

March 2, 2021

VIA EMAIL AND U.S. MAIL

Mayor and City Council
City of Chico
Chico City Hall
411 Main Street, 3rd Floor
Chico, California 95928

Re: Agreement for City Attorney Services

Dear Honorable Mayor and City Council:

Thank you for retaining the law firm of Alvarez-Glasman & Colvin, a partnership (“AGC” or “us” or the “firm”), to represent the City of Chico, a municipal corporation under the laws of the State of California (referred to herein as the “City” or “you” or “your”), as its City Attorney, with AGC Senior Partner Vincent C. Ewing designated as City Attorney. This professional services agreement (Agreement) is entered into on March 3, 2021, between the City and AGC. This Agreement supersedes that certain professional services agreement between the City and AGC dated March 28, 2014, executed by its parties and then effective on April 1, 2014, except the insurance provisions thereof, which shall remain in full force and effect, and are incorporated by reference into this Agreement.

Engagement:

Our goal is to provide you with the highest quality legal services in a cost-effective manner to help you reach your objectives. Our firm’s policy and the California Business & Professions Code require that we have a written agreement with our clients setting forth the arrangements upon which we perform legal services. This letter will confirm the terms under which you have retained us.

The terms of engagement confirmed in this letter will also apply to any additional matters we handle on your behalf, or at your direction, or for entities owned or controlled by you. In those instances, both you and those entities will be jointly and severally responsible for payment of our bills. The terms of this engagement letter shall be retroactive to the first date we performed work on any and all matters for which we are now being engaged.

Roles of Attorney and Client:

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Our responsibilities under this Agreement are to provide legal counsel and assistance to you in accordance with this Agreement, and to provide statements to you that clearly state the basis for our fees and charges.

During the course of this engagement, we may express opinions or beliefs to you about the effectiveness of various courses of action or about the results that might be anticipated. Such statements are expressions of opinion only, and should not be construed as promises or guaranties. In the course of our relationship, we ask that you be clear and complete in your communications with us and cooperate with us to enable us to provide you with the legal services you seek. We want you to keep us informed of developments related to this representation.

You have the right to terminate our services at any time without limitation. We may withdraw with or without your consent if we determine in our sole discretion we need to do so. Upon termination or withdrawal, you agree to sign substitution-of-attorney forms or other documents that may be necessary to confirm the conclusion of our relationship, and you will pay our fees and charges incurred on your behalf up to the date of termination or withdrawal.

At the end of the matter, or any earlier time as the attorney-client relationship is terminated for any reason, you shall be entitled, at your request, to our files relating to any and all matters. In such event, we shall have the right to make and retain copies of the files, at your expense.

No Calendaring or Collections:

If any matters involve litigation, we will be responsible for monitoring and complying with any deadlines imposed by the courts in which the litigation is pending. With respect to any agreements as to which you are or may in the future be a party, including agreements resulting from the settlement of any litigation, the firm will not be responsible for monitoring or complying with any deadlines related to the giving of notice, the exercising of rights (e.g., options) or the making of other decisions within certain time periods (e.g., exercising any audit rights, granting an approval or consent, filing UCC Continuation Statements, filing or replying to legal claims), even if an agreement provides that the firm or any attorneys of the firm are to receive a copy of any notice given to you under the agreement, unless the firm has expressly agreed in writing to monitor the deadline for you as Special Legal Services (also described as Extraordinary Services in Table 1), which are described in detail in Table 1 of the firm's proposal attached as Exhibit "A" and by this reference incorporated. Further, you understand and agree that the firm is not responsible for collecting monies due to you under any agreements entered into by you, unless the firm has expressly agreed in writing to do so as Special Legal Services.

Billing and Fees:

City Attorney shall staff all City Council meetings.
City Attorney or Asst. City Attorney shall staff all Planning Commission and other boards and commissions meetings.

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City Attorney's office hours: M-F, the first and third weeks of each month.
Asst. City Attorney and City Prosecutor office hours: to be determined by AGC and the City.
City shall reimburse AGC 50% of travel costs (air, ground, lodging).
City shall reimburse AGC mileage at the 2021 IRS reimbursement rate.

General Legal Services (aka transactional)

You will pay AGC at a rate of \$190.00 per hour for the first 100 hours per month for General Legal Services, as set forth and described in Table 1, which is attached hereto and incorporated by this reference. Thereafter, you will pay AGC at a rate of \$200 per hour.

Special Legal Services

You will pay AGC at a rate of \$300.00 per hour per month for Special Legal Services, as set forth and described in Table 1.

AGC will bill you for our services monthly and you agree to pay statements within thirty (30) days of submission. In the event that any payment is not made when due, AGC shall have the option to assess interest on the unpaid balance at the rate of one percent (1%) per month or the maximum amount allowed by law, whichever is lower. We believe that our billing procedures are simple and clear. However, we encourage you to ask any questions regarding our statements as soon as you receive them.

You understand that it is impossible to determine in advance the amount of fees or costs needed to complete any and all matters contemplated by this Agreement. Our fees are computed on an hourly basis in accordance with standard rates assigned to each attorney and paralegal assistant. Billings will be reflected in one tenth of an hour. I will be primarily responsible for representing you as City Attorney; for you, my current rate for General Legal Services is \$190 per hour and for Special Legal Services is \$300 per hour. Other attorneys and paralegals may also perform services, in my discretion, and you will be charged for their services at their standard rates as follows: attorneys at \$190 per hour for General Legal Services and at \$300 per hour for Special Legal Services; paralegals at \$110 per hour for General Legal Services and at \$125 per hour for Special Legal Services. Our hourly rates are subject to change, and the applicable rates will be those in effect at the time the services are performed. We review our rates annually and changes, if any, normally become effective on January 1 of each year. We will provide you with information regarding our current hourly rates at your request at any time. Our monthly statements will set forth the hourly rate, time and work performed by each attorney and paralegal working on your matter.

In addition to fees for services, we will bill you monthly for costs and expenses incurred on your behalf and for certain in-house administrative services. City shall reimburse AGC 50% of travel costs (air, ground, lodging). City shall reimburse AGC mileage at the 2021 IRS reimbursement rate. Expenses such as court filing fees, filing fees of other government agencies, corporate name, trademark and tradename searches, fees and expenses of accountants or experts retained on your behalf, and charges for transcripts, depositions, long-distance telephone, reproduction of documents when done by an outside service, computerized legal research, parking and travel

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expenses in the service of the City will be billed at the actual costs incurred by us; we will normally ask that any such item in excess of \$100 be paid directly. Such expenses are set forth in our attached (Exhibit "A") and incorporated proposal. Expenses such as reproduction of litigation documents in our office and mileage in the service of the City will be charged at our standard rates in effect at the time the expense is incurred. A list of our current charges for these services is attached, and an itemization will be provided to you upon request at any time.

In certain circumstances, a court may order payment of costs or attorneys' fees by one party to the other. If any such fees or costs are paid to us, they will be credited against the amount you owe us, but you will remain liable for any unpaid portion of our bills. If the court awards fees or costs against you in favor of the opposing party, you will be responsible for payment of that amount separately from and in addition to any amounts due us. In this or any future matters in which we represent you, it is agreed that we shall have a lien upon any judgment, settlement or any other payment in your favor for any unpaid fees or costs due under this Agreement. We advise you to consult with independent counsel before agreeing to this term.

Responding to Subpoenas and Other Requests for Information:

If we are required to respond to a subpoena of our records relating to services we have performed for you, or to testify by deposition or otherwise concerning such services, we will first consult with you as to whether you wish to supply the information demanded or assert your attorney-client privilege. You agree to reimburse us for our time and expenses incurred in responding to any such demand, including, but not limited to, time and expense incurred in search and photocopying costs, reviewing documents, appearing at depositions or hearings, and otherwise litigating issues raised by the request.

Arbitration:

We appreciate the opportunity to serve as your attorneys and look forward to a harmonious relationship free of disputes between us. In the event you become dissatisfied for any reason with the fees charged or the services we have performed, we encourage you to bring that to our attention immediately; we will do the same if we perceive a problem with the representation. It is our belief that most such problems can be resolved by a good faith discussion between the parties. Nevertheless, it is always possible that some dispute may arise which cannot be resolved by discussion between us. We believe that such disputes can be resolved more expeditiously and with less expense to all concerned by binding arbitration than by court action.

Arbitration is a process by which both parties to a dispute agree to submit the matter to a judge or arbitrator who has expertise in the area and to abide by the arbitrator's decision. In arbitration, there is no right to a trial by jury and the arbitrator's legal and factual determinations are generally not subject to appellate review. Rules of evidence and procedure are often less formal than in a court trial. Arbitration usually results in a decision much more quickly than proceedings in court, and the attorneys' fees and costs incurred by both sides are usually substantially less.

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By signing this Agreement, you agree that, in the event of any dispute arising out of or relating to this Agreement, our relationship, or the services performed (including but not limited to disputes regarding attorneys' fees or costs and those alleging negligence, breach of fiduciary duty, fraud or any claim based upon a statute), such dispute shall be resolved by submission to binding arbitration in Sacramento County, California before a retired judge or justice under the auspices of the Judicial Arbitration and Mediation Service ("JAMS"), with each party to bear its fees and costs of arbitration. If the parties are unable to agree on an arbitrator, the arbitrator will be determined pursuant to JAMS' normal procedures then in effect. If California law then provides that you cannot agree to mandatory binding arbitration of disputes regarding fees and costs prior to the dispute, that dispute, and only that dispute, will be submitted to non-binding arbitration and trial de novo as may be required by law.

In any such arbitration, the parties shall be entitled to take discovery in accordance with the provisions of the California Code of Civil Procedure, but either party may request that the arbitrator limit the amount or scope of such discovery, and in determining whether to do so, the arbitrator shall balance the need for the discovery against the parties' mutual desire to resolve disputes expeditiously and inexpensively.

The prevailing party in any action, arbitration, or proceeding arising out of or to enforce any provision of this Agreement, with the exception of fee arbitration or mediation under Business and Professions Code Sections 6200-6206, will be awarded reasonable attorneys' fees and costs incurred in that action, arbitration, or proceeding, or in the enforcement of any judgment or award rendered.

Terms and Conditions Incorporated by Reference:

The following Terms and Conditions are attached and incorporated herein by reference:

1. Exhibit A
2. Exhibit B – Scope of Services
3. Exhibit C – Compensation
4. Exhibit D – Insurance

Confirmation of Agreement:


Please confirm your agreement to the terms of this Agreement by obtaining the requisite signatures on this letter and returning it to us.

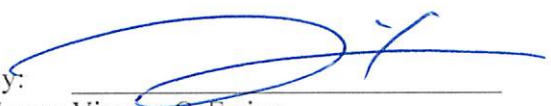
We will endeavor to represent you promptly and efficiently, and we hope for a long and mutually satisfactory relationship.

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Very truly yours,

ALVAREZ-GLASMAN & COLVIN

By: 
Name: Arnold M. Alvarez-Glasman
Title: Managing Partner

By: 
Name: Vincent C. Ewing
Title: Senior Partner

95-3994507
Federal Tax I.D. Number

APPROVED, ACCEPTED AND AGREED TO

this 3rd day of March 2021

CITY OF CHICO

BY: Mark Orme, City of Chico City Manager*
*An Authorized Signatory


(Signature)

VCE/st

EXHIBIT A

To help you understand your bills, listed below are typical cost items charged by AGC. You are charged the actual cost for costs incurred on your behalf to third parties.

Messenger Service	\$5.00 for one of our employees to deliver an item outside of our office in the immediate City of Industry area. Actual charges of a commercial messenger service outside the immediate City of Industry area.
Parking	Actual parking charges.
Mileage	Charged at the standard mileage rate published by the IRS in effect when the miles are driven.
Litigation Photocopying	\$0.20 per page.
Telephone Expense	No charge for a single telephone call below \$2.00. On each call above \$2.00, charges are based on the published tariff FCC rate table, not necessarily reflecting any negotiated term or volume discounts that may be obtained by AGC.

Table 1: Contract City Attorney Services

Name of Firm: Alvarez-Glasman & Colvin

Service	Regular Services *	Special Services	Primary Designated Attorney
Routine Legal Advice, Consultations, and opinions to the City Council and Staff	X		City Attorney / Asst. City Attorney
Assistance with preparation and review of ordinances, agreements, contracts and related documents	X		City Attorney
Attendance at all City Council Meetings	X		City Attorney / Asst. City Attorney
Attendance at all Planning Commission Meetings	X		Asst. City Attorney / Dep. City Atty.
Attendance at other meetings, as necessary	X		City Attorney / Asst. City Attorney / Dep. City Attorney
Attendance weekly at regularly scheduled office hours at City Hall, as arranged	X		City Attorney / Asst. City Attorney
Monitor pending and current State and Federal legislation and case law, and advise as appropriate	X		City Attorney
Agenda review and follow-up.	X		City Attorney
Standard contract review and revision (not to exceed one hour)	X		City Attorney / Asst. City Attorney
Standard ordinance/resolution review and revision.	X		City Attorney / Asst. City Attorney
Standard conflict issues.	X		City Attorney
Brown Act issues.	X		City Attorney
Public Record Act request issues.	X		Asst. City Attorney / Dep. City Atty.
Risk management services		X	Litigation Partner / Senior Assoc.
Routine personnel and labor questions, which can be responded to orally, not involving more than one (1) hour of research.		X	City Attorney / Asst. City Attorney

Table 1: Contract City Attorney Services

Name of Firm: Alvarez-Glasman & Colvin

Service	Regular Services *	Special Services	Primary Designated Attorney
Code Enforcement issues - City Code interpretation.	X		City Attorney
Code Enforcement issues - preparation and review of notices, demands, and orders; appointment of receivers and other non-traditional remedies;		X	Asst. City Attorney / Dep. City Atty.
Litigation		X	City Attorney / Asst. City Attorney / Litigation Partner
Labor negotiations and Personnel Services		X	City Attorney / Asst. City Attorney / Litigation Partner
Property Transactions	X		City Attorney / Asst. City Attorney
Water law and water quality issues.		X	City Attorney/ Dep. City Atty.
Franchising		X	City Attorney / Asst. City Attorney / Dep. City Attorney
Public works bid disputes, prevailing wage, right of way acquisition, etc.	X		City Attorney / Asst. City Attorney / Dep. City Attorney
Development services - CEQA issues, endangered species, etc.	X**		City Attorney / Asst. City Attorney / Dep. City Attorney
Development services - review of General and Specific Plan amendments and documents, conditions of approval, housing issues; obtaining orders to vacate and/or demolish.		X	City Attorney / Asst. City Attorney / Dep. City Attorney
Appearances before other public entities or governmental agencies on behalf of the City.		X***	City Attorney/ Dep. City Atty.

* Except Litigated matters

***Except where reimburable by third party

CITY OF CHICO - PROFESSIONAL SERVICES AGREEMENT

Alvarez-Glasman & Colvin
Legal Services – Contractual City Attorney
900-140

EXHIBIT B

SCOPE OF PROFESSIONAL SERVICES

Scope of Professional Services - Basic

The Consultant shall provide professional services as follows:

See Attached Table 1: Contract City Attorney Services. In addition,

- City Attorney shall staff all City Council meetings.
- City Attorney or Asst. City Attorney shall staff all Planning Commission and other boards and commissions meetings.
- City Attorney's office hours: M-F, the first and third weeks of each month.

CITY OF CHICO - PROFESSIONAL SERVICES AGREEMENT

Alvarez-Glasman & Colvin
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EXHIBIT C

COMPENSATION

Compensation shall be based upon actual invoices received and shall be paid according to the following schedule:

<u>Legal Services</u>	<u>General Services</u>	<u>Special Services</u>
Vincent C. Ewing	\$190.00/hour*	\$300.00/hour
Assigned Attorney	\$190.00/hour*	\$300.00/hour
Paralegal/Law Clerks	\$110.00/hour	\$125.00/hour

**First 100 hours per month, thereafter: \$200 per hour.*

<u>Attorney</u>	<u>Litigation Rate</u>
Assigned Attorney	\$300.00/hour
Paralegal/Law Clerks	\$125.00/hour

City shall reimburse Alvarez-Glasman & Colvin 50% of travel costs (air, ground, lodging).

City shall reimburse Alvarez-Glasman & Colvin mileage at the 2021 IRS reimbursement rate.

CITY OF CHICO - PROFESSIONAL SERVICES AGREEMENT

Alvarez-Glasman & Colvin
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EXHIBIT D

INSURANCE PROVISIONS

General Liability Insurance

Consultant/Contractor shall obtain commercial general liability insurance (occurrence policy form) from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of “B” or better or, in the alternative, an unlicensed U.S. domiciled company or companies with an “A” rating, which provides coverage for bodily injury, personal injury and property damage liability in the amount of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, with a maximum policy deductible of \$5,000, or as approved by the City’s Human Resources and Risk Management Office.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specific minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured, whichever is greater.

The insurance coverage required herein shall be evidenced by a certificate of insurance with policy endorsements and shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage described above, the certificate of insurance shall provide that the insurer shall provide to City at least 30 days prior notice of cancellation or material change in coverage, or 10 days prior notice of cancellation for non-payment.

Consultant/Contractor acknowledges and agrees that City of Chico, its officers, boards and commissions, and members thereof, its employees and agents, are covered as additional insureds with respect to any liability arising out of the activities of Consultant/Contractor as the named insured. Such additional insured status shall be evidenced by a policy endorsement executed by an authorized official of the insurer(s). A blanket endorsement which provides additional insured status to any person or organization with whom Consultant/Contractor, as named insured, has entered into a written contract, such as this Agreement, shall satisfy this requirement.

The insurance coverage required herein shall be primary and non-contributory insurance with respect to the City of Chico, its officers, officials and employees. Any insurance or self-insurance maintained by the City of Chico, its officers, officials or employees shall be in excess

of the insurance afforded to the named insured by the insurance coverage required herein and shall not contribute to any loss. Such primary insurance status shall be evidenced by a policy endorsement issued by an authorized official of the insurer(s), and shall be at least as broad as CG 20 01 04 13. In the alternative, a letter issued by an authorized official of the insurer(s) and copies of the pertinent page(s) of the policy shall satisfy this requirement.

The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City of Chico (if agreed to in a written contract or agreement) before City of Chico's self-insurance shall be called upon to protect it as a named insured.

All self-insured retentions (SIR) must be disclosed to the City's Human Resources and Risk Management Office for approval and shall not reduce the limits of liability. Policies containing any (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or City of Chico. City of Chico reserves the right to obtain a full certified copy of any Insurance policy or endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Automobile Liability Insurance

Consultant/Contractor shall obtain automobile liability insurance from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better which provides coverage for bodily injury, personal injury, and property damage liability in the amount of at least \$500,000 combined single limit for each occurrence. Evidence of such coverage shall be maintained by Consultant/Contractor and provided to City upon request.

Workers' Compensation Insurance

Consultant/Contractor shall, at Consultant/Contractor's expense, purchase and maintain in full force and effect workers' compensation insurance as required by Federal and State of California law. Consultant/Contractor shall also require all of Consultant's subconsultants/subcontractors to maintain this insurance coverage. Proof of workers' compensation insurance or other documentation acceptable to City evidencing such insurance coverage shall be provided by Consultant/Contractor or Consultant/Contractor's subconsultants/subcontractors to City upon request.

Subrogation

Consultant/Contractor shall agree to waive all rights of subrogation against City for losses arising from Services performed by the Consultant/Contractor or Consultant/Contractor's subconsultants/subcontractors for City under this Agreement.

Indemnity

Consultant/Contractor/Subconsultant/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

Professional Liability Insurance

Consultant/Contractor shall obtain professional liability (errors and omissions) insurance, with a minimum \$1,000,000 limit, from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better providing coverage for services rendered to City under this Agreement.

Said insurance coverage shall be evidenced by a certificate of insurance which shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage described above, the certificate of insurance shall provide that the insurer shall provide to City at least 30 days prior notice of cancellation or material change in coverage, or 10 days prior notice of cancellation for non-payment.