

# MENDOCINO

## Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482  
Telephone: (707) 463-4470 | E-mail: [eo@mendolaafco.org](mailto:eo@mendolaafco.org) | Web: [www.mendolaafco.org](http://www.mendolaafco.org)

### COMMISSIONERS

**Maureen Mulheren, Chair**  
County Member

**Gerald Ward,**  
**Vice Chair/Treasurer**  
Public Member

**Katharine Cole**  
Special District Member

**Gerardo Gonzalez**  
City Member

**Candace Horsley**  
Special District Member

**Glenn McGourty**  
County Member

**Mari Rodin**  
City Member

**Francois Christen, Alternate**  
Special District Member

**Douglas Crane, Alternate**  
City Member

**John Haschak, Alternate**  
County Member

**Richard Weinkle, Alternate**  
Public Member

### STAFF

**Executive Officer**  
Uma Hinman

**Clerk/Analyst**  
Larkyn Feiler

**Counsel**  
Scott Browne

### REGULAR MEETINGS

First Monday of each month  
at 9:00 AM in the  
Mendocino County  
Board of Supervisors  
Chambers  
501 Low Gap Road, Ukiah

## A G E N D A

### Executive Committee Meeting

Tuesday, April 18, 2023 at 11:00 am

#### Location

Zinfandel Room, Ukiah Valley Conference Center, 200 S School St, Ukiah, California

#### Special Notice – Hybrid Meeting

The Executive Committee will conduct this meeting in a **hybrid** format to accommodate both in-person and remote (video or telephone) participation by the public and staff pursuant to GOV 54953. Unless approved under the provisions of AB 2449, Commissioners will attend in-person at the meeting location identified above. The **hybrid** meeting can be accessed by the public in person, or remotely as described in the Instructions for Remote Participation Option, below.

#### Instructions for Remote Participation Option

**Join Meeting Live:** Please click the following Zoom link below to join the meeting or utilize the telephone option for audio only.

1. Zoom meeting link: <https://mendocinocounty.zoom.us/j/89996857947>
2. Telephone option (audio only):  
Dial: **(669) 900-9128** (*Please note that this is not a toll-free number*)  
Meeting ID: **899 9685 7947**

#### **Public Participation is encouraged and public comments are accepted:**

1. Live: via the Zoom meeting link or telephone option above
2. Via Email: [eo@mendolaafco.org](mailto:eo@mendolaafco.org) by 8:30 a.m. the day of the meeting
3. Via Mail: Mendocino LAFCo, 200 S School Street, Ukiah, CA 95482

#### Meeting Participation

To provide comments, please use the raise hand function in Zoom.

- a) For those accessing from a computer, tablet, or smartphone, the raise hand function may be selected by clicking or tapping it from the reactions options. When joining the Zoom meeting, please enter your name so that you can be identified to speak.
- b) For those utilizing the telephone option (audio only), please use the raise hand feature by pressing **\*9** on your keypad to raise your hand, and **\*6** to unmute yourself. When it is your turn to speak, you will be called on by the last four digits of your phone number, if available, and asked to identify yourself for the record.

All comments received will be conveyed to the Committee for consideration during the meeting.

**1. CALL TO ORDER & ROLL CALL**

Chair Maureen Mulheren, Vice Chair/Treasurer Gerald Ward, Commissioner Rodin

**2. PUBLIC EXPRESSION**

**3. MATTERS FOR DISCUSSION & POSSIBLE ACTION**

**3a) Approval of the March 22, 2023 Executive Committee Minutes**

**3b) Review Proposals for Legal Counsel Services**

Review the proposals received in response to the RFP for Legal Counsel Services and recommend an individual or firm to the Commission for consideration.

**4. INFORMATION AND REPORT ITEMS**

**4a) Executive Officer Report**

**ADJOURNMENT**

The next Regular Commission Meeting is scheduled for  
Monday, May 1, 2023  
in the County Board of Supervisors Chambers

Notice: This agenda has been posted at least 72 hours prior to the meeting and in accordance with the Brown Act Guidelines and teleconferencing rules under AB 2449.

Participation on LAFCo Matters: All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: Commission meetings are held via a hybrid model – the in-person option held in a wheelchair accessible facility and also by teleconference. Individuals requiring special accommodations to participate in this meeting are requested to contact the LAFCo office at (707) 463-4470 or by e-mail to eo@mendolafo.org. Notification 48 hours prior to the meeting will enable the Commission to make reasonable arrangements to ensure accessibility to this meeting. If attending by teleconference, if you are hearing impaired or otherwise would have difficulty participating, please contact the LAFCo office as soon as possible so that special arrangements can be made for participation, if reasonably feasible.

Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision and who has made a campaign contribution to any Commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission before the hearing.

# MENDOCINO

## Local Agency Formation Commission

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### Agenda Item 3a

## DRAFT Executive Committee Meeting Minutes

Meeting (Hybrid) of March 22, 2023, 11:00 a.m.

Chardonnay Room, Ukiah Valley Conference Center, 200 S School St, Ukiah, California

### COMMISSIONERS

**Maureen Mulheren, Chair**  
County Member

**Gerald Ward, Vice-Chair/Treasurer**  
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**Gerardo Gonzalez**  
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**Executive Officer**  
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**Counsel**  
Scott Browne

### REGULAR MEETINGS

First Monday of each month  
at 9:00 AM in the  
Mendocino County  
Board of Supervisors  
Chambers  
501 Low Gap Road, Ukiah

#### 1. CALL TO ORDER & ROLL CALL

Chair Mulheren called the meeting to order at 11:00 a.m.

Members Present: Chair Mulheren, Vice Chair/Treasurer Ward, Commissioner Rodin  
Staff Present: Executive Officer Uma Hinman, Clerk/Analyst Larkyn Feiler, Legal Counsel Marsha Burch

#### 2. AB 2449 COMMISSIONER REQUEST

##### 2a) Commissioner Teleconference Request for "Just Cause"

Upon motion by Commissioner Ward and second by Chair Mulheren, the request from Commissioner Rodin to participate via videoconference under the "just cause" circumstance per AB 2449 and Mendocino LAFCo Policy 3.8.1.1 was approved unanimously. The brief general description of the circumstances necessitating remote participation was child care and Commissioner Rodin confirmed verbally and through video technology that no other individuals were present in the room.

#### 3. PUBLIC EXPRESSION

None

#### 4. MATTERS FOR DISCUSSION & POSSIBLE ACTION

##### 4a) Approval of the January 9, 2023 Executive Committee Minutes

Upon motion by Commissioner Ward and second by Chair Mulheren, the January 9, 2023 Executive Committee Meeting Minutes, including an amendment to Item 3c to clarify staff direction to discuss with Mr. Browne a legal services Request for Proposals (RFP) process, were approved unanimously.

Commissioner Rodin requested a status update on the RFP for Legal Counsel Services and EO Hinman explained that eight RFP responses were received, the Personnel Committee is scoring the responses, and the Executive Committee will consider firms/attorneys in the first two weeks of April and make a recommendation to the Commission.

##### 4b) Proposed Draft Preliminary Budget and Work Plan for Fiscal Year 2023-24

The Executive Officer presented a preliminary Fiscal Year 2022-23 budget and work plan.

The following local agency staff participated in the discussion: Craig Schlatter, Community Development Director for the City of Ukiah.

Following is a summary of the discussion points organized by topic for ease of review:

## Work Plan

There is on-going concern that the Work Plan does not get completed each year and results in unused budget. Mendocino LAFCo is not keeping up with the 5-year MSR/SOI schedule, and 50% of the total agencies are due. Local policy of MSR/SOI updates every 5-years for agencies providing municipal services (water, sewer, fire, police). Although the 5-year review schedule is in the CKH, most LAFCOs hit the 8 to 10-year mark for MSR/SOI updates. Comprehensive studies are relevant longer than 5-years and are useful for agency and State Legislative staff. Mr. Schlatter noted that the recent process of aligning the MSR/SOI Update with the City of Ukiah General Plan Update was very successful. He further added that cities provide an annual update to the Office of Planning and Research on General Plan implementation and any significant changes and, if helpful, these updates could be provided to LAFCo.

For many special districts, there are no significant changes in the organization or operations in a 5-year period. One suggestion for streamlining the 5-year MSR/SOI schedule is to identify agencies without significant changes since the prior study and bring an item to the Commission to confirm no changes are needed for the agency's SOI. An MSR review checklist type approach would require developing guidelines for what triggers or demonstrates significant changes since the prior study. A significant change could be represented by a proposed agency annexation and result in a concurrent MSR/SOI. For a city, a significant change could be relative to the lack of progress on annexations identified in their General Plan.

Commissioner Ward noted that it would be helpful for commissioners to attend agency Board meetings to outreach/educate on LAFCo and MSR/SOI studies.

## Policies & Procedures Update, Application Forms/Streamlining

One area of streamlining application processes involves mapping requirements and timing discrepancies between the State Board of Equalization and County Surveyor for jurisdictional boundary changes.

## Legal Services

The proposed \$11,000 budget increase is to allow for potential rate increases through the legal services RFP process and to rely more heavily on Counsel for policy/procedure development support and CEQA review/comments.

## Staff Capacity

There was a cost savings when Clerk activities included bookkeeping, drafting minutes, answering calls, etc. The EO needs to be directly involved in the finances and all calls were already directed to the EO from the Clerk. It is difficult to find a qualified applicant to fill the Clerk position, especially due to the need for local government experience. The goal is to hire an Administrative Assistant that can eventually graduate into a Clerk role. Since we are not seeking a full-time employee, finding candidates with the technical experience and skills needed to supplement the Analyst role is difficult to obtain. The additional support will be most readily and effectively met by contractors already in the field at higher rates. Hinman & Associates has received over 70 job applications and none are qualified applicants. It is difficult to attract and retain quality employees for part-time work; training potentially short-term staff can be a wasteful investment of limited resources.

LAFCo staff capacity is getting consumed with application processing. Once the tax share process is complete, multiple applications will move forward.

Commissioner Rodin noted that outsourcing is more feasible for the work plan than application processing because there are more contractors that prepare MSR/SOI Updates and applications require local knowledge and familiarity with local policies and practices.

Prior Commission direction has been to prioritize application processing and core staff services over the work plan.

LAFCo staff recognizes the in-house staff limitations and is recommending an outsourcing solution to get the outstanding workload completed.

The options to boost staff capacity include hiring part-time employees or subcontractors under Hinman & Associates and a LAFCo RFP for more complex, costly, and/or controversial MSR/SOI studies.

#### Budget Increases

The budget continues to increase every year, and it is necessary to demonstrate that we are producing results.

Commissioner Ward noted that there are proposed increases in budget categories that are currently underutilized (Basic Services, Legal, Work Plan).

The proposed budget increases address inflation (current CPI is 8.27%), the need for Policies & Procedures updates and application streamlining, and to outsource the Work Plan at higher contractor rates.

The preliminary Work Plan includes the coastal water agencies. Water agencies provide critical services and there are many water districts struggling to meet their service demands. It is premature to address the inland water agencies during State Water Board (SWRCB) consolidation efforts so it is proposed to delay those until the following FY

The Ukiah Valley Sanitation District RFP bids in 2020 were roughly \$50,000 for one, single-service agency.

The prior 2014 coastal water/wastewater MSR study will need to be expanded to address interagency water hauling, to include potential consolidation determinations, and to research and address SWRCB regulations for failing systems. Staff also recommend including mutual water companies in the studies to gain a more comprehensive picture of water service provision in the region, particularly as the SWRCB has the authority to mandate consolidation of systems.

#### LAFCo Comparison

The comparison chart shows the overall budget breakout by staffing, work plan, and office costs.

Commissioner Rodin requested that for comparison purposes, it would be helpful to know how many agencies (cities & districts) are under LAFCos of similar population size.

Other LAFCo approaches to managing workload could offer some best practices and ideas for improvement.

Commissioner Ward noted that some other LAFCos put less work into their MSR/SOI studies.

Issues on the ground can be very unique to the locality and other LAFCos may not reflect this distinction.

#### Feedback/Direction

Commissioner Mulheren recommended highlighting the work and accomplishments from last year and overall progress made, further explain the more substantial unused or roll-over budget line items, and emphasize the plan for moving forward to get things done.

Emphasize the priority of doing comprehensive work upfront (MSR/SOI updates) to streamline processes down the line.

Committee members noted their support of the middle option for the budget increase and staff's proposed direction overall.

The Committee directed staff to schedule a Workshop on the preliminary Fiscal Year 2022-23 budget and work plan for the Commission's regular meeting in April, recognizing there are multiple new Commissioners who have not yet been through LAFCo's budget process.

## **5. INFORMATION AND REPORT ITEMS**

### **5a) Executive Officer Report**

EO Hinman noted that the Legal Counsel Services RFP process had already been discussed. Also noting that Katharine Cole from the Hopland Cemetery District was the only nomination received to fill the special district regular member seat and will be seated in April. Staff anticipates holding a LAFCo 101 training in May.

Chair Mulheren requested that all agency staff and Municipal Advisory Committees (MAC) be invited to LAFCo 101 for Brown Act and general local government support and training.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 12:27 p.m.

DRAFT

**MENDOCINO  
Local Agency Formation Commission**

**Staff Report**

MEETING April 18, 2023  
TO Mendocino Local Agency Formation Commission Executive Committee  
FROM Uma Hinman, Executive Officer  
SUBJECT **Review Proposals for Legal Counsel Services**

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**RECOMMENDATION**

The Executive Committee review the eight proposals for legal services, and:  
(1) consider the analysis and scoring conducted by the personnel committee,  
(2) select an individual or firm for recommendation to the Commission, and  
(3) direct staff to work with the selectee and LAFCo Treasurer to prepare a draft contract for the Commission's consideration at its next regular meeting.

**BACKGROUND**

Government Code Section 56384(b) requires the Commission to appoint legal counsel to advise it on LAFCo-related actions. If the Commission's counsel is subject to a conflict of interest on a matter before LAFCo, the Commission is required to appoint an alternate legal counsel to advise it.

Mendocino LAFCo has been under contract with P. Scott Browne for Legal Services since 2012. Mr. Browne became very ill over a year ago and was on medical leave. During his absence, Marsha Burch served as back-up Counsel for Mr. Browne's LAFCo clients. As Mr. Browne recovered, Ms. Burch continued serving as Mendocino LAFCo Legal Counsel for continuity of major projects in progress.

In January 2023, Mr. Browne informed staff of his intention to scale back his practice and a Request for Proposals (RFP) for Legal Services was circulated based on Executive Committee direction.

The RFP was released on January 24, 2023 with a deadline for submissions of February 28, 2023. The RFP was directly distributed to 27 firms and was also circulated by CALAFCO to its members and associates. In total, eight (8) proposals were received by the deadline. This staff report provides a summary and scoring of each legal firm's proposal, and the personnel committee's recommendation on firm selection.

**Ranking of Legal Firms**

The eight legal firms that submitted proposals expressing interest in becoming LAFCo's legal counsel are listed in Table 1. In accordance with the RFP, all proposals were evaluated based on the following criteria and weighting: (1) Qualifications – 30%, (2) Costs/Rates – 25%, (3) Conflicts of Interest – 25%, (4) Local and State Client References – 10%, and (5) Additional Information – 5%. See Attachment 1 for scoring results.

The personnel committee identified the most important criteria as the qualifications of the individual or legal firm, the cost for services, and the potential for conflicts of interest; the goal is to ratify a contract with a legal firm that is qualified, cost effective, and does not require secondary counsel due to conflicts

of existing representation. The personnel committee recommends Marsha Burch for firm selection to serve as Mendocino LAFCo’s Legal Counsel. Table 1 shows the ranking of each firm. An explanation of each legal firm’s ranking can be found below. Proposals are included as Attachment 3.

Table 1. Legal Firm Rankings (in order of ranking)			
Legal Firm	Total Points	Total Score (%)	Ranking
Marsha A. Burch Law Office	95	100	1
Colantuono, Highsmith & Whatley, PC	85	89	2
Norman Dowler LLP	85	89	3
Sloan Sakai Yeung & Wong LLP	85	89	4
Best Best & Krieger LLP	80	84	5
Lozano Smith, LLP	77	81	6
Griffith, Masuda & Hobbs	75	79	7
Prentice   Long, PC	70	74	8

**Ranked #1: Marsha Burch**

Marsha Burch received 95 out of 95 points for a total score of 100%. Ms. Burch has 10 years of LAFCo experience, serving as backup General Counsel for Scott Browne’s LAFCo clients and serving as primary counsel to Mendocino LAFCo for over the past year. Additionally, she has 30 years of experience in land use and the California Environmental Quality Act (CEQA) and 10 years of local agency experience, including fire districts, water districts, and LAFCos, including representing several in litigation.

If selected, Marsha Burch is willing to provide her services at a flat rate of \$1,000/month, which would include 4.5 hours per month of legal support. Hours spent over 14 per quarter would be billed at \$225/hour. Legal Counsel support on applications and litigation would be billed separately at \$225 and \$275, respectively. These rates are consistent with our current legal counsel contract rates.

Ms. Burch has no other clients in Mendocino County and notes no conflicts of interest.

**Ranked #2: Colantuono, Highsmith & Whatley, PC**

Colantuono, Highsmith & Whatley, PC (CHW) received 85 out of 95 points for a total score of 89%. This firm provides legal services to various local governments, including six LAFCos: Calaveras, Nevada, Orange, Sonoma, Yolo, and Yuba. CHW has an in-depth knowledge on a variety of LAFCo-related categories including but not limited to the CKH Act, CEQA, land use, public finances, and litigation matters relating to LAFCos. CHW has identified David Ruderman as LAFCo’s primary legal counsel, with Gary Bell as back-up counsel.

If selected, CHW is willing to provide their services at \$250/hour; this is an 11% increase over our current legal counsel contract rate. The general service rate includes an annual CPI adjustment not to exceed 2.5%, and the litigation service rate would be \$325/hour.

CHW provides legal services to the City of Ukiah regarding the potential consolidation of water and sanitation service providers. Should CHW be selected, they would not be able to represent Mendocino LAFCo on any such proposals from Ukiah.

**Ranked #3: Norman Dowler LLP**

Norman Dowler (ND) received 85 out of 95 points for a total score of 89%. ND has extensive experience with CEQA, the CKH, real property laws, planning and zoning laws, and public contracts. The firm identifies Michael Walker as the potential general counsel for Mendocino LAFCo. Mr. Walker has been legal counsel to Ventura LAFCo in the past and is currently legal counsel to Placer LAFCo.



If selected, ND is willing to provide their services at \$300/hour; this is a 29% increase over our current legal counsel rate.

ND noted no conflicts of interest.

Ranked #4: Sloan Sakai Yeung & Wong LLP

Sloan Sakai Yeung & Wong LLP (SSYW) received 85 out of 95 points for a total score of 89%. For 26 years the firm has been providing legal services to various local governments, including seven LAFCo: Nevada, Napa, Santa Cruz, San Francisco, San Joaquin, Fresno and Orange. SSWY has identified DeeAnne Gillick as LAFCo's potential legal counsel and four other firm attorneys for the LAFCo team.

SSWY is willing to provide their services at \$295/hour; this is a 27% increase over our current legal counsel rate. The litigation service rate would be \$345/hour.

SSYW noted no conflicts of interest.

Ranked #5: Best Best & Krieger LLP

Best Best & Krieger LLP (BBK) received 80 out of 95 points for a total score of 84%. BBK serves as general counsel to CALAFCo and six other LAFCos: El Dorado, Merced, Marin, Orange, San Bernadino and Santa Clara. BBK has an in-depth knowledge on a variety of LAFCo-related categories including but not limited to the CKH Act, CEQA, Props 13 and 218, special taxes, intergovernmental relations, and litigation matters relating to LAFCos. BBK has identified Josh Nelson as LAFCo's primary legal counsel, with Mala Subramanian as back-up counsel. Mr. Nelson has a wide range of LAFCo experience including, acting general counsel to Santa Cruz LAFCo and back-up counsel for Merced and El Dorado LAFCos, assisting in a recent water consolidation, and litigating a service dispute between two fire departments.

If selected, BBK is willing to provide their services at \$280/hour; this is 24% increase over our current legal counsel rate. The litigation service rate would be \$345/hour.

BBK currently provides legal services to the City of Fort Bragg, Ukiah Valley Sanitation District, Russian River Cemetery District, and until recently the Mendocino County Health Care District. Should BBK be selected, the firm proposes to request waivers from its clients in question and enact ethical screens to address the legal conflict issues.

Ranked #6: Lozano Smith, LLP

Lozano Smith, LLP (LS) received 77 out of 95 points for a total score of 81%. This firm serves hundreds of public agencies. LS has identified Nicholas Clair as LAFCo's primary counsel with Mary Lerner and Laurie Avedisian-Favini as secondary. Ms. Avedisian-Favini currently serves as general counsel to Madera LAFCo. Mr. Clair's experience is primarily in supporting special districts, local governments, Proposition 218, and CEQA.

If selected LS is willing to provide their services at \$250/hour. This is an 11% increase over our current legal counsel rate.

LS currently provides legal services to the South Coast Fire Protection District and the Point Arena Joint Union High School District.

Ranked #7: Griffith, Masuda & Hobbs

Griffith, Masuda & Hobbs (GMH) received 75 out of 95 points for a total score of 79%. This firm serves a limited number of public agencies, including 7 special districts, a county, and five joint powers agencies in eight different counties. While the firm has knowledge of the CKH Act, it does not have direct LAFCo

experience when compared with other firms. GMH has identified David Hobbs as LAFCo's potential legal counsel and two other attorneys as LAFCo's legal team.

If selected, GMH is willing to provide their services for \$225/hour with annual increases over the next three years (\$225 in 2023, \$250 in 2024, and \$275 in 2025). The 2023 rate is the same as our current legal counsel rate.

GMH noted no conflicts of interest.

Ranked #8: Prentice | Long, PC

Prentice | Long, PC (PL) received 70 out of 95 points for a total score of 74%. This firm states their experience in a full range of legal issues affecting LAFCos including reorganizations, spheres of influence, agency formations and incorporations; no specific LAFCo experience was provided. PL identifies Sean Cameron as LAFCo's potential general counsel. He currently serves as Deputy County Counsel for the Counties of Trinity, Modoc and Sierra.

If selected PL is willing to provide their services for \$190/hour; a rate nearly 17% below our current legal counsel rate.

PL noted no conflicts of interest.

**Cost Summary**

Our current contract for legal services provides a monthly average of four (4) hours billed at \$900/month. When the cumulative hours for any three-month period exceeds 16 hours, the excess hours are billed at the hourly rate of \$225. Additionally, any time spent on specific applications are billed to the applicants at \$250/hour. A monthly average retainer allows LAFCo to benefit from an overall lower billing rate.

Legal services expenses for the most recent years were as follows:

FY 2020-2021: \$17,000

FY 2021-2022: \$12,800

Projected for FY 2022-23: \$15,000

The legal firm recommended for selection proposes essentially the same type of cost structure that LAFCo has had in place since 2012, with an increase in the average time per month from 4 to 4.5 hours at a monthly retainer of \$1,000 instead of \$900.

See Attachment 1 for a summary of firm rates.

**Staff Recommendation**

It is expected that several controversial projects are on the horizon, including annexations, potential consolidations of water districts and declining agencies, sphere of influence expansions, and organizational improvements including a comprehensive update of policies and procedures that will require legal counsel research and support. It is important that LAFCo consider a firm that is highly qualified and knowledgeable about LAFCo matters, in particular the CKH, CEQA, land use and local government laws and matters.

Based on the review and scoring conducted by the personnel committee, it is recommended that Marsha Burch be selected as LAFCo's new general counsel. During Scott Browne's medical absence, Ms. Burch has served Mendocino LAFCo as its de facto legal counsel for over the past year and has proven to be knowledgeable, professional, and an excellent resource to staff and the Commission in developing policies, conditions of approval, advising on matters of special district and LAFCo law, and CEQA.

Attachments:

- (1) RFP Responses Evaluation Criteria and Scores
- (2) RFP for Legal Services
- (3) Proposals
  - a. Marsha Burch
  - b. Colantuono, Highsmith & Whatley, PC (CHW)
  - c. Norman Dowler LLP
  - d. Sloan Sakai Yeung & Wong LLP
  - e. Best Best & Krieger LLP (BBK)
  - f. Lozano Smith, LLP
  - g. Griffith, Masuda & Hobbs
  - h. Prentice | Long, PC

**Mendocino  
Local Agency Formation Commission (LAFCo)**

**2023 Request for Proposals (RFP)  
to Provide Legal Counsel Services**

**RFP Responses  
Evaluation Criteria  
and Scores**

**Executive Committee Consideration  
April 18, 2023 Meeting**

**MENDOCINO LOCAL AGENCY FORMATION COMMISSION  
2023 Legal Counsel Services RFP**

**Summary of Proposals**

Eight proposals for Legal Counsel Services were received from the following law firms or individual attorneys, organized by alphabetical order:

1. Best Best & Krieger LLP (BB&K)
2. Colantuono, Highsmith & Whatley, PC
3. Griffith, Masuda & Hobbs
4. Lozano Smith, LLP
5. Marsha A. Burch Law Office
6. Norman Dowler LLP
7. Prentice | Long, PC
8. Sloan Sakai Yeung & Wong LLP

Proposals Summary Table

<b>Firm/Attorney</b>	<b>Primary</b>	<b>Secondary</b>	<b>Rate</b>	<b>Location</b>
Best Best & Krieger LLP (BB&K)	Josh Nelson	Mala Subramanian	\$280	Sacramento
Colantuono, Highsmith & Whatley	David Ruderman	Gary Bell	\$250*	Grass Valley
Griffith, Masuda & Hobbs	David Hobbs	Roger Masuda/Sara Lima	\$225*	Turlock
Lozano Smith, LLP	Nicholas Clair	<i>Mary Lerner/ Laurie Avedisian-Favini</i>	\$250	Sacramento
Marsha A. Burch Law Office	Marsha Burch	Scott Browne	\$225	Grass Valley
Norman Dowler LLP	Michael Walker		\$300	Ventura
Prentice   Long, PC	Sean Cameron	Margaret Long/Amanda Uhrhammer	\$190	Redding
Sloan Sakai Yeung & Wong LLP	DeeAnne Gillick	Mufti/ Miller/ Miller/ Ng	\$295	Sacramento

\* Griffith, Masuda & Hobbs: hourly rate of \$225 in 2023, \$250 in 2024, and \$275 in 2025.

\* Colantuono, Highsmith & Whatley: Annual CPI adjustment not to exceed 2.5%.

**Personnel Committee**

The proposals will be reviewed upon receipt and the most qualified firms or individuals may be requested to make a presentation to the Mendocino LAFCo Executive Committee. The recommendation of the Executive Committee will be considered by the full Commission in its selection of the Legal Counsel.

**RFP Response Evaluation and Selection Process**

The selection of the Legal Counsel will be based on the following criteria. These criteria identify the weight or significance in the selection of the preferred firm or individual. The submittals will be evaluated on the basis of the response to all the requirements of this RFP.

**Criteria Weight**

The proposals shall be reviewed based on the following criteria and weighting. Most important are the qualifications of the firm or individual, the proposed costs of services, and potential conflicts of interest. The goal is a contract with a firm or individual that is qualified and cost effective:

**MENDOCINO LOCAL AGENCY FORMATION COMMISSION  
2023 Legal Counsel Services RFP**

Legal Counsel Services Proposals Evaluation Criteria

Criteria	Description	Weight
<b>Qualifications of Firm/Individual and Personnel</b>	Expertise, experience, and capability of the proposer to provide excellent legal services regarding LAFCo's mission and duties.	30%
<b>Budget, Retainer, and/or Rates</b>	Overall cost of the proposal and the levels of service LAFCo can expect to receive from the proposer.	25%
<b>Identify Existing and Potential Conflicts of Interest</b>	Potential and existing conflicts of interest need to be clearly articulated in the RFP response.	25%
<b>Local and State Government Client References</b>	A list of two primary references that may be contacted. Other references may be provided as well.	10%
<b>Additional Information</b>	Location of firm or individual and availability of appropriate professionals as needed for meetings or other special circumstances. Other information may be provided as well.	5%

**Proposal Scoring**

Each proposal has been reviewed based on the five criteria and a maximum total of 95 points.

Legal Counsel Services Proposals Evaluation Scores

Points	Criteria	Firm/Attorney							
		Best Best & Krieger LLP (BB&K)	Colantuono, Highsmith & Whatley, PC	Griffith, Masuda & Hobbs	Lozano Smith, LLP	Marsha A. Burch Law Office	Norman Dowler LLP	Prentice   Long, PC	Sloan Sakai Yeung & Wong LLP
30	Qualifications of Firm/Individual and Personnel	30	30	15	20	30	30	10	30
25	Budget, Retainer, and/or Rates	20	22	20	22	25	15	20	15
25	Identify Existing and Potential Conflicts of Interest	15	18	25	20	25	25	25	25
10	Local and State Government Client References	10	10	10	10	10	10	10	10
5	Additional Information	5	5	5	5	5	5	5	5
95	<b>Total Points</b>	80	85	75	77	95	85	70	85

Assumptions:

- Firms/individuals that are not currently representing at least one LAFCo receive half points for qualifications.
- Point reductions for rates and conflicts of interest are commensurate with the variation from the preferred levels; \$225 per hour and 0, respectively.
- All points have been awarded for references and location/availability.

M E N D O C I N O  
LOCAL AGENCY FORMATION COMMISSION

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REQUEST FOR PROPOSALS (RFP)  
TO PROVIDE  
LEGAL COUNSEL SERVICES

Date of Issuance:	January 24, 2023
Proposals Due:	February 28, 2023, by 3 pm
Interviews (Optional):	March 13 – 17, 2023

ISSUED BY:

Mendocino Local Agency Formation Commission (LAFCo)  
200 South School Street  
Ukiah, CA 95482  
707.463.4470  
[www.mendolafco.org](http://www.mendolafco.org)

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## SECTION 1 – INTRODUCTION AND BACKGROUND

### INTRODUCTION

The Mendocino Local Agency Formation Commission (“LAFCo”) invites responses to a Request for Proposals (“RFP”) from qualified law firms and individual attorneys to provide legal counsel services to the Commission and staff. The objective of this RFP process is to provide LAFCo with reliable and effective legal services available on an as-needed basis. The selected firm or individual will serve at the discretion of the Commission and work under the direction of the Commission’s Executive Officer. It is anticipated that the selected firm or individual will enter into a professional service agreement for a minimum term of five years, with the option for extensions.

This RFP includes background information about LAFCo, the qualifications, requirements, scope of services, instructions for submittals, evaluation criteria, and the selection process. All proposals related to this RFP shall be submitted via email or hard copy by February 28, 2023, no later than 3pm, to:

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
[eo@mendolafco.org](mailto:eo@mendolafco.org)

### BACKGROUND

LAFCo is an independent public agency with countywide jurisdiction. Created by the State Legislature, LAFCo oversees the changes to local government boundaries and services involving cities and special districts. The State established a LAFCo for each County with the purpose to encourage the orderly and logical formation of local government agencies, preserve agriculture and open space lands, and discourage urban sprawl. The enabling legislation for LAFCo is contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH Act”).

Policy direction for LAFCo is provided by a seven-member Commission composed of two members from the County Board of Supervisors, two members from city councils, two members from special district board of directors, and one member of the general public. Additionally, for each category represented on LAFCo, there is an alternate member. The Executive Officer reports directly to the Commission and performs all duties necessary for the proper and efficient management of LAFCo, as determined by the Commission, State law, and local policy.

Mendocino LAFCo is supported by a small professional staff of two (including the Executive Officer). The Commission’s annual work plan, meeting agendas, staff reports, policies and procedures, and other information are posted on the agency’s website ([www.mendolafco.org](http://www.mendolafco.org)). Typically, Mendocino LAFCo has 10-12 meetings each year. The length of the meetings depends on the issues being considered and the complexity of the matters.



## SECTION II – QUALIFICATION, SCOPE OF SERVICES AND RESPONSE REQUIREMENTS

### QUALIFICATIONS

Mendocino LAFCo is seeking a firm or individual committed to providing the highest quality legal representation to public sector clients, with proven expertise in federal, state, municipal, LAFCo, environmental, special district, and other applicable laws to serve as Legal Counsel. The successful firm or individual will have experience in providing legal services to LAFCo and local government agencies including: cities, counties and special districts.

Required qualifications include experience with the function and purpose of LAFCos and knowledge of the CKH Act. The successful firm or individual will also have expertise in public agency law and in advising public officials, administrators and employees on the complex and frequently changing laws pertaining to local government administration, organization, regulations, transactions and litigation matters.

Typical matters include compliance with CKH Act, occasional contracting, the California Environmental Quality Act (“CEQA”), the Brown Act, ethics and conflict of interest law, public records act request laws, personnel and employment laws and requirements, and intergovernmental relations. Also desirable is experience in real estate, real property tax, special taxes and assessments, land development, planning and zoning laws, litigation and other legal issues that are routine with a LAFCo or other public agencies.

### SCOPE OF SERVICES

Legal services rendered to LAFCo include, but are not limited to, the following:

- Serve as LAFCo Legal Counsel and representative in all Commission matters, including litigation and administrative proceedings as necessary.
- Provide general legal advice to the Commission and the Executive Officer when requested, typically on issues of general municipal or administrative law on matters relating to the CKH Act or case law specifically involving local government boundaries, services, and/or organization in California.
- Serve as on-call Counsel to the Commission and attend all regular LAFCo meetings, special meetings, study sessions, or when requested by the Commission or Executive Officer. Regular LAFCo meetings are held on the first Monday of the month beginning at 9:00 am; whenever appropriate, virtual attendance encouraged for cost efficiencies.
- Attend meetings with the Executive Officer and/or Commission and its committees when required and/or maintain telephone and e-mail contact as needed.
- Review and comment on documents prepared by LAFCo staff including staff reports, resolutions, correspondence, administrative policies and other documents as requested and in a timely manner. Typically, legal counsel advises on complex resolutions or reports that have specific legal issues. Routine matters and/or reports generally do not require review by legal counsel.
- Conduct the annual performance evaluation for the Executive Officer by presenting a summary of the evaluation to all commissioners (including alternates) at a closed session.
- Prepare legal opinions or responses on specified issues when needed.
- Provide annual updates on important developments concerning the Political Reform Act and other conflict of interest issues, legislation and judicial decisions.

- Prepare and/or review agency agreements, CEQA documentation, and other materials on request.
- Prepare occasional reports and present information at public meetings as needed.

## RESPONSE FORMAT AND CONTENT REQUIREMENTS

If you are interested in being considered as Mendocino LAFCo Legal Counsel, the following information and/or documentation must be submitted:

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### 1. QUALIFICATIONS OF FIRM/INDIVIDUAL AND PERSONNEL

The RFP response shall provide a description of the firm or individual and a statement of qualifications and experience and provide a resume. If a firm, the submittal shall identify the individual to be assigned to Mendocino LAFCo as Legal Counsel and provide their qualifications and resume. The RFP response shall also include a summary of the previous work experience for LAFCos and local government agencies relative to the legal issues and practices described in Section II (Scope of Services) of this RFP; if a firm, also address this specific to the individual to be assigned as Legal Counsel.

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### 2. IDENTIFY EXISTING AND POTENTIAL CONFLICTS OF INTEREST

Please list all current public clients in Mendocino County for which the firm or individual provides service. To the extent they are reasonably foreseeable, please indicate any actual or potential conflicts of interest that may arise from the firm's or individual attorney's representation of Mendocino LAFCo. Please outline the manner in which such conflicts would be resolved, mitigated, or avoided.

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### 3. LOCAL GOVERNMENT CLIENT REFERENCES

Provide a list of two primary references; if a firm, provide references of the firm and of the individual who would serve as LAFCo Legal Counsel. Please include contact information for references and permission to contact those references. Other references may be provided as well.

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### 4. ADDITIONAL INFORMATION

Identify the location of the firm or individual and availability of appropriate professionals as needed for meetings or other special circumstances. Identify any other related qualifications or other information not specified in this RFP which the firm or individual considers essential or beneficial to LAFCo in reviewing the qualifications of your RFP response.

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### 5. BUDGET, RETAINER, AND/OR RATES

Outline the proposed Retainer, Rate and/or Fee schedule. Mendocino LAFCo's fiscal year 2022-23 budget for general legal services was \$19,000 (\$225/hour); legal support for applications are additional at-cost services reimbursed by applicants. The budget should include estimating a rate or retainer for all proposed services annually that would be the basis for monthly invoices during the course of the contract. All hourly rates, fees, and reimbursable costs must be clearly stated. Identify billing preferences as a retainer or hourly rate.

## SECTION III – SCHEDULE AND SUBMITTAL INSTRUCTIONS

### SCHEDULE

The following is an outline of the anticipated schedule for the review of responses, contract award and the contract effective date. This schedule is subject to change:

Date	Task
January 24, 2023	RFP posting & transmittal
February 28, 2023; 3pm	Submittal deadline (No later than 3pm)
March 13 – 17, 2023	Firm or individual interviews (optional)
March 20 – 24, 2023	Firm or individual selection and contract negotiation
April 3, 2023	Commission consideration of contract with selected firm or individual

Mendocino LAFCo reserves the right to adjust this timeline if deemed necessary. Notification of adjustments to the timeline shall be provided to all respondents. LAFCo also reserves the right to award a contract, to modify the scope of services required as necessary, and to accept or reject any or all submittals received as a result of this RFP. Additionally, the Commission will verify the information submitted by the respondents.

### INSTRUCTION TO PROPOSERS AND PROCEDURES FOR SUBMITTAL

The RFP response submittal shall include the following:

- One original copy (marked original) of the RFP response packet.
- One electronic copy in PDF format via email, flash drive, or other compatible electronic media.

This RFP includes background information about LAFCo, the qualifications, requirements, scope of services, instructions for submittals, evaluation criteria, and the selection process. All proposals related to this RFP shall be submitted via email or hard copy by February 28, 2023, no later than 3pm, to:

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
[eo@mendoLAFCo.org](mailto:eo@mendoLAFCo.org)

The RFP response may be submitted via email. Submitting firms or individuals are solely responsible for ensuring their RFP response is received by LAFCo in accordance with the solicitation requirements, before submittal deadline. Postmarks will not be accepted in lieu of actual delivery. LAFCo shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Delivery of RFP responses shall be made at the office specified in this Request for Proposals. Please note that Mendocino LAFCo staff has limited office hours.

## SECTION IV – RFP RESPONSE EVALUATION AND SELECTION PROCESS

The selection of the Legal Counsel will be based on the following criteria. These criteria identify the weight or significance in the selection of the preferred firm or individual. The submittals will be evaluated on the basis of the response to all the requirements of this RFP.

### CRITERIA WEIGHT

The proposals shall be reviewed based on the following criteria and weighting. Most important are the qualifications of the firm or individual and the proposed costs of services. The goal is a contract with a firm or individual that is qualified and cost effective:

Criteria	Description	Weight
<b>Qualifications of Firm/Individual and Personnel</b>	Expertise, experience, and capability of the proposer to provide excellent legal services regarding LAFCo's mission and duties.	30%
<b>Budget, Retainer, and/or Rates</b>	Overall cost of the proposal and the levels of service LAFCo can expect to receive from the proposer.	25%
<b>Identify Existing and Potential Conflicts of Interest</b>	Potential and existing conflicts of interest need to be clearly articulated in the RFP response.	25%
<b>Local and State Government Client References</b>	A list of two primary references that may be contacted. Other references may be provided as well.	10%
<b>Additional Information</b>	Location of firm or individual and availability of appropriate professionals as needed for meetings or other special circumstances. Other information may be provided as well.	5%

### PERSONNEL COMMITTEE

The proposals will be reviewed upon receipt and the most qualified firms or individuals may be requested to make a presentation to the Mendocino LAFCo Executive Committee. The recommendation of the Executive Committee will be considered by the full Commission in its selection of the Legal Counsel.

## SECTION V – GENERAL CONDITIONS

### AUTHORIZED SIGNATURES

Every submittal must be signed by the person or persons legally authorized to bind the firm to a contract for the execution of the work. Upon request of LAFCo, any agent submitting a response on behalf of a firm shall provide a current power of attorney certifying the agent's authority to bind the firm. For an individual, their name, signature, and post office address must be shown. For a firm or partnership, the name and post office address of the firm or partnership and the signature of at least one of the general partners must be shown. For a corporation, the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation and the title of the person signing on behalf of the corporation must be shown.

## AWARD OF CONTRACT

Award may be made to the firm or individual that presents the best qualifications after review and recommendation by the Personnel Committee and management staff and consideration by the full Commission. Discussions may, at Mendocino LAFCo's option, be conducted with firms or individuals that submit responses determined to be qualified of being selected for an award. Discussions may be for clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Firms or individuals shall be accorded fair and equal treatment with respect to any opportunity for discussion and written revision of responses.

## CANCELLATION

Mendocino LAFCo may cancel this solicitation at any time.

## COMPLIANCE WITH LAWS

All submittals shall comply with current federal, state, local and other laws relative thereto.

## COSTS

Mendocino LAFCo is not liable for any costs incurred by firms or individuals before entering into a formal contract. Costs of developing the submittal or any other such expenses incurred by the firm or individual in responding to the RFP, are entirely the responsibility of the firm or individual, and shall not be reimbursed in any manner by Mendocino LAFCo. No reimbursable cost may be incurred in anticipation of award.

## INTERPRETATION OF CONTRACT DOCUMENTS

Mendocino LAFCo reserves the right to make corrections or clarifications of the information provided in this RFP. Oral statement(s), interpretations, or clarifications concerning meaning or intent of the contents of this RFP by any person are unauthorized and invalid. Requests for interpretations shall be made in writing and delivered to the address or email stated above.

## IRREGULARITIES

Mendocino LAFCo reserves the right to waive non-material irregularities if such would be in the best interest of LAFCo, as determined by LAFCo.

## NON-EXCLUSIVE CONTRACT

The successful firm will enter a NON-EXCLUSIVE contract and Mendocino LAFCo reserves the right to enter into agreements with other firms or individuals.

## ONE RFP RESPONSE

Proposers are not allowed to submit more than one RFP response. However, service options regarding the cost would be considered.

## NO OBLIGATION

The release of this RFP does not obligate or compel Mendocino LAFCo to enter into a contract or agreement.

## PROPRIETARY INFORMATION

RFP responses must not be marked as confidential or proprietary. LAFCo may refuse to consider a submittal so marked. Information in responses shall become public information and is subject to disclosure laws.

## TERMS OF OFFER

Mendocino LAFCo reserves the right to negotiate final contract terms with the firm or individual selected. The contract between the parties will consist of a Professional Services Agreement, the RFP together with any modifications thereto, the awarded firm's or individual's submittal, and all modifications and clarifications that are submitted at the request of LAFCo during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded firm's or individual's RFP response. A firm's or individual's misrepresentation shall be treated as fraudulent concealment from LAFCo of the facts relating to the response to the RFP.

## VALIDITY

RFP responses will be valid for a period of 90 days from the due date.

## WITHDRAWAL OF RESPONSE TO THE RFP

Authorized representatives of the firm or individual may withdraw RFP responses only by written request received by Mendocino LAFCo.

## CONTACT INFORMATION

If you have any questions, please contact Uma Hinman, Mendocino LAFCo Executive Officer, (707) 463-4470 or [eo@mendolafco.org](mailto:eo@mendolafco.org). Thank you for your consideration of this request for proposals.

Attachment 3a

MARSHA  A. BURCH  
LAW OFFICE

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131 South Auburn Street  
GRASS VALLEY, CA 95945

Telephone:  
(530) 272-8411

www.marshaburchlawoffice.com

mburchlaw@gmail.com

February 24, 2023

Via email: [eo@mendolafco.org](mailto:eo@mendolafco.org)

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482

Re: Response to Request for Proposals for Legal Counsel Services

Dear Uma:

This letter responds to the Request for Proposals for Legal Services for Mendocino County LAFCo. For more than ten years I have worked with P. Scott Browne, providing legal services to his LAFCo clients when he was out of town or otherwise unavailable. Mr. Browne has been representing LAFCo clients since 1987, and I have gained much experience in working with him and providing legal services to his clients.

In addition to LAFCo clients, I represent other public agency clients, including fire districts and for the past twelve years I have had a contract as assistant general counsel to the Tahoe Regional Planning Agency.

I have extensive experience dealing with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the California Environmental Quality Act, the California Public Records Act, and the Brown Act, both in advising agencies on compliance and representing them in litigation. I have represented several LAFCos in litigation, including in the reported cases of *Hoffman Ranch v. Yuba County LAFCo* (2009) 172 Cal.App.4th 805, and *Cequel III Communications I, LLC v. Local Agency Formation Commission of Nevada County*, (2007) 149 Cal. App. 4th 310.

Recently I have assisted with the formation of a water district in Butte County, and I have been assisting Mendocino County LAFCo with various issues for the past year in Mr. Browne's absence. Over the past several years I have assisted with everything from the preparation of agendas to reviewing and assisting LAFCo clients in completing thorough, defensible CEQA reviews.

Uma Hinman, Executive Officer

February 24, 2023

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I also have significant experience with land use matters, advising private clients regarding the State Planning and Zoning laws, as well as assisting with the entitlement process and obtaining approvals under the Subdivision Map Act.

If selected, I would be the principal attorney working with you. I would also have the assistance of Scott Browne, with his extensive experience and familiarity with Mendocino LAFCo, as well as our very capable paralegal, Wendy Cain. Together, we form a responsive and highly efficient team. Working with public agencies is a role I enjoy, particularly assisting the staff and agency decisionmakers with the task of fulfilling the mission and goals of the agency.

One billing option for Mendocino LAFCo would be hourly at my public agency rate of \$225 per hour for me and for Mr. Browne, and \$85 for paralegal services. Our attorney rate for litigation matters is \$275 per hour. If billing at our hourly rate, we would also need to charge for travel time, if travel was necessary.

The preferable option would be a flat rate each month, which would include virtual attendance at meetings (if in person attendance is required, travel time would be billed). If the flat rate were the preferred option for Mendocino LAFCo, I would propose a monthly rate of \$1,000, which would include an average of 4.5 hours per month of consultation and assistance, averaged over twelve months, and reviewed annually for adjustment. Each quarter the number of hours spent would be assessed, and hours spent over 14 hours for the quarter would be billed at \$225 per hour. Work on applications that are reimbursed by applicants would be billed separately at \$225 per hour. Time spent on litigation would be billed at \$275 per hour. All normal costs of photocopying, telephone, legal research, etc. are included in the hourly rate. For unusual out of pocket costs that would require reimbursement, we would confer and agree upon such costs prior to the costs being incurred.

I do not presently have any other clients in Mendocino County and do not foresee any issues regarding conflict of interest.

This proposal remains firm and irrevocable for 90 days from February 28, 2023.

A copy of my CV is included, and if you would like additional information, please visit my website at [www.marshaburchlawoffice.com](http://www.marshaburchlawoffice.com). Thank you for your consideration.

Very truly yours,



Marsha A. Burch  
Attorney



Uma Hinman, Executive Officer

February 24, 2023

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References:

Steve Lucas

Executive Officer

Butte LAFCo

1453 Downer Street, Suite C

Oroville, CA 95965

(530) 538-6819

John Marshall, General Counsel

Tahoe Regional Planning Agency

P.O. Box 5310

Stateline, NV 89449

(775) 303-4882

John Benoit

Executive Officer

Yuba, Lake, Modoc, Plumas and Colusa LAFCos

(916) 797-6003

S.R. Jones

Executive Officer

Nevada LAFCo

950 Maidu Ave.

Nevada City, CA 95959

(530) 265-7182

MARSHA  A. BURCH  
LAW OFFICE

131 South Auburn Street  
GRASS VALLEY, CA 95945  
Telephone: (530) 272-8411  
[mburchlaw@gmail.com](mailto:mburchlaw@gmail.com)  
[www.marshaburchlawoffice.com](http://www.marshaburchlawoffice.com)

EXPERIENCE:

**Law Office of Marsha A. Burch**, January 2002 to present

**Areas of Practice Emphasis:** Practice focus on advising and representing citizen's groups, non-profits, tribes, public agencies, and project applicants, both during administrative proceedings and in trial and appellate litigation. California and Federal environmental and land use law, including the California Environmental Quality Act, National Environmental Policy Act, California Planning and Zoning Law, Subdivision Map Act, Williamson Act, natural resources, endangered species, wetlands and related matters. Representation of special districts and Local Agency Formation Commissions in California under the Cortese-Knox-Hertzberg Act.

**Attorney: Somach, Simmons & Dunn**, March 1998 to January 2002

**Areas of Practice Emphasis:** Natural resource and environmental law, including water rights, water quality, land use, municipal law, CEQA compliance and litigation, Endangered Species Act compliance and all phases of litigation in federal and state courts

**Attorney: Boutin, Dentino, Gibson & Di Giusto**, Sacramento, California, 1997-1998

**Attorney: Law Office of Archibald M. Mull, III**, Sacramento, California, 1996-1997

**Attorney: Spiller, McProud, Butz & Kraemer**, Nevada City, California, 1994-1996

EDUCATION:

**University of Colorado**, Boulder, Colorado, J.D., 1993  
Member - Environmental Law Moot Court Team

**University of California**, Davis, California, B.A., Psychology 1990

PUBLICATIONS

*Water Acquisition Handbook: A Guide to Acquiring Water for the Environment in California*, The Trust for Public Land (2003), by Donald B. Mooney and Marsha A. Burch

*Water Rights: Supply Issues for Local Agency Formation Commissions*, 2005 CALAFCo Annual Conference, Monterey, California, by Marsha A. Burch

BAR ADMISSIONS:

**U.S. Court of Appeals, Ninth Circuit**, 1997  
**U.S. District Court, Eastern District of California**, 1994  
**U.S. District Court, Northern District of California**, 2000  
**State Bar of California**, 1994

Attachment 3b

**COLANTUONO**  
**HIGSMITH**  
**WHATLEY, PC**

DAVID J. RUDERMAN | (530) 798-2417 | DRUDERMAN@CHWLAW.US

February 28, 2023

**VIA ELECTRONIC MAIL**

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
e-mail: eo@mendoLAFCo.org

Re: **Proposal to Provide Legal Counsel Services**

Dear Uma:

Thank you for the opportunity to propose our services as Legal Counsel to the Mendocino Local Agency Formation Commission. I and everyone at Colantuono, Highsmith & Whatley would be most pleased to represent your Commission.

Our firm proposes to provide the full range of services that a general counsel for any local public agency might be called on to provide, as you have outlined in section II, Scope of Services, of your Request for Proposals. We propose my services as your Legal Counsel and those of Gary Bell as your Assistant Legal Counsel. We can offer a discounted rate of \$250 per hour for general counsel work, and our standard rates capped at \$325 per hour for litigation, reimbursable, and special services. This means the Commission will not be charged more per hour, even if the attorney's standard rate is higher, and will be charged less per hour if the attorney's standard rate is lower. We always perform legal services with a basic tenet in mind: the Commission should be provided the highest level of service by the most cost-efficient attorney, depending on the task and the Commission's input.

Regarding possible conflicts, our firm currently represents the City of Ukiah regarding the potential consolidation of water and sanitation service providers. As a result, if we were retained by Mendocino LAFCo, we would be unable to represent the Commission related to any such proposals from Ukiah. You would instead need to rely on conflict counsel for such matters and we would need a consent for simultaneous representation for other unrelated matters in the future with the City of Ukiah. Other than Ukiah, we do not currently represent any other public agencies in Mendocino County.

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420 SIERRA COLLEGE DRIVE, SUITE 140, GRASS VALLEY, CALIFORNIA 95945-5091 | (530) 432-7357

GRASS VALLEY | PASADENA | SACRAMENTO | SOLANA BEACH | SONOMA

264225.1

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Uma Hinman  
February 28, 2023  
Page 2

If I can provide any further information to assist your review of this proposal, please let me know. Thank you for the opportunity to propose our services as legal counsel to Mendocino LAFCo.

Sincerely,



David J. Ruderman



**PROPOSAL TO THE  
MENDOCINO LOCAL AGENCY  
FORMATION COMMISSION  
FOR  
LEGAL SERVICES**

February 28, 2023

SUBMITTED BY:

David J. Ruderman, Esq.  
Gary B. Bell, Esq.  
Colantuono, Highsmith & Whatley, PC  
670 W. Napa Street, Suite F  
Sonoma, CA 95476

Telephone: (530) 432-7357  
Facsimile: (530) 432-7356  
E-mail: DRuderman@chwlaw.us

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## Part 1. Qualifications

### Firm Introduction

Colantuono, Highsmith & Whatley is a municipal law firm established in 2002 with offices in Sacramento, Grass Valley, Pasadena, Sonoma, and Solana Beach. Our attorneys are among a small number in private practice with deep expertise in the Cortese-Knox-Hertzberg Act (CKH). David J. Ruderman has over 16 years of experience and has represented local governments exclusively for the past 11 years. He is a frequent presenter at CALAFCO's Annual Conference, Annual Staff Workshops, and CALAFCO's University. David serves as Legal Counsel to Yuba LAFCo and Assistant Legal Counsel to Napa and Calaveras LAFCos. In addition to his LAFCo work, he serves as City Attorney for the Cities of Lakeport, Sonoma, and Weed, and General Counsel to the Tahoe Forest Hospital District in Truckee, where he regularly advises on all aspects of public agency law.

Gary B. Bell has represented local governments exclusively during his legal career, including work with the firm's current LAFCo clients — LAFCo of Napa County, San Diego LAFCo, Yuba LAFCo, and Calaveras LAFCo — while serving on CALAFCO's Legislative Committee and Legislative Advisory Committee since 2016. He currently serves as the General Counsel for LAFCo of Napa County, as well as Town Attorney for the Town of Yountville, City Attorney for the Cities of Novato and Auburn, and General Counsel to special districts in Northern California (community services districts, fire districts, and utility districts). Gary frequently advises on all aspects of public agency law.

The firm's core commitment is to provide advice our clients find helpful, understandable, and fairly priced. We represent public agencies generally, serving as Legal Counsel to the LAFCos listed above and City Attorney to the Cities of Auburn, Barstow, Calabasas, Grass Valley, Lakeport, Ojai, Martinez, Sierra Madre, Sonoma, South Pasadena, Weed, and the Town of Yountville. We also serve as general and special counsel in advisory and litigation matters for counties, cities, and special districts of various kinds throughout the state.

Colantuono, Highsmith & Whatley is unique for its approach in the delivery of legal services. Our philosophy is to anticipate and find solutions to our clients' problems, and to help our clients achieve their goals. We focus on preventative law directed at addressing legal problems before the parties find that they must resort to time-consuming and expensive litigation. Often, we find that a matter can be resolved

with a creative, legal negotiated solution that takes into account and meets the goals of our client and the other parties. If litigation is required, however, we are well equipped to vigorously represent our clients' interests in court. At the same time, we are alert for opportunities to settle litigation and thereby to reduce our clients' costs.

In our CKH practice, we have advised LAFCoS and cities on annexations, the creation of subsidiary districts, spheres of influence and municipal service reviews, the provision of extra-territorial services, and conducting protest proceedings, as well as handling a number of significant LAFCo-related litigation, discussed in depth below.

Specific examples of legal analysis and services related to local government boundaries and organization include:

1. David advised Yuba LAFCo on a large annexation and detachment application regarding a reclamation district that encompassed a significant part of the County and obtained a successful settlement of litigation brought by disaffected property owners.
2. Gary advised the Garden Valley Fire Protection District in El Dorado County regarding a proposed consolidation with an adjacent fire protection district;
3. David defended San Diego LAFCo in litigation concerning Imperial Beach's provision of extra-territorial sewer services to the Coronado Naval Base notwithstanding the Naval Base's location in the City of Coronado.
4. David advised the City of Concord on the complicated detachment of territory from the Mount Diablo Health Care District in Contra Costa County and establishment of Mount Diablo as a subsidiary district of the City.

As part of our everyday practice for public entities, we have drafted legislation on every imaginable topic of interest to a public entity, as well as supporting staff reports. We regularly review and draft simple and complex agreements including indemnity and defense agreements, agreements pertaining to real property (whether for acquisition or regulation, including easements, right of way access or abandonment), construction and subdivision agreements, professional services agreements, Memoranda of Understanding with bargaining units, and public works project bidding documents.

The firm also includes California's leading experts on local government revenues, including Propositions 13, 26 and 218. Michael Colantuono, one of the firm's founding members, leads the team on all public financing matters, which often informs a LAFCo's consideration of annexation applications that will result in the imposition of new taxes or assessments on the affected territory. He recently chaired the League of California Cities Committee that wrote the League's Propositions 26 and 218



Implementation Guide. In addition, we maintain a labor and employment team, of which Terri Highsmith is lead counsel with assistance as needed from David and Gary in both transactional and litigation matters. Terri has more than 25 years of experience advising public agency clients regarding all aspects of public employment law.

In addition to advisory work in all areas of interest to a public entity, our firm also represents public entities in litigation matters, as needed, from simple code enforcement to complex matters of first impression impacting agencies on a statewide basis. Our litigators have broad experience in public-sector litigation and such private-sector topics as general commercial litigation, employment law, and unfair competition. We have a successful litigation track record at all levels, including an extensive practice in the California Courts of Appeal and the California Supreme Court.

In sum, we are able to provide legal advice to the Commission and members of Mendocino LAFCo's staff via telephone, e-mail, and written memoranda on both routine and complex legal matters, both advisory and litigation, including but not limited to:

- Open and closed meeting requirements of the Ralph M. Brown Act;
- Parliamentary procedure;
- General municipal or administrative law regarding CKH and case law involving local government boundaries or organization;
- Conflict of interest advice, including Political Reform Act (including AB 1234 training), Government Code section 1090, and common law conflict issues;
- Public Records Act;
- General liability, compliance with Government Claims Act, and risk management;
- California Environmental Quality Act and other environmental laws;
- Labor and employment;
- Public financing matters; and
- Insurance coverage requirements.

## Personnel Introduction

### David J. Ruderman – Proposed Legal Counsel

We propose David's services as your Legal Counsel. David is a Senior Counsel in our firm and resident in the Grass Valley office. He has significant experience with CKH, the California Environmental Quality Act (CEQA), spheres of influence (SOI), municipal service reviews (MSRs), public agency law, administration, contracts and agreements, land use planning and zoning law, litigation and other legal issues routinely faced by LAFCOs and other public agencies such as the Brown Act, Public Records Act, ethics, and conflicts of interest. He has served as Yuba LAFCo's lead counsel and Lakeport City Attorney for nine years, as well as General Counsel of the Tahoe Forest Hospital District for seven years. Since 2022, he has also served as City Attorney to the City of Sonoma (previously, Assistant City Attorney, 2021–2022) and City Attorney for the City of Weed. In those positions, he regularly provides the services Mendocino LAFCo seeks, including providing general legal advice, attending meetings, reviewing and advising on agendas, staff reports, resolutions and other staff-prepared documents, preparing legal opinions and resolutions, reviewing and drafting contracts and indemnification agreements, and preparing reports and presenting information to the legislative body at public hearings. David is available on the first Monday morning of the month, when your Commission meets, and can attend special meetings as desired.



David also has broad litigation experience on behalf of public agencies and LAFCOs in particular. He defended San Luis Obispo LAFCo in a lawsuit filed by a developer challenging the Commission's denial of its application for annexation to the City of Pismo Beach. We prevailed on the CEQA and CKH issues and then successfully obtained dismissal of the civil rights claim. David also not long ago obtained a successful settlement for San Diego LAFCo in a lawsuit the City of Coronado brought challenging San Diego LAFCo's conclusion that Imperial Beach's provision of extra-territorial sewer services to the Coronado Naval Base were exempt from LAFCo review under Government Code section 56133. He was also co-counsel for Southern Mono Healthcare District defending a lawsuit challenging its ability to provide extra-territorial services within Northern Inyo Healthcare District. Finally, David successfully settled a lawsuit against Shasta LAFCo claiming damages for the failure to prepare timely MSRs and SOIs.

David's other significant litigation experience for public agency clients includes obtaining a published opinion affirming a preliminary injunction enjoining the operation of medical marijuana dispensaries in the City of Pasadena: *Urgent Care Medical Services v. City of Pasadena* (2018) 21 Cal.App.5th 1086. This success was preceded by another appellate victory, where he obtained reversal of a trial court's denial of a preliminary injunction in Vallejo's efforts to enforce its medical marijuana ordinance: *City of Vallejo v. NCORP4, Inc.* (2017) 15 Cal.App.5th 1078.

David's litigation work also includes successfully defending an appeal of his trial court victory in a taxpayers' lawsuit challenging the Monterey Peninsula Water Management District's decision not to call an election on a referendum to a water supply charge the District adopted under Proposition 218. David also successfully defended a California Public Records Act case for Pacific Grove, averting an award of attorneys' fees, and succeeded in having a local initiative that would have led to litigation with its bargaining units and CalPERS removed from the ballot after the trial court found it clearly invalid.

**Licenses:**

California State Bar No. 245989; Admitted December 2006

**Education:**

- J.D., 2006: UCLA School of Law, Los Angeles, CA
  - Managing Editor, UCLA Law Review
  - Judicial extern, Hon. Harry Pregerson, Ninth Circuit Court of Appeals
- B.A., History, with honors, 1997: Lewis & Clark College, Portland, OR

**Professional Background:**

- Colantuono, Highsmith & Whatley, PC
  - Senior Counsel, January 2014 – Present
  - Senior Associate, May 2011 – December 2013
- Quinn Emanuel Urquhart & Sullivan LLP, San Francisco, CA
  - Associate, December 2006 – April 2011

**Other Experience:**

- Hearing officer, County of Nevada, nuisance abatement, administrative citation, and marijuana cultivation appeals.
- Speaker and Panelist, "Deep Dive into Municipal Service Reviews: One size does not fit all," June 2019 CALAFCO (California Association of Local Agency Formation Commissions) University

- Speaker, “The Cannabis Conundrum: How to Extinguish Illegal Marijuana Businesses,” May 2019 League of California Cities Spring City Attorneys’ Conference
- Speaker, “LAFCO 101: Understanding and Applying the Basics,” 2018 and 2017 CALAFCO Staff Workshops
- Speaker, “New Procedures for Independent Special District Selection Committees,” 2018 CALAFCO Staff Workshop
- Moderator, “Consolidation of Water Systems under SB 88 and SB 552,” and “All Things Cannabis: Land Use, Cultivation, Water and Ag Land Preservation and Impacts,” 2017 CALAFCO Staff Workshop
- Author, “New Legislation Requires LAFcos to Plan for Disadvantaged Unincorporated Communities,” *The Sphere* (CALAFCO journal), March 2012.
- Author, “Planning for Disadvantaged Communities,” *The Sphere* (CALAFCO journal), Oct. 2012.
- *Municipal Law Handbook*, League of California Cities, City Attorneys’ Department, reviewer

**Practice Areas:**

- Public Law
- LAFCo Law
- Public Finance Law
- Election Law
- Land Use / CEQA
- Marijuana Regulation and Litigation
- Alternative Dispute Resolution
- Intellectual Property (Copyright, Trademark)

## **Gary B. Bell — Proposed Assistant Legal Counsel**

Gary is a Shareholder in Colantuono, Highsmith & Whatley’s Sacramento office and has been with the firm since 2015. He has represented municipal and public agency clients exclusively since joining the California State Bar in 2012. He currently serves as General Counsel to LAFCo of Napa County (2022 to present), City Attorney for the City of Auburn (2019-present; previously Assistant City Attorney 2015-2019), Town Attorney for the Town of Yountville (2016-present), and City Attorney for the City of Novato (2022 to present; previously Assistant City Attorney 2021-2022), as well as General Counsel for the Upper Valley Waste Management Agency (2020-present), the Pine Grove Community Services District (2018-present), the Peninsula Community Services District (2020-present), and the Garden Valley Fire Protection District (2016-present), Assistant General Counsel for the Higgins Fire District (2015-present), and General Counsel for the First 5 Yuba Commission (2016-present). In those positions, he regularly provides the services Mendocino LAFCo may need, including providing general legal advice, attending meetings, reviewing and advising on agendas, staff reports, resolutions and other staff-prepared documents, preparing legal opinions and resolutions, reviewing and drafting contracts and indemnification agreements, and preparing reports and presenting information to the legislative body at public hearings.



Gary’s practice covers a range of public law issues, including land use, CEQA, public works contracting, contracts, labor and employment law, constitutional law, code enforcement, conflicts of interest, open meetings and records laws, post-redevelopment issues, and matters involving Local Agency Formation Commissions (LAFCos). Gary regularly counsels cities and special districts on matters related to solid waste, water and wastewater systems including rate setting, code enforcement proceedings, and drafting of complex franchise agreements. Gary was named a Top 40 Under 40 California Lawyer by the Daily Journal Corporation in 2020.

Before joining CH&W, Gary served as City Attorney for the City of Firebaugh (2014-2015) and advised municipal clients throughout California on a wide range of issues, including counties, cities, school districts, and special districts (2014-2015). He also previously advised the California Special Districts Association (CSDA) regarding operations and legislative advocacy (2011-2013).

Gary graduated with highest honors from UC Santa Cruz in 2008 with a B.A. in psychology. He received his J.D. in 2012 from the UC Davis School of Law, where he was staff editor of the UC Davis Business Law Journal and a research assistant in

constitutional law. While at Davis, Gary worked as a law clerk in the Governor's Office of Legal Affairs and as a legal extern at the Placer County Superior Court.

Before law school, Gary served as a Senate Fellow for the California State Senate in Sacramento, where he staffed the Senate Local Government Committee and worked on legislation of interest to California's local governments.

**Licenses:**

California State Bar No. 288360; Admitted December 2012

**Education:**

- J.D., 2012: University of California, Davis
- B.A., 2008: University of California, Santa Cruz

**Other Experience:**

- Hearing officer, County of Nevada, nuisance abatement, administrative citation, and marijuana cultivation appeals.

**Practice Areas:**

- Public Law
- Elections Law
- Contracts
- Public Works Contracting
- Labor and Employment Law
- Municipal Finance Law
- Conflicts of Interest
- Constitutional Law
- Code Enforcement
- Land Use, Planning, and CEQA
- Open Meetings and Records Law
- Redevelopment Dissolution
- Local Agency Formation Commission (LAFCo) Law
- Special Districts

**Presentations:**

- Presenter, California Special Districts Association (CSDA) AB 1234 Training (2022)
- Presenter, California Special Districts Association (CSDA) 2021 Annual Conference: Taxes, Assessments, and Fees: Recent Developments and Considerations for Your District

- Presenter, California Special Districts Association (CSDA), 2021 Special District Leadership Academy (SDLA): Outside Oversight: The Powers and Functions of Civil Grand Juries and LAFCo
- Presenter, Napa-Solano International Code Council (2019)
- Presenter, California Special Districts Association (CSDA) 2019 Annual Conference: Special District LAFCo Involvement
- Presenter, CALAFCO Staff Workshop (2019)
- Presenter, California Special Districts Association (CSDA) Webinar (2019): Special District LAFCo Involvement
- Presenter, California Special Districts Association (CSDA) AB 1234 Training (2018)

### **Publications:**

- Contributor, California Special Districts Association (CSDA) eNews (May 2021): *Special Taxes Now Easier to Pass*
- Contributor, Western City Magazine (Oct. 2019): *Wayfair Decision Means More Sales and Use Tax Revenues for Cities*
- Contributor, California Special Districts Magazine (2019): *LAFCOs and Involuntary Dissolutions and Consolidations*
- Contributor, Western City Magazine (June 2018): *U.S. Supreme Court Revisits Sales and Use Taxes in the E-Commerce Age*
- Editor, The California Municipal Law Handbook (Cal CEB), Chapter 3 (Elections) and Chapter 6 (Franchises) (2016, 2017, & 2018)

### **Recognitions/Committees:**

- Recipient, Daily Journal Corporation: Top 40 Under 40 (2020)
- Member, League of California Cities Legal Advocacy Committee (LAC) & LAC Executive Committee (2020-Present)
- Juror, Gordon D. Schaber Mock Trial Competition (2019, 2020, 2021 & 2022)
- Member, CALAFCO Legislative Advisory Committee (2018, 2019, & 2020)
- Member, CALAFCO Legislative Committee (2016 & 2017)

## Part 2. Existing and Potential Conflicts of Interest

We currently provide legal services to the following public clients in Mendocino County:

- City of Ukiah

Our firm advises the City of Ukiah on the consolidation of water service providers and the provision of sanitation services in conjunction with the Ukiah Valley Sanitation District. We therefore would be unable to represent Mendocino LAFCo on any proposal for a change of organization or reorganization related to Ukiah's water or sanitation services. Were the Commission to engage our firm as its general counsel, it would need to use conflict counsel for advice regarding these proposals. For unrelated proposals the City of Ukiah may submit to Mendocino LAFCo in the future, we would need to obtain the informed written consent of Ukiah and Mendocino LAFCo.

We do not currently represent any other Mendocino County local governments or private parties. If local governments in Mendocino County seek services from our firm in the future, we would not agree to represent them on any matter adverse to Mendocino LAFCo without your Commission's informed written consent. Accordingly, other than the conflict with Ukiah discussed above, we see no actual or potential conflicts of interest if you were to select us to serve as your Legal Counsel.

Because we are in the business of providing general and special counsel services to local governments in California, we would ask Mendocino LAFCo to allow our firm to continue to provide legal services to local governments in Mendocino County and elsewhere without further consent from Mendocino LAFCo, provided those representations do not pertain to an actual or potential application to Mendocino LAFCo. This is the arrangement our firm has made with other LAFCos for which we provide general counsel services.



## Part 3. Local Government Client References

While our firm is well known in local government, LAFCo, and public law circles, the following are especially familiar with David and Gary's work on these issues:

- John Benoit, Executive Officer  
Yuba LAFCo  
915 8th Street, Suite 130  
Marysville, CA 95901  
(707) 592-7528  
j.benoit4@icloud.com
- Kevin Ingram, City Manager  
City of Lakeport  
225 Park Street  
Lakeport, CA 95453  
(707) 263-5615 x 104  
kingram@cityoflakeport.com
- Tim Rundel, City Manager  
City of Weed  
550 Main Street  
Weed, CA 96094  
(530) 938-5020  
Tim.rundel@ci.weed.ca.us
- Steven R. Rogers, Town Manager  
Town of Yountville  
6550 Yount Street  
Yountville, CA 94599  
(707) 944-8851  
SRogers@yville.com

You have permission to contact these references. If you or your Commissioners would like to speak to LAFCo Commissioners or other elected officials with whom David or Gary have worked, let us know and we can provide names and contact information for that purpose.

## Part 4. Additional Information

David is currently Legal Counsel for Yuba LAFCo, City Attorney for the Cities of Lakeport, Sonoma and Weed, and General Counsel for the Tahoe Forest Hospital District and California Community Choice Financing Agency. He is scheduled to attend the following meetings:

<b>Agency</b>	<b>Meeting Dates</b>
Yuba LAFCo	1st Wednesdays in odd-numbered months (evening)
Lakeport City Council	1st and 3rd Tuesdays (evening)
Weed City Council	2nd Thursday (afternoon and evening)
Sonoma City Council	1st and 3rd Wednesdays (evening)
California Community Choice Financing Authority	4th Thursday (afternoon)
Tahoe Forest Hospital District Board of Directors	4th Thursday (evening)

David is accordingly available to attend Mendocino LAFCo's regular meetings the first Monday morning of each month either in-person or remotely. In David's absence, Gary may attend your Commission meetings.

Attached to this proposal are David and Gary's resumes, a list of the firm's significant appellate representation, and a copy of the firm's most recent newsletter.

## Part 5. Budget, Retainer, and Rates

Although our rates range from \$255 to \$575 per hour based on the experience, reputation, and ability of our attorneys, we would be pleased to discount our rates to our standard rates capped at \$250 per hour for general counsel services (i.e., the services your Request for Proposal identifies under section II, Scope of Services). We would also ask the Commission to consider an annual cost of living adjustment each July 1<sup>st</sup> that would allow the firm to increase this cap by the previous 12 months' change in the San Francisco Bay Area, Consumer Price Index for All Urban Consumers (CPI-U) (utilizing the most recent CPI data available), not to exceed 2.5 percent, to reflect increases in overhead and other costs.

The LAFcos our firm represents, as well as many of our public agency clients with a relatively smaller demand for legal services, are billed only for services rendered on an as-needed basis as determined by the Executive Officer. We bill on a monthly basis in increments of one-tenth of an hour. We find this arrangement works well for LAFcos because they often have an uneven demand for legal services, driven by applications for large or controversial changes of organization or reorganization. We believe this fee structure will work for Mendocino LAFCo and may provide cost savings.

In the event travel is needed, we would charge only one-half the discounted rate for travel to and from Mendocino LAFCo's meeting location from our nearest office in Sonoma. In addition, we ask for mileage reimbursement at the IRS rate, but no other travel expenses will be charged. We estimate travel time from our office to yours at 1.6 hours.

Finally, we charge \$0.20 per page for in-house copies and \$1 per page of outgoing faxes (which have become quite rare given the utility of e-mail). All other costs we incur in representing you are charged at our actual cost, without markup. We find that out-of-pocket expenses for our general counsel clients in non-litigation matters, other than mileage, are very small.

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

## Litigation, Special Counsel, and Reimbursable Services Rates

We propose to provide special legal services, litigation services, and reimbursable services at our standard rates capped at \$325 per hour with the annual CPI adjustment noted above. By billing work to be reimbursed to Mendocino LAFCo by developers and others at this rate, we can keep rates Mendocino LAFCo pays lower. Special counsel services include those services that fall outside general counsel services (defined above) and litigation, such as:

- Real estate legal services other than routine review of escrow documents, title reports and standard sale or purchase contracts.
- Labor, employment, and personnel legal services prior to the initiation of litigation but excluding facilitating the Executive Officer's annual performance review and basic review of agreements prepared as part of the normal course of the Commission's work.
- Litigation services, including advice and representation concerning actual or threatened litigation, administrative proceedings, and court proceedings, and any and all matters assigned by Mendocino LAFCo.

We find that, unlike other general counsel clients, LAFCOs have a very small demand for these types of special counsel services.

**Attachment A**  
**Resumes of David J. Ruderman and Gary B. Bell**

# DAVID J. RUDERMAN

420 SIERRA COLLEGE DR., STE. 140 • GRASS VALLEY, CA 95945 • (530) 432-7357 •  
DRUDERMAN@CHWLAW.US

## EXPERIENCE

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### **Colantuono, Highsmith & Whatley, PC**, Grass Valley, California

*Senior Counsel*, May 2011 – Present

- Serve as City Attorney for the City of Lakeport, City of Sonoma, and the City of Weed, Legal Counsel for Yuba Local Agency Formation Commission, Assistant General Counsel for Tahoe Forest Healthcare District, and General Counsel for the California Community Financing Authority.
- Advise agencies regarding Brown Act and CEQA compliance, employment issues, conflict of interest issues, Public Records Act compliance, Prop 218/26 compliance issue regarding fees and rates, joint powers agencies, and zoning and planning regulations.
- Represent local agencies in civil litigation, focusing on complex disputes in public law, including public finance issues, LAFCo matters, Public Records Act, land use, elections law, employment law, CEQA, marijuana/cannabis regulation, and public works; develop pre-suit strategy and negotiations; motion practice, discovery and trials, as well as judicial and private arbitrations represents agencies through appeal.

### **Quinn Emanuel Urquhart & Sullivan LLP**, San Francisco, California

*Litigation Associate*, October 2006 – April 2011

- Litigated complex civil commercial disputes, including trade secrets misappropriation, employment discrimination, and disputes concerning complex financial derivatives.

### **Immigration and Nationality Law Advisory Commission**, California

*Public Member*, December 2002 – September 2005

- Volunteered as public member of the State Bar's California Board of Legal Specialization assisting in preparation of the Immigration and Nationality Law Specialization Exam and the certification of Certified Specialists.

### **Honorable Harry Pregerson, Ninth Circuit Court of Appeals**, Woodland Hills, California

*Judicial Extern*, May 2004 – August 2004

- Drafted bench memoranda to the panel of judges; conducted legal research and assisted law clerks in drafting opinions.

## EDUCATION

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### **UCLA School of Law**, Los Angeles, California

Juris Doctor, May 2006

- *UCLA Law Review*, Managing Editor 2005 – 2006; Staff Editor 2004 – 2005

### **Lewis & Clark College**, Portland, Oregon

Bachelor of Arts in History with honors, May 1997

## PROFESSIONAL LICENSES

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**State Bar of California**, Admitted to Practice Law, December 2006, Bar No. 245989

# GARY B. BELL

333 University Avenue, Suite 200, Sacramento, CA 95825  
GBell@chwlaw.us — (916) 898-0049

## EXPERIENCE

### **COLANTUONO, HIGHSMITH & WHATLEY, PC, Sacramento, CA, July 2015-Present**

*Shareholder (Current); Senior Counsel; Associate*

Serve as Town Attorney of Yountville, City Attorney of Auburn, and City Attorney of Novato. Serve as General Counsel to Pine Grove Community Services District, Peninsula Community services District, and River Pines Public Utility District, and Garden Valley Fire Protection District. Attend and advise clients during meetings. Draft legal memoranda, client correspondence, ordinances, resolutions, and court documents. Primary practice areas include governance issues and Brown Act, conflicts of interest and Political Reform Act, code enforcement, litigation and Government Claims Act, personnel and labor matters, public contracting, land use and planning, and First, Fourth, and Fourteenth Amendments issues, elections, and labor. Review and analyze pending legislation and regulations affecting cities and local governments.

### **LOZANO SMITH, Fresno, CA, March 2014-June 2015**

*Associate Attorney*

Served as City Attorney of Firebaugh and Assistant City Attorney of Clovis, Fowler, Sanger, Lemoore, and Coalinga. Advised and represented school districts. Primary practice areas as above.

### **MCMURCHIE LAW, Folsom, CA, 2011-2014**

*Associate Attorney (2012-2014); Law Clerk (2011-2012)*

Advised and represented statewide association of special districts.

### **GOVERNOR'S OFFICE OF LEGAL AFFAIRS, Sacramento, CA 2010**

*Law Clerk*

Reviewed and drafted memoranda regarding parole grants by Board of Parole Hearings in accordance with applicable judicial decisions.

### **PLACER COUNTY SUPERIOR COURT, Roseville, CA 2010**

*Judicial Extern*

### **CALIFORNIA STATE SENATE, Sacramento, CA 2008-2009**

*California Senate Fellow*

## Education

### **UC DAVIS SCHOOL OF LAW, J.D., 2012**

©Staff Editor, *UC Davis Business Law Journal*

©Research Assistant, *Constitutional Law*

### **UC SANTA CRUZ, B.A. Psychology (Highest Honors), 2008**

## Bar Admissions

Admitted to practice in California and U.S. District Court for Eastern/Northern Districts of California

**Attachment B**  
**Significant Appellate Representation**



## Significant Appellate Representation

### California Supreme Court

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Court of Appeal for the First Appellate District**

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

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

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

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

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

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

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

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

### **Court of Appeal for the Second Appellate District**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Court of Appeal for the Third Appellate District**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*San Diegans for Open Government v. City of San Diego (57 Municipal Assessment Districts)* (unpublished), Case No. D065929 (successful defense of trial court dismissal of challenge to MADs for lack of standing; petition for review pending; successful defense of petition for review)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Court of Appeal for the Fifth Appellate District**

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

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



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

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

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

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

### **Court of Appeal for the Sixth Appellate District**

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

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

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

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

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

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

**Attachment C**  
**Firm Newsletter**

COLANTUONO  
HIGHSMITH  
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Newsletter | Winter 2022

## Update on Public Law Stormwater Mandates Decision Creates New Fee-Funding Authority

By Michael G. Colantuono. Esq.

San Diego County and its cities have been litigating the cost of that region's 2007 permit under state and federal clean water laws for 15 years. The Court of Appeal recently issued its second ruling in the case, and a petition for Supreme Court review is pending. The case has good news and bad news for local governments.

The requirements included street-sweeping, catch-basin cleaning, development controls to reduce runoff, education programs, and regional coordination. In 2010, the Commission on State Mandates found these to be reimbursable mandates under 1990's Prop. 9, the Gann Limit. The State need not fund mandates, however, if local governments have authority to fund them by imposing fees.

The Court of Appeal concluded storm drainage fees require voter approval under Prop. 218 and are not exempt "sewer" fees. It found 2017's SB 231 (Hertzberg, D-Los Angeles) insufficient to overturn *Howard Jarvis Taxpayers Assn. v. City of Salinas's* conclusion that Prop. 218's exemption for "sewer" fees was limited to sanitary, not storm, sewer fees. It did so because Prop. 218's provision exempting certain preexisting assessments distinguishes "sewer" from "flood control" services. The Court also noted Prop. 218's liberal construction requirement to disfavor government revenue authority and the 15-year delay between *Salinas* and the adoption of S.B. 231, suggesting the Legislature was changing, not clarifying, the law. So, this is the bad news.

The good news is as to street-sweeping. The Court concludes street-sweeping is refuse collection and that local governments can charge fees for it without the voter approval Prop. 218 requires for many service fees. The

*(continued on page 2)*

## Congrats to Aleks Giragosian!

CHW's Aleks Giragosian was recently named one of "20 Under 40" rising stars of the national Armenian Bar Association at an awards ceremony in Washington, D.C.

The Armenian Bar Association is a forum for lawyers of Armenian heritage to network and to address the legal concerns of the Armenian community. Upon creation of an independent Republic of Armenia, the Association undertook to help build and encourage the growth of democratic institutions in Armenia.

Aleks is the City Attorney of Sierra Madre and Assistant City Attorney of Calabasas, Ojai and South Pasadena. Congrats, Aleks!

# Punitive Preemption Bubbles Up in Soda Tax Case

By Abigail A. Mendez, Esq.

The Keep Groceries Affordable Act of 2018 was a political bargain with the soda industry, banning local soda taxes for five years in exchange for withdrawal from the 2018 ballot of a proposed initiative constitutional amendment to greatly restrict State and local finances.

One provision of that law requires the California Department of Tax and Fee Administration to end its contract to collect all sales and use taxes for a charter city that imposes a tax or fee on “groceries,” defined to include soda. Academics label this “punitive preemption,” which does not just displace local law, but punishes local governments that enact or enforce disfavored policy. Enacting an ordinance to test the boundary between home rule and state control becomes risky due to the penalty.

The plaintiffs in *Cultiva La Salud v. State* persuaded Sacramento Superior Court that this statute violates the California Constitution by forcing a city to choose between constitutional home rule authority and essential sales tax revenues. The trial court invalidated the penalty provision because it punishes charter cities for valid regulations of municipal affairs — by its terms it applies only after a court finds a charter city soda tax to be a “municipal affair” protected from state preemption.

CDTFA appealed, arguing the penalty does not interfere with home rule authority, or appropriate or redistribute local tax revenues in violation of Propositions 1A and 22, won by local government to reduce State interference in local finances. CHW has submitted an amicus brief supporting *Cultiva La Salud* on behalf of the California State Association of Counties and Cal. Cities, emphasizing the history of our Constitution’s commitment to home rule and the consequences of punitive preemption. A decision is likely in late 2023.

A similar debate in Sacramento may be likely soon given the California Business Roundtable’s resurrection for the 2024 ballot of the proposed

initiative constitutional amendment bartered for a soda tax ban in 2018. Featured in that debate will be so-called “VMT taxes” which propose to tax sprawling developments to fund the transportation improvements they require.

The 2023 legislative session will, as always, be of vital interest to those responsible for funding local services.

For more information, please contact Abby at [AMendez@chwlaw.us](mailto:AMendez@chwlaw.us) or (213) 542-5700.

## Stormwater (cont.)

Court noted there may be challenges in making such a fee proportional to the cost to serve each parcel as Prop. 218 requires, but the fact of local fee authority was enough to exempt street-sweeping from the State’s duty to fund mandates.

The development regulations were, perhaps unsurprisingly, exempt from Props. 218 and 26 as real estate development and permitting fees. This Court read *Salinas* narrowly, finding local governments can distinguish among fee payors based on such things as impervious coverage of property .

So, the case is bad news for State funding of expensive water-quality mandates and for an exemption from Prop. 218’s voter-approval requirement for stormwater fees. It is better news for local authority to fund street sweeping and similar water quality programs, perhaps including catch-basin cleaning and filtration, as refuse collection fees which are exempt from Prop. 218’s voter-approval requirement.

The Supreme Court will decide whether to review the case in early 2023 and, of course, storm water mandate litigation will continue. Stay tuned for further developments!

For more information, please contact Michael at [MColantuono@chwlaw.us](mailto:MColantuono@chwlaw.us) or (530) 432-7359.

# New Campaign Donor Restrictions for Local Elected Officials

By Matthew T. Summers, Esq. & Ephraim S. Margolin, Esq.

To date, the Levine Act has regulated campaign contributions for state officials and appointed local officials, e.g., Planning Commissioners, limiting covered officials' ability to participate in governmental decisions related to those who donate more than \$250 to a campaign. AB 1439 (Glazer, D-Contra Costa) extends the Act to local elected officials — city councilmembers and special district boardmembers. Subject to some key exceptions, starting January 1st, these officials cannot participate in approving a contract, license, permit, or other entitlement sought or opposed by a donor of more than \$250 to their campaigns in the 12 months before the decision.

The new prohibitions apply in three situations. First, local officials are prohibited from acting on a permit or contract if a donor of more than \$250 to their campaigns within the past year is a party or a financially interested "participant" in the matter. One "participates" merely by speaking at a public meeting. Second, local officials may not accept or solicit campaign contributions of more than \$250 from a party or financially interested participant while a permit application or contract request is pending before their agency. Third, these officials may not accept or solicit campaign contributions of more than \$250 from any party or participant in a decision for a year after it is made. FPPC regulations apply the prohibitions to land use permits and contracts, except competitively bid contracts, union and other labor contracts, and personal employment contracts, e.g., a city manager's contract.

The prohibitions apply if a campaign donor of more than \$250 is directly involved in a decision, e.g., an applicant or contractor, but also if he or she speaks at a hearing. A financially interested participant under this law includes one who owns a

home within 1,000 feet of a proposed land use who speaks at a hearing. In that situation each Councilmember who received a donation of more than \$250 must either disclose it and abstain, or commit to returning that part of it in excess of \$250 within 30 days to participate in the decision.

The new law applies only to donations to a candidate-controlled committee — not independent expenditures by non-candidate-controlled committees.

Applicants, contractors, and other participants must also disclose any contributions to council- or boardmembers of more than \$250 in the past year. Agencies should consider adding the disclosure requirement to agendas, display it in meeting rooms, and on permit application and contract bid forms.

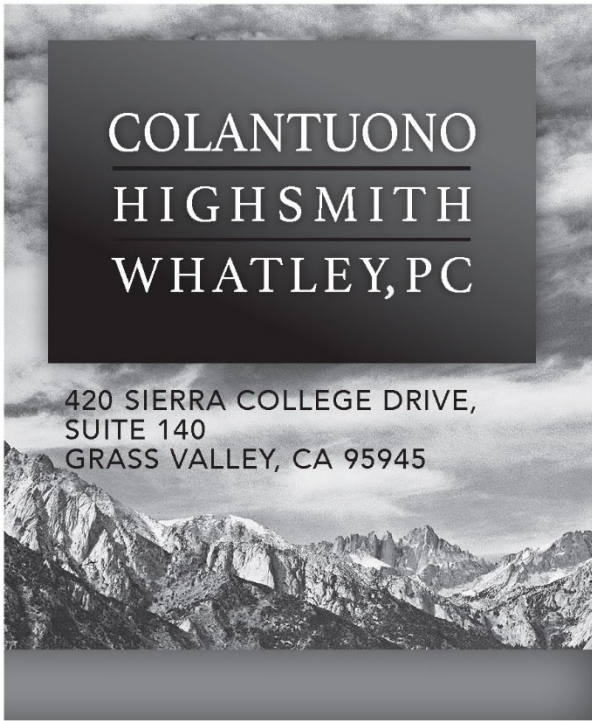
The FPPC adopted an opinion that SB 1439 does not apply retroactively to contributions made in 2022. Efforts to further clarify the law will continue in the next legislative session and business and development interests are gearing up for a court fight. Stay tuned!

For more information, please contact Matt at [MSummers@chwlaw.us](mailto:MSummers@chwlaw.us) or (213) 542-5719, or Eppi at [EMargolin@chwlaw.us](mailto:EMargolin@chwlaw.us) or (213) 600-2102.

## We've Got Webinars!

CHW offers webinars on a variety of topics, including redistricting, housing statutes, new laws on accessory dwelling units (ADUs), and police records issues. A webinar allows advice and guidance and Q&A in an attorney-client-privileged setting. The fee is \$1,500 per agency.

To schedule a webinar, contact Bill Weech at [BWeech@chwlaw.us](mailto:BWeech@chwlaw.us) or (213) 542-5700.



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Name \_\_\_\_\_ Title \_\_\_\_\_

Affiliation \_\_\_\_\_

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City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

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The contents of this newsletter do not constitute legal advice. You should seek the opinion of qualified counsel regarding your specific situation before acting on the information provided here.  
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Attachment 3c

NORMAN DOWLER LLP

ATTORNEYS AT LAW

840 COUNTY SQUARE DRIVE, THIRD FLOOR  
VENTURA, CALIFORNIA 93003-5406

TELEPHONE (805) 654-0911  
FACSIMILE (805) 654-1902

WWW.NORMANDOWLER.COM

MICHAEL M. ISRAEL  
THOMAS J. HUTCHINSON  
BRIAN C. ISRAEL  
SAM MOJABI  
MICHAEL G. WALKER

FRANK S. SWEET (1918-1976)  
MARGARET KELLER (1911-1997)  
JAMES D. LOEBL (1927-2003)  
BRETT L. PRICE (1950-2021)

PETER C. DOWLER (Retired)

*Of Counsel*  
RICHARD M. NORMAN  
LOYE M. BARTON  
ANDREW H. COVNER

February 24, 2023

***Via Electronic Mail Only  
at eo@mendoLAFCo.org***

Commissioners  
Uma Hinman, Executive Officer  
MENDOCINO COUNTY LOCAL AGENCY FORMATION COMMISSION

Re: Request for Proposals to Provide Legal Counsel Services

Dear Commissioners and Ms. Hinman:

Please find attached the proposal of Norman Dowler LLP in response to the Mendocino County Local Agency Formation Commission's request for proposals for legal counsel services.

As the proposal and accompanying resume indicate, I have extensive experience in advising local agency formation commissions (as well as county government), and I would appreciate and enjoy the opportunity to work with you.

Thank you for your consideration of Norman Dowler.

Very truly yours,

NORMAN DOWLER LLP

  
By Michael G. Walker

Encl.

# NORMAN DOWLER LLP

ATTORNEYS AT LAW

MICHAEL M. ISRAEL  
THOMAS J. HUTCHINSON  
BRIAN C. ISRAEL  
SAM MOJABI  
MICHAEL G. WALKER

840 COUNTY SQUARE DRIVE, THIRD FLOOR  
VENTURA, CALIFORNIA 93003-5406

TELEPHONE (805) 654-0911  
FACSIMILE (805) 654-1902

WWW.NORMANDOWLER.COM

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PETER C. DOWLER (Retired)

*Of Counsel*  
RICHARD M. NORMAN  
LOYE M. BARTON  
ANDREW H. COVNER

## **NORMAN, DOWLER LLP'S RESPONSE TO THE REQUEST FOR PROPOSALS FOR LEGAL COUNSEL SERVICES OF THE MENDOCINO COUNTY LOCAL AGENCY FORMATION COMMISSION**

**February 24, 2023**

Norman Dowler LLP, through Michael G. Walker, the former County Counsel for the County of Ventura, former longtime legal counsel to the Ventura County Local Agency Formation Commission (LAFCo) and present legal counsel to the Placer County LAFCo, is prepared to provide to the Mendocino County LAFCo all legal services needed (including representation in litigation) at the rate of \$300 per hour. No travel costs will be charged for up to two in-person meetings during the first year of legal services.

### ● **QUALIFICATIONS**

Mr. Walker served as the legal counsel to the Ventura LAFCo from June 2010 to October 2020 and has served as the legal counsel to the Placer LAFCo since October 2022. Mr. Walker's experience with LAFCo law began in 1989 (while a law clerk) advising Pepperdine University in connection with a possible incorporation of a city of Malibu. After a 16-year career in private practice, Mr. Walker joined the Ventura County Counsel's office in 2007, serving as litigation supervisor, chief assistant county counsel (and the Ventura LAFCo's legal counsel) and county counsel, until his retirement from county service in 2021. Mr. Walker then rejoined the firm for which he worked prior to joining the Ventura County Counsel's office, Norman Dowler (formerly Norman, Dowler, Sawyer, Israel, Walker & Barton), in 2022.

Mr. Walker is an expert in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (and related Revenue and Taxation Code sections), the Ralph M. Brown Act, the California Public Records Act and the Political Reform Act, among other laws governing local agencies. Mr. Walker also has extensive experience with the California Environmental Quality Act, real property laws, planning and zoning laws, and public contracts.

Mr. Walker's resume is attached.



● **CONFLICTS OF INTEREST**

Norman Dowler does not presently provide services to any public clients in Mendocino County and is not aware of any existing or potential conflicts of interest that would arise were the Mendocino County Local Agency Formation Commission to engage Norman Dowler as its legal counsel.

● **LOCAL GOVERNMENT CLIENT REFERENCES**

Mr. Walker offers the following client references (and hereby grants permission to the Mendocino County Local Agency Formation Commission to contact them):

■ Kai Luoma, executive officer, Ventura LAFCo, kai.luoma@ventura.org, (805) 654-2575

■ John Zaragoza, city member, Ventura LAFCo (former member of the Ventura County Board of Supervisors and present mayor of the City of Oxnard), john.zaragoza@oxnard.org, (805) 385-7435

■ Michelle McIntyre, executive officer, Placer LAFCo, mmcintyre@placer.CA.gov, (530) 889-4014

● **ADDITIONAL INFORMATION**

Norman Dowler and Mr. Walker are located in Ventura County. Mr. Walker is available to appear remotely at all commission meetings and, when deemed appropriate or necessary by the commission or the executive officer, to appear in person at commission meetings or other meetings (upon sufficient advance notice). This arrangement would be similar to Mr. Walker's representation of the Placer County Local Agency Formation Commission.

With respect to additional information concerning Mr. Walker's qualifications, as noted above, Mr. Walker served as the legal counsel to the Ventura LAFCo from June 2010 to October 2020 and has served as the legal counsel to the Placer LAFCo since October 2022. Along with advising on boundary change proposals for cities and special districts and regular updates to municipal service reviews and spheres of influence, Mr. Walker has advised the LAFCOs in connection with the following: (1) review and editing

of agenda items presented to the commissions (in both Ventura and Placer counties); (2) numerous issues involving the application of Government Code section 56133 (in Ventura County); (3) the formation of a new waterworks district (in Ventura County) to address concerns in an unincorporated area of the county, a project that received CALAFCO's project of the year in 2015; (4) the annexation of the City of Santa Paula into the Ventura County Fire Protection District; and (5) a pending annexation proposal that would result in a completely surrounded unincorporated island (Placer County). In addition, Mr. Walker has made presentations at CALAFCO conferences, including at the annual conferences in 2012 (regarding commissioners' independent judgment) and 2016 (regarding LAFCoS as responsible agencies under the California Environmental Quality Act).

● **BUDGET, RETAINER AND/OR RATES**

The rate for Mr. Walker's services on behalf of the Mendocino County LAFCo would be \$300 an hour (the same rate charged to the Placer County LAFCo). The Mendocino County LAFCo would be billed on a monthly basis at Mr. Walker's hourly rate for services rendered. Norman Dowler would not require a retainer. During Mr. Walker's years serving as legal counsel to the Ventura County LAFCo, he regularly worked with the executive officer to ensure that the budgeted amount for general legal services (not including litigation or special projects) was not exceeded.

Norman Dowler would not charge for Mr. Walker's travel costs for up to two in-person meetings during the first year of legal services (not including meetings pertaining to pending litigation matters). (For any litigation matters, travel and other out-of-pocket costs would be charged.)

# CURRICULUM VITA

**MICHAEL G. WALKER**  
**NORMAN, DOWLER LLP**  
**840 County Square Drive, Third Floor**  
**Ventura, California 93003**  
**(805) 654-0911**

## LEGAL EMPLOYMENT

### **Norman Dowler LLP** **Ventura, California**

*Of counsel, May 2022 to present*

- Practice emphasizes local government counseling and litigation and business, employment, construction and real estate litigation and transactions.

### **County of Ventura, County Counsel** **Ventura, California**

*County Counsel, October 11, 2020-March 2021*

- Served as the chief legal officer and led the county legal office, with 38 employees (25 attorneys) and an annual budget of \$6.6 million, for the 14th most populous county in the state.

*Chief Assistant County Counsel, July 2010-October 10, 2020*

- As second in command, directly responsible to the County Counsel for supervision of the performance of legal services rendered by the County Counsel's office; assisted the County Counsel in the planning and administration of the program of legal services; served as legal counsel to the Ventura Local Agency Formation Commission.
- General duties included acting for the County Counsel in his absence; supervising the performance of Assistant County Counsels, including two Principal Assistant County Counsels in charge of litigation and land use matters; reviewing all substantive items to be placed on the Board of Supervisors' meeting agenda; and keeping current with changes and developments in the law
- Reviewed in excess of 5,500 agenda items, including staff reports, contracts, ordinances and resolutions, and Local Agency Formation Commission items
- Authored in excess of 75 formal legal opinions
- Reviewed in excess of 4,500 newly published court opinions
- Delivered in excess of 10 presentations to outside groups

*Principal Assistant County Counsel  
& Litigation Supervisor, January-June 2010*

■ As third in command, directly supervised all administrative matters, arbitrations and litigation handled by Assistant County Counsels and provided oversight of those matters assigned to outside counsel

*Assistant County Counsel, 2007-2009*

■ Represented the County of Ventura and the Ventura County Fire Protection District in arbitrations and litigation and provided general legal counsel to the Fire Protection District

**Norman Dowler (formerly Norman, Dowler, Sawyer, Israel, Walker & Barton)  
Ventura, California**

*Partner, 1998-2007*

*Associate, 1990-1997*

■ Business litigation (e.g., unfair competition, trade secrets, interference with contract, interference with prospective economic advantage, partnership disputes, shareholder disputes, involuntary dissolutions, fraud, related bankruptcy proceedings)

■ Contract litigation (e.g., noncompetition agreements)

■ Construction litigation, representing owners, contractors and subcontractors

■ Trust litigation, representing trustees

■ Employment litigation, representing employers (e.g., wrongful termination, discrimination, harassment, defamation, failure to accommodate)

■ Real estate litigation (e.g., real estate transaction disputes, lease disputes, wrongful foreclosure, unlawful detainers)

■ Transactions (e.g., real estate sales/purchases, leases, partnership agreements, shareholder agreements, business sales/purchases)

**EDUCATION**

**Pepperdine University, School of Law**

Juris Doctorate, 1990, cum laude

American Jurisprudence Award, Trial Practice

**Pepperdine University, Seaver College**

Bachelor of Arts in English, 1985, magna cum laude, valedictorian

Outstanding Graduating Senior, Humanities Division

Outstanding Graduating Senior, Communication Division

Editor-in-Chief, The Graphic (university newspaper)

Editor-in-Chief, Oasis (university general interest magazine)

Editor-in-Chief, Expressions (university literary journal)

**PROFESSIONAL SERVICE**

**Ventura County Trial Lawyers Association**

Member, Board of Directors, 1998-2007

President, 2004

**Ventura County Bar Association**

Member, Board of Directors, 2007

# Response to Mendocino Local Agency Formation Commission

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## Legal Counsel Services

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February 28, 2023

Sloan Sakai  
ATTORNEYS AT LAW

Primary Contact:  
DeeAnne Gillick  
dgillick@sloansakai.com  
555 Capitol Mall, Ste. 600,  
Sacramento, CA 95814  
916-258-8811

***Via E-Mail & FedEx***

February 28, 2023

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
[eo@mendoLAFCo.org](mailto:eo@mendoLAFCo.org)

Re: Request for Legal Counsel Services

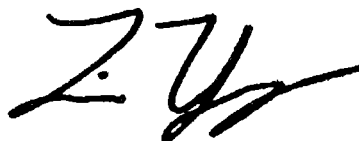
Dear Ms. Hinman:

Sloan Sakai Yeung & Wong LLP is pleased to provide the enclosed proposal and summary of qualifications to provide legal counsel services to the Mendocino Local Agency Formation Commission ("LAFCo").

We propose for Senior Counsel DeeAnne Gillick to serve as General Counsel with primary assistance from Senior Counsel Osman Mufti, Senior Counsel Madeline Miller, Partner Nancy Miller, and Partner Genevieve Ng. We have a team approach to client representation and all of the Firm's 25 attorneys are available to provide services to LAFCo as needed, allowing us to match your needs with the appropriate attorneys' expertise, resulting in efficient and cost-effective services.

We would be honored to provide legal counsel services to Mendocino LAFCo and look forward to further discussing our services and this opportunity. Please contact DeeAnne Gillick, contactable at [dgillick@sloansakai.com](mailto:dgillick@sloansakai.com) or 916-258-8811, or me to discuss in further detail our proposal.

Sincerely,



Timothy G. Yeung  
Managing Partner

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**APPENDIX A: TEAM RESUMES**



## I. QUALIFICATIONS OF FIRM AND PERSONNEL

### **Firm and Staff Description**

We are confident that we are well suited to serve as general counsel to the Mendocino Local Agency Formation Commission (LAFCo) based on our experience and existing practice and clients. Sloan Sakai was formed in 2004 to provide a broad array of legal and consulting services to public agencies and non-profit corporations. Miller & Owen, a Sacramento law firm that provided legal services across California, including serving as General Counsel to Sacramento Local Agency Formation Commission, merged with Sloan Sakai in 2015.

The Sloan Sakai Government Practice Group has an extensive public agency general counsel practice and special counsel experience. We are selective in who we represent as we are committed to providing our clients with the most responsive and efficient service possible. Accordingly, we almost exclusively represent public entities and public agency law, employment law, and public employer labor/personnel relations are the focal points of our practice. Our offices are located in Sacramento and Emeryville. All of the attorneys included in this proposal are located in our Sacramento office and can effectively and efficiently assist LAFCo in person and by email, phone, and video conferencing. We believe Mendocino LAFCo would be a good fit with our existing clients and practice and our attorneys' experience and capabilities.

The Sloan Sakai Government Practice Group represents various public entities, including local agency formation commissions, cities, counties, councils of government, regional transportation planning agencies, special districts, joint powers authorities, and quasi-public agency non-profits. We have established expertise in advising during public meetings and hearings, open meetings laws, public records laws, conflicts of interest and other governmental transparency requirements, the drafting and review of public contracts and grant agreements, land use and other planning related approvals, competitive bidding and procurement, environmental law, real property law, and related litigation. Our Firm's attorneys have represented local agency formation commissions throughout California as general and special counsel advising staff and commissions on the Cortese Knox Hertzberg Local Government Act of 2000 ("CKH Act"). Our attorneys attend the CALAFCO conferences and participate in trainings and events.

Although our attorneys have multiple clients and commitments, we take pride in providing timely, efficient, responsive, and constructive counsel to our clients. We encourage and

welcome open communications with clients, including critical or difficult comments, so that we may better understand and respond to client needs, priorities, and deadlines.

### **Specific Experience of Counsel**

Our Team resumes are included in **Appendix A**; and primary team members proposed to assist Mendocino LAFCo are as follows:

**DeeAnne Gillick** joined the Firm in 2018 as Senior Counsel after serving as Interim City Attorney for the City of Rocklin. She currently serves as General Counsel to Sacramento Local Agency Formation Commission and is general counsel to Placer County Transportation Planning Agency, El Dorado Water Agency, El Dorado County Transportation Commission, and Lassen County Transportation Commission. In addition, she assists with general and special counsel services for Sloan Sakai's other public agency group clients.

Prior to her five years with the City Attorney's Office for the City of Rocklin, Ms. Gillick was a partner with a Stockton firm in their public agency and land use practice group, where she worked for over 12 years. During that time, she assisted with general counsel services to San Joaquin Local Agency Formation Commission, served as board meeting counsel to San Joaquin Council of Governments and Stanislaus Council of Governments in that firm's role as general counsel and was Special Water Counsel to the County of San Joaquin.

Ms. Gillick has been representing public agencies for more than 26 years and her experience covers the full array of issues that confront a public agency, including preparing public agency meeting agendas, staff reports, resolutions, policies and contracts, compliance with open meetings and public records laws, conflicts of interest, employment issues, CEQA, real property transactions, administrative hearings, and due process and public hearing requirements and procedures. She has served as meeting counsel for a wide range of public agencies including city councils, planning commissions, board of supervisors, special agency boards, civil service commissions, local agency formation commissions, council of governments, and joint powers agency boards.

In addition to her general and special counsel work, Ms. Gillick has represented public agencies in CEQA challenges, government tort claims litigation, and writ of mandamus actions. Ms. Gillick taught as an adjunct professor at Humphreys School of Law including Water Law and Real Property:Land Use. She began her career as a Deputy County Counsel for San Joaquin County in 1996.

**Madeline E. Miller** is Senior Counsel providing general representation to public agencies, with an emphasis on litigation. She regularly advises local agencies on public contracting and governmental transparency laws. In the litigation arena, she has defended public agencies in CEQA actions, contract claims, and writ of mandate proceedings, including challenges to local agency formation commission decisions. She has also defended public agency employers against claims involving workplace discrimination, harassment, and retaliation. Ms. Miller has represented clients in administrative hearings and participated in litigation at both the trial court and appeals court levels. Ms. Miller has also handled a variety of matters involving the California Environmental Quality Act, real property transactions, and local agency formation commissions. She has been representing public agencies for over 19 years and has worked for Sloan Sakai and its predecessor law firm for 17 years. Ms. Miller began her legal career with a Sacramento area firm in their water practice.

**Osman I. Mufti** is Senior Counsel providing general counsel services to public agencies, with a focus on public agency agreements and transactions including the use of Federal and State funds and related procurement and contractual requirements. Mr. Mufti has advised public agencies regarding the Brown Act, public records laws, conflicts of interest, public contracting, and real property matters, including right of way acquisitions. Mr. Mufti began his career specializing in local government law in 2009 and served as Assistant County Counsel in Vanderburgh County, Indiana. He subsequently served as an Assistant City Attorney for the City of Evansville, Indiana for over five years and has substantial practical knowledge in addressing issues concerning public agencies. In his capacity as an Assistant City Attorney, he has advised municipal utility departments, the department of parks and recreation, the building authority, and Police and Fire departments regarding all transactional matters. Mr. Mufti has significant experience drafting ordinances and resolutions for councils, boards, and commissions as well as experience drafting and negotiating professional service agreements and related contracts.

Mr. Mufti currently serves as general counsel to the California Fair Services Authority, Nevada County Transportation Commission, South Placer Wastewater Authority, the Cooperative Agricultural Support Services Authority, and the California Fairs Financing Authority. He is Special Counsel for contracts to Sacramento Area Council of Governments, and assists with General Counsel services to the Capital SouthEast Connector JPA, and Paratransit, Inc. He specializes exclusively in transactional and general counsel matters.

**Nancy Miller** is a Partner with the Firm and has over 30 years of experience in providing legal services to numerous public agency and private clients, including cities, counties,

local agency formation commissions, special districts, joint powers authorities, transportation commissions, and councils of governments. Ms. Miller has been General Counsel to Sacramento Local Agency Formation Commission since 1993 and was lead counsel in the California Supreme Court and the U.S. Supreme Court, successfully defending Sacramento LAFCo regarding the incorporation of the City of Citrus Heights. Ms. Miller provides a full range of litigation services in both trial and appellate courts, including the California Supreme Court. Ms. Miller was the President of Miller & Owen, a Sacramento law firm that provided legal services across California which merged with the Firm in 2015. Ms. Miller is a “preeminent lawyer,” the highest ranking by Martindale-Hubble, and since 2004 she has been rated as a “Super Lawyer” by “Law and Politics” magazine. From 2000-2010, Ms. Miller served as an Adjunct Professor of Law at the University of the Pacific, McGeorge School of Law teaching Local Government Law, and currently serves on the Board of Governors of the University of California, Hastings College.

**Genevieve Ng** is a partner with the Firm and a readily available resource to all of our clients to advise HR and other staff on a myriad of employee relations issues. She also oversees our team of investigators. A graduate of the University of Santa Clara Law School, Genevieve brings to the Firm and its clients experience in labor law, labor relations, and employment law and advice from a practical human resources perspective.

Genevieve has valuable experience working closely with public agency employers including cities, counties, and school districts in the areas of employment and labor relations. Genevieve also serves as counsel to public agency and non-profit employers on personnel policies, discipline, discrimination and harassment complaints, leaves, hiring and terminations, among other employment issues. She also practices regularly before PERB, representing employers at every stage of the PERB process from drafting responses to unfair practice charges to informal settlement conferences and hearings and drafting post-hearing and appeal briefs. Genevieve also represents employers in arbitrations involving issues of contract interpretation and discipline. Ms. Ng provides special counsel services to Mendocino Transit Authority advising on public agency, operational and employee matters.

### **Summary of Work Experience**

The Firm will provide General Counsel legal services and advice on all aspects of Mendocino LAFCo’s activities. Our team can provide all necessary legal advice and counseling to the Executive Officer, the Commission, LAFCo and agency staff, and

applicants, as appropriate. This includes advising staff and the Commission in proceedings in compliance with the CKH Act and representation in litigation.

We regularly advise agencies on routine and complex issues relating to compliance with the Brown Act, the Public Records Act, the Political Reform Act, Government Code Section 1090, and other governmental ethics laws, including the Levine Act applicable to Commission approvals. We have extensive experience complying with and advising on the preparation of adequate Environmental Impact Reports, Negative Declarations, Mitigated Negative Declarations, and other environmental documents required pursuant to CEQA. This includes assisting responsible agencies with CEQA compliance. We have also defended public agencies against third-party challenges and litigation on procedural and substantive aspects of adopted environmental documents and the CKH Act.

### **Examples of Legal Services Related to Local Government Boundaries and CKH Act**

The Firm's attorneys have substantial and varied experience advising local agency formation commissions as general and special counsel and assisting affected agencies with reorganizations and related matters.

The Firm has been General Counsel to Sacramento LAFCo since 1993. We are currently providing special counsel to San Diego County LAFCo due to a conflict related to a special district and are special counsel to Los Angeles County LAFCo. Our attorneys are also special LAFCo counsel to Santa Margarita Water District related to the recent annexation of the City of San Juan Capistrano's water and wastewater services in Orange County. In addition to these existing clients, our attorneys have provided general and special counsel services to local agency formation commissions in San Francisco, San Joaquin County, Napa County, Orange County, Santa Cruz County, Fresno County, and Nevada County.

The Firm's attorneys have provided all aspects of representation related to CKH Act, including:

- Incorporation proposals: The Firm has provided legal services regarding incorporations that have resulted in three new cities in Sacramento County – Citrus Heights, Elk Grove, and Rancho Cordova, including successfully defending the incorporation of Citrus Heights. (*Board of Supervisors v. Sacramento County Local Agency Formation Commission* (1992) 3 Cal.4th 903). The League of California Cities joined as amicus in the suit. The Firm was instrumental in fashioning revenue neutrality agreements for all three cities. Outside Sacramento County, the Firm

served as special counsel in Fresno County LAFCo, Nevada County LAFCo, and Santa Cruz County LAFCo on proposed incorporation proposals.

- Annexation: We have processed numerous annexation requests for cities and special districts including the City of Folsom, Elk Grove, Arden-Arcade, Sacramento, and large service areas such as Sacramento Municipal Utilities District's (SMUD) proposed annexation of parts of Yolo County and the annexation of a large project area to the City of Sacramento. DeeAnne Gillick advised the City of Rocklin with its island annexation in 2016 and the definition of prime agricultural lands which was upheld by the Placer County Superior Court. The Firm recently advised Sacramento LAFCo during all matters related to the annexation of the area south of Highway 50- to the City of Folsom. Currently the Firm's attorneys are special LAFCo counsel to the Santa Margarita Water District assisting the District with its recent acquisition of water and wastewater utility responsibilities from the adjacent City of San Juan Capistrano. During this over three-year annexation project we have assisted with the local agency formation commission process and the acquisition of the utility systems, customers, real property, infrastructure, financing, personnel, and related matters. This includes drafting, negotiating, and implementing an annexation agreement between the entities and assisting with necessary transition agreements and the LAFCo process to effectuate the annexation. The water and wastewater utilities were officially transferred on November 15, 2021. Our attorneys continue to work with the District on remaining property transfers, agreement coordination and joint powers agency memberships. Ms. Gillick was a presenter at the Association of California Water Agencies May 2022 Conference panel: "Water System Consolidations: Better, Stronger, Faster?" discussing this Santa Margarita Water District annexation.
- Consolidation: We have provided services to consolidate numerous special districts in Sacramento, including fire districts, regional sanitation districts, park districts, and water districts. In addition, our attorneys provided special counsel services to assist the Newhall County Water District with its consolidation to become the Santa Clarita Valley Water Agency culminating in 2018.
- Spheres of Influence: We have processed numerous Sphere of Influence requests, including requests from the City of Folsom, the City of Elk Grove, and various special districts. Related to a recent sphere of influence update, in 2018 the Firm advised Sacramento LAFCo with a Sphere of Influence update for the City of Elk Grove and

successfully defended the Commission's actions in the matter of *ECOS v. Sacramento LAFCo*, Sacramento Superior Court Case Number 34-2018-8002905, in which several local environmental groups brought a petition for writ of mandate to challenge a LAFCo approval of a sphere of influence amendment in South Sacramento County. The suit alleged violations of CEQA and the Cortese-Knox-Hertzberg Act. Anticipating that the matter would be controversial, and in support of our longstanding general counsel work for Sacramento LAFCo, our litigation team got involved early in the process to help ensure a strong administrative record to defend the action. After extensive briefing, the petition was heard in Sacramento Superior Court and was denied in its entirety.

- Municipal Services Reviews: We have drafted and reviewed Municipal Service Review documents as necessary. We are currently providing conflict counsel to San Diego LAFCo related to LAFCo's authority and the necessity to update a special district's municipal service review and related Commission participation. We recently assisted Napa County LAFCo as its general counsel with several municipal services reviews including water and wastewater service.
- Outside service pursuant to Section 56133. Our attorneys are familiar with the application of Government Code section 56133 related to enlarging or extending services and have advised regarding approvals of outside services agreements. Recently the Firm advised Ventura Port District as special counsel related to an interpretation of the Port District's powers and the application of Government Code section 56133 to the Port District's proposed offshore project.

## II. POTENTIAL CONFLICTS OF INTEREST

Sloan Sakai's only client located in Mendocino County is Mendocino Transit Authority. Genevieve Ng serves as special counsel related to employment matters and DeeAnne Gillick assists with general government operations matters such as the Brown Act, contracts, and real property matters. As a transit agency and a joint powers authority, Mendocino Transit Authority does not fall within LAFCo's authority and there are no existing or foreseeable conflicts with any existing clients and our representation of LAFCo. The Firm would not take on any new clients that would create an actual or potential conflict with the representation of LAFCo. Should a future conflict arise, the Firm would notify both clients and would address the conflict at that time to best serve the interests of LAFCO consistent with the rules of professional conduct and LAFCo's direction.

### III. LOCAL GOVERNMENT CLIENT REFERENCES

We submit the following references related to our experience with local agency formation commission matters and familiarity with Mendocino County.

#### **Sacramento Local Agency Formation Commission**

José Henríquez, Executive Officer

1112 I Street, Suite 100

Sacramento, CA 95814

916-874-2937

[henriquezj@sacLAFCo.org](mailto:henriquezj@sacLAFCo.org)

Gay Jones, Chair

1112 I Street, Suite 100

Sacramento, CA 95814

916-208-0736

[H2ogay@pacbell.net](mailto:H2ogay@pacbell.net)

#### **Local Agency Formation Commission of Napa County**

Brendon Freeman, Executive Officer

1754 Second Street, Suite C

Napa, CA 94559

(707)259-8645

[bfreeman@napa.LAFCo.ca.gov](mailto:bfreeman@napa.LAFCo.ca.gov)

#### **Mendocino Transit Authority**

Jacob King, Executive Director

241 Plant Road

Ukiah, CA 95482

(707)462-1422 ext. 444

[jacob@mendocinotransit.org](mailto:jacob@mendocinotransit.org)

### IV. ADDITIONAL INFORMATION

We propose DeeAnne Gillick to serve as General Counsel and would be the primary point of contact for staff and Commissioners through emails and telephone calls. Ms. Gillick is available for in person or remote Commission meeting attendance and staff or other meetings or assistance. We can review and/or prepare agendas, staff reports and resolutions for Commission or committee meetings. We will attend meetings with the Commission, committees, staff, or affected agencies as requested remotely or in person and



can make presentations or provide training as needed. Ms. Gillick is available to attend the regular Commission meetings on the first Monday of each month remotely or in person based on the needs of the Commission. In the event Ms. Gillick has a scheduling conflict or additional assistance is needed, all the attorneys specified in this proposal have the experience to readily assist LAFCo in its needs.

### V. PROJECT COST

Sloan Sakai proposes to provide the described General Counsel services to LAFCo at the discounted public agency hourly rate for the attorneys proposed in this proposal at \$295 an hour:

DeeAnne Gillick	\$ 295
Madeline Miller	\$ 295
Osman Mufti	\$ 295
Nancy Miller	\$ 295
Genevieve Ng	\$ 295

In addition, when legal services are provided that are to be reimbursed by project applicants, for all litigation matters, or specialized services which are outside the scope of services as general counsel, such as employment matters, we propose using our regular hourly rates of \$345 for the attorneys specified in this proposal.

If other Firm attorneys are needed for general or special legal services, they will provide services at the following rates:

Other Associates and Senior Counsel	\$ 240 - \$ 310
Other Partners and Of Counsel	\$ 300 - \$ 400
Paralegal/Legal Support	\$ 105 - \$ 185

When attendance in Mendocino County is requested by the Commission, we will discount our attorney travel time from our Sacramento office by twenty-five percent.

Invoices will show the attorney or paralegal performing the services, a description of the services rendered, and the amount of time devoted to the described tasks. The minimum billing time for attorneys and paralegals is 1/10<sup>th</sup> of an hour.

We use a computerized billing system that is capable of tracking multiple account codes for each of our clients. We bill on a monthly basis for services performed and costs incurred. Our statements include billed amounts broken out by attorney, task, and time increments. Payment is due within 30 days of the date an invoice is rendered. Past due amounts will be shown on the invoice. We assume our billing practices are acceptable. However, we can work with LAFCo to make any necessary modifications.

The Firm charges separately for certain costs in the representation, as well as for any disbursements to third parties made on a client's behalf. Such costs and disbursements include, for example, the following: travel (at the IRS rate in effect at the time the travel occurs), computer-assisted research, transcription, overnight delivery, and messenger services. For major disbursements to third parties, invoices may be sent directly to the client for payment. All costs and expenses are fully itemized. The Firm charges no administrative or overhead fee. The Firm will obtain advance client consent before retaining outside investigators, consultants, or expert witnesses, or incurring filing fees.

You may terminate our services at any time, subject to any applicable requirements for withdrawal of counsel imposed by a court or tribunal. The Firm reserves the right to withdraw from the representation for failure of the client to make timely payment of fees, costs, and disbursements in accordance with the fee arrangements or for any other reason permitted by the applicable Rules of Professional Conduct.

**APPENDIX A**  
**TEAM RESUMES**



## SACRAMENTO OFFICE

t: 916.258.8800

f: 916.258.8801

dgillick@sloansakai.com

## PRACTICE AREAS

Public Agency Law

Environmental/CEQA

Contracts

Litigation

## BAR ADMISSION

Bar Number: 179218

California

United States District Court, Eastern  
District of California

## EDUCATION

University of the Pacific, JD, 1995

*With Distinction*

Santa Clara University, BS, 1991

## DeeAnne Gillick

### Senior Counsel

#### EXPERIENCE

DeeAnne Gillick is Senior Counsel with Sloan Sakai Yeung & Wong LLP. Ms. Gillick advises various public agencies, including transportation planning agencies, joint powers authorities, local agency formation commissions, councils of government, and special districts, as well as non-profit organizations serving as quasi-public agencies. Ms. Gillick serves as general and special counsel, providing advice and counsel on open government laws, public contracting and bidding, state and federal transportation law, CEQA compliance, LAFCo law, public employment and human resources, ethics and conflicts of interest, legislation, and related litigation matters. Ms. Gillick currently serves as General Counsel to El Dorado Water Agency, Placer County Transportation Planning Agency, Napa Valley Transportation Authority, and the Local Agency Formation Commission of Napa County.

Before her current practice with the firm, Ms. Gillick was in the City Attorney's Office for the City of Rocklin for over five years, including serving as the Interim City Attorney. Prior to working for the City of Rocklin, Ms. Gillick was a Partner with the law firm of Neumiller & Beardslee in Stockton, California where she practiced in the Land Use and Public Agency Practice Group. Her clients included the County of San Joaquin as Special Water Counsel, the City of Stockton Civil Service Commission, San Joaquin Council of Governments, Stanislaus Council of Governments, the City of Hughson, and other public agencies and special districts. She started her representation of public agencies as a Deputy County Counsel for San Joaquin County advising the planning department, the planning commission, the environmental health department, the water resources department, and the Advisory Water Commission, and handling code enforcement, employee discipline, and litigation matters.

Ms. Gillick has represented public agencies her entire legal career with over twenty-five years of experience including serving as deputy county counsel, city attorney, and representing a variety of public agencies, special districts and joint powers agencies as general counsel and special counsel. In addition, she taught Property-Land Use and Water Law as an Adjunct Professor at Humphreys College School of Law in Stockton, California.

Ms. Gillick provides training to clients' staff on a variety of topics, including compliance with the Brown Act and, conflicts laws, and AB1234 ethics training.

#### MEMBERSHIPS

- Sacramento County Bar Association, Public Law Section, Section Board Member and current Section Treasurer
- State Bar of California, Public Law Section



## Madeline E. Miller

### Senior Counsel

#### EXPERIENCE

Madeline E. Miller is Senior Counsel with Sloan Sakai Yeung & Wong LLP. Ms. Miller's practice focuses on litigation at both the trial court and appellate court levels. She currently handles litigation related primarily to the defense of clients under the Fair Employment and Housing Act, writs of mandate, and matters involving the Public Employment Relations Board.

Ms. Miller has also defended clients in multiple whistleblower retaliation suits brought under Labor Code Section 1102.5 and Government Code Section 8547. At PERB, she has represented public employers in several landmark cases and in connection with more than a dozen strikes, including one of the largest healthcare strikes in U.S. history.

Ms. Miller's practice also extends to general counsel services in connection with a wide range of issues encountered by public agencies, including contracts, the Brown Act, the Public Records Act, and the California Environmental Quality Act.

Before her current practice with the firm, Ms. Miller was an Associate Attorney at Kronick Moskowitz Tiedemann & Girard, where she practiced in the area of Water Law. In that position, she assisted in litigation and regulatory compliance involving water districts, water agencies, and municipalities. She participated in administrative proceedings before the State Water Resources Control Board. During law school, Ms. Miller was a law clerk at the firm of Ellison, Schneider & Harris, where she assisted the firm in its representation of clients in California Environmental Quality Act litigation.

#### SPEAKING ENGAGEMENTS

County Counsels' Association of California's 2022 Civil Law & Litigation Conference

- Employment and Labor Law Update (with Tim Yeung)

CALPELRA 2021

- Bargaining Against PERB (with Tim Yeung)
- Union Speech: Can It Ever Go Too Far? (with Tim Yeung)
- PERB Remedies: Fear the Unknown! (Sparks Session with Tim Yeung)

#### SACRAMENTO OFFICE

t: 916-258-8815

f: 916-258-8801

mmiller@sloansakai.com

#### PRACTICE AREAS

Litigation

Public Agency Law

Employment Law

Environmental Law

Water Law

Appeals & Writs

#### BAR ADMISSION

California

United States District Court,  
Eastern District of CA

#### EDUCATION

University of Pacific, JD, *with distinction*

University of San Diego  
BA, *magna cum laude*

## RELATED EXPERIENCE

Ms. Miller provided pro bono services as General Counsel to the Board of Directors for Roseville Community Preschool, a non-profit organization devoted to play-based early childhood education and advocacy for play. Ms. Miller also served her community through her appointment by the Placer County Board of Supervisors to its Fairgrounds Revitalization Committee. Ms. Miller served on the Committee from its inception in 2014 until its successful conclusion in 2019. The Committee was formed to provide advice to Placer County on ongoing and future operations of its Fairgrounds.



## Osman I. Mufti

### Senior Counsel

#### EXPERIENCE

Osman I. Mufti is Senior Counsel with Sloan Sakai Yeung & Wong LLP. Mr. Mufti represents and advises public agencies, joint powers authorities, special districts and local agency formation commissions. Mr. Mufti advises public agencies regarding matters related to public contracting and procurement, the Brown Act, conflicts of interest, and public records laws. His representation includes negotiating and drafting complex service agreements and contracts and advising public agency Boards, Commissions, Councils and staff regarding applicable law.

Mr. Mufti has previously served as an Assistant City Attorney for the City of Evansville, Indiana, and represented various municipal departments including the Airport Authority District, the Water and Sewer Utility, the Board of Public Works, Evansville Fire Department, Evansville Police Department, Department of Parks and Recreation, among other municipal departments. His responsibilities included drafting ordinances, resolutions, contracts and negotiating agreements with third parties and other public agencies. In his capacity as Assistant City Attorney, he regularly advised the Mayor's office, department executives and city staff regarding public procurement, real estate matters, public works projects and pending legislation.

#### RELATED EXPERIENCE

In addition to representing government agencies, Mr. Mufti has substantial experience practicing immigration law and regularly assists public and private employers with the H-1B and labor certification process. He frequently advises clients regarding employment-based immigration matters and is a member of the American Immigration Lawyers Association.

Mr. Mufti is admitted to practice in California, Indiana and the District of Columbia. He previously served as a member of the City of Davis Recreation and Parks Commission.

#### SACRAMENTO OFFICE

t: 916-258-8804

f: 916-258-8801

omufti@sloansakai.com

#### PRACTICE AREAS

Government Law

Public Agency Law

#### BAR ADMISSION

Bar Number (CA): 308248

California

Indiana

District of Columbia

#### EDUCATION

University of Dayton School of Law,  
JD

University of Evansville,  
BS and BA



## Nancy C. Miller

### Partner

#### EXPERIENCE

Ms. Miller has over 30 years of experience in providing legal services to numerous public agency and private clients, including cities, counties, local agency formation commissions (LAFCo), special districts, joint powers authorities, transportation commissions, and councils of governments. Ms. Miller provides a full range of litigation services in both trial and appellate courts including the California Supreme Court. Ms. Miller acts as general and special counsel to a number of transportation service providers including transportation commissions, transit districts, transportation joint powers authorities, and non-profit transit services. A complete list of clients is available upon request.

#### RELATED EXPERIENCE

Prior to joining Sloan Sakai Yeung & Wong LLP, Ms. Miller was the President of Miller & Owen, a Sacramento law firm that provided legal services across California. Ms. Miller is a “preeminent lawyer,” the highest ranking by Martindale-Hubbe, and since 2004, she has been rated as a “Super Lawyer” by “Law and Politics” magazine. From 2000-2018, Ms. Miller served as an Adjunct Professor of Law at the University of the Pacific, McGeorge School of Law, teaching Local Government Law and currently serves on the Board of Governors of the University of California, Hastings College of Law, in San Francisco.

#### REPRESENTATIVE PUBLISHED DECISIONS

- *Board of Supervisors v. Sacramento County Local Agency Formation Commission* (1992) 3 Cal.4<sup>th</sup> 93, where Ms. Miller was lead counsel defending LAFCo in litigation challenging LAFCo’s approval of an incorporation on constitutional, statutory, CEQA, and land use law grounds. A unanimous Supreme Court upheld LAFCO’s actions.
- *Cequel III Communications I, LLC v. Nevada County Local Agency Formation Commission* (2007) 149 Cal.App.4<sup>th</sup> 310, where Ms. Miller successfully represented the Truckee Donner Public Utility District in this action challenging a decision by the Nevada County Local Agency Formation Commission. The Plaintiff in the action was a cable company seeking to prevent the District from providing broadband and other services. The Superior Court ruled in favor of the District and Nevada LAFCo. The Plaintiff appealed the decision and after briefing and oral argument, the decision was upheld in favor of the District and Nevada LAFCo.

#### SACRAMENTO OFFICE

t: 916.258.8817

f: 916.258.8801

nmiller@sloansakai.com

#### PRACTICE AREAS

Public Agency Law & Litigation

Environmental Law

Transportation Law

Joint Powers Authority Law

Special District Law

#### BAR ADMISSION

California

California Supreme Court

US District Court, Northern District

US District Court, Eastern District

US Supreme Court

#### EDUCATION

University of CA,

Hastings College of Law, JD

Stanford University, BA



- *Beach-Courchesne v. City of Diamond Bar* (2000) 80 Cal.App.4<sup>th</sup> 388, where Ms. Miller acted as amicus counsel to a number of counties objecting to the redevelopment plan of the City of Diamond Bar. The Court unanimously agreed with the County's position and invalidated the plan.
- *County of Solano v. Vallejo Redevelopment Agency* (1999) 75 Cal.App.4<sup>th</sup> 1262, where Ms. Miller acted as lead counsel in litigating on behalf of the County of Solano against the redevelopment agency. The issue involved the financing of more than \$30 million of improvements and CEQA issues. The dispute was successfully resolved in the County's favor and Ms. Miller received an award of attorney's fees.

## SELECTED PRESENTATIONS

- Moderator, "Connecting LAFCos and COGs for Mutual Benefit," CALAFCO Annual Conference (2014)
- Presenter, "Integrating Sustainable Communities Strategies with the LAFCo Application Process," CALAFCO Conference (2012)
- Presenter, "Community Choice Aggregation Act: Where Are We Now?," Senate Select Committee on Renewable Energy (2010)

## COMMUNITY ACTIVITIES

- Board of Governors, University of California, Hastings College of Law
- President, California Commission on Autism Foundation
- Governor Appointee, Board Member, California High-Speed Rail Authority
- Past Governor Appointee, Board Member, California Citizen Compensation Commission
- Past Board Member, California Musical Theater (2010 – 2016)
- Board Member, KVIE Public Broadcasting Station
- Past Board Member, Sacramento Federal Judicial Library and Learning Center Foundation
- Chairman, Judicial Selection Committee, U.S. District Court, Eastern District
- Member, Sacramento County Bar Association, Court Funding Task Force
- Member, Sacramento County Bar Association, Public Law Section
- Member, State Bar of California, Public Law Section



## Genevieve Ng

### Partner

#### EXPERIENCE

A graduate of the University of Santa Clara Law School, Genevieve Ng brings to the firm and its clients experience in labor law, labor relations, employment law and advice from a practical human resources background.

In the last several years, Ms. Ng has valuable experience working closely with public agency employers including cities, counties and school districts in the area of labor relations. She practices regularly before the Public Employment Relations Board, representing employers at informal settlement conferences and hearings, drafting responses to unfair practice charges, post-hearing briefs and appeal briefs before the PERB Board. Ms. Ng also represents employers in contract interpretation and disciplinary issues before private arbitrators. She has served as legal counsel during negotiations for successor collective bargaining agreements for school districts.

Ms. Ng also provides counseling to public agency and non-profit employers on personnel policies, discipline, discrimination and harassment complaints, leaves, hiring and terminations among other employment issues. Ms. Ng also conducts trainings for clients on AB 1825 Workplace Harassment Prevention Training for Supervisors. She has experience in conducting workplace investigations related to disciplinary matters and employee complaints of discrimination and harassment.

#### RELATED EXPERIENCE

Ms. Ng was an extern with the National Labor Relations Board., Region 20, where she investigated unfair labor practices and oversaw secret ballot elections. In her previous work as a summer clerk with two different law firms in Grand Rapids, she worked on behalf of employers in labor and employment issues including arbitration and NLRB matters, finding time to also perform pro bono work.

Prior to law school, Ms. Ng was the Director of Attorney Recruitment at a large firm in Grand Rapids, Michigan and a member of the Grand Rapids Bar Association Minority Clerkship Committee.

#### EMERYVILLE OFFICE

t: 415.678.3830

f: 415.678.3838

[gng@sloansakai.com](mailto:gng@sloansakai.com)

#### PRACTICE AREAS

Employment Law & Litigation

Labor Relations & Labor Law

Investigations

#### BAR ADMISSION

California

United States Court of Appeals for the  
Ninth District

United States District Court for the  
Northern and Eastern Districts of  
California

#### EDUCATION

Santa Clara University, JD

University of San Francisco,  
BA, *cum laude*



Proposal to Provide

# Legal Counsel Services

Presented to:

**Mendocino Local Agency  
Formation Commission**

February 28, 2023

Joshua Nelson  
500 Capitol Mall, Suite 1700  
Sacramento, CA 95814  
(916) 551-2859  
joshua.nelson@bbklaw.com

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## I. COVER LETTER

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February 28, 2023

### DELIVERY METHOD – EMAIL AND HARD COPY

Uma Hinman, Executive Officer  
Mendocino Local Agency Formation Commission  
200 South School Street  
Ukiah, CA 95482

Re: Request for Proposals (RFP) to Provide Legal Counsel Services

Dear Ms. Hinman,

Best Best & Krieger LLP (BB&K) is pleased to present this proposal in response to the Mendocino Local Agency Formation Commission's (Mendocino LAFCo) RFP for Legal Counsel Services.

BB&K understands Mendocino LAFCo seeks to engage the most qualified law firm to provide legal services at LAFCo meetings, to the Commission, executive officers and executive staff, including advising on issues regarding resolutions, ordinances, the Cortese-Knox-Hertzberg Act case law specifically involving local government boundaries or organizations in California, litigation, the California Environmental Quality Act (CEQA) and various agreements relevant to local agency formation commissions.

BB&K is California's oldest and largest full-service public agency law firm. Our organization has concentrated its practice on the representation of special districts, municipalities, and other public agencies for more than 130 years, providing counsel in a wide array of practice areas. The firm offers unparalleled legal experience and profound knowledge, combined with "local firm" availability, responsiveness, and familiarity. BB&K's focused experience assisting public agencies throughout California has allowed us to develop efficiencies that stand unmatched by any other law firm. Simply, BB&K is one of the recognized leaders in California municipal law, remaining on the cutting edge of municipal issues for well over a century.

BB&K will bring to Mendocino LAFCo an exceptional depth of capabilities acquired from representing a multitude of public organizations, including local agency formation commissions around the state. We are committed to providing our clients with informed and cost-effective legal counsel, thereby enabling us to quickly address a variety of issues Mendocino LAFCo could encounter. BB&K offers the unique ability to handle complex, multidisciplinary concerns and provide creative solutions to government leaders. The firm is a "one-stop legal shop," offering a full array of services for agencies such as Mendocino LAFCo.

We appreciate your consideration of our proposal. We look forward to further discussing our proposal with Mendocino LAFCo.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J Nelson', with a stylized flourish at the end.

Joshua Nelson  
of BEST BEST & KRIEGER LLP

## II. QUALIFICATIONS OF FIRM / INDIVIDUAL AND PERSONNEL

### A. Firm Qualifications

Best Best & Krieger LLP (BB&K) is a limited liability partnership established in 1891. BB&K is best suited to serve as Mendocino LAFCo’s legal counsel because we provide hands-on, personalized advice from one dedicated attorney while drawing on extensive, firm-wide knowledge for specialized needs. We have the experience of a large firm and provide a unique understanding of public agency law.

Our municipal and public agency talent is unmatched. We are the largest firm in California whose practice is primarily focused on the representation of public entities. We work in the public interest and on many of the most challenging issues our society faces today. Our experience with public agencies, especially those in Northern California, combined with our nationally recognized practice in municipal and environmental law, will allow us to efficiently, intelligently and meaningfully assist our clients with complex, multidisciplinary issues. We provide creative solutions and will successfully guide Mendocino LAFCo through legal complexities and governmental mandates.

BB&K has served as general counsel to the following in recent years:

LAFCo Client	Providing Legal Services Since
California Association of Local Agency Formation Commissions (CALAFCO)	1985
San Bernardino County LAFCo	1985
Orange County LAFCo	1994
El Dorado County LAFCo	2004
Merced County LAFCo	2006
Santa Clara County LAFCo	2009
Marin LAFCo	2018
Santa Cruz County LAFCo	2021
Solano County LAFCo	2022

In addition, we have performed special counsel work for Los Angeles County LAFCo and Monterey County LAFCo and are currently providing special counsel services for Contra Costa LAFCo.

Our attorneys address every legal specialty of interest to LAFCos. They have an in-depth knowledge of the following:

- The function and purpose of the LAFCo
- The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and amendments (CKH Reorganization Act)
- Adopting and defending spheres of influence
- Propositions 13 and 218 in the LAFCo context
- Revenue neutrality
- Island annexations

- Consolidations
- Complex and frequently changing laws pertaining to local government administration, organization, regulations, transactions, and litigation matters relating to LAFCoS
- Pre-zoning and pre-annexation agreements
- Statutory compliance
- Contracting
- CEQA and water quality
- Personnel and employment
- Intergovernmental relations
- Real estate
- Real property taxes
- Special taxes and assessments
- Land use, planning, and zoning laws
- Ethical issues such as the Ralph M. Brown Act, Political Reform Act, Public Records Act, and conflicts of interest

Our attorneys regularly write and lecture on topics of interest to public agencies, including the CKH Reorganization Act, the Ralph M. Brown Act, the Public Records Act, labor issues, the Political Reform Act and other conflict of interest issues, CEQA, and developments in public law and water law.

BB&K is an active member of numerous state and national public law organizations and associations, such as CALAFCO, the League of California Cities, the California State Association of Counties, the California Chapter of the American Planning Association, the Association of Environmental Professionals, and the Urban Land Institute. Through our extensive experience providing legal counsel to various LAFCoS throughout California, BB&K attorneys are exceedingly knowledgeable about how LAFCoS operate and well-versed in all aspects of LAFCo law.

#### **Cortese-Knox Hertzberg Local Government Reorganization Act of 2000**

BB&K is knowledgeable in all areas of the CKH Reorganization Act and understands the unique role LAFCoS play in local government. We have participated in hundreds of changes of organization on behalf of LAFCoS as well as represented public agency clients before LAFCoS. BB&K has assisted many LAFCoS to develop models for master fiscal analysis of incorporations and annexations of unincorporated county "islands," advising them on comprehensive fiscal analysis, reviewing questions of election law, and reviewing potential utility tax measures for compliance with Propositions 13, 62, and 218.

In addition to our in-depth project experience with the CKH Reorganization Act, we have a unique perspective on the act based on our contributions to its evolution. BB&K attorneys were involved in the legislative process when revisions were proposed to the Cortese-Knox Act of 1985 and assisted in drafting more recent versions of the act.

We frequently represent CALAFCO in omnibus clean-up legislation pertinent to the act. In addition, we have worked periodically on task forces for legislative clean-up and participated on a task force to modify and clarify the revenue neutrality statute and other provisions of the CKH Reorganization Act relating to incorporations. We regularly lead the attorneys' roundtable discussion at CALAFCO conferences.



BB&K attorneys have played key roles in writing, reviewing, and consolidating LAFCo policies concerning:

- Municipal service reviews
- Small island annexations
- Revenue neutrality
- Proposition 218 and annexations
- Special district representative elections
- LAFCo's role as CEQA responsible agency
- Commissioner conflicts of interest and disqualification
- Legal counsel conflicts of interest and interplay of Rule of Professional Conduct 3-310 and Cortese-Knox-Hertzberg law
- Use of public funds for advocacy of LAFCo proposals

### **Contracts**

Our attorneys are well-versed in issues relating to public contracts in the agency formation context in addition to the negotiation and drafting of professional services agreements, including work by consultants of all kinds. We have significant experience writing tax-sharing agreements, joint service agreements, and development and pre-annexation agreements. Many agencies involved in these transactions use templates we have developed for LAFCOs throughout the state. To keep legal costs down, we have developed model contracts for virtually every contracting situation faced by our public agency clients; these model contracts allow our clients to operate effectively and with the highest level of legal protection.

### **Brown Act and Public Records Act**

BB&K has extensive experience advising clients on the interpretation and application of the Brown Act. Advice often pertains to:

- Requirements for agenda preparation, posting, and distribution
- Closed session topics and reporting
- Notices and agendas for special and emergency meetings
- Adding agenda items after an agenda is posted
- Conducting meetings by teleconference
- Application of the Brown Act to committees of official bodies
- Avoiding violations and penalties

BB&K regularly advises clients on all aspects of California's Public Records Act. We routinely brief our clients on pertinent pending legislation and cases. With the emergence of new technology, we frequently advise clients regarding the use of email, records retention, and the public's right to access electronic information.

BB&K attorneys frequently speak at seminars and workshops regarding updates concerning the Public Records Act and email and technology issues. Our attorneys were involved with the preparation of the League of California Cities' book on the Public Records Act. Moreover, we developed a model electronic records retention policy that CalAware has proposed as a model statewide.

### **Ethics and Conflicts of Interest**

BB&K provides advice to elected and non-elected public officials regarding conflicts of interest laws, including the Political Reform Act, Government Code section 1090 (financial interests in contracts), campaign contribution conflicts under Government Code section 84308, and incompatibility of public offices. BB&K also regularly provides advice and training workshops to boards and staff members regarding conflict-of-interest laws.

We stay informed of the most recent decisions from the California Fair Political Practices Commission (FPPC), monitor statutory and common law changes to the law, and regularly advise clients of relevant changes. For instance, we recently advised a LAFCo client in the adoption of a comprehensive conflict of interest policy.

### **Public Records Request Laws**

The California Public Records Act was adopted to foster transparency, accountability and greater public access to government records. While these are all worthy goals, complying with records requests can be complicated, costly and time consuming. This is especially true with increasing amounts of data being stored, accessed and shared on both public and private devices. Public agencies must wade through large amounts of data, determine disclosability and exemptions under the PRA, all while respecting privacy rights and responding within a reasonable time to records requests. The consequences for not doing this right can be expensive litigation and the requester's attorneys' fees.

Faced with these challenges, local public agencies, including cities, special districts and school districts, rely on BB&K for clear and accurate guidance. With the largest full-service public agency practice in California and a reputation as a leader in the field, BB&K regularly provides hundreds of public agencies throughout the State with timely, strategic advice on all aspects of the PRA.

BB&K is also pleased to offer ARC: Advanced Records Center – a full-service, scalable and responsive resource utilizing experienced legal personnel and leading-edge technology to supplement in-house resources for greater consistency, efficiency and lower litigation liability (or risk). ARC provides comprehensive legal service with cost-effective support for records-related matters including PRA request processing, as well as policy drafting and training.

Always at the forefront on emerging issues, our attorneys and paralegals are leading authorities in public agency and PRA law. Members of our firm were instrumental in helping prepare the League of California Cities' Guide to the California Public Records Act. We speak and write extensively on legislative changes and legal developments impacting how the PRA is interpreted and applied, and always keep our clients informed. For example, BB&K was one of the first law firms to advise clients on the significant impact of the California Supreme Court's 2017 City of San Jose decision regarding disclosure of records stored on personal electronic devices. Through decades of practice, we understand the challenges our public agency clients face and are well prepared with strategies to help streamline the response process and avoid costly pitfalls.

### **Personnel and Employment Laws and Requirements**

Attorneys in BB&K's Labor and Employment practice group provide comprehensive guidance to

employers. From resolving day-to-day employment issues through establishing policies, and providing training and litigation defense, we help employers stay focused on productivity, avoid workplace disruptions and reduce the risk of costly litigation.

Our attorneys represent both public and private clients, including private colleges, community colleges, schools, for-profit and nonprofit businesses, special districts, cities and all types of public agencies.

We advise on and represent clients regarding employee benefits and executive compensation; labor and employment litigation; labor negotiations and other union matters; public agency labor and employment; wage and hour laws; workplace safety and investigations. In addition, we are on-call, trusted advisors to help employers with daily employment issues. We provide full-service help to employers – from policies to training to litigation defense.

**Discipline and Termination** – We conduct initial investigations and evaluate evidence supporting discipline, review the consistency and appropriateness of disciplinary measures, prepare all required notices, represent employers in due process hearings and defend them in administrative hearings, litigation and judicial appeals.

We have appeared on behalf of clients in proceedings before the Civil Service Commission, the Public Employment Relations Board and the Office of Administrative Hearings, in arbitration hearings and in matters before personnel commissions, personnel committees and public agency boards.

**Discrimination, Harassment and Retaliation** – We advise employers on how to respond to allegations of unlawful discrimination and harassment in the early stages of a complaint to help avoid claims landing in court. We conduct investigations and defend clients against such allegations in state and federal courts and before administrative agencies.

Further, we provide harassment and discrimination avoidance training to supervisors and provide guidance of best practices for handling claims when they arise.

**Employment Policies and Agreements** – We advise on, draft and negotiate employment agreements, and compensation, employee pensions and benefits terms. Further, we assist with labor-related issues and offer counsel regarding all facets of municipal law, special districts, and fire department, police and education institution-related matters.

**Labor Negotiations and Other Union Matters** – We assist in the collective bargaining process, handle labor and union contract negotiations, impasse procedures, grievance and arbitration proceedings, union representation proceedings and unfair labor practice charges before local, state and federal agencies.

**In-House Training** – Recognizing that risk avoidance is the best strategy, we provide training for human resources professionals, managers and supervisors. We also assist in establishing, implementing and enforcing best practices and employment-related protocols regarding issues such as hiring and firing, workplace safety, disability accommodations, worker and manager discipline, and discrimination, harassment and retaliation allegations.

Our attorneys also provide advice on compliance with state and federal laws, such as Title VII, the

Fair Employment and Housing Act, the Fair Labor Standards Act, the Americans with Disabilities Act, federal and state family leave laws and the Worker Adjustment and Retraining Notification (WARN) Act.

### **Presentations, Reports, and Other Documentation**

BB&K attorneys are familiar and comfortable with providing advice and counsel during meetings. Our attorneys are fully acquainted with the Brown Act and other procedural rules of order and recognize that the role and responsibility of legal counsel, among other things, is to render advice about the rules of procedure and decorum at meetings. Virtually every attorney in our firm is trained in resolution and ordinance drafting and statutory construction. The firm has an extensive electronic library for use in researching, drafting, and interpreting resolutions and ordinances. Some of our work in this realm includes drafting resolutions making determinations regarding changes of organizations and reorganizations (including incorporations and special reorganizations) and preparing relevant ordinances.

### **Real Estate**

BB&K maintains a full complement of attorneys focused on real estate transactions. BB&K's real estate attorneys have extensive experience advising public agencies, developers, lenders, investors, and corporations. Closing complex deals often requires a team approach. When our clients are faced with legal, financial, and regulatory challenges, real estate attorneys at BB&K draw upon the knowledge and experience of seasoned attorneys in numerous practice areas related to real estate, including environmental law, public and private finance, natural resources and water rights, land use and entitlements, municipal law, litigation, bankruptcy, business transactions, and tax planning.

### **Taxes and Assessments**

With one of California's most extensive public agency practices, offices throughout the state, and decades of experience addressing the full range of fees, tax and assessment matters, BB&K attorneys advise cities and special districts on revenue matters associated with the adoption, levy, and defense of taxes, assessments, fees and charges. We help our agency clients protect, preserve and enhance their limited public resources and revenues while making sure they meet the requirements of Propositions 13, 62, 218, and 26. Additionally, we assist our clients in:

- Reviewing utility rate and fee studies and assessment engineering reports
- Interpreting and applying tax-sharing agreements
- Preparing notices of public hearings for the adoption of fees, charges, and assessments
- Complying with public hearing and protest procedures that must be followed to consider and adopt rates and charges
- Forming assessment districts
- Establishing new taxes, assessments, fees, and charges and increasing and extending existing ones
- Ensuring compliance with the California Constitution and state laws governing the imposition of taxes, assessments, fees, and charges
- Financing major public infrastructure and public services
- Litigating disputes regarding applicable rules, taxes, fees, and charges

### Land Use, Planning and Zoning

BB&K realizes that LAFCoS do not have the same type of land use authority as cities and counties. Furthermore, we understand the processes and entitlements needed to carry a project to completion. BB&K advises clients on a wide variety of zoning, planning, and land use matters, including the development, implementation, and amendment of general and specific plans; zone changes; subdivisions; conditional use permits; variances; design review applications; development agreements; and other planning entitlements.

BB&K attorneys are well versed in the requirements of the California Subdivision Map Act. We routinely help our public clients to ensure their map filings and decisions conform to Subdivision Map Act requirements. In addition, we have an extensive collection of model documents accessible to our municipal subdivision practice, eliminating the costly practice of producing entirely new documents for each subdivision.

We also help clients ensure that their land use determinations comply with the California Mitigation Fee Act (Assembly Bill (AB) 1600) as well as current case law. BB&K attorneys are conversant in growth control tools and smart growth practices. In light of competing interests involved in growth control decisions, we provide clients with practical advice that encompasses more than just the legal aspects of growth control issues.

### CEQA and Environmental Law

BB&K is a nationally recognized leader in environmental law. We represent public agencies and have experienced practitioners in compliance with CEQA, endangered species, air quality, hazardous waste, and other environmental issues.

BB&K's highly regarded CEQA and National Environmental Policy Act (NEPA) attorneys can handle the complete environmental review and approval process for large scale public and private development projects, assisting clients through all aspects of the CEQA, NEPA and land use entitlement process from document preparation to any subsequent litigation. We aim to minimize legal and project costs and risk from the earliest possible stage by representing clients at the pre-project planning and strategy stages. BB&K prepares local CEQA guidelines on behalf of more than 100 public agency clients, including cities, water districts, and special districts.

More specifically, our CEQA and NEPA attorneys regularly review and prepare notices of exemption, initial studies, negative declarations, findings and statements of overriding considerations, addenda and mitigation monitoring and reporting plans. We are skilled at writing and editing environmental impact reports (EIR) to fully comply with CEQA and NEPA requirements. If a legal challenge should arise, our lawyers are also skilled in the procedural and substantive intricacies of litigating a CEQA or NEPA case, including shortened statutes of limitations, administrative record requirements, and unique briefing and oral argument strategies. We are also adept at understanding the interplay between CEQA, NEPA, and other environmental statutes, including state and federal Endangered Species Acts and state and federal Clean Water Acts.

Litigation Experience

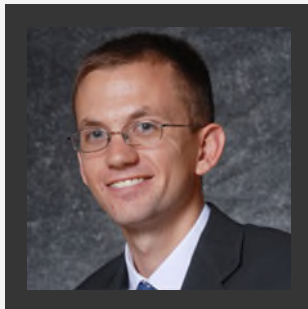
BB&K’s civil litigation practice encompasses a wide variety of subjects, including major cases involving spheres of influence, incorporations, CEQA, land use challenges, tort liability, water resources and quality, fee and rate challenges (including Proposition 218), the Brown Act, the California Public Records Act, hazardous materials and toxic cleanup, real estate, labor and employment matters, public contracting and bidding disputes, equal protection claims, civil rights claims and First Amendment issues. The firm’s litigation attorneys practice in all federal and state courts at both the trial and appellate level.

Our litigators focus on developing an understanding of issues and procedural requirements necessary to meet clients’ goals no matter what the controversy or the stakes. We offer public agency clients a full range of litigation support in areas such as labor and employment, contracts, construction, land use, energy, transportation, foreclosure and water use.

**B. Attorney Team**

BB&K proposes Josh Nelson to serve as lead attorney and primary contact to the Mendocino LAFCo. Josh will be supported by Mala Subramanian as back-up. The proposed team’s resumes and qualifications are found below.

Joshua Nelson, Partner



Phone	(916) 551-2859
Email	joshua.nelson@bbklaw.com
Location	Sacramento
Education	University of California, Davis School of Law, J.D. Cornell University, B.S., Industrial and Labor Relations
Admissions	CA - 260803 NV - 11849

Josh Nelson is a member of BB&K’s Municipal Law practice group and provides city attorney and general counsel services to local public agencies, including the Local Agency Formation Commission of Santa Cruz County. Other representative clients include the American Valley Community Services District, City of Jackson, North Tahoe Public Utility District and Soquel Creek Water District.

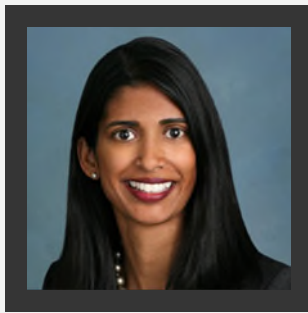
He has significant experience with assisting local agency formation commissions and public agency clients with proceedings before local agency formation commissions. This includes annexations, detachments, consolidations and other reorganizations. In addition to acting as general counsel to Santa Cruz LAFCo, Josh provides back-up services to a number of LAFCOs in Northern California.

Josh’s general governance work includes an emphasis on conflicts of interest and ethics, especially regarding contracting. He regularly speaks on Government Code section 1090, the

Political Reform Act and legal conflicts of interest. He also has significant experience with all manner of joint powers agreements, including forming and advising joint powers authorities and public agencies that act as parties to joint powers agreements or members of a joint powers authority.

Josh serves as the office managing partner for BB&K's Sacramento office.

Malathy Subramanian, Partner



Phone	(925) 977-3303
Email	msubramanian@bbklaw.com
Location	Walnut Creek
Education	University of California College of the Law, San Francisco (formerly Hastings), J.D. University of California, San Diego, B.A.
Admissions	CA - 204185

Malathy (Mala) Subramanian represents a diverse set of public agencies throughout Northern California as a partner in the Municipal Law practice group of BB&K's Walnut Creek office. Mala serves as city attorney for Albany, Clayton and Lafayette. She also serves as general counsel to Marin LAFCo, Merced LAFCo, Santa Clara LAFCo and various joint powers authorities and special districts.

**Land Use** – Mala guides clients through the various questions and hurdles that arise with development projects, including the Subdivision Map Act, the Housing Accountability Act and others.

**Brown Act, Public Records Act and Conflict of Interest** – In addition to regularly representing her clients at their public meetings, she frequently trains them on the Public Records Act, the Brown Act, conflicts of interest and AB 1234 ethics compliance.

**Transportation** – Transportation projects involve many different agencies and legal hurdles. Mala enjoys working on complex projects and collaborating with other BB&K attorneys on finance, the California Environmental Quality Act, public contracts and election law. She served as general counsel to Contra Costa Transportation Authority and assisted the Authority in its effort to place a half-cent sales tax on the March 2020 ballot.

Mala has served as president of the Contra Costa County City Attorney Association and as president of the Bay Area City Attorney Association.

**Honors/Awards**

- Land Use and Zoning Law Lawyer of the Year in Oakland, Best Lawyers®, 2023
- The Best Lawyers in America®, Land Use and Zoning Law & Municipal Law, 2020–2023

### III. EXISTING AND POTENTIAL CONFLICTS OF INTEREST

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BB&K currently represents the following public clients in Mendocino County:

- City of Fort Bragg
- Russian River Cemetery District
- Ukiah Valley Sanitation District

As indicated, BB&K represents the Ukiah Valley Sanitation District (UVSD) regarding various proposals pending before Mendocino LAFCo. BB&K would request a waiver from Mendocino LAFCo to continue representing UVSD in those and similar matters.

BB&K formerly represented the Mendocino Coast Health Care District.

BB&K currently represents the Southern Humboldt Community Health Care District. Their service area is in Humboldt and Mendocino Counties.

BB&K maintains a comprehensive database on client representation. Prior to accepting any representation, the database is accessed to determine whether there are any existing conflicts. Additionally, each attorney is separately emailed a description of the proposed representation and asked to comment on any potential conflicts.

All partners and their secretaries have coded access to the conflicts database that includes and indexes the names of all clients, matters, opposing parties and other parties, as well as other information, for all matters on which the firm is working or has worked. When new parties are associated with a client matter, the names of those parties are added to the conflicts database. This database is overseen and managed by our firm's Billing and Client Information Department as well as the responsible attorney.

If a legal conflict is identified with Mendocino LAFCo, BB&K will request a waiver from Mendocino LAFCo and the other client in conflict with Mendocino LAFCo. We will enact ethical screens and other related procedures as part of our request for a waiver. No work will begin on the new matter presenting a legal conflict issues until proper resolution is obtained.



IV. LOCAL GOVERNMENT CLIENT REFERENCES

Please do not hesitate to contact any of the following references for a more in-depth discussion of our ability to provide legal services for the Mendocino LAFCo.

BB&K References	
<b>References for Josh Nelson</b>	
Joe A. Serrano, Executive Officer Local Agency Formation Commission of Santa Cruz County 701 Ocean Street, Suite 318-D Santa Cruz, CA 95060 Phone: (831) 454-2055 Email: joe@santacruzlafco.org	Ron Duncan, General Manager Soquel Creek Water District 5180 Soquel Drive Soquel, CA 95073 Phone: (831) 475-8500 ext. 144 Email: rond@soquelcreekwater.org
<b>References for the Firm</b>	
William Nicholson, Executive Officer Merced County LAFCo 2222 M Street Merced, CA 95340 Phone: (209) 385-7671 Email: BNicholson@co.merced.ca.us	Neelima Palacherla, Executive Officer Santa Clara LAFCo 777 North First Street, Suite 410 San Jose, CA 95112 Phone: (408) 993-4713 Email: Neelima.Palacherla@ceo.sccgov.org

## V. ADDITIONAL INFORMATION

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As a value-added service, BB&K offers the ARC: Advanced Records Center – a full-service, scalable and responsive resource utilizing experienced legal personnel and leading-edge technology to supplement in-house resources for greater consistency, efficiency and lower litigation liability (or risk). ARC provides comprehensive legal service with cost-effective support for records-related matters including PRA request processing, as well as policy drafting and training.

Always at the forefront on emerging issues, our attorneys and paralegals are leading authorities in public agency and PRA law. Members of our firm were instrumental in helping prepare the League of California Cities' Guide to the California Public Records Act. We speak and write extensively on legislative changes and legal developments impacting how the PRA is interpreted and applied, and always keep our clients informed. For example, BB&K was one of the first law firms to advise clients on the significant impact of the California Supreme Court's 2017 *City of San Jose* decision regarding disclosure of records stored on personal electronic devices. Through decades of practice, we understand the challenges our public agency clients face and are well prepared with strategies to help streamline the response process and avoid costly pitfalls.



Our services include:

- Helping clients efficiently locate, review and produce hard copy and electronic records while ensuring privacy rights are respected
- Evaluating what should be disclosed – and which documents and communications are exempt from disclosure
- Establishing best practices for agency staff members on PRA compliance, access and response protocols, and privacy protection
- Providing clear guidance and assistance in responding to, and fulfilling, records requests
- Drafting determination letters that document the agency response efforts, build public trust and shield the agency from costly litigation
- Keeping our clients current regarding pending legislation and cases, court decisions and significant statutory and regulatory developments
- Providing customized training programs on best practices
- Representing clients' processes before courts to defend their disclosure determinations and claims of exemption
- Consulting with city attorneys on PRA disclosure, litigation and writs
- Guiding clients through the legal provisions affecting police, fire and public education records under the PRA and education statutes

Further, with the emergence of new technologies, we use ARC's certified e-Discovery specialists to regularly advise clients regarding the use of public and private electronic devices, and the public's right to access information, including electronic communications.

Please note that routine PRA matters will be handled by the firm; the services offered by the ARC are available for the Mendocino LAFCo to consider for complex requests and/or when ARC's services are desired.

**VI. BUDGET, RETAINER AND/OR RATES**

**A. Hourly Rates**

BB&K recognizes the need to keep legal costs under control. We have a longstanding commitment to the affordable delivery of legal services to municipalities and public agencies. Given the depth and breadth of our experience, we often get the job done in much less time, resulting in lower costs. In addition, BB&K partners are thoughtful of staffing routine tasks to associates and paralegals, when appropriate, who are billed at much lower rates for cost considerations.

**General Legal Counsel Services**

General counsel services include attending meetings; advising on general municipal or administrative law and the CKH Reorganization Act; and reviewing or preparing agendas, staff reports, resolutions, correspondence, administrative policies, and legal opinions.

<b>Personnel</b>	<b>Hourly Rate</b>
Attorney	\$280 per hour
Paralegal, Law Clerk and Analyst	\$180 per hour

**Advanced Records Center (ARC) for Public Records Act Services**

We propose to utilize our new Advanced Records Center (ARC) team to handle non-routine Public Records Requests, if the Mendocino LAFCo so chooses. With ARC, BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, the ARC team will assist the Mendocino LAFCo with non-routine Public Records Act processing and policy drafting as needed. For this service, we propose the following blended rate:

<b>Personnel</b>	<b>Hourly Rate</b>
ARC Team – Attorneys, Paralegals, Law Clerks and Analysts	\$220 per hour

**Special Legal Counsel Services**

Special legal counsel services include the following types of services:

- a. Litigation and formal administrative or other adjudicatory hearing matters
- b. Labor relations and employment matters
- c. Non-routine real estate matters (e.g., CC&Rs, deed or title work)
- d. Land acquisition and disposal matters (including pre-condemnation)
- e. Successor Agency and housing matters

- f. Taxes, fees and charges matters (e.g., Prop. 218 & Mitigation Fee Act)
- g. Public construction disputes
- h. Non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements)
- i. Non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements)
- j. Environmental matters (e.g., CEQA, NEPA, endangered species)
- k. Water law matters (e.g., water rights and quality)
- l. Tax and ERISA related matters
- m. Toxic substances matters (e.g., CERCLA, RCRA)
- n. Complex public utility matters (e.g., electric, natural gas, telecommunications, water, rail or transit that involve state or federal regulatory issues)
- o. Renewable energy and energy efficiency project contracts and power purchase agreements
- p. Intergovernmental Relations and Advocacy efforts (e.g., legislative and regulatory representation) at the federal and state level
- q. Non-routine election law matters, including election law litigation
- r. Other matters mutually agreed upon between BB&K and the Mendocino LAFCo

Hourly rates for those attorneys will be:

<b>Personnel</b>	<b>Hourly Rate</b>
Attorney	\$345 per hour
Paralegal, Law Clerk and Analyst	\$190 per hour

**Third Party Reimbursable Projects**

Legal services provided to the Mendocino LAFCo for which the Mendocino LAFCo receives reimbursement (e.g., from a developer or other third party) will be billed at BB&K’s then-current standard private client rates less 10 percent (10%).

**B. Reimbursements**

BB&K does not charge for routine word processing, legal assistants, clerical costs, administrative support staff, secretarial costs, and office costs, including telephone and fax charges. Reimbursement of costs advanced by BB&K on behalf of the Mendocino LAFCo as well as other expenses will be billed at actual cost. These currently include, but are not limited to, mileage at the IRS authorized rate; actual expenses for being away from our offices on the Mendocino LAFCo business; postage; legal research; and any cost of printing or reproducing documents, photographs, electronically stored information (ESI) if needed, or other items necessary for legal representation.



Andy Garcia  
Executive Director

E-mail: [agarcia@lozanosmith.com](mailto:agarcia@lozanosmith.com)

February 28, 2023

Uma Hinman, Executive Officer  
Mendocino Local Agency Formation Commission  
200 South School Street  
Ukiah, CA 95482

Re: Request for Proposal – Legal Services

Dear Ms. Hinman:

Lozano Smith, LLP is pleased to respond to the Mendocino Local Agency Formation Commission (“LAFCo”) Request for Proposal for Legal Services.

Since 1988, Lozano Smith has partnered with public agencies in their mission to serve and enhance their communities by providing high quality, timely and cost-effective legal services. We are very familiar with the needs of local agency formation commissions. Our firm’s collective expertise in municipal law and the experienced legal staff in our Municipal Practice Group are best qualified and positioned to meet the expectations in the delivery of legal services.

We are proposing that Nicholas Clair serve as your lead attorney. If you have any questions regarding the proposal, please contact Nick at [nclair@lozanosmith.com](mailto:nclair@lozanosmith.com).

Respectfully submitted,  
LOZANO SMITH, LLP

A handwritten signature in blue ink that reads 'Andy Garcia'.

Andy Garcia  
Executive Director

AG/ljem  
Enclosure

*Limited Liability Partnership*

*One Capitol Mall, Suite 640 Sacramento, CA 95814 Tel 916.329.7433 Fax 916.329.9050  
2001 North Main St., Suite 500 Walnut Creek, CA 94596 Tel 925.953.1620 Fax 925.953.1625  
7404 North Spalding Fresno, CA 93720 Tel 559.431.5600 Fax 559.261.9366  
4 Lower Ragsdale Dr., Suite 200 Monterey, CA 93940 Tel 831.646.1501 Fax 831.646.1801  
4900 California Avenue, Tower B, Suite 210 Bakersfield, CA 93309 Tel 661.271.1012 Fax 661.271.1013  
656 Santa Rosa St., Suite 3B San Luis Obispo, CA 93401 Tel 805.471.7080 Fax 805.930.1031  
515 S. Figueroa St., Suite 750 Los Angeles, CA 90071 Tel 213.929.1066 Fax 213.929.1077  
4660 La Jolla Village Drive, Suite 825 San Diego, CA 92122 Tel 858.909.9002 Fax 858.909.9022*

2023

Proposal Prepared For

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## Mendocino Local Agency Formation Commission

Submitted by Lozano Smith  
Nicholas Clair, Senior Counsel  
nclair@LozanoSmith.com  
One Capitol Mall, Suite 640, Sacramento, CA, 95814  
916.329.7433

February 28, 2023

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# Executive Summary

## Firm Overview

The firm's roots in the public sector run deep. Lozano Smith, LLP was formed in 1988 with four partners in two offices and has grown to our present size of 113 attorneys across eight statewide offices. Lozano Smith has represented numerous public agencies through nearly all legal issues imaginable. We have represented both small and large public agencies ranging in populations of under ten thousand to over several million. Our services are uniquely tailored to each client.

## Office Locations

- > Walnut Creek
- > Fresno
- > Monterey
- > San Luis Obispo
- > Sacramento
- > Los Angeles
- > San Diego
- > Bakersfield

## Experience

Currently representing over 600 public agencies of all types in the State of California, our attorneys understand the intricacies and range of ever-changing laws affecting municipalities. Lozano Smith works with numerous public agencies as county counsel, city attorney and special outside counsel.

We represent over 30 related special districts and JPAs, as well as hundreds of other public agencies. Representative examples include:

- > Madera LAFCo
- > South Coast Fire Protection District
- > Winton Water and Sanitary District
- > Branciforte Fire Protection District
- > Oak Valley Hospital District
- > Madera County Mosquito and Vector Control District
- > Los Angeles Department of Water and Power
- > Humboldt Bay Fire Joint Powers Authority
- > Santa Cruz County Regional Transportation Commission
- > Olivehurst Public Utility District
- > Kern County Mosquito and Vector Control District
- > Winton Water and Sanitary District

The firm's Municipal Practice Group is comprised of attorneys who have served in city attorney, county counsel, and general counsel capacities for many years, gathering a wealth of knowledge and understanding of client needs. For example, we serve the following municipalities as city attorney:

- > City of Chowchilla
- > City of Clovis
- > City of Dos Palos
- > City of Fowler
- > City of Greenfield
- > City of Hollister
- > City of Merced
- > City of Reedley

We also serve as legal counsel to several counties and other cities, including for example:

- > County of Madera
- > County of Kern
- > County of Los Angeles
- > County of Kings
- > County of Fresno
- > City of Los Angeles
- > City of Sacramento

## Diversity, Equity & Inclusion

We value diversity and the strength and perspective fostered by bringing together people of different backgrounds and experiences. As an illustration of the Firm's commitment and focus on diversity, equity and inclusion, Lozano Smith was named by Law360 as a leading law firm in the areas of diversity and gender equity within the 101-250 attorney category. The firm ranked first overall in Law360's 2022 Glass Ceiling Report, a data-driven review of female attorney representation at law firms, and third overall in the 2022 Diversity Snapshot.

National Rankings in the 101-250 attorney category include:

*Diversity Snapshot* (Representation of minority attorneys within the firm)

- > #1 Ranking - Equity Partners: 35.7%
- > #2 Ranking - Nonequity Partners: 28.6%
- > #5 Ranking - Associates: 45.2%

*Glass Ceiling Report*

- > #1 Ranking - Nonequity Partners: 60.7%
- > #3 Ranking - Total Partners: 50.0%
- > #4 Ranking - Associates: 64.3%

## Client-Centered Billing Practices and Collaborative Practice Model

Our practice of billing in 1/10 (.10) hour increments has saved clients significant money they can reinvest into their agencies and communities. We are always mindful of costs and focus on getting our clients the best possible product in a cost-effective manner. Our numerous cost-preventive resources, workshops, and publications have been developed so that clients minimize their need for legal counsel by relying on their staff to address some of the many legal issues that arise. Examples of our efforts include:

# 1. Qualifications of Firm and Personnel

## Municipal Practice Group

To best meet the needs and ensure the ongoing success of its clients, Lozano Smith's Municipal Practice Group provides advice in all areas of law affecting public agencies, and provides specialized services to the firm's clients in the following areas:

- > Open Meeting Laws/Brown Act
- > Records Request/Public Records Act
- > Conflicts of Interest and Ethics
- > Fees, Taxes & Assessments
- > Claims Against Public Agencies
- > Employment/Personnel and Collective Bargaining for Public Agencies
- > Water Rights and Regulation
- > Land Use and CEQA
- > Construction Advice and Litigation
- > Public Safety, Police and Fire
- > Public Financing/Tax Exempt Bonds
- > Economic Development
- > Real Estate Law
- > FPPC Regulations
- > Environmental Law
- > The Subdivision Map Act
- > Americans with Disabilities Act
- > Contract Law
- > Municipal Tort law
- > Public Contracts and Franchises
- > Parliamentary Procedure

- > Code Enforcement
- > Intergovernmental Relations
- > Elections, Redistricting and Voting Rights Act
- > Public Agency Formation and Organization
- > Litigation
- > Groundwater Sustainability Plans
- > PUC Proceedings
- > Eminent Domain
- > Joint Powers Shared Services Agreements

### **Governing Public Agencies and Attendance at Meetings**

Our attorneys attend public agency meetings on a daily basis, both to participate and to ensure compliance with open meetings laws. In addition, we routinely attend a wide range of committee meetings, including ad hoc committees, successor agency oversight boards, citizen oversight committees, budget committees, community advisory committees, and joint committees with other public agencies.

### **Individual Board Member Liability**

When advising the Board, Lozano Smith is mindful of political realities as well as potential liability exposure for individual board members. There are specific statutes that govern the rights and obligations of individual board members, including defense and indemnity for acts within the scope of their official duties, fiduciary responsibilities and conflicts of interest. Lozano Smith has worked with many public agency boards when issues arise.

### **Brown Act**

We regularly provide advice regarding the open meeting requirements of the Ralph M. Brown Act. The firm also publishes handbooks and materials for clients to use in understanding and complying with the Brown Act.

## **CLIENT EXPERIENCE**

We also have successfully defended Brown Act suits at the trial and appellate levels. For example, *Duval v. Board of Trustees* 93 Cal.App.4th 902. The *Duval* case established the principle that a legislative body may conduct comprehensive personnel evaluations in closed session, including a discussion of evaluation criteria and setting goals for future performance.

### **Public Records Act**

We routinely handle Public Records Act requests. Our attorneys and paralegals handle complex issues such as requests for salary or personnel information, electronic documents, and documents related to closed-session meetings or pending litigation. All Lozano Smith attorneys are well versed in the Public Records Act, and they remain abreast of recent legislation and case law.

### **Conflicts of Interest/Ethics Issues**

We train and advise public agencies regarding a wide range of conflicts of interest and ethics issues. Our attorneys have expertise in the Political Reform Act; Government Code section 1090; and the common law doctrine of conflicts of interest.

We frequently advise public agencies on public officials' obligations to disclose their economic interests, to abstain from participating in governmental decisions that can have a material effect on their economic interests, and to properly disclose potential conflicts at public meetings.

### **Legislative and Administrative Law**

Our firm tracks upcoming legislation which could affect our clients. Additionally, we are often called to conduct administrative hearings for personnel matters, code enforcement issues, and other administrative tasks needed by municipal clients. Our attorneys are also responsible to draft local ordinances, laws and administrative procedures.

### **Labor and Employment Law Counsel**

Our background in advising public employers throughout California provides us with the practical knowledge of such matters when it comes to negotiations, contract grievances, disciplinary appeals, unfair labor practice charges, and personnel investigations. We have represented and defended public sector employers in virtually all matters involving state and federal labor and employment laws, including:

- > Title VII of the Civil Rights Act of 1964 / Civil Rights Act of 1991 ("Title VII")
- > Fair Labor Standards Act / Equal Pay Act of 1963 ("FLSA")
- > Age Discrimination in Employment Act of 1967 ("ADEA")
- > Family Medical Leave Act ("FMLA")
- > Title I and Title V of the Americans with Disabilities Act of 1990 ("ADA")
- > Uniformed Services Employment and Reemployment Rights Act ("USERRA")
- > California Fair Employment and Housing Act ("FEHA")
- > California Family Rights Act ("CFRA") and Pregnancy Disability Act ("PDA")
- > Unruh Civil Rights Act

Our attorneys guide public employers through the gamut of personnel issues that include:

- > Recruitment and Hiring
- > Pre-Employment Screening
- > Management and Employee Contracts
- > Grievances
- > Labor Negotiations / Collective Bargaining
- > Personnel Policies
- > Family and Medical Leave Laws
- > Pregnancy Disability
- > Military Leaves
- > Sexual Harassment
- > Employee Evaluation
- > Drug and Alcohol Testing
- > Skelly Conferences
- > Drafting of Charges for Suspension and/or Termination
- > Due Process Hearings
- > Employee Discipline and Termination
- > Civil Service Commission's Rules and Procedures
- > Whistleblower Statutes

### **Labor Relations/Negotiations**

The team members we are proposing have experience representing various public agencies in labor negotiations and provide a full range of services regarding labor negotiations. We regularly guide clients through impasse, fact-finding and preparations for concerted activities. We provide advice

that is driven by the legal, political and financial realities of the client. For many clients, we conduct union negotiations as the lead negotiator. For others, we advise personnel who conduct the negotiations. In all cases, we vigorously pursue our client's labor and policy agenda through various methods of creating the best possible environment for a mutual agreement. We have successfully achieved these bargaining goals on financial issues, such as salary and benefits, and on contract language matters as well.

**PERB Unfair Practice Charges and Representation Petitions**

We have handled numerous contested matters before the Public Employment Relations Board. Our attorneys have obtained favorable results for clients in defending unfair labor practice charges with respect to claims that an employer has failed to negotiate, has circumvented a union, or has retaliated against employees for union activity. When needed, our attorneys also handle bargaining unit modification petitions in order to meet employer goals. It is also common for our attorneys to assist with responses to union representation petitions and any related hearings. We are often able to convince PERB regional attorneys to dismiss charges of unfair labor practices or to defer cases to arbitration. In the event of a hearing before an Administrative Law Judge, we have numerous attorneys who can successfully navigate the issues PERB reviews, including retaliation, bad faith bargaining and unilateral change cases.

**Land Use, CEQA and Environmental Law**

Lozano Smith attorneys are particularly skilled at preparing complex land use transactions, statutory development agreements, parcel and subdivision map agreements, general plan and zoning legislation, and developer fee agreements and implementation. Lozano Smith has negotiated easement agreements involving roads, access, utilities, and other issues; in addition to preparing and negotiating leases, including long-term and short-term facilities space leases, ground leases, tenant improvement agreements and licenses. When necessary, the firm has assisted public agencies in obtaining property rights through eminent domain proceedings.

We have extensive experience assisting clients with environmental compliance issues, including those related to DTSC, CEQA, the Division of Occupational Safety and Health (Cal-OSHA), the California Department of Fish and Wildlife and United States Fish and Wildlife Service, and others. We represent clients in these complex areas by providing advice as well as assisting clients in navigating issues through DTSC, Cal-OSHA, and other regulatory bodies.

Sample CEQA Cases	Case No.
<i>Western Placer v. City of Lincoln</i>	SCV0032309
<i>County of Lassen v. City of Susanville</i>	34687
<i>Consolidated Irrigation District v. City of Sanger</i>	13CECG03007
<i>Heritage Fresno v. City of Fresno/RDA</i>	06CECG00162
<i>Vagim v. Fresno RDA</i>	06CECG01795
<i>Consolidated Irrigation District v. City of Parlier</i>	09CECG04072
<i>City of Greenfield v. Jake’s Dream Investors LP</i>	M102611

<i>Consolidated Irrigation District v. City of Parlier</i>	10CECG03477
<i>Friends of Moraga Canyon v. City of Piedmont</i>	RG12611028

Lozano Smith's attorneys have also assisted in assessing options for energy related contracts, including energy management consultant agreements, renewable energy projects, and contracts for energy conservation retrofits, and have also advised on identifying and maximizing funding sources for such contracts. This work has included negotiations of a number of power purchase agreements and other high-value contracts for the installation of solar photovoltaic facilities.

### **Public Finance**

Lozano Smith's Public Finance Practice Group was formed by experienced attorneys specializing in public finance work, providing legal advice on all areas impacting bond and disclosure counsel. The Public Finance Practice Group provides legal services in often necessarily related contexts such as bond elections, parcel taxes, developer fees, special taxes, special assessments, and special tax and assessment lien foreclosures.

### **Litigation**

The Litigation Practice Group works in partnership with clients, regularly communicating the status of their case, with an eye towards cost containment and ensuring they're timely informed about the progress of their case. As part of their overall case management, we investigate insurance coverage and the viability of indemnity claims to help pay for litigation costs and defray client expenses. Lozano Smith's Litigation attorneys also support and proactively encourage clients to consider alternative dispute resolution (ADR) procedures in appropriate cases. The firm is experienced and well versed in various forms of ADR, including arbitration, mediation and both informal and formal settlement conferences.

Lozano Smith attorneys are disciplined in compliance with client case-management requirements, including:

- > Preparation of Administrative Records
- > Preparation of Written Briefs and Motions
- > Specialized Public Agency Litigation, including Administrative Hearings, Writs of Mandate, Validation Actions
- > Successful Advocacy Before all California Courts, Including the California Supreme Court and Ninth Circuit Court of Appeals
- > Preparation of Initial Case Evaluations and Budgets
- > Preparation of Discovery Plans
- > Preparation of Case Updates
- > Monitoring of Case Budgets
- > Oral and Written Presentations to Client Senior Administration and Elected Officials
- > Electronic Discovery

## Representative Cases

Lozano Smith's Litigation Practice Group offers its clients a long history of dedicated and successful representation. Sample cases, including those handled by current Lozano Smith attorneys prior to their employment at Lozano Smith, are included throughout the proposal. For example:

- > In *Govan v. City of Clovis*, Lozano Smith successfully obtained dismissal of several constitutional and other statutory claims asserted by a Plaintiff business operator against the City of Clovis and individual City police officers, where the Plaintiff challenged the City of Clovis' sign ordinance and its enforcement. The District Court entered judgment in the City's favor following dismissal of all of the Plaintiff's claims which included several theories on the alleged violation of his First Amendment free speech rights, violation of his constitutional due process rights violation of his equal protection rights, and other state law claims.
- > **Santa Clara Valley Water District** – \$6 million recycled water pipeline project – Obtained summary judgment against a claim by a contractor on a recycled water pipeline project. Lozano Smith's Arne Sandberg also handled the appeal, where the judgment was affirmed. After award of the contract, the District had deleted the fiber optic work from the project, and then added back a small portion of the work. As a result, the contractor claimed lost profits related to the deletion of work.
- > **City of Antioch** – \$16 million water treatment plant expansion project – Obtained a \$1.2 million settlement from the engineer and equipment provider related to an inadequate dewatering system. At the engineer's recommendation, the City agreed to include a sludge dewatering system, but it was not properly tested or designed for the water treatment plant's footprint.
- > **City of Clovis** – \$28 million surface water treatment plant project – Recovered \$4.8 million settlement from the engineer and filter provider related to insufficient water production. The filters had failed to perform as required by the contract's specifications, and an inadequate number of filters had been included in the design.
- > *Leonard Avila v. City of Los Angeles, et al.* 9th Circuit Court of Appeal, Case No. 12-55931 where Lozano Smith successfully defended the City of Los Angeles and Los Angeles Police Department in an employment case. Following testimony, Lozano Smith asked the judge to dismiss certain claims because the officer had not introduced sufficient evidence. The judge agreed in part, and the jury was only asked to consider the officer's claims concerning retaliation under the FLSA and due process violations. The jury's verdict was a good one for the City and the LAPD, because they prevailed on the due process claim.
- > *Shiell, et al. v. County of Los Angeles, et al.*, Los Angeles County Superior Court Case No. BC208582, an Equal protection action claiming staff members of a non-profit, public benefit corporation were entitled to the same rights, salaries and benefits of County employees

because they performed the same work. A dispositive motion was decided in the County's favor.

- > *Hall, et al. v. County of Los Angeles*, Los Angeles County Superior Court Case No. BC208583, where approximately 200 female attorneys of a non-profit, public benefit corporation brought a sex discrimination suit claiming they were not receiving the same salaries and benefits as male employees of the County, despite doing the same work. The County's dispositive motion was ultimately granted on the grounds that plaintiffs were using improper male comparators and had not shown any indicia of discrimination.

## Proposed Team

### LAFCO Legal Team

Your agency would be served by a team of attorneys. Nicholas Clair would be designated as Lead Counsel. We also work in teams in order to bring all the firm's resources to benefit our clients and provide cost-effective services. Full attorney bios can be found in the appendix. Lozano Smith is proud to augment its municipal law practitioners with the following:



**Nicholas J. Clair** is Senior Counsel in Lozano Smith's Sacramento office. Mr. Clair focuses on local government and facilities and business issues for public agencies. Mr. Clair advises clients on a variety of transactional matters affecting special districts and local governments, including the Brown Act, California Public Records Act, Proposition 218, elections law, ethics, governance, financing, CEQA, and human resources.

Prior to joining Lozano Smith, Mr. Clair was a Legislative Analyst for the California Special Districts Association. As a Legislative Analyst, Mr. Clair executed the Amicus Curia Advocacy Program by identifying cases of interest, working with local government stakeholders to coordinate amicus efforts, and participating in the brief writing process.



**Mary F. Lerner** is a Partner and serves as co-chair of Lozano Smith's Municipal Practice Group. Ms. Lerner is also a member of the firm's Facilities and Business, Governance, and Labor and Employment Practice Groups. Over the course of the last 18 years, Ms. Lerner's practice is focused on, and she advises clients regarding, a wide range of issues affecting public agencies including, but not limited to, personnel matters, finances, development, CEQA, LAFCO, Brown Act, board governance, sustainable groundwater agencies, elections, code enforcement, First Amendment, labor negotiations, and public safety.

Ms. Lerner is general counsel for public agency clients throughout California. In addition, she assists clients in defense of issues related to the Americans with Disabilities Act. Ms. Lerner is also an adjunct professor for the University of Phoenix



teaching graduate and undergraduate courses in ethics, business law, negotiations, leadership, and management.



**Laurie Avedisian-Favini** is a Partner in Lozano Smith's Fresno office and co-chair of the Municipal Practice Group. Ms. Avedisian-Favini serves as the City Attorney for Reedley and General Counsel to Madera LAFCo. She is primarily responsible for the full range of legal services, including advising legislative bodies at public meetings and day-to-day legal services and advice to agency staff.

Ms. Avedisian-Favini frequently assists clients with governance issues, ethics and conflicts of interest, real property acquisitions and development, elections, California Voting Rights Act, code enforcement, First Amendment issues, Public Records Act, LAFCo, CEQA, bidding and construction, government liability, and Brown Act issues and compliance.

## 2. Existing and Potential Conflicts of Interest

Lozano Smith currently represents South Coast Fire Protection District and Point Arena Joint Union High School District. We know of no conflicts that would prevent our representation of LAFCO in all matters. Lozano Smith has implemented a conflicts checking system that will disclose conflicts, if they arise, on matters as they are assigned to us. It is our legal duty to inform you if any potential conflicts arise and to obtain the consent of both parties prior to continuing to represent either party in the matter. We are unaware of any current conflict that would prevent us from serving as legal counsel, and do not anticipate having problems managing any potential conflicts that may occasionally arise.

## 3. Local Government References

We invite you to contact the below references.

### **Madera LAFCo**

David Braun, Executive Director  
david.braun@maderacounty.com  
559.675.7821

### **California Tahoe Emergency Services Operations Authority**

Ryan Wagoner, Executive Director  
ryancaljpa@gmail.com  
530.559.1183

### **City of Lemoore**

Nathan Olson, City Attorney  
nolson@lemoore.com  
559.924.6744 Ext. 700

## 4. Additional Information

### Office Location

LAFCO would primarily be served from the firm's Sacramento office.

### Availability, Response Time and Administrative Contact

The attorneys assigned to serve LAFCO are available as needed for meetings or other in-person circumstances. Additionally, the firm's standards of practice require that all telephone calls be returned within 24 hours, or sooner if needed by the client, including after hours and weekends. Our service approach is to listen and understand the culture and needs of the Board and staff and establish a close communication tie. This ensures that the context of questions and needs of the client are clearly understood and met. Our firm has established high standards of practice that all personnel are expected to meet. Our attorneys adhere to firm standards to assure the highest quality of service to our clients. Senior attorneys review all work to ensure that only an outstanding work product is produced and provided to clients within the time period set by the client.

### Working Relationship

At Lozano Smith, we understand the need and benefit to establish a true working relationship with your leaders and staff to best serve your team. Essentially, the firm operates as would in-house counsel. If needed or desired by the client, we will work directly with you for any approvals needed prior to commencing work with another law firm or outside attorney. We are here to serve and advise as to how to lawfully, and economically satisfy your goals.

Coordinating daily work will be a consistent and constant flow of communication with the process for transmittal of requests or other materials done through emails and phone calls. We are available to communicate in any capacity and form regarding the status of litigation and other legal matters. We will adapt to your preferred use and coordination of legal services. Lozano Smith is committed to this availability and longstanding, successful approach for the benefit of your agency.

### Case Management Plans and Matrices; Tracking and Managing Legal Costs

Lozano Smith attorneys routinely work with clients to develop a detailed and effective case or assignment management plans, as needed, to ensure that the client is aware of the status of all pending matters. This also helps track and manage legal costs for transparency and to assist in the effort of keeping the client's legal costs to a minimal level. Specifically, for several clients we have created a case management matrix that details the following information:

- |                        |                   |
|------------------------|-------------------|
| > Lozano Matter Number | > Next Steps      |
| > Matter/Case Name     | > Budgeted Amount |
| > Responsible Attorney | > Amount Expended |
| > Current Status       |                   |

In addition to using case management matrices to manage cases/assignments, we frequently develop case timelines for complex cases. These timelines are particularly useful when a complex case or assignment requires significant work from your staff.

Lozano Smith is proactive in strategizing with clients to make sure that the quality legal services that we perform meet or exceed our clients' needs and at the same time are within budget. This is consistent with our proactive approach of advising the clients about legal developments or issues of concern in advance of being asked or receiving requests. Our attorneys, through the firm's Municipal Practice Group, regularly review developments, such as new case law or legislation, which affect our public agency clients.

## 5. Budget and Rates

### **Billing and Invoices**

Our proposed fees can be found in the attached Professional Rate Schedule. An important advantage of our billing practice is that our bills reflect time actually spent on legal work. Lozano Smith's practice is to bill in 1/10 (.10) hour increments as compared to the practice of some law firms that bill in minimum increments of either 2/10 (.20) or 3/10 (.30) hour increments regardless of actual time spent.

Lozano Smith sends invoices to clients on a monthly basis and employs a "Net 30" payment term. The firm has the flexibility to work with the client in issuing monthly statements which will meet the client's specific needs. These statements identify dates of services rendered, identification of parties rendering services, and an explanation of services. Generally, time for support staff such as legal secretaries is not billed to the client. Paralegal and law clerk time is billed the same as attorneys. Lozano Smith has the ability to issue statements at a matter level which would provide the client and Lozano Smith with the ability to track fees based on service rendered.

Furthermore, statements on a matter level could be distributed to specific departments or individuals as directed by the client. Our billing specialist would work with the client to establish department and matter information and where invoices and statements would be sent. Specific and general matters will be established for practice areas and departments. The client should provide a list of authorized personnel with authority to call attorneys. The client should supply purchase order numbers by department and matter, which can be included on invoices.

## Nicholas J. Clair

Senior Counsel



Sacramento Office  
nclair@lozanosmith.com  
916.329.7433

### Overview

Nicholas J. Clair is Senior Counsel in Lozano Smith's Sacramento Office. Mr. Clair focuses on local government and facilities and business issues for public agencies. Mr. Clair advises clients on a variety of transactional matters affecting special districts and local governments, including the Brown Act, California Public Records Act, Proposition 218, elections law, ethics, governance, financing, CEQA, and human resources.

### Experience

Prior to joining Lozano Smith, Mr. Clair was a Legislative Analyst for the California Special Districts Association. As a Legislative Analyst, Mr. Clair executed the Amicus Curia Advocacy Program by identifying cases of interest, working with local government stakeholders to coordinate amicus efforts, and participating in the brief writing process. He drafted legal documents including an amicus brief challenging a decision issued by the Commission on State Mandates and a comment letter to the California Attorney General regarding Brown Act meeting notice requirements. He also produced legal opinions, detailed bill analyses, support/opposition letters, and drafted statutory language.

### Education

Mr. Clair received his Juris Doctor degree with distinction from the University of the Pacific, McGeorge School of Law. Mr. Clair also received a certificate of concentration in Business Law. Upon graduation from McGeorge, Mr. Clair became a member of the Roger J. Traynor Honor Society. He earned his Bachelor of Arts in International and Comparative Politics from the University of Akron.

# Mary F. Lerner

Partner



Fresno & Monterey Offices  
mlerner@lozanosmith.com  
559.431.5600

## Overview

Mary F. Lerner is a Partner in Lozano Smith’s Fresno and Monterey offices and serves as co-chair of the firm’s Municipal Practice Group. Ms. Lerner is also a member of the firm’s Facilities and Business, Governance, and Labor and Employment Practice Groups. Ms. Lerner advises clients regarding a wide-range of issues affecting public agencies.

## Experience

Ms. Lerner’s practice is focused on personnel matters, finances, development, CEQA, LAFCO, the Brown Act, board governance, sustainable groundwater agencies, elections, code enforcement, First Amendment issues, labor negotiations, and public safety. Ms. Lerner is general counsel for public agency clients throughout California. In addition, she assists clients in defense of issues related to the Americans with Disabilities Act.

## Education

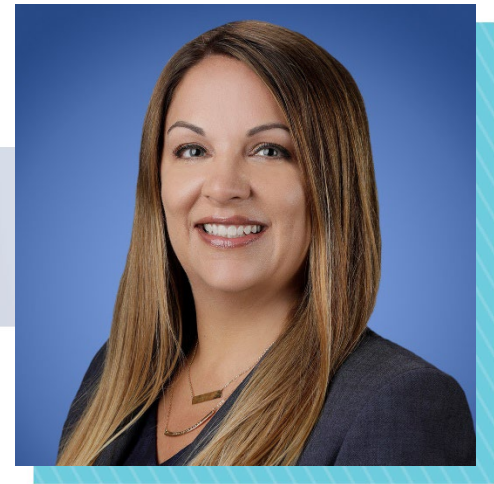
Ms. Lerner obtained her Juris Doctor degree from the San Joaquin College of Law. She graduated from California State University, Fresno with a Bachelor of Science degree in Political Science.

## Community Involvement

Ms. Lerner is an adjunct professor at the University of Phoenix, where she teaches Business Law (undergraduate and graduate levels) and Ethical Legal Topics (undergraduate level), as well as serving as a mentor to new faculty. She was selected as a recipient of the Phoenix500 Award, recognizing top faculty from across the country who go above and beyond engaging and supporting students and fostering their learning. Ms. Lerner also partners with the Fresno County Bar Association on various civic engagement opportunities, including the Speaker’s Bureau, where she works on projects with local high school students.

# Laurie Avedisian-Favini

Partner



Fresno Office  
lfavini@lozanosmith.com  
559.431.5600

## Overview

Laurie Avedisian-Favini is a Partner in Lozano Smith's Fresno office. Ms. Avedisian-Favini serves as the City Attorney for Reedley and General Counsel to Madera LAFCo. She is primarily responsible for the full range of legal services, including advising legislative bodies at public meetings and day-to-day legal services and advice to agency staff. She also provides general and special counsel services in all aspects of public agency law for many other public agency clients, including school districts.

## Experience

Ms. Avedisian-Favini frequently assists clients with governance issues, ethics and conflicts of interest, real property acquisitions and development, elections, California Voting Rights Act, code enforcement, First Amendment issues, Public Records Act, LAFCo, CEQA, bidding and construction, government liability, and Brown Act issues and compliance.

## Education

Ms. Avedisian-Favini earned her J.D. degree from the University of San Diego School of Law. She earned a B.S. from California State University, Fresno.

PROFESSIONAL RATE SCHEDULE  
FOR MENDOCINO LOCAL AGENCY FORMATION COMMISSION

1. HOURLY PROFESSIONAL RATES

Client agrees to pay Attorney by the following standard hourly rate:

All Attorneys	\$ 250 per hour
Paralegal / Law Clerk	\$ 150 per hour

2. BILLING PRACTICE

Lozano Smith will provide a monthly, itemized Statement for services rendered. Time billed is broken into 1/10 (.10) hour increments, allowing for maximum efficiency in the use of attorney time. Invoices will clearly indicate the department or individuals for whom services were rendered.

Written responses to audit letter inquiries will be charged to Client on an hourly basis, with the minimum charge for such responses equaling .5 hours. Travel time shall be prorated if the assigned attorney travels for two or more clients on the same trip.

3. COSTS AND EXPENSES

In-office copying/electronic communication printing	\$ 0.25 per page
Facsimile	\$ 0.25 per page
Postage	Actual Usage
Mileage	IRS Standard Rate

Other costs, such as messenger, meals, and lodging shall be charged on an actual and necessary basis.

## Attachment 3g

### GRIFFITH, MASUDA & HOBBS

A PROFESSIONAL LAW CORPORATION

W. Coburn Cook, 1892-1953  
Lin H. Griffith, 1923-2014

517 East Olive Street  
Turlock, California 95380  
(209) 667-5501  
Fax (209) 667-8176  
[www.calwaterlaw.com](http://www.calwaterlaw.com)  
*Founded 1920*

*Celebrating Our  
103<sup>rd</sup> Anniversary*

David L. Hobbs  
[dhobbs@calwaterlaw.com](mailto:dhobbs@calwaterlaw.com)

February 27, 2023

#### VIA ELECTRONIC MAIL & OVERNIGHT DELIVERY

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
[eo@mendolafo.org](mailto:eo@mendolafo.org)

#### **Re: Proposal for Legal Services**

Dear Executive Officer Hinman:

Thank you for the opportunity to submit this proposal.

Griffith, Masuda & Hobbs was originally founded in 1920 by W. Coburn Cook. Today we specialize in advising and representing a range of public agencies. As described below, our attorneys have a highly-detailed understanding and intimate familiarity with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“the CKH Act”). We currently represent seven special districts, a county, and five joint powers agencies in eight different counties – Butte, Calaveras, Tuolumne, San Joaquin, Stanislaus, Merced, and Monterey. Being long-time General/District Counsel to numerous special districts has created a synergy of experience that would enable us to provide responsive, effective, and efficient legal services to your Commission.

We are prepared to perform all of the responsibilities and scope of work set forth in the January 24, 2023 Request for Proposals. Our representation of public agencies includes the following matters: Brown Act, Public Records Act, CKH Act, Government Claims Act, Political Reform Act, conflicts of interest, public agency directors and officers, CEQA-NEPA, land use planning, zoning, and subdivision matters, construction law, government contracts, Federal and California grants, fees, rates and charges, Proposition 218 compliance, rules, regulations, and ordinances, land rights, negotiating and drafting complex settlement and transactional documents, and issuer’s counsel on numerous public agency financings.



1. Qualifications of Firm and Personnel. Our attorneys have a fundamental understanding of the CKH Act framework, having litigated it, worked through its contours with our public agency clients and collaborated on amendments to it through the legislative process.

- We advise nearly all of our public agency clients on the CKH Act, including but not limited to rules, procedures and ballot issues for annexations, detachment, out of boundary service issues, and service-area issues between neighboring, and sometimes competing, districts.
- In addition to providing counsel to our public agency clients on LAFCO issues, we have worked closely and in cooperation with the various LAFCOs which have jurisdiction over our public agency clients, including but not limited to attending numerous LAFCO staff and commission meetings.
- David Hobbs was lead counsel in the California 5<sup>th</sup> District Court of Appeal decision, *City of Patterson v. Turlock Irrigation District* (2014) 227 Cal.App.4<sup>th</sup> 484, where the district was opposing an undesired annexation of approximately 308 square miles by the City of Patterson into its jurisdictional boundaries. Mr. Hobbs successfully worked with TID and Stanislaus County LAFCO at the administrative level, through trial and ultimately through the appeal. Mr. Hobbs has also advised on proposed legislative amendments to the CKH Act as a direct outcome of the case.
- We regularly advise our clients on the CKH Act – our goal is to breakdown and simplify, where possible, the meaning of the sometimes-complex statutory provisions and to provide options for our clients.
- On behalf of our public agency clients, our attorney’s regularly track legislative amendments to the CKH Act and explain any potential impacts to our clients.
- We are members of CALAFCO and Mr. Hobbs is our representative.
- Our firm understands that the goals of LAFCOs and the CKH Act are to provide for logical and orderly growth with an eye toward preservation of resources. Given our experiences with other public agencies subject to LAFCO, we are keenly aware that those goals are not always shared by those subject to the LAFCO process. Moreover, because much of our current practice involves agencies providing water, sewer and other utility service, our firm is uniquely qualified to identify supply and demand issues in boundary expansion applications.

Lastly, our mission is to provide responsive, effective, and efficient legal services. “Responsive” is intentionally listed first because we realize that a primary complaint clients have against their lawyers is the failure to respond in a prompt manner. In general, for questions from the LAFCO Executive Officer that require minimal research and drafting, we would endeavor to provide an initial response the same day, time permitting. For more complex matters, we would normally ask the LAFCO Executive Officer to tell us the date they would like a written answer or the document prepared and strive to meet that deadline. For matters to be included on the Board’s agenda, we would strive to provide the response or report with sufficient time in advance for the

LAFCO Executive Officer's review and comment, for revisions we would need to make based upon those comments, and for inclusion in the Commission's agenda package.

2. Our Legal Team. Mr. Hobbs would be the lead attorney for the position, with both Mr. Masuda and Ms. Lima offering their experience and services as needed.

**David L. Hobbs** [California State Bar # 235371]: Mr. Hobbs graduated from California State University, Stanislaus (B.A., 2001) and from the McGeorge School of Law (J.D., 2004). He was admitted to the California State Bar in January 2005. Mr. Hobbs acts as the firm's lead attorney on matters for the Merquin County Water District, the Western Hills Water District, and the Turlock Mosquito Abatement District and assists in his areas of expertise for our other public agency clients. In representing these agencies, Mr. Hobbs has advised and assisted the agencies in a number of legal matters, including, but not limited to, Proposition 218 water and sewer rate increases, landowner-voting director elections, Political Reform Act, conflicts of interest, Brown Act, employment issues, implementation of water conservation measures, responding to Public Records Act requests, LAFCO, abatement procedures and enforcement, and government contract issues. He is a member of the Legal Advisory Working Group of the California Special Districts Association. Mr. Hobbs is an experienced litigator. Prior to joining the firm on July 1, 2010, Mr. Hobbs' primary area of practice was residential subdivision development. He was responsible for real property acquisitions, vertical construction contracts and warranty issues, Subdivision Map Act compliance, local zoning, and General Plan Amendments.

**Roger K. Masuda** [California State Bar # 54067]: Mr. Masuda graduated from the University of California, Los Angeles (B.A., 1969) and from the University of California, Davis School of Law (J.D., 1972). He was admitted to the California State Bar in 1972. He was also admitted to the Idaho State Bar in 1973 but he is not currently an active member of that Bar. Since 1973, Mr. Masuda has primarily advised and represented governmental and public agencies – first as an Army JAGC attorney (1973-1976) with emphasis on government contracts, administrative, and environmental law, and then in private practice as general counsel and special water counsel to public agencies. He served as part-time City Attorney of the City of Livingston, his hometown, from 1977 to 1984. He is a member of the Legal Affairs Committee of the Association of California Water Agencies and of the Legal Advisory Working Group of the California Special Districts Association. He has advised public agencies on the full gamut of public law issues. He has negotiated and drafted complex settlement and transactional documents for public agencies. He has served as the issuer's counsel in numerous public agency and joint powers agency financings involving general obligation bonds, revenue bonds, notes, and certificates of participation. He farmed almonds part-time for some 25 years. He has completed formal mediation training from the Straus Institute for Dispute Resolution, Pepperdine School of Law.

**Sara J. Lima** [California State Bar # 151294]: Mrs. Lima graduated from the University of California, Berkeley (B.A., 1987) and Hasting College of the Law, University of California (J.D., 1990). She was admitted to the California State Bar in 1990. Mrs. Lima advises and represents public agency clients on Brown Act, Public Records Act, Political Reform Act, conflicts of interest, government contracts, water rights, domestic water systems, water resources, environmental, and reservoir recreation law matters. Mrs. Lima is the Chief Assistant General Counsel for the Turlock Irrigation District and is the attorney for the Don Pedro

Recreation Agency and the Don Pedro Project Board of Control. She advises TID on the drinking water system for the Town of La Grange. She is TID’s lead attorney and chief draftsman on the surface water treatment plant project to supply up to 30,000 acre feet per year of Tuolumne River surface water to the cities of Turlock and Ceres for treatment and use by the cities.

3. Conflicts of Interest. As you may be aware, conflicts of interest are now an even more critical legal ethics issue, as the California Supreme Court has recently adopted much stricter rules concerning existing and potential conflicts of interest with respect to the attorney-client relationship. These new rules become effective November 1, 2018. Our firm does not represent any public agency or private clients in Mendocino County and, if appointed general counsel, we will not represent any public agency or private clients in Mendocino County in the future which might present a conflict of interest with our representation of LAFCO.

4. Public Agency Client References. In accordance with the January 24, 2023 Request for Proposals, please find the below references for your information.

Name/Type/Address	Main Contact/Telephone #	Law Firm’s Position
Marina Coast Water District 11 Reservation Road Marina, CA 93933	Remleh Scherzinger General Manager (831) 883-5910	General Counsel
Turlock Irrigation District P.O. Box 949 Turlock, CA 95381	Michelle Reimers General Manager (209) 883-8242	General Counsel
Turlock Mosquito Abatement District 4412 N. Washington Road Turlock, CA 95380	David Heft General Manager (209) 634-1234	General Counsel

The following is a sample and description of several of our public agency clients:

**Marina Coast Water District, Marina, CA:** The District provides water and sewer services to the City of Marina and the former Fort Ord. The District is governed by a 5-member Board of Directors. Its water source is groundwater from the Salinas Valley Groundwater Basin. The District is a member agency of the Monterey One Water Agency (“M1W”). The M1W tertiary treats the sewage from the District and other member agencies and, during the irrigation season, delivers the recycled wastewater for in-lieu groundwater use within the Castroville area. The District will begin receiving advanced treated water from M1W later this year. In 2019, the District completed an annexation proposal with the Monterey County LAFCO to annex lands within the former Fort Ord. The District’s Board of Directors appointed the law firm as general legal counsel in October 2012.

**Turlock Irrigation District, Turlock, CA:** This law firm has been outside General Counsel to the Turlock Irrigation District since the 1930’s. Roger Masuda has been serving in that role since December 1976. Founded in 1887, TID is the oldest irrigation district in California. TID is governed by a 5-member Board of Directors. During normal water years, TID diverts some

500,000 acre-feet of water per year from the lower Tuolumne River. It is also the water service provider to the Town of La Grange. TID is also a vertically integrated electric utility with hydroelectric, natural gas, wind, solar, fuel cell, coal, and geothermal generation resources, transmission, and retail distribution to electric customers within a 662-square mile service area, primarily within Stanislaus and Merced Counties. TID is the 68.46% owner and project manager of the Don Pedro Project (FERC Project No. 2299). Don Pedro Reservoir, with a maximum storage capacity of 2,030,000 acre-feet, is the sixth largest reservoir in the State of California. TID also owns and/or operates nine small hydroelectric power plants.

**Turlock Mosquito Abatement District, Turlock, CA:** The District controls mosquitoes within an area of 966 square miles. The District's 8-member Board of Trustees consists of 5 members appointed by the cities of Turlock, Hughson, Ceres, Patterson, and Newman and 3 members representing the unincorporated areas of Stanislaus County within the District's service area. The firm has been the District's attorney since 2006.

**Western Hills Water District, Patterson, CA:** Western Hills Water District, a California Water District, was formed as the water-sewer-storm drainage service provider for the golf resort development known as Diablo Grande in the hills approximately 8 miles east of Interstate 5 and the City of Patterson within Stanislaus County. The District has contract rights to 8,000 acre feet per year of State Water Project Table A water through the Kern County Water Agency. The District owns and operates a water treatment plant with a treatment capacity of 2 million gallons per day. The District provides approximately 200 acre-feet per year of treated water to approximately 414 water accounts and provides approximately 550 acre-feet per year of untreated water for the development's golf course. The District has contracted with the City of Patterson to provide all sewer services for the District. The District has a 5-member Board of Directors. The firm has been the District's General Counsel since December 2008. During 2010, we successfully negotiated a long-term unbalanced water banking program agreement between WHWD and Belridge Water Storage District, Berrenda Mesa WD, Dudley Ridge WD, Lost Hills WD, and Wheeler Ridge-Maricopa Water Storage District whereby WHWD is able to transfer its State Water Project water in excess of its annual in-district needs to the five districts and in exchange receive cash payments and Kern Water Bank storage credits. With a zero State Water Project allocation for a substantial part of 2014, the District was able to continue to provide water to its customers for the entire year by drawing on its storage credits.

5. Additional Information. Our firm's principal office is located centrally in Turlock, Stanislaus County. Our firm's accessibility to the Commission's Board or staff will not be unreasonably limited by being located in Turlock, as most communications can be conducted via email or telephone. Moreover, the increase in use of video conferencing has greatly reduced the necessity of travel time and client costs. To date there have been no impacts to accessibility for other clients located similar distances away. In addition, our location in Turlock helps avoid potential conflicts of interest.

6. Proposed Compensation to Provide Services. For the performance of the legal services listed in the RFP we propose that the firm's personnel be compensated at the following hourly rates:

<b>Position</b>	<b>Through December 31, 2023</b>	<b>January 1, 2024, through December 31, 2024</b>	<b>January 1, 2025, through December 31, 2025</b>
David L. Hobbs, Attorney	\$225 per hour	\$250 per hour	\$275 per hour
Roger K. Masuda, Attorney	\$225 per hour	\$250 per hour	\$275 per hour
Sara J. Lima, Attorney	\$225 per hour	\$250 per hour	\$275 per hour
Law Student Intern(s)	\$125 per hour	\$125 per hour	\$130 per hour
Catherine Pasma, Paralegal	\$85 per hour	\$85 per hour	\$90 per hour

The same hourly rates would apply to litigation matters. Incidentals (e.g., photocopies, faxes, etc.) would be billed at cost. We normally don't charge for photocopies unless a significant number of copies need to be made. We have found that it is more efficient to have most incidentals covered by our hourly rates.

On behalf of Griffith, Masuda & Hobbs I wanted to extend my appreciation for your time in considering our proposal. Please do not hesitate to contact me if you have any questions or need any additional information.

Very truly yours,

GRIFFITH, MASUDA & HOBBS

David L. Hobbs

RESPONSE TO REQUEST FOR  
PROPOSAL FOR LEGAL SERVICES

*Mendocino Local Agency  
Formation Commission*

*prentice*|LONG<sup>PC</sup>

# prentice|LONG<sup>PC</sup>

A LAW FIRM FOUNDED ON THE  
PRINCIPLE OF SERVICE

February 21, 2023

Uma Hinman, Executive Officer  
Mendocino LAFCo  
200 South School Street  
Ukiah, CA 95482  
[eo@mendoLAFCo.org](mailto:eo@mendoLAFCo.org)

Re: Proposal for Legal Counsel Services

Dear Ms. Hinman:

Thank you for reaching out to Prentice|Long, PC. We respectfully submit this proposal to serve as Commission Counsel for the Mendocino Local Agency Formation Commission ("Commission").

Prentice|Long, PC is a law firm founded on the principle of service. Our Firm is comprised of seasoned and experienced attorneys with a proven track record. Every attorney in the Firm stays up-to-date on the changing laws surrounding municipalities.

We are pleased to be able to offer the full-service legal services to the Commission. We advise public agencies on issues such as labor/employment, municipal law, water law, wastewater issues, and law enforcement/fire issues. We have a successful litigation record that extends all the way up to the Supreme Court of the United States. Prentice|Long, PC is also known for our trainings, which are made available to all of our clients on such matters as the Ralph M. Brown Act, sexual harassment, ethics standards for public employees, and personalized trainings to meet your needs.

If you have any questions, please feel free to contact me at (530) 691-0800 or via email at [sean@prenticelongpc.com](mailto:sean@prenticelongpc.com). We also encourage you to visit our website at [www.prenticelongpc.com](http://www.prenticelongpc.com). Thank you for considering our proposal for legal services and we very much look forward to the opportunity to serve the Commission.

Very truly yours,



Sean Cameron, Senior Associate

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## INTRODUCTION

Prentice|Long, PC is a municipal law firm founded with the purpose of providing public agencies with first class legal services at a fair and reasonable rate. The Firm is a full-service municipal law firm which is able to provide affordable rates due to a business structure that maintains a reasonable overhead with built-in efficiencies. Prentice|Long, PC is extremely qualified to provide the services necessary to safeguard the legal needs of the Commission. The Firm has built a reputation for being responsive, accurate and proactive. We look forward to bringing our passion for protecting and serving public entities to the Commission.

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## APPROACH TO LEGAL SERVICES

Prentice|Long, PC views the role of Commission Counsel as a partnership with the other department heads to advance policies of the Commission. It is our goal to find legal solutions to problems that may interfere with the Commission's goals and objectives.

The Commission Counsel will provide regular reports to the Commission regarding any outstanding litigation or other pending legal issues. However, we do not provide legal advice to an individual member as doing so could create a conflict of interest. We are able to serve the Commission on site, so we can be present if any issues arise. In addition, we are always available by email and telephone, including cell phone.

We strive to address the Commission's questions and concerns on the spot, and we do this by staying current with legal standards and case law. However, there are times when a question from a councilmember or staff may require further research. Under those circumstances, we generally try to respond within 24 hours to avoid keeping our clients waiting.

The tracking of legal fees is done through advanced technology and personnel. Fees are always reviewed, prior to billing, by at least two partners for accuracy and to identify trends in billing which may be problematic.

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## LOCATION

The Firm has offices in Redding and Fresno. The Commission Counsel will serve the Commission from the Redding location, and will attend all Commission meetings as requested. The office location is our brick-and-mortar location, but we would prefer to be on site at the Commission.

---

## LEGAL TEAM

**Sean Cameron, Senior Associate  
(Proposed Commission Counsel)**

**Margaret Long, Partner  
(Proposed Assistant Commission Counsel)**

**Amanda Uhrhammer, Partner  
(Proposed Deputy Assistant Commission Counsel)**

In addition to Ms. Long, Ms. Uhrhammer, and Mr. Cameron, the Firm has attorneys trained to handle all of the legal needs of the Commission.

Prentice|Long, PC prides itself on employing the best available para-professional and clerical support staff. Our legal secretaries and paralegals are all versed in municipal law and litigation support, and are included as part of the fixed rate.

No attorneys in the Firm are the subject of a State Bar complaint.

---

## RESUMES



### **Sean Cameron**

#### **PROPOSED COMMISSION COUNSEL**

Sean Cameron is a senior associate attorney in the Redding office of Prentice|Long, PC. His practice includes transactional, contract, business, code compliance, ordinance, planning, environmental, and land use matters.

Mr. Cameron is currently the Deputy County Counsel for the County of Trinity, County of Modoc, and the County of Sierra.

Prior to joining Prentice|Long, PC, Mr. Cameron worked for Wells Fargo Securities, LLC, drafting and negotiating complex commercial contracts to facilitate securities trading and comply with federal banking requirements. Prior to going to law school, Mr. Cameron worked for Sullivan & Cromwell, LLP, as a legal assistant in the litigation group.

Mr. Cameron has extensive experience advising clients on contract issues, guiding clients from first drafts through execution with a keen focus on protecting the client's interests, while helping the client to foster productive and beneficial relationships. In addition, Mr. Cameron has broad experience advising clients on transactional and real property matters, including property transfers, leases, and easements. Mr. Cameron has also been instrumental in the development and amendment of local ordinances and policies for Prentice|Long, PC clients. Notably, he has been successful in developing and instituting policies and procedures related to water, cannabis, and elections.

**Education and Activities:**

Mr. Cameron completed his undergraduate degree at the University of California, Santa Cruz, majoring in politics and legal studies, and received his Juris Doctorate from Golden Gate University School of Law, focusing on land use and environmental law.

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**ADMISSIONS:**

- California Bar (2014)
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## Margaret E. Long

### PROPOSED ASSISTANT COMMISSION COUNSEL

Margaret Engelhardt Long is a founding member of Prentice|Long, PC, and its managing partner. Ms. Long's practice includes municipal law, civil litigation, labor and employment law, and business law.

Prior to forming Prentice|Long, PC, Ms. Long was the managing partner of Cota Cole, LLP's Redding office. From 2005-2013, Ms. Long was an associate with the law firm of Kenny, Snowden & Norine in Redding, California. From 2003-2005, Ms. Long worked at Legal Services of Northern California, where she was the Managing Attorney.

Ms. Long has considerable experience in advising municipalities and public agencies on issues relating to employment, labor, public nuisance, law enforcement, land use, code enforcement, eminent domain, housing, public contracting, unlawful detainer, medical marijuana abatement, Proposition 218, and the Brown Act. Ms. Long's expertise includes facilitating local elections and initiatives, and engaging in labor negotiations on behalf of the local entity. Ms. Long also has experience in providing advice to planning commissions, water districts, community services districts, municipal airports and local transportation authorities. Ms. Long provides training to public and private entities on a wide variety of topics, including sexual harassment, ethics, employment matters, governance, and legal updates. In addition, Ms. Long represents five counties on their child dependency and Public Guardian matters.

For her private sector clients, Ms. Long regularly provides advice regarding wage and hour issues, employment practices, discrimination and sexual harassment matters. Ms. Long's transactional practice includes representing and advising clients on corporate formation and compliance, as well as contract drafting and review. In litigation, Ms. Long has represented clients in the full range of issues, with particular emphasis on complex labor and employment matters. Ms. Long remains actively involved with her clients through the appellate process, and was the lead attorney on two published matters: *Dutra v. Mercy Medical Center Mt. Shasta* (2012) 209 Cal.App.4th 750, and *Erlin v. United States* (9th Cir. 2004) 364 F.3d 1127.

**Education and Activities:**

Ms. Long received her Bachelor of Arts degree with honors from Wesleyan University in 2000. She received her Juris Doctorate from University of California, Davis in 2003, where she received the prestigious honor of becoming a member of The Order of the Barristers.

Ms. Long is a member of the California State Bar Association and Shasta-Trinity Counties Bar Association. Ms. Long has served as the Treasurer of the Shasta-Trinity Counties Bar Association, and President of the Shasta County Women's Refuge Board of Directors (One Safe Place), and as a Board Member for Habitat for Humanity.

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**ADMISSIONS:**

- California Bar (2003)
  - Supreme Court of the United States of America
  - Ninth Circuit Court of Appeals
  - United States District Court, Eastern District of California
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## Amanda Uhrhammer

### PROPOSED DEPUTY ASSISTANT COMMISSION COUNSEL

Amanda Uhrhammer is a partner at Prentice|Long, PC. Ms. Uhrhammer's practice includes municipal law, workplace investigations, civil litigation, labor and employment law, and business law. Ms. Uhrhammer is currently the County Counsel for Lassen County.

Prior to joining Prentice|Long, PC, Ms. Uhrhammer was the Assistant County Counsel and then Interim HR Director of Nevada County. From 2011-2015, Ms. Uhrhammer was Senior Counsel at a Sacramento firm, representing primarily school districts. In 2010, Ms. Uhrhammer worked in a Roseville firm handling legal malpractice defense. From 1997-2009, Ms. Uhrhammer worked at a large firm in Sacramento representing primarily law enforcement associations, departing as the Managing Partner.

Ms. Uhrhammer has considerable experience in advising municipalities, and public and private organizations, on issues relating to employment, labor, workplace investigations, law enforcement, land use, eminent domain, public contracting, cannabis law, Proposition 218, and the Brown Act. Ms. Uhrhammer's expertise includes workplace investigations and employment matters. Ms. Uhrhammer also has experience in providing advice to planning commissions, water districts, community services districts, municipal airports and local transportation authorities. Ms. Uhrhammer provides training to public and private entities on a wide variety of topics, including sexual harassment, ethics, employment matters, and legal updates.

For her private sector clients, Ms. Uhrhammer regularly provides advice regarding workplace investigations, wage and hour issues, employment practices, discrimination, and sexual harassment matters. In litigation, Ms. Uhrhammer has represented clients in the full range of civil litigation issues, with particular emphasis on complex labor and employment matters. Ms. Uhrhammer remains actively involved with her clients from intake through the appellate process and has three published matters: *Pitts v. District of Sacramento* (2006) 138 Cal.App.4<sup>th</sup> 853; *Coleman v. Standard Life Ins. Co.*, 288 F.Supp.2d 1116 (E.D.Cal. 2003); *Guarino v. County of Siskiyou* (2018) 21 Cal.App.5<sup>th</sup> 1170.

**Education and Activities:**

Ms. Uhrhammer received her Bachelor of Arts degree from University of California at Davis. She received her Juris Doctorate from McGeorge School of Law in 1996.

Ms. Uhrhammer has received awards as Top Lawyer in Employment Benefits from Sacramento Magazine in 2015 and 2016.

Ms. Uhrhammer is a member of the Association of Workplace Investigators, California State Bar Association, and Shasta-Trinity Counties Bar Association.

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**ADMISSIONS:**

- California Bar (1998)
  - United States District Court, Eastern District of California
  - United States District Court, Northern District of California
  - United States District Court, Central District of California
  - United States District Court, Southern District
  - Ninth Circuit Court of Appeals
  - United States Supreme Court
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## EXPERIENCE

Prentice|Long, PC is a law firm founded on the principle of service. Our Firm is comprised of seasoned and experienced attorneys with a proven track record of success as advice and litigation counsel. The attorneys of Prentice|Long, PC are dedicated to the welfare of our clients. We pride ourselves on being knowledgeable, and, importantly, understanding our clients' needs. This depth of experience and concern for our clients allows us to truly serve, not just represent.

The principal attorneys of the Firm, Margaret Long, David Prentice, and Amanda Uhrhammer, have 60 plus years of municipal law experience. Moreover, every attorney in the Firm has ongoing municipal contact and routinely advise public agencies regarding the full panoply of municipal law, political issues, public employment, labor negotiations, and litigation on a daily basis.

Our current client list is evidence of our experience in this field. Below are just some of the areas in which attorneys may assist the Commission:

### ***General LAFCo Matters***

Prentice|Long, PC has an exceptional depth of experience in the full range of legal issues affecting LAFCOs. We routinely advise on matters including: boundary changes, spheres of influence, annexations, detachments, new formations, and incorporations. We are also experts in public contracts, labor and employment, constitutional restrictions on local government, municipal finance, the California Public Records Act, municipal liability and immunities, and police/fire department operations. We regularly advise boards, and have extensive experience in the myriad laws governing public agency proceedings, such as the Ralph M. Brown Act, Political Reform Act, and restrictions on conflicts of interest.

### ***Personnel, General Liability, and Employee Relations***

Our Firm has incomparable experience in all aspects of personnel and employee relations matters. We have advised our public agency clients on virtually all aspects of employee relations, up to and including employee separation and discipline, *Skelly* hearings, and employee arbitrations. When necessary, we have successfully defended public agencies in litigation filed by both current and former employees.

### ***Preparation of Ordinances, Resolutions, Orders, and Written Memoranda***

Prentice|Long, PC regularly prepares ordinances, resolutions, and orders for its public agency clients. Whether requested by the public agency or suggested by Commission Counsel, we have drafted ordinances to assist our clients in pursuing their legislative

policies, including code enforcement, land use, resolutions of necessity for eminent domain, and environmental and water-related issues. Prentice|Long, PC also regularly prepares advice memoranda, status letters, and other written information to advise and inform its public agency clients.

### ***Public Records Act and Brown Act***

Prentice|Long, PC has extensive knowledge of the Public Records Act, the Ralph M. Brown Act, and Elections Code compliance. The Firm has assisted newly-formed public agencies to establish policies and procedures to comply with the Ralph M. Brown Act from inception. We have also developed an interactive training seminar which we offer to educate our clients as to recent developments in the Ralph M. Brown Act and the legislatively or judicially enacted modifications. On behalf of our public agency clients, we regularly and routinely respond to requests made pursuant to the Public Records Act.

### ***Land Use, CEQA, and Other Environmental Issues***

Prentice|Long, PC represents clients in all aspects of land use and environmental law. Our attorneys have significant familiarity litigating environmental disputes, defending clients against government enforcement actions, and handling real property issues and transactions, including purchase, sale, and leasing of contaminated property, rights-of-way and easements, property disposal, and public improvements. Our scope of this experience includes advice and representation, on site investigations and remedial actions, general plans and zoning, special use permits, the Subdivision Map Act, CEQA and NEPA, CERCLA, California Hazardous Substance Account Act, RCRA, Porter-Cologne, Proposition 65, air and water quality, water supply and rights, and utilities issues.

Prentice|Long, PC 's attorneys have the capability of advising public and private clients regarding compliance with hazardous materials laws and regulations, including those involving preparation of hazardous materials business plans and regulation by certified unified program agencies. Our attorneys have litigated a variety of matters involving hazardous waste discharges, including claims under CERCLA and HSAA, RCRA, and other federal and state laws, and have also handled and are familiar with NPDES permitting issues.

### ***Municipal Litigation***

Prentice|Long, PC attorneys have distinguished themselves as public agency litigators and have far-reaching practice in bench and jury trials, as well as administrative hearings. We are well versed in the issues that commonly face rural communities, as well as rules of procedure. Prentice|Long, PC attorneys are pleased to report a very high rate of success in litigation matters.

### ***Groundwater Management***


Prentice|Long, PC has broad experience with the local groundwater management and Sustainable Groundwater Management (SGM) Programs. Specifically, the Firm serves as Attorney to Sierra Valley Groundwater Management District and Modoc County Groundwater Advisory Committee. We are experienced and understand resources available to local agencies and can provide detailed guidance in managing groundwater basins sustainably.

### ***Proposition 218 Compliance***

Prentice|Long, PC is considered one of the leading experts on Proposition 218 compliance. The firm frequently lectures on that subject, and wrote and published a popular Proposition 218 manual that is still used today.

## CONFLICTS

Client List



- Sierra County
- Trinity County
- Modoc County
- Lassen County
- Lake County
- Tehama County
- Kings County
- Yuba County
- San Joaquin County
- Kern County
- Plumas County
- Colusa County
- Fresno County
- City of Lakeport
- City of Ione
- City of Taft
- City of Shasta Lake
- City of Susanville
- City of Etna
- City of Tulelake
- Town of Fort Jones
- Hayfork Fire Protection District
- Southern Cascade Community Services District
- Sierra Valley Groundwater Management District
- Fresno Kings Madera Health Authority (CalViva Health)
- Cortina Community Service District
- Chester Public Utility District
- Christian Valley Park Community Service District
- Lake Shastina Community Service District
- Scotia Community Service District
- McCloud Community Services District
- Westland Water District
- First Five of Sierra County

The Firm is not aware of any conflict of interest with our current clients. Should an actual conflict arise after our appointment, Prentice|Long, PC would take all necessary steps to eliminate such conflict and ensure proper representation.

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## ADDITIONAL SERVICES

Prentice|Long, PC offers its clients a full range of trainings specialized for their specific needs. Specifically, the Firm offers all mandated training, including the Ralph M. Brown Act, ethics and sexual harassment, with written materials. We also offer non-mandated trainings that are frequently requested and reduce liability within the Commission. These trainings are personalized to fit the needs of each client and include handouts, presentation materials, and case studies specifically tailored to assist our clients in understanding the complex issues involved in public agency law.

Prentice|Long, PC has recently provided personalized training sessions in several subjects, including the Fair Labor Standards Act, Labor Negotiations, Workplace Discipline, Workplace Investigations, and Proposition 218.

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## FEE SCHEDULE

Hourly rates for services not included in retainer	\$190 per hour for attorney time spent on litigation and labor negotiations. \$90 per hour for Paralegal/Legal Professional.
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The proposed fee structure and hourly rates are subject to further negotiation or revision, depending on the Commission’s needs. If a flat rate option is preferred, please let our office know and we can provide a revised compensation proposal.

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## COST SCHEDULE

Reasonable travel expenses (mileage)	Applicable IRS rate per mile x number of miles
Duplication/reproduction fees	Actual cost if performed by outside service; no charge if in-house
Any other expense not listed above that becomes necessary for the successful resolution of a client matter	Actual cost and upon preapproval of Commission Manager
2.0% administrative fee in lieu of separate charges for phone, fax and copies	Based on the amount of fees billed during the month

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## INSURANCE

Prentice|Long, PC maintains professional malpractice insurance in the amount of not less than \$2 million per occurrence, and will agree to maintain throughout the term of this Agreement

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## REFERENCES

Chester Robertson  
County Administrative Officer  
Modoc County  
204 South Court Street, Suite 100  
Alturas, CA 96101  
530-233-7660  
chesterrobertson@co.modoc.ca.us

Elizabeth Hamilton  
Interim County Administrative Officer  
Trinity County  
11 Court Street  
Weaverville, CA 96093  
530-623-1382  
lhamilton@trinitycounty.org

Gabriel Hydrick  
Chief Administrator  
Tehama County  
727 Oak Street  
Red Bluff, CA 96080  
530-527-4655  
cofficer@co.tehama.ca.us

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## CONCLUSION

Prentice|Long, PC, and especially Sean Cameron, Margaret Long, and Amanda Uhrhammer, are excited about the opportunity to represent the Local Agency Formation Commission of Mendocino County as Commission Counsel. We are qualified to take on this task, and are committed to working closely with staff and the Commission should we be selected. We ask that you contact our references and very much appreciate the Commission's consideration.

Thank you,  
Prentice|Long, PC