

COUNCIL AGENDA – JANUARY 20, 2015

SUBJECT: LEGAL SERVICES AGREEMENT

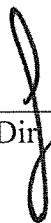
SOURCE: CITY MANAGER


COMMENT: For the City Council's consideration, please find attached the proposed Legal Services Agreement between the City of Porterville and McCormick, Kabot, Jenner & Lew, and Julia M. Lew. The Agreement provides for an hourly fee of \$170.00 for legal services by attorneys, and hourly rate of \$75.00 for services by law clerks and paralegals, and is for the period of March 1, 2015 through February 28, 2018. The only proposed changes from the previous contract include increasing the hourly rate for attorneys from \$150.00 per hour to \$170.00, and changing the billing increment from a quarter of an hour to a tenth of an hour.


RECOMMENDATION: That the City Council:

1. Approve the Legal Services Agreement; and
2. Authorize the Mayor to execute the Legal Services Agreement on behalf of the City Council.

Attachment: Draft Legal Services Agreement


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Item No. 22

LEGAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into as of the _____ day of January, 2015, by and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter referred to as CITY, and McCORMICK, KABOT, JENNER & LEW, a professional law corporation, and JULIA LEW, hereinafter referred to as ATTORNEYS, and based upon the exchange of mutual promises hereinafter contained, the parties agree as follows:

1. The CITY hereby hires JULIA M. LEW as its City Attorney, to serve as such municipal officer at the pleasure of the City Council of the City of Porterville. The compensation to be paid JULIA M. LEW for her services as City Attorney shall be included in and made a part of the compensation arrangement herein provided for as it relates to other legal services to be performed for and on behalf of the CITY:

2. The CITY hereby hires McCORMICK, KABOT, JENNER & LEW, a professional law corporation, to do and perform legal services for and on behalf of the CITY, together with such legal services as may be required of the City Attorney for the City of Porterville.

3. This Agreement may be terminated by either party upon thirty (30) days written notice to the other. The term of this Agreement shall begin on March 1, 2015, and extend through February 28, 2018. Furthermore, this Agreement shall terminate should JULIA M. LEW permanently leave the firm or her position as City Attorney.

4. CITY shall pay ATTORNEYS the sum of ONE HUNDRED SEVENTY DOLLARS (\$170.00) per hour, and shall pay the sum of SEVENTY FIVE DOLLARS (\$75.00) per hour for law clerks and/or paralegals for each hour of services, in one tenth hour increments. ATTORNEYS shall bill CITY monthly for their services rendered in the CITY=s behalf during the prior month. ATTORNEYS shall categorize the billings by City department and/or projects, as specified by the City Manager.

5. The services to be provided by the ATTORNEYS for the CITY shall include all legal services rendered at the request of the CITY, to include but not be limited to the following: Appearances at all necessary staff meetings, board or commission meetings; conferences with any staff member who might call for assistance; drafting of ordinances, leases, contracts, and other normal and customary legal documents; attendance at City Council meetings; attendance at other meetings in which the CITY has a vital interest; litigation which requires representation of the CITY, City officers or City Council persons in any trial or Appellate Court; representation of the CITY=s interest in connection with eminent domain and condemnation proceedings; representation of the CITY=s interest at necessary public hearings, meetings and legislative meetings conducted outside of the CITY limits of the City of Porterville; representation of the CITY=s interest with regard to labor relations; labor negotiations (if requested) or labor litigation; prosecution of violations of the City Code of the City of Porterville; representation in personnel matters in any administrative hearing procedure and/or litigation; representation of the CITY in all Pitchess motions before trial court; and other legal services not described above.

6. By specifying the areas of representation in the immediately preceding paragraph, it is not the intention of the parties to preclude the CITY from hiring or engaging other attorneys to act on its behalf in any area of concern to CITY.

7. The ATTORNEYS shall provide all reasonable and necessary facilities, equipment, books, supplies, stenographic and secretarial services, insurance policies and other property or services necessary to carry out and provide the required legal services pursuant to this Agreement.

8. It is understood that this Agreement provides for the services by the ATTORNEYS as the City Attorney for the City of Porterville on a contractual basis and not upon an employer/employee basis.

9. From time to time, the individual named in this Agreement as the City Attorney may designate other attorneys within the Law Firm to act in her place or stead in matters relating to affairs of the CITY.

10. The CITY agrees to reimburse the ATTORNEYS for any and all out-of-pocket expenses incurred on behalf of the CITY, including but not limited to, court reporter fees and charges, title company fees and charges, court costs, costs of outside investigators or experts pertaining to CITY litigations, telephone expenses, travel expenses (including meals and lodging outside the corporate limits of the County of Tulare), and membership fees in the League of California Cities Municipal Attorney=s Section. Use of personal automobiles shall be reimbursed at the rate permitted under the US Internal Revenue Code. Copying charges shall be at the rate of Twenty Cents (.204) per page and it is expressly understood that said charges shall be kept to an absolute minimum and that CITY facilities shall be utilized for such services whenever possible. All such costs and expenses to be reimbursed by CITY shall be billed from time to time and paid by CITY in due course after receipt of billing.

11. It is further understood that in the interest of the City of Porterville the City Attorney and members of the appointed law firm shall keep abreast of rapidly changing developments of municipal law and the City Attorney will be expected to attend appropriate conferences of the League of California Cities, and such other courses and seminars on municipal law as may be mutually deemed necessary to maintain current proficiency. The City Attorney shall be reimbursed for reasonable out-of-pocket expenses for travel, lodging and incidental expenses in connection with attendance at such conferences, courses and seminars. The City Attorney will be expected to attend at least on of the above referenced conferences, courses or seminars without being reimbursed on an hourly basis as provided for in this Agreement.

12. The City Attorney and law firm shall not accept private cases or clients which will or in the reasonable exercise of their judgment may, in the future, create conflicts of interest between the CITY and such clients or cases and shall not be involved in legal matters which, by reason of this Agreement, violate any state law or court holding.

13. To the extent that any of the terms and conditions of this agreement could be construed to provide for paid leave to the City Attorney by the local agency pending investigation, or to provide for a legal defense fund for criminal legal defense, or to provide for any cash settlement related to the termination of the City Attorney's services, any such payments or funds are required to be reimbursed if the City Attorney is convicted of a crime involving an abuse of her office or position, as set forth per AB 1344 (effective January 1, 2012). Said reimbursements are required if such payments are made, even if the payments were made by the City in the absence of any contractual requirement to do so.

14. The City Council shall annually meet, in closed session, with the City Attorney, to review the performance of the services provided under this Agreement. Said review shall occur on or before the first Council meeting in the month of February of each year.

CITY OF PORTERVILLE
A Municipal Corporation

BY _____
Milt Stowe, Mayor

McCORMICK, KABOT, JENNER & LEW
A Professional Law Corporation

BY _____
Julia M. Lew, City Attorney

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