

RESOLUTION NO. OB 2012- 10

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE
CITY OF EAST PALO ALTO AUTHORIZING THE SUCCESSOR
AGENCY TO ENTER INTO THE FIRST AMENDMENT
TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE
SUCCESSOR AGENCY AND GARY M. BAUM**

RESOLVED, by the Oversight Board of the City of East Palo Alto as follows:

1. Authorization

The Oversight Board of the City of East Palo Alto hereby authorizes the Successor Agency for the City of East Palo Alto to enter into the First Amendment to the Agreement with Gary M. Baum, increasing the not to exceed amount of the Agreement to \$24,000. A copy of the Amendment is attached as Exhibit "A", incorporated herein by reference.

2. Effective Date

The effective date of the approval of this resolution shall be immediately upon adoption.

3. Filing of Resolution

The Secretary of the Oversight Board is hereby directed to file a copy of this resolution with his or her office and to make it available to members of the general public.

PASSED AND ADOPTED at a regular meeting of the Oversight Board of the City of East Palo Alto this 16th day of August, 2012 by the following vote:

Vote Members of the Oversight Board

AYES: *John Doughty, Ruben Abrica, Megan Curtis, Reyna Farrales, Michele Braucht*

NOES:

ABSENT: *Ray Chow, Nicholas Jellins*

ABSTAIN:

Ruben Abrica

Ruben Abrica, Chair

Carlos Martinez

Carlos Martinez
Oversight Board Secretary

Approved as to form:

Gary Baum

Gary Baum
Oversight Board Counsel

AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This is Amendment No. 1 to the March 29, 2012 Agreement ("AGREEMENT") between the City of East Palo Alto, a municipal corporation, acting as the Successor Agency to the City of East Palo Alto Redevelopment Agency ("CITY"), organized under the provisions of AB X1 26, as revised by AB 1484, and Gary M. Baum, an attorney licensed to practice law in the State of California ("ATTORNEY"). The Amendment to the AGREEMENT is entered into this 16th day of August 2012, by and between the CITY and ATTORNEY. Both the CITY and ATTORNEY may be referred to as "the parties."

RECITALS:

WHEREAS, the parties wish to amend the Professional Services Agreement, which is attached hereto and incorporated herein as Exhibit "A";

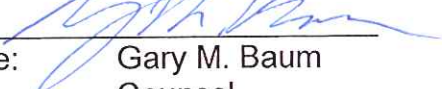
NOW, THEREFORE, in consideration of the covenants, terms, conditions and provisions of this Amendment, the parties agree:

SECTION 1. Section 3, second sentence is hereby amended to read as follows: The total compensation under this Agreement shall not exceed \$24,000.00.

SECTION 2. Except as herein modified, all other provisions of the AGREEMENT shall remain in full force and effect.

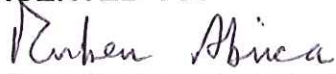
IN WITNESS WHEREOF, the parties have executed this AGREEMENT in one or more duplicate originals as of the date and year first written above.

**ATTORNEY
GARY M. BAUM**

By: 
Name: Gary M. Baum
Title: Counsel
Address: 19925 Stevens Creek Boulevard
Suite 100, Cupertino, CA 95014
Telephone: 408-833-6246

By: 
Name: Kathleen Kane
Title: City Attorney
Address: 2415 University Avenue
East Palo Alto, CA 94403
Telephone: 650-522-7020

CONSENTED TO:


Chair, Oversight Board of City of East Palo Alto

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into on March 29, 2012, by and between the City of City of East Palo Alto, a municipal corporation, acting as the Successor Agency to the City of East Palo Alto Redevelopment Agency ("CITY"), organized and existing under the provisions of AB x1 26, enacted June 29, 2011 ("Redevelopment Dissolution Act"), and Gary M. Baum, an attorney licensed to practice law in the State of California ("ATTORNEY").

THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings and intentions:

City Attorney would provide legal services to the CITY OF EAST PALO ALTO SUCCESSOR AGENCY OVERSIGHT BOARD ("OVERSIGHT BOARD") as contemplated pursuant to the Redevelopment Dissolution Act as part of its staffing obligation, but because the City Attorney's Office has a conflict of interest due to its representation of CITY as the Successor Agency, CITY is obtaining the services of special counsel to serve as the legal advisor for the OVERSIGHT BOARD; and

CITY desires to contract with ATTORNEY and ATTORNEY desires to contract with CITY for provision of professional services as further described herein, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the parties herein contained, the parties hereto agree as follows:

1. **Effective Date.** The effective date of this Agreement is March 29, 2012.
2. **Scope of Services.** CITY engages ATTORNEY to provide legal advice and representation to OVERSIGHT BOARD regarding implementation of the Redevelopment Dissolution Act, including but not limited to advice regarding the powers and duties of the OVERSIGHT BOARD under the Act as well as compliance with the requirements of the Brown Act, Public Records Act and Political Reform Act in the performance of such powers and duties. ATTORNEY shall provide both GENERAL LEGAL SERVICES and CLIENT SPECIFIC LEGAL SERVICES, which are defined in Section 4. ATTORNEY shall not provide litigation or lobbying services to the OVERSIGHT BOARD.

3. **Compensation.** ATTORNEY shall be compensated on hourly basis for services rendered under Section 2, at the rate of \$215 per hour. Additional hourly rate for services are as follows: Partner Level Attorneys \$215; Associate Level Attorneys \$185; Law Clerks \$75; and Paralegals \$65. The total compensation under this contract shall not exceed \$12,000.00.

Attorney shall be reimbursed for actual and reasonable out-of-pocket expenses such as mileage, photocopy charges, research-related charges, filing fees, telephone charges, and other costs related to representation. ATTORNEY may submit monthly statements for services rendered. Time will be billed in tenths of an hour (six-minute increments). Travel time shall be charge and paid at fifty percent (50%) of the hourly billing rate. ATTORNEY shall not perform services for other clients and bill other clients during the time billed for travel to OVERSIGHT BOARD.

GENERAL LEGAL SERVICES are those legal services that pertain to generally shared or common issues among San Mateo County Oversight Boards where ATTORNEY's research and advice will be generally applicable to all Oversight Boards ATTORNEY represents such as advice regarding the Brown Act, the Political Reform Act, Public Records Act, and general powers and duties of Oversight Boards. CLIENT SPECIFIC SERVICES are those legal services rendered specifically and exclusively to a particular Oversight Board at its direction such as appearing at Oversight Board to provide legal counsel during its meeting or researching and advising on an issue specifically pertaining to that Board.

Further, for GENERAL LEGAL SERVICES applicable to all OVERSIGHT BOARD's that ATTORNEY represents in San Mateo County, ATTORNEY shall divide the billing for such GENERAL LEGAL SERVICES equally among all OVERSIGHT BOARDS that ATTORNEY represents in San Mateo County. ATTORNEY shall separately bill each OVERSIGHT BOARD for work performed independently and at the direction of that particular OVERSIGHT BOARD. While the OVERSIGHT BOARD shall review the detailed bill of the ATTORNEY, CITY shall receive a summary bill of such services.

It is intended that payment to ATTORNEY will be made by CITY acting as the Successor Agency within thirty (30) days after receipt of each invoice, subject to such work being in compliance both with the scope of services as set forth in this Agreement and within the budget

established by the CITY for said services.

4. **Confidential Communications and Information.** CITY acting as the Successor Agency is the contracting entity and the OVERSIGHT BOARD is the client for the purposes of confidential client communications. Confidential communications between the OVERSIGHT BOARD and ATTORNEY are not to be shared with CITY or CITY as the Successor Agency. All documents, communications or other information developed or received by or for ATTORNEY in performance of the Agreement are confidential and not to be disclosed to any person except as authorized by OVERSIGHT BOARD, or as required by law.

5. **Termination.** With the consent of the OVERSIGHT BOARD, CITY may terminate ATTORNEY's employment at any time with or without cause and with no notice. However, CITY agrees to pay ATTORNEY for all legal services rendered by ATTORNEY up to the time of termination, plus all costs advanced and expenses incurred by ATTORNEY in the course of representing CITY. In the event of termination, ATTORNEY will promptly return CITY's papers and property to it.

6. **Standard of Performance.** ATTORNEY represents to CITY that the services shall be performed in an expeditious manner and with the degree of skill and care that is in conformance with generally accepted professional standards prevailing at the time work is performed.

7. **Performance by Attorney.** ATTORNEY shall not employ other Attorneys or contractors without the prior written approval of the CITY. Unless otherwise expressly agreed by the CITY, ATTORNEY'S representative shall remain responsible for the quality and timeliness of performance of the services, notwithstanding any permitted or approved delegation hereunder.

8. **Ownership and Maintenance of Documents.** All documents furnished by ATTORNEY pursuant to this AGREEMENT are instruments of ATTORNEY'S services in respect to any individual project. They are not intended nor represented to be suitable for reuse by others on extensions of this project or on any other project. Any reuse without specific written verification and adoption by ATTORNEY for the specific purposes intended will be at user's sole risk and without liability or legal exposure and expenses to ATTORNEY, including attorney's fees arising out of such unauthorized reuse. ATTORNEY'S records pertaining to work performed under this Agreement shall

be given to CITY at the completion of the work.

9. **Conflict of Interest.** ATTORNEY shall avoid any conflict of interest in the performance of this Agreement. ATTORNEY represents that the ATTORNEY has no existing conflict of interest in representing OVERSIGHT BOARD and will not acquire any such interest, which could interfere with the performance of services required under this Agreement.

10. **Independent Contractor.** In assuming and performing the services, ATTORNEY is an independent contractor and shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly provided for in the AGREEMENT. ATTORNEY shall have responsibility for and control over the means of providing services under this AGREEMENT.

11. **Malpractice Insurance.** Attorney shall maintain a current policy of errors and omissions insurance at all times.

12. **Amendment.** This Agreement may be amended, modified, or changed by the parties subject to mutual consent by execution of a written amendment executed by authorized representatives of CITY and ATTORNEY and as consented to by the OVERSIGHT BOARD.

13. **Compliance with Laws.** ATTORNEY shall comply with all applicable Federal, State, and local laws, rules, and regulations, and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services.

14. **Severability.** Each portion of this document is severable, so that if one portion is found to be legally invalid, the remaining portion shall remain in effect.

15. **Financial Records.** Records of ATTORNEY'S reimbursable expenses pertaining to this project covered by this AGREEMENT will be made available to OVERSIGHT BOARD and/or CITY if and when required.

16. **Notices.** All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY'S address as shown below, or such other places as CITY or ATTORNEY may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY:

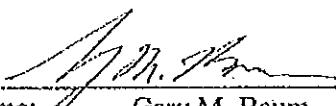
Kathleen Kane
City Attorney
City of East Palo Alto
2415 University Avenue
East Palo Alto, CA94303
650-853-5921


To ATTORNEY:

Gary Baum
19925 Stevens Creek Blvd., Suite 100
Cupertino, CA 95014-2358
Phone: (408) 833-6246
Fax: (408) 540-1210
E-mail: garybaumlaw@gmail.com

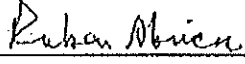
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ATTORNEY
GARY M. BAUM

By: 
Name: Gary M. Baum
Title: Counsel
Address: 19925 Stevens Creek Boulevard,
Suite 100, Cupertino, CA 95014
Telephone: 408-833-6246

By: 
Name: Kathleen Kane
Title: City Attorney
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