

August 15, 2014

**VIA EMAIL**

Dennis J. Herrera  
City Attorney  
OFFICE OF THE CITY ATTORNEY  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682

Re: Retainer

Dear Dennis:

This letter will set forth our Agreement concerning Keker & Van Nest LLP's representation of you and the Office of the City Attorney. The purpose of this document is to set forth our mutual understandings concerning the terms of retention.

1. The scope of the representation shall be to represent you in any threatened or actual litigation and in responding to administrative claims by Joanne Hoeper relating to her claims of wrongful termination and retaliation.
2. The representation shall be only for the purpose described above. Any additional representation will require a separate agreement. By signing this Agreement, you understand and agree that you will pay fees and costs for all preliminary work we do, including evaluation of the case.
3. You will be charged the following rates for time spent on the case, including any time spent traveling in connection with this representation. Our prevailing rates range from \$475 per hour to \$1,175 per hour for attorney time, \$230 per hour to \$290 per hour for paralegal time, and \$130 per hour for paralegal case clerks. John Keker's time is customarily billed at \$1,175 per hour while my time is customarily billed at \$975 per hour; however, John and I will bill you at a blended rate of \$850 per hour. Associate attorneys will bill at their prevailing rates minus 10%. Benita Brahmhatt's customary rate is \$525, which we will reduce by 10%. Rates may increase from time to time. All invoices will list time charged by person, task and day (minimum time unit is 1/8 hour).

Dennis J. Herrera

August 15, 2014

Page 2

4. You also will be charged for out-of-pocket costs, including but not limited to, copy costs, travel costs, expert fees, electronic legal research costs, deposition costs, and investigation costs. For any cost item exceeding \$3,000, we will send bills to you as we receive them for payment so that we can promptly pay our vendors.
5. We prepare invoices monthly, itemizing the time spent and the costs incurred. We ask and expect payment of our invoices within 15 days of receipt, except payment of any questioned amounts may be withheld until the propriety of any such charge can be reasonably determined. Until any dispute is resolved, you agree to pay all undisputed amounts.
6. Kecker & Van Nest agrees to comply with San Francisco's Equal Benefits Ordinance (Admin Code 12R), limitations on contributions (Campaign and Finance Code 1.126) and all other applicable laws and regulations in the performance of this Agreement.
7. As you are aware, Kecker & Van Nest from time to time represents litigants whose interests are adverse to the City's. You have agreed to negotiate in good faith with us so that we may obtain waivers of any conflicts of interest arising from such future representations. Susan Harriman and Benita Brahmhatt will not work on any matter adverse to the City during the pendency of this litigation. We also will wall off all partners (except John Kecker) and associates working on any matter adverse to the City from this matter. You are aware that John Kecker represents Boston Properties and other developers concerning a potential Mello-Roos District around the TransBay terminal, and you have agreed that he may continue to do so.
8. In light of the threat of litigation against you and the Office of the City Attorney, you have a duty to take affirmative steps now to preserve all potentially relevant evidence. Many courts have imposed severe sanctions in cases where a party has failed to do so. The duty to preserve potentially relevant evidence is broad. It applies not only to paper documents, but also to electronically stored information. For that reason, you must immediately suspend any and all document destruction programs for all paper and electronic records that potentially relate to the subject matter of the litigation. This temporary suspension must remain in effect until a careful determination of what records and information are potentially relevant to this litigation is made and more specific preservation instructions can be issued.
9. Representation of you in both your individual capacity—should Ms. Hoeper name you in that capacity—and as the City Attorney may present the potential for a conflict of interest. At the present time, we are aware of no actual conflict of interest relating to the representation, and you have advised us that you do not perceive any actual conflict of interest relating to the representation. You agree to notify us upon becoming aware of any actual conflict of interest relating to this representation. We agree to notify you if we become aware of any such actual conflict of interest. You further acknowledge that

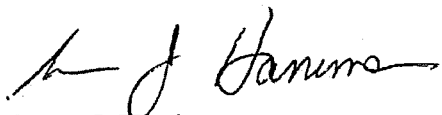
you have had the opportunity to speak with independent counsel concerning the possibility of any conflicts that may affect our representation of you.

10. Our loyalty runs jointly to you in both your roles. This may result in some decisions being made which are in the best interest of a joint strategy, but which are not necessarily in the best interests of you individually. You have been advised of the risks of joint representation, and have decided to waive any potential conflict. In the event that at a later time an actual conflict of interest should arise making joint representation no longer feasible or desirable, you agree that we shall represent the Office of the City Attorney.
11. By signing below, you acknowledge and agree that you have agreed to our joint representation of you at this time, that no actual conflict exists between you and that, if an actual conflict of interest should arise in the future, this firm will continue to represent the Office of the City Attorney and another law firm will represent you.
12. You may discharge us at any time for any reason. Keker & Van Nest LLP may withdraw from the representation for good cause, including nonpayment of fees. If withdrawal occurs, we will promptly return all funds you advanced in excess of costs and fees. If you owe us fees and costs, such fees and costs will be promptly paid after withdrawal.
13. After our services conclude, Keker & Van Nest LLP will, upon your request, deliver the file for this matter to you, along with any funds or property of yours and the Office of the City Attorney in our possession. If you do not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. At any point during the seven year period, you may request delivery of the file. If you do not request delivery of the file for this matter before the end of the seven year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to you. It is your responsibility to provide Keker & Van Nest LLP with your current address during this period.
14. This Agreement constitutes the entire, final and binding agreement between Keker & Van Nest LLP, you and the Office of the City Attorney. No other statement or representation, written or oral, express or implied, has been received or relied upon, and all prior or contemporaneous discussions, statements, and negotiations relating to the subject matter of this Agreement are superseded and merged into this Agreement.
15. This Agreement may be amended, altered, modified or otherwise changed in any respect or particular only by a writing duly executed by Keker & Van Nest LLP, each of you and the Office of the City Attorney.
16. Keker & Van Nest LLP is a limited liability partnership pursuant to the California Corporations and Business & Professions Code.

Dennis J. Herrera  
August 15, 2014  
Page 4

Please review this document in its entirety. If you have any questions about its terms, please feel free to ask me or any other attorney. If it meets with your approval, please sign below and return the original to me.

Very truly yours,



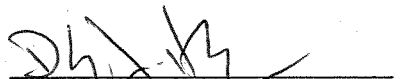
Susan J. Harriman

SJH:js

Agreed and Accepted:

Dated: August \_\_, 2014

By:

  
\_\_\_\_\_  
DENNIS J. HERRERA  
On behalf of himself and  
The Office of the City Attorney