

**PERALTA COMMUNITY COLLEGE DISTRICT**  
**Board of Trustees Agenda Report**  
**For the Trustee Meeting Date of July 12, 2016**

**ITEM TITLE:** *(Please define the subject; e.g., change order – Berkeley City College)*

Consider Approval to clarify the Agreements with Nitasha Sawhney of Garcia, Hernandez, Sawhney LLP (GHS) to provide Acting General Counsel Services for the 2016-2017. Presenter: Chancellor Laguerre

**SPECIFIC BOARD ACTION REQUESTED:**

Approval of Retainer Agreement with Garcia, Hernandez, Sawhney LLP (GHS) legal services at the discounted rate of \$250.00 an hour for all senior partners with 8 or more years of experience, \$225.00 for attorneys with less than 8 years of experience, \$160 an hour for law clerks and \$140.00 an hour for paralegals. While this agreement will stay in place until terminated by either party, the rates set forth above will remain in effect through June 30, 2017. After that date the firm is authorized to annually increase its rates by the amount of the increase in the California consumer price index (CPI) for the prior 12 months.

**ITEM SUMMARY:** *(PLEASE DISCUSS THIS ITEM. IF A VENDOR IS INVOLVED, PLEASE INCLUDE THE COMPANY NAME AS WELL AS THE INDIVIDUAL.)*

In accordance with the contents of this Retainer Agreement, the District is hiring GHS, LLP to provide general counsel/legal services as needed to the District in a variety of areas including, but not limited to, day-to-day legal matters, Brown Act, Board governance, student issues, labor and employment matters, investigations of various formal and informal complaints, contract review, construction and facilities as well as matters in other areas as assigned. We will provide all legal services reasonably required to represent the District's best interests in these areas and any other matter forwarded to us for handling.

**SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):**

General Funds

**BACKGROUND/ANALYSIS:**

Garcia, Hernandez, Sawhney LLP has provided legal support to the district, primarily in the area of advice and counsel on issues of labor and employment, ethics, legal training, brown act, facilities and general matters since 2009.

Since January 2015, Ms. Sawhney and Ms. Curly Bartling have provided acting general counsel services to the districts and each of the colleges. Over the last six months, district administration has worked closely with Ms. Sawhney and Ms. Curly Bartling to assess the best way to continue to deliver excellent legal services to the district during Ms. Nguyen leave. For the 2015-16 year, Ms. Sawhney will provide on-site office hours two days per week. In addition, Ms. Curly Bartling will provide on-site office hours one day per week. Ms. Sawhney and Ms. Curly Bartling will also be available to the chancellor, deputy chancellor and other district administrators regularly and on an on-call basis.

## **DELIVERABLES AND SCOPE OF WORK:**

### Acting General Counsels:

- Provides legal services required in all areas of law affecting The Peralta Colleges.
- Coordinates and reviews specialized legal services provided by other outside counsel.
- Prepares and conducts litigation and participates in federal, state and local administrative proceedings as authorized by the Governing Board.
- Has as his/her priority the containment of legal costs for both the legal fees associated with litigation and the amounts awarded to plaintiffs by the courts or via a settlement agreement. Provides to the Governing Board quarterly briefings on legal expenses to date.
- Develops a position paper for each significant legal action underway or anticipated that includes (1) the basic elements of the legal claim, including names, dates, and financial damages sought; (2) insurance coverage; (3) range of options available to the Board, with a quantified probability of an outcome associated with each; (4) rationale for outsourcing, where utilized; (5) identity of the law firm assigned to each case and rationale for their selection; (6) predicted time horizon to successful termination; (7) overall general prognosis; (8) evaluation as to whether the claim involved is considered to be a relative one-of-a-kind issue or the result of a systemic problem in the operation of The Peralta Colleges; and (9) a recommendation, where appropriate, for actions to be taken to reduce the risk of a reoccurrence of this type of legal claim.
- Prepares formal and informal opinions, drafts proposed legislation and regulations, and drafts and reviews contracts and instruments effecting transfers of property, and all other legal documents or instruments, as needed or requested.
- Attends and provides legal advice at all meetings of the full Governing Board and other such meetings as the Board may direct.
- Serves as a liaison with other governmental entities in the area of legal affairs.
- Serves as the legal advisor to the Board Policy Committee to ensure that all policies are consistent with the law, regulations, and policies and to further ensure that administrative procedures are developed and approved by the Governing Board.. Apprise the Governing Board regularly all policies that do not have approved implementing administrative procedures in place.
- Serves as the custodian of all FPPC Form 700 disclosure documents required for Board members and applicable employees of The Peralta Colleges. Manages an electronic data bank of appropriate information from the disclosure documents. Provides the information to the Governing Board by “sunshining” the information and noting any possible conflicts of interest, based on known information provided at the time, for contracts being recommended to be agreed upon between The Peralta Colleges and any and all outside entities.
- Provides certification as to legal form, by signature, on all documents of significance that are referred to the Governing Board for approval that the proposals are in compliance with all applicable laws, regulations, and policies.
- Assumes the legal role of Contract Administrator for The Peralta Colleges by developing and implementing a system of accountability on contract administration, and thereby has line authority to ensure full compliance.
- Plans and conducts legal trainings.
- Assists the Deputy Chancellor in supervising the staff of the Office of the General Counsel, including the risk manager and other professional, legal research and clerical staff.
- Signs a negotiated, annual performance contract that includes merit pay increases with the Governing Board and submits a report of accomplishments to be used by the Governing Board for an annual

evaluation.

Performs other duties as assigned by the Governing Board.

**ANTICIPATED COMPLETION DATE: JUNE 30, 2017**

**ALTERNATIVES/OPTIONS:**

**EVALUATION AND RECOMMENDED ACTION:**

**OTHER DEPARTMENTS IMPACTED BY THIS ACTION (E.G. INFORMATION TECHNOLOGY):**

YES \_\_\_\_\_ No  X

**COMMENTS:**

**WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING? CHANCELLOR LAGUERRE**

(\*\*\*\*\*Board contract approval is subject to negotiation and execution by the Chancellor.)

**DOCUMENT PREPARED BY:**

Prepared by: Dr. Yashica Crawford

[Enter Here - Your Name and Title of Individual]

**DOCUMENT PRESENTED AND APPROVED BY:**

Presented and approved by: \_\_\_\_\_

[Enter Here - Name of College President, (if originating from a college) or Vice-Chancellor (if originating from the District)]

**FINANCE DEPARTMENT REVIEW**

X  Finance review required      \_\_\_\_\_ Finance review *not* required

If Finance review is required, determination is:       X  Approved      \_\_\_\_\_ Not Approved

If not approved, please give reason: \_\_\_\_\_

Signature:  Ron Little

Ron Little, Vice Chancellor, Finance and Administration

**GENERAL COUNSEL (Legality and Format/adherence to Education Codes):**

Legal review required       Legal review *not* required

If Legal review is required, determination is:       Approved       Not Approved

Signature: \_\_\_\_\_  
Nitasha Sawhney, Acting General Counsel

**CHANCELLOR'S OFFICE APPROVAL**

Approved, and Place on Agenda       Not Approved, but Place on Agenda

Signature: Dr. Jowel C. Laguerre  
Dr. Jowel C. Laguerre, Chancellor