

City of Garden Grove
INTER-DEPARTMENT MEMORANDUM

To:	Matthew J. Fertal	From:	John D.R. Clark
Dept.:	City Manager	Dept.:	Office of the City Clerk
Subject:	AGREEMENT WITH CITY OF FOUNTAIN VALLEY TO PROVIDE ASSISTANCE WITH CITY CLERK SERVICES		
		Date:	April 26, 2011

OBJECTIVE

Consideration of an agreement with the City of Fountain Valley (Fountain Valley) for Garden Grove to provide them with professional consulting services related to their City Clerk function.

BACKGROUND

Fountain Valley's city manager approached the Garden Grove city manager requesting assistance concerning their city clerk function. For some time, Fountain Valley has operated without the benefit of a permanent city clerk, and several of the predecessor city clerks have stayed for relatively short durations. Given the excellent reputation of the Garden Grove City Clerk's Office and the close proximity of the two cities, Fountain Valley inquired as to whether our clerk's office could specifically help them by providing expert consultation.

Subsequently, discussions were held between Fountain Valley officials, Human Resources Director/City Treasurer John Clark, and City Clerk Kathy Bailor on the feasibility of such assistance. It was concluded that such assistance, if appropriately limited in scope, could be provided without jeopardizing any of Garden Grove's needs. Mrs. Bailor is in favor of providing the requested assistance.

DISCUSSION

The following aspects were agreed-to by both city managers for subsequent consideration by both city councils:

- Kathy Bailor, in her capacity as City Clerk of the City of Garden Grove, will provide an average of eight (8) hours per week as a consultant to the City of Fountain Valley on matters relating to Fountain Valley's City Clerk function. Mrs. Bailor will remain a City of Garden Grove employee.
- The fee will be \$85.73 per hour, plus any actual expenses, billed monthly by the City of Garden Grove to the City of Fountain Valley.

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- Mrs. Bailor's work will be coordinated by Matt Mogensen, Fountain Valley's Assistant to the City Manager. Mrs. Bailor will not supervise City of Fountain Valley employees.
- Work will be scheduled in a manner designed to, in Mrs. Bailor's judgment, avoid any negative impact on her responsibilities to the City of Garden Grove.
- Services provided by the City of Garden Grove to the City of Fountain Valley include, but are not limited to: expert advice and assistance with regards to records management, official documents, conduct of meetings, preparation of legally-compliant agenda packets, election matters, and related duties.
- This agreement shall take effect upon approval by the City Councils of the City of Garden Grove and the City of Fountain Valley and the affixing of authorized signatures on behalf of both cities. It may be amended from time to time by the agreement of both parties, and may be cancelled by either party with 30 days notice in writing to the other.
- Because both parties are California municipalities, both parties agree to waive any normal liability insurance requirements and further agree to maintain appropriate Worker's Compensation insurance on their respective employees.

FINANCIAL IMPACT

The hourly charge is calculated to fully reimburse the City of Garden Grove for its costs.

RECOMMENDATION

It is recommended that the City Council:

- Approve the attached Agreement with the City of Fountain Valley to provide City Clerk services; and
- Authorize the Mayor to execute the amendment on behalf of the City.


JOHN D.R. CLARK
Director

Recommended for Approval


Matthew Ferial
City Manager

Attachment: Proposed Agreement with the City of Fountain Valley

AGREEMENT FOR CITY CLERK SERVICES

This Agreement is made and entered into this _____ day of _____, 2011, by and between the City of Fountain Valley (hereinafter "Fountain Valley ") and the City of Garden Grove (hereinafter "Garden Grove") with reference to the following facts:

WHEREAS, both cities are general law cities that exist within the County of Orange, California; and

WHEREAS, each city has need for city clerk services to fulfill the functions and duties required to be performed by the law of the State of California; and

WHEREAS, the parties have determined that it would be mutually beneficial to share the services of the City Clerk;

NOW, THEREFORE, the parties hereto do hereby AGREE as follows:

1. Purpose. The parties hereto desire to enter into an Agreement to share city clerk services. The parties have agreed that Garden Grove's incumbent City Clerk, Kathy Bailor, (hereinafter "City Clerk") shall also serve as City Clerk of the City of Fountain Valley and provide services on a part-time basis.

2. Duties. City Clerk shall perform services for Fountain Valley, including, but not limited to, those set forth in Government Code sections 40801-40814, except that the financial duties have been transferred to the City Treasurer and the assessment duties have been transferred to the County Assessor. City Clerk shall also perform those duties set forth in Fountain Valley Municipal Code section 2.18.050, a copy of which is attached hereto. Fountain Valley shall provide any bond required of City Clerk at its expense. It is understood by Fountain Valley that City Clerk is primarily engaged by Garden Grove, and Fountain Valley agrees that services rendered on behalf of Fountain Valley shall be coordinated with duties and services provided for Garden Grove and shall be scheduled in a manner designed, in the City Clerk's judgment, to avoid or minimize any negative impact on City Clerk's responsibilities for Garden Grove; provided, however, that City Clerk shall endeavor to provide at least the minimum hours agreed upon on a weekly basis as the parties shall mutually agree. City Clerk shall report to and be under the supervision of the Assistant to the City Manager, although as an officer of Fountain Valley, City Clerk shall be entitled to exercise her judgment as an officer in making official decisions.

3. Employment. The parties agree that Fountain Valley is contracting with Garden Grove for such services and agrees to pay Garden Grove for those services. Although City Clerk shall be an officer of Fountain Valley, the compensation paid shall be between Fountain Valley and Garden Grove and not between Fountain Valley and City Clerk. Garden Grove agrees to fully compensate City Clerk for all wages, fringe benefits and pension benefits for which she may be entitled for hours worked at Fountain Valley in addition to hours worked at Garden Grove. City Clerk's compensation shall

be determined by Garden Grove. Fountain Valley shall subsidize a portion of the compensation paid to City Clerk by paying Garden Grove the fully loaded rate of \$85.73 per hour for services provided by City Clerk, plus reasonable actual expenses.

4. Scheduling. It is the parties' initial determination that City Clerk shall work eight hours per week at Fountain Valley. The parties anticipate that those hours may be adjusted informally provided the other provisions of this Agreement shall apply.

5. Worker's Compensation. Although City Clerk shall be an employee of Garden Grove and not of Fountain Valley, each party shall maintain worker's compensation coverage in the event a determination is made that there was "dual employment." Fountain Valley shall ensure that City Clerk is covered as an "employee" under Fountain Valley's worker's compensation coverage.

6. Indemnification by Garden Grove. Garden Grove agrees to indemnify, defend and hold Fountain Valley harmless from any and all liability arising out of injuries involving City Clerk or other employees performing services pursuant to this Agreement occurring on Garden Grove's property or arising out of the Garden Grove employment relationship or the performance of services as City Clerk for Garden Grove. Garden Grove further agrees to indemnify, defend and hold the City of Fountain Valley harmless from any and all liability or claims of liability or loss by the City Clerk for additional salary, health, pension or other fringe benefits or for any other claim arising out of the City Clerk's employment relationship with Garden Grove, including any personnel grievance, dispute or disciplinary appeal.

7. Indemnification by Fountain Valley. Fountain Valley agrees to indemnify, defend and hold Garden Grove harmless for any and all liability arising out of injuries involving City Clerk or other employees performing services pursuant to this Agreement occurring on Fountain Valley's property. Fountain Valley also agrees to indemnify, defend and hold Garden Grove harmless from any claims or litigation, including, but not limited to, writs of mandate, alleging or arising out of City Clerk's malfeasance, nonfeasance or misfeasance of office or for failure to follow the law in the performance of services for Fountain Valley. Fountain Valley shall also indemnify, defend and hold Garden Grove harmless from any and all liability for accidents occurring while City Clerk is going or coming from Garden Grove to Fountain Valley.

8. Term. This Agreement shall have a one-year term but shall renew automatically unless either party provides notice to the other of termination. This Agreement may also be terminated without cause at any time provided at least 30 days notice is given to the other party.

9. Authority to Execute/Modify. This Agreement shall be approved by the City Councils of Garden Grove and Fountain Valley and may only be modified by a writing signed by the Mayor of each. Notwithstanding this limitation, the City Managers of each entity shall be entitled to make adjustments in hours, schedules, and hourly rates for the mutual convenience and needs of each provided the minimum hours needed by Fountain Valley are provided, unless the City Manager of Fountain Valley

determines that less hours are needed. Payment shall be based on hours worked. This Agreement constitutes the entire understanding and agreement between the parties and supercedes all previous negotiations between them pertaining to the subject matter thereof.

10. Billing and Payment. Garden Grove shall submit an invoice for hours worked by City Clerk on a monthly basis. Garden Grove shall be entitled to bill for 15 minutes travel time to and from the cities. If City Clerk only works at Fountain Valley that day, no travel time shall be charged. If City Clerk must travel from one city to another in a day, it is the parties' intention that City Clerk shall arrange her time so Fountain Valley is only billed for one-way travel. Fountain Valley shall promptly pay said invoice in accordance with its register of demands procedures.

11. Additional Services Possible. The parties agree that the City Managers of each city may approve other employees of Garden Grove providing related specialized services to Fountain Valley under similar circumstances. If the City Managers agree, those services shall be subject to the same terms and conditions as set forth in this Agreement, except for different hourly rates. The scope of such additional services and the rates to be charged therefor shall be set forth in a writing signed by the City Managers of each city.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF FOUNTAIN VALLEY

CITY OF GARDEN GROVE

Steve Nagel
Mayor

William J. Dalton
Mayor

ATTEST:

ATTEST:

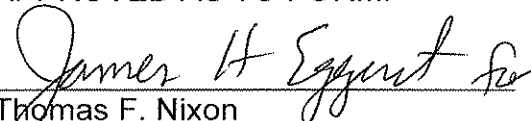
Kathy Heard
Deputy City Clerk

Kathleen Bailor, CMC
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Alan Burns
City Attorney



Thomas F. Nixon
City Attorney