

**TOWN OF PARADISE  
RESOLUTION NO. 16-56**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE  
AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT  
WITH THE LAW FIRM OF PETERS, HABIB, MCKENNA & JUHL-RHODES, LLP**

**WHEREAS**, from time to time, property owners violate the requirements of the Paradise Municipal Code, which may result in litigation by the Town to abate the violation; and

**WHEREAS**, the expense of such litigation can be substantially reduced if the Town's legal services are not payable by the Town; and

**WHEREAS**, Peters, Habib, McKenna & Juhl-Rhodes, LLP has offered to provide legal services to the Town relating to such litigation pursuant to a legal services agreement under which the firm's fees would not be paid by the Town but by the defendant only if the Town prevails or from proceeds generated by a receivership.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARADISE** as follows:

**Section 1.** Town Council does hereby authorize the Town Manager to execute the attached legal services agreement between the Town of Paradise and Peters, Habib, McKenna & Juhl-Rhodes, LLP.

**PASSED AND ADOPTED** by the Paradise Town Council of the Town of Paradise, County of Butte, State of California, on this 13th day of September, 2016, by the following vote:

AYES: Greg Bolin, Steve "Woody" Culleton, Scott Lotter and Jody Jones, Mayor

NOES: None

ABSENT: John J. Rawlings

NOT VOTING: None

[Redacted Signature]

JODY JONES, Mayor

ATTEST: *September 14, 2016*

[Redacted Signature]

DINA VOLENSKI, CMC, Town Clerk

APPROVED AS TO FORM:

[Redacted Signature]

DWIGHT L. MOORE, Town Attorney

## LEGAL SERVICES AGREEMENT

**PETERS, HABIB, MCKENNA & JUHL-RHODES, LLP** (“Attorney”) and **TOWN OF PARADISE, CALIFORNIA** (“Client”) hereby agree that Attorney will provide legal services to Client on the terms set forth below. Town Attorney Dwight L. Moore (“Town Attorney”) will administer this Agreement for Client, and will serve as Attorney’s primary contact with Client.

**1. EFFECTIVE DATE.** This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until Client returns a signed copy of this Agreement.

**2. SCOPE OF SERVICES.** Subject to the terms of this Agreement, Client hires Attorney to assist Town Attorney in the following matter: CODE ENFORCEMENT RELATING TO ABATEMENT OF PUBLIC NUISANCES AT 6066 LUCKY JOHN ROAD, PARADISE.

**3. CONTROL OF LITIGATION.** Town Attorney shall supervise and direct Attorney. Attorney shall be subordinate to Town Attorney and shall not take any action on behalf of Client without prior direction and approval from Town Attorney. Town Attorney shall be the lead attorney of record in any litigation commenced in the name of Client, and Town Attorney shall supervise and control any litigation commenced in the name of Client. Attorney acknowledges and understands that Town Attorney shall be the only attorney with authority to settle or compromise claims and disputes on behalf of Client and make and direct all strategic litigation decisions on behalf of Client, even without the consent or over the objection of Attorney. In the event Attorney and Town Attorney are unable to agree, then Town Attorney’s decision shall control and be final. Attorney understands and agrees that the defendant to any lawsuit by the Client may contact Town Attorney without having to confer with Attorney. Attorney will provide those legal services reasonably required to discharge the instructions of Town Attorney, and will keep Town Attorney informed about the status of discharging the directions and instruction received from Town Attorney. If a court action is filed, Attorney will represent Client as co-counsel with Town Attorney as the controlling attorney through trial and post-trial motions. **Town Attorney shall have the authority to veto the decisions of Attorney and shall have authority to settle any litigation without Attorney’s consent.**

**4. CLIENT’S GENERAL DUTIES.** Client agrees to be truthful with Attorney, to cooperate with Attorney, to keep Attorney informed about the information and developments concerning the matters for which Attorney has been hired, and to abide by this Agreement.

**5. LEGAL FEES AND BILLINGS.** The amount of Attorney’s compensation shall be determined by the Court pursuant to an application for attorney fees as provided by law, and shall be payable to Attorney only when collected from the defendant. Attorney acknowledges that Client shall not compensate Attorney unless the Court makes an award of attorney fees and the award is actually collected (in whole or in part). Attorney acknowledges that Client shall have no obligation to compensate Attorney beyond any compensation awarded by the Court that is actually collected. Client shall take reasonable and necessary steps to collect and enforce an attorney fees award by the Court, including, but not limited to, placing liens on property authorized by law and monetizing liens through

foreclosure or other legal means provided by law. Attorney retains the right to seek compensation other than from Client to the extent provided by law

Attorney shall bill for all time spent on Client's matter at the following rates:

Partners----- \$300.00/hour  
Paralegals----- \$110.00/hour

The foregoing rates are subject to change on 30 days' written notice to Client. The time charged will include the time Attorney spends on telephone calls relating to Client's matter, including calls with Client, witnesses, opposing counsel or court personnel. The legal personnel assigned to Client's matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent. Attorney will charge for waiting time in court and elsewhere and for travel time, both local and out of town. Time is charged in minimum units of one-tenth (.10) of an hour, except the following services shall be billed a minimum as follows:

Telephone calls: .20  
Letters: .20  
Emails: .20

**6. COSTS AND OTHER CHARGES.**

There are various costs and expenses associated with performing legal services under this Agreement. Attorney understands that such costs and expenses do not include any attorney's fees under section 5. Client agrees to pay for all costs, disbursements and expenses. The costs and expenses commonly include: service of process charges, filing fees, court and deposition reporters' fees, transcript fees, jury fees, notary fees, deposition costs, long distance telephone charges, database access and search charges, messenger and other delivery fees, filing fees, motion fees, postage, photocopying and other reproduction costs, travel costs (including parking, mileage, transportation, meals and hotel costs), investigation expenses, consultants' fees, expert witness fees and expenses, professional, mediator fees and expenses, arbitrator and/or special master fees and expenses, and other similar items. In no event shall the above cost and other charges exceed \$2,500.

**7. BILLING STATEMENTS.** Attorney will send Client periodic statements. Client may request a statement at intervals of no less than 30 days. If Client so requests, Attorney will provide one within 10 days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.

**8. LIEN.** Client hereby grants Attorney a lien on any and all claims or causes of action that are the subject of the representation under this Agreement. The lien will be for any sums owing to Attorney at the conclusion of services performed. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. The effect of such a lien is that

Attorney may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorney has been discharged before the end of the case. Because a lien may affect Client's property rights, Client may seek the advice of an independent lawyer of Client's choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and—whether or not Client has chosen to consult such an independent lawyer—Client agrees that Attorney will have a lien as specified above.

\_\_\_\_\_ (Client Initial Here)      \_\_\_\_\_ (Attorney Initial Here)

**9. DISCHARGE AND WITHDRAWAL.** Client may discharge Attorney at any time. Attorney may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, refusal to cooperate or to follow Attorney's advice on a material matter or any fact or circumstance that would render Attorney's continuing representation unlawful or unethical. After services conclude, Attorney will, upon Client's request, deliver Client's file, and property in Attorney's possession unless subject to the lien provided above, whether or not Attorney has been paid for all services and expenses.

**10. DISCLAIMER OF GUARANTEE AND ESTIMATES.** Nothing in this Agreement and nothing in Attorney's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Attorney makes no such promises or guarantees. Attorney's comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Attorney shall not be a guarantee. Actual fees may vary from estimates given.

**11. INDEMNIFICATION.** Attorney agrees to defend, indemnify, and save harmless Client and its officers, officials, employees, and volunteers from and against all claims, demands and causes of action by third parties on account of personal injuries or death or on account of property damages arising out of the work to be performed by Attorney hereunder and resulting from the negligent act or omissions of Attorney or his agents.

**12. ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**13. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**14. MODIFICATION BY SUBSEQUENT AGREEMENT.** This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them, or an oral agreement only to the extent that the parties carry it out.

**15. TERMINATION.** This agreement shall terminate on June 30, 2017 unless it is extended by mutual consent of the parties.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE ATTORNEY FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

TOWN OF PARADISE

PETERS, HABIB, MCKENNA &  
JUHL-RHODES, LLP

By: \_\_\_\_\_  
Mayor Jody Jones

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Dwight L. Moore, Town Attorney