

1 **AGREEMENT FOR CITY ATTORNEY SERVICES**

2 **THIS AGREEMENT** (Contract #C11-17) is entered into on December 5, 2011 by and
3 between the City of Albany, a California charter city ("City") and Craig Labadie ("Labadie"), an
4 individual licensed to practice law by the California State Bar.

5 **WHEREAS**, CITY wishes to retain Labadie to serve as the City Attorney for the City of
6 Albany;

7 **WHEREAS**, Labadie wishes to serve as the City Attorney for the City of Albany.

8 **NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth in
9 this Agreement, the parties agree as follows:

10 **1. Scope of Work.** Labadie shall provide the usual and customary range of City
11 Attorney services to the City, including but not limited to those services set forth in Chapter III,
12 Section 3.10 of the Albany City Charter. Labadie's services will be characterized as either General
13 Services or Special Services. All legal services provided to the City will be considered General
14 Services, except for those legal services defined as Special Services. Special services shall include the
15 following:

16 a. Litigation, except for limited court proceedings such as *Pitchess* motions or
17 weapons confiscation petitions, which are routinely handled by in-house city attorneys;

18 b. Specialized legal services which are typically provided by outside counsel and
19 have been specifically authorized by the City Council or the City Manager;

20 c. Legal services for which the City receives reimbursement from a third party.

21 **2. Term.** The term of this Agreement shall commence on January 1, 2012 and continue
22 until terminated in accordance with Paragraph 5 of this Agreement.

23 **3. Compensation.** In consideration for the General Services to be performed by
24 Labadie, City shall pay a monthly retainer in the amount of \$9,000. City will use best efforts to
25 provide office space and secretarial support at City Hall. If such office space and/or secretarial
26 support is unavailable, the City will provide reimbursement for office expenses and/or secretarial
27 support in an amount not to exceed \$1,250 per month. City shall pay Labadie for Special Services at
28 the rate of \$175 per hour, upon submission and approval of invoices. Out-of-pocket expenses such as

1 travel and mileage (not including travel or mileage from Labadie's home to the Albany City Hall),
2 photocopying, overnight delivery, and messenger services shall be reimbursed at a reasonable rate.
3 City shall also reimburse Labadie for reasonable and necessary expenses, in accordance with City
4 policy and State law, for attendance to the Annual Conference and Spring City Attorneys Conference
5 for the League of California Cities. However, in the event that Labadie becomes the City Attorney for
6 one or more additional cities, the cost of attendance at such League of California Cities conferences
7 shall be shared *pro rata* among Labadie's client cities. City shall use its best efforts to cause invoices
8 and expense reimbursement requests to be paid within thirty (30) days after receipt.

9 **4. Annual Performance Review.** The City Council shall review and evaluate
10 Labadie's performance each year and set goals and objectives for the ensuing year as deemed
11 appropriate. Such review and evaluation shall be conducted in accordance with procedures and
12 criteria developed by the City Council in consultation with Labadie. Labadie shall be responsible for
13 placing the annual performance review on the City Council meeting agenda for discussion in closed
14 session. In coordination with the annual performance review and the City's budget process, the
15 parties may mutually agree upon changes in the compensation provided to Labadie.

16 **5. Records.** Labadie shall maintain documents and records relating to performance of
17 services pursuant to this Agreement, including financial records relating to expense reimbursements,
18 and shall make the records available to the City upon request. These records shall be maintained
19 during the term of this Agreement period and for three (3) years from the date of final payment for
20 work performed hereunder.

21 **6. Termination.** Either party may terminate this Agreement at any time, with or without
22 cause, upon sixty (60) days written notice. Such notice shall be sufficient and complete when same is
23 deposited in the United States mail, first class postage prepaid, to the address shown in Paragraph 9 of
24 this Agreement. In the event of termination, Labadie shall receive payment for all actual work
25 performed up to the date of termination.

26 **7. Nondiscrimination.** Labadie shall not discriminate in any way against any person on
27 the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical
28 condition or marital status in connection with or related to the performance of services pursuant to this

1 Agreement.

2 **8. Indemnification.** City shall defend, hold harmless and indemnify Labadie against all
3 claims, actions, damages, and liabilities of any kind which may be sustained by Labadie arising
4 directly or indirectly out of the performance of legal services pursuant to this Agreement. Labadie
5 shall be defended by City under the laws pertaining to claims and actions against public entities and
6 employees (Government Code Section 810 *et seq.*) and protected by the same immunities and right to
7 indemnification and defense as provided thereunder for public employees (see, e.g., Government Code
8 Section 825).

9 **9. Independent Contractor.** Labadie is an independent contractor retained by City to
10 perform the work described in this Agreement, is a sole proprietor and employs no personnel,
11 including subcontractors and agents. In the event Labadie employs any personnel or subcontractors
12 approved by the City, such persons would not and shall not be deemed to be employees of the City.
13 Labadie shall comply with all State and Federal laws pertaining to employment and compensation of
14 any future employees, including the provision of Worker's Compensation coverage. Labadie shall be
15 responsible for complying with all applicable laws pertaining to the payment of federal and state
16 income taxes, as well as Social Security and Medicare.

17 **10. Notices.** All notices required herein shall be sent via First Class U.S. Mail with
18 postage prepaid thereon to the parties as follows:

19 To City: Beth Pollard, City Manager
20 City of Albany
21 1000 San Pablo Avenue
22 Albany, CA 94706

23 To Labadie: Current home address on file with the City of Albany.

24 Notices shall be deemed effectively served upon deposit in the United States Mail.

25 **11. Assignment.** The expertise and experience of Labadie are material considerations for
26 this Agreement. City has an interest in the qualifications and capability of the persons and entities
27 who will fulfill the duties and obligations assumed by Labadie under this Agreement. In recognition
28 of that interest, Labadie shall not assign any of the duties, responsibilities, or obligations of this
Agreement to any other firm, company, entity, or individual, except for a Limited Liability Company

1 or comparable legal entity which remains under his sole and exclusive ownership and control, or as
2 otherwise expressly authorized by the City.

3 **12. Amendment.** This Agreement may be amended, modified, or changed by the parties
4 provided that said amendment, modification, or change is in writing and approved by both parties.

5 **13. Entire Agreement.** This Agreement contains the entire agreement between the
6 parties hereto. No promise, representation, warranty, or covenant not included in the Agreement has
7 been or is relied upon by any party hereto.

8 **14. Severability.** If any term, condition or covenant of this Agreement is declared or
9 determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining
10 provisions of this Agreement shall not be affected thereby and this Agreement shall be read and
11 construed without the invalid, void or unenforceable provision(s).

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13 **IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year
14 written above.

15 **CITY OF ALBANY**

16
17 By: _____
18 Mayor Farid Javandel

19
20 By: _____
21 Craig Labadie

22 **APPROVED AS TO FORM:**

23
24
25 _____
26 Robert Zweben
27 City Attorney
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