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LEGAL SERVICES PROPOSAL

CORTINA COMMUNITY SERVICES DISTRICT

January 24, 2019

1. Background in Public Entity Law and Statement of Experience

In January 2006, I formed my own firm specializing in public agency law with an emphasis in special districts, employment issues, insurance issues, and joint powers authorities. Prior to January 2006, I was employed with the firm of McMurchie, Weill, Lenahan, Lee, Slater & Pearse for twenty-eight years, as a partner for twenty-five years and as managing partner for two years. I have represented special districts for thirty-six years.

That firm was formed by my father, Donald W. McMurchie, in 1952 and commenced providing legal services and representation to primarily recreation and park districts in the early 1950s when the firm was actively involved in the initial master planning and bond financing for the formation of several recreation and park districts within Sacramento County. I have continued to represent those recreation and park districts on a wide variety of legal issues both as General Counsel and Special Counsel up to the present time and have steadily expanded the scope of my services and the variety of my public entity clientele since that time.

Currently, I provide legal services for recreation and park districts, community services districts, water districts of various types, fire protection districts, sanitation districts, public utility districts, cemetery districts, mosquito abatement districts, harbor and port districts, and joint powers authorities.

I also represent two non-profit corporations that are associations of member special districts which provide education and legislative advocacy to those member districts. Those two non-profit associations are the California Special Districts Association and the Fire Districts Association of California.

I have served as General Counsel for the California Special Districts Association since 1985, which is a non-profit corporation consisting of over one thousand (1,000) member special districts of various types located throughout the state formed for the purpose of providing legislative advocacy services, financial services and educational programs to member districts. I serve as General Counsel to the California Special Districts Association and provide advice on its corporate operations and membership programs. I also analyze all legislation potentially impacting special districts and advise the California Special District Association's Legislative Advocacy staff on the legal implications of such proposed legislation on the operations of California special districts. As General Counsel, I also provide legal consultation to member districts through the California Special Districts Association Member District Legal Services Program which affords all member districts one hour of free legal consultation per year on a wide variety of legal issues impacting those member districts.

I have also been instrumental in the formation and administration of the California Special Districts Association Finance Corporation. I currently serve as General Counsel to the California Special Districts Association Finance Corporation, which is a non-profit corporation designed to assist special districts in financing of their capital improvement projects at attractive interest rates by means of a lease financing program which markets Certificates of Participation in the municipal bond market. I also assisted in the formation and serve as General Counsel to the WaterReuse Finance Authority which has operated a similar lease financing program targeting projects which promote water reclamation, water recycling and water reuse. I also formed and

serve as General Counsel to the California Transit Finance Corporation which operates lease financing programs for the benefit of transit agencies which are members of the California Transit Association. Through this experience I have developed contacts with bond counsel, underwriters, financial advisers and their respective legal counsel throughout the state, which contacts can be of benefit to your District in analyzing its financial options and planning for the future.

I have also been at the forefront in the development and administration of joint powers authorities among special districts by which special districts self-insure their liability for workers' compensation insurance and general liability insurance. In the past, I have served as General Counsel for the California Association for Park and Recreation Insurance (CAPRI), now known as the California Association for Park and Recreation Indemnity. I also served as Legal Counsel and the administrator of the Special Districts Workers' Compensation Authority (SDWCA) for ten years, which is a risk sharing pool for workers' compensation benefits serving members of the California Special Districts Association. SDWCA was consolidated into the Special District Risk Management Authority (SDRMA) in 2001. I currently serve as Special Counsel to Special District Risk Management Authority analyzing the legal implications of all legislation dealing with workers' compensation issues as well as tort liability issues which impact the workers' compensation and general liability coverage programs offered by SDRMA to CSDA member districts.

I also serve as Special Counsel to the Fire Districts Association of California, which is a non-profit association consisting of a number of fire protection districts in the State of California which provides membership programs, education, and legislative advocacy services before the Legislature to fire protection districts. I review case law impacting the operations of fire districts, provide advice to the Fire Districts Association of California as to when they should become involved as Friends of the Court (*amicus curiae*) in such appellate proceedings, and draft all *amicus curiae* briefs and supporting documentation in such appellate litigation in which the Fire Districts Association of California decides to become involved. I perform similar case law analysis and *amicus curiae* representation for the California Special Districts Association.

In addition, I formed and serve as General Counsel to the Fire Districts Association of California Employment Benefits Authority, a California joint powers authority established for the purpose of providing medical insurance together with affiliated insurance programs with respect to life insurance, vision insurance, dental insurance, etc., to fire protection districts that are members of the joint powers authority and the Fire Districts Association of California. The Fire Districts Association Employment Benefits Authority provides medical insurance and affiliated insurance benefits to employees and Board members of California fire protection districts, as well as to retirees. I advise the joint powers authority regarding its operations, develop operational policies which govern its operations and draft all contracts between the joint powers authority and the various consultants required to operate group health and affiliated insurance programs such as brokers, actuaries, insurers, etc.

2. License to Practice in California

The firm consists of David W. McMurchie, SBN 078865, Owner; and Vicki E. Hartigan, SBN 170307, Associate. Both David McMurchie and Vicki Hartigan are licensed to practice law

in the State of California and have no record of any disciplinary proceedings or complaints before the State Bar of California.

3. Independence and Conflicts of Interest

McMurchie Law is a sole proprietorship owned by David W. McMurchie, has no prior business relationship with the District and is independent of the District. A review of the firm's current clients and business interests reveals no potential conflicts of interest that may impair our ability to provide General Counsel services to the District.

4. Insurance Requirements

A. The firm maintains the following insurance coverages:

(1) Workers' Compensation and Employer's Liability Insurance in accordance with the laws of the State of California with a statutory limit for workers' compensation coverage and a policy limit for employer's liability coverage of not less than five hundred thousand dollars (\$500,000) per occurrence with one million dollars (\$1,000,000) aggregate coverage.

(2) Commercial General Liability and Bodily Injury Insurance with a policy limit of one million dollars (\$1,000,000) combined limit for bodily injury and property damage.

(3) Errors and Omissions coverage covering the performance of the work by this firm and the provision of legal services with limits of not less than one million dollars (\$1,000,000) per occurrence combined single limit.

(4) General Liability Policy includes contractual liability. The firm does not anticipate subcontracting any work to be performed pursuant to this Proposal.

(5) Automobile Liability and Property Damage Insurance including hired and non-owned automobiles used in connection with performance of the work with limits of not less than one million dollars (\$1,000,000) per person/per occurrence.

(6) Coverage for loss of customer data or data breach with limits of not less than one million dollars (\$1,000,000).

The firm will provide Certificates of Insurance specifying the above coverages and/or any endorsements required by the District naming the District, its officers, employees and agents as additional insureds under the applicable policies. The firm will also provide either Certificates of Insurance or an attached rider that certifies that the firm's insurance will act as primary insurance for work performed by this firm and that no insurance carried by the District will be called upon to cover any loss covered by this firm's insurance coverages.

B. Indemnification Requirements

The firm will agree to indemnify, hold harmless and defend the District, its Board of Directors, employees, agents and volunteers from any and all liability or financial loss

including legal expenses and costs of expert witnesses and consultants resulting from any suits, claims losses or actions brought by any person or persons by reason of any injury arising directly or indirectly from the activities or operations of this firm, including any agents, employees or subcontractors of this firm in the performance of a legal services agreement with the District. This firm agrees that this covenant shall survive the termination of this agreement.

5. Firm Qualifications and Experience

McMurchie Law is a small firm composed of two individuals, and specializes in providing legal services to special districts in the Northern California region. The owner of the firm, David W. McMurchie, has been engaged in that practice for 41 years. In addition, the firm represents joint powers authorities on a statewide basis. Finally, the firm represents non-profit corporations which are associations of special district members, which representation is also on a statewide basis as the business operations of such associations are on a statewide basis. The firm has one office in Folsom, California from which it services all of its clients. David W. McMurchie will be primarily responsible for providing legal services to the District on a full-time basis. He will be assisted by his associate, Vicki Hartigan, who will be employed on a part-time basis to serve the legal needs of the District. David W. McMurchie is the contact person for this Proposal as the owner of McMurchie Law and is authorized to answer all questions and bind the firm to the promises and covenants contained in this Proposal.

A. Statement of Qualifications and Scope of Work.

More specifically, I and the firm have represented special districts and provided legal advice and consultation on a wide variety of issues:

(1) Advice and consultation regarding open meeting, notice, agenda, and closed session requirements of the Brown Act;

(2) Advice and consultation regarding the provisions of and means of compliance with the requirements of the Public Records Act;

(3) Advice and consultation regarding the requirements of the Political Reform Act of 1974 as it applies to special districts including regulations on conflict of interest and mass mailings, including economic disclosure requirements and Government Code section 1090 contract conflicts of interest;

(4) A wide variety of employment law problems including the hiring, firing, and discipline of personnel; the drafting of complete policy and procedure manuals for personnel matters; conducting employment discrimination and harassment investigations; defense of wrongful termination claims; litigation of complaints of harassment and discrimination in violation of the Fair Employment and Housing Act before the Fair Employment and Housing Commission and the Equal Opportunity Employment Commission; the defense of workers' compensation claims, Labor Code section 132(a) discrimination claims and serious and willful misconduct claims against public entity employers;

(5) The drafting of legal agreements and contracts including operational policy and procedure manuals, financial policies, employment contracts, construction contracts, architectural services contracts, engineering contracts, landscape maintenance contracts, bid instructions and specifications, independent contractor agreements, park, water, and sewer ordinances, fee ordinances, encroachment ordinances, development agreements, annexation agreements, concessionaire agreements, agreements for purchase and sale of real property, easements, licenses, and rights of way;

(6) Construction contract consultation and litigation including issues such as contractor breach, prevailing wage requirements, bid requirements of the Public Contract Code, alternative bid procedures available through the Uniform Public Construction Cost Accounting Act, architect errors and omissions, and liabilities and obligations of bond sureties upon contract abandonment;

(7) Reorganization proceedings including annexations, detachments, and consolidations, including appearances before LAFCO, city councils, and Boards of Supervisors;

(8) Consultation regarding formation and operation of a variety of assessment districts, the implications of Proposition 218 with respect to assessment district administration, and assessment backed public works financing alternatives;

(9) Consultation regarding the implications of Proposition 218 on property related fees such as water, sewer and garbage fees and charges, the process for property owner approval of such fees, and public works financing alternatives secured by a pledge of rate revenue;

(10) Consultation on issues regarding the enactment, scope, and enforcement of developer impact fees, standby and capacity charges, and user fees;

(11) Consultation regarding the implications of the provisions of Proposition 26 on various types of fees levied by special districts;

(12) Trial, appellate court experience and administrative hearing experience with respect to CEQA issues, employment harassment and discrimination claims, construction contract and architect's errors and omissions issues, workers' compensation, Labor Code section 132a discrimination claims, serious and willful misconduct claims;

(13) Advice regarding eminent domain procedures and litigation;

(14) Formation and administration of assessment districts pursuant to the Landscaping and Lighting Act of 1972 and special tax districts pursuant to the Mello-Roos Community Facilities District Act;

(15) Familiarity with state legislation and budget processes impacting special districts through experience reviewing, analyzing and drafting legislation of interest to the membership of the California Special Districts Association, the Fire District Association of California, and the Special District Risk Management Authority;

(16) Advice regarding the requirements and provisions of the Quimby Act providing for dedication of land or payment of in lieu fees to public agencies providing recreation and park services to new subdivisions;

(17) Advice regarding the application of the Uniform District Election Law to the elections conducted by the District;

(18) Advice and consultation regarding insurance coverage issues and claims procedures applicable to the filing of third party claims against the District including the scope of coverage and defense obligations afforded by the District's general liability and workers' compensation coverage memoranda;

(19) Drafting joint powers agreements and joint use agreements between the District and other public agencies regarding the terms and conditions of providing shared public services; and

(20) Consultation regarding communications with and Notices of Violations from Regional Water Quality Control Boards, including drafting of relevant documents and experience in conducting settlement negotiations with the Regional Boards.

Regarding litigation experience, during the last ten years the firm has been extensively involved in litigation involving construction contract disputes and architect's errors and omissions disputes with respect to the construction of capital improvement projects for special districts. Those cases have been resolved at the trial level or have been resolved through settlement. We have also been involved in CEQA litigation at the trial and appellate level, which litigation has resulted in new legal standards regarding the timing of CEQA analysis in connection with the approval of a development project. My firm concentrates on reducing litigation potential by providing proactive legal advice based on the most current legislative and case law developments.

I have also conducted seminars, trainings, and have addressed various local community groups as well as the membership of the California Special Districts Association, the California Association of Recreation and Park Districts, and the Fire Districts Association of California on recent developments in these areas of the law, most notably the Brown Act, the Public Records Act, and the various statutory provisions regarding conflicts of interest and capital improvement financing alternatives available to special districts.

I also offer specialized intensive training sessions for Board members and staff on these issues as well as issues regarding AB 1234 ethics training, sexual harassment training, Board member liability training, and conflict of interest training.

6. Staff Qualifications and Experience

As indicated above, David W. McMurchie will be the primary contact and will provide the majority of legal services to be provided pursuant to this Proposal. Mr. McMurchie has 41 years experience in providing the variety of services specified in Section 5 to special districts and joint powers authorities throughout the state.

Ms. Hartigan has been an attorney representing local governments in California and Nevada since 1993. She has formerly worked for a firm which provided legal services to the Tahoe Regional Planning Authority. Ms. Hartigan has worked with Mr. McMurchie practicing public agency law with an emphasis on employment issues since 1997. Ms. Hartigan's experience involves working with the same clients as those to whom Mr. McMurchie has provided services.

7. **Operational Policies**

My working relationship with my special district and public agency clients consists of the following essential requirements: (a) telephonic or email response to all inquiries within 24 hours of receipt; (b) designation of contact person at the district who is authorized to contact District General Counsel so as to avoid response to communications from individual board members or staff who are not authorized to contact District General Counsel; (c) monthly status reports on all projects assigned by the district; (d) monthly status reports on all litigation conducted on behalf of the district; (e) monthly legal counsel status report at each regular meeting of the Board of Directors regarding non-confidential matters such as new legislative developments and new case law potentially impacting the district's operations; (f) establishment of a computerized calendar system to ensure that all legal inquiries are responded to within 24 hours and that all continuing legal matters receive status reports from this firm on not less than a 30-day periodic basis; and (g) periodic meetings with general manager and department heads to accumulate factual evidence to support the analysis of legal issues assigned by the district to General Counsel for review and opinion.

8. **References**

As business references, the firm provides the following contact information for three (3) special district clients for which the firm has provided general legal services for an extended period of time.

Southgate Recreation and Park District
Ward Winchell, General Manager
6000 Orange Avenue
Sacramento, CA 95823
916.428.1171 ext. 11
wwinchell@southgaterecandpark.net

Orangevale Recreation and Park District
Greg Foell, District Administrator
6826 Hazel Avenue
Orangevale, CA 95662
916.988.4373
foellorpd@ovparks.com

9. Delegation or Subcontracting of Legal Responsibilities

The firm does not anticipate delegating or subcontracting any legal responsibilities specified in the RFP. However, if such delegation or subcontracting becomes necessary, the firm commits to obtain the District's prior written consent before any such delegation.

10. Value-Added Services

The firm will provide free periodic legislative updates to the District detailing the specific provisions of the legislation which may impact the District's operations, explaining the potential impact of the proposed legislation on District operations, and provide an analysis of legislative efforts under way to either support or oppose the legislation. In addition, the firm provides free periodic updates on appellate cases that raise legal issues that may affect District operations and facilities. Such periodic legislative and appellate court analyses and reports are provided when these issues first arise, in order to permit the District to take proactive action in response to such developments.

11. Cost Proposal and Additional Services

A. Compensation and Reimbursements.

My firm is willing to provide all legal services required by the District on a time and expense basis which includes routine "General Counsel" work consisting of advice, consultation and opinions to the District Board of Directors and staff, preparation and review of contracts, resolutions, ordinances, and other required documents; attendance at District Board meetings; providing advice and consultation regarding new legislation and court decisions impacting the District and any other legal services specifically requested by the District. The work will be performed primarily by myself. The standard hourly rate for these services is \$270.00 (Two Hundred Seventy Dollars) per hour. The work performed by my associate, Vicki Hartigan, will be billed at the rate of \$250.00 (Two Hundred Fifty Dollars) per hour. This hourly rate includes any extraordinary or special services requested by the District to be provided over and beyond "General Counsel" services. We will advance all expenses including printing, photocopying, postage, Federal Express and facsimile. Charges for photocopying and/or reproduction of documents are \$0.25 cents per page. Larger reproduction projects involving briefs for litigation will be sent to an outside provider and those costs will be billed to the District at cost with no markup. We also charge Federal Express charges incurred at cost with no markup. We do not bill for facsimile or telephone call charges. We do not bill for secretarial/word processing time.

The firm uses the computerized eBillity Time Tracker Program for billing of legal services rendered. Time is billed in one-tenth hour increments for each attorney working on the file in accordance with the hourly rates specified above. If you wish the firm to prepare separate invoices for each subject matter provided by the firm, the program is capable of providing separate invoices.

The firm's only office is located in Folsom, California, approximately 20 miles east of Sacramento. My standard of practice has always been to respond to client inquiries within 24 hours and I am available by phone or email at any time should the District find it necessary to contact me outside of normal business hours.

12. Conclusion

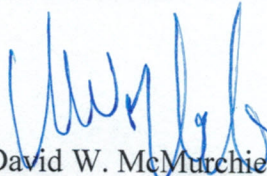
I believe that my experience providing General Counsel and Special Counsel services to a wide variety of special districts throughout the state, as well as my long term involvement with several statewide associations of special districts including the California Special Districts Association, the California Association of Recreation and Park Districts, and the Fire Districts Association of California provides my firm unique expertise with which to provide legal advice, consultation and representation to Cortina Community Services District.

The above "Proposal" contains a Statement of Qualifications and Scope of Work which details the variety of issues with which the firm has experience in representing community services districts and other special districts throughout the state. The Proposal constitutes a commitment on behalf of this firm to perform those services included in the Scope of Legal Services detailed in the RFP as well as the Scope of Work specified in our Proposal's Statement of Qualifications and Scope of Work. Information in the section of our Proposal entitled Cost Proposal and Additional Services constitutes a firm and irrevocable offer by my firm to perform the activities as specified in the Scope of Work for the stated period of the contract for the amount of compensation specified in the Cost Proposal and Additional Services as required by the RFP.

Finally, and perhaps most importantly, the firm is committed to the growth and development of the special district form of government and has been actively involved on a local and statewide basis in promoting the interests of special districts such as yours for many years.

I would be happy to answer any questions regarding this Proposal and would welcome an opportunity to meet personally with the Board of Directors and answer any questions or address any concerns which they may have about my firm, its background and experience, or this Response to Request for Proposal – General Counsel Services for the District.

MCMURCHIE LAW FIRM



David W. McMurchie