

ORDINANCE NO. _____(N.S.)
**AN ORDINANCE AMENDING ARTICLE IX OF THE SAN DIEGO COUNTY ADMINISTRATIVE
CODE, RELATING TO THE OFFICE OF COUNTY COUNSEL**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Section 140.2 of the San Diego County Administrative Code is hereby amended to read as follows:

**SEC. 140.2. COUNTY COUNSEL SERVES AS CHIEF CIVIL LEGAL ADVISOR TO
THE COUNTY.**

(a) Pursuant to the San Diego County Charter, the County Counsel serves as the chief legal advisor to the County. In this capacity, the County Counsel shall provide legal services and representation to the County.

(b) No person, other than County Counsel, shall serve as the attorney or legal advisor to the County, and no County body or official shall hire, employ, retain, or use any person, other than County Counsel, for official legal advice, services, or representation for County purposes, except as provided by law or under the following circumstances:

(1) Conflict of Interest. Pursuant to the San Diego County Charter, when the County Counsel determines that a conflict of interest exists and determines to disqualify themselves from representing the County in a specific matter, the County Counsel is authorized by the Board of Supervisors to obtain, and shall be responsible for obtaining, appropriate other counsel to represent the County in the particular matter.

(2) Specialized Legal Services. When the County Counsel determines that there is a need to obtain specialized legal services which are not available within the Office, the County Counsel is authorized by the Board of Supervisors to obtain, and shall be responsible for obtaining, appropriate outside counsel to provide the necessary expertise and specialized legal services required by the particular matter.

(3) Need for Additional Assistance. When the County Counsel determines that the legal needs of the County require additional attorney assistance not available through the Office, the County Counsel is authorized by the Board of Supervisors to obtain, and shall be responsible for obtaining, other appropriate counsel to provide legal services and representation to the County.

(4) County Counsels' Association of California. The County Counsels' Association of California ("Association") is a nonprofit mutual benefit corporation whose membership consists of the attorneys acting as county counsels of the 58 California counties. The Association provides a confidential forum over a variety of communication systems through which county counsels may share information protected by the attorney-client privilege, the attorney-work product doctrine, the common interest doctrine and other laws. The County Counsel is authorized by the Board of Supervisors to participate in all aspects and activities of the Association.

Section 2. Section 141 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 141. DUTIES OF THE COUNTY COUNSEL.

(a) The County Counsel shall act under the supervision of the Board of Supervisors and shall exercise general supervision over all functions of the Office and shall enforce such rules and regulations as are prescribed and approved by the Board of Supervisors.

(b) The County Counsel shall perform the following duties:

(1) Plans, directs, organizes, and evaluates the overall activities of the Office of County Counsel with respect to the provision of legal services and representation to County Counsel clients.

(2) Represents and provides legal services to the County in Juvenile Court with respect to juvenile dependency matters.

(3) Prepares ordinances, briefs, opinions, and other legal documents.

(4) Represents the County Counsel clients in litigation proceedings and participates in the preparation and litigation of cases in Federal and State Courts, and of administrative cases before Administrative Agencies.

(5) Reviews and approves as to form and legality contracts and other legal documents.

(6) Provides legal advice and risk analysis on issues of importance to the County Counsel clients.

(7) Plans, directs, organizes, and evaluates the overall activities of the Claims Division in the Office of County Counsel in connection with the processing and administration of public liability claims filed against the County in accordance with the provisions under Article X of this Code.

(8) Directs the development of the Office's annual budget and monitors the revenues and expenditures of the Office.

(9) Performs such other duties as may be requested by the Board of Supervisors, the Chief Administrative Officer, and other County Counsel clients in accordance with or as may be required or permitted by federal law, State law, the San Diego County Charter, or County Ordinance.

Section 3. Section 141.2 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 141.2. AUTHORIZATION TO CONTRACT FOR SERVICES

The County Counsel is hereby authorized to enter into and execute contracts, and any other documents as are necessary for the execution of such contracts, for services with experts, consultants, or other counsel to assist in providing the County with legal services, legal representation, and support for such services or representation. The County Counsel shall report to the Board of Supervisors, at least annually, on the cost of such services utilized by the County Counsel.

Section 4. Section 142 of the San Diego County Administrative Code is hereby amended to read as follows:

SEC. 142. LITIGATION AUTHORIZATION

The County Counsel is authorized to file suit or institute other proceedings in a court of competent jurisdiction, including before Administrative Agencies, or other quasi-judicial bodies, to recover money or damages or seek other relief as appropriate as follows:

- (a) To collect unsecured delinquent property taxes from the assessee shown on the unsecured tax roll, when requested by the County Tax Collector.
- (b) To enforce payment of a surety bond for the payment of taxes when requested by the County Tax Collector.
- (c) To enforce payment of a debt for general relief from the person who received the aid when requested by the Director of the Office of Revenue and Recovery after he has determined that the debtor has acquired property.
- (d) To enforce payment of a debt for hospital care from any or all of those persons made liable by Section 238 of this Code when requested by the Director of the Office of Revenue and Recovery after he/she has determined that the person or persons to be sued have acquired property.
- (e) To enforce the County's right to recover welfare moneys received by recipient of public welfare to which the recipient was not entitled when requested by the Director of the Office of Revenue and Recovery.
- (f) To collect costs for the detention or placement of minors by order of the Juvenile Court in any of the County Juvenile Probation facilities when requested by the Director of the Office of Revenue and Recovery.
- (g) To enforce the County's right to recover pursuant to Chapter 5, Part 1, Division 4 of the Labor Code (Sec. 3850, et seq.) when requested by the Human Resources Services Manager, Risk Management Division.
- (h) To enforce the County's right to recover from a person for damage to County property upon request of the County Auditor and Controller or the Director of the Office of Revenue and Recovery.
- (i) To enforce payment of a surety bond or instrument of credit securing the performance of work or the installation of public improvements required as a condition of approving a subdivision map or issuing a permit or other entitlement for the use of land, when requested by the Director of Planning and Development Services or the Director of Public Works.
- (j) To enforce the County's right to recover under Government Code Sections 23004.1 and 23004.2 when required by the Director of the Health and Human Services Agency or the Director of the Office of Revenue and Recovery.

- (k) To initiate eviction proceedings and foreclosure proceedings upon the request of the Chief Administrative Officer.
- (l) To enforce repair and maintenance obligations of a landlord for premises occupied by the County when requested by the Director of the Department of General Services.
- (m) To enforce the provisions of Chapter 4 (commencing with Sec. 22.400) of Division 2 of Title 2, the San Diego County Code relating to Business Certificate Taxes when requested by the Treasurer-Tax Collector.
- (n) To enforce any local, state or federal regulatory ordinance, permit, rule, regulation, statute or other law, when requested by the County official authorized to enforce it.
- (o) To prepare a summary of a proposed ordinance or proposed amendment to an existing ordinance and to carry out all other functions authorized by Government Code section 25124(b).
- (p) To recover civil penalties or seek injunctive or other relief on behalf of the Air Pollution Control District, when requested by the Air Pollution Control Officer.
- (q) To file a claim or request with the Commission on State Mandates including a test claim seeking the reimbursement or the existence of reimbursable state-mandated programs and to challenge a decision regarding the claim or request after consulting with and obtaining the concurrence of the Chief Administrative Officer.
- (r) To enforce, pursue, or protect the County's rights by filing: (i) appeals or writs with respect to juvenile dependency matters, conservatorship matters, and CARE court matters, (ii) emergency appeals or writs when exigent circumstances warrant immediate action and it is not possible to obtain authority from the Board prior to seeking relief, provided counsel thereafter seeks ratification of counsel's action at the earliest possible opportunity, (iii) actions for indemnity, (iv) cross-complaints, (v) amicus briefs in matters that support or advance the interests of the County, (vi) actions in small claims court, and (vii) appeals of adverse small claims judgments.
- (s) To waive the County's right to a jury trial after consulting with and obtaining the concurrence of the Chief Administrative Officer.
- (t) To adjust, settle, or compromise claims or actions which the County may have against third parties for damages accruing to the County for damages to its officers, employees or agents or property. Any compromise or settlement exceeding \$100,000 shall be approved by the Board of Supervisors.
- (u) To initiate receivership proceedings on behalf of its client departments pursuant to State law, including but not limited to Health & Safety Code section 17980.7 and Business & Professions Code section 17203, under the procedure set forth in Section 18.310 of the San Diego County Regulatory Code.

Section 5. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
CLAUDIA G. SILVA
COUNTY COUNSEL

By: Walter J. de Lorrell III, Chief Deputy County Counsel