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REPRESENTATION AGREEMENT

This Contingent Fee Agreement for the performance of legal services and payment of attorneys' fees (hereinafter referred to as the "Agreement") is between:

_____ (hereinafter "Client") and

MASTAGNI HOLSTEDT, a Professional Corporation (hereinafter "Attorneys").

This Agreement sets forth the terms and conditions upon which Attorneys will provide professional services to Client and to obtain Client's informed written consent to the fee arrangement between Attorneys and Client.

1. CONDITIONS: This Agreement will not take effect until: (1) Client returns a signed copy of this Agreement to Attorneys; and (2) Attorneys acknowledge acceptance of representation by counter-signing this Agreement and returning a fully executed copy to Client.

2. SCOPE OF SERVICES: This Agreement only covers the handling of Client's civil claims for violations of the Fair Labor Standards Act and attorney fees and costs arising out of Client's employment with the City of Hayward ("City"). Attorneys will provide such legal services reasonably required to represent Client in this matter. If a court action is filed, Attorneys will represent Client through trial and post-trial motions. This Agreement does not cover representation on appeal or in collection proceedings after judgment or proceedings regarding renewal of a judgment. **A separate written agreement for these services or services in any other matter not described above will be required and Client may be obligated to pay Attorney's fees in any such separate or additional matter on an hourly fee basis.** Client acknowledges that Attorneys have not been retained to provide Client with any tax advice concerning any of the services described in this paragraph. Any documents prepared by Attorneys may have specific tax ramifications. To be sure Client understands and is certain of all the potential tax consequences, Client should consult with tax advisors regarding these matters.

3. DISCLOSURE REGARDING JOINT REPRESENTATION: Assuming that all Clients provide their informed written consent, Attorneys agree to represent Clients jointly in the Action with respect to the services rendered pursuant to Section 2 of the Agreement. Attorneys understand that this arrangement is desired by Clients as a means of securing the economic and tactical advantage of joint representation.

California law and Rule 1.7 of the Rules of Professional Conduct require Attorneys to provide written disclosure of any actual and reasonably foreseeable adverse consequences arising from a proposed representation of multiple Clients, and to obtain all Clients' informed written consent to the joint representation. While Attorneys do not perceive any actual or reasonably

foreseeable adverse consequences at this time, Clients should consider the following potential adverse consequences prior to consenting to the proposed joint representation.

Although joint representation may result in economic and tactical advantages, convenience and efficiency, or reduced legal expense, joint representation also has potential disadvantages that Clients should be aware of and accept as a condition to the Mastagni firm's joint representation of Clients in the prosecution of the Action. Examples of such potential conflicts of interest in a joint representation of multiple Clients include, but are not limited to, the following:

- (a) Joint representation of multiple Clients may result in divided or at least shared Attorney-Client loyalties. Although we are not currently aware of any actual or reasonably foreseeable adverse effects of such divided or shared loyalty, it is possible that issues may arise as to which Attorneys' representation of any one Client may be materially limited by Attorneys' representation of any one or more of the other joint Clients;
- (b) One or more of the Clients may differ on litigation strategy or the issues of whether to settle the litigation on certain terms;
- (c) If there is insufficient insurance or assets to cover the damages of each of the respective Clients there can be disputes regarding how to allocate the insurance proceeds or assets as between the joint Clients;
- (d) One or more of the Clients could be the subject of defense claims, or may wish to assert claims, which might be adverse to the interests of the other Clients;
- (e) Joint representation may result in less vigorous assertion or protection of one Client's individual or separate interests than if Attorneys were to represent only that Client;
- (f) Joint representation has the further disadvantage that no Attorney-Client privilege would apply to communications between or among the Clients or with Attorneys in any dispute between or among the Clients or by any of the Clients with us. In other words, Attorneys cannot keep confidential from one of the Clients any communication with another one of the Clients in the course of the joint representation, and Attorneys could be compelled to testify concerning any such communication. However, although the Attorney-Client privilege will not protect communication between Attorneys and the joint Clients from disclosure to other joint Clients, all of Clients' communications with Attorneys remain privileged as against third parties. Nevertheless, all joint Clients should also know that communications which occur during the course of the joint representation will lose their privileged character if they should be offered in a future civil proceeding between one Client and another;
- (g) In the event of a dispute or conflict of interest between any of the joint Clients that the Attorneys represent, there is a risk that Attorneys may be disqualified from representing all of the joint Clients absent written consent from all of the joint Clients at that time;
- (h) If any disputes should arise between the joint Clients, Attorneys will not advise or represent any of the Clients in connection with any claim for contribution or indemnity that it may have against any of the other Clients.

Notwithstanding these risks, all Clients have advised Attorneys that at the present time they do not desire to seek other counsel but instead desire and agree that Attorneys jointly represent the multiple interests of those individuals named herein and/or those individuals who execute a consent to join.

Attorneys ask Client(s) to read the disclosure and consent set forth in this paragraph 3 carefully, and to give due consideration to the decision regarding whether to provide written consent to the joint representation and conflict waiver. Clients have the right to consult independent counsel regarding the proposed joint representation, the conflict waivers and whether or not to sign this Agreement and Attorneys encourage Clients to do so.

4. COLLECTIVE ACTION LAWSUIT/POTENTIAL CONFLICTS: Client understands that Attorneys will seek to file a collective action lawsuit arising out of Client's and any other similarly situated persons' employment or former employment by the City. No individual claims will be filed unless or until the Court has ruled on collective action certification. If certification is denied, Attorney is not obligated to file an individual claim on Client's behalf. If Attorneys agree to pursue any individual claims on Client's behalf, and to do so would not create a conflict of interest or violate any other rule of the State Bar of California Rules of Professional Conduct, these claims shall be subject to the cost and fee structures set forth in paragraphs 7 and 8, respectively. To the full extent required by law, Client and Attorneys shall fairly represent the interests of the collective action members whose claims are being asserted in the class or representative lawsuits, arbitrations, or settlement negotiations pursued under this Agreement. Attorneys and Client shall cooperate in pursuing the claims, lawsuits, arbitrations, or settlements and Client shall assist as necessary. Client and Attorneys shall not place their personal interests above those of the class as a whole.

In a collective action, Client will be a plaintiff, perhaps one of several, who actually brings the lawsuit, but Client will be seeking to obtain relief on behalf of themselves and others. Sometime after the lawsuit has been filed, the court may determine the status of Client's representation of such other persons. In choosing to bring this action on behalf of others, Client understands that Client's personal interests will be given less consideration than the interests of the larger group of persons whose interests are being represented. Both Attorneys and Client will be obligated to make decisions in the best interests of all interested persons, and their best interests will override Client's interests concerning the outcome. For example, once the case is filed and certified as a collective action by the court, court consent will be required to dismiss or settle the action. Also, Client will be prohibited from settling the case on a basis that unfairly benefits Client over those represented by the class. Any settlement must be fair and reasonable to all the class represented persons. Client specifically agrees to this responsibility and, in so doing, waives the conflict of interest expressed herein.

5. COLLECTIVE ACTION COUNSEL: Attorneys explained, and Client acknowledges understanding that Attorneys will seek to bring a collective action on behalf of Client and other similarly situated persons. If this action is certified to proceed as a collective action, Client is advised that Attorneys may be designated as counsel to represent all collective class members as a whole. Attorneys will not be permitted to represent individual claimants for any matter that may create a conflict of interest with the class as a whole. Conflicts might develop between Clients and the interests of the class as a whole. For instance, it is possible Clients might want to accept a settlement but Attorneys believe the settlement is not in the interests of the class as a whole.

Client consents to Attorneys representing Client, other named plaintiffs and class representatives, and the class as a whole even though there is a potential for conflicts of interest between them. If a conflict of interest arises that is serious enough that Attorneys cannot or will not continue to represent Clients and the class or potential class together, Clients agree that Attorneys shall be entitled to continue to represent the class or potential class but not Clients.

6. APPEAL OR ADVERSE JUDGMENT: Attorneys shall not be obligated to appeal any adverse judgment, and Attorneys' obligation under this Agreement shall cease upon determination of any motion for a new trial. If Client wishes to retain Attorneys in the case of an appeal of a verdict or settlement, the amount of legal fees shall then be subject to renegotiation, based on an hourly rate of a sum not less than \$350.00 per hour. Client shall be responsible for these fees in addition to the pre-arranged fee agreement. Any appeal of an adverse ruling, judgment or settlement shall be subject to a separate fee agreement to be negotiated by the parties and memorialized in writing. Client understands and agrees that Attorneys shall not be under any obligation to file such an appeal until said fee agreement has been fully executed by the parties.

7. ATTORNEY'S FEES: Attorneys will only be compensated for legal services rendered if a recovery is obtained for Client. Attorneys and Client recognize that Client may be entitled to an award of attorney's fees under Federal, State, or other applicable law. Client expressly authorizes Attorneys to seek an award of attorney fees as a percentage of the class-wide settlement amount and/or as an hourly rate with multiplier and/or as an award ordered by the Court (or third-party designee such as an arbitrator) under Federal, State or other applicable law. Attorney fees typically range from \$275 to \$650 per hour. In the event there is a separate award of attorney's fees in addition to a common fund recovery in the case, either by way of settlement, judgment, arbitration award, or an award of any type of damages or other monetary relief, the Attorney's fees Client owes Attorneys shall be the greater of:

A. The Award of Attorney's Fees: Attorneys will be entitled to the attorneys' fees awarded by the Court (or third party designee such as an arbitrator) or obtained as attorneys' fees in settlement with the defendant or defendants; or

B. Contingency Attorneys' Fees as a Percentage of Recovery in Collective Action Common Fund: Attorneys will be entitled to (i) twenty-five percent (25%) of the gross recovery. The term "gross recovery" means a percentage of the total of all amounts received by settlement, arbitration award or judgment before deducting any litigation costs and expenses which have been either advanced or incurred by Attorneys on behalf of Client.

Negotiability of Legal Fees: Client is informed and understands that the rates set forth above are not set by law, but are negotiable between Attorneys and Client.

Deferred Recovery or Payments in More than One Installment: If all or any part of pay to be received will be deferred (such as in the case of an annuity, a structured settlement, or periodic payments over a period of time), then Attorneys shall have the option to receive, at the time of the first payment, their Attorney fees, costs and expenses based on the present cash value of the total of all recoveries to be received at any time. If the initial payment is insufficient to pay the Attorney fees in full, the balance will be paid from subsequent payments, as they are received, before any distribution to Client.

Recovery of Things Other than Money: If any recovery is property other than money, then Attorneys shall have the option to have their attorney fees, costs and expenses paid to Attorneys in money, based upon the reasonable value of the total property value for the entire class or as set forth above.

8. COSTS AND LITIGATION EXPENSES: Attorneys shall advance all reasonable litigation costs, which may include but are not limited to court fees, filing fees, jury fees, service of process charges, court and deposition reporters' fees, videographer fees, interpreter/translator fees, outside photocopying and reproduction costs, investigation expenses, photographs, subpoena fees, medical records, consultants, expert witnesses, professional mediator, arbitrator and/or special master fees, notary fees, messenger and other delivery fees, travel costs including parking, mileage, transportation, meals and hotel costs, and other similar items.

Internal charges are billed at the following rates: (1) mileage - IRS Standard Mileage Rate; (2) in-house printing and photocopying - [10¢] cents per page; (3) facsimile charges - [10¢] cents per page; (4) messenger services - at cost; (5) postage - at cost; (6) long distance telephone charges - at cost; and (7) computerized legal research - at cost.

It is agreed that Client is not obligated to reimburse Attorneys for any costs advanced if no recovery is obtained. Costs incurred with this claim will affect Client's recovery in the following manner: from the gross settlement amount/award, fees are first deducted and from the remaining balance, then costs are deducted. The balance after fees and costs have been deducted, less any reimbursement liens or obligations, is the Client's recovery.

Client understands that if Client's case proceeds to court action or arbitration and Client loses or is not the prevailing party, the court may award attorney fees as well as some or all of the type of costs enumerated in this paragraph 8 to the winning or prevailing party or parties. Payment of such attorney fees and costs shall be the sole responsibility of Client and shall not be paid by, nor an obligation of Attorneys.

Client agrees that any award of fees and costs that may be awarded as discovery or other sanctions shall not be considered part of the Client's recovery and shall belong exclusively to Attorneys as additional compensation for extraordinary time and effort.

9. ATTORNEYS' LIEN: Attorneys will have a lien against any recovery for attorney fees and costs advanced on all claims and causes of action that are the subject of the representation of Client under this Agreement. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. An effect of such a lien is that Attorneys may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorneys have been discharged before the end of the case.

Client will notify Attorneys promptly of any payments received directly and will pay promptly to Attorneys any amounts due from such payments, under the terms of this Agreement, for Attorneys' fees and costs advanced.

10. CLIENT AS CLASS REPRESENTATIVE: This Agreement will permit Attorneys to represent your interests as a potential class representative in a collective action. Client has been advised that where there is a recovery class, representatives are normally entitled to the same compensation as that awarded to any class member, but may, where appropriate, request that the

Court provide Client, the named class Plaintiff, with an enhancement or incentive fee to reward Client for Client's effort in bringing this action. If the case settles or reaches a favorable judgment on a class-wide basis, Attorneys will negotiate with defendant(s) and/or apply to the Court for an enhancement or incentive fee for each class representative. The granting of this incentive fee and the amount of the fee will be determined in the sole discretion of the Court. Attorneys do not, have not, and will not guarantee, predict, state or imply that Client will receive any particular amount for an enhancement fee award.

11. CLIENT DUTIES: Client agrees to be truthful with Attorneys and not to withhold information from Attorneys, to cooperate, to keep Attorneys informed of any information or developments which may come to Client's attention, to abide by this Agreement, and to keep Attorneys advised of Client's present address, telephone number, e-mail address and whereabouts at all times. Client further agrees to keep Attorneys up-to-date, in writing, of any employment related circumstances affecting Client's case. Client will assist Attorneys by timely providing necessary information and documents. Client agrees to appear at all legal proceedings when Attorneys deem it necessary, and generally to cooperate fully with Attorneys in all matters related to the preparation and presentation of Client's claims.

12. SETTLEMENT DECISIONS: Client expressly authorizes Attorneys to negotiate a settlement on behalf of the class as a whole. Any and all decisions regarding settlement shall be made by a majority vote of the named plaintiffs. Clients that are opt-in consenters hereby acknowledge that they have no right to control any aspect of the litigation and herein consent to the named plaintiffs to make such decisions by majority vote. Clients that are opt-in consenters further authorize Attorneys to enter into settlement negotiations and into settlement agreements binding on each of them without their consent and without notice except to the extent, if any, the federal court adopts and approves any settlement notice procedures. Client understands and agrees that a settlement may be imposed on the entire class of Clients.

13. CONFIDENTIALITY: Information communicated or furnished between Attorneys, Client and other members or potential members of the class will often be confidential (although the information of one Client is not confidential from any other Client in the case). Also, papers and other things related to the matters in paragraph 2 above will often be confidential. Attorneys and Client shall maintain the confidentiality of all confidential information, papers and things, except that, to the extent permitted by law, Attorneys shall be entitled to divulge confidential information if necessary or helpful in representing Client or the class or potential class. Despite the confidentiality of Attorney-Client fee agreements, Client agrees that Attorneys shall be entitled to divulge this Agreement for purposes of pursuing the matters described in paragraph 2 above, or for Attorneys to obtain fees, expenses and costs.

14. RECEIPT OF PROCEEDS: All proceeds of Client's case shall be deposited into Attorneys' trust account for disbursement in accordance with the provisions of this Agreement.

15. NO OTHER MATTERS HANDLED BY ATTORNEYS FOR ANY CLIENT: Attorneys are not engaged by Client to provide any services that are not described herein. Attorneys will be happy to consider providing other services, but will provide them only if Attorneys sign a separate written agreement stating what other services Attorneys will be providing.

16. DISCLAIMER OF GUARANTEE: Nothing in this Agreement and nothing in Attorneys' statements to Client will be construed as a promise or guarantee about the outcome of this matter. Attorney makes no such promises or guarantees. Attorneys' comments about the outcome of this matter are expressions of opinion only, are neither promises nor guarantees, and shall not be construed as promises or guarantees. Any deposits made by Client or estimate of costs and expenses given by Attorney shall not be a limitation on costs and expenses or a guarantee that costs and expenses will not exceed the amount of the deposit or estimate. Actual costs and expenses may vary significantly from estimates given. This section is not, and shall not be, subject to modification in any manner or under any circumstances.

17. DISCHARGE AND WITHDRAWAL: Client may withdraw from this Agreement or may discharge Attorney at any time. However, Client understands that the Attorneys may continue as Class Counsel in the lawsuit or may assert a lien against any settlement or award amount that is eventually received by the Client or class for the Claim, whether through representation by another Attorney or through the Client's own efforts. For class-wide awards or settlements, the lien amount will be based on the criteria set forth in paragraph 7 above. Client agrees that such lien will be deducted from any gross amounts collected for this Claim, before any other Attorneys' fees, liens or expenses are deducted from the amount.

Attorneys may withdraw with Client's consent for good cause or if permitted under the Rules of Professional Conduct of the State Bar of California and/or applicable law. Among the circumstances under which Attorneys may withdraw are: (a) with the consent of Client; (b) with approval of the Court; (c) Client fails to cooperate with Attorneys or to follow Attorneys' advice on a material matter and/or Client's conduct renders it unreasonably difficult for the Attorneys to carry out the employment effectively; (d) it becomes apparent that the opposing party has insufficient assets to pay a reasonable settlement or award, (e) it appears after investigation that the Claim lacks substantial factual or legal justification, (f) the case is not certified to proceed as a class action lawsuit, (g) Client fails to pay Attorneys' costs and expenses as may be required by this Agreement; or (h) any other circumstance causing Attorneys' continuing representation of Client to be unlawful, unethical, or a conflict of interest.

18. CONCLUSION OF SERVICES & FILE RETENTION: When Attorneys' services conclude, whether by completing the services covered by this Agreement, or by discharge or withdrawal, all unpaid charges for costs and expenses shall be due and payable immediately. Attorney is authorized to use any funds held in Attorneys' trust account as a deposit against costs to apply to such unpaid charges. Client may have access to Client's case file at Attorneys' office at any reasonable time. At the end of the engagement, Client may request the return of Client's case file. If Client has not requested the return of Client's file and to the extent Attorneys have not otherwise delivered it or disposed of it consistent with Client's directions, Attorneys will retain the case file for a period of five (5) years, after which Attorneys are authorized by this agreement to have the case file destroyed. If Client would like Attorneys to maintain Client's case file for more than five (5) years after the conclusion of Attorneys' services for Client, a separate written agreement must be made between Attorneys and Client, which may provide for Client to bear the cost of maintaining the file.

In the event Client requests that Attorneys transfer possession of Client's case file to Client or a third party, Attorneys are authorized to retain copies of the case file at Client's expense. The

case file includes Client papers and property as defined in Rule 3-700(D)(1) of the California Rules of Professional Conduct.

19. ARBITRATION OF DISPUTES REGARDING ANY PROVISION OF THIS AGREEMENT: If a dispute arises between Attorneys and Client regarding Attorneys' fees or Attorneys' malpractice or Client's failure to fulfill Client's obligations, either party has the right to arbitrate the dispute under Business and Professions Code Sections 6200-6206, or the American Arbitration Association, as the case may be. The prevailing party in any action or proceeding to enforce any provisions of this Agreement will be awarded reasonable Attorneys' fees and costs incurred in that action or proceeding.

20. RECOMMENDATION TO SEEK TAX ADVICE REGARDING SETTLEMENT OR AWARDS: Neither Attorneys nor any of Attorneys' staff and other attorneys are tax experts. There may be tax implications connected to any settlement or award received in Client's case. Client should immediately seek tax advice regarding any tax liabilities that may apply in a settlement or award so that Client can make an informed decision on settlements and whether Client intends to proceed with litigation.

21. ERRORS AND OMISSIONS INSURANCE COVERAGE: The Law Firm of Mastagni Holstedt, A.P.C. maintains errors and omissions insurance coverage applicable to the services rendered by Attorneys to Client.

22. 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.

23. 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.

24. CHOICE OF LAW: This Agreement shall be governed by and construed under the law of the State of California.

25. MODIFICATION BY SUBSEQUENT AGREEMENT: This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both parties.

26. COPY RECEIVED BY CLIENT: Client acknowledges receipt of a copy of the Retainer Agreement with execution thereof on the aforementioned date.

[Signatures on next page.]

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. THE CLIENT SHALL RECEIVE A FULLY EXECUTED COPY OF THIS AGREEMENT.

Print Name of Client

Dated: _____

Signature of Client

MASTAGNI HOLSTEDT, A.P.C.

Dated: _____

By: David E. Mastagni