



AGENDA REPORT

CITY OF SAN CLEMENTE

City Council Meeting

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: 3/7/2023

Agenda Item: 9C

Department: Community Development
Prepared By Adam Atamian, Deputy Community Development Director

Subject:
CODE ENFORCEMENT LEGAL SERVICES

Fiscal Impact:
Adequate funds are provided in the FY 2022-23 budget. It is anticipated that revenue generated from these services will cover a significant amount of the costs incurred.

Summary:
Staff recommends that the City Council approve two professional services agreements with Civica Law Group, APC. The purpose of the agreements is to provide: (1) legal services for the Code Compliance Division, and (2) OCSD citation support services.

Background:
Since March 1, 2017, the City has utilized the services of Silver and Wright, LLP, to provide legal counsel for the Code Compliance Division. In addition, the City has also utilized their legal services for pursuing OCSD issued citations, as the primary prosecuting authority for municipal code violations. The law firm of Silver and Wright, LLP is under a reorganization. The Silver & Wright attorneys who exclusively assist the City with legal matters have started a new law firm, Civica Law Group, APC. Staff recommends retaining the expertise of these attorneys through a new contract with Civica Law Group, APC to replace the current contracts with Silver and Wright, LLP.

After reviewing the matter with the City Attorney, the firm of Civica Law Group, APC was determined the most qualified provider for these needed services. It is important to note that Best, Best & Krieger (BBK) provide City Attorney services and that their contractual responsibility remains unchanged with this recommendation. BBK will maintain the lead role of protecting the legal interests of the City. BBK has had this type of relationship with law firms such as Civica Law Group, APC, which is a critical aspect to the success of these proposed legal services.

Discussion:
Civica Law Group, APC is a law firm specializing in municipal law, code enforcement, police services, receiverships, land-use, zoning, and cost recovery. Civica Law Group, APC provides a streamlined and cost effective approach to the legal process to abating code enforcement violations while achieving full cost recovery for many of their services. With respect to OCSD citation support services, while these prosecutorial services do not have a cost recoverable element to them, continuing to pursue these citations has been a public safety benefit for the City.

Having successfully assisted the City since 2017 on legal matters concerning code enforcement

efforts, such as abating nuisance properties, and prosecuting misdemeanor citations issued by OCSD for SCMC violations, the attorneys at Civica Law Group, APC have acquired specialized knowledge about this subject matter. Additionally, these attorneys are familiar with the unique attributes of the City's efforts in these matters, and are capable of maintaining continuity in the provision of such legal services.

Pursuant to Policy #201-2-3, Selection of Professional Services Contractors, staff is recommending an exemption based on meeting two of the three criteria set forth in the policy that make this determination. Of the three criteria for exemption, staff feels that two of the criteria are fulfilled:

7.1.1- The project is of a critical nature and, due to time constraints, compliance with the policy requirements would jeopardize timely completion;

7.1.2- The proposed professional services provider has unique familiarity with the project, subject area, or possesses other attributes that make the professional services provider uniquely qualified to provide the services.

At this time, staff is seeking to terminate the outstanding agreement with Silver & Wright LLP for legal services and start new contracts for code enforcement legal services and OCSD citation support services with Civica Law Group, APC.

Recommended Actions:

Staff Recommendation

STAFF RECOMMENDS THAT the City Council:

1. Direct staff to terminate contract C19-80 by and between the City of San Clemente and Silver & Wright LLP, providing for code enforcement legal services.
2. Direct staff to terminate contract C19-81 by and between the City of San Clemente and Silver & Wright LLP, providing for municipal citation legal services.
3. Approve and authorize the City Manager to execute a contract with the law firm of Civica Law Group, APC for code enforcement legal services for a prorated, not-to-exceed amount of \$62,000 for FY 2022-23, and renew annually each fiscal year for a not to-exceed amount of \$186,000, subject to approval through the annual budget adoption.
4. Approve and authorize the City Manager to execute a contract with the law firm of Civica Law Group, APC for municipal citation legal services for a prorated, not-to-exceed amount of \$33,200 for FY 2022-23, and renew annually each fiscal year for a not to-exceed amount of \$99,600, subject to approval through the annual budget adoption.

Attachment:

1. Draft Professional Services Agreement for Code Enforcement Legal Services
2. Draft Professional Services Agreement for Prosecutorial Services

Notification:

None.

**AGREEMENT BETWEEN CIVICA LAW GROUP, APC
AND THE CITY OF SAN CLEMENTE
FOR CODE ENFORCEMENT LEGAL SERVICES**

1. PARTIES AND DATE.

This agreement ("Agreement") is made and entered into on March ____, 2023 by and between the CITY OF SAN CLEMENTE ("City"), and CIVICA LAW GROUP, APC, a California Professional Corporation engaged in the practice of law in the State of California ("Consultant"). Consultant and the City are sometimes individually referred to herein as "Party" and collectively as "Parties." In consideration of the mutual promises set forth herein, the parties agree to the terms of this Agreement as set forth herein.

2. RECITALS.

2.1 The City wishes to engage the services of Consultant to provide code enforcement services as described further in this Agreement. Consultant wishes to provide all such services and has the necessary expertise and competency to provide such services.

3. TERMS.

3.1 Scope of Services. Consultant shall provide legal advice, representation and assistance to the City regarding code enforcement matters, including criminal, civil and administrative in nature, as assigned to Consultant by City.

3.2 Responsibilities of Attorneys and Client. Consultant shall fully cooperate with the City and will keep the City and its staff informed of the status and progress of all pending matters and all legal matters of importance with which Consultant is involved. Consultant will manage and control the delivery of all legal services described hereunder in a professional, competent, and cost-effective manner. The City agrees to provide all information and documentation necessary for the attorneys at Consultant to perform their obligations under this Agreement.

3.3 Compensation. For all legal services provided in this Agreement, the City will pay Consultant at the blended rate of \$226 per hour for attorney representation and \$140 per hour for paralegals and clerks, and such fees shall increase by three percent annually, rounded to the nearest dollar, on the first of each year to offset rising costs. The attorneys' fees to Consultant shall not exceed \$62,000 for fiscal year 2022-2023, then, starting in fiscal year 2023-2024 shall not exceed \$186,000 per fiscal year on a net basis without approval of the City.

3.4 Cost Reimbursement. The City shall reimburse Consultant for all out-of-pocket expenses incurred by Consultant in providing legal services under this Agreement, including charges for printing and copying expenses at \$.16 for black and white copies and \$.60 for color copies, postage, research, litigation costs, courier and messenger services and automobile mileage at the current IRS rate for travel on behalf of the City. However, no separate charge shall be made by Consultant for secretarial or word processing services.

3.5 Statements and Billing. Consultant shall submit monthly invoices to the City indicating attorney fees and costs incurred for the legal services provided under this Agreement.

The monthly invoice shall describe the nature of the work performed, the attorney performing the work and the time spent for each task as well as the nature of any reimbursable expenses incurred. Upon the request of and as directed by the City, Consultant shall generate separate invoices pertaining to specific accounts, matters and/or departments. The City shall process and cause such invoices to be paid promptly, typically within thirty (30) days of receipt. If no attorneys' fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month.

3.6 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability, and reputation of the attorneys at Consultant were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other person or entity to perform, in whole or in part, the legal services required under this Agreement without the written approval of the City. In addition, neither this Agreement, nor any interest herein, may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily, or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the City.

3.7 Conflicts of Interest. Consultant shall comply with all applicable laws and professional rules and standards relating to any known conflict of interest involving the City and matters upon which Consultant is providing legal services under this Agreement. Consultant shall not reveal confidential information of the City except with the consent of the Board of Supervisors or as otherwise required by law. Consultant shall notify the City of any conflict of interest related to matters upon which it is providing legal services under this Agreement upon discovery of any such conflicts. In the event that such conflict is not or cannot be waived or resolved City shall retain legal counsel and Consultant shall assist and cooperate with legal counsel retained by the City on the matter for which the conflict arose.

A. Consultant represents that neither Consultant for any of its attorneys or other persons employed by Consultant have any material financial interest, direct or indirect, in any contract or decision made by or on behalf of City that may be affected by the services to be provided to City pursuant to this Agreement, other than a financial interest that is similar, in all material respects, to the interests of the general public.

B. If Consultant or an attorney or other person employed by Consultant acquires such an interest while this Agreement remains in effect, Consultant will immediately disclose such interest to the City, and the interested individual shall not participate in or influence the performance of the services to be provided to the City pursuant to this Agreement.

C. In addition to the prescriptions regarding conflicts of interest imposed on attorneys by the California Business and Professions Code, and by Rule 3-310 of the California Rules of Professional Conduct, Consultant agrees that unless waived in writing by the City, neither Consultant nor any attorney employed by Consultant shall represent clients before any board, commission, committee or department of City or represent a client adverse to City for a period of one (1) year from the date of completion of the services to be provided to City pursuant to this Agreement or the early termination of the Agreement as provided for in Section 3.10.

3.8 Client Files.

A. At the conclusion of this Agreement, the original client files for the work performed under this Agreement for the City shall be made available to City. Consultant will be entitled to make copies of the client files. At the conclusion of this Agreement, (whether or not City takes possession of the client files), City shall take possession of any and all original documents that may be in the client files and Consultant shall have no further responsibility with regard to such documents.

B. If City does not take possession of the client files at the conclusion of the Agreement, Consultant shall store such client files for a period of at least one (1) year. At any time after the conclusion of such one (1) year period, Consultant may send to City a notice, advising of Consultant's intention to dispose of the client files. The City shall have ninety (90) days from the date of such notice to take possession of the client files. If City does not take possession of the client files during that time, City agrees that Consultant may dispose of the client files without further notice, provided Consultant has no reason to believe that the items proposed to be destroyed are things required by law to be maintained or that would be reasonably necessary to the City to establish a right or a defense to a claim. If Consultant has reason to believe that the files contain items that are required by law to be retained or that the City will reasonably need to establish a right or a defense to a claim, Consultant will inspect the files for such items and will retain the items for the period required by law or according to the reasonably foreseeable needs of the City, at the discretion of the City Manager.

3.9 Independent Contractor. No employment relationship is created by this Agreement. Consultant shall perform all legal services required under this Agreement as an independent contractor of the City and shall remain a wholly independent contractor of the City with only such obligations as are required under this Agreement. Neither the City, nor any of its employees, shall have any control over the manner, mode, or means by which Consultant, its agents or employees, render the legal services required under this Agreement or its internal employment or compensation decisions, except as otherwise set forth herein.

3.10 Term; Termination of Agreement. The term of this Agreement shall commence on the Effective Date set forth in this Agreement and shall continue in full force and effect until terminated as provided herein. City or Consultant may terminate this Agreement at any time, with or without cause, on thirty (30) days' written notice to the other party. In the event of such termination, Consultant shall comply with all provisions of the Rules of Professional Conduct for the termination of a client relationship and the City shall pay Consultant professional fees and costs, in accordance with this Agreement, for all services provided and costs incurred through the date of termination of this Agreement. The City agrees to execute, upon request, a stipulation in such form as to permit Consultant to withdraw as attorneys of record in any legal action then pending. Consultant shall cooperate to transition representation to a new attorney or firm in an expedient manner and make available to the City, or to counsel designated by the City, all documents and records of the legal services provided to the City and shall assist to the fullest extent possible in the orderly transition of all pending matters to the City's new counsel.

3.11 Insurance Coverage. Consultant shall carry errors and omissions insurance of not less than One Million Dollars (\$1,000,000) per year in the aggregate, and any additional insurance

required by the State of California. Consultant shall furnish to the City proof of insurance required by this Agreement upon request, and shall notify the City of any changes to the insurance.

3.12 Amendment; Modification. This agreement may be modified through a written instrument signed by both parties or by an oral agreement to the extent it is carried out.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements.

3.14 Time of Performance; Efficiency of Services; Cooperation. The services of Consultant shall be performed expeditiously in light of the purposes of this Agreement. Consultant shall follow all procedures as established by the City consistent with its duties. Consultant shall work cooperatively with appropriate City staff and keep them informed on all matters of importance as they arise.

3.15 Non-Discrimination. In the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, marital status, age, sexual orientation, or medical condition.

3.16 Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement: (1) shall be deemed effective unless it is in writing and signed by City; (2) shall be deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy; or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

3.17 Governing Law and Interpretation. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to conflict of law principles. The section captions and headings in this Agreement have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

3.18 Severability. If any portion or all of this Agreement is held to be unenforceable for any reason, the remainder of that provision and the remainder of the Agreement shall remain in full force and effect.

3.19 Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

To Consultant:

4000 Barranca Parkway
Suite 250, PMB #782
Irvine, CA 92604
(949) 592-0165
Attn: Chief Operating Officer

To City:

910 Calle Negocio
San Clemente, CA 92673
(949) 361-8200
Attn: City Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.20 Confidentiality. The parties agree to keep this Agreement confidential to the greatest extent permissible under the law. This Agreement is exempt from disclosure under the Public Records Act pursuant to Government Code sections 6254(k) and 6255(a), Evidence Code sections 952 and 954, and Business and Professions Code section 6149.

3.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

CITY OF SAN CLEMENTE

By: _____
Andy Hall
City Manager

Dated: March _____, 2023

Attest:

City Clerk of the City of
San Clemente, California

Dated: March _____, 2023

Approved as to form only:

Scott C. Smith
City Attorney

CIVICA LAW GROUP, APC

By: _____
Matthew Silver
Partner

Dated: March _____, 2023

**AGREEMENT BETWEEN CIVICA LAW GROUP
AND THE CITY OF SAN CLEMENTE
FOR MUNICIPAL CITATION LEGAL SERVICES**

1. PARTIES AND DATE.

This agreement (“Agreement”) is made and entered into on March ____, 2023 by and between the CITY OF SAN CLEMENTE (“City”), and CIVICA LAW GROUP, APC, a California Professional Corporation engaged in the practice of law in the State of California (“Consultant”). Consultant and the City are sometimes individually referred to herein as “Party” and collectively as “Parties.” In consideration of the mutual promises set forth herein, the parties agree to the terms of this Agreement as set forth herein.

2. RECITALS.

2.1 The City wishes to engage the services of Consultant to provide municipal citation support services as described further in this Agreement. Consultant wishes to provide all such services and has the necessary expertise and competency to provide such services.

3. TERMS.

3.1 Scope of Services. Consultant shall provide legal advice, representation and assistance to the City regarding Orange County Sheriff’s Department or City issued criminal citations based on the municipal code, and shall act as the primary prosecuting authority on the City’s behalf for municipal code violations. Consultant shall report on a regular basis to the City regarding the status and dispositions of cases referred to Consultant.

3.2 Responsibilities of Attorneys and Client. Consultant shall fully cooperate with the City and will keep the City and its staff informed of the status and progress of all pending matters and all legal matters of importance with which Consultant is involved. Consultant will manage and control the delivery of all legal services described hereunder in a professional, competent, and cost-effective manner. The City agrees to provide all information and documentation necessary for the attorneys at Consultant to perform their obligations under this Agreement.

3.3 Compensation. For all legal services provided in this Agreement, the City will pay a flat fee to Consultant in the amount of \$33,200 for fiscal year 2022-2023, which shall be paid in equal monthly installments. Starting in fiscal year 2023-2024 the City will pay a flat fee to Consultant in the amount of \$99,600 per fiscal year, which shall be paid in equal monthly installments. Such compensation excludes services for trials and writs/appeals, given their unpredictable and unforeseeable nature, and shall exclude costs as provided in Section 3.4, which shall be reimbursed separately by or directly paid by the City.

Consultant’s employment and compensation is in no way contingent on any result or outcome, or its exercise of its prosecutorial discretion in determining whether or how to file cases referred to it or prosecutions or dispositions thereof. Consultant cannot and does not represent, promise or guarantee any particular outcome. Consultant shall correspond closely with, receive

direction and input, to the extent provided by law, from, and provide regular updates to appropriate City staff on matters handled by the Consultant.

3.4 Cost Reimbursement. The City shall reimburse Consultant for all out-of-pocket expenses incurred by Consultant in providing legal services under this Agreement, including charges for printing and copying expenses at \$.16 for black and white copies and \$.60 for color copies, postage, research, litigation costs, courier and messenger services and automobile mileage at the current IRS rate for travel on behalf of the City. However, no separate charge shall be made by Consultant for secretarial or word processing services. Consultant does not and agrees not to mark-up such out-of-pocket costs.

3.5 Statements and Billing. Consultant shall submit monthly invoices to the City indicating attorney fees and costs incurred for the legal services provided under this Agreement. The monthly invoice shall describe the nature of the work performed, the attorney performing the work and the time spent for each task as well as the nature of any reimbursable expenses incurred. Upon the request of and as directed by the City, Consultant shall generate separate invoices pertaining to specific accounts, matters and/or departments. The City shall process and cause such invoices to be paid promptly, typically within thirty (30) days of receipt. If no attorneys' fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month.

3.6 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability, and reputation of the attorneys at Consultant were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other person or entity to perform, in whole or in part, the legal services required under this Agreement without the written approval of the City. In addition, neither this Agreement, nor any interest herein, may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily, or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the City.

3.7 Conflicts of Interest. Consultant shall comply with all applicable laws and professional rules and standards relating to any known conflict of interest involving the City and matters upon which Consultant is providing legal services under this Agreement. Consultant shall not reveal confidential information of the City except with the consent of the Board of Supervisors or as otherwise required by law. Consultant shall notify the City of any conflict of interest related to matters upon which it is providing legal services under this Agreement upon discovery of any such conflicts. In the event that such conflict is not or cannot be waived or resolved City shall retain legal counsel and Consultant shall assist and cooperate with legal counsel retained by the City on the matter for which the conflict arose.

A. Consultant represents that neither Consultant for any of its attorneys or other persons employed by Consultant have any material financial interest, direct or indirect, in any contract or decision made by or on behalf of City that may be affected by the services to be provided to City pursuant to this Agreement, other than a financial interest that is similar, in all material respects, to the interests of the general public.

B. If Consultant or an attorney or other person employed by Consultant acquires such an interest while this Agreement remains in effect, Consultant will immediately disclose such interest to the City, and the interested individual shall not participate in or influence

the performance of the services to be provided to the City pursuant to this Agreement.

C. In addition to the prescriptions regarding conflicts of interest imposed on attorneys by the California Business and Professions Code, and by Rule 3-310 of the California Rules of Professional Conduct, Consultant agrees that unless waived in writing by the City, neither Consultant nor any attorney employed by Consultant shall represent clients before any board, commission, committee or department of City or represent a client adverse to City for a period of one (1) year from the date of completion of the services to be provided to City pursuant to this Agreement or the early termination of the Agreement as provided for in Section 3.10.

3.8 Client Files.

A. The City hereby requests and consents to the transfer of all files to Consultant for matters referred by City to Consultant. At the conclusion of this Agreement, the original client files for the work performed under this Agreement for the City shall be made available to City. Consultant will be entitled to make copies of the client files. At the conclusion of this Agreement, (whether or not City takes possession of the client files), City shall take possession of any and all original documents that may be in the client files and Consultant shall have no further responsibility with regard to such documents.

B. If City does not take possession of the client files at the conclusion of the Agreement, Consultant shall store such client files for a period of at least one (1) year. At any time after the conclusion of such one (1) year period, Consultant may send to City a notice, advising of Consultant's intention to dispose of the client files. The City shall have ninety (90) days from the date of such notice to take possession of the client files. If City does not take possession of the client files during that time, City agrees that Consultant may dispose of the client files without further notice, provided Consultant has no reason to believe that the items proposed to be destroyed are things required by law to be maintained or that would be reasonably necessary to the City to establish a right or a defense to a claim. If Consultant has reason to believe that the files contain items that are required by law to be retained or that the City will reasonably need to establish a right or a defense to a claim, Consultant will inspect the files for such items and will retain the items for the period required by law or according to the reasonably foreseeable needs of the City, at the discretion of the City Manager.

3.9 Independent Contractor. No employment relationship is created by this Agreement. Consultant shall perform all legal services required under this Agreement as an independent contractor of the City and shall remain a wholly independent contractor of the City with only such obligations as are required under this Agreement. Notwithstanding the foregoing, for purposes of any legal claims against Consultant arising from its provision of services to the City pursuant to this Agreement, Consultant shall be entitled to all defenses provided by law to City officials and prosecutors, and to City's statutory duties to the office of the city prosecutor pursuant to Government Code section 825 for providing a defense, hold harmless, and full indemnity to Consultant for actions within the scope of its engagement hereunder. This shall not in any way create a duty for the City for actions or claims arising solely from Consultant's willful negligence. Neither the City, nor any of its employees, shall have any control over the manner, mode, or means by which Consultant, its agents or employees, render the legal services required under this Agreement or its internal employment or compensation decisions, except as otherwise set forth herein, or as required by law. Because Consultant shall serve as the City's municipal code

prosecutor, and as required by law, City acknowledges and agrees that Consultant's determinations with regard to prosecution of cases referred to it and outcomes of such prosecutions shall not affect Consultant's retention by City; this Agreement shall not in any way be affected by outcomes of cases referred to Consultant pursuant to this Agreement.

3.10 Term; Termination of Agreement. The term of this Agreement shall commence on the Effective Date set forth in this Agreement and shall continue in full force and effect until terminated as provided herein. City or Consultant may terminate this Agreement at any time, with or without cause, on thirty (30) days' written notice to the other party. In the event of such termination, Consultant shall comply with all provisions of the Rules of Professional Conduct for the termination of a client relationship and the City shall pay Consultant professional fees and costs, in accordance with this Agreement, for all services provided and costs incurred through the date of termination of this Agreement. The City agrees to execute, upon request, a stipulation in such form as to permit Consultant to withdraw as attorneys of record in any legal action then pending. Consultant shall cooperate to transition representation to a new attorney or firm in an expedient manner and make available to the City, or to counsel designated by the City, all documents and records of the legal services provided to the City and shall assist to the fullest extent possible in the orderly transition of all pending matters to the City's new counsel.

3.11 Insurance Coverage. Consultant shall carry errors and omissions insurance of not less than One Million Dollars (\$1,000,000) per year in the aggregate, and any additional insurance required by the State of California. Consultant shall furnish to the City proof of insurance required by this Agreement upon request, and shall notify the City of any changes to the insurance.

3.12 Amendment; Modification. This agreement may be modified through a written instrument signed by both parties or by an oral agreement to the extent it is carried out.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements.

3.14 Time of Performance; Efficiency of Services; Cooperation. The services of Consultant shall be performed expeditiously in light of the purposes of this Agreement. Consultant shall follow all procedures as established by the City consistent with its duties. Consultant shall work cooperatively with appropriate City staff and keep them informed on all matters of importance as they arise, in addition to regular status updates on cases referred to Consultant.

3.15 Non-Discrimination. In the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, marital status, age, sexual orientation, or medical condition.

3.16 Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement: (1) shall be deemed effective unless it is in writing and signed by City; (2) shall be deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy; or (3) shall be deemed to constitute a continuing

waiver unless the writing expressly so states.

3.17 Governing Law and Interpretation. This Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to conflict of law principles. The section captions and headings in this Agreement have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

3.18 Severability. If any portion or all of this Agreement is held to be unenforceable for any reason, the remainder of that provision and the remainder of the Agreement shall remain in full force and effect.

3.19 Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

To Consultant:

4000 Barranca Parkway
Suite 250, PMB #782
Irvine, CA 92604
(949) 592-0165
Attn: Chief Operating Officer

To City:

910 Calle Negocio
San Clemente, CA 92673
(949) 361-8200
Attn: City Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.20 Confidentiality. The parties agree to keep this Agreement confidential to the greatest extent permissible under the law. This Agreement is exempt from disclosure under the Public Records Act pursuant to Government Code sections 6254(k) and 6255(a), Evidence Code sections 952 and 954, and Business and Professions Code section 6149.

3.21 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[Signatures continue on following page]

CITY OF SAN CLEMENTE

By: _____
Andy Hall
City Manager

Dated: March _____, 2023

Attest:

City Clerk of the City of
San Clemente, California

Dated: March _____, 2023

Approved as to form only:

Scott C. Smith
City Attorney

CIVICA LAW GROUP, APC

By: _____
Matthew Silver
Partner

Dated: March _____, 2023