



**AGREEMENT FOR PROFESSIONAL SERVICES**

**WITH LAW OFFICE OF ELLEN F. GROSS, APC**

This AGREEMENT is made and entered into as of the date of execution by the City of Coronado, a California municipal corporation, hereinafter referred to as "CITY" and Law Office of Ellen F. Gross, APC, hereinafter referred to as "CONSULTANT." Where the contracting entity is a joint venture such entity is encompassed within the meaning of the term "CONSULTANT."

**RECITALS**

The CITY requires the services of an attorney to provide counsel to the CITY's Civil Service Commission. These services generally consist of specific legal services. The work to be performed by CONSULTANT shall be referred to herein as the "DESCRIBED SERVICES."

CONSULTANT represents itself as being a law firm, possessing the necessary experience, skills, and qualifications to provide the services required by the CITY. CONSULTANT warrants and represents that it has the necessary staff to deliver the services within the time frame herein specified.

The City Manager or her designee is authorized to execute this Agreement pursuant to Coronado Municipal Code section 8.05.020.

The CITY's City Attorney shall serve as the CITY's "Contract Officer" for this AGREEMENT and has the authority to direct the CONSULTANT, approve actions, request changes, and approve additional services.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, CITY and CONSULTANT (collectively referred to as the "PARTIES") agree as follows:

**1.0 TERM OF THE AGREEMENT**

1.1 This AGREEMENT shall be effective beginning the day, month and year of the execution of this document by the CITY. The AGREEMENT shall be in effect for a term of twelve (12) months. The CITY shall have the sole discretion to extend the AGREEMENT for four (4) additional one (1) year periods, if agreed to by the CONSULTANT.

1.2 The CONSULTANT shall commence the performance of the DESCRIBED SERVICES immediately upon execution of this AGREEMENT. Time is of the essence in this AGREEMENT. Failure to meet the schedule contained in this AGREEMENT is a default by the CONSULTANT.

1.3 A delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the DESCRIBED SERVICES. When such delay occurs, CONSULTANT shall immediately notify the CONTRACT OFFICER in writing of the cause and the extent of the delay, whereupon the CONTRACT OFFICER shall ascertain the facts and the extent of the delay and may grant an extension of time for the completion of the DESCRIBED SERVICES when justified by the circumstances.

1.4 This AGREEMENT may be terminated in accordance with the provisions contained in this AGREEMENT.

## **2.0 CONSULTANT'S OBLIGATIONS AND SCOPE OF WORK (ATTACHMENT A)**

2.1 CONSULTANT shall provide the CITY with the professional services for the PROJECT that are described in ATTACHMENT A and are hereinafter referred to as the "DESCRIBED SERVICES."

2.2 CONSULTANT shall perform all the tasks required to accomplish the DESCRIBED SERVICES in conformity with the applicable requirements of federal, state, and local laws in effect at the time that the DESCRIBED SERVICES are being performed and at the time that the scope of work is substantially completed by the CONSULTANT.

a. The CONSULTANT is responsible for ensuring the professional quality, technical accuracy, and coordination of all services and documents furnished by the CONSULTANT under this AGREEMENT.

b. The CONSULTANT shall be obligated to comply with applicable standards of professional care in the performance of the DESCRIBED SERVICES. CITY recognizes that opinions relating to environmental, geologic, and geotechnical conditions are based on limited data and that actual conditions may vary from those encountered at the times and locations where the data are obtained despite the use of professional care. Where any condition exists for which the CONSULTANT must make a judgment that could result in an actual condition that is materially different, the CONSULTANT shall advise the CITY in advance and request specific direction.

c. The CONSULTANT shall, without additional compensation, immediately correct or revise any DESCRIBED SERVICES that do not meet the foregoing professional responsibility standards.

2.3 During the term of this AGREEMENT, CONSULTANT shall maintain professional certifications as required in order to properly comply with all applicable federal, state, and local laws. If the CONSULTANT lacks such certification, this AGREEMENT is void and of no effect.

2.4 Conflict of Interest and Political Reform Act Obligations, if determined to be applicable according to ATTACHMENT B – CONFLICT OF INTEREST DETERMINATION. CONSULTANT shall at all times comply with the terms of the Political Reform Act and the local

Conflict of Interest Ordinance. The level of disclosure categories shall be set by the City and shall reasonably relate to the scope of the DESCRIBED SERVICES.

**3.0 PAYMENT AND SCHEDULE OF SERVICES (ATTACHMENTS C AND D)**

3.1 CONSULTANT is hired to render the DESCRIBED SERVICES and any payments made to CONSULTANT are full compensation for such services.

3.2 The amount of payment to CONSULTANT for providing the DESCRIBED SERVICES is set forth in ATTACHMENT C. No payment shall be allowed for any reimbursable expenses unless specifically described in ATTACHMENT C.

3.3 Payment for all undisputed portions of each invoice shall be made within 45 days from the date of the invoice.

3.4 The CITY's review, approval or acceptance of, or payment for the services required under this AGREEMENT shall not be construed to operate as a release or waiver of any rights of the CITY under this AGREEMENT or of any cause of action arising out of CONSULTANT's performance of this AGREEMENT, and CONSULTANT is responsible to the CITY for all damages to the CITY caused by the CONSULTANT's performance of any of the DESCRIBED SERVICES.

3.5 CONSULTANT shall at all times comply with the CITY's Administrative Procedure No. 509 regarding Payment for Special Counsel, a copy of which is attached hereto as ATTACHMENT C-1.

**4.0 CITY'S OBLIGATIONS**

4.1 CITY shall provide information as to the requirements of the project, including budget limitations. The CITY shall provide or approve the schedule proposed by the CONSULTANT.

4.2 CITY shall furnish the required information and services and shall render approvals and decisions expeditiously to allow the orderly progress of the DESCRIBED SERVICES as shown on the schedule required under ATTACHMENT D.

**5.0 SUBCONTRACTING.** No subcontracting is permitted under this AGREEMENT.

**6.0 CHANGES TO THE SCOPE OF WORK**

6.1 The CONSULTANT shall not perform work in excess of the DESCRIBED SERVICES without the prior written approval of the CONTRACT OFFICER. All requests for extra work shall be made by written request for a contract modification submitted to the CONTRACT OFFICER. To be effective, all contract modifications must be in writing and signed prior to the commencement of the work. Fees for additional work will be negotiated on a fixed-fee basis.

6.2 The CITY may unilaterally reduce the scope of work to be performed by the CONSULTANT. Upon doing so, CITY and CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a deductive change order or amendment to the AGREEMENT.

## **7.0 ENTIRE AGREEMENT**

7.1 This AGREEMENT and incorporated attachments set forth the entire understanding of the PARTIES with respect to the subject matters herein. If there are any inconsistencies between the incorporated attachments and this AGREEMENT, the terms of this AGREEMENT control. There are no other understandings, terms, or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

## **8.0 TERMINATION OF AGREEMENT**

8.1 In the event of CONSULTANT's default of any covenant or condition hereof, including, but not limited to, failure to timely or diligently prosecute, deliver, or perform the DESCRIBED SERVICES, or where the CONSULTANT fails to perform the work in accordance with the project schedule (ATTACHMENT D), the CITY may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default. Thereupon, CONSULTANT shall immediately cease work and within five (5) working days: (1) assemble all documents owned by the CITY and in CONSULTANT's possession, and deliver said documents to the CITY; and (2) place all work in progress in a safe and protected condition. The CONTRACT OFFICER shall make a determination of the percentage of work that CONSULTANT has performed that is usable and of worth to the CITY. Based upon that finding, the CONTRACT OFFICER shall determine any final payment due to CONSULTANT.

8.2 This AGREEMENT may be terminated by the CITY, without cause, upon the giving of fifteen (15) days' written notice to the CONSULTANT. Prior to the fifteenth (15th) day following the giving of the notice, the CONSULTANT shall assemble the completed work product to date, and put the same in order for proper filing and closing, and deliver said product to the CITY. The CONSULTANT shall be entitled to just and equitable compensation for any satisfactory work completed. The CONTRACT OFFICER and CONSULTANT shall endeavor to agree upon a percentage complete of the contracted work if fees are fixed, or an agreed dollar sum based on services performed if hourly, and terms of payment for services and reimbursable expenses. CONSULTANT hereby expressly waives any and all claims for damages or compensation arising under this AGREEMENT except as set forth herein.

## **9.0 OWNERSHIP OF DOCUMENTS**

9.1 All work products (i.e., documents, data, studies, drawings, maps, models, photographs, and reports) prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this project, and shall be turned over to

the CITY upon completion of the DESCRIBED SERVICES or any phase thereof, as contemplated by this AGREEMENT.

9.2. Contemporaneously with the transfer of such documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications, or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

## **10.0 STATUS OF CONSULTANT**

10.1 CONSULTANT shall perform the DESCRIBED SERVICES in a manner of CONSULTANT's own choice, as an independent contractor and in pursuit of CONSULTANT's independent calling, and not as an employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of the DESCRIBED SERVICES, the CITY only being concerned with the finished results of the work being performed. CONSULTANT shall confer with the CITY at a mutually agreed frequency and inform the CITY of incremental work/progress as well as receive direction from the CITY. Neither CONSULTANT nor CONSULTANT's employees shall be entitled in any manner to any employment benefits, including, but not limited to, employer-paid payroll taxes, Social Security, retirement benefits, health benefits, or any other benefits, as a result of this AGREEMENT. It is the intent of the parties that neither CONSULTANT nor its employees are to be considered employees of CITY, whether "common law" or otherwise, and CONSULTANT shall indemnify, defend and hold CITY harmless from any such obligations on the part of its officers, employees and agents.

## **11.0 ASSIGNMENT OF CONTRACT**

11.1 This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or subcontracted, without the express written consent of the CITY.

## **12.0 COVENANT AGAINST CONTINGENT FEES**

12.1 CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working for CONSULTANT, to solicit or secure this AGREEMENT, and that CONSULTANT has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this AGREEMENT. For breach or violation of this warranty, the CITY shall have the right to terminate this AGREEMENT without liability, or, at the CITY's sole discretion, to deduct from the AGREEMENT the price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

### 13.0 INDEMNITY – HOLD HARMLESS

13.1 To the fullest extent permitted by law, CONSULTANT, through its duly authorized representative, agrees that CITY and its respective elected and appointed boards, officials, officers, agents, employees, and volunteers (individually and collectively, "CITY Indemnitees") shall have no liability to CONSULTANT or any other person, and CONSULTANT shall indemnify, protect, and hold harmless CITY Indemnitees from and against, any and all liabilities, claims, demands, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses, including reasonable attorneys' fees and disbursements (collectively "claims") that arise out of, or pertain to, or relate to this AGREEMENT or the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, and agents in the performance of the DESCRIBED SERVICES.

13.2 CONSULTANT's obligation herein does not extend to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage, or expense arising from the sole negligence, recklessness or willful misconduct of the CITY or its elected or appointed boards, officials, officers, agents, employees or volunteers.

13.3 CONSULTANT shall provide a defense (with counsel acceptable to CITY) to the CITY's Indemnitees, or, at the CITY's option, reimburse the CITY's Indemnitees for all costs, attorneys' fees, expenses, and liabilities (including judgment or portion thereof) incurred with respect to any litigation in which the CONSULTANT is obligated to indemnify, defend, and hold harmless the CITY's Indemnitees pursuant to this AGREEMENT.

13.4 The provisions of this section 13 shall not be limited by any provision of insurance coverage that the CONSULTANT may have in effect, or may be required to obtain and maintain, during the term of this AGREEMENT. The provisions of this section 13 are continuing obligations and shall survive expiration or termination of this AGREEMENT.

13.7 **PERS Eligibility Indemnification.** In the event that any of CONSULTANT's officers, employees, agents, subcontractors, representatives or other persons providing services on CONSULTANT's behalf under this Agreement (collectively "CONSULTANT's PERSONNEL") claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS of the CITY, Contractor shall indemnify, defend (with counsel acceptable to CITY), and hold harmless CITY for the payment of any employer and employee contributions for PERS benefits on behalf of CONSULTANT's PERSONNEL as well as for payment of any penalties and interest on such contributions which would otherwise be the responsibility of the CITY.

Notwithstanding any other agency, state or federal policy, rule, regulation, law, or ordinance to the contrary, CONSULTANT's PERSONNEL providing services under this AGREEMENT shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation and benefit including but not limited to eligibility to enroll in PERS as an employee of CITY and entitlement to any contributions to be paid by CITY for employer contributions and/or employee contributions for PERS benefits.

**13.8 Limitation of CITY Liability.** The payment made to CONSULTANT pursuant to this AGREEMENT shall be the full and complete compensation to which CONSULTANT and CONSULTANT's PERSONNEL are entitled for performance of any work under this contract. Neither CONSULTANT nor CONSULTANT's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the CITY. The CITY will not make any federal or state tax withholdings on behalf of CONSULTANT. The CITY shall not be required to pay any workers' compensation insurance on behalf of CONSULTANT.

**13.9 Indemnification for Employee Payments.** CONSULTANT agrees to defend (with counsel acceptable to CITY), indemnify and hold harmless the CITY for and against any obligation, claim, suit, or demand for tax, retirement contribution, including any contribution to the Public Employees Retirement System (PERS), Social Security, salary, or wages, overtime payment, or workers' compensation payment which the CITY may be required to make on behalf of CONSULTANT or CONSULTANT's PERSONNEL for work done under this AGREEMENT.

#### **14.0 INSURANCE**

**14.1** CONSULTANT shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the DESCRIBED SERVICES and the results of that work by the CONSULTANT or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A-" and "VII" unless otherwise approved in writing by the CITY's Risk Manager.

**14.2 Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

**14.2.1 Professional Liability.** CONSULTANT has and shall maintain during the term of this agreement a policy of professional liability (errors and omissions) from an insurance company authorized to do business in the State of California in insurable amounts of not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate.

**14.2.2 Personal Automobile Liability.** CONSULTANT has and shall maintain during the term of this agreement automobile insurance from an insurance company authorized to do business in the State of California for all of the CONSULTANT's automobiles used to conduct work under this Agreement.

**14.3** The insurance policies shall remain in full force during the life of the AGREEMENT, and shall not be canceled or not renewed without thirty (30) days prior written notice to the CITY from the insurance company. Statements that the carrier "will endeavor" and "failure to mail such notice shall impose no obligation or liability upon the company, its agents, or representatives," will not be acceptable on insurance certificates. Maintenance of specified insurance coverage is a material element of this AGREEMENT.

**14.5** Before CONSULTANT shall employ any person or persons in the performance of the AGREEMENT, CONSULTANT shall procure a policy of Workers' Compensation insurance as

required by the Labor Code of the State of California, or shall obtain a certificate of self-insurance from the Department of Industrial Relations.

14.6 CONSULTANT shall furnish certificates of said insurance and policy endorsements to the CONTRACT OFFICER prior to commencement of work under this AGREEMENT. Failure by the CONTRACT OFFICER to object to the contents of the certificate and/or policy endorsement or the absence of same shall not be deemed a waiver of any and all rights held by the CITY. Failure on the part of CONSULTANT to procure or maintain in full force the required insurance shall constitute a material breach of contract under which the CITY may exercise any rights it has in law or equity including, but not limited to, terminating this AGREEMENT pursuant to Paragraph 8.1 above.

14.7 The CITY reserves the right to review the insurance requirements of this section during the effective period of the AGREEMENT and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon economic conditions, recommendation of professional insurance advisors, changes in statutory law, court decisions, or other relevant factors. The CONSULTANT agrees to make any reasonable request for the deletion, revision, or modification of particular insurance policy terms, conditions, limitations, or exclusions (except where those policy provisions are established by law, or are established by regulations that are binding upon either party to the contract, or are binding upon the underwriter to the contract). Upon request by CITY, CONSULTANT shall exercise reasonable efforts to accomplish such changes in policy coverages and shall pay the cost thereof.

14.8 Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY's option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

14.9 CONSULTANT hereby grants to CITY a waiver of any right to subrogation that any insurer of said CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. This provision applies regardless of whether or not the CITY has requested or received a waiver of subrogation endorsement from the insurer.

## **15.0 DISPUTES**

15.1 If a dispute should arise regarding the performance of this AGREEMENT, the following procedures shall be used to address the dispute:

a. If the dispute is not resolved informally, then, within five (5) working days thereafter, the CONSULTANT shall prepare a written position statement containing the party's full position and a recommended method of resolution and shall deliver the position statement to the CONTRACT OFFICER.

b. Within ten working (10) days of receipt of the position statement, the CONTRACT OFFICER shall prepare a response statement containing the CITY's full position and a recommended method of resolution and shall deliver the response statement to the CONSULTANT.

c. After the exchange of statements, if the dispute is not resolved within ten working (10) days, the CONSULTANT and the CONTRACT OFFICER shall deliver the statements to the City Manager who shall make a determination within ten working (10) days.

15.2 If the dispute remains unresolved for ten working (10) days following the City Manager's determination, and the parties have exhausted the procedures of this section, the parties may then seek resolution by mediation or such other remedies available to them by law or in equity.

## 16.0 GENERAL PROVISIONS

16.1 **Accounting Records.** CONSULTANT shall keep records of the direct reimbursable expenses pertaining to the DESCRIBED SERVICES.. CONSULTANT shall keep such records on a generally recognized accounting basis. At any time during normal business hours, and as often as CITY may deem necessary, the CONSULTANT shall make available to the CONTRACT OFFICER, or the CONTRACT OFFICER's authorized representative, for examination, all of its records with respect to all matters covered by this AGREEMENT and shall permit CITY to audit, examine, and/or reproduce such records. CONSULTANT shall retain such financial and program service records for a period of four (4) years from the completion of the work or after termination or final payment under this AGREEMENT, whichever is later.

16.2 **CONTRACT OFFICER.** The CITY's designated CONTRACT OFFICER has the authority to direct the CONSULTANT, approve actions, request changes, and approve additional services within her/his authority. Any obligation of the CITY under this AGREEMENT shall be the responsibility of the CONTRACT OFFICER. Excepting the provisions pertaining to dispute resolution, no other person shall have any authority under this AGREEMENT unless specifically delegated in writing.

16.3 **Governing Law.** This AGREEMENT and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this AGREEMENT shall be held exclusively in a State court in the County of San Diego. CONSULTANT hereby waives the right to remove any action from San Diego County as is otherwise permitted by California Code of Civil Procedure Section 394.

16.4 **Compliance with Laws/Business Certificate.** CONSULTANT is required to comply with all applicable federal, state and local laws, rules, regulations, orders, policies, protocols and guidance, including, but not limited to, obtaining and maintaining a City Business Certificate during the duration of this AGREEMENT.

16.5 **Drafting Ambiguities.** The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

**16.6. Conflicts between Terms.** If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Attachments, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Attachments, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

**16.7 Non-Discrimination.** CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, military or veteran status, medical condition, genetic information, gender expression, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, military or veteran status, medical condition, genetic information, gender expression, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

**16.8 Responsibility for Equipment.** [Reserved]

**16.9 Public Works Contract.** [Reserved]

**17.0 NOTICES**

17.1 Any notices to be given under this AGREEMENT, or otherwise, shall be served by certified mail. For the purposes hereof, unless otherwise provided in writing by the parties hereto:

- a. The address of the CITY, and the proper person to receive any notice on the CITY's behalf, is:

City of Coronado  
Office of the City Attorney  
1825 Strand Way  
Coronado, CA 92118  
Attn: Johanna N. Canlas, City Attorney

- b. The address of the CONSULTANT, and the proper person to receive any notice on the CONSULTANT's behalf, is:

Law Office of Ellen F. Gross, APC

3077-B Clairemont Drive, #142  
San Diego, CA 92117  
Attn: Ellen F. Gross

## **18.0 PROFESSIONAL CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT OF 1986**

18.1 CONSULTANT certifies that CONSULTANT is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 U.S.C. §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of CONSULTANT and all its agents, employees, representatives, and any other person performing any of the DESCRIBED SERVICES.

## **19.0 ADDITIONAL PROVISIONS**

19.1 **Consequential Damages.** Neither Party shall be liable to the other for consequential damages, including, without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

19.2 **Responsibility for Others.** CONSULTANT shall be responsible to the CITY for its services.. CONSULTANT shall not be responsible for the acts or omissions of any other persons engaged by the CITY nor for their construction means, methods, techniques, sequences, or procedures, or their health and safety precautions and programs.

19.3 **Representation.** The CONSULTANT is not authorized to represent the CITY, to act as the CITY's agent, or to bind the CITY to any contractual agreements whatsoever.

19.4 **Third-Party Review of CONSULTANT's Work Product (Peer Review).** At the option of the CITY, a review of the CONSULTANT's work product may be performed by an independent expert chosen by the CITY. In such case, the CONSULTANT agrees to confer and cooperate fully with the independent expert to allow a thorough review of the work product by the expert. Such review is intended to provide the CITY with a peer review of the concepts, all pre-design documentation, methods, professional recommendations, and other work product of the CONSULTANT. The results of this review will be furnished to the CITY and shall serve to assist the CITY in its review of the CONSULTANT's deliverables under this AGREEMENT.

19.5 **Periodic Reporting Requirements.** The CONSULTANT shall provide a written status report of the progress of the work on a monthly basis that shall accompany the CONSULTANT's payment invoice. The status report shall, at a minimum, report the work accomplished to date; describe any milestones accomplished; show and discuss the results on any testing or exploratory work; provide an update to the approved schedule (as set forth in ATTACHMENT D or, if no ATTACHMENT D, as approved by the CONTRACT OFFICER), and if not in accordance with the original schedule, describe how the CONSULTANT intends to get back on the original schedule; describe any problems or recommendations to increase the scope of the work; and

provide any other information that may be requested by the CITY. The report is to be of a form and quality appropriate for submission to the City Council.

**19.6 Brand or Trade Names.** [Reserved]

**19.7 Rights Cumulative.** All rights, options, and remedies of the CITY contained in this AGREEMENT shall be construed and held to be cumulative, and no one of the same shall be exclusive of any other, and the CITY shall have the right to pursue any one of all of such remedies or any other remedy or relief that may be provided by law or in equity, whether or not stated in this AGREEMENT.

**19.8 Waiver.** No waiver by either Party of a breach by the other Party of any of the terms, covenants, or conditions of this AGREEMENT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, covenant, or condition herein contained. No waiver of any default of either Party hereunder shall be implied from any omission by the other Party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect a default other than as specified expressly in said waiver.

**19.9 Severability.** In the event that any part of this AGREEMENT is found to be illegal or unenforceable under the law as it is now or hereafter in effect, either Party will be excused from performance of such portion or portions of this AGREEMENT that is found to be illegal or unenforceable without affecting the remaining provisions of this AGREEMENT.

**19.10 Attachments Incorporated.** All ATTACHMENTS referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

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20. SIGNATURES

20.1 Each signatory and Party hereto hereby warrants and represents to the other Party that it has legal authority and capacity and direction from its principal to enter into this AGREEMENT, and that all resolutions or other actions have been taken so as to enable it to enter into this AGREEMENT.

CITY:

CONSULTANT:

LAW OFFICE OF ELLEN F. GROSS, APC

Signed by:  
By: Tina Friend  
Tina Friend, City Manager

By: Ellen F. Gross  
Ellen F. Gross

Date: September 10, 2024

Date: 09/10/2024

APPROVAL AS TO FORM:

Signed by:  
Johanna N. Canlas  
Johanna N. Canlas, City Attorney

September 10, 2024

Date

ATTEST:

DocuSigned by:  
Kelsea Holian  
Kelsea Holian, City Clerk

September 10, 2024

Date

- ATTACHMENT A – SCOPE OF WORK
- ATTACHMENT B – CONSULTANT CONFLICT OF INTEREST DETERMINATION
- ATTACHMENT C – PAYMENT FOR SERVICES
- ATTACHMENT C-1 – ADMINISTRATIVE PROCEDURE 509 (PAYMENT FOR SPECIAL COUNSEL)
- ATTACHMENT D – SCHEDULE OF SERVICES

**ATTACHMENT A**

**ELLEN F. GROSS, APC**

**SCOPE OF WORK**

CONSULTANT shall provide the CITY with the following professional services for the PROJECT (collectively, the “DESCRIBED SERVICES”):

Serve as legal counsel to the Civil Service Commission. CONSULTANT’s proposal provided to the City is attached and incorporated herewith at Attachment A-1.

## Law Office of Ellen F. Gross, APC

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3077-B Clairemont Drive, #142, San Diego CA 92117  
619-851-7987 | [efgrosslawcorp@gmail.com](mailto:efgrosslawcorp@gmail.com)

August 30, 2024

Johanna N. Canlas, Esq.  
City Attorney  
City of Coronado

[Via Email Only to JCanlas@bwslaw.com](mailto:JCanlas@bwslaw.com)

RE: General Counsel position for City of Coronado Civil Service Commission

Dear Ms. Canlas:

Thank you very much for contacting me regarding providing legal services to the City of Coronado (Coronado). Pursuant to our conversation today, the following is my proposal for providing legal services as General Counsel to Coronado's Civil Service Commission (CSC). While my attached resume generally describes my work history, I will provide further details below that are relevant to the services as counsel for the CSC.

### **My qualifications for this role**

As you know, I retired in January 2021, as Assistant General Counsel for the San Diego Unified Port District (Port), after 20+ years serving as both a Deputy General Counsel and Assistant General Counsel. I was hired in July 2000, as a Deputy General Counsel (formerly classified as Deputy Port Attorney III) after initially being requested by the Port Attorney at the time, David Chapman, to serve as counsel to the Port's Personnel Advisory Board (PAB) - the Port's equivalent of a Civil Service Commission, for a police officer termination matter. At that time, I was employed by the City of Chula Vista as a Deputy City Attorney, specializing in labor and employment law, a code enforcement prosecutor and the City of Chula Vista's police legal advisor. As part of my duties, I represented the City of Chula Vista in all Civil Service Commission hearings. I was employed by the City of Chula Vista from 1997 to July 2000, when I went to the Port.

While at the Port, in my capacity as a Deputy Port Attorney, I was responsible for managing all disciplinary matters and represented the Port in all PAB hearings for classified employees, unless outside counsel was retained due to extenuating circumstances. After my promotion to Assistant General Counsel in 2013, I continued to oversee disciplinary hearings conducted by the PAB, including retaining outside counsel as a firewall, and served as counsel to the Port's Board of Port Commissioners for their closed session deliberations conducted pursuant to the Port's Personnel Rules and Regulations. Additionally, I participated in interviewing and selecting members of the Port's PAB and trained them on the Port's Personnel Rules and Regulations, including the conduct of PAB hearings, every time that new members were appointed.

**ELLEN F. GROSS, LAW OFFICE OF ELLEN F. GROSS, APC  
3077-B CLAIREMONT DRIVE, #142, SAN DIEGO CA 92117  
(619) 851-7987; efgrosslawcorp@gmail.com**

**EXECUTIVE SUMMARY**

California licensed attorney with 30+ years of experience specializing in labor and employment law, board/commission oversight, litigation for public agencies, and workplace investigations. I served as police legal advisor for the San Diego Unified Port District Harbor Police and Chula Vista Police Departments for over 22 years, and as a member of the Port District's Executive Leadership Group. In my current solo practice, I provide thoughtful, ethical, thorough and responsive counsel and independent investigative work to limited public and private sector clients.

**EXPERIENCE**

**LAW OFFICE OF ELLEN F. GROSS, APC (April 2021-Present)**

**\*Owner/President:** Provide thorough and timely counsel in myriad complex and sensitive labor and employment issues, conduct and review workplace and independent investigations of government personnel.

**SAN DIEGO UNIFIED PORT DISTRICT, San Diego, CA (07/31/2000 – 01/29/2021)**

**\*Assistant General Counsel (July 2013 – 01/29/2021):** Second in command of in-house legal department, acted for General Counsel in his absence, oversaw and managed highly confidential personnel matters, supervised six attorneys and five staff, member of Executive Leadership Group, participated in formulating and executing all staff and Board policy decisions and actions, in addition to legal work described in Deputy Port Attorney III position below.

**\*Deputy Port Attorney III (07/2000 – 07/2013):** Senior attorney advising and litigating employment, labor, municipal, administrative, real estate and environmental law matters. Served as Police Legal Advisor, assisted in all aspects of labor negotiations, retirement and Human Resources administration. Oversaw all discipline of public employees, conducted workplace investigations and trained and monitored staff investigations. Litigated insurance coverage matters to obtain insurance coverage for environmental liabilities, in-house litigation of dangerous condition, civil rights, employment, breach of contract and mandamus actions through appeal (state and federal). Significant experience in ADA (Titles I&II) and Civil Rights (42 U.S.C. §1983) litigation and resolution.

**CITY OF CHULA VISTA, Chula Vista CA, (11/1997–07/2000)**

**\*Deputy City Attorney II:** Practiced labor, employment, municipal, administrative law and litigation; Police Legal Advisor, Code Enforcement Prosecutor.

**LAW OFFICERS OF ADLER & MARRINAN (05/1992 –09/1997) [now defunct]**

**\*Associate:** Litigation practice specializing in police misconduct and employment actions; complete trial practice from case intake through appeal in state and federal courts.

**COUNTY OF SAN DIEGO, OFFICE OF THE PUBLIC DEFENDER (12/1990– 05/1992)**

**\*Deputy Public Defender I:** Defended indigent persons accused of crimes from arraignment through sentencing and appeal; wrote and argued motions; tried misdemeanor cases and probation violations.

**EDUCATION, LICENSES & CERTIFICATES**

**\*UNIVERSITY OF SAN DIEGO SCHOOL OF LAW, SAN DIEGO, CA, Juris Doctor**

**\*UNIVERSITY OF CALIFORNIA BERKELEY, BA, History**

**\*CALIFORNIA STATE BAR, License No. 149127**

**\*ASSOCIATION OF WORKPLACE INVESTIGATORS, CHI - 2016**

Attachment 1

In or about 2005, I served as counsel to the Civil Service Commission for the City of National City for an officer-involved shooting case. The police officer's counsel had a worthy reputation for being aggressive and belligerent toward commission members and I was able to assist the commission in coming to a well-reasoned and legally defensible decision.

Based upon our limited discussion, I understand that the CSC has not heard any disciplinary appeals recently and may be required to hear one or more appeals with employees in the near future. I have reviewed Coronado's Municipal Code §4.04, and pertinent sections of Coronado's Civil Service Rules pertaining to disciplinary actions. While more general than the Civil Service Rules of neighboring public agencies, they are quite similar in nature.

My philosophy as a public sector labor and employment attorney advising CSCs and personnel boards is to provide all parties with dignity, respect, and due process. My decades of litigation experience, including defending writs of mandate in trial and appellate courts, is also helpful to ensure that the Coronado CSC's decisions are legally defensible. Meaningful process occurs when there is transparency and each party has the opportunity to present their side, even if it takes more time and seems burdensome. My experience has shown that most evidence should be considered as to its weight, not its admissibility.

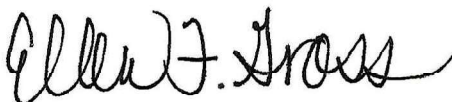
**Proposal**

I provide a public agency hourly rate of \$400. I don't require a retainer, but an acceptable written agreement for all work performed. If you have billing guidelines, I will review them and negotiate as needed. I don't charge for mail, copy, or other costs. I am a prudent and reasonable biller. Since I am a solo practitioner, I do not charge for secretarial or other support services, unless there is a reason (tons of documents, IT issues, the need for paralegal services, etc.) and such costs will be negotiated prior to being charged. I carry \$1M/\$1M in malpractice insurance, and my automobile insurance covers my work.

I agree to be available to serve as Coronado's CSC General Counsel as needed and in person; however, I will be unavailable from September 15, 2024, through October 2, 2024, due to a previously scheduled vacation and a Board meeting for another client. I am most always available by phone and text, unless I advise you or anyone you delegate, in advance of absences. As discussed, I am available and will be prepared to present a comprehensive training to the CSC members on September 12, 2024, during their regular open session meeting. Further, I will be prepared to host a meeting with the parties to the upcoming appeal via Zoom the day of September 12, 2024, in order to schedule dates certain for the upcoming appeal hearing, subject to confirmation by the CSC at its September 12 meeting.

I appreciate your confidence in me and look forward to serving the City of Coronado and its CSC in this important role.

Best,



ELLEN F. GROSS  
EFG/attachment (resume)

**ATTACHMENT B****ELLEN F. GROSS, APC****CONFLICT OF INTEREST DETERMINATION**

CONSULTANT shall at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the City in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the City.

“CONSULTANT<sup>1</sup>” means an individual who, pursuant to a contract with a state or local agency:

- (A) Makes a governmental decision whether to:
1. Approve a rate, rule, or regulation;
  2. Adopt or enforce a law;
  3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  4. Authorize the CITY to enter into, modify, or renew a contract, provided it is the type of contract that requires CITY approval;
  5. Grant CITY approval of a contract that requires CITY approval and to which the CITY is a party, or to the specifications for such a contract;
  6. Grant CITY approval of a plan, design, report, study, or similar item;
  7. Adopt, or grant City approval of, policies, standards, or guidelines for the CITY, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the CITY and in that capacity participates in making a governmental decision as defined in Regulation 18704(a) and (b) or performs the same or substantially all the same duties for the CITY that would otherwise be performed by an individual holding a position specified in the CITY’s Conflict of Interest Code.

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<sup>1</sup> The City’s Conflict of Interest Code and the Political Reform Act refer to “consultants,” not “contractors.” The City’s professional services agreements might refer to the hired professional as a “contractor,” not a “consultant,” in which case the Conflict of Interest Code may still apply. The Conflict of Interest Code, however, does not cover public works contractors.

DISCLOSURE DETERMINATION:

- 1. CONSULTANT/CONTRACTOR will not be “making a government decision” or “serving in a staff capacity” as defined in Sections A and B above. No disclosure required.
- 2. CONSULTANT/CONTRACTOR will be “making a government decision” or “serving in a staff capacity” as defined in Sections A and B above. As a result, CONSULTANT/CONTRACTOR shall file, with the City Clerk of the City of Coronado in a timely manner as required by law, a Statement of Economic Interest (Form 700), as required by the City of Coronado Conflict of Interest Code, and the Fair Political Practices Commission, to meet the requirements of the Political Reform Act.\*

Signature Ellen F. Gross Date 09/06/2024  
 Name Ellen F. Gross Signed by: Department City of Coronado  
 City Attorney Approval of Determination Dawnna H. Santos Signed by:  
 City Manager Approval of Determination Tina Friend  
27C192F88E3D47...  
144ECFFA4F724DA...

\*The CONSULTANT’s disclosure of investments, real property, income, loans, business positions, and gifts, shall be limited to those reasonably related to the project for which CONSULTANT has been hired by the CITY.

**ATTACHMENT C**

**ELLEN F. GROSS, APC**

**PAYMENT FOR SERVICES**

**A. PAYMENT FOR SERVICES:** Payments to the CONSULTANT for the DESCRIBED SERVICES shall be made in the form of monthly payments due for the actual work performed based on the hourly rates set forth below. CONSULTANT shall comply with Administrative Procedure 509 (Payment for Special Counsel), attached to the AGREEMENT as Attachment C-1 and incorporated by this reference. Normal processing time for payments is four (4) weeks.

**B. RATE**

Ellen Gross	\$400.00/hour
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All time will be charged by the CONSULTANT in increments of 1/10 of an hour (*i.e.*, six-minute units).

**C. REIMBURSABLE EXPENSES**

Expenses are only reimbursable pursuant to Administrative Procedure 509 (Payment for Special Counsel), Attachment C-1.

**ATTACHMENT C-1**

**City of Coronado  
ADMINISTRATIVE PROCEDURES**

<b>Subject: PAYMENT FOR SPECIAL COUNSEL</b>	<i>Number:</i>	509
	<i>Date:</i>	MARCH 1998

**I. Background**

Special counsel services include all legal services used by the City not provided by the City Attorney. This policy is established to ensure that the Special Counsel invoices convey the information that is necessary to manage the activities of the Special Counsel. The provisions are also designed to minimize and avoid confusion and misunderstanding, assure consistency of billing practices among the various Special Counsel retained by the City and assist the City in the management of the public's funds. The hiring of any special counsel must be coordinated with and approved by the Director of Administrative Services.

**II. Provisions**

- A. Separate Invoice Required: Each matter being handled by the Special Counsel must have a separate invoice, unless the Special Counsel has received written approval from the City to submit general account invoices.
- B. Billing Increments: All invoices shall be detailed in six-minute, or .10-hour, increments.
- C. Description of Work Performed: The invoice must briefly describe each item of work performed, the identity of the attorney, paralegal or expert who performed the work and the date of the work. For example, if four distinct tasks were done on a file in one day, the tasks shall be separately noted on the bill with an individual time charge for each.
- D. Totals-to-Date: Each invoice must include the total amount owed, invoiced and paid to date. That total should provide, at a glance, the total fees and costs incurred to date for the case. This will facilitate the City's approach of cost-effective litigation management. The firm must provide the total to date information on the invoice, transmittal letter or other document submitted with the invoice. **The City will not pay any amount unless the totals to date are provided.**
- E. Principal Attorney: The City expects that the attorney designated in the Special Counsel agreement as having principal responsibility for handling a case will in fact handle the case. Other members of a firm may handle various aspects of a case with appropriate adjustments to the billing rate. If the designated attorney anticipates that more than one attorney will be providing services on any particular matter, the Special Counsel must inform the City who that person will be and his/her qualifications.

**City of Coronado  
ADMINISTRATIVE PROCEDURES**

<b>Subject: PAYMENT FOR SPECIAL COUNSEL</b>	<i>Number:</i>	509
	<i>Date:</i>	MARCH 1998

- F. Attorney Consultations: The City recognizes that consultation between and among the Special Counsel's attorneys may be an effective method of assuring that an issue is adequately evaluated. The City will pay reasonable charges associated with such consultation, however, substantial charges of this nature indicate that a case is being over-worked. Generally, the City believes that a reasonable charge for intra-office conferences between attorneys is a charge based upon the billable time for one attorney. Invoices for consultation time should clearly indicate the substance of the discussions. The Special Counsel shall not bill for provision of instructions to subordinates, including subordinate attorneys, or for time spent training employees. The City believes that discussions between a senior attorney and a subordinate attorney are particularly suspect if both attorneys bill for the discussion time.
- G. Prohibition Against Payment for Specified Activities: Absent special circumstances and the prior written approval by the City, the City is not obligated to pay for:
1. Time spent by new attorneys to become familiar with a matter;
  2. More than one attorney to attend any court hearing, deposition, or a meeting with the City's officers and/or employees;
  3. More than one paralegal working on a matter;
  4. Expert consultants and witnesses. The need for, identity and qualifications of experts should be timely reported to the City. The City recognizes the need for well-qualified experts for the successful evaluation and defense of matters. The City encourages the use of experts not only for defense purposes, but to assist in early evaluation of cases.
  5. Special services such as the expenses related to mock juries, mock appellate panels, special investigators, computer research time and other similar services not approved in advance by the City.
  6. Law Clerks. The City will not pay for services provided by law clerks. However, when they provide cost effective research and writing and it will be beneficial or cost-effective for the City, the City will consider payment for their services on a case by case basis. Payment will be made only upon prior written authorization by the City.
  7. Secretarial Time: The City will not pay for secretarial time or secretarial overtime. The City does not pay attorneys or paralegals for secretarial tasks or tasks that should be subsumed into the Special Counsel's overhead. For example, the City will not reimburse its Special Counsel for time spent faxing, mailing, arranging for messengers, or calendaring.

**City of Coronado  
ADMINISTRATIVE PROCEDURES**

<b>Subject: PAYMENT FOR SPECIAL COUNSEL</b>	<i>Number:</i>	509
	<i>Date:</i>	MARCH 1998

- 8. The City does not reimburse for the costs of word processing.
  
- H. Photocopying Charges: The City will reimburse for photocopying costs only on a per-copy basis. The maximum charge reimbursable is \$0.20 per page for the copying of documents less than 25 pages; and \$0.10 per page for the copying of documents 25 pages or greater, including any time spent making the copies. Outside copying services will be used if the cost of doing so is less expensive to the City.
  
- I. Facsimile Charges: Facsimile transmissions may be used when necessary. The City will pay for facsimile transmissions based upon reasonable rates associated with actual cost, excluding secretarial time.
  
- J. Telephone/Mail/Delivery Charges: Long distance telephone, cellular phone, and postal charges will be reimbursed at actual cost. Federal Express and similar delivery services shall be reimbursed only if the Special Counsel has obtained the prior approval of the City. Charges associated with delivery of materials, service of subpoenas and other documents, and filing by messenger services will be reimbursed at actual cost. The Special Counsel shall accomplish work sufficiently in advance to allow delivery, filing and service by U.S. Mail when not otherwise prescribed by law. Rush delivery costs will be reimbursed only if the Special Counsel has obtained the prior approval of the City.
  
- K. Travel Charges: Travel costs will be reimbursed only if the Special Counsel has obtained the prior approval of the City. The amounts will be reviewed by the City for necessity and reasonableness. The City will only reimburse the Special Counsel for itemized travel expenses that are deemed necessary and reasonable. Meal costs will be reimbursed only if necessarily incurred in connection with travel out of the county where the Special Counsel's office is located. The City will not pay for alcoholic beverages
  
- L. Invoice Review and Discussion: The City will not pay for time used to prepare invoices or for discussion of invoices. If the City has questions about invoices or requires additional information on invoices, the Special Counsel must provide the information without charge to the City.
  
- M. Minimum Billing Time: The City will not pay minimum billing time charges. The Special Counsel shall charge only for actual time spent. For example, minimum of .2 for a phone call or .4 for letters is unreasonable unless that is an accurate measure of time spent.
  
- N. File Opening and Closing: The City will not pay for time for file opening or file closing. These are not true tasks or adequate descriptions of legal activities.
  
- O. Payment for Prior Work: The City will not pay for products that the Special Counsel has performed and billed for in other matters. This applies to the use of forms.

**ATTACHMENT D**

**ELLEN F. GROSS, APC**

**SCHEDULE OF SERVICES**

CONSULTANT agrees to diligently pursue the DESCRIBED SERVICES in accordance with a time schedule agreed to by the Contract Officer.

**Certificate Of Completion**

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Source Envelope:	
Document Pages: 24	Signatures: 5
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Kelsea Holian
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	1825 Strand Way
	Coronado, CA 92118
	kholian@coronado.ca.us
	IP Address: 69.75.182.130

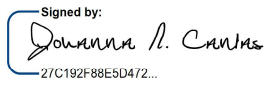
**Record Tracking**

Status: Original	Holder: Kelsea Holian	Location: DocuSign
9/10/2024 5:25:05 PM	kholian@coronado.ca.us	

**Signer Events**

Johanna N. Canlas  
 jcanlas@bwsllaw.com  
 City Attorney  
 Security Level: Email, Account Authentication (None)

**Signature**

Signed by:  
  
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 Signature Adoption: Pre-selected Style  
 Using IP Address: 104.35.27.211

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Tina Friend  
 Tina.Friend@coronado.ca.us  
 City Manager  
 Security Level: Email, Account Authentication (None)

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 Signed using mobile

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Kelsea Holian  
 kholian@coronado.ca.us  
 City Clerk  
 City of Coronado  
 Security Level: Email, Account Authentication (None)

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 Using IP Address: 98.176.116.135  
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**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

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Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp	Attachment 1
Ellen Gross efgrosslawcorp@gmail.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"><b>COPIED</b></div>	Sent: 9/10/2024 8:09:13 PM	
Gena Burns gburns@bwslaw.com Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"><b>COPIED</b></div>	Sent: 9/10/2024 8:09:14 PM	

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Notary Events	Signature	Timestamp
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Signing Complete	Security Checked	9/10/2024 8:09:11 PM
Completed	Security Checked	9/10/2024 8:09:14 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, City of Coronado (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Coronado:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [cityclerk@coronado.ca.us](mailto:cityclerk@coronado.ca.us)

**To advise City of Coronado of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [cityclerk@coronado.ca.us](mailto:cityclerk@coronado.ca.us) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

**To request paper copies from City of Coronado**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [cityclerk@coronado.ca.us](mailto:cityclerk@coronado.ca.us) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Coronado**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to [cityclerk@coronado.ca.us](mailto:cityclerk@coronado.ca.us) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Coronado as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Coronado during the course of your relationship with City of Coronado.