Senate Judiciary Committee about the need for the bill.
- Gena frequently lectures on public entity issues. She has taught seminars for numerous organizations including the City Attorneys Association of Los Angeles, the Southern and Northern Divisions of the California City Clerks Association, and the League of California Cities Mayors and Councilmembers Executive Forum.
- Gena graduated *summa cum laude* from Loyola Law School and was admitted to the California Bar in 2004, and has been with RWG for six years. She graduated with great distinction from California State University, Long Beach in 1979. While at Loyola Law School, she was awarded a Dean's Academic Honors Scholarship and received First Honors Awards (highest grade) in eight classes. She was a Sayre Macneil Scholar and a member of two law honor societies, Alpha Sigma Nu and St. Thomas More.

Proposed Employee Relations/Human Resources Counsel – Roy A. Clarke and Saskia T. Asamura.

Roy A. Clarke. Roy is a shareholder of the firm and he specializes in advisory matters and administrative hearings. Roy is the Chair of the Labor & Employment Department. Roy has 15 years of legal experience advising public entities and an additional 20 years working on staff for public entities. His experience spans all aspects of the employment relationship, including hiring employees, managing the workforce with policies and personnel practices, paying employees under wage and hour laws, providing employee benefits, preventing discrimination and harassment, managing leave programs, and administering discipline and termination. Roy has additional experience with unions and labor relations, including the administration of labor relations rules, certification, unit determination, contract administration, negotiations, and grievance handling. The sampling below illustrates Roy's areas of expertise:

- Roy has conducted administrative investigations of sexual harassment and other employee misconduct complaints and has conducted discipline hearings before arbitrators and civil service commissions. He has represented employers in disputed unemployment and wage claims before state hearing personnel and has represented local government in



hearings and disputes involving the California Public Employees' Retirement System. He serves as special counsel to commissions and hearing boards on discipline appeals, unfair labor practice charges, and civil service system administration.

- Roy provides advice and assistance with personnel administration, including work involving the application, interpretation, and updating of personnel systems, personnel rules, classification plans, compensation plans, and City policies. Roy has worked with clients to draft or review employment agreements, personnel rules, employee handbooks, labor relations resolutions, discipline notices, and severance agreements. He assists with benefits administration, including issues involving the Public Employees' Retirement System. He also provides advice and representation in discipline matters at administrative hearings.
- Roy also assists public clients with compliance with employment laws such as those covering wages and hours (FLSA, California Labor Code), equal employment (Title VII, FEHA, ADA, ADEA), protected leaves of absence (FMLA, CFRA, PDL, Kin Care, Labor Code), and other employee rights (privacy, whistleblower). He also has experience with the Procedural Bill of Rights Acts for police and fire.
- Roy provides training in areas such as the prevention of sexual harassment, performance evaluations, workplace investigations, and compliance with the Firefighters Bill of Rights Act.
- Roy graduated *Order of the Coif* from Loyola Law School in 1994. He received his undergraduate degree, *magna cum laude*, from Pepperdine University in 1989. Roy was admitted to the California State Bar in 1994.

Saskia T. Asamura. Saskia is a shareholder and public entity litigator with 20 years experience at RWG. She has a proven track record of effectively defending employment lawsuits brought against public employers and their management or supervisory staff. She served several years as the Chair of the firm's Labor & Employment Department and currently serves as its Assistant Chair. The sampling below illustrates Saskia's areas of expertise:

- Saskia has handled numerous wrongful terminations, FEHA, EEOC, harassment, discrimination, retaliation, and other employment-related claims on behalf of public sector clients. Saskia also assists public clients in connection with disciplinary proceedings, severance agreements, and dispute resolution before a matter reaches the litigation stage. Below is a representative sampling of employment cases that Saskia has handled as lead counsel:
 - *Albanese v. City of Beverly Hills* (Case No. BC317236): FEHA fact-intensive complaint for harassment, discrimination, and retaliation (gender). After



summary judgment motion was filed, the court's detailed order paved the way for a zero dollar settlement.

- *Cook v. City of West Hollywood* (Case No. BC173899): Complaint for harassment and discrimination (race, gender, and sexual orientation). Summary judgment granted.
- *Drlik v. City of Brea* (Case No. CV04-2237NM (RJWx)): Complaint for wrongful termination alleging First Amendment violations. After motions to dismiss, case was resolved for nominal settlement.
- *Dutro v. City of Carson* (Case No. TC010985): Wrongful termination, harassment, and discrimination complaint (race, gender) against City and supervisor. Summary judgment was granted for supervisor; summary adjudication was granted for the city, as to all but one claim, remaining cause of action went to trial and was resolved in the city's favor.
- *French v. City of Calimesa* (Case No. RIC520083): FEHA complaint for harassment, discrimination, and retaliation (sexual orientation). After demurrer reducing the scope of the claims, case was resolved for a small settlement.
- *Harper v. City of Fairfield* (Case No. CV05-01008 MMM (SSx)): Title VII and FEHA complaint against the city and Police Chief for alleged retaliatory failure to timely respond to a request for background information. After motions to dismiss and to strike granted in part by detailed court order, case was resolved by nominal settlement.
- *Harrison v. City of Brea* (Case No. 30-2008-00110478/Appeal Case No. G042462): FEHA complaint for harassment, discrimination, and retaliation based upon failure to promote and alleged placement on involuntary leave. Judgment for defense was granted after a series of demurrer and upheld on appeal.
- *Hoetker v. City of Brea* (Case No. 30-2009-00292573/Appeal Case No. G043630): Complaint for failure to promote based upon retaliation and the POBR. Judgment for defense was granted after grant of Anti-SLAPP motion including award of attorney fees. Appeal was filed but abandoned.
- Saskia graduated from the University of California Law School, Los Angeles in 1991. She received her undergraduate degree in 1979 at the London School of Economics, with Honours. Saskia was admitted to the California State Bar in 1991.



H. References and Potential Conflicts of Interest

- 1. Provide contact information for three municipal or public agency clients for which services have been provided by the designated attorney in the last three years.**

Kevin G. Ennis Professional References	
John Lyon, Mayor City of Artesia 18747 Clarkdale Avenue Artesia, California 90701 (562) 865-6262 jlyon@cityofartesia.us	Randy Anstine, City Manager City of Calimesa 908 Park Avenue Calimesa, California 92320 (909) 795-9801 ranstine@cityofcalimesa.net
Dan Feger, Executive Director Burbank-Glendale Pasadena Airport Authority 2627 Hollywood Way Burbank, California 91505 (818) 840-8840 dfeger@bur.org	Russell Miyahira, City Attorney City of Hawthorne 4455 West 126th Street Hawthorne, California 90250 (310) 349-2960 Miyahira@cityofhawthorne.org

- 2. List all public clients in the County of Ventura for whom your firm currently provides services under a fee for services basis or on a retainer basis and indicate the service provided. Identify any foreseeable or potential conflicts of interest that could result from such representation and the manner in which you would propose to resolve such conflicts.**

RWG provides limited legal services for the County of Ventura in connection with certain landslide tort and election law matters. Robert Cecon of our firm successfully defended the County against the La Conchita landslide litigation and wrongful death cases. In addition, we have provided limited and specialized conflict of interest advice to the City of Ventura. We do not anticipate that our work for the County or City of Ventura, or for any of our other clients, would present a conflict of interest that interferes with our representation of the City of Moorpark. In the unlikely event that a conflict of interest did arise, the firm would fully comply with its ethical obligations and the State Bar Rules of Professional Conduct.



3. For the person designated as City Attorney, list all public clients that person presently represents as City Attorney, Deputy City Attorney, or Assistant City Attorney, along with the meeting dates and times for each governing body.

- City of Artesia – City Attorney – 6:00 pm – second Monday of each month
- City of Calimesa – City Attorney – 6:00 pm – first and third Monday of each month
- Palos Verdes Library District – General Counsel – Meetings upon special request
- City of Seaside – Special Land Use Counsel – Meetings upon special request
- City of Hawthorne – Special Counsel – Meetings upon special request

4. List all private clients of your firm such as land developers, builders, or contractors that could potentially pose a conflict of interest while representing the City.

The firm has provided legal services in connection with Coastal Commission approval of projects for Shea Homes.

5. Identify all situations in the last five years in which your firm represented a public entity and the decision or outcome was adverse to public entities, either in litigation or administrative matters.

The following list of court decisions adverse to our public entity clients was developed through a survey of all attorneys in the firm. While this list represents our best ability to provide a list responsive to this question, we cannot guarantee that a court decision has not escaped our collective recollection. Also, this list does not represent cases that were settled.

- *City of Agoura Hills v. US Bank*; City sued to quiet title to property purchased at a foreclosure sale. Superior Court ruled in favor of the bank and case is on appeal.
- *Department of Finance, et al. v. Commission on State Mandates, et al.*; State sued Commission on State Mandates over decision finding that trash receptacles required for NPDES purposes constituted an unfunded mandate; multiple cities were RPIs. State won, case now on appeal.
- *Dunex v. City of Oceanside*; (San Diego Superior Court, North County) A writ of mandate was issued setting aside City decision to deny conversion of a mobilehome park and remanding the matter back to the City. An appeal has been filed on behalf of the City in the 4th District Court of Appeal.



- *City of Long Beach v. LAUSD*; City was sued on CEQA grounds to stop a new high school from being built. After case was filed, RWG was retained by City to defend case and City lost at trial court and Court of Appeal (published decision).
 - *Page Mill Management; Woodland Park Management v. City of East Palo Alto*; A writ of mandate was issued invalidating rules adopted to implement an apartment rent control ordinance. San Mateo Superior Court and 1st District Court of Appeal (unpublished decision).
 - *City of Temecula v. California Public Utilities Commission*; City sued to stop a Southern California Edison project. The California Supreme Court, with original jurisdiction, declined to hear case.
 - *City of Temecula v. Pechanga Band of Luiseño Indians*; The Federal District Court ruled that the City of Temecula did not have standing under the Tribal Compact between the State of California and the Tribe allowing gaming to compel the Tribe to prepare an EIR for an expansion of the Tribe's casino. The case was not appealed.
 - *City of Temecula v. Pechanga Band of Luiseño Indians*; The City sued in federal court to obtain mitigation for off-site casino impacts. Case dismissed for lack of subject matter jurisdiction.
 - *Lewis Brisbois Bisgaard & Smith v. City of Beverly Hills*; the Lewis firm sued the City on a breach of contract claim for approximately \$170,000. The case arose out of the Lewis firm's representation of Beverly Hills in a toxic tort action involving Beverly Hills High School. The underlying case was tendered to the city's insurance carriers who paid the firm more than \$6M for its representation over the course of approximately six years. When the representation ended, the firm sued the city for \$170,000 in fees that the insurance companies refused to pay over the six year representation. After a bench trial, the Court ordered the city to pay the firm \$170,000.
6. **If the firm/individual, or any of the attorneys employed by the firm have ever been sued by cities or other clients for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, please provide information on the nature of the incident, the dates on which the matter began and was concluded, and the results.**

Neither RWG, nor any attorney at RWG, has ever been disciplined by the California State Bar. Nor has the firm or any attorney at RWG been successfully sued for malpractice.

**LEGAL SERVICES AGREEMENT BETWEEN
THE CITY OF MOORPARK AND RICHARDS WATSON & GERSHON**

THIS LEGAL SERVICES AGREEMENT ("Agreement") is made and entered into as of _____, 2012, by and between the City of Moorpark, a California municipal corporation ("City"), and the law firm of Richards, Watson & Gershon ("RWG"), a California professional corporation. In consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Recitals.** This Agreement is made with respect to the following purposes and facts that each party agrees are true and correct:

A. The City desires to retain RWG to provide legal services for the City and RWG has agreed to provide such services, pursuant to the terms of this Agreement.

2. **Scope of Work.** RWG is hereby retained by the City to provide municipal legal services, including city attorney legal services, (collectively "City Attorney Services") for the City and to the following separate governmental entities pursuant to resolutions and bylaws of these entities: the Moorpark Industrial Development Authority, Moorpark Public Financing Authority, the Successor Agency of the Redevelopment Agency of the City of Moorpark, and any and all other presently existing or future districts, agencies or other public entities formed by the City for which the City Council serves as the governing body (collectively "City Agencies"). RWG shall perform all legal services (other than those precluded by conflict of interest principles and law or other controlling law) for the City and City Agencies as directed by the City Council and the governing board of City Agencies. Legal services include, but are not limited to, the following:

A. Routine legal advice, telephone and personal consultations with members of the City Council and City staff;

B. Review of staff reports, and review, preparation or both, of ordinances, resolutions, agreements, contracts, forms, notices, certificates, deeds, leases, and other documents required by the City and City Agencies;

C. Attendance at regular City Council and City Agency meetings and special meetings as needed, and attendance at meetings of City boards and commissions when necessary;

D. Legal work pertaining to property acquisitions, property disposal, public improvements, easement dedications, and right-of-way abandonment;

E. Monitoring of pending and current state and federal legislation and court decisions as appropriate;

F. Consultation with the City Council and staff as needed and

requested. Rendering of legal advice and opinions (both oral and written), on all matters affecting the City and City Agencies, including for all public official appointed positions held by members of the City Council on behalf of the City;

G. Coordination and hiring or both of outside legal counsel, professional consultants, experts, investigators, or other specialists as needed and authorized by the City Council or City Manager;

H. Litigation services, including representing the City and City Agencies in civil litigation brought on behalf of or against the City or City Agencies, and criminal prosecution of violations of the Moorpark Municipal Code, as authorized by the City Council or City Manager;

I. Perform the duties and exercise the authority of a city attorney as provided in the California Government Code, other statutes and the Moorpark Municipal Code; and

J. Such other legal services as may be directed by the City Council, City Agencies or City Manager from time to time.

3. **Term and Termination.**

A. This Agreement shall become effective on the day and year first written above, and shall continue in effect until terminated by the City or RWG. Commencing on December 1, 2012, RWG shall assume the responsibility for providing City Attorney Services. Upon the effective date of this Agreement, and prior to December 1, 2012, RWG shall perform services in preparation of assuming the responsibilities of providing City Attorney Services, including but not limited to transition of files.

B. The City may terminate this Agreement at any time, with or without cause, by providing 30 days written notice to RWG. RWG may terminate this Agreement at any time, with or without cause, by providing 60 days written notice to the City. In the event of termination, RWG shall comply with all provisions of the Rules of Professional Conduct for the termination of a client relationship and shall assist the City in transition to new representation at the compensation provided for in this Agreement.

4. **Designation of City Attorney and Assistant City Attorney.** Kevin G. Ennis shall be designated as City Attorney for the City and Gena M. Stinnett shall be designated as Assistant City Attorney, and pursuant to that designation, shall hold the positions of General Counsel and Assistant General Counsel to City Agencies, respectively. Mr. Ennis will be the RWG attorney with responsibility for providing legal services for the City and City Agencies and will be the contact for the City Council and the staff. Other RWG attorneys will be assigned by Mr. Ennis to work on legal matters for the City and City Agencies on an "as-needed" basis under Mr. Ennis's direct supervision. Attorneys proposed by RWG to replace Mr. Ennis shall be subject to the prior approval of the City Council. Attorneys proposed by RWG to replace Ms. Stinnett

shall be subject to the prior approval of the City Manager.

5. **Compensation.** RWG shall be compensated for the performance of legal services in accordance with the rates for service set forth on **Exhibit A**, attached to this Agreement and incorporated herein as though set forth in full. The terms of this Agreement and the rates for service shall apply to legal services performed for City Agencies and other entities affiliated with the City that may be established. Commencing July 1, 2014, and annually thereafter, the hourly rates set forth on **Exhibit A**, shall automatically increase by the percentage change in the Consumer Price Index (All Urban Consumers; Los Angeles-Riverside-Orange County). The calculation shall be made using the month of April over the month of April in the prior year. Any such annual adjustment that equals or exceeds three percent (3%), and any other adjustments in the rates, shall require prior written approval of the City Council.

6. **Payment.**

A. RWG shall submit monthly invoices to the City accounting for all services provided and costs incurred pursuant to the terms of this Agreement. These statements shall clearly set forth the work performed, the person who performed the work, the time spent performing the work and the date on which the type of work was performed.

B. Payments to RWG shall be made by City or City Agency within thirty (30) days of receipt of the invoice, except for those time entries or amounts which are contested or questioned and returned by the City, with written explanation, within thirty (30) days of receipt of the invoice. RWG shall provide to City a written response to any invoice contested or questioned and further, upon request of City, provide City with any and all documents related to the service or costs. No charge shall be made for time expended in providing this information to the City.

C. All General Services described in **Exhibit A** shall be billed to a general retainer account, unless the City Manager directs that additional accounts be maintained. A separate account shall be maintained for each matter of Special Services, Code Enforcement Litigation, and General Litigation Service and for all other non-General Service work, as described in **Exhibit A**.

7. **Conflicts of Interest.**

A. Except as otherwise specified below, RWG hereby covenants that it presently has no interest and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services required hereunder. In addition, RWG certifies that to the best of its knowledge, no one who has or will have a financial interest in this Agreement is an officer or employee of the City except as authorized by this Agreement. RWG shall comply with all applicable laws and professional rules and standards relating to any known conflict of interest involving the City and matters upon which RWG is providing legal services under this Agreement. RWG shall not reveal confidential information of the City except

with the consent of the City Council or as otherwise required by law. RWG shall notify the City Council and City Manager of any conflict of interest related to matters upon which it is providing legal services under this Agreement upon discovery of any such conflicts. In the event that such conflict is not or cannot be waived, RWG shall assist and cooperate with legal counsel retained by the City Council on the matter for which the conflict arose. If RWG or an attorney or other person employed or contracted by RWG acquires a conflict of interest while this Agreement remains in effect, in addition to immediately notifying City of such conflict, RWG will not permit the attorney or person with the conflict to participate in or influence the performance of the services to be provided to City pursuant to this Agreement. Additionally, except for services currently provided to other Ventura County cities and County of Ventura at the time of execution of this Agreement, RWG agrees to advise the City Manager prior to undertaking any representation of other Ventura County public entities. City acknowledges that prior to execution of this Agreement, RWG has disclosed legal services provided by RWG to specific clients in Ventura County, including Shea Homes in connection with Coastal Commission approval of projects, the County of Ventura in connection with special litigation and campaign finance reporting law requirements, the City of Ventura in connection with a land use project, special counsel work performed for the Santa Mountains Conservancy, and special counsel work for the Mountains Recreation and Conservation Authority, established pursuant to the Joint Powers Act and a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District.

B. In addition to the requirements regarding conflicts of interest imposed on attorneys by the California Business and Professions Code, and by Rule 3-310 of the California Rules of Professional Conduct, RWG agrees that neither RWG nor any attorney while employed by RWG will represent clients before any commission, board, committee, or department of the City, or represent a client in a matter where the client is adverse to City for a period of one year from the date of the completion of the services to be provided to City pursuant to this Agreement or the early termination of such services in the manner provided by this Agreement. The provisions of this paragraph may be waived by the written consent of the City Manager. This section shall survive the expiration of this Agreement.

8. **Client Files.**

A. At the conclusion of this Agreement, the original client files for the work performed under this Agreement shall be made available to the City. RWG will be entitled to make copies of client files. At the conclusion of this Agreement, (whether or not the City takes possession of client files) the City shall take possession of any and all original contracts, and other such important documents that may be in the client files and RWG shall have no further responsibility with regard to such documents.

B. If the City does not take possession of the client files at the conclusion of the Agreement, RWG shall store such client files for a period of at least one (1) year. At the conclusion of such one (1) year period, RWG may send the City a

notice, advising of RWG's intention to dispose of the client files. The City shall have sixty (60) days from the date of such notice to take possession of the client files. If the City does not take possession of the client files during that time, the City agrees that RWG may dispose of the client files without further notice.

C. City shall have the right to obtain at City's request and cost a copy of any work product prepared by or on behalf of RWG and a copy of any document obtained by RWG pursuant to this Agreement. In addition, electronic documents such as e-mail and documents prepared on RWG's word processing system, but which have not been printed in hard copy, shall be and remain RWG's property and shall not be considered part of the client files, but copies of any such documents or emails prepared in connection with services to the City shall be provided to the City upon request.

D. During the term of this Agreement, RWG shall maintain client files (including electronic client files) pertaining to RWG work for the City and City Agencies and RWG shall not destroy or delete those client files, without maintaining a copy in an alternative format, unless RWG provides City with sixty (60) day advance written notice to City of the City's right to copy or take possession of the client files.

E. This section shall survive the expiration of this Agreement.

9. **Indemnification.**

A. *Indemnity for Professional Liability.* When the law establishes a professional standard of care for RWG's Services, , RWG shall indemnify, protect, and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs to the extent same are caused by any negligent or wrongful act, error or omission of RWG, its officers, agents, employees or subconsultants (or any entity or individual that RWG shall bear the legal liability thereof) for a violation of such professional standard of care in the performance of professional services under this agreement.

B. *Indemnity for Other than Professional Liability.* Other than for liability that arises in the performance of professional services, RWG shall indemnify and hold harmless City, and any and all of its officials, employees, and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, the performance of this Agreement by RWG or by any individual or entity for which RWG is legally liable, including but not limited to officers, agents, employees or subcontractors of RWG.

10. **Insurance.**

A. *Coverage Levels.* RWG shall obtain, provide and maintain at its

own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City and shall furnish to the City Clerk of the City certificates of said insurance on or before the commencement of the term of this Agreement.

1) Commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

2) Workers' compensation coverage in compliance with California law, with limits of at least One Million Dollars (\$1,000,000), along with a waiver of subrogation endorsement in favor of City, its officials, employees, and agents.

3) Professional liability (Errors and Omissions) insurance coverage with a policy form coverage designed to protect against acts, errors or omissions of RWG. The policy limit shall be not less than Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000.00) in the aggregate, providing coverage for damages or losses suffered as a result of a wrongful error or omission or neglect by RWG in the performance of the professional services required by this Agreement. The policy retroactive date shall be on or before the effective date of this Agreement and RWG agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement. Such insurance shall be subject to reasonable terms, limitations and conditions and a self-insured retention or deductible to be borne entirely by RWG that shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) per claim.

4) RWG shall provide Business Auto insurance coverage at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of RWG arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than One Million Dollars (\$1,000,000) combined single limit for each accident. If RWG owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy required by this Agreement.

B. *Prerequisites.* The general liability policy of insurance specified above shall:

1) Include an endorsement or have attached a rider naming the City of Moorpark, and its officials, employees, and agents as additional insured.

2) Provide a minimum thirty (30) days notice of cancellation, said notice to be provided by insurer, except for non-payment of premium for which ten (10) days notice shall be provided by insurer.

3) Be maintained in full force and effect throughout the term of this Agreement.

4) Defense costs must be paid in addition to limits.

5) There shall be no cross liability exclusion for claims or suits by one insured against another.

6) Be placed with insurance carriers authorized to transact business in California with an A.M. Best rating of no less than A:VII or otherwise acceptable to the City Council.

11. **Independent Contractor.** No employment relationship is created by this Agreement. RWG shall be an independent contractor of the City, except that at all times providing services under the Agreement, RWG's shareholders and employees shall be acting as public officials. City shall not be called upon to assume any liability for the direct payment of any salary, wage, or other compensation to any person employed by RWG performing services hereunder for City.

12. **Arbitration.** In the event of any dispute between the parties, and upon mutual agreement of the parties, the dispute may be submitted to binding arbitration to the maximum extent permitted by law. In the event the parties are unable to agree upon an arbitrator, an arbitrator shall be selected through the rules of the American Arbitration Association. The Arbitrator shall have the authority to set procedures and discovery in the arbitration.

13. **General Provisions.**

A. *Non-Discrimination.* In the performance of this Agreement, RWG shall not wrongfully discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, sexual orientation or medical condition. RWG shall take action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, national origin, sexual orientation or medical condition. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

B. *Assignment/Delegation.* This Agreement contemplates the personal professional services of RWG and neither this Agreement, nor any portion thereof, shall be assigned or delegated without the prior written consent of the City Council.

C. *Communication.* All communications with City staff, employees of City contractors, the general public, and persons appointed to Boards and Commissions by the Mayor and City Council shall conform with City Council policies and written directives issued by the City Manager unless such directives are in conflict with

professional obligations or City Council policies.

D. *Interpretation.* The following rules of legal construction shall apply:

1) This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the substantive laws of the State of California.

2) This Agreement is made, entered into, and executed by City in Ventura County, California, and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California.

3) No waiver of any provision of this Agreement shall be deemed to occur unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision unless otherwise provided in writing.

4) The article and section captions and headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

5) Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

E. *Attorneys' Fees.* The parties acknowledge and agree that each will bear its own costs, expenses and attorney's fees arising out of and/or connected with the negotiation, drafting and execution of this Agreement.

F. *Notices.* Any notice required to be given shall be deemed to have been given by depositing such notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY COUNCIL:
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
Attention: City Manager

TO RWG:
Kevin G. Ennis
Richards, Watson & Gershon
355 South Grand Avenue, Suite 4000
Los Angeles, CA 90071

Either party may, from time to time, by written notice to the other, designate a different address or contact person, which shall be substituted for the one above specified. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the third (3rd) day after deposit in the United States mail.

G. *Signatories.* Each signatory warrants and represents that he or she is competent and authorized to execute this Agreement on behalf of the party for whom he or she purports to sign.

H. *Entire Agreement.* This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

**CITY OF MOORPARK,
a municipal corporation**

**RICHARDS, WATSON & GERSHON,
a Professional Corporation**

By:

By:

Janice Parvin, Mayor

Kayser O. Sume
Chairman, Board of Directors

ATTEST:

By:

Maureen Benson, City Clerk

Exhibit A – Rates

RWG shall be compensated and reimbursed as follows:

General Services. For General Services as defined herein, the rate for the first twenty (20) hours of time per month, irrespective of the attorney who performs the work, shall be at \$165 per hour. General Services include: (i) attendance of the City Attorney or Assistant City Attorney at City Council meetings and other meetings of the boards, committees and commissions of the City and City Agencies as they are directed to attend by the City Council or City Manager; (ii) services by the City Attorney or Assistant City Attorney in assigning, supervising and coordinating the work of other attorneys providing services to the City; (iii) legal services in connection with the enforcement of the municipal code, excluding Code Enforcement Litigation, as defined below; and (iv) all other communications with staff and legal services provided to the City and City Agencies except those services that are within the categories of Special Services, Code Enforcement Litigation, General Litigation or Bond Counsel and Disclosure Counsel Services, as defined below. For General Services in excess of the first twenty (20) hours of time per month, irrespective of the attorney performing the work, the rate shall be at the rate of \$195 per hour for associates and \$210 for all other attorneys.

Special Services. Special Services includes: (i) real estate matters, labor and employment law services, water and water rights services, and environmental law services, including but not limited to, Hazardous Waste, Clean Air Act, and Clean Water Act issues; (ii) services in connection with complex land use matters, which are defined to mean the drafting and negotiation of development agreements and the drafting and negotiation of land use entitlements for land use projects of 100 or more residential units or in excess of three (3) acres; and (iii) any legal services project that the City Manager and the City Attorney agree is anticipated to require more than 20 hours of services on the project. Special Services excludes any legal services in the categories of Code Enforcement Litigation, General Litigation, and Bond Counsel and Disclosure Counsel Services, as defined below, with the exception that review of bond counsel and disclosure counsel work prepared by another firm under separate contract with the City shall be provided as special services. Except for the City Attorney and Assistant City Attorney, attorneys providing Special Services shall be billed at the following rates:

- \$190 per hour for associates in the first through third year of legal practice
- \$210 per hour for associates in the fourth through seventh year of legal practice
- \$260 per hour for senior attorneys and shareholders
- \$150 per hour for paralegal services

With respect to the City Attorney and Assistant City Attorney, any services (including travel time) they provide on matters that otherwise would be defined as Special Services, shall be billed as General Services unless the City Manager provides advance written approval that specific aspects of the City Attorney's or Assistant City Attorney's work may be billed as Special Services.

Code Enforcement Litigation. For legal services provided in connection with the

preparation, filing and litigating civil and criminal lawsuits to enforce the municipal code, including criminal prosecutions complaints, the rate will be a flat blended rate of \$195 per hour for associates and \$225 per hour for senior attorneys and shareholders.

General Litigation. General Litigation includes the representation of the City, City Agencies, or both, in court and other legal proceedings, including, without limitation, arbitration and mediation, and in administrative proceedings before other bodies, but shall exclude legal services in the category of Code Enforcement Services, as defined above. Litigation shall be provided at the following rates:

- \$190 per hour for associates in the first through third year of legal practice
- \$210 per hour for associates in the fourth through seventh year of legal practice
- \$290 per hour for senior attorneys and shareholders
- \$150 per hour for paralegal services

Travel Time. Travel time to and from City Hall by the City Attorney and Assistant City Attorney will be charged as follows: (1) the first (1st) through third (3rd) round trip each calendar month will **not** be charged the City; and (2) the fourth (4th) and subsequent round trip in the same calendar month will be charged at the applicable hourly rate for the service. Travel time for attorneys other than the City Attorney and Assistant City Attorney to and from City Hall and any travel time to destinations other than City Hall for any attorney, including the City Attorney and Assistant City Attorney, will be charged at the applicable hourly rate for the service. Travel time for any attorney not permanently working from the Los Angeles Office will only include the time from the Los Angeles Office to City Hall or other destination and will not include time to and from the attorney's originating office.

Billing Increments and Accounts. Time incurred in providing these services will be billed in increments of one-tenth of an hour to billing accounts set up as specified by City staff.

Reimbursable and/or Other Costs. Mileage will be billed at the standard rate established by the IRS for deducting the operating expenses of an automobile used for business purposes. This rate established by the IRS currently is 55.5 cents per mile. Copying costs will be charged at 5 cents per page. There will be no charge for facsimiles. All other costs, such as long distance telephone charges, messenger and delivery services, and legal research services will be charged only at the firm's actual out-of-pocket expenses, with the exception that the City will not be billed for telephone calls within Los Angeles and Ventura Counties. The firm will not charge for word processing and similar clerical tasks, and for the costs of first-class postage.

Bond Counsel and Disclosure Counsel Services. Bond counsel services include a review of the proceedings for the issuance and sale of bonds, step-by-step as taken, the preparation of all resolutions and other documents relating to the issuance and sale of the bonds, the drafting of the trust indenture and all closing documents, including the appropriate certificates and receipts, and the drafting of the approving legal opinion regarding the bonds at closing and all other services customarily provided by bond

counsel. Our fee for performing services as bond counsel with respect to each series of bonds will be \$35,000 plus 0.20 percent of the principal amount from \$5,000,000 to \$10,000,000, plus 0.10 percent of the principal amount in excess of \$10,000,000 up to \$35,000,000, plus 0.05 percent of the principal amount of bonds in excess of \$35,000,000.

For disclosure counsel, our services include the preparation of the official statement and the continuing disclosure agreement. On the basis of the information that is made available to us and without undertaking to determine independently the accuracy, completeness or fairness of that information, we provide a letter at the closing and the delivery of the bonds addressed to the issuer and indicating that nothing has come to our attention that causes us to believe that the official statement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Our fee for performing services as disclosure counsel with respect to each series of bonds will be the greater of \$20,000 or one-half of our bond counsel fee.

The proceedings will be structured so that our fees and expenses will be paid or reimbursed from sale proceeds of the bonds.

Outside Counsel, Experts and Consultants. In the event that it is necessary in the opinion of the City Attorney or City Council to retain outside legal counsel, professional consultants, experts, or other specialists, and RWG is authorized by the City Council to hire such person or entity, RWG shall pay the actual cost for the services and shall include the direct cost payment amount on RWG's regular monthly invoice or on a separate invoice, at the direction of the City Manager, for payment by the City. Such outside services shall not be retained by RWG without prior authorization of the City Council. In the event RWG hires outside legal counsel, professional consultants, experts or other specialists, City and City Agencies hereby agree that RWG shall not be liable (including without limitation, vicariously liable) or otherwise responsible for the acts, omissions, negligence, including but not limited to, professional negligence, of those persons or entities. In agreements between RWG and the outside legal counsel, professional consultant, expert or other specialist, RWG shall seek to obtain indemnification of RWG, the City and City Agencies for the acts, omissions, negligence, including but not limited to, professional negligence, of those persons or entities. RWG and City (and City Agencies in appropriate circumstances), shall meet and confer and develop a mutually agreeable form of indemnification to be used in each contract with any outside legal counsel, professional consultants, experts or other specialists. RWG shall obtain the City's (and City Agency's in appropriate circumstances) prior written consent to any revisions to a mutually agreed form of indemnification. RWG shall have no obligation to retain any legal counsel, professional consultant, expert or other specialist that refuses to accept an approved form of indemnity.

Shared Research or Legal Opinions. In the event of litigation or an issue that affects more than one client of RWG and RWG proposes to create a pooled billing account for that litigation or work, the City Manager shall be provided with a written statement of the

method by which RWG proposes to bill for the service, including the City's or City Agency's pro rata share of the time billed to that pooled account.. In the event that the City Manager does not accept the proposal and does not want to be included in the pooled billing account, but subsequently requests that work be done on the matter that was the subject of the proposal, the City shall be billed in accordance with this Agreement and not in accordance with the terms of the pooled billed account.