

## **AGREEMENT FOR LEGAL SERVICES BETWEEN CITY OF SAN LEANDRO AND REDWOOD PUBLIC LAW**

This Agreement (“Agreement”) is made by and between the City of San Leandro, California, a Municipal Corporation hereinafter referred to as “City” and Redwood Public Law, a professional law partnership, hereinafter referred to as “Redwood,” (together, the “Parties”).

### **RECITALS**

Whereas, in 2020 the City and the Meyers Nave law firm entered into an updated legal services agreement; and

Whereas, it is the desire of the Parties hereto to enter this new Agreement and establish the terms and conditions for the provision of legal services to City and the compensation therefor.

**NOW THEREFORE, IT IS MUTUALLY AGREED** as follows:

#### **1. Appointment of City Attorney**

City retains Redwood and in accordance with applicable law, including San Leandro Charter Sections 425 and 430 affirms the appointment of Richard D. Pio Roda (hereinafter referred to as “Attorney”) as City Attorney; and Kristopher J. Kokotaylo as Senior Assistant City Attorney, and as Acting City Attorney during any temporary absence or temporary disability of the City Attorney. Redwood and Attorney agree to faithfully represent the legal interests of the City during the term of this Agreement.

#### **2. Attorney’s Services**

##### **2A. The City hires Redwood to provide legal services as City Attorney.**

City Attorney duties shall include those legal services as set forth in Section 425 of the San Leandro Charter and as generally understood within the field of municipal law to fall within the category of “city attorney/general counsel services” including but not necessarily limited to, the following:

- a) Regular attendance at City Council meetings, work sessions, closed sessions and all other City Council meetings necessary to provide legal counsel;
- b) Attendance at Planning Commission meetings, Board of Zoning Adjustments or other City Commission or Board meetings upon the request of the City Council or City Manager to provide legal advice and/or serve as legal counsel;
- c) Serve as legal counsel to bodies as may be created and represented by or for the City Council, and which meet regularly or periodically or on an as needed basis;
- d) Review and/or preparation of staff reports, ordinances, resolutions, orders, agreements, forms, notices, declarations, certificates, deeds, leases, and other documents required by the City;
- e) Consultation with the City Council and City staff as needed - rendering of legal advice and opinions (both oral and written) concerning legal matters that affect the City including new legislation and court decisions;

- f) Provide legal guidance and advice to the City Council and City Manager regarding what position the City (and associated bodies) and any of its advocates (e.g., lobbyists) should take on matters pending before legislative bodies;
- g) Research and interpret laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the City Council and management staff on legal matters pertaining to City operations, including personnel, Skelly hearings, and labor relations matters except those set forth in Section 2B below;
- h) Perform legal work pertaining to management of public property and improvements, public rights of way and easements, and matters relating to public utilities;
- i) Coordinate with in-house staff on risk management issues, including self-insurance authorities;
- j) Provide legal guidance and advice on code enforcement issues;
- k) Coordinate the work of outside counsel and/ or legal consultants as needed and as directed by the City Council and/ or City Manager;
- l) Provide on-site legal consultation of at least 40 hours per week, which includes serving as legal counsel at all City Council meetings, and/or as legal counsel to meetings of other City legislative bodies when requested by the City Manager or their designee. The City Attorney will work with the City Manager to establish a schedule that provides an attorney is available at City Hall five days a week for on-site legal consultation;
- m) Real estate and land use matters, such as property acquisition and disposition, drafting and review of leases, and complex environmental/ CEQA matters;
- n) Matters related to comprehensive updates of the City's general plan or zoning ordinance, annexations, water rights, or Williamson Act issues;
- o) Municipal finance, tax, fee and assessment issues;
- p) Motions seeking discovery of police officer personnel records and hearings involving weapons confiscations;
- q) Telecommunications rate regulations and FCC appeals;
- r) Successor agency services; and
- s) Sanitary sewer, storm water, and matters related to City granted franchises.

## **2B. When the City hires Redwood to represent it in litigation.**

Litigation as used in this Agreement means all work (1) after a claim, notice, or summons has been served; (2) after a decision to initiate litigation, or condemn property is approved by the City Council or Successor Agency; (3) preparing for and appearing at administrative hearings or proceedings before other public agencies, hearing officers or regulatory bodies related to: (i) PERB hearings; (ii) fact finding hearings; (iii) mediations and arbitrations; (iv) employee disciplinary hearings; (v) grievance hearings; and (vi) notices of violation.

The above definition of litigation does not preclude the City from assigning tort litigation to attorneys from qualified panel firms selected by the City's third party administrator in consultation with the City Attorney and the City's Risk Manager, nor affect the provisions of section 4(h) regarding the potential to retain separate legal counsel for any legal assignment(s) that would otherwise be performed by Redwood. All litigation and cost recovery shall be billed separately pursuant to Sections 2B and 4 (b) and (c) below.

### **3. Independent Contractor**

Redwood is engaged in an independent business and agrees to perform the services provided for in this Agreement as an independent contractor and not as the agent, servant, or employee of the City. Redwood shall be solely responsible for its own matters relating to payment of employees, including compliance with social security, withholding and all other regulations governing such matters.

### **4. Compensation.**

- a) For all legal services other than those described in Sections 4(b) and 4(c) of the Agreement, the City will compensate Redwood in the amount of \$295 per hour during the remainder of fiscal year 2023-2024, and \$295 per hour during fiscal year 2024-2025 and fiscal year 2025-2026 for all attorney services whether by Attorney (Richard D. Pio Roda, the City Attorney) or by other attorneys associated with Redwood. City will compensate Redwood \$155 per hour for all paralegal services.
- b) Attorney, through Redwood, shall be compensated between \$395 and \$505 per hour for all litigation services (as defined in Section 2B of the Agreement) provided by Attorney or by other attorneys associated with Redwood. These rates are only applicable if the City selects Redwood to provide litigation services; the City has the discretion to select any other qualified firm to provide litigation services.
- c) For all legal services for which the City is reimbursed by third parties, commonly referred to as "Cost Recovery Work," Redwood shall be compensated at between \$420 and \$535 per hour depending on the experience level of the Redwood attorney assigned to the project.
- d) City shall separately reimburse Redwood for customary costs and disbursements, including deposition and witness fees, expert and legal consultant costs, court costs, telephone, photocopying, facsimile charges, computer research online fees and messenger services.
- e) Redwood shall keep a record of time spent on all matters in increments of one-tenth (0.1) of an hour. Each task shall be distinctly and completely identified. The billing entry must contain the name or initials of the individual performing the task, the nature of the task, the date it was performed, and the length of time it took. Redwood shall submit all invoices no later than the last day of the month following the month in which services were performed and actual costs incurred.
- f) During the term of this Agreement, the hourly rates set forth in 4(a) for legal services will be adjusted each July 1, beginning July 1, 2026, by the April percentage change in the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area no less than 1% and no greater than 3.5%. During the

term of this Agreement, the hourly rates set forth in 4(b) and 4(c) will be adjusted each July 1, beginning July 1, 2024, by the April percentage change in the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area.

- g) The total amount charged to the City for services described in Section 2A for each twelve-month fiscal year period beginning on July 1, 2024 shall not exceed the following amounts:

Year 1 (commencing July 1, 2024 and ending June 30, 2025): \$940,000

Year 2 (commencing July 1, 2025 and ending June 30, 2026): Increased on the Year 1 annual compensation by the April percentage change in the Consumer Price Index (CPI) for San Francisco-Oakland-San Jose area no less than 1% and no greater than 3.5% rounded to the nearest \$5.00.

- h) City reserves the right to retain outside counsel not associated with Redwood to provide legal services. If the City decides to retain outside counsel, Redwood shall provide oversight of the outside counsel as requested by the City Manager.

## **5. No Assignment**

This Agreement is entered into by City and Redwood and except as set forth herein the rights and obligations of Attorney may not be assigned or delegated to any other attorney of Redwood without express written consent of the City Council. This Agreement is not assignable.

## **6. Contract and Performance Review**

Each year during the months of October and/or November, Attorney and City Council shall meet to review the performance of Attorney and members or associates of the firm in furnishing the services provided hereunder. The Parties may agree to changes or amendments hereto, which shall be evidenced by written amendment hereto.

## **7. Joint Representation/ Of Counsel**

Redwood maintains of counsel agreements with certain legal specialists who are deemed independent contractors under the applicable provisions of the tax laws. They are not considered employees of Redwood. In the event that the matter in which City has engaged Redwood to handle requires the use of a specialist, it is necessary that City consent to dual representation by Redwood and the specialist providing services. The arrangement has no effect whatsoever on the cost of legal services. It is merely an ethical requirement that Redwood disclose this fact and that City consent. The City is consenting by signing this Agreement.

## **8. Conflict of Interest**

Redwood's practice involves the representation of many public agencies in the State of California of all types. It is not uncommon for public agencies to have strong views on matters of public policy that diverge from one another.

Redwood performs a variety of professional services for its clients, and it is possible that Redwood will represent public agency clients that are adverse to City on other, unrelated matters or that Redwood will represent a client that has views on public policy or legal matters that differ from City's views on those policies or matters. City expressly agrees that it waives any actual or potential conflicts that might arise from such future representations, that it will not attempt to

disqualify Redwood on such matters, and that Redwood is free to represent its clients on such matters.

By executing this Agreement, City acknowledges that Redwood and City have discussed these matters and that City confirms that it does not object to Redwood's representation of clients on matters where those client's legal, governmental or political objectives and/or positions may be different from or adverse to those of City, and that City waives any conflicts of interest with respect to Redwood's representation of such clients with differing legal, governmental or political interests. City further confirms that it will not assert any conflict of interest concerning such representation or attempt to disqualify Redwood from representing such clients notwithstanding such adversity.

City agrees that, while it may terminate its attorney-client relationship with Redwood, Redwood would be free to represent such clients even on those matters that City considers adverse to it, and that it waives any conflict of interest in connection therewith.

Of course, City's acknowledgments and consents above do not permit Redwood to represent another client in the same matter in which it is adverse to City and do not permit Redwood to represent another client if there would be a significant risk that Redwood's representation of City would be materially limited by the representation of the other client. Any such representation would require Redwood to obtain the informed written consent of City and the other client.

#### **9. Business License**

Redwood shall be responsible for securing and paying for a City business license as required by the San Leandro Municipal Code.

#### **10. Insurance**

During the term of this engagement, Redwood shall take out and maintain the following insurance, in the forms and amounts determined to be appropriate by the City's Risk Manager, but no less than described below:

- a) General liability and property damage insurance in the minimum amount of \$1,000,000;
- b) Professional errors and omissions insurance, not below \$2,000,000 per Occurrence; \$4,000,000 aggregate, which may not be canceled or reduced in required limits of liability unless Redwood provides the City with at least thirty days advance written notice.

#### **11. No Guarantee of Outcome**

Any comments made by Redwood about the potential outcome of matters are expressions of opinion only and are not guarantees or promises about any outcomes or results.

#### **12. Professional Standing**

Redwood's lawyers working with the City shall at all times be members in good standing of the State Bar of California, and shall conduct themselves in full compliance with the standards of Professional Conduct of the State Bar.

#### **13. Nondiscrimination**

Redwood shall not discriminate on the basis of race, religion, color, creed, national origin, gender, sexual orientation, marital status, age, physical or mental disability, legally protected medical condition, veteran status, or any other category protected by state or federal laws.

**14. Choice of Law**

This Agreement together with any and all disputes arising therefrom shall be governed solely by the laws of the State of California.

**15. Entire Agreement: Full Understanding: Modifications in Writing**

This Agreement contains the entire agreement about Redwood's representation. Any modifications or additions to this Agreement must be made in writing.

**16. Term**

This Agreement shall be terminable by City at will and by Attorney upon 30 days' written notice, otherwise, it shall terminate on December 31, 2029, unless otherwise extended.

**17. Effective Date**

This Agreement shall be effective ~~March 4, 2024~~ **March 15, 2024**.

IN WITNESS WHEREOF the Parties have executed this Agreement for Legal Services.

**CITY OF SAN LEANDRO**

**REDWOOD PUBLIC LAW**

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Juan González III, Mayor

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Richard D. Pio Roda