

# CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK,  
COUNCIL/PUBLIC SERVICES DIVISION  
ROOM 395, CITY HALL

DATE: 02-22-2016

(PLEASE DO NOT STAPLE THE CONTRACT FOR THE CLERK'S FILE)

**FORM MUST BE TYPEWRITTEN**

FROM (DEPARTMENT): CITY ATTORNEY

CONTACT PERSON: ANNE HALEY PHONE: 213-978-8100

CONTRACT NO.: C-127067 COUNCIL FILE NO.: \_\_\_\_\_

ADOPTED BY COUNCIL: \_\_\_\_\_  
DATE

APPROVED BY BPW: \_\_\_\_\_  
DATE

NEW CONTRACT   
AMENDED AND RESTATED \_\_\_\_\_  
ADDENDUM NO. \_\_\_\_\_  
SUPPLEMENTAL NO. \_\_\_\_\_  
CHANGE ORDER NO. \_\_\_\_\_  
AMENDMENT \_\_\_\_\_

CONTRACTOR NAME: COLANTUONO HIGHSMITH & WHATLEY

TERM OF CONTRACT: 11-01-2015 THROUGH: 10-31-2018

TOTAL AMOUNT: \$ 42,500

PURPOSE OF CONTRACT:

To assist the City Attorney with legal representation related to regulations affecting a sewer project for the Department of Public works and related matters

**NOTE: CONTRACTS ARE PUBLIC RECORDS - SCANNED AND UPLOADED TO THE INTERNET**

**AGREEMENT FOR PROFESSIONAL LEGAL SERVICES**

**BETWEEN**

**THE CITY OF LOS ANGELES**

**AND**

**COLANTUONO HIGHSMITH & WHATLEY, PC**

## AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

THIS AGREEMENT, Contract Number ci27067, is made and entered into by and between the City of Los Angeles ("City"), a municipal corporation, acting through the Office of the City Attorney ("City Attorney"), and Colantuono Highsmith & Whatley, PC ("Outside Counsel"), with reference to the following:

### RECITALS

**WHEREAS**, the City Attorney and City Council have approved the use of Outside Counsel to assist the City Attorney with legal representation related to regulations affecting a sewer project for the Department of Public Works and related matters; and

**WHEREAS**, Outside Counsel indicates that it has the expertise and competence to perform the professional legal services sought by the City; and

**WHEREAS**, the City Attorney has selected Outside Counsel to provide assistance in such matters, Outside Counsel is willing to provide such assistance and represents to the City that it is able to do so without a conflict of interest; and

**WHEREAS**, the professional legal services to be performed by the Outside Counsel are of an expert and technical nature and are temporary and occasional in character;

**NOW, THEREFORE**, in consideration of the promises, covenants, terms and conditions contained herein, the parties hereby covenant, agree and represent as follows:

#### **I. SCOPE OF REPRESENTATION AND PARTNERING**

Outside Counsel is retained to assist the City Attorney in providing legal representation for the City in the Sanitation sewer project. Outside Counsel shall at all times work under the direction of the City Attorney. The City and City Attorney shall rely on the competence, expertise and experience of Outside Counsel. At all times, Outside Counsel shall provide professional legal advice and services at the highest level expected of law firms providing legal services in the Los Angeles region. This is a non-exclusive agreement to provide legal services to the City and, at the City Attorney's discretion; the City may augment the services with another law firm or law firms or select to terminate Outside Counsel's services in a manner consistent with this Agreement.

City Attorney and Outside Counsel recognize and agree that an important purpose of this Agreement is to promote effective collaboration between City Attorney and Outside Counsel so that, among other things, City Attorney is able to gain familiarity with the legal issues presented in these matters and for Outside Counsel to impart substantive subject matter knowledge to City Attorney's lawyers. To this end, City Attorney and Outside Counsel both agree to make reasonable efforts to coordinate their efforts and work.

## II. GENERAL CONDITIONS

### A. Period of Performance

This Agreement shall begin on November 1, 2015 and shall continue until October 31, 2018, unless terminated earlier under the provisions of this Agreement.

### B. Termination or Suspension of Legal Services

#### 1. Termination or Suspension for City's Convenience

a) Services performed under this Agreement may be terminated or suspended in whole or in part at any time by City Attorney. City Attorney shall terminate or suspend services by delivering to Outside Counsel a written notice specifying the extent to which services are terminated or suspended and the effective date of such termination or suspension.

b) After receiving a notice of termination or suspension, unless otherwise directed by City Attorney, Outside Counsel shall:

1) Stop services on the date and to the extent specified in the notice; and

2) Continue to perform services not terminated or suspended by the notice.

c) After receiving a notice of termination, Outside Counsel shall:

1) Submit final billing for services rendered through the time of termination no later than thirty (30) calendar days from the effective date of termination; and

2) If Outside Counsel fails to submit a final billing within the time allowed, City Attorney may determine the amount, if any, to be paid to Outside Counsel. Outside Counsel agrees that City Attorney's determination shall be final.

#### 2. Termination for Outside Counsel's Default

a) Services performed under this Agreement may be terminated in whole or in part by City Attorney upon a default by Outside Counsel. Under this Agreement, Outside Counsel will be deemed in default if Outside Counsel:

1) Fails to perform the service(s) within the specified time period; or

2) Fails to perform any of the provisions contained in this Agreement; or

3) Fails to make adequate progress in the matter and endangers the performance of this Agreement's terms.

b) If City Attorney wholly or partially terminates services under this Agreement, City Attorney may obtain alternative legal services with terms and in a manner City Attorney deems appropriate. In addition to any other remedies provided by this Agreement, law or equity, Outside Counsel shall be liable to City for any excess costs associated with obtaining and utilizing alternative legal services.

3. Closing Report Upon Termination

a) If requested by City Attorney, Outside Counsel shall deliver a Closing Report within two days of the termination of services.

b) The Closing Report shall include, but is not limited to:

1) A brief description of the facts of the case;

2) A discussion of applicable law;

3) A description of the status of the case; and

4) A list and description of future scheduled court appearances.

c) Outside Counsel shall give City Attorney all evidence, files and attorney work product for every matter in which Outside Counsel is substituted out as attorney of record. This includes any computerized indices, programs and document retrieval systems created or used for the matter. Outside Counsel shall file a Motion for Substitution of Counsel or other necessary pleadings with the court when instructed to do so by City Attorney.

C. Independent Contractor Status

This Agreement is between City and Outside Counsel and is not intended, and shall not be construed, to create, as between City and Outside Counsel, the relationship of agent, servant, employee, partnership, joint venture or association. Outside Counsel understands and agrees that all Outside Counsel personnel furnishing services to City under this Agreement are employees solely of Outside Counsel and not City. Outside Counsel shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any Outside Counsel personnel for injuries arising from services performed under this Agreement.

D. Ownership of Documents

All information, documents, records, reports, data, or other materials furnished to Outside Counsel or other such information, documents, records, data or other materials to which Outside Counsel has access during their performance pursuant to this Agreement are deemed confidential and shall remain the property of City. Outside Counsel shall not make use of such items for any purpose unrelated to the matter involved herein and shall not make oral or written disclosure thereof, other than as necessary for their performance hereunder, without the prior written approval of City Attorney.

E. Insurance

Outside Counsel shall comply with the insurance requirements described in the mandatory City Contracting Requirements, attached hereto as Exhibit A, having the coverage and limits as specified in Exhibit A. If Outside Counsel does not obtain professional liability insurance or maintain the insurance throughout the duration of this Agreement, City Attorney may terminate the Agreement.

F. Governing Law

The parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of California and any action brought by either party on this Agreement shall be brought in the Los Angeles County Central District Superior Courts.

G. Validity

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

H. Waiver

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any future breach of the provision or any breach of any other provision of this Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

I. Remedies Reserved to City

The remedies reserved to City shall be cumulative and additional to any other remedies provided in law or equity.

J. Authorization for Warranty

Outside Counsel represents and warrants that the signatory(ies) to this

Agreement is(are) fully authorized to obligate Outside Counsel and that all corporate acts necessary to the execution of this Agreement have been accomplished.

K. Changes and Written Amendment of Terms

Material changes to this Agreement shall only be effective upon the execution of a mutually-approved written amendment.

III. OUTSIDE COUNSEL'S SERVICES AND RESPONSIBILITIES

A. Professional Ethics and Conflicts of Interest

City recognizes that Outside Counsel may have clients that, from time to time, may have interests adverse to City. Any such representation shall be in accordance with the ethical duties of members of the State Bar of California including, without limitation, those established by the Bar's Rules of Professional Conduct. Outside Counsel shall send written notice to City Attorney Conflicts Attorney of any actual or potential conflict of interest that exists during Outside Counsel's engagement under this Agreement. The request for waiver shall describe in detail the nature of the proposed engagement by Outside Counsel, the nature of the conflict, and why Outside Counsel believes a waiver is appropriate.

B. Key Outside Counsel Personnel

1. Outside Counsel's Supervising Attorney for this Agreement shall be Holly Whatley. Outside Counsel's Supervising Attorney shall not be changed without City Attorney's written authorization.

2. Outside Counsel's Supervising Attorney shall have full authority to act for Outside Counsel on all daily operational matters under this Agreement and shall serve as or designate Lead Counsel for all law and motion appearances, pretrial and trial proceeding(s), settlement conference(s) or meetings of counsel for the litigants, depositions, document productions, and all court and other proceedings in which substantive rights of the parties may be determined. Designation of a Lead Counsel other than the Supervising Attorney shall be subject to City Attorney's prior written approval.

C. Legal Representation

1. Outside Counsel shall provide City with the necessary representation by qualified staff at the least costly billing category. Partners and associates shall be admitted to practice law before all of the courts of the State of California or of whatever state or district in which Outside Counsel is engaged to represent the City. The names of personnel authorized to provide services under this Agreement and the hourly rates for each staff member are listed in the document entitled, "Hourly Rates for Colantuono

Highsmith & Whatley PC," attached hereto and incorporated herein as Exhibit B to this Contract.

Any use of personnel other than as enumerated shall be subject to the prior written approval of City Attorney's Supervising Attorney. Outside Counsel may hire experts or consultants, but only with the prior written approval of City Attorney's Supervising Attorney. Outside Counsel may retain other law firms or attorneys as subcontractors to provide the legal services covered by this Agreement, but only with the prior written approval of the Chief Deputy City Attorney. Any such written approval of subcontractors must set forth the name of each approved attorney or other personnel and the agreed rate for such individual. Outside Counsel will require any such subcontractors or consultants to comply with the terms and conditions of this Agreement and will indemnify, defend and forever hold harmless the City from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) arising out of any act or omission of any such subcontractors or consultants.

2. Outside Counsel's legal representation shall include, but is not limited to:

- a) All settlement negotiations and pretrial proceedings;
- b) Appearances at all law and motion hearings, discovery proceedings, hearings regarding orders to show cause, writs, trials and, when applicable, administrative hearings;
- c) All due diligence, legal research, preparation for hearings, and review of all documents and other evidentiary materials;
- d) Investigative, secretarial, and clerical support services necessary to perform the legal representation in a professional manner.

3. Outside Counsel shall provide all required reports referenced in this Agreement.

4. Outside Counsel shall meet with City Attorney as City Attorney requires.

5. Outside Counsel shall consult with City Attorney on trial and tactical decisions.

6. Outside Counsel shall assist City Attorney's Supervising Attorney in settlement evaluations and negotiations, and shall obtain City Attorney's authority before making any settlement proposal on City's behalf to the

Court or any party.

7. Outside Counsel shall immediately notify City Attorney, in writing, when a judgment, verdict or other award is rendered.

8. Upon City Attorney's request, Outside Counsel shall provide copies of all court rulings and all pleadings filed with the court or other administrative body, including those submitted by other parties.

9. Outside Counsel shall maintain all backup documentation to support all entries included in its billings.

D. Reporting Requirements

Depending on the nature of the matter and the benefit derived, City Attorney may request that Outside Counsel provide City Attorney with the following reports:

1. Case Evaluation and Plan

a) The Case Evaluation and Plan is a written independent evaluation of the case that can be used to develop City's legal position and strategy. It will also serve to assist in controlling litigation costs. Outside Counsel shall base the Case Evaluation and Plan on a review of the pleadings, discovery, reports and other documents, physical evidence, conversations with City Attorney and any other information Outside Counsel deems appropriate based on Outside Counsel's expertise and experience.

b) The Case Evaluation and Plan shall include, but is not limited to:

1) Statement of known facts and identified legal issues, including identities of opposing attorney(s), if known;

2) Statement of precedent-setting or sensitive issues, if applicable;

3) Statement of alleged and probable injuries and damages;

4) Statement of liability exposure;

5) Statement of recommendation(s) on case strategy, including discovery, motions, extent of legal research, consultants and percipient witnesses, experts to be retained, and the extent of expert services to be performed;

6) Statement of Outside Counsel's projected costs that can be reasonably anticipated. Costs shall be budgeted on a total, annualized basis and shall include, but are not limited to:

(a) Attorney fees - an identification of the staffing levels, hourly rates and estimated number of hours for each partner, associate, and/or paralegal;

(b) Consultant and expert witness rates, and estimated number of hours each will be needed;

(c) Deposition, transcript and other expenses;

(d) Fees and expenses for handling the case through each of the following applicable stages:

(1) Pleadings

(2) Discovery

(3) Pretrial conference(s)

(4) Mediation or Arbitration

(5) Trial, and

(6) Any other identified stages.

2. Proposed Settlement Recommendations

a) If requested by City Attorney, Outside Counsel shall submit to City Attorney written settlement recommendations that clearly state the reasons supporting a proposed settlement.

3. Appellate Action

a) If requested by City Attorney, Outside Counsel shall submit to City Attorney recommendations as to whether to appeal or petition for other review, or defend in the appellate courts. Outside Counsel shall state clearly the reason(s) supporting the recommended action.

b) Outside Counsel shall list City Attorney as co-counsel with Outside Counsel on all briefs and papers submitted to the appellate courts or other reviewing body.

#### IV. CITY'S DUTIES AND RESPONSIBILITIES

##### A. Key City Personnel

1. City hereby appoints the City Attorney, or his or her designee, to represent the City on all matters related to this Agreement; however, any written amendment to this Agreement requiring additional funds shall be conditioned upon the approval of the additional appropriation of said funds by the Los Angeles City Council/Board. The City Attorney's Supervising Attorney shall be Adena Hopenstand. On all matters relating to invoices the City Attorney's representative shall be the City Attorney's Chief Financial and Administrative Officer.

2. City Attorney's Supervising Attorneys shall have full authority to act for City on all daily operational matters under this Agreement and shall review and approve Outside Counsel's reports, whether written or verbal, and any change in Outside Counsel's designated Lead Counsel.

3. Approval of proposed settlement recommendations is subject to City's settlement approval procedures.

#### V. COMPENSATION

##### A. Appropriation of Funds

The City Council has appropriated Forty Two Thousand Five Hundred Dollars (\$42,500) for this Agreement. Outside Counsel's work pursuant to this Agreement shall not exceed that amount without the prior written approval of City Attorney. The City is not obligated to pay Outside Counsel for any work done and/or costs incurred in excess of the appropriated amount unless additional appropriations are made and a written amendment to this Agreement is executed by the parties.

##### B. Outside Counsel's Obligation for Continued Performance

In the event that Outside Counsel's fees, costs and expenses, in the aggregate, exceed the amount appropriated by City as provided herein, Outside Counsel shall not be obligated to provide services or incur any further costs or expenses on the work required hereunder, and the City shall not be liable for fees or costs in excess of the amount appropriated, unless the appropriated amount is increased as provided herein. Outside Counsel shall be responsible for notifying City Attorney's Supervising Attorneys that the aforesaid appropriated amount will be expended before completion of the work required hereunder and that Outside Counsel will need additional funds if City desires further work. Outside Counsel shall give written notice to City Attorney's Supervising Attorney and to the City

Attorney's Chief Financial and Administrative Officer, when Outside Counsel's expenditures under this Agreement are equal to sixty percent (60%) and eighty percent (80%) of the total dollar value appropriated for this Agreement so that City Attorney has sufficient time to consider whether it desires to seek an additional appropriation and written amendment to the Agreement.

C. Fees

1. The City shall pay Outside Counsel for the services performed by Outside Counsel which are reasonably necessary. The fees for such services shall be based upon the time expended to render the required services, with fractions thereof being stated to the tenth of an hour, and shall be computed at a rate not to exceed the rates specified for each category of staff as listed in Exhibit B.

2. Billing rates may only be increased with the prior written approval of the Chief Deputy City Attorney.

D. City's Reservation of Rights to Obtain Reimbursement

City shall pay Outside Counsel based on Outside Counsel's submission of monthly invoices consistent with the provisions of this Agreement. Even though City makes payment pursuant to invoices, City shall have the right to demand reimbursement any time City determines that previously paid costs and expenses were not properly billed by Outside Counsel. Outside Counsel shall promptly reimburse City for such costs and expenses previously paid by City.

E. Expenses

Absent the express prior written approval of the appropriate City Attorney's Supervising Attorney, the City will not pay for any extraordinary expenses incurred in any legal matter. The City Attorney's Chief Financial and Administrative Office must approve in writing any item of expense that exceeds \$5,000. The City Attorney's Supervising Attorney must approve in writing any item of expense that exceeds \$1,000. Such expenses include, but are not limited to, expert witnesses, consultant services, investigative services, computer litigation support services, videotaping of depositions, temporary office help, travel expenses, meals as well as other expenses. Local travel time will not be reimbursed. The City will not pay for business class or first class airfare or luxury hotels. City shall reimburse Outside Counsel for the actual out-of-pocket expenses, enumerated below, but without any additional costs for having advanced the funds. Outside Counsel shall note that City is exempt from all filing fee charges.

1. Reimbursable ordinary expenses shall include, but are not limited to:
  - a) Deposition fees- The City expects Outside Counsel to keep

the costs of deposition transcripts to a minimum. When depositions are taken and Outside Counsel receives the original, City shall not pay the court reporter's fee for providing Outside Counsel with an extra photocopy of the deposition transcript. City expects Outside Counsel to make a photocopy of the original at Outside Counsel's office. Likewise, when attending depositions of third parties or third-party witnesses, City requests that, if Outside Counsel believes an additional copy of the deposition transcript is necessary, Outside Counsel agree with opposing counsel or co-counsel to share the costs. Prior written approval from City must be obtained before ordering any expedited original or expedited copy of a deposition transcript.

b) Deposition summaries, if necessary, should be brief and should be completed by the deposing attorney. The City shall not pay for a paralegal or other lawyer to summarize the deposition transcript unless trial is imminent. City shall not pay for summaries that are, in effect, a complete regurgitation of the underlying deposition.

c) Transcript fees;

d) Messenger service - where appropriate, documents should be transmitted via email or facsimile/telecopier;

e) Facsimile/Telecopier (FAX) transmission - Outside Counsel shall not bill the City for any expense related to facsimile charges beyond Outside Counsel's actual net costs for long distance telephone charges actually and reasonably incurred by Outside Counsel for the sending of facsimiles. Outside Counsel shall indicate in its billing statements the number of pages transmitted via facsimile together with the related cost of each charge. Outside Counsel shall attach the appropriate receipts, invoices or proof of any expenditure for facsimile charges;

f) Process service;

g) In-house document reproduction. Outside Counsel may charge up to \$0.10 cents per page for photocopies. The billing statement shall contain the total number of copies made.

2. Reimbursable extraordinary expenses shall include charges for which Outside Counsel has obtained City Attorney's prior written approval. Such expenses shall include, but are not limited to:

a) Consultants;

b) Expert witnesses;

c) Investigative services;

d) Computer Assisted Legal Research ("CALR") - The City of Los Angeles's decision to retain a particular firm is based in part on the firm's expertise and knowledge. The City therefore assumes familiarity with the basic substantive law at issue in the matter for which the firm was retained; any exception to this general expectation should be discussed fully at the time of retention. In conducting legal research the law firm is expected to utilize all appropriate sources reasonably available, including previously prepared briefs and memoranda. Should Outside Counsel determine that it is necessary to incur CALR charges in order to satisfy the terms of this Agreement, Outside Counsel shall obtain City Attorney Supervising Attorney's prior written approval to charge for such expenses. No charges for CALR shall be paid by the City without its prior written approval of such a charge.

Outside Counsel shall describe in detail in its billings any out-of-town travel expenses incurred by Outside Counsel. City retains the right to audit these expenses. Only coach fare will be reimbursed for travel. Travel time is non-reimbursable. If a receipt is submitted, a single occupancy hotel accommodation will be reimbursed up to a maximum of \$165.50 plus taxes. For trial attendance by out-of-town experts or consultants, this rate may be increased, depending on the availability of lodging and prior City Attorney written approval.

3. Non-reimbursable expenses shall include, but are not limited to:

a) Staff time or overtime for performing secretarial, clerical, or word processing functions;

b) Charges for time spent complying with City Attorney audits or billing or budgeting inquiries;

c) Charges for work performed which City Attorney had not authorized. Such work shall be a gratuitous effort by Outside Counsel;

d) Expenses that are considered to be part of general law firm overhead, including but not limited to, administrative time, secretarial time, calendaring, setting up files, indexing, word processing, air conditioning, equipment rental, office supplies, meals, snacks, beverages, seminars, books or association dues, etc.; and

e) Local travel.

F. Most Favored Nations

Outside Counsel represents that, as of the date hereof, the rates set forth

in Exhibit B hereto, and the other economic terms and conditions provided in this Agreement, taken individually, are at least as favorable to City as those provided to any other client of Outside Counsel (other than pro bono clients) for work similar to the legal services provided under this Contract.

If during the term of this Agreement (including any extension or renewal) Outside Counsel has in effect or places into effect with any client (other than a pro bono client) a lower rate or other more favorable economic term or condition than provided under this Agreement (a "More Favorable Provision"), Outside Counsel will promptly offer such More Favorable Provision, unconditionally, to City by providing written notice thereof to City (an "MFN Notice") and, at City's election, this Agreement will be deemed to have been modified to provide City with such More Favorable Provision. Notwithstanding anything herein to the contrary, Outside Counsel's failure to provide City with an MFN Notice will not limit or otherwise impact City's right to enjoy the benefits of the applicable More Favorable Provision(s).

## VI. BILLINGS AND PAYMENTS

### A. Billings

1. Outside Counsel shall submit its billing statement monthly in arrears, no later than the tenth of the month following the month service was rendered.

2. Outside Counsel and City Attorney recognize that legal services performed under this Agreement are being paid for with tax dollars from the citizens of the City of Los Angeles and that, therefore, a heightened duty of care exists in both Outside Counsel and City Attorney to ensure that Outside Counsel scrupulously adheres to principles of moderation, frugality and cost consciousness in carrying out the goals of this Agreement. Outside Counsel pledges to observe a duty of reasonableness and cost effective representation in all aspects of this Agreement. Accordingly, each billing statement shall contain a certification by Outside Counsel's Supervising Attorney that the services performed and the expenses incurred were both reasonable and necessary.

3. The City will not pay for more than one attorney doing any particular task unless City Attorney has given its prior written approval. The City will not pay for two or more attorneys attending the same deposition or court appearance. The City will pay for the time recorded by more than one attorney for in-office conferences, but only if the conference is an occasional and necessary strategy meeting relating to some significant legal event or proceeding.

The City shall not pay for duplicative time charges by two or more attorneys, e.g., for legal research, reviewing documents, drafting documents, except as approved in writing by City Attorney. The City shall not pay for "training" or "apprenticeship" time. The City shall not pay for the involvement of attorneys who

work on the case irregularly or sporadically, unless a particular attorney has a special expertise that substantially advances the prosecution/defense of the case.

4. Use of paralegals is encouraged providing they meet the requirements set forth herein. Assignment of work to paralegals should not result in duplicative activity between attorneys and paralegals, or the reworking or rewriting of paralegals' work product by attorneys. The City will not pay for paralegal time spent performing clerical/secretarial work (e.g., filing, indexing, sorting, organizing, photocopying and bates stamping documents) unless the City has given its prior written approval. City expects paralegals to perform true paralegal work, e.g., research, document productions, preparing discovery or responses, interviewing witnesses, etc.

5. Billings under this Agreement shall not be made in more than one-tenth of an hour (six minute) increments, and shall represent the devotion of a full six minutes before such an increment is billed. Under no circumstances shall Outside Counsel use "block billing" procedures, wherein a list of series of activities is done each day with only an aggregate amount of time specified. Instead, Outside Counsel shall provide a detailed specific entry for each separate task and sub-task reflecting the time for such task or subtask. All tasks set forth in Outside Counsel's billing documentation shall be highly specific and highly detailed. Overly generalized listings of task descriptions such as "review contract" or "prepare for negotiations" will not be acceptable. Outside Counsel shall provide a detailed description of each action as described below.

6. Each billing statement shall be identified by a unique number and itemized to include:

- a) Case name and case number;
- b) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal;
  - 1) Each activity shall be billed in a reporting format acceptable to City Attorney.
  - 2) A detailed description of specific activities for each attorney and/or paralegal shall include, but is not limited to:
    - (a) In-person conferences.
    - (b) Telephone call(s).
    - (c) Correspondence.
    - (d) Depositions.

- (e) Case reports.
  - (f) Pleading, brief or opinion drafting.
  - (g) Hearings.
  - (h) Research, including computerized legal research databases.
  - (i) Case reviews.
  - (j) Trials.
- c) Total current monthly fees billed for each staffing level;
  - d) Total cumulative fees billed for each staffing level;
  - e) Total current monthly expenses billed in the following categories:
    - 1) Consultant and expert witness expenses;
    - 2) Deposition and transcript expenses;
    - 3) Other miscellaneous expenses.
  - f) Total cumulative expenses to date billed in (e) above.

B. Payments

1. City shall make payment(s) for services rendered under this Agreement based on the monthly, itemized billing statement(s) Outside Counsel submits to City Attorney.

2. City Attorney's legal and accounting staff shall review all billing statements in accordance with City's review procedures.

3. City shall make its best effort to process payments promptly after receiving Outside Counsel's monthly billing statement. City shall not pay interest or finance charges on any outstanding balance(s).

C. Audit

For at least three years after completion of services under this Agreement

or termination of this Agreement, Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement, shall maintain backup documentation to support all entries included in the monthly billing statement. Such backup documentation shall be maintained in an auditable format and in accordance with generally accepted accounting principles. City Attorney, at its sole discretion, may, at any time up to three years beyond the completion of services or termination of this Agreement, audit Outside Counsel and any third party retained by Outside Counsel to assist in the performance of this Agreement. Outside Counsel and any such third parties shall promptly and fully cooperate with the audit, including affording City Attorney and/or its auditors access to records and files maintained by Outside Counsel and the third party.

## VII. NOTICES

All invoices, notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to City Attorney or Outside Counsel at the addresses below, or at any other address City Attorney or Outside Counsel shall provide in writing to each other:

A. If invoice to City Attorney:

Candy Pabalan, Administrative Coordinator  
Office of the City Attorney  
Outside Counsel Accounting Unit  
200 N. Main Street  
8<sup>th</sup> Floor, City Hall East  
Los Angeles, California 90012

If notice or a report to City Attorney:

Adena Hopenstand, Assistant City Attorney  
Office of the City Attorney  
200 N. Main Street  
7<sup>th</sup> Floor, City Hall East  
Los Angeles, California 90012-4130

If notice concerning conflict of interest to City Attorney:

Anne Haley, Assistant City Attorney  
Outside Counsel Oversight Division  
Office of the City Attorney  
200 North Main Street  
8<sup>th</sup> Floor, City Hall East  
Los Angeles, California 90012-4130

B. If notice to Outside Counsel:

Holly Whatley, Esq.  
Colantuono Highsmith & Whatley, PC  
300 South Grand Avenue, Suite 2700  
Los Angeles, CA 90071

**VIII. ASSIGNMENT**

A. No part of this Agreement or any right or obligation arising from it is assignable without City's prior written consent.

B. Any attempt by Outside Counsel to assign or subcontract services relating to this Agreement without City's prior written consent shall constitute a material breach of this Agreement.

**IX. STANDARD TERMS AND CONDITIONS**

Standard terms and conditions for City outside legal services contracts are attached as Exhibit A.

**X. MERGER**

This Agreement supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between City, City Attorney and Outside Counsel relating to the subject matter of this Agreement.

**XI. ORDER OF PRECEDENCE**

The terms and conditions contained in the body of this Agreement shall supersede, control and prevail over any conflicting term or condition contained in any other document, including, but not limited to, Exhibit A.

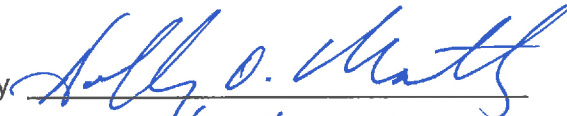
IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date indicated.

THE CITY OF LOS ANGELES,  
MICHAEL N. FEUER, City Attorney

By   
JAMES CLARK  
Chief Deputy City Attorney

Date 2/16/16

COLANTUONO HIGHSMITH & WHATLEY, PC

By 

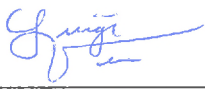
Date 1/15/2016

APPROVED AS TO FORM  
MICHAEL N. FEUER, City Attorney

By   
ANNE HALEY  
Assistant City Attorney

Date 2/16/16

ATTEST: HOLLY WOLCOTT, City Clerk

By   
Deputy City Clerk



Date 2-22-16

Contract Number: C-127067  
City Business License Number: \_\_\_\_\_  
Internal Revenue Service ID Number: \_\_\_\_\_  
Board Resolution Number: \_\_\_\_\_

**EXHIBIT A**  
**Standard Terms and Conditions**

**EXHIBIT B**

**Hourly Rates for COLANTUONO HIGHSMITH & WHATLEY, PC**

The specific hourly rates for each authorized timekeeper shall not exceed the following:

<b>Staff</b>	<b>Amended Rate</b>
<b>Holly Whatley</b> Shareholder	\$350
<b>Michael Colantuono</b> Shareholder	\$350
<b>Amy Sparrow</b> Associate	\$300
<b>Charlie LaPlante</b> Associate	\$285
<b>Michael Cobden</b> Associate	\$280
<b>Megan Knize</b> Associate	\$280
<b>Ryan T. Dunn</b> Associate	\$265
<b>Len Aslanian</b> Associate	\$245
<b>Evelyn Scott</b> Certified Paralegal	\$135
<b>Maria Oba Minassian</b> Legal Assistant	\$110
<b>Bernadette Morgan</b> Legal Assistant	\$110