

## **REPORT TO CITY COUNCIL**

**DATE: JULY 11, 2012**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**SUBJECT: APPROVAL OF RESTATED AGREEMENT FOR LEGAL SERVICES BETWEEN THE CITY OF AGOURA HILLS AND RICHARDS, WATSON & GERSHON, APPOINTING CANDICE LEE AS CITY ATTORNEY**

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Pursuant to the current agreement for legal services between the City and Richards, Watson & Gershon, the designated City Attorney serves at the pleasure of the City Council, and may be changed from time to time.

The current City Attorney, Craig Steele, has requested that the City Council appoint Candice Lee as the City Attorney by approving the Restated Agreement for Legal Services between the City of Agoura Hills and Richards, Watson & Gershon.

As you know, Candice Lee has served in the capacity of Assistant City Attorney for several years. She has substantial experience in municipal law, has worked well with the City's staff, City Council, and Planning Commission, and is a shareholder in the firm. It is proposed that Ms. Lee be designated as the City Attorney through the approval of the attached Restated Agreement for Legal Services between the City of Agoura Hills and Richards, Watson & Gershon.

Designation of Ms. Lee as the City Attorney would not result in any change in the current hourly rates. If the Council approves the attached Restated Agreement, the current hourly rates will remain in effect for an additional two fiscal years.

### **RECOMMENDATION**

Staff respectfully recommends the City Council approve the Restated Agreement for Legal Services between the City of Agoura Hills and Richards, Watson & Gershon, appointing Candice Lee as City Attorney.

Attachment: Restated Agreement for Legal Services

RESTATED AGREEMENT FOR LEGAL SERVICES BETWEEN THE CITY OF AGOURA HILLS AND RICHARDS, WATSON & GERSHON, A PROFESSIONAL CORPORATION

THIS RESTATED AGREEMENT is entered into between the City of Agoura Hills ("City") and the law firm of Richards, Watson & Gershon, a professional corporation, ("Law Firm") as of July 11, 2012 and is intended to replace all pre-existing agreements between the parties.

WHEREAS, the City wishes to continue to retain Law Firm to discharge the duties of the office of City Attorney and to designate a member of Law Firm as City Attorney of the City; and

WHEREAS, Law Firm is qualified to, and proposes to provide such legal services and discharge the duties of City Attorney;

The parties agree as follows:

1. Restatement. This Agreement shall supercede all previous agreements and amendments between the parties.
2. Term. This Agreement shall commence as of July 12, 2012. Law Firm's rates for General City Attorney services as specified in Sections 3 and 5 below shall remain in effect until at least June 30, 2014. Notwithstanding the foregoing, either party hereto may terminate this Agreement without cause by giving thirty (30) days prior written notice to the other. In the case of such termination, City shall, as applicable, compensate Law Firm in full for all legal services rendered prior to termination.
3. General City Attorney Services. Law Firm shall discharge the duties of the office of City Attorney and shall use its best efforts to provide all required legal services in a professional, thorough, and competent manner. Attorney shall provide all necessary legal services to City unless specifically exempted by this Agreement or specifically excused in writing by City.

Candice Lee shall be designated as City Attorney and primary attorney responsible to the City. Craig Steele shall be designated as Senior Counsel to the City. Law Firm shall appoint the Assistant City Attorney, whom shall attend meetings in Ms. Lee's place when she is unavailable, or by designation. Ms. Lee shall assign other lawyers in the firm to work on City matters on an as-needed basis.

General City Attorney Services shall include, but not be limited to, the following tasks:

a. Provide legal assistance and advice to the City Council, Successor Agency to the Agoura Hills Redevelopment Agency, Planning Commission, various committees and sub-committees, the City Manager and staff.

b. Attend all City Council and Successor Agency to the Agoura Hills Redevelopment Agency meetings, Planning Commission meetings as requested and any other meeting directed by the City Manager or his designee, unless excused therefrom by the City Manager.

c. Attend staff meetings as directed by the City Manager or his designee.

d. Be available for consultation in City Hall prior to each regular meeting of the City Council.

e. Promptly respond to all requests for legal advice from the City Council, City Manager and staff.

f. Represent the City in non-adversarial administrative proceedings, legislative hearings, and other intergovernmental meetings.

g. Assist the City Manager and his designee in managing outside counsel.

- h. Provide attorneys on-site as needed in the City Attorney's discretion.
- i. Prepare legal opinions, advice letters, resolutions, contracts, and other legal documents.
- j. Apprise the City of changes in the law that may affect the City.
- k. Law Firm is not contracted to perform Municipal Code criminal prosecution services.

4. Special Services. The following services shall be considered Special Services and not General City Attorney Services:

- a. Civil litigation as assigned by the City in which Law Firm files or has filed a court pleading on behalf of the City including, without limitation, any non-judicial adversarial matter such as arbitrations and administrative law matters, proceedings, or hearings ("Litigation Special Services").
- b. Employment advisory services.
- c. Public finance matters such as bond issues, lease financing, assessments and tax-related matters ("Public Finance Special Services").

5. Fees for Services.

a. **General City Attorney Services.**

City shall pay Law Firm an hourly fee of One Hundred Eighty-Five dollars (\$185) per hour or portion thereof for General City Attorney Services rendered by Law Firm pursuant to this Agreement. All such time shall be billed in one-tenth (1/10) hour increments.

b. **Special Services.**

(i) **Litigation Special Services.** For all Litigation Special Services rendered by Law Firm pursuant to this Agreement, Law Firm shall be paid Law Firm's then-current standard hourly rates for the attorney providing such service, discounted by ten percent (10%). In no event shall Law Firm's discounted rate for Litigation Special Services exceed Three Hundred Twenty-Five dollars (\$325) per hour. All such time shall be billed in one-tenth (1/10) hour increments.

(ii) **Employment Special Services.** For all Employment Special Services rendered by Law Firm pursuant to this Agreement, Law Firm shall be paid Law Firm's then-current standard hourly rates for the attorney providing such service, discounted by ten percent (10%). In no event shall Law Firm's discounted rate for Employment Special Services exceed Three Hundred Twenty-Five dollars (\$325) per hour. All such time shall be billed in one-tenth (1/10) hour increments.

(iii) **Public Finance Special Services** rates will be negotiated per transaction at industry standards and shall not be subject to this Agreement.

6. Conflicts of Interest. Law Firm shall comply with all applicable laws and professional rules and standards relating to any known conflict of interest involving matters upon which Law Firm is providing services under this Agreement. Law Firm shall not reveal confidential or secret information of the City except with the consent of the City or as otherwise required by law.

Law Firm shall notify City of any known conflict of interest related to matters upon which Law Firm is providing services under this Agreement. In the event that such conflict is

not or cannot be waived, Law Firm shall assist and cooperate with separate services provided by outside legal counsel retained by City on the matter for which the conflict arose.

7. Billing of Services. Law Firm shall provide to City a monthly billing for the services provided, the time spent providing those services, and costs incurred in the form customarily supplied by Law Firm to public agency clients being billed on an hourly basis. City shall process and cause such billings to be paid promptly, typically within thirty (30) days of receipt.

8. Supplies, Equipment and Support Staff. Law Firm shall provide all supplies, library facilities, clerical and support staff necessary to provide the services under this Agreement.

9. Costs and Expenses. City shall pay, upon submission of an appropriate invoice, out-of-pocket costs incurred by Law Firm for duplication at \$.15 cents per page, fax charges at one dollar (\$1.00) per page, filing fees, electronic legal research, long-distance telephone charges, ordinary and necessary business travel expenses outside of Los Angeles County, and any other extraordinary expenses reasonably incurred by Attorney in performing its services.

10. Files. All legal files of Law Firm pertaining to City shall be and remain the property of City. Law Firm shall control the physical location of such legal files during the term of this Agreement. Law Firm shall comply with City's records retention policy and the California Public Records Act, as applicable.

11. Indemnification. Law Firm agrees to indemnify, defend and hold harmless the City of Agoura Hills, its officers, agents and employees from any and all claims or losses arising from, and to the extent attributable to, the wrongful or negligent action or inaction of Law Firm or any person employed by Law Firm in the performance of this Agreement.

12. Insurance.

a. Law Firm shall maintain at all times during the term of this Agreement policies of insurance with at least the minimum coverage specified below:

(1) Public liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000).

(2) Workers' compensation coverage in compliance with California law.

(3) Professional liability coverage with a minimum limit of liability of Two Million Dollars (\$2,000,000.00) per occurrence and Four Million Dollars (\$4,000,000.00) in the aggregate, providing coverage for any damages or losses suffered by City as a result of any error or omission or neglect by Law Firm which arises out of the professional services required by this Agreement. Such insurance may be subject to a self-insured retention or deductible to be borne entirely by Law Firm which shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) per occurrence.

b. All such policies of insurance specified above shall:

(1) Provide minimum thirty (30) days notice of cancellation, said notice to be provided by insurer, and

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

(3) Be placed with insurance carriers admitted in California with an A.M. Best rating of no less than A:VII or otherwise acceptable to City.

13. Independent Contractor. No employment relationship is created by this Agreement. Attorney shall be an independent contractor of City, except that at all times providing

services under the Agreement, Law Firm's employees shall be acting as public officials.

14. Integration. This Agreement shall constitute the full and complete agreement of the parties and shall supersede any other written or oral statements of either party. All previous written agreements between the City and Law Firm for legal services are hereby superseded.

15. Arbitration. In the event of any dispute between the parties over legal fees, such dispute shall be submitted to binding arbitration. In the event the parties are unable to agree upon an arbitrator, an arbitrator shall be selected through the American Arbitration Association. In any such matter, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

Executed this 11<sup>th</sup> day of July, 2012, at Agoura Hills, California.

ATTEST:

CITY OF AGOURA HILLS

By: \_\_\_\_\_  
Kimberly Rodrigues, MMC  
City Clerk

By: \_\_\_\_\_  
John M. Edelston, Mayor

RICHARDS, WATSON & GERSHON  
A Professional Corporation

By: \_\_\_\_\_  
Kayser Sume  
Chairman of the Board