



**TOWN OF LOS GATOS  
TOWN COUNCIL REPORT**

MEETING DATE: 05/18/2021

ITEM NO: 5

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DATE: May 12, 2021  
TO: Mayor and Town Council  
FROM: Robert Schultz, Town Attorney  
SUBJECT: Authorize the Town Manager to Execute Agreements with Burke, Williams & Sorensen, Richards Watson & Gershon, and the Renne Public Law Group, for Independent Police Auditor Investigation Services.

**RECOMMENDATION:**

Staff recommends that the Town Council authorize the Town Manager to execute agreements with Burke, Williams & Sorensen, Richards Watson & Gershon and the Renne Public Law Group, for Independent Police Auditor Investigation Services.

**BACKGROUND:**

On September 8, 2020, the Town hosted a Community Workshop regarding Police practices and subsequently potential changes were reviewed and discussed with community input at the September 15, 2020 and November 3, 2020 Town Council meetings. At the November 3, 2020 Council meeting, the Los Gatos Town Council unanimously authorized the Town Manager to establish an Independent Police Auditor (IPA) function.

On February 19, 2021, the Town issued a Request for Qualifications (RFQ) for Independent Police Auditor Investigation Services. The RFQ was made available on the Town's website and several firms specializing in conducting workplace investigations were contacted and informed about the RFQ. Five firms submitted qualifications and the submittals were reviewed and evaluated by the Town Attorney and Retired Judge Ladoris Cordell. Each proposal was ranked on specific criteria, including experience conducting workplace investigations, past and present experience with similar clients, pricing, and responses to the required information requested in the RFQ.

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**PREPARED BY:** Robert Schultz  
Town Attorney

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Reviewed by: Town Manager and Assistant Town Manager

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**SUBJECT:** Authorize the Town Manager to Execute Agreements with Burke, Williams & Sorensen, Richards Watson & Gershon and the Renne Public Law Group, for Independent Police Auditor Investigation Services

**DATE:** May 12, 2021

**DISCUSSION:**

The Town Attorney and Retired Judge Ladoris Cordell recommend that the Town execute agreements with three of the five firms that submitted proposals for Independent Police Auditor Investigation Services. The firms selected are Burke, Williams & Sorensen (Proposal Attachment 1), Richards Watson & Gershon (Proposal Attachment 2) and the Renne Public Law Group (Proposal Attachment 3). Each of these firms have substantial experience in conducting workplace investigations. The rates of each firm are competitive with other firms and each firm has the best depth of services and experience suited for the Town's needs. The three qualified law firms will serve on a rotating basis to independently investigate complaints submitted by the public or Town employees. The Town Attorney's Office would monitor the legal work and engage each firm on a as needed basis.

The draft agreements with Burke, Williams & Sorensen, Richards Watson & Gershon and the Renne Public Law Group (Attachment 4) are for a 3-year term.

**COORDINATION:**

This report was coordinated through the Town Manager's Office, the Police Chief's Office, and the Finance Department.

**FISCAL IMPACT:**

The agreements to be awarded are for a term of three years. Funds are available in the Fiscal Year (FY) 2020/21 Adopted Budget. Funds of \$50,000 are included in the FY 2021/22 budget. Budget authority for subsequent budget years will be requested in each annual budget for Council approval. Future funding is contingent upon Council approval and budget adoption.

**CONCLUSION:**

Staff recommends that the Town Council authorize the Town Manager to execute agreements with Burke, Williams & Sorensen, Richards Watson & Gershon and the Renne Public Law Group, for Independent Police Auditor Investigation Services.

**ATTACHMENTS:**

1. Burke, Williams & Sorensen Proposal
2. Richards Watson & Gershon Proposal
3. Renne Public Law Group Proposal
4. Draft Agreements



Proposal to Provide Independent  
Police Auditor Investigation  
Services to the

## **TOWN OF LOS GATOS**

Proposed Lead Attorney  
Timothy L. Davis

Burke, Williams & Sorensen, LLP  
60 South Market Street, Suite 1000  
San Jose, CA 95113-2336

p: 408.606.6317 | e: [tdavis@bwslaw.com](mailto:tdavis@bwslaw.com)

Submitted March 10, 2021

**burke**  
BURKE, WILLIAMS & SORENSEN, LLP

Direct No.: 408.626.6317  
[tdavis@bwslaw.com](mailto:tdavis@bwslaw.com)

March 10, 2021

**Via email to [manager@losqatosca.gov](mailto:manager@losqatosca.gov)**

Laurel Prevetti  
Town Manager  
Town of Los Gatos  
110 E. Main Street  
Los Gatos, California 95030

Re: Statement of Qualifications to Provide Independent Police Auditor Investigation Services to the Town of Los Gatos

Dear Ms. Prevetti:

On behalf of Burke, Williams & Sorensen, LLP (“Burke”), I am pleased to submit this response to the Request for Qualifications issued by the Town of Los Gatos (“Town”). Burke is extremely interested in the possibility of providing independent police auditor investigation services to the Town.

Burke was founded in 1927, and is a diverse, dynamic, and preeminent public law firm. For nearly 80 years, the representation of public agencies has been the cornerstone of Burke’s legal practice. The firm currently serves the legal needs of over 200 local governmental entities, including cities, counties, joint powers authorities, and water and school districts. We take pride in our long-standing tradition of providing excellent legal services at reasonable rates and believe our team at Burke offers the depth, expertise, and commitment that the Town seeks from its counsel. Ours is a rich tradition of providing high quality advice and services to public agencies. We are prepared to work closely with you in budgeting, performing, reporting on, and updating the legal services you need.

Our background and experience in conducting workplace investigations is extensive. We have conducted investigations in response to internal grievances and complaints, inquiries by state and federal agencies, and complaints of misconduct filed by members of the public. We have also conducted investigations for public agencies that involved high-level employees, elected officials, and political issues, as well as conducting administrative or personnel investigations in the private sector.

As described in the attached materials, we propose that Sally Trung Nguyen and I serve as investigators. Sally and I each have significant experience handling complex workplace investigations involving both sworn and non-sworn employees.

Laurel Prevetti  
March 10, 2021  
Page 2

We have reviewed the Town's contract template and do not have any exceptions or requested changes to the contract provisions.

Thank you for considering us. If you have any questions regarding this proposal, or if you would like additional information, please feel free to contact me at the number listed above. I look forward to hearing from you.

Very truly yours,

Burke, Williams & Sorensen, LLP

  
Timothy L. Davis  
Partner and Chair  
Labor and Employment Law Practice Group

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## SCOPE OF SERVICES

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We understand that each complaint is different and can lend itself to a different investigatory approach. Because of this, we will tailor each investigation to the needs of the Town. Our attorneys will familiarize themselves with any internal investigation protocols to ensure that the investigation complies not only with the special statutory and due process requirements for those employees, but also with the Town's internal procedures.

We will work directly with the Town to identify the best investigator(s) and to determine the appropriate process for each investigation. Ultimately, Burke will always strive to provide the best service to the Town at the most reasonable cost.

While the details of each investigation process may vary, there are some general approaches that will be followed in every investigation. Each investigation will begin with appropriate fact-gathering, including the review of relevant Town policies and procedures, review of relevant records and evidence, and interviews of the complaining employee(s), any witnesses, and the accused employee(s).

In keeping with any applicable legal or Town standards, Burke attorneys develop interview admonitions that are provided to all witnesses which cover topics such as confidentiality of interview (to the extent allowed by law), right to representation, and no retaliation. When necessary, each investigator will make credibility assessments of the witnesses and involved parties. In order to assess credibility and make findings of fact, we conduct in-person interviews unless circumstances are such that a telephonic interview is the only option available.

We have interviewed dozens of represented and unrepresented employees and are familiar with sources of representation rights. We will inquire into and adhere to any standard practices or contractual obligations that the Town may have with respect to representation. Further, our attorney investigators are familiar with the procedural requirements of the POBRA and FBRA, and will adhere to all necessary legal requirements for police and fire employees.

The assigned attorney may or may not use a digital recorder during an investigation, depending on the circumstances of the investigation. When utilizing a recorder, Burke's standard practice is to have working transcripts of those recordings created internally. We do not routinely provide transcripts or recordings of interviews (unless required to do so by law), but instead provide summaries of those interviews. Exceptions to this standard practice can be evaluated on a case-by-case basis.

After fact-gathering has been completed, the assigned attorney(s) will analyze all information gathered and provide a comprehensive written report of findings of fact to the individual designated as the point of contact by the Town. Our reports will be limited to making factual determinations. At the request of the Town, we can also evaluate whether any applicable Town rule or policy has been violated. We do not make legal findings or recommendations for discipline or any related issues.

At the request of the Town, we can meet with appropriate staff or officials to present our findings.

We are also mindful of confidentiality and privilege issues, and our retainer is specially drafted to establish the attorney-client privilege pursuant to *City of Petaluma v. Superior Court*. Our team of attorney investigators will be sensitive to privilege and confidentiality throughout the investigation process. We are also committed to being responsive, timely, and will keep you updated throughout the investigation.

## **EXPERIENCE AND EXPERTISE**

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Members of Burke's Labor and Employment Law Practice Group understand the frequent and unique challenges facing public entity employers in California. Burke's employment attorneys have been providing public sector investigative services for over 25 years.

Because Burke's employment attorneys regularly oversee workplace investigations by outside investigators, interact with union representatives, advise on discipline and remedial measures stemming from misconduct investigations, represent employers in disciplinary appeals, and defend investigations in litigation, we bring critical experience and perspective to performing timely, high-quality investigations that will withstand subsequent scrutiny.

Our background and experience in conducting workplace investigations is extensive. Our investigations have involved allegations of workplace harassment, discrimination and retaliation, threats of violence, inappropriate or unlawful hiring practices, bullying, insubordination and conduct unbecoming, whistleblower retaliation, general workplace misconduct, and conflict of interest, among other issues. We have conducted investigations in response to internal grievances and complaints, inquiries by state and federal agencies, and complaints of misconduct filed by members of the public.

Burke attorneys are familiar with investigations that require compliance with special rules for peace officers and firefighters and the unique procedural rights that apply to investigations involving public employees. We are always mindful of statutory deadlines, representation considerations, proper admonitions, and other procedural and substantive considerations.

Our experience includes investigations for public agencies involving high-level employees, elected or appointed officials, and sensitive personnel and political issues. We have also been involved in multi-party investigations, and we are well-equipped to handle the complications involved when there are cross-allegations made during investigations.

Additionally, our attorneys regularly teach Human Resource Professionals and other in-house investigators on appropriate investigation techniques and preparing effective investigation reports.

We offer the investigatory skills of very experienced labor and employment attorneys with knowledge and expertise of investigations of workplace misconduct of all types.

A copy of an actual investigative report written by Tim and Sally is included as Attachment C to this proposal.

## QUALIFICATIONS OF KEY PERSONNEL

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We are committed to keep the same personnel throughout the Project and propose that Timothy Davis and Sally Nguyen serve as investigators. Tim is an owner of the firm and has been with Burke since 1994. Sally is a partner who joined the firm in 2018.

### Timothy L. Davis

Timothy Davis is an equity partner of Burke and serves as Chair of Burke's Labor and Employment Law Practice Group. He has been with Burke his entire legal career, starting at the firm as a summer clerk. Tim has handled internal investigations of employment complaints involving discrimination and harassment, as well as grievances. He also trains Human Resources professionals and managers regarding proper investigation techniques.

Tim is an experienced workplace investigator, who has handled complex and high-profile investigations. For example, Tim, along with Katy Suttorp, was retained to conduct an investigation for a public agency into ten concurrent allegations of race harassment and discrimination, including three employees who had submitted their complaints to the Department of Fair Employment and Housing. One employee pursued her DFEH complaint and lawsuit against the agency, and Tim was called upon to defend their investigative work during deposition. Tim and Katy were retained a second time to investigate additional allegations of race discrimination in the agency's hiring practices.

In June 2012, the City of Oakland retained Tim to conduct internal affairs investigations for the Oakland Police Department in response to Occupy Oakland related protests in October 2011. The protests led to confrontations between protesters and the police and resulted in 1,127 citizen complaints alleging excessive use of force and other policy violations. To assist with the significant influx of cases and meet a court imposed deadline to complete the investigations, the Police Department organized the complaints into 150 different cases and assigned 16 cases with over 20 complainants to the Burke team. With only three months to complete the investigations, the Burke team followed the Police Officers Bill of Rights requirements and identified potential rule violations, noticed and interviewed a total of 60 subject and witness officers, analyzed every alleged use of force by Oakland police officers at different locations and times, including use of specialty impact less lethal munitions, chemical agents, and long batons, and brought to findings all allegations of use of force. As part of the investigations, the Burke team also analyzed collateral policy issues relating to use of force in crowd control situations and made training and policy recommendations for future crowd management and police planning.

Tim's practice also includes development of personnel rules and policies including discipline and grievance procedures, and the investigation of grievances. He advises management clients on labor and employment law compliance matters. He has also served as legal adviser during grievance proceedings. Additionally, Tim has negotiated numerous labor agreements between cities and their employee groups, including police, fire, general employees, and management groups. He currently serves as lead negotiator in collective bargaining for the cities of San Diego, Roseville, Santa Cruz, San Rafael, and Tracy, as well as the Santa Cruz Port District, and he has advised numerous other public agencies throughout the state of California on

collective bargaining issues. An experienced litigator, his reported decisions include *Alhambra Police Officers Association v. City of Alhambra*, (2003) 113 Cal.App.4th, 413.

Tim received his B.A. degree cum laude in Integral Studies from Saint Mary's College of California in 1992 and his J.D. degree from the University of the Pacific, McGeorge School of Law in 1995.

### **Sally Trung Nguyen**

Sally Nguyen is an income partner and a member of the firm's Labor and Employment Law Practice Group. She has been practicing exclusively labor and employment law for over a decade. She frequently handles work-related investigations involving both sworn and non-sworn employees. She has successfully completed the Association of Workplace Investigators' (AWI) Training Institute for Workplace Investigations and earned her AWI Certificate (AWI-CH).

Sally has conducted a wide-variety of workplace investigations, including complex matters involving numerous complainants and subjects. Recently, Sally conducted an investigation for a public agency involving four complainants alleging, collectively and separately, sex discrimination and abusive conduct against one subject. Eighteen individuals were interviewed as part of that investigation. Shortly after that investigation concluded, the same public agency retained Sally to conduct another workplace investigation. The second investigation involved cross-complaints between a manager and subordinate, each alleging abusive conduct and personnel policy violations by the other.

In addition, Sally has conducted workplace investigations involving violations of a various department policies, race discrimination, sex discrimination, age discrimination, harassment, and retaliation. She regularly advises public agencies on the Public Safety Officers Procedural Bill of Rights, Weingarten rights, and the *Skelly* process. Sally has also advised public agencies on how to conduct workplace investigations that may involve potential crimes, including the *Garrity* and *Lybarger* warnings that must be provided. Moreover, Sally has represented public agencies in administrative proceedings concerning appeals of disciplinary actions taken against sworn officers and other employees.

Sally received her B.A. degree from the University of Berkeley in 2005 and her J.D. degree from the University of California, Hastings College of Law in 2009.

### **DISCLOSURE OF LITIGATION/DISCIPLINE**

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*City of Industry v. Burke, Williams & Sorensen, LLP*, LASC Case No. KC 068777 – The parties and insurer settled this matter in November 2019 and the settlement agreement is subject to a non-disclosure agreement.

*Jane Doe v. Burke, Williams & Sorensen, LLP*, LASC Case No. BC553797 – In 2014, plaintiff Doe filed a meritless class action complaint against Burke alleging various causes of action regarding its contingency fee agreement. Thereafter, in response to numerous adverse court rulings, the plaintiff filed three different amended complaints. The court ruled in favor of Burke and dismissed the class action portion of the third amended complaint. The case regarding the

individual plaintiff's action was stayed because it related to a separate legal action in which Burke was awarded substantial attorney's fees against the plaintiff. The plaintiff's appeal of the court's ruling in favor of Burke was denied on September 30, 2020 and the case is subject to a protective order. The stay in the individual plaintiff's action has been lifted now and the plaintiff has hired her fourth new attorney to pursue the matter. There is a status conference set for March 9, 2021.

## REFERENCES & CERTIFICATION FORMS

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Burke's completed Reference Form and Certification Forms are included as Attachment A.

## INSURANCE

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Burke maintains a comprehensive insurance program with high limits through carriers which are rated A or A+ by A. M. Best rating service. The General Liability Policy provides primary limits of \$1 Million per Occurrence, including Personal Injury, followed by a \$10 Million Umbrella Policy limit. Where indemnification is required, the firm's policy includes contractual liability, blanket additional insured pro-visions, primary and non-contributory wording, severability of interests, and blanket waiver of subrogation (applicable to the workers compensation policy also). As the firm owns no automobiles, liability coverage is written to include hired or non-owned autos which may be used by the firm or its employees.

The Lawyers Professional Indemnity program provides no less than \$5 Million in coverage for each claim and no less than \$10 Million in the aggregate for all claims made during the policy period in connection with acts by or on behalf of the firm by its attorneys, employees and others in the firm's capacity as Attorneys, Counselors at Law, or Notaries; subject to the policy's terms, conditions, exclusions and limitations.

## FEE SCHEDULE

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We believe that the rates quoted below are reasonable and competitive.

### Hourly Rates

Staffing	Hourly Rate
Timothy L. Davis	\$350
Sally Trung Nguyen	\$325
Associate Attorneys	\$290

### Adjustments

The rates for legal services quoted in this proposal will remain in effect for the first year of the contract. Thereafter, unless otherwise negotiated, rates may be adjusted based on a standard annual adjustment upon consultation with the Town Manager and approved by the Town

Council as part of the Council's standard budget adoption process, equal to the greater of the average Consumer Price Index for the previous four quarters or any across the board salary increase granted to represented management personnel within the district.

## Reimbursements

We routinely charge our clients for our direct out-of-pocket expenses and costs incurred in performing the services. These costs and expenses commonly include such items as reproduction of documents, facsimile, mileage reimbursement for travel at the IRS approved rate, and other costs reasonably and necessarily incurred in performing services for the Town. We do not charge a service fee or overhead for cost reimbursement items. We also do not charge for computer or word processing time. Reimbursement amounts may be adjusted annually.

Expense	Rate
In-house reproduction charges	
black and white	20¢ per page
color	\$1 per page
Mileage	56¢ per mile (or current IRS rate)
Facsimile	\$1 per page
All other costs reasonably and necessarily incurred in performing services for the Town	at cost

## Billing Format and Procedure

Bills are sent out each month invoicing charges for the prior month. Fees for our services are charged in increments of 1/10th of an hour. The bills provide a specific description of the work performed by all attorneys, the time actually spent on the work item, and the billing rate of the attorney. These bills also contain itemized descriptions of any out-of-pocket expenses incurred during the prior month.

**ATTACHMENT B – RESUMES**

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# Timothy L. Davis

## Partner

Pronouns: he, him, his

### Silicon Valley

60 South Market Street, Suite 1000  
San Jose, California 95113

[tdavis@bwslaw.com](mailto:tdavis@bwslaw.com)

408.606.6317 D  
408.606.6300 T

Timothy Davis is a partner in Burke, Williams & Sorensen's Silicon Valley office and is Chair of the firm's Labor and Employment Law practice group.

## PRACTICE GROUPS

Labor and Employment

Litigation

Public

## EDUCATION

J.D., University of the Pacific, McGeorge School of Law, 1995

B.A., *cum laude*, Integral Studies, Saint Mary's College of California, 1992

## ADMISSIONS

State Bar of California

United States District Court for the Central District of California

Tim has tried to verdict employment cases in both federal and state court, and has conducted over 70 employment arbitrations. Tim routinely defends employers in litigation matters in actions involving state and federal law, such as Title VII, the California Fair Employment and Housing Act, Americans with Disability Act, Age Discrimination and Employment Act, Family and Medical Leave Act, California Family Rights Act, California Pregnancy Disability Act, Public Safety Officers Procedural Bill of Rights, and wage and hour issues, including wage and hour class actions. He has represented employers in claims of wrongful termination, breach of fiduciary duty, breach of loyalty, unlawful interference with prospective economic advantage, unfair competition, and constitutional rights violations. His practice also includes the representation of employers before state, federal, and local administrative proceedings, including the Department of Labor, local civil service commissions, PERB, EEOC, and OSHA. Tim's reported decisions include *Alhambra Police Officers Association v. City of Alhambra*, (2003) 113 Cal.App.4th, 413.

Tim also represents both public and private employers as a lead negotiator during collective bargaining with their employee groups, including police, fire, general employees, and management groups. Additionally, his practice includes internal investigations of employment complaints involving discrimination and harassment, as well as the presentation of seminars on how to prevent discrimination and harassment and investigate allegations of discrimination and harassment. He also trains human resources professionals and managers regarding proper investigation techniques. His practice includes development of personnel rules and policies including discipline and grievance procedures, and the investigation of grievances. He advises management clients on labor and employment law compliance matters. He has also served as legal advisor during grievance proceedings.

Tim's commitment and experience in public law began in law school, where he co-authored the article, "Does a Public Law Attorney Owe a Duty to Third Parties?" which appeared in the Summer 1994 issue of the *Public Law Journal*.

## RESULTS

- *Torrance et al. v. City of Alhambra*. Public Safety Officers Procedural Bill of Rights litigation. Prevailed at trial; employee writ and request for injunction denied; affirmed on appeal.
- *Flannagan v. City of Alhambra*. Police First Amendment litigation. Federal jury trial verdict for plaintiff limited to \$8,000 damages.

- *Alhambra Police Officers Association v. City of Alhambra.* Public Safety Officers Procedural Bill of Rights litigation. Prevailed at trial; affirmed on appeal.

#### Employment-Related Litigation

- *Tony Reeves v. City of Alhambra.* Race discrimination litigation. Prevailed on summary judgment.
- *Anthony Jones v. City of Alhambra.* Race discrimination litigation. Prevailed on summary judgment.
- *Earl Botke v. City of Alhambra.* Race discrimination litigation. Prevailed on summary judgment.
- *Alhambra Firefighters Association v. City of Alhambra.* Employment litigation. Prevailed on summary judgment.
- *Edith Lopez v. City of Alhambra.* Police discrimination litigation - race, gender, religion. Settled at mediation.
- *Isaac Amey v. City of South Gate, et al.* Race discrimination/ harassment litigation. Settled at mediation.
- *Sonia Clayton v. City of South Gate, et al.* Pregnancy and gender discrimination litigation. Settled after mediation.
- *Armando Castillo v. Ventura County Community College Dist.* Race and age discrimination litigation. Settled at mediation.
- *Ray Centeno v. Ventura County Community College District.* Race discrimination and harassment litigation. Settled at mediation.

#### Arbitrations Involving Public Employee Claims

- *Peter Nava v. City of Alhambra.* Wrongful termination arbitration. Prevailed at arbitration; employee writ denied; affirmed on appeal.
- *Daniel Humphreys v. City of Alhambra.* Wrongful termination arbitration. Prevailed at arbitration; employee writ denied.
- *Philip Sheridan v. City of Alhambra.* Wrongful termination. Prevailed at arbitration; employee writ denied.
- *Pfau v. City of Alhambra.* Employment arbitration. Prevailed at arbitration.
- *Jose Feliciano v. City of Glendale.* Wrongful demotion arbitration. Prevailed at arbitration.
- *Mike Briedert v. City of Santa Clarita.* Wrongful termination. Prevailed at arbitration.
- *R.P. Brar v. City of Banning.* Wrongful termination. Prevailed at arbitration; writ of mandate denied.
- *Cecelia Costlano v. City of Moorpark.* Wrongful suspension and wrongful termination. Prevailed at arbitration on both matters.
- *Celia Hernandez v. City of Moorpark.* Wrongful termination arbitration. Prevailed at arbitration.
- *Anthony Smith v. City of Chino Hills.* Wrongful termination arbitration. Prevailed at arbitration.
- *Michael Johnson v. Port Hueneme.* Wrongful termination arbitration. Prevailed at arbitration
- *John Harbor v. City of Santa Paula.* Wrongful termination. Prevailed at arbitration
- *Larry Blinn v. Port Hueneme.* Wrongful termination. Prevailed at arbitration.
- *Israel Reyes v. Port Hueneme.* Wrongful termination. Prevailed at arbitration.
- *Myrna Kassack v. City of Hemet.* Termination. Prevailed at arbitration; upheld on writ before in Superior Ct.

## INSIGHTS

### Presentations

“Health Insurance Opt-Outs After the Affordable Care Act and Flores v. City of San Gabriel Decision,” County Counsels’ Association of California Employment Law Conference, Santa Barbara, November 2016

“Essentials of Workplace Investigations,” CALPELRA Annual Training Conference, Monterey Conference Center, November 2016

“Firefighters Procedural Bill of Rights and the Police Officer Bill of Rights: At the Intersection of Labor Relations and POBR/FPBRA,” CALPELRA Annual Training Conference, Monterey Conference Center, October 2015

“Going with the Flow: Managing Multiple Bargaining Units to Obtain Optimal Settlements,” CALPELRA Annual Training Conference, Monterey Conference Center, November 2014

“Preparing for Factfinding: Tools to Navigate the Impasse Process Under the MMBA,” CALPELRA Annual Training Conference, Monterey Conference Center, November 20, 2013

“Preparing for Factfinding: Tools to Navigate the Impasse Process Under the MMBA,” County Counsels Association of California Employment Law Fall Conference, November 7, 2013

“Negotiating Changes to Pension Benefits,” San Diego Taxpayers Association, September 12, 2013

“Predict a Better Future: Dealing with Difficult Employees,” 2013 Western Region IPMA Annual Training Conference, May 1, 2013

“Creating Effective Documentation,” California Joint Powers Insurance Authority’s Human Resources Academy, April 23, 2013



# Sally Trung Nguyen

## Partner

Pronouns: she, her, hers

### Silicon Valley

60 South Market Street, Suite 1000  
San Jose, California 95113

[snguyen@bwslaw.com](mailto:snguyen@bwslaw.com)

408.606.6311 D  
408.606.6300 T

Sally Trung Nguyen is a partner in the firm's Silicon Valley office and is a member of Burke's Labor and Employment Practice Group. She is experienced in handling a wide-range of labor and employment disputes, including wage and hour compliance (individual and collective actions), employment discrimination, harassment, retaliation, FMLA/CFRA, and disability accommodations.

Sally has devoted her legal career to helping others resolve their disputes and has a special affinity in representing clients in labor and employment law matters. She regularly provides advice and counseling to management pertaining to labor and employment law compliance, as well as serves as the lead negotiator for various agencies. She also frequently handles investigations concerning allegations of, among other things, harassment, discrimination, retaliation, abusive conduct, and policy violations. Additionally, she regularly reviews investigation files and advises management on appropriate and strategic remedial actions. She has successfully completed the AWI's Training Institute for Workplace Investigations and earned her AWI Certificate (AWI-CH).

Prior to joining Burke, Sally worked at multiple law firms in the San Francisco Bay Area where she represented clients in individual and class action employment cases in state, federal, and administrative proceedings before the California Division of Labor Standards Enforcement (DLSE), the California Department of Fair Employment and Housing (DFEH), and the Equal Employment Opportunity Commission (EEOC). In addition, Sally has earned a mediation certificate with Community Boards.

## INSIGHTS

### Presentations

"How to Document an Employee File," Webinar, December 19, 2017

"Maternity and Pregnancy Legal Rights Program," San Jose, CA, September 10, 2016

Monthly Radio Segments on Various Worker's Rights Topics, Viet Tribune, San Jose, 2013-2014

## PRACTICE GROUPS

Labor and Employment

## EDUCATION

J.D., University of California, Hastings College of the Law, 2009

B.A., University of California, Berkeley 2005

## ADMISSIONS

State Bar of California

State Bar of New York

United States District Court for the Northern District of California

United States District Court for the Central District of California

United States District Court for the Eastern District of California

## AFFILIATIONS

Association of Workplace Investigators

National Association of Women Lawyers

Vietnamese American Bar Association of Northern California

## RECOGNITIONS

Selected to Northern California Super Lawyers, Rising Stars 2015-2019

First Place Team, 2008 International Academy of Dispute Resolution Mediation Competition

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# RICHARDS WATSON GERSHON

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## Town of Los Gatos

### Statement of Qualifications for Independent Police Auditor Investigation Services

March 10, 2021

#### **Dave Fleishman**

847 Monterey Street, Suite 206  
San Luis Obispo, California 93401  
Telephone: 805.706.0962  
Email: [dfleishman@rwglaw.com](mailto:dfleishman@rwglaw.com)



In Your Community  
At Your Side

March 10, 2021

**VIA EMAIL: manager@losgatosca.gov**

Laurel Prevetti  
Town Manager  
Town of Los Gatos  
Town Manager's Office  
110 East Main Street  
Los Gatos, California 95030

Re: ***Town of Los Gatos Independent Police Auditor Investigation Services***

Dear Ms. Prevetti:

Richards Watson & Gershon (RWG) is pleased to submit this proposal in response to the Town of Los Gatos' Request for Qualifications for Independent Police Auditor Investigation Services.

Dave Fleishman is proposed to serve as lead counsel and primary contact for the Town. Dave has previously provided investigation services for the Town's police and public works departments. Dave will be supported by Rebecca Green and will provide the Town with high-quality, proactive, and cost-efficient legal services.

Our contact information is as follows:

**Richards, Watson & Gershon**  
847 Monterey Street, Suite 206  
San Luis Obispo, California 93401  
Main: 805.706.0962  
Fax: 800.552.0078

**Richards, Watson & Gershon**  
350 South Grand Avenue, 37th Floor  
Los Angeles, California 90071  
Main: 213.626.8484  
Fax: 213.626.0078

**Dave Fleishman**  
Lead Attorney and Point of Contact  
Phone: 805.706.0962  
E-mail: dfleishman@rwglaw.com

**Kayser O. Sume**  
Chairman, Board of Directors  
Phone: 213.626.8484  
E-mail: ksume@rwglaw.com

**Contract Exceptions:**

We have reviewed the sample agreement and would request the following modifications in a final agreement:

**Indemnity:** In Section 3.4, we request that “willful or negligent act” be changed to “willfully wrongful or negligent act.” In addition, we would request modifications to clarify that RWG’s obligations only apply to the extent that damages, etc., are caused by RWG’s errors or omissions.

**Termination:** We request a minor revision to incorporate a mutual right of termination without cause.

**Compensation:** We would request modification to clarify that the “Not-To-Exceed” provisions are not intended to convert the contract to a “flat-fee” basis for all services under the contract.

**Insurance:** In Section 3.2 All Coverages, the sample agreement states: “Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.”

We request this section be revised to reflect the following:

Our insurance carriers will provide cancellation notice only. Our professional liability carriers will not provide any notice to third parties, as this insurance is designed to protect the Firm. The cancellation notice provided by the Firm’s general liability, auto and workers comp carriers will be delivered via regular US mail. The 30-day notice of cancellation will not be provided in the event of non-payment of premium. Instead, a ten (10) day notice of non-payment of premium will be provided.

We believe that the highly qualified team we are proposing, backed by RWG’s extensive resources, would provide exceptional representation to the Town and we look forward to discussing our proposal with you. If you have any questions or comments, please do not hesitate to contact us.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "Kayser O. Sume".

Kayser O. Sume  
Chairman, Board of Directors

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### Exhibits/Attachments:

Exhibit A	Attorney Resumes
Exhibit B	Investigative Report
Attachment 1	Conflict of Interest Statement
Attachment 2	Non-Collusion Declaration
Attachment 3	References
Attachment 4	Statement Regarding Insurance Coverage and Worker's Compensation Insurance Acknowledgement Certificate
Attachment 5	Sample Consultant Services Agreement

## Scope of Services and Work Plan

### Understanding of Requirements

We have read and understand the requirements in the Request for Proposal and scope of services and we have the legal expertise and skills to provide employment and labor law services to the Town.

RWG has the broad experience necessary to address virtually any legal problem and the depth of personnel to do so quickly, efficiently, and expertly. We are known for resolving difficult issues with creative solutions under the highest standards of professionalism and ethics. We understand that identifying legal issues and constraints is only the first part of the job of representing our clients, because finding effective solutions is the final measure of success.

### Technical Capabilities

We have 24-hour access to electronic mail, the Internet, video conferencing, database services, and legal research facilities, as well as word processing and other computer-based automation tools. Using the latest technology, we are able to stay in immediate contact with our clients and with one another to provide economical and timely delivery of legal services.

We have administrative help with word processing and printing, which minimizes the amount of time attorneys spend on clerical matters. We also have the ability to scan seals, logos, and other graphics, so that, with permission, they can be embedded into documents we prepare, eliminating the need for later merges or reprints by the client. We transmit and receive documents to and from clients in a number of ways, including emails with PDF or Word attachments. Clients always should feel free to pick up the telephone, send an email, or request a meeting to ask a question or request written advice. We pride ourselves on fast and efficient communication with our clients.

### Work Plan

At the beginning of any engagement, we would be pleased to meet with Town staff to introduce our team, discuss the Town's needs, and secure any relevant background information. Depending on the nature and the volume of work that is anticipated, we will want to discuss the Town's desired communication methods and frequency to keep Town personnel informed of work status. When specific assignments are made and lend themselves to a plan, we can suggest a plan for discussion or Town approval. Discreet inquiries or small projects that are completed quickly will be handled without a work plan to reduce the Town's legal costs.

When it comes to interactions with the Town Manager, Town Attorney, and senior management team, we regard accessibility and responsiveness as two of the most critical factors in the provision of legal services. Our proposed members of the team can be reached by telephone, mobile phone, and email, including when the attorney is out of the office or traveling. It is our practice to be available to clients on a very short notice. Furthermore, we take pride in our ability to completely and accurately respond to assignments and inquiries within whatever reasonable time constraints are imposed and to manage our cases with extensive client communication and input.

## Expertise and Experience

### Six Decades of Service

Founded in 1954, RWG employs a dedicated team of lawyers who specialize in the representation of public entities of all types. We take an interdisciplinary approach to the challenges faced by California public agencies. Our attorneys deliver practical and solution-oriented advice tailored to the unique needs of our public clients. We have built a reputation as the lawyers of choice for clients seeking reliable, efficient, and effective legal counsel to help achieve their goals.

### A Premier Full-Service Firm

RWG is a premier, full-service law firm. While our proposal focuses on the labor and employment services addressed in the RFP, we represent clients in all types of matters, from constitutional law to tort litigation to real estate. The Firm previously has provided legal services for the Town on matters similar to those described in the RFP, as well as on other matters. This breadth of our practice areas provides a solid base for the practical labor and employment advice and representation we provide to clients. Throughout California, public, private, and non-profit entities rely on our Firm because we have assembled a large and diverse group of talented attorneys who are dedicated to providing top-quality legal services with a "client first" attitude and approach.

RWG has expertise in the wide variety of legal issues faced by our clients. We regularly represent our clients in advisory and transactional matters, investigative and administrative proceedings, and in litigation at all levels of the state and federal court systems. Our areas of expertise include:

- Brown Act
- CEQA
- Coastal Act
- Code Enforcement
- Conflicts of Interest
- Constitutional Law
- Elections
- Human Resources
- Labor Negotiations
- Landlord Tenant Law
- Municipal Law
- NPDES
- Police and Fire practices
- Public Finance
- Public Retirement
- Public Works
- Real Estate Law
- Tort Defense
- Transportation Law
- Water Law
- Writs and Appeals

### **Demonstrated Experience**

The Firm's Labor and Employment Law Department represents employers in all aspects of the employment relationship. We offer a full range of labor and employment legal services in human resources administration, employment investigations, legal compliance, employer-employee relations, and employment litigation, including the following:

- Human resources administration, including work involving the application, interpretation, and updating of employee handbooks, compensation and benefits, and policy compliance. We also provide advice and representation in internal investigations and termination. We have conducted training programs covering performance evaluations, workplace investigations, family and medical leave programs, and harassment prevention. Recently our Labor and Employment Department has provided training programs on AB 5, the Brown Act, and Policy and Procedure Writing.
- Compliance with employment laws such as those governing wages and hours (FLSA, California Labor Code), equal employment (Title VII, FEHA, ADA, ADEA), protected leaves of absence (FMLA, CFRA, PDL, Kin Care, Labor Code, military leave), and other employee rights (privacy, whistleblower, Peace Officer Bill of Rights). We also have expertise in matters surrounding the COVID-19 pandemic, including the Families First Coronavirus Response Act, and ADA implications of COVID-19.
- Employee relations including labor negotiations, MOU administration, meet and confer issues, grievances, unfair labor practice charges, and grievance appeals. We work to remain flexible in providing the employee relations services that will best serve the specific client involved.
- Employment litigation, with the overall goal of labor and employment counseling to avoid litigation through a positive personnel program, preventive advice, and legally compliant procedures. When litigation is unavoidable, we have been very successful in defending the decisions of our clients in actions involving labor problems, alleged discrimination and

harassment, and challenges to disciplinary decisions. On behalf of our clients, we also appear in alternative dispute resolution proceedings, such as mediation and arbitration, as well as administrative proceedings before the California Department of Fair Employment and Housing (DFEH), and the U.S. Equal Employment Opportunity Commission (EEOC).

## Investigative Reports

Dave has completed the following reports for the Town of Los Gatos. We have not included copies of these reports due to their confidential nature.

1. 2020 Los Gatos Police Department investigation involving allegations of misconduct by two police officers. (Report dated 10/14/2020)
2. 2019 Los Gatos Public Works Department investigation involving allegations of misconduct by a supervisor. (Report dated 9/11/2019)
3. 2016 Los Gatos Police Department investigation involving allegations of misconduct by a police officer. (Report dated 7/15/2016)

We have included a redacted copy of an investigative report completed by Rebecca Green as Exhibit B.

## Team

RWG is committed to giving the Town the attention of our talented attorneys, and to delivering timely, high quality, and practical legal services on a cost-efficient basis. We believe that establishing a client service team at the outset of representation is an invaluable tool to ensure that the client's needs and service expectations are continuously met.

The following attorneys will serve as the primary attorneys to provide the legal services for the Town of Los Gatos as requested in the RFP, each of whom has confirmed his or her availability and willingness to provide the services requested.



### **Dave Fleishman | Lead Attorney and Point of Contact**

847 Monterey Street, Suite 206  
San Luis Obispo, California 93401-3263  
Direct: 805.706.0962  
E-mail: [dfleishman@rwglaw.com](mailto:dfleishman@rwglaw.com)

Dave has practiced extensively in the area of labor and employment law for both public and private employers. His practice has focused on the representation of public agencies in an advisory role as city attorney or general counsel in the areas of civil rights, Fair Labor Standards Act, wrongful termination, employment investigations, as well as in public entity defense litigation, including writs and appeals, public contracting, tort claims, and code enforcement. He has prosecuted a significant number of disciplinary and grievance appeal hearings on behalf of employers. He has served as lead negotiator for collective bargaining negotiations, and he has represented agencies in labor disputes. He also has represented private employers throughout California in wrongful termination, wage and hour, and other employment matters. Dave also has volunteered as a board member and officer for a number of non-profit corporations. He currently serves as the First Vice-President for the City Attorneys Department of the League of California Cities.



### **Rebecca Green | Senior Counsel**

350 South Grand Avenue, 37th Floor  
Los Angeles, California 90071  
Direct: 213.253.0217  
E-mail: [rgreen@rwglaw.com](mailto:rgreen@rwglaw.com)

Rebecca is Chair of the Labor and Employment Department. She specializes in advisory matters and litigation, and has been practicing law for 14 years. She represents cities and public entities on labor and employment issues including hiring, compliance with state and federal laws, implementing personnel policies, preventing discrimination and harassment, providing reasonable accommodations, administering discipline and termination, and managing labor relations. Rebecca also assists in drafting employment contracts, separation agreements, and memoranda of understanding; conducts workplace investigations; and provides training to employers to ensure compliance with labor and employment laws.

- A seasoned trial attorney, Rebecca represents clients in labor and employment disputes, including in mediation, arbitration, administrative hearings, and litigation in state and federal court. Rebecca's experience as a litigator gives her a unique insight into the prevention and negotiation of employment disputes, with an eye toward staving off litigation.
- Rebecca clerked for the Honorable Richard A. Paez on the United States Court of Appeals for the Ninth Circuit, and has been in private practice since then. Rebecca's appellate-level clerkship has helped her write many winning appellate briefs.

In addition to the summaries above, resumes for the team are included as Exhibit A.

## Disclosure of Litigation/Discipline

Neither RWG, nor any attorney while employed at RWG, has ever been disciplined by the California State Bar. Additionally, neither the Firm nor any attorney while employed at RWG has ever been successfully sued for malpractice. We are unaware of any complaints to the State Bar ever being made against any of our attorneys.

## Pricing Proposal

Time incurred in providing legal services will be billed in increments of one-tenth of an hour. Our invoices provide detailed explanations of tasks performed, dates of work, and the name of the attorney that performed the work.

### Fee Schedule

The proposed hourly billing rates for the core team members are as follows:

Attorney	Rate
<b>Dave Fleishman</b>	\$250
<b>Rebecca Green</b>	\$250

To the extent that the services of other Firm attorneys with specialized expertise are required, such services would be billed at a rate of \$250 per hour for all attorneys and \$155 per hour for paralegals.

## **Items Billed Separately**

Items such as mileage, photocopying, messenger and delivery services, and legal research services will be billed separately at the rates detailed below.

**Photocopying.** Copies will be billed at five cents per page.

**Mileage.** RWG bills mileage at the standard rate established by the IRS for calculating the operating expenses of an automobile used for business purposes, which currently is .56 cents per mile.

All other costs, including messenger and delivery services and court reporter or court filing fees, will be charged at the rate of the Firm's actual out-of-pocket expense. The Firm will not charge for word processing and similar clerical tasks.

## **Adjustments**

RWG proposes that commencing on July 1, 2023, and on each July 1 thereafter, the rates charged above automatically shall be increased by a percentage amount equal to the percentage increase in the United States Department of Labor, Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers for the Western Region (or other applicable region as agreed upon by RWG and the Town Council) ("CPI") for the twelve-month period ending on the immediately prior March 31. Should the Western Region CPI cease to be published in its entirety or on a periodic basis ending on March 31, RWG and the Town Council shall negotiate in good faith for a mutually acceptable alternative. Any other adjustments in the rates shall require prior approval of the Town Council.

## Exhibit A

### Attorney Resumes

**RICHARDS WATSON GERSHON**

Town of Los Gatos

Statement of Qualifications for Independent Police Auditor Investigation Services

Exhibit A - Attorney Resumes

# Dave FLEISHMAN

## Of Counsel

CENTRAL COAST

T 805.439.3515



Dave Fleishman has practiced extensively in the area of public law and in the area of labor and employment law for both public and private employers. His practice has focused on the representation of public agencies in an advisory role as city attorney or general counsel, as well as in public entity defense litigation, including writs and appeals, civil rights, Fair Labor Standards Act, wrongful termination, employment investigations, public contracting, tort claims and code enforcement. He has also represented private employers throughout California in wrongful termination, wage and hour, and other employment matters.

## WORK FOR CLIENTS

He currently serves as City Attorney for the City of Pismo Beach and interim City Attorney for the City of Solvang. He formerly served as City Attorney for the cities of Guadalupe, Pacific Grove and Solvang, and deputy city attorney for the City of Atascadero. He also previously served as assistant city attorney for the City of Morro Bay. He was formerly Assistant General Counsel for the Cambria Community Services District and the Los Osos Community Services District. He also previously served as General Counsel for the San Simeon Community Services District. He has served as special counsel for the City of Torrance and City of Seal Beach civil service commissions. He has represented over 40 cities and special districts in California and Nevada in various labor and employment matters.

## PROFESSIONAL EXPERIENCE

Prior to returning to Richards, Watson & Gershon, where he began his legal career in 1991, Dave was a partner for nearly 25 years in the law firm of Hanley & Fleishman, LLP, which focused on public agency representation throughout California.

## PRACTICE AREAS

Labor & Employment

Municipal & Public Agency Law

## FOCUS AREAS

Personnel & Human Resources

Public Records & E-Documents

Public Works & Public Contracting

## EDUCATION

J.D. *cum laude*, University of Arizona School of Law

A.B., University of California, Berkeley

## PROFESSIONAL AND COMMUNITY AFFILIATIONS

Chairperson, Legal Advocacy Committee, League of California Cities, 2018-19, Member 2017-18, 2012-14

First Vice-President, City Attorneys Department, League of California Cities, 2020-2021

Member of Ad Hoc Committee - League of California Cities City Attorneys Department Listserv

Moderator – League of California Cities City Attorneys Department Listserv

Legislative Consultant – League of California Cities

## EXPERIENCE

### PUBLISHED OPINIONS

- *George v. City of Morro Bay*, 177 F. 3d. 885 (9th Cir. 1999)

### NEWS

Supreme Court Reaffirms "California Rule" for Public Agency Employee Pensions and Upholds PEPRA Changes  
07.31.2020

### PRESENTATIONS

Email and E-Records Retention Issues under the Public Records Act  
League of California Cities City Attorneys Conference, 05.2013

Dealing With Disruptive Members of the Public  
League of California Cities Annual Conference, 10.2002

### PUBLICATIONS

Paper Terrorism: The Impact of the "Sovereign Citizen" on Local Government  
*Public Law Journal*, Vol. 27, No. 2, 2004

Featured Lawyer  
*Wired Lawyers*, 11 Law Office Computing 2, April/May 2001

# Rebecca GREEN

## Senior Attorney

### LOS ANGELES

**T** 213.626.8484

**E** [rgreen@rwglaw.com](mailto:rgreen@rwglaw.com)



Rebecca represents cities, special districts, and other public agencies on labor and employment issues including hiring and recruitment, compliance with state and federal labor regulations, drafting and implementing personnel policies, discrimination and harassment prevention, reasonable accommodation and the interactive process, discipline and termination. Rebecca also conducts personnel investigations and provides training to ensure compliance with the rapidly evolving arena of labor and employment law. She represents clients in personnel hearings, including appeals of discipline, and negotiates with employee associations to resolve grievances and form memoranda of understanding under the Meyers-Milias-Brown Act.

A seasoned trial attorney, Rebecca represents clients in employment disputes, including in mediation, arbitration, administrative hearings and litigation. She has successfully litigated collective actions under the Fair Labor Standards Act and individual claims brought under the Fair Employment and Housing Act, as well as a variety of disputes ranging from breach of employment contract to Private Attorney General Act and whistleblower lawsuits.

## PROFESSIONAL EXPERIENCE

Rebecca began her legal career as a white collar criminal defense attorney at Kirkland & Ellis in Washington, D.C., where she worked with clients to ensure compliance with federal and international laws. She moved to California to clerk for the Honorable Richard A. Paez on the United States Court of Appeals for the Ninth Circuit. Following her clerkship, Rebecca worked as a civil trial attorney, representing clients in a wide variety of areas and focusing on employment litigation. She also gained significant experience advising clients on employment matters and negotiating employment disputes with the goal of pre-litigation resolution.

### PRACTICE AREAS

Labor & Employment

### FOCUS AREAS

Discipline & Termination

Discrimination & Harassment

Litigation (Labor & Employment)

### EDUCATION

J.D., Harvard Law School

M.A., Harvard University

B.A., cum laude, Swarthmore College

## PROFESSIONAL AND COMMUNITY AFFILIATIONS

Member, Leadership Council on Legal Diversity

## NEWS

"Beyond Bostock" by Rebecca Green Is Los Angeles Lawyer Magazine's February Cover Story  
02.09.2021

Governor Signs Law Impacting COVID-19 Workplace Exposures  
09.21.2020

Governor Signs Law Creating "Bona Fide Business-to-Business Contracting" Exemption to AB 5 for Public Agencies  
09.08.2020

Department of Labor Addresses "Back to School" Issues Regarding Leave Under the Families First Coronavirus Response Act  
08.31.2020

Supreme Court Reaffirms "California Rule" for Public Agency Employee Pensions and Upholds PEPRA Changes  
07.31.2020

EEOC Issues Updated Guidance Regarding COVID-19 Response  
06.19.2020

Workplace Discrimination Against LGBTQ Employees Is Prohibited by Federal Law  
06.17.2020

CalPERS Expands Its COVID-19 Frequently Asked Questions Webpage  
05.08.2020

New Regulations Help Define the Families First Coronavirus Response Act (FFCRA)  
04.03.2020

Department of Labor Issues New Guidance on the Families First Coronavirus Response Act  
03.30.2020

New Regulations Regarding Employment of Retired Annuitants  
03.19.2020

California Supreme Court Allows Elimination of "Air Time" Benefit but Avoids Reconsideration of the "California Rule"

03.08.2019

Court of Appeal Takes Practical Approach to Police Discipline Statute of Limitations

07.09.2018

Mandatory Union Agency Fees Violate First Amendment

06.27.2018

## PRESENTATIONS

Sexual Harassment Prevention for Elected Local Agency Officials

Institute for Local Government, 08.01.2019

Policy and Procedure Writing

Victorville City Hall, 03.13.2019

Sexual Harassment Prevention for Elected Local Agency Officials

California Contract Cities Association, Indian Wells, 12.11.2018

Workplace Implications of the Me Too and Time's Up Movements

Municipal Management Association of Southern California, Women's Leadership Summit, Yorba Linda, California,

05.09.2018

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# RENNE PUBLIC LAW GROUP

Proposal for Independent Police Auditor Investigation Services

March 10, 2021

Primary Contact:

Julian Gross

Renne Public Law Group

[jgross@publiclawgroup.com](mailto:jgross@publiclawgroup.com)

350 Sansome Street, Suite 300

San Francisco, CA 94104



March 10, 2021

*Via Email*

Laurel Prevetti  
Town Manager  
Town of Los Gatos – Town Manager’s Office  
110 E. Main St.  
Los Gatos, CA 95030  
[Manager@losgatosca.gov](mailto:Manager@losgatosca.gov)

**Re: Proposal for Independent Police Auditor Investigation Services**

Dear Ms. Prevetti:

Renne Public Law Group® LLP (“RPLG” or “Offeror”) is pleased to submit this Proposal for Independent Police Auditor Investigation Services to the Town of Los Gatos (“Town”).

RPLG is a San Francisco-based law firm that serves the public sector, including cities, counties and special districts, throughout the state of California. The firm is headed by Louise Renne, the former long-time City Attorney for the City and County of San Francisco, and includes attorneys with decades of experience in public sector governance, public safety – including the operation of police and fire departments, labor relations, and litigation.

With experience in nearly every area of public law, our attorneys have the knowledge necessary to conduct thorough, impartial, and fair investigations, and to produce well-written, comprehensive reports that will withstand scrutiny. Our thorough and impartial investigations have been key to resolving workplace misunderstandings, deciding matters of discipline, preventing unsafe or discriminatory working environments, and demonstrating that a public entity has complied with its policies prohibiting discrimination, retaliation and harassment.

RPLG is associated with RPLG.Solutions (Solutions Group), a public policy advisory group, which advises public entities on important public issues, such as crisis management, and police and fire department operations. RPLG also includes a Public Safety Reform and Innovations Practice Group that currently advises public entities on police reform issues in the wake of the death of George Floyd. The group works across disciplines with a focus on common sense, pragmatic, public safety reform, as well as racial and economic equity.

RPLG brings to this project a fundamental commitment to good government, including fair and equitable policing, a critical component of which, as noted in the RFQ, is building and maintaining trust with the community. To that end, RPLG has assembled a diverse project team with extensive

experience in investigations, municipal governance, public safety reform, police department administration, labor and employment law, criminal law and procedure, as well as community involvement and engagement.

In 2019, the Daily Journal recognized RPLG as a Top Boutique Law Firm in the State of California; of the twenty firms honored, RPLG is the only firm that represents public agencies. The Daily Journal also named two of the firm's partners, Linda Ross, and Louise Renne, as among the top 100 women lawyers of 2019 in California, and in 2020 named Art Hartinger and Linda Ross as among the State's top labor and employment lawyers. The Recorder newspaper has named four of the firm's attorneys as "Superlawyers." Firm partners Louise Renne, Art Hartinger and Jon Holtzman have been named Superlawyers in each of the 16 years since the inception of the award.

RPLG was founded on the principle that representing government is public interest work. We provide the tools to strengthen and preserve public services, and to devise and implement government innovation. Although we are a "private" firm, our attorneys work with our clients to form a collaborative team with in-house staff to identify workable solutions to complex problems. For more information about our practice and team, please visit our [website](#).

I will be our firm's point of contact for this proposal and Jamal Anderson will be the Project Manager. Our contact information is:

Julian Gross, Partner  
Renne Public Law Group® LLP  
350 Sansome Street, Suite 300  
San Francisco, CA 94104  
t: 415.848.7200 | f: 415-848-7230  
[jgross@publiclawgroup.com](mailto:jgross@publiclawgroup.com)

Jamal Anderson, Senior Associate  
Renne Public Law Group® LLP  
350 Sansome Street, Suite 300  
San Francisco, CA 94104  
t: 415.848.7200 | f: 415-848-7230  
[janderson@publiclawgroup.com](mailto:janderson@publiclawgroup.com)

We understand the scope of services required, as set forth by the Town, and affirm our commitment to perform these services if selected. We have also reviewed the Town's contract template for the Consultant Services Agreement, which is acceptable to us. We look forward to the Town's review and consideration of our firm for such services.

Very truly yours,



Julian Gross

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## Review of Scope of Services

RPLG is uniquely suited to provide the services requested in the Request for Qualifications given the firm's familiarity with and proximity to the Town of Los Gatos, and other Bay Area municipalities. In addition, RPLG has a longstanding and demonstrated commitment to working with and advising public entities throughout California, including through the provision of comprehensive, independent, and transparent investigative services.

RPLG has a dedicated Investigations Practice Group, comprised of seasoned attorney investigators with years of public sector experience. Our attorney investigators are not only familiar with the best practices associated with investigations, but are also expert in several relevant areas of the law including criminal law and procedure, labor and employment law, and administrative law. In addition, our project team brings to this work a commitment to improving the relationship between law enforcement and the community, and each team member has extensive experience working with government officials and employees, as well as individual members of the community. Consequently, we would approach our work on this project understanding that our role is unique, but also part of a broader goal, shared by the Town and members of the community alike, to facilitate independent investigative processes that are fair to complainants and subjects alike.

We understand the importance of impartial investigations and the fact that well-reasoned investigative findings can support a public entity's actions if they are challenged in disciplinary proceedings or in a state or federal court. But beyond the legal implications, we also understand the importance of impartial and transparent investigations to the community and commit to conducting our work in a manner that is beyond reproach. To that end, and to the extent any modifications could be made to the scope of services already detailed, we would recommend focused efforts to keep the public informed about this work and engaged in the associated processes, when possible.

In addition to our investigations work, our public safety reform work will also be important to this project. RPLG has extensive experience representing public agencies in the area of public protection and labor & employment.

We are poised to provide support to public agencies in the area of public safety reform by advising on policy, procedures, legal limits on police powers, legislation and related issues including:

- The Meyers-Milias-Brown Act and the scope of bargaining regarding police practices
- Policy changes including the use-of-force, chokeholds, and officer responsibility for fellow officers' misconduct
- Revisions to language in peace officer collective bargaining agreements and model contract language
- Qualified Immunity
- Changes to the disciplinary process for police officers, including evaluation of requirements of the Peace Officers' Bill of Rights
- Treatment of personnel files and disciplinary documents
- Changes to judicial appeal in excessive use of force discipline cases

Our role in public safety reform efforts has been varied. In some cases, we have been asked to facilitate blue-ribbon committees, in others, to propose oversight bodies, revise policies, and to negotiate and defend changes in policies. RPLG is a source of information on best practices and the state of the field for California jurisdictions: we have assembled a database on what jurisdictions across California are doing on police reform, and track innovations and best practices from around the country. This deep level of knowledge will aid in the investigations conducted by our project team.

## Experience and Expertise

### Investigations

The firm and proposed project team bring years of experience to this work. Among the project team members are a former Deputy District Attorney, several former Deputy City Attorneys, the former City Attorney for the City and County of San Francisco, and a national leader in policy development and analysis. These RPLG team members have conducted numerous independent investigations, including for the clients listed below.

- Bay Area Air Quality Management District
- City of Berkeley
- City of Burbank
- City and County of San Francisco
- City of Fremont
- City of Fullerton
- City of Pleasanton
- City of Stockton
- City of Sunnyvale
- Kensington Police Protection and Community Services District
- Metropolitan Transportation Commission
- Moraga-Orinda Fire District
- Solano County
- Santa Clara Valley Water District
- Santa Clara County Fire District
- Seneca Healthcare District
- Tehama County
- UC Hastings College of the Law

### Representative Investigations

Listed below are representative samples that our attorneys and consultants have handled, both at RPLG and in other employment.

**Police Chief Investigation.** We recently conducted a comprehensive investigation of a complaint against a Chief of Police alleging more than 10 incidents of misconduct. We interviewed multiple witnesses, reviewed extensive documentation including organizational charts, emails, policy statements, peace officer personnel records, training records, City Council documents, budgetary documents, and photographs and made factual findings regarding each of the misconduct allegations.

**Santa Clara County Jail.** We conducted an investigation of the actions of correctional officers at the Santa Clara County Jail that resulted in the death of one inmate and the injury to another. In connection with this investigation, we reviewed video footage, jail layout, jail policies and practices, and reviewed the interviews done by homicide officers with dozens of inmates. We produced a written report that included a timeline based on the video and documentary evidence, summarized witness testimony, and provided conclusions on officer responsibility.

**Oscar Grant Shooting.** One of our partners, and a member of the proposed project team, participated in the investigation of the fatal shooting of Oscar Grant on a BART platform by BART police. The investigation included a forensic analysis of video recordings, and re-positioning a BART train to recreate the scene at the platform at the time of the shooting.

**Oakland “Riders.”** One of our partners participated in the prosecution of the termination of several police officers known infamously as the “Riders.” These officers were accused of beating suspects, planting drugs on them, making unjustified arrests and filing false reports. The disciplinary appeals were stayed pending the outcome of criminal trials – both of which ended in mistrials. The arbitrator upheld the terminations.

**Andaya v. City and County of San Francisco.** This case involved SFPD officers subduing and pepper spraying a suspect. The suspect was bound with wrist and ankle cuffs, and was placed face down in a police van. He later died, and discipline ensued. San Francisco prevailed in upholding the discipline imposed by the Police Commission.

**Investigation for a major Bay Area public employer into allegations of systemic gender and race discrimination.** A professional employee claimed that high level supervisors discriminated in making promotions and in the day-to-day treatment of women and minorities. We interviewed two dozen witnesses, examined hundreds of pages of documents and produced a 76-page report. We also conducted a follow-up investigation, involving multiple witnesses and extensive documentation, into the employee’s claim that he was a whistleblower and was retaliated against for coming forward.

**Investigation for a Bay Area City into allegations of gender discrimination and retaliation.** We investigated allegations of retaliation committed by the director of a local agency and harassment committed by a coworker. As part of the investigation, we evaluated an earlier internal investigation of a gender discrimination complaint, making this an “investigation of an investigation.” In connection with this investigation, we interviewed over 10 witnesses, reviewed extensive documentation, and drafted a 45-page report regarding the retaliation allegations against the director and a 28-page report regarding the harassment allegations against the coworker.

**Police Reform.** The City of Fresno retained Jon Holtzman to serve as General Counsel for its Commission on Police Reform. Holtzman also assisted the City of Berkeley in crafting a ballot measure for November 2020, which would create a new Police Accountability Board.

Through PolicyLink, a nationally-recognized racial equity advocacy organization, Julian Gross represented a coalition of community stakeholders in negotiation and advocacy regarding police accountability measures in San Francisco, as the City moved to implement the recommendations of its Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement.

Additionally, Julian Gross and Jamal Anderson currently serve as consultants to the City of Berkeley and the Reimagining Public Safety Task Force. In their roles, Mr. Gross and Mr. Anderson are conducting analysis of local and national policies related to the use-of-force and police discipline, advising the City and Commission on best practices, and participating in a robust community engagement effort to include residents in conversations about public safety reform.

Attachment A contains a copy of a redacted investigative report.

## Qualifications of Key Personnel

We work as a team, providing a network of legal and consulting support for our public sector clients. The Los Gatos RFQ seeks qualified investigators who can independently investigate Police Department complaints submitted by the public or any other source. Accordingly, we include in our team experts in City governance, police department administration, investigations, including public safety investigations, criminal law and procedure, crowd control and after-action reports.

The proposed primary project team will be led by RPLG Senior Associate Jamal Anderson, a former Deputy District Attorney and member of firm's Investigations Practice Group. Additional members of the team include RPLG attorneys Ruth Bond, Jenica Maldonado and Julian Gross.

Additional expert personnel will be consulted as needed based on their expertise in police administration, City governance, and police reform. They include RPLG attorneys Louise Renne, Art Hartinger, Jonathan Holtzman and Linda Ross.

RPLG is committed to maintaining the same personnel throughout the Project.

### **Louise Renne**

Louise Renne is a founding partner of Renne Public Law Group and leads the firm's public interest litigation. As a nationally recognized and respected leader in municipal law, she often testifies before federal, state, and other governmental bodies. She also is frequently requested to conduct impartial investigations for local public agencies in high-profile cases. Ms. Renne pioneered the model of public interest plaintiff coalitions comprised of government agencies, individuals, and non-profit organizations during her 16-year tenure as San Francisco City Attorney.

Ms. Renne served as President of the San Francisco Police Commission, after her tenure as City Attorney. She is actively involved in numerous matters on behalf of community-based organizations that represent African-American residents, including affirmative litigation against private corporations that discriminate in the selection of Board members.

Ms. Renne's detailed resume is included in Attachment B.

### **Jonathan "Jon" Holtzman**

RPLG founding partner Jonathan Holtzman is an expert on police reform and labor relations matters. Mr. Holtzman leads the firm's Public Safety Reform and Innovations Practice Group, and the firm's labor relations practice. Mr. Holtzman also advises public agencies on a wide variety of public matters. Prior to private practice, he served variously as former San Francisco Mayor Willie L. Brown's Director of Labor and Policy, San Francisco's Chief Deputy City Attorney, and head of the Labor and Employment Team at the San Francisco City Attorney's Office.

The City of Fresno recently retained Mr. Holtzman to serve as General Counsel for its Commission on Police Reform. Mr. Holtzman also assisted the City of Berkeley in crafting a ballot measure for November 2020, which would create a new Police Accountability Board. Mr. Holtzman is a veteran of innumerable negotiations with police unions over wages, hours, and departmental policies.

Mr. Holtzman's detailed resume is included in Attachment B.

**Arthur “Art” Hartinger**

Named by the Daily Journal on multiple occasions as a “Top Labor and Employment Lawyer,” “Top 100 Lawyer” and “Top Municipal Law Lawyer, Art Hartinger brings decades of experience with local government and police agencies. His expertise derives from handling numerous collective bargaining projects involving law enforcement unions; prosecuting police discipline matters; advising about adherence to the Police Officer Procedural Bill of Rights Act; conducting investigations, providing advice and handling litigation on behalf of police departments and Sheriffs. Mr. Hartinger is frequently called upon to evaluate police investigations, and to recommend follow up action. He regularly handles police civil rights litigation in state and federal courts.

Mr. Hartinger has represented public entities in high profile police excessive force cases. He represented the City of Oakland in disciplining the officers involved in the infamous “Rider” cases, and was a member of the investigative team that conducted the investigation into the Oscar Grant killing on BART.

Mr. Hartinger’s detailed resume is included in Attachment B.

**Ruth M. Bond**

Ms. Bond is a Partner at RPLG, and is a key member of the firm’s government, labor law and investigations practice groups. Before joining the firm, Ms. Bond served as Deputy City Attorney for the City and County of San Francisco.

Ms. Bond’s practice focuses on representing public entities in labor and employment matters as well as other areas of public law. The labor and employment matters include litigation in state and federal court, arbitrations, labor relations, day-to-day advice regarding compliance with relevant statutes and regulation, and more. Ms. Bond also conducts workplace investigations and oversees the firm’s investigations practice.

As part of the San Francisco City Attorney’s Labor and Employment team, Ms. Bond often represented San Francisco in employment litigation in state and federal court, grievance arbitrations, and labor negotiations. She advises city agencies on compliance with federal, state and local laws relating to employment including Title VII, the Fair Labor Standards Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act and San Francisco’s Civil Service Rules. Ms. Bond’s experience furthermore includes extensive motion practice, trial and appellate work in the California Court of Appeal, Ninth Circuit Court of Appeals and the California Supreme Court. She was a member of the San Francisco City Attorney’s Affirmative Litigation Task Force from June 2015 – June 2017.

Ms. Bond’s detailed resume is included in Attachment B.

**Linda M. Ross**

Linda Ross, recently named by the Daily Journal as a Top 100 female attorney in California, is a key member of RPLG’s government and investigation practice groups. Prior to joining the firm, Ms. Ross was a Deputy City Attorney for the City and County of San Francisco. There, she served for eight years as general counsel to the Mayor’s Office, under then-Mayor Gavin Newsom, and before that for many years as General Counsel to the San Francisco Police Department and Police

Commission. Ms. Ross has experience in high profile investigations involving law enforcement activities, and in law enforcement policies. During her tenure with San Francisco, she advised four separate police chiefs and currently advises other cities on police practices. In addition, Ms. Ross is an expert litigator and appellate lawyer. In recent years, her practice has focused on representing counties, cities and other public agencies on a wide variety of public law issues in complex litigation.

Ms. Ross's detailed resume is included in Attachment B.

### **Julian Gross**

RPLG partner Julian Gross provides additional capacity on police reform and labor relations components of the engagement. His expertise includes a range of high-profile matters involving negotiation with community stakeholders. These include labor negotiations, police accountability efforts, project labor agreements, and community benefits agreements.

Through PolicyLink, a nationally-recognized racial equity advocacy organization, Mr. Gross represented a coalition of community stakeholders in negotiation and advocacy regarding police accountability measures in San Francisco, as the City moved to implement the recommendations of its Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement against the backdrop of collective bargaining negotiations.

Mr. Gross's detailed resume is included in Attachment B.

### **Jamal H. Anderson**

Jamal Anderson is a Senior Associate in the firm's Litigation, Investigations and Public Safety Reform and Innovations practice groups. Prior to joining RPLG, Mr. Anderson served as a Deputy District Attorney in the San Mateo County District Attorney's Office, where he was lead counsel in nearly two dozen jury trials.

As a Deputy District Attorney, Mr. Anderson participated in numerous investigations, reviewed and analyzed thousands of police reports, and made critical determinations regarding the filing of charges and the prosecution of individuals accused of criminal conduct, including, on occasion, law enforcement officers. He also worked closely with members of the broader community including witnesses, victims, judicial officers, and law enforcement personnel. His practice focuses on representing and advising public agencies in litigation and general advice issues, conducting objective investigations, and assisting public agencies with police reform.

Prior to becoming an attorney, Mr. Anderson served as a Congressional Aide to three Members of Congress in Washington, DC, and brings years of experience in policy and legislative affairs to RPLG. In addition, Mr. Anderson previously served as Special Assistant, Policy Analyst and Federal Affairs Advisor to the former Mayor of Washington, DC, Adrian M. Fenty. Mr. Anderson also served as Policy Advisor on Washington, DC Mayor Muriel Bowser's 2014 mayoral campaign and worked as an aide on a 2004 presidential campaign.

Mr. Anderson's detailed resume is included in Attachment B.

## **Jenica Maldonado**

Jenica Maldonado has dedicated her professional life to public service, having started her career in government over twenty years ago. She is an experienced municipal law and employment attorney, equally comfortable litigating and providing advice and counsel. Prior to joining RPLG, Ms. Maldonado served as a Deputy City Attorney in the San Francisco City Attorney's Office. During her tenure in the Office, she worked on the Ethics and Elections Team and the Labor Team. Ms. Maldonado also worked with the San Francisco Police Department (SFPD), advising their Internal Affairs staff, and served as co-counsel on *Daugherty v. CCSF*, in which she defended SFPD following termination of officers after discovery of racist and other offensive text messages.

As a member of the Ethics and Elections Team at the San Francisco City Attorney's Office, Ms. Maldonado advised the Department of Elections regarding local and state election laws and municipal law matters, including public records and open meeting laws.

As a Deputy City Attorney on the Labor Team, Ms. Maldonado represented the City in employment litigation matters at the trial and appellate court levels. Her matters ranged from single plaintiff cases alleging discrimination or disability-related claims to large, multi-plaintiff lawsuits contesting promotional exams for alleged disparate impact based on race or age.

Prior to joining the Office of the City Attorney, Ms. Maldonado was an associate at Perkins Coie LLP and Hanson Bridgett LLP. During law school, she externed for Associate Justice Joyce Kennard of the Supreme Court of California and clerked for the Government Team at the San Francisco City Attorney's Office.

Ms. Maldonado's detailed resume is included in Attachment B.

### **Disclosure of Litigation/Discipline**

Neither the firm nor the attorneys have been disciplined by a regulatory body or involved in litigation relating to the provision of services.

### **References**

RPLG's references are in Attachment 3.

### **Insurance Coverage**

A sample of our insurance with details regarding the carrier, type and limit is in Attachment C.

### **Preliminary Fee Schedule**

Our fees for professional services are based on the fair value of the services rendered. To help us determine the value of our services, our attorneys and paralegals maintain time records for each client and matter. Our attorneys and paralegals are assigned hourly rates which are based on years of experience, specialization, training, and level of professional attainment. We adjust our rates periodically (usually at the beginning of each year) to account for inflation and the increased experience of our professional personnel.

To keep professional fees at a minimum, legal work that does not require more experienced attorneys will be performed, where feasible, by attorneys with lower billing rates. Paralegals and

law clerks are available to do a variety of tasks to support attorneys, including maintaining and organizing files, conducting research, and drafting documents.

RPLG will bill the Town on a monthly basis. Each bill will indicate the date of the work done, the nature of the work that was accomplished, the attorney that performed the work, and the fee for the work.

The following out-of-pocket expenses will be separately itemized and included in bills to the Town, without markup: (1) extraordinary operating expenses, including items such as messenger services, overnight mail charges, extraordinary copying and computer-assisted research; (2) necessary travel and subsistence expenses; (3) court costs, including filing fees, witness fees, and deposition and discovery costs not paid directly by the Town. All travel will be reimbursed at the IRS prevailing rate for mileage only.

The Town will review and, if it agrees with the amounts, approve RPLG's monthly statements and pay RPLG for services rendered and expenses incurred at the rates and in the amounts provided in this agreement within thirty (30) days of receipt of the monthly statements.

The following rates reflect our 2021 public sector hourly fee schedule:

Partners \$375 - \$550

Of Counsel \$305 - \$425

Associates \$275 - \$350

Law Clerks \$145 - \$155

Paralegals \$135 - \$195

Analysts \$95 - \$160

Consultants \$175 - \$450



## Julian Gross

### Partner

415.848.7200 • [tgross@publiclawgroup.com](mailto:tgross@publiclawgroup.com)

#### Practice Areas

- Employment Law
- Labor Relations and Labor Law
- Public Safety Reform and Innovations

#### Bar Admission

- California

#### Education

- University of California at Berkeley, JD
- University of Virginia, BA, with High Distinction

#### Experience

Julian Gross is one of the nation's principal experts on community benefits in land use development and public infrastructure. For over 25 years, Mr. Gross has represented nonprofits and public entities in contract negotiations, legislative and administrative drafting, and policy development aimed at advancing racial and economic equity. He has negotiated dozens of community benefits agreements (CBAs), initiating and refining a groundbreaking contractual approach to resolution of challenging urban development issues. He has taught, published, and spoken widely on the subject of land use and community benefits, with a focus on public and private negotiation strategies. Mr. Gross has also drafted numerous local hiring and contracting policies, and has worked on living wage policies, disadvantaged-business policies, and many other community economic development initiatives. He has also represented public entities and nonprofit affordable housing developers in negotiation of project labor agreements that advance multiple policy goals. In addition, he has extensive experience advising California nonprofits on a wide variety of organizational legal needs.

#### RELATED EXPERIENCE

Prior to joining RPLG, Mr. Gross founded and operated Law Office of Julian Gross, which served clients for over 20 years, prior to Mr. Gross bringing his practice into RPLG. He was the Legal Director at Partnership for Working Families / Community Benefits Law Center and the Executive Director of the San Francisco Independent Task Force on Affirmative Action in Public Contracting. Early in his career, Mr. Gross received a Skadden Fellowship, and was a staff attorney at Employment Law Center / Legal Aid Society of San Francisco. In recent years, Mr. Gross was honored to serve as the inaugural James O. Gibson Innovation Fellow at PolicyLink, a national advocacy organization advancing racial equity.

#### TEACHING

Mr. Gross's course offerings and guest lectures have included:

- University of California, Goldman School of Public Policy, 2016, 2017, 2018, 2019 – Guest Lecturer: "Tackling Inequality through Equitable Development: Perspectives on Race, Place and Class in the San Francisco Bay Area"

- Stanford Law School, 2017 – Guest Lecturer: Land Use Planning
- New York University, Wagner School of Public Service, 2015 – Guest Lecturer: multi-disciplinary course: Race, Ethnicity & Class in American Cities
- University of California, Hastings College of the Law, 2014 – Instructor, “Contract Drafting and Negotiation,” two-credit course. PACE evals: Global Index 4.52 out of 5; 19 out of 19 respondents “would recommend the course.”
- McGill University, School of Urban Planning, 2013 – Instructor, “Negotiation of Community Benefits: Power Dynamics and Practical Approaches.”
- Yale University, School of Law, 2013 – Guest Lecturer: Community Economic Development Clinic course
- Stanford Law School, 2013 – Guest Lecturer: Community Law Clinic
- University of California, Hastings College of the Law, 2008-2014 – Guest Lecturer and 2009 Practitioner in Residence, Civil Justice Clinic, Community Economic Development course.

## PUBLICATIONS

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- “*CBAs: The Future of Contractual Urbanism? An Interview with Julian Gross*” in *Urbanité*. (2012 – in French).
- “*Commentary*” in Ingram, Gregory K. and Yu-Hung Hong, *Value Capture and Land Policies*, Cambridge, MA: Lincoln Institute of Land Policy (May 2012).
- “*Public Contracting in the Proposition 209 Era: Options for Preventing Discrimination and Supporting Minority- and Women-Owned Businesses*,” (January 2012), with Tim Lohrentz, a publication of the Insight Center for Community Economic Development.
- “*Community Benefits Agreements*,” chapter in *Building Healthy Communities: A Guide to Community Economic Development for Advocates, Lawyers, and Policymakers*; a publication of the Forum on Affordable Housing & Community Development of the American Bar Association (2009).
- “*CBAs: Definitions, Values, and Legal Enforceability*,” (2008) in *Journal of Affordable Housing & Community Economic Development Law*, Volume 17, Issues 1-2, a publication of the Forum on Affordable Housing & Community Development of the American Bar Association. Selected by West Publishing as a leading land use article for 2009; reprinted in *Zoning and Planning Law Handbook*, West Publishing, Salkin (Ed.) (2009).
- “*Community Benefits Agreements: Making Development Projects Accountable*,” (2005) by Julian Gross, with Greg LeRoy and Madeline Janis-Aparicio.

## SPEAKING ENGAGEMENTS

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- Harvard/Kennedy School, Ash Center for Democratic Governance (March 2019)

- All-in Cities Convening, Austin, TX (November 2018)
- "Community Benefits for Health," presentation at San Mateo County Health System's Get Healthy San Mateo convening (May 2016)
- "Leveraging Equity for Economic Growth," presentation at PolicyLink's Equity Institute (October 2015)
- City Attorney's Conference, League of California Cities (May 2014)
- American Public Transportation Association Legal Affairs Seminar (February 2014)
- Partnership for Working Families conference (February 2014)
- McGill University, School of Urban Planning, Lecture Series (September 2013)
- Transportation Equity Network / Gamaliel webinar, "Jobs for America" (September 2013)
- Office of Federal Contract Compliance Programs/Transportation Equity Network webinar re U.S. Executive Order 11246 (April 2013)
- Lectures in Planning Series, Graduate School of Architecture, Planning, and Preservation at Columbia University (October 2012)
- "Best Practices in Developing and Implementing Targeted Hiring Policies," National Employment Law Project webinar (February 2012)
- Bay Area Contract Compliance Officers Association conference (January 2012 and May 2012)
- Lincoln Institute Land Policy Conference, Boston, MA (May 2011)
- School of Urban Planning, McGill University, Montreal, Canada, public symposium on community benefits agreements, and course on CBAs (February 2011)
- Public Dialogue on Community Benefits Agreements, Downtown East Side Neighborhood Coalition, Vancouver, Canada (February 2011)
- Green for All Communities of Practice conference (January 2011)
- Shaking the Foundations conference, Stanford Law School (October 2010)
- Green for All national webinar on contracting and hiring agreements in retrofit sector (October 2010)
- BetterBuildings Community Workshop, Chicago, IL, (September 2010)
- Forum on community benefits agreements, Legal Aid Society of San Francisco's public interest issues series, San Francisco (July 2010)
- C. Berkeley School of Law Symposium on federal procurement (2010)
- New York City Bar Association speaker series, special event re community benefits agreements (May 2010)
- American Bar Association Forum on Affordable Housing and Community Development Law Conference (May 2010).



## Jamal H. Anderson

### Senior Associate

415.848.7200 • [janderson@publiclawgroup.com](mailto:janderson@publiclawgroup.com)

#### Practice Areas

- Litigation
- Trials and Hearings
- Arbitrations
- Investigations
- Public Safety Reform and Innovations

#### Bar Admission

- California

#### Education

- University of San Francisco, JD
- The Johns Hopkins University, MA
- Howard University, BA

#### Experience

Jamal Anderson is a Senior Associate in the firm's Litigation, Investigations and Police Reform practice groups. Prior to joining RPLG, Mr. Anderson served as a Deputy District Attorney in the San Mateo County District Attorney's Office, where he was lead counsel in nearly two dozen jury trials. His practice focuses on representing and advising public agencies in litigation and general advice issues, conducting objective investigations, and assisting public agencies with police reform.

#### RELATED EXPERIENCE

Prior to becoming an attorney, Mr. Anderson served as a Congressional Aide to three Members of Congress in Washington, DC, and brings years of experience in policy and legislative affairs to RPLG. In addition, Mr. Anderson previously served as Special Assistant, Policy Analyst and Federal Affairs Advisor to the former Mayor of Washington, DC, Adrian M. Fenty. In that capacity, Mr. Anderson represented the interests of the District of Columbia and coordinated the District's appropriations request process and legislative agenda. Mr. Anderson also acted as liaison between the Mayor and the United States Congress, along with other federal entities, including the Office of Management and Budget at the White House. Additionally, Mr. Anderson served as Policy Advisor on Washington, DC Mayor Muriel Bowser's 2014 mayoral campaign and worked as an aide on a 2004 presidential campaign, traveling and working in a number of states including Vermont, Iowa, South Carolina and Michigan.

Mr. Anderson is a proud graduate of Howard University and the University of San Francisco School of Law, where he served as President of the Student Bar Association.

#### PROFESSIONAL AND COMMUNITY AFFILIATIONS

- South San Francisco High School, Mock Trial Coach

- Charles Houston Bar Association, Member
- Bay Area Lawyers for Individual Freedom (BALIF), Member
- Big Brothers Big Sisters of the Bay Area, Big Brother (2015 – 2019)
- New Leaders Council – San Francisco, 2017 Fellow; Board of Directors (2017 – 2019)

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## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on \_\_\_, 2021 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and BURKE, Williams & Sorensen, ("Consultant"). This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desires to engage Consultant to provide **independent, objective, fair, and transparent review of citizen and internal complaints regarding the conduct of Police Department personnel.**
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

### II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on March 10, 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from \_\_\_ 2021 to June 30, 2025. Consultant shall perform the services described in this agreement as follows: Independent Police Auditor Investigation Services.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services

pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of the these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.

- 2.6 Compensation. Compensation for Consultant's professional services shall be as set forth in their proposal attached as Exhibit A.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for

performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

2.11 Conflict of Interest. Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

2.12 Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

### **III. INSURANCE AND INDEMNIFICATION**

3.1 Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.2 All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

#### IV. GENERAL TERMS

4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.

4.3 Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.

4.4 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.

4.5 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

4.6 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos  
Attn: Town Clerk  
110 E. Main Street  
Los Gatos, CA 95030

CONSULTANT  
Attn: Tim Davis

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

- 4.7 **Order of Precedence.** In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.8 **Entire Agreement.** This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement.

Town of Los Gatos

Consultant

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Laurel Prevetti, Town Manager

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By:

Approved as to Form:

---

Robert Schultz, Town Attorney

Attest:

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Shelley Neis, CMC, Town Clerk

## AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on \_\_\_\_ 2021 by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and RICHARDS WATSON & GERSHON ("Consultant"). This Agreement is made with reference to the following facts.

### I. RECITALS

- 1.1 The Town desires to engage Consultant to provide independent, objective, fair, and transparent review of citizen and internal complaints regarding the conduct of Police Department personnel.
- 1.2 The Consultant represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges Town has relied upon these warranties to retain Consultant.

### II. AGREEMENTS

- 2.1 Scope of Services. Consultant shall provide services as described in that certain Proposal sent to the Town on March 10, 2021, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. This contract will remain in effect from \_\_\_\_ 2021 to June 30, 2025. Consultant shall perform the services described in this agreement as follows: Independent Police Auditor Investigation Services.
- 2.3 Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services

pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of the these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.

- 2.6 Compensation. Compensation for Consultant's professional services shall be as set forth in their proposal attached as Exhibit A.
- 2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:

Town of Los Gatos  
Attn: Accounts Payable  
P.O. Box 655  
Los Gatos, CA 95031-0655

- 2.8 Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for

performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

2.11 Conflict of Interest. Consultant understands that its professional responsibilities are solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

2.12 Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

### **III. INSURANCE AND INDEMNIFICATION**

3.1 Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3.2 All Coverages. Each insurance policy required in this item, other than professional liability insurance, shall be endorsed to state that coverage shall not be cancelled except after thirty (30) days' prior written notice (except in the case of non-payment of premium, in which case notice shall be ten (10) days) by regular mail, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

3.3 Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further,

Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

3.4 Indemnification. The Consultant shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work under this agreement to the extent such damages are caused by a willfully wrongful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.

#### IV. GENERAL TERMS

4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.

4.3 Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.

4.4 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.

4.5 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.

4.6 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos  
Attn: Town Clerk  
110 E. Main Street

Los Gatos, CA 95030  
CONSULTANT  
Attn:

ADDRESS

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Town of Los Gatos

Consultant

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Approved as to Form:

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Robert Schultz, Town Attorney

Attest:

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Los Gatos, CA 95030

CONSULTANT  
Attn:  
ADDRESS

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Town of Los Gatos

Consultant

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Laurel Prevetti, Town Manager

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By:

Approved as to Form:

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Robert Schultz, Town Attorney

Attest:

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Shelley Neis, CMC, Town Clerk