

AGREEMENT FOR CITY ATTORNEY SERVICES CITY OF IMPERIAL

This Agreement (“Agreement”) is effective as of the 16th day of March 2022, by and between the LAW OFFICE OF KATHERINE TURNER (“Attorney”) a California law firm and consultant association and the CITY OF IMPERIAL, a municipal corporation (“City”).

1. APPOINTMENT.

City Council hereby appoints Attorney to render such legal services as are customarily rendered by City Attorneys as further specified herein, including attending meetings of the City Council, Planning Commission, and other bodies of City as directed by the City Council. The City Council and Attorney agree that the position of City Attorney shall be filled by Katherine Turner. Any changes to such persons in such positions shall be approved by the City Council.

Notwithstanding the foregoing, the position of City Attorney may appoint the Assistant City Attorney to serve as acting City Attorney in his absence, or a qualified acting City Attorney to serve in his absence when the Assistant City Attorney is unavailable to serve. Such acting City Attorney shall serve for no longer than 7 days without permission from the City Manager, and for no longer than 14 days without permission from the City Council.

All such persons serving in as Assistant City Attorney or Acting City Attorney shall be compensated by the City Attorney as his sole cost.

2. TERM.

A. The term of this Agreement shall begin on 1st day of May 2022 and shall remain in effect for two (2) years, however, it shall continue in effect indefinitely from year-to-year thereafter unless either party gives written notice of its intention not to renew at least 90 days before expiration of the current term. A request by either party to revise specific terms or provisions of the Agreement shall not serve as intention not to renew, and either party may seek revisions at any time upon 90 days written notice to the other.

B. Either party may terminate this Agreement at any time by providing 90 days written notice to the other party, except that such termination may not be terminated by City within 120 days following any municipal election at which any seat on the Council is changed. The purpose of this provision is to allow the Council adequate time to objectively evaluate Attorney’s performance.

3. DUTIES.

City employs Attorney to provide any and all work necessary for the provision of City Attorney services to City, including without limitation, the following:

A. Attendance at City Council and Planning Commission meetings, and such other bodies of the City as the City Council may request, either in person or through the Assistant City Attorney unless excused by the City Manager or the Mayor. Attendance at weekly staff meetings as requested by the City Manager.

B. Provide legal advice, written legal opinions, and consultation on all matters

affecting the City to the City Council, City Manager, commissions and other bodies of the City, and officers and employees.

C. Be available for telephone or email consultation with City staff as needed on legal matters, and to maintain office hours and attendance at meetings at City Hall an average of 14 hours weekly as mutually agreed to by the City Manager and Attorney except during periods when excused by the City Manager resulting from vacations, illness, training, or similar legitimate reasons to absent from the City.

D. Prepare or review necessary legal documents such as ordinances, resolutions, contracts, bid documents including RFP's, construction documents, memoranda, and similar legal documents as requested by City.

E. Represent and advise City on pending and potential litigation as requested by City, except regarding liability matters handled by ABAG or other outside insurance providers, matters where Attorney has a conflict, or matters beyond the technical expertise of Attorney who shall, with approval of the City Council, employ such outside counsel as is necessary.

F. With respect to matters referred to outside counsel or ABAG, monitor pending litigation matters, and assist in facilitating early resolution of such matters.

G. Monitor pending and current legislation and case law as appropriate.

H. Such other normal City Attorney functions as assigned by the City Council or City Manager.

4. COMPENSATION.

City and Attorney expect that virtually all time and expenses expected to be incurred in provision of these services will be included in the monthly retainer of eight thousand dollars (\$8,000.00). The monthly retainer is based upon an estimate of 60 hours per month to be spent on "included" services. The parties agree that the monthly retainer will not change if time spent on "included" services exceeds 60 hours. The parties agree to meet and confer at the request of the other on the subject of whether the monthly retainer accurately reflects time spent by Attorney on City included services. Time spent on "excluded" services shall be billed at the hourly rate of one-hundred forty dollars (\$140.00).

For purposes of this Agreement, "included" services are those services listed under Section 3 - "Duties" and any other legal services not explicitly excluded below. Additionally, "included" services include basic matters in Imperial County Superior Court (including but not limited to subpoena compliance, motions to quash, *Pitchess* motions, infraction and misdemeanor criminal matters). "Excluded" services consist of, and are limited to, only those matters of formal, complex litigation.

City and Attorney agree that the City Attorney is an integral part of the City's management team and, aside from his/her role as legal advisor, is expected to participate in management activities and functions as directed by the City Manager, which include visible roles at community events. Attorney agrees to attend various community events as directed by the City Manager and that time spent attending such events is not to be included within the estimated 60 hours per month

described in this Section 4 and is not to be billed as an “excluded” service.

Attorney expects that virtually all costs expected to be incurred in provision of these services will be included in the monthly retainer. Reasonable additional costs, if any, incurred by Attorney on behalf of City while providing legal services shall be reimbursed by City.

Attorney shall bill City on a monthly basis for services rendered in the prior month. Attorney’s invoice shall describe in detail the services rendered and shall include a reference to the Legal Services Request which generated the invoice. Time spent shall be set forth in one-tenth of an hour increments. Work on excluded services shall be approved in advance by the City through the City Manager or his/her designee.

5. INDEPENDENT CONTRACTOR STATUS.

Attorney shall perform all legal services required under this Agreement as an independent contractor and law firm, and shall remain at all times as to City a wholly independent contractor with only such obligations as are required under this Agreement. Neither City nor any of its employees shall have any control over the manner, mode, or means by which Attorney, his agents and employees, render the legal services required under this Agreement except as otherwise set forth. Attorney shall not receive any benefits beyond the compensation set forth herein.

6. INSURANCE COVERAGE.

City agrees that Attorney, including the Assistant City Attorney and any other acting City Attorney provided by Attorney, are excused from carrying errors and omissions professional liability coverage, and because Attorney has the authority of the office of City Attorney pursuant to Government Code section 36505, the City agrees to extend the protections of Government Code section 825 to Attorney and defend and hold harmless Attorney, and other attorney’s working on behalf of Attorney in carrying out the terms and conditions of this Agreement, from any action resulting from provision of legal services under this Agreement. Attorney shall comply with California Rules of Professional Conduct 1.4.2 in advising City whether or not he maintains professional liability insurance.

7. PROFESSIONAL DEVELOPMENT.

Attorney agrees that he, and all persons working on behalf of him in provision of legal services under this Agreement, shall remain licensed to practice law in the State of California, and Attorney will ensure that he and all attorney’s acting under this Agreement shall maintain compliance with continuing education requirements and maintain competence with respect to the field of municipal law at all times while carrying out the terms of this Agreement.

8. ENTIRE AGREEMENT.

The parties agree that this Agreement contains all of the agreements of the parties and cannot be amended or modified except by written amendment or agreement. The prior written agreement by and between the City and Attorney regarding legal services is hereby terminated as of the effective date and time of this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by written amendment.

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9. NOTICES.

Any notices pursuant to this Agreement shall be sent by regular mail addressed as follows:

City:

Dennis H. Morita
City Manager
420 S Imperial Avenue,
Imperial CA 92251

Attorney:

Katherine Turner
Law Office of Katherine Turner
229 W Adams Ave, Suite 102
El Centro, CA 92251

10. INTERPRETATION OF AGREEMENT AND FORUM.

This Agreement shall be construed and interpreted in accordance with the laws of California. In the event of any dispute arising from this Agreement, the forum for judicial review shall be the Superior Court, Imperial County.

11. SEVERABILITY

If any provision or portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder shall be deemed severable and shall not be affected and shall remain in full force and effect insofar as possible.

12. CONFLICTS

Attorney has no known present or contemplated employment which is averse to the City. Attorney agrees that he will not represent clients in matters against the City. In such instances, Attorney shall make such potential conflict known to City and offer to withdraw from representing either client and assist in obtaining suitable outside counsel to represent City.

Dated: March 16, 2022

CITY OF IMPERIAL:

ATTORNEY:

Dennis H. Morita, City Manager

Katherine Turner

ATTEST:

Alexis Brown, Deputy City Clerk