

**THIRD AMENDMENT TO
OUTSIDE COUNSEL SERVICES AGREEMENT
BETWEEN THE CITY OF SUNNYVALE AND
BERTRAND, FOX, ELLIOT, OSMAN & WENZEL
(Casa De Amigos II vs. City of Sunnyvale)**

THIS AMENDMENT TO OUTSIDE COUNSEL AGREEMENT, made and entered into on, hereinafter referred to as “Agreement” between the CITY OF SUNNYVALE (“City”), a California chartered municipal corporation and BERTRAND, FOX, ELLIOT, OSMAN & WENZEL, a California Professional Corporation (“Outside Counsel”), is entered into this ____ day of _____, 2023.

RECITALS

WHEREAS, on February 16, 2018, City and Outside Counsel entered into an agreement entitled, “Legal Services Agreement Between the City of Sunnyvale and Bertrand, Fox, Elliot, Osman & Wenzel” (“Agreement”); and

WHEREAS, Outside Counsel was retained to assist in the litigation matter of *Casa de Amigos vs. City of Sunnyvale*, Santa Clara County Superior Court Case No. 18-CV-321477; and

WHEREAS, on November 23, 2020, City and Outside Counsel entered into a First Amendment to the Agreement to increase the amount of total compensation to a total not-to-exceed amount of \$100,000, to update insurance requirements, and to update the fee schedule; and

WHEREAS, on December 9, 2020, City and Outside Counsel entered into a Second Amendment to the Agreement to increase the amount of total compensation to a total not-to-exceed amount of \$350,000 and to extend the term of the agreement until February 19, 2024; and

WHEREAS, City and Outside Counsel desire to amend the Agreement to increase the amount of total compensation allowed by \$235,000.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. Section 3.0 is hereby amended to read as follows:

3.0 COMPENSATION, REIMBURSEMENT AND METHOD OF PAYMENTS.

- 3.1 Compensation.** Fees for all legal services provided hereunder shall be charged in accordance with Exhibit “A” which is attached and incorporated by reference. Exhibit “A” may be amended, from time to time, to alter fees and charges applicable hereto provided that a letter agreement is duly signed and approved by the City Attorney. The total amount of fees and expenses shall not exceed \$585,00.00.

Outside Counsel shall notify the City prior to incurring billable costs in excess of 95% of the not-to-exceed amount.

2. All of the terms and conditions of the Second Amended Agreement not specifically modified by this Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

CITY OF SUNNYVALE, a California
chartered municipal corporation

BERTRAND, FOX, ELLIOT, OSMAN &
WENZEL, a California professional
corporation

By _____
JOHN A. NAGEL
City Attorney

By _____
GREGORY M. FOX
Partner

Dated: _____

Dated: _____

EXHIBIT A
FEE SCHEDULE

HOURLY RATES

Partners, Senior Associates - \$215.00

Associates - \$185.00

Clerks, Paralegals - \$110.00