



DENNIS J. HERRERA
City Attorney

August 12, 2002

Gloria L. Young
Executive Officer
San Francisco Local Agency Formation Commission
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: Legal Representation Engagement Letter

Dear Ms. Young:

Consistent with your discussion with Deputy City Attorneys Theresa Mueller and David Campos, this letter sets forth the proposed terms of my office's legal representation of the San Francisco Local Agency Formation Commission ("SF LAFCO"). If these terms are acceptable to you, please sign the letter in the space provided and, retaining a copy for your records, return it to Theresa or David at your earliest convenience.

As Theresa and David have indicated, my office will continue to work closely with you and your current counsel to ensure a smooth transition. To this end, we would be happy to provide you with recommendations about how to handle this transition as we receive additional information about SF LAFCO's future endeavors. Should you have any questions or wish to discuss the matter further, please do not hesitate to contact Theresa or David, respectively at 554-4640 and 554-6549. Of course, you are free to discuss this letter with your current or other counsel.

CONDITIONS OF REPRESENTATION

As outlined in my previous letter to President Matt Gonzalez and the other members of SF LAFCO, my office's representation is subject to the following two conditions: (1) SF LAFCO agrees to waive potential conflicts arising out of the City Attorney's simultaneous representation of the City and County and (2) SF LAFCO agrees to budget sufficient funds to pay for our services. These requirements are further detailed below.

SCOPE OF SERVICES

The City Attorney's Office shall advise and assist SF LAFCO in carrying out its duties under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the "Act"), California Government Code Section 56000 *et seq.* Please note that, under Rule 3-600 of Professional Conduct of the State Bar of California, throughout the course of our representation of SF LAFCO, our client will be SF LAFCO as an entity, acting through its highest authorized officer(s), employee(s), or governing body, not individual employees or members of the governing body of SF LAFCO.

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In the course of this representation, my office will provide SF LAFCO with legal advice on a range of issues, including all matters concerning the Act, matters concerning energy and energy-related issues, contract negotiations, and general governance. SF LAFCO may modify the scope of these services, in writing, as it deems appropriate.

During the course of this representation, you, Gloria L. Young, in your capacity as Executive Officer, will serve as SF LAFCO's liaison with my office.

STAFFING

The services outlined above shall be performed by personnel under the supervision and in the employment of my office. Particular tasks will be performed by attorneys with appropriate levels of experience and expertise for the performance of such tasks. I have assigned Deputy City Attorneys Theresa Mueller and David Campos to do the bulk of the legal representation of SF LAFCO. Other Deputy City Attorneys, such as Dorji Roberts, may be assigned to do work as we deem appropriate.

TERMS OF REPRESENTATION

Our representation of SF LAFCO shall commence on a mutually agreed upon date.

TERMINATION OF REPRESENTATION

SF LAFCO may terminate my office's legal representation at any time, for convenience and without cause, by providing advanced written notice of the termination.

In the event of such termination, SF LAFCO would be responsible for paying for those services which, to its reasonable satisfaction, were properly performed by my office.

Upon any termination, we shall, as appropriate, promptly provide SF LAFCO with complete and accurate copies or originals of all SF LAFCO documents in our possession. Likewise, we will do all other things reasonably necessary to cause an orderly transition of services without detriment to the rights of SF LAFCO.

Subject to the Rules of Professional Conduct of the State Bar of California, we reserve the right to terminate our legal representation of SF LAFCO at any time, for convenience and without cause, by providing written notice of the termination.

COMPENSATION AND BILLING

SF LAFCO shall compensate the City Attorney's Office for all of the services rendered pursuant to this letter. SF LAFCO will pay us on a monthly basis subject to the review and reasonable approval of our bills by SF LAFCO's Executive Officer. We will submit to SF LAFCO's Executive Officer, on a monthly basis, invoices identifying the services provided, by

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task, with a brief description of the services, by whom rendered, and the time (hours and fractions thereof) expended.

To the extent possible, the City Attorney's Office shall ensure that, in the course of billing SF LAFCO, it does not bill SF LAFCO for legal services provided to members of the SF LAFCO governing body or other SF LAFCO officers or employees in their capacity as officers or employees of the City and County of San Francisco, not SF LAFCO.

SF LAFCO will pay the City Attorney's Office for professional services at the hourly rates indicated below. These rates are subject to change annually in connection with the budget process; and we will notify SF LAFCO promptly, in writing, of any such change. We will, to the extent possible, use efficient and cost effective means in rendering services. Charges for preparing, processing or reviewing bills are not reimbursable under this letter.

Counsel's current hourly rates are:

Deputy City Attorney Theresa Mueller	\$182
Deputy City Attorney David Campos	\$182

In addition to the charges for professional services set forth above, SF LAFCO shall reimburse us for reasonable and necessary actual out-of-pocket expenses incurred in the course of rendering our services, including filing fees, express mail, and delivery charges and courier services. In no event shall SF LAFCO be liable for interest or late charges for any late payments.

SF LAFCO will budget sufficient funds to pay for our services. Again, it is our understanding that you have set aside about \$125,000 for legal and consulting services. This equates to about 700 hours of attorney time based on a blended rate of \$182/hr. Until we further define the scope of work it is difficult to estimate what would be an appropriate budget amount. But we are happy to work with you to develop a budget and to ensure that we stay within the budget once it is developed. Accordingly, throughout the course of our representation, we will provide you with monthly billing reports detailing our services.

OUTSIDE COUNSEL

The City Attorney's Office will not use or engage outside counsel with respect to any of the legal services outlined in this letter unless such use or engagement is first approved by SF LAFCO in writing.

CONFLICTS OF INTEREST

Potential Conflicts of Interest – Prospective Waiver.

SF LAFCO consents to the City Attorney's simultaneous representation of the City and County of San Francisco and SF LAFCO, notwithstanding that potential conflicts of interest

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could arise. While we do not foresee any specific conflicts of interest, possible conflicts that could arise include, among others, SF LAFCO and the City and County taking different positions on issues such as the size of SF LAFCO's budget, possible contracts between SF LAFCO and the City and County, and the scope of SF LAFCO's authority vis-a-vis the City and County. By signing this letter, you confirm SF LAFCO's understanding that the City Attorney may be called upon to advise the City and County in matters where the City and County and SF LAFCO's interests potentially conflict. Consistent with our ethical obligations, should an actual conflict arise, we would promptly notify you of the conflict. In such an instance, the parties agree that the City Attorney's Office would continue to represent the City and County, which is its primary obligation under the Charter, and SF LAFCO would secure separate counsel at its own expense.

Charter Conflict Provisions.

We acknowledge that we are familiar with the conflict of interest provisions of the City and County of San Francisco Charter, Section 15.103 and Appendix C, Section 8.105, and California Government Code Section 87100 *et seq.*, and certify that we do not know of any facts which constitute a violation of such provisions.

PROPRIETARY AND CONFIDENTIAL INFORMATION

We understand and agree that in the course of our representation of SF LAFCO, we may have access to proprietary or confidential information of SF LAFCO, the disclosure of which to third parties may be damaging to SF LAFCO. Consistent with our ethical obligations, we agree that all information disclosed by SF LAFCO in the course of our representation shall be held in confidence and used only in rendering services pursuant to this letter.

NOTICES

All notices or other communications as may be required in the course of the City Attorney's representation of SF LAFCO shall be deemed given when made in writing, or delivered in person, or sent by United States mail, or by facsimile, as follows:

To SF LAFCO:
Gloria L. Young
Executive Officer, SF LAFCO
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

To the City Attorney:
Theresa Mueller or David Campos
Deputy City Attorney(s)
Office of the City Attorney
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102-5408

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SEVERABILITY

Any provision or portion of this letter of engagement prohibited as unlawful or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be ineffective without affecting other provisions of this letter.

AMENDMENT

Unless otherwise provided herein, neither this letter nor any of the terms of the City Attorney's legal representation of SF LAFCO outlined herein may be changed, waived, discharged, or terminated, except by written instrument signed by both parties.

GOVERNING LAW


This engagement letter, including the formation, interpretation and performance thereof, shall be governed by the laws of the State of California.

Thanks for your attention to this matter. We look forward to continuing to work closely with your office and are ready to assist you in any way we can.

Very truly yours,


DENNIS J. HERRERA
City Attorney

ACCEPTANCE/APPROVAL OF THE CITY ATTORNEY'S
LEGAL REPRESENTATION OF SF LAFCO PURSUANT
TO THE TERMS OF THIS ENGAGEMENT LETTER

By 
GLORIA L. YOUNG
Executive Officer, SF LAFCO


DATE

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CC: The Honorable Matt Gonzalez, President, SF LAFCO
The Honorable Jake McGoldrick, Vice-President, SF LAFCO
The Honorable Tom Ammiano, Member, SF LAFCO
The Honorable Tony Hall, Member, SF LAFCO
The Honorable Aaron Peskin, Alternate Member, SF LAFCO
Hope Schmeltzer, Public Member, SF LAFCO
Diane Fellman, Alternate Public Member, SF LAFCO