

**STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
AND
COUNTY OF SAN BERNARDINO
CAMPAIGN LAW ENFORCEMENT AGREEMENT**

This agreement is made and entered into this ____ day of _____ 2019, by and between the State of California, acting by and through the Fair Political Practices Commission, (“FPPC”) and the County of San Bernardino (“County”).

Background

The County determined it is in its best interest to retain the services of the FPPC to provide for the enforcement and interpretation of campaign laws under the provisions of the County of San Bernardino Campaign Finance Reform Ordinance (“Local Ordinance”), governing the elective County offices, as set forth in Exhibit D, Items 1 and 2.

The FPPC has the special skills, knowledge, experience, and expertise in the enforcement and interpretation of campaign laws necessary to effectively advise, investigate, audit, and otherwise assist the County on such matters. The FPPC’s enforcement and interpretation of campaign laws under the provisions of the Local Ordinance is expressly authorized by California Government Code Section 83123.5.

The parties agree as follows:

Terms and Conditions

Exhibit A: Scope of Services

1. The FPPC agrees to provide the County with campaign law services for the impartial, effective administration, implementation, and enforcement of the Local Ordinance as dictated in paragraph 2.
2. Campaign Law Enforcement Services.
 - A. Auditing
 - i. The FPPC will perform audits and investigations for each candidate, and his or her controlled committee, for elective County office for whom \$2,000 or more in contributions were received or \$2,000 in expenditures were made, whether by the candidate, a committee(s) controlled by the candidate or committee primarily supporting the candidate.

ii. The audit or investigation will cover all required campaign statements and for the primary and general election, or runoff, or special election for the following election time periods: January 1, 2019 through December 31, 2020. The audits may extend to include any transaction in connection with the election being audited or investigated. It will not include any statements or reports previously audited under Title 9 of the Government Code, Chapter 10, Sections 90001 or 90003.

iii. The FPPC will follow audit guidelines and standards as required under Government Code Section 90007.

B. Enforcement

The FPPC agrees to serve as the civil and administrative prosecutor for violations of the Local Ordinance. The FPPC, at its sole discretion, may investigate possible violations and may commence civil and administrative actions in accordance with Title 9 of the Government Code, and Title 2, Division 3, Part 1, Chapter 5 (Administrative Adjudication), Sections 11500, et seq., of the Government Code.

C. Compliance Assistance

The FPPC may, in its sole discretion, provide education, training or written assistance to candidates for elected County offices and potential contributors in a County election regarding the provisions of the Local Ordinance upon the request of the candidate or potential contributor.

D. Legal Review

Upon notification and request by the County, the FPPC may, in its sole discretion, review any proposed changes to the Local Ordinance for compliance with the Act prior to adoption by the County.

3. The term of this Agreement is the two-year election cycle period: January 1, 2019 through December 31, 2020. Services will commence on the beginning of this term, and for the elections held during this term, as indicated in paragraph (2)(A), above. Due to the nature of audits and investigations, some services may necessarily occur on dates after the stated election cycles. Services from prior contract will continue as previously determined until completed.
4. The County agrees to provide the FPPC with a resolution, motion, order, or ordinance of the governing body, which authorizes execution of this Agreement, and indicating the individual who is authorized to sign the Agreement on behalf of the County.
5. The County must consult with the FPPC prior to adopting or amending the Local Ordinance. The Local Ordinance must comply with Title 9 of the Government Code. (Government Code Section 83123.5, subdivision (b) and (c).)

6. The Contract Coordinators for this Agreement are:

Fair Political Practices Commission
Thomas Jones, Executive Director
1102 Q Street, Suite 3000
Sacramento, CA 95814

San Bernardino County
County Administrative Office
ATTN: CAO Analyst
385 N. Arrowhead Avenue
San Bernardino, CA 92415-0120

Communications regarding this Agreement will be addressed to the Contract Coordinators unless otherwise indicated in the Agreement.

Exhibit B: Budget Details and Payment Provisions

1. Full Cost Recovery Agreement.

In accordance with the state full cost recovery policy, the County agrees to reimburse the FPPC for its full direct and its indirect costs incurred in performing the services. The full cost of goods or services includes all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the good or service provided. (State Administrative Manual, Section 8752.)

2. Invoicing and Payment.

The FPPC will provide the County with an itemized quarterly invoice detailing all FPPC service hours and costs for the administration, implementation, and enforcement of the Local Ordinance under this Agreement, along with any billing statement for payments due under the Agreement.

Quarterly itemized invoices and billing statements will be submitted to:

San Bernardino County
County Administrative Office
ATTN: CAO Analyst
385 N. Arrowhead Avenue
San Bernardino, CA 92415-0120

The County agrees to pay the FPPC within thirty (30) days of the date of each quarterly invoice and billing statement.

3. Advance Payment.

A. The County agrees to pay an advance payment of \$55,000 to the FPPC for costs to be incurred in performance of this Agreement. The County agrees to make this advance payment at the beginning of each year of the contract term.

B. Except for extraordinary costs and expenses, no advance notification is necessary for services provided for each year of the contract. The FPPC will track its expenditures made in anticipation of services to be rendered, and its services provided, and will bill first to the advance payment. Upon depletion of the advance payment, the County will pay additional reimbursement sums, if any, upon receipt of a billing statement from the FPPC.

4. Rates and Costs for Services.

A. Budget Detail.

The FPPC will bill for its services at the rates set forth below. These rates include the FPPC's direct and indirect costs related to these positions.

<u>Classification</u>	<u>Rate per hour</u>
Attorney	\$170.00
Paralegal	\$120.00
Investigator	\$125.00
Program Specialist (Auditor)	\$ 99.00
Political Reform Consultant (Research Analyst)	\$ 99.00
Executive/Supervisory Staff	\$190.00
Administrative Staff	\$ 99.00

The rates reflect the Attorney General's Office, Bulletin 17-09, and the Department of General Services Price Book, 2018-19. The Executive/Supervisory Staff and Administrative Staff rates are calculated using comparable rates from the Price Book and internal calculations in compliance with the state full cost recovery policy.

B. Necessary Changes to Rates.

In the event that the state hourly rates increase, or the state reimbursement rates increase, the County agrees to pay the appropriate increased rate applied as of the effective date of the rate increase. It is understood by both parties that no advance written notification is necessary prior to implementing the increased rates. In the event that the FPPC determines that the above hourly rates do not result in a full cost recovery for services provided in accordance with state policy, it will notify the Contract Coordinator for the County and retroactively apply the appropriate rates, after consultation with the County, to ensure the FPPC maintains the required full cost recovery.

C. Ordinary and Extraordinary Costs and Expenses.

The FPPC will bill its actual costs for ordinary costs and expenses directly related to

the services provided. Ordinary costs and expenses are limited to:

1. Court fees, including filing fees, judicial officer fees, deposition fees, transcript fees, and process serving fees.
2. Administrative fees, including administrative officer fees, administrative law judge fees, hearing fees, transcript fees, and process serving fees.
3. Travel, lodging, and meals pursuant to state reimbursement rates as necessary for FPPC officers, employees, contractors, agents, and volunteers.
4. Telephone charges, postage, photocopying/document reproduction costs, and damage to property repaired or replaced at state expense.
5. Research service fees necessary to perform services.

Prior Approval Required. The FPPC will bill its actual costs for extraordinary costs and expenses only upon prior approval by the County Counsel. Extraordinary costs and expenses include, but are not limited to:

1. Fees for third-party consultants, investigators, and experts including their travel, lodging, and meals.
2. Travel, lodging, and meals for witnesses.

5. Total Cost of the Agreement.

The parties anticipate that the total amount of this Agreement will not exceed \$400,000, with an estimated budget of \$200,000 per year. In the event this contract is canceled or is not renewed, the FPPC will provide an estimate of remaining hours necessary to complete the services already in progress, to be billed at the hourly rate, and the services may be completed upon mutual agreement.

Exhibit C: General Terms and Conditions

1. APPROVAL. This Agreement is of no force or effect until signed by both parties.
2. STATE AUDIT OF THIS AGREEMENT. The County agrees that the State of California, including but not limited to, the Department of General Services, the Bureau of State Audits, or their designated representative, shall have the right to review and to copy all records and supporting documentation pertaining to the performance of this Agreement. The County agrees to maintain records and supporting documentation for

possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated by the parties or required by the Bureau of State Audits. The County agrees to allow the auditor(s) access to records and supporting documentation during normal business hours and to allow interviews of any employees who might reasonably have information related to the records. Furthermore, the County agrees that the State of California has the same right to audit records and interview staff in any subcontract related to the performance of this Agreement. (Government Code Section 8546.7.) The FPPC will not bill the County for its time or costs related to a State Audit by the Department of General Services, Bureau of State Audits.

3. DISPUTES. Any dispute concerning a question of fact arising under the terms of this Agreement that is not disposed within a reasonable period of time (ten days) by the parties normally responsible for the administration of this Agreement shall be brought to the attention of the Contract Coordinators for joint resolution. The parties shall continue their responsibilities during any dispute.
4. INDEMNIFICATION. Pursuant to Government Code Section 895.4 and except as provided below, the County agrees to indemnify, defend (with counsel approved by the FPPC General Counsel), and hold harmless the FPPC and its authorized officers, employees, contractors, agents, and volunteers from any and all claims, actions, losses, damages, and liability arising out of the performance of this Agreement, or from the enforcement or interpretation of any provision of the Local Ordinance, from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the FPPC on account of any claim except where such indemnification is prohibited by law.

The FPPC shall indemnify, hold harmless, and defend the County and its authorized officers, employees, contractors, agents, and volunteers from any and all claims, actions, losses, damages, and liability arising from the FPPC's sole negligence or willful misconduct relating to obligations under this Agreement.

5. AMENDMENT. This Agreement may be amended by written mutual consent of the parties. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.
6. CANCELLATION. This Agreement may be canceled by either party, at any time, by ordinance or resolution and with an effective date of 90 days after notice is provided by the cancelling party, or other mutually agreed upon date. Notice of the cancellation shall be provided to the Contract Coordinators. In the event this Agreement is canceled by the County, the FPPC may require the County to pay for services rendered and any other expenditures reasonably made by the FPPC in anticipation of services to be rendered pursuant to the Agreement.

Exhibit D: Special Terms

1. Local Ordinance.

The Local Ordinance subject to this Agreement consists of the following, with any noticed subsequent amendments pursuant to Exhibit A, item 5:

San Bernardino County Ordinance, Title 1, Government and Administration, Division 2, Chapter 43, Campaign Finance Reform.

2. County Elective Offices.

The County elective offices subject to the Local Ordinance and this Agreement are:

Supervisor
Auditor-Controller/Treasurer/Tax Collector
District Attorney
Sheriff/Coroner/Public Administrator
County Superintendent of Schools
County Assessor-Recorder-County Clerk

Fair Political Practices Commission
Thomas Jones, Executive Director

County of San Bernardino
Robert A. Lovingood, Chair,
Board of Supervisors

Date:

Date: