

**FOURTH AMENDMENT TO AGREEMENT FOR LEGAL SERVICES
BETWEEN
THE CITY OF RICHMOND
AND
DOWNEY BRAND LLP**

This Fourth Amendment to the Agreement for Legal Services between the City of Richmond (“City”) and **DOWNEY BRAND LLP** (“Special Counsel”) (the "Second Amendment") is entered into as of **SEPTEMBER 13, 2022**, by and between the City and Special Counsel with reference to the following facts:

RECITALS

WHEREAS, the City and Special Counsel entered into that certain Legal Services Agreement (“Original Agreement”) for representation of the City and City-related entities; and

WHEREAS, the City now desires for Special Counsel to continue its representation of the City and to increase the compensation limit by Forty Thousand Dollars (\$40,000); and

WHEREAS, the City and Special Counsel desire to amend the Original Agreement pursuant to this Fourth Amendment.

NOW, THEREFORE, in consideration of the recitals hereof, and other mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Special Counsel agree as follows:

1. Amendment. Exhibit A of the Original Agreement, “Scope of Work and Schedule of Fees & Charges,” is hereby amended to read as shown in Attachment 1 to this Fourth Amendment.
2. Effect of Fourth Amendment. Except as provided in this Fourth Amendment, all other terms of the Original Agreement shall remain in full force and effect.
3. Counterparts. This Fourth Amendment may be executed in counterparts each of which shall be an original and all of which shall constitute one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, the City and Special Counsel have caused this Fourth Amendment to be effective as of the last date written above.

CITY OF RICHMOND

DocuSigned by:
Thomas K. Butt
64A4FEAB53BE4C0...

Mayor

DOWNEY BRAND LLP

DocuSigned by:
Christian March
359364CBFACC40D...
By _____
Title Partner _____

Attest:

DocuSigned by:
Pamela Christian
C6643BFF4A43400...
By: _____
City Clerk

Approved as to form:

DocuSigned by:
[Signature] For
0F098C1E4C60486...
By: _____
City Attorney

Attachment 1

SCOPE OF WORK AND SCHEDULE OF FEES & CHARGES

Scope of work:

The City Council of the City of Richmond on September 8, 2020, certified a Subsequent Environmental Impact Report (SEIR) and adopted a resolution approving land use entitlements for the Point Molate Mixed-Use Development Project. Those approvals were the subject of two lawsuits in the form of peremptory writs of mandate filed in the Contra Costa County Superior Court on or about October 9, 2020, including *Point Molate Alliance, et al., v. City of Richmond* and *North Coast Rivers Alliance, et al. v. City of Richmond*. The lawsuits named the City as respondent and Winehaven Legacy, LLC as real party in interest and asserted causes of action under the California Environmental Quality Act, California Planning and Zoning Law, California Constitution, and the common law public trust doctrine, as well as other grounds. The cases were subsequently consolidated into a single case, entitled *North Coast Rivers Alliance, et al. v. City of Richmond*. The trial court entered judgment on March 15, 2022, and the case is now pending in the First District Court of Appeal. Briefing is expected to commence in December 2023.

Downey Brand will continue to serve as lead trial and appellate counsel for the City in its defense of these actions, and will have responsibility for case management and coordination among defense counsel, assisting with settlement negotiations, and for providing advice to and representation of the Richmond City Attorney's Office in the proceedings. Downey Brand's litigation fees and expenses remain subject to reimbursement by real party in interest Winehaven Legacy, LLC based on the indemnity provisions and conditions imposed under the entitlements and both the Disposition and Development Agreement ("DDA") and Development Agreement ("DA"). However, because Winehaven failed to close escrow under the DDA and is currently in litigation against the City, the fees and expenses authorized herein may not be recoverable by the City.

As part of its services above, Downey Brand shall provide concise written reports to the City Attorney on a monthly basis, which will address important milestones and efforts in the case. The City Attorney will share the reports with the City Council and will return to the Council for more substantive reports and to further augment the contract amount as may be necessary for future phases of the litigation, including appellate briefing.

City's Contact Attorney: Dave Aleshire, City Attorney
Heather McLaughlin, Interim Sr. Assistant City Attorney

Schedule of Fees & Charges:

ATTORNEY HOURLY RATES

Christian Marsh	\$410/hour
Kathryn Oehlschlager	\$410/hour
Hina Gupta	\$365/hour
Natalie Kirkish	\$365/hour
Megan Unger	\$335/hour

PARALEGAL HOURLY RATES

Jon Shackelford	\$225/hour
Jessica Wise	\$225/hour

Compensation:

Only those costs and expenses set forth in Section III of Exhibit "B", entitled "Reimbursements" shall be paid to Special Counsel.

Total compensation for legal services and reimbursements shall be charged in accordance with Exhibits "A" and "B" and shall not exceed One Million One Hundred Twenty-Five Thousand Dollars (\$1,125,000) for attorneys' fees and reimbursements.