



Livermore Area
Recreation and Park District
An independent special district

Board of Directors

Jan Palajac
Director

David Furst
Vice Chair

James E. Boswell
Chair

Maryalice Faltings
Director

Philip Pierpont
Director

Welcome to the Board of Directors' Meeting

You are welcome to attend all Board of Directors' meetings. Your interest in the conduct of public business is appreciated.

Since this is a special meeting, only items on the agenda may be discussed, as prescribed by Section 54956 of the Government Code.

If you wish to speak on an item listed on the agenda, please wait until the item is up for discussion, the opening staff or committee presentation has been made, and the Board has concluded its initial discussion. Then, upon receiving recognition from the Chair, please state your name, and tell whether you are speaking as an individual or for an organization. **Each speaker is limited to three minutes.**

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the District office, 4444 East Avenue, Livermore, during normal business hours.

Pursuant to Title II of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973, LARPD does not discriminate on the basis of race, color, religion, national origin, ancestry, sex, disability, age or sexual orientation in the provision of any services, programs or activities. To arrange an accommodation in order to participate in this public meeting, please call (925) 373-5725 or e-mail Lvanbuskirk@larpd.org by noon on the day before the meeting.

CALL AND NOTICE OF

SPECIAL MEETING OF THE BOARD OF DIRECTORS

FRIDAY, SEPTEMBER 1, 2023, 1:00 p.m.

**ROBERT LIVERMORE COMMUNITY CENTER
4444 EAST AVENUE, LIVERMORE, CALIFORNIA
SYCAMORE ROOM**

1. CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT

3. REQUEST FOR PROPOSALS FOR PROFESSIONAL LEGAL SERVICES

The Board will review and consider approving the Request for Proposals for Professional Legal Services and direct the General Manager to distribute the final version. (Motion)

4. AGREEMENT BETWEEN LIVERMORE AREA RECREATION AND PARK DISTRICT AND COLANTUONO, HIGHSMITH & WHATLEY, PC FOR LEGAL COUNSEL SERVICES

The Board will consider authorizing the General Manager to enter into an agreement with Colantuono, Highsmith & Whatley, PC for Legal Counsel Services. (Resolution)

Resolution No. _____, authorizing the General Manager to enter into an agreement with Colantuono, Highsmith & Whatley, PC for Legal Counsel Services.

5. BOARD LETTER IN SUPPORT FOR ASSEMBLY CONSTITUTIONAL AMENDMENT 13

The Board will review and consider approving a letter in support of Assembly Constitutional Amendment (ACA) 13, which will protect local control in communities throughout California by preserving the majority vote and preventing a smaller percentage of statewide voters from overruling the actions of local voters concerning their water, parks, health, public safety, and other essential services and infrastructure needs. (Resolution)

Resolution No. _____, authorizing the Board Chair to sign a letter on behalf of the Board of Directors of the Livermore Area Recreation and Park District to the California State Assembly in support of Assembly Constitutional Amendment (ACA) 13.

6. ADJOURNMENT

***LIVERMORE AREA
RECREATION AND PARK DISTRICT***

***REQUEST FOR PROPOSALS
FOR PROFESSIONAL LEGAL SERVICES***



LIVERMORE AREA RECREATION AND PARK DISTRICT
REQUEST FOR PROPOSALS
PROFESSIONAL LEGAL SERVICES
September 11, 2023

I. INTRODUCTION

A. General Information

The Livermore Area Recreation and Park District (LARPD) is requesting proposals (RFP) from qualified law firms to provide legal services and serve as Legal Counsel for LARPD.

As District Legal Counsel, the firm will report to the Board of Directors, work in concert with the General Manager and LARPD staff, and be expected to provide a broad range of general legal services to LARPD, including those specific to a governmental recreation and park agency. Employment of the successful firm will be by way of LARPD contract.

There is no expressed or implied obligation for LARPD to reimburse responding firms for any expenses incurred in preparing or submitting proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et set.), unless exempt. Additionally, LARPD reserves the right to reject any or all proposals submitted.

LARPD reserves the right to retain all proposals submitted and to use any/all ideas contained in a proposal regardless of whether the firm submitting that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless formally requested by the firm in its proposal and agreed to in advance by LARPD.

Proposals submitted will be evaluated by the Board of Directors or a Subcommittee designated by the Board for such purpose. During the evaluation process, LARPD reserves the right, to request additional information and clarifications from candidate firms, or to allow corrections of errors or omissions. Oral presentations by any one or more firms may be requested during the week of November 6, 2023 at the LARPD's discretion. After a period of evaluation, the Subcommittee of the Board will provide its recommendation of a law firm to the full Board of Directors at its December 13, 2023 meeting. The Board will make a final selection of a firm to serve as District Counsel. Following notification of the selected firm, it is expected a contract will be executed between both parties by January 8, 2024.

II. DESCRIPTION OF THE LIVERMORE AREA RECREATION AND PARK DISTRICT

A. Background Information

Livermore Area Recreation and Park District, (LARPD), is a multi-faceted governmental agency located in Livermore, CA and was created by public vote in 1947. It is an Independent Special District governed by the State of California Public Resources Code. LARPD provides recreation and park services and facilities for the 245-square-mile area

bounded approximately by Contra Costa County to the north, San Joaquin County to the east, Santa Clara County to the south and the cities of Pleasanton and Dublin to the west. LARPD is governed by a five-person, elected Board of Directors, each of whom serves a four-year term.

LARPD manages 3 community parks, 23 neighborhood parks, 12 sports parks, and 4 open space preserves (Sycamore Grove, Holdener Park, Garaventa Wetlands, and Brushy Peak Regional Preserve). The community parks include amenities such as an equestrian center and rodeo grounds outdoor sports fields, indoor multi-purpose facilities, and four swimming pools. In addition, LARPD operates a campground with 25 campsites in Lake Tahoe Region (Camp Shelly). LARPD makes several of its facilities available for rent, including the Robert Livermore Community Center, Ravenswood Historic Site, May Nissen Swim Center, Robertson Park Equestrian Center, group picnic areas, and all-weather sports fields.

LARPD also provides preschool at 6 sites throughout Livermore and state-licensed child care to students in kindergarten through eighth grade at 9 elementary schools in the city. LARPD's Recreation and Open Space programs offer teen programs, special interest classes, youth and adult sports, aquatics, environmental education, special events and senior services, including trips. See our website at www.larpd.org for more details about LARPD.

LARPD's Fiscal Year (FY) 2023-24 adopted operating budget reflects total revenues of \$24.1 million and a net operating contribution (defined as revenues less operating expenses, but excluding Capital Improvement Program (CIP) outlays) of \$0.4 million. Sixty-six percent (66%), or \$15.5 million of LARPD's revenues come from property tax and a parcel tax. The remaining 34% of revenues is comprised of earned income from programs and facility rentals and grants. LARPD's CIP program for FY2023-24 includes spending plans totaling \$2.8 million of which \$0.5 million will come from deferred maintenance reserves and \$2.2 million from developer fees for parks (AB1600). More detailed information on LARPD and its finances can be found in LARPD's FY2023-24 Operating and CIP budget and the FY2021-22 Financial Audit, both of which are located on LARPD's website at www.larpd.org.

The staff currently consists of about 205 year-round employees, of which 88 are full-time and 22 part-time, all of whom are benefited. LARPD's employees are not represented by a union. . The remainder of the staff are non-benefited, with 95 of these staff members working year-around, while the seasonal staff count can reach as high as 170. LARPD is organized into three primary divisions: Administration; Parks & Facility Maintenance; and Community Services (which encompasses Recreation, Open Space, and Youth Services).

III. SCOPE OF WORK

Basic services, for the purpose of this proposal, shall include those legal services generally understood within the field of municipal law to fall within the category of “general counsel,” and shall include, but not necessarily be limited to, the following:

1. Act as the confidential legal advisor to the Board of Directors, the General Manager and LARPD staff.
2. Advise LARPD regarding the conduct of all LARPD Board meetings, elections and referenda, recalls and the initiative process.
3. Assist in the preparation and review of all general legal documents related to the conduct of LARPD’s business affairs, including but not limited to the following: the Board’s legislative or judicial actions or decisions, contracts, easements, deeds of trust, all forms of agreements, leases, ordinances, resolutions, notices, certificates, property acquisitions, disposition documents and other related documents.
4. Attend all regular Board meetings (typically held the second and last Wednesdays of the month), and special Board meetings (called as needed) on request, and other meetings and conference calls as needed and/or as requested.
5. Attend, and prepare presentations and documents for, all Board Closed Sessions on legal matters and provide legal advice during those sessions.
6. Review and provide direction on Board Agendas as needed.
7. Monitor current, new and pending state and federal legislation, and case law as applicable to LARPD, and inform and provide direction to Board members and the General Manager regarding compliance issues and/or impacts to LARPD.
8. Perform research and interpret laws, court decisions and other legal authorities in order to render legal opinions, and to advise the Board and General Manager on legal matters pertaining to LARPD.
9. Provide legal counsel to LARPD regarding Fire Code application, Land Development, Building Safety Laws, Public Works, Zoning and Planning laws, the state Public Resources Code, Local Agency Formation Commission actions, and the correct application of the California Environmental Quality Act.
10. Provide legal counsel to LARPD for Human Resources policies and issues, including personnel actions and appeals.
11. Provide all ordinance enforcement legal services, including restraining orders, encroachment permits and rental agreements.
12. Respond to inquiries from LARPD within 24 hours of the initial contact, and maintain reasonable availability to respond to events of an emergent nature that expose LARPD to potential legal liability.
13. Work in concert with LARPD’s Risk Management JPA (California Association for Park and Recreation Indemnity), and provide advice to minimize LARPD liability and risk exposure.
14. Represent LARPD in litigation and/or arbitration, administrative hearings and court proceedings.
15. Negotiate and/or render advice with respect to negotiations pertaining to LARPD contracts, joint powers agreements, leases and memoranda of understanding.

16. Furnish legal services for assessment LARPD or bond proceedings as issuer’s counsel.
17. Advise LARPD on all new laws and regulations with application to elected officials, Special District governance and operations, and recreation and park agency-related business.

IV. TIMING AND OTHER REQUIREMENTS

1. Key Dates for Proposals Evaluation and Selection:

Time Table	
Distribution of RFP	<i>September 11, 2023</i>
Deadline for submission of questions	<i>September 29, 2023</i>
Proposal submission due date	<i>October 13, 2023</i>
Proposal review	<i>October 16-27, 2023</i>
Notification to all proposers	<i>October 30, 2023</i>
Oral presentations, as needed	<i>November 6-10, 2023</i>
Board approval	<i>December 13, 2023</i>
Notification to finalists	<i>December 14, 2023</i>
Expected signing of Contract	<i>January 8, 2024</i>

The District has made every effort to include sufficient information within this Request for Proposals to prepare as responsive, comprehensive, and competitive a proposal as possible.

The timing of the proposal process is as follows:

- A. **Distribution of Request for Proposals:** September 11, 2023.
- B. **Questions:** Inquiries concerning the RFP should be addressed to Mathew Fuzie, General Manager, at mfuzie@larpd.org. Additional information is available on the District’s website at www.larpd.org.

Proposal Submission: An electronic proposal or hard copy must be received no later than 5:00 P.M., Friday, October 13, 2023.

Proposals by mail should be sent to:

*Livermore Area Recreation and Park District
 4444 East Ave.
 Livermore, CA 94550-5053
 Attention: Mathew Fuzie, General Manager*

Electronic proposals should be sent to:

Mathew Fuzie, General Manager at mfuzie@larpd.org

- C. **Proposal Review:** The Board Subcommittee will evaluate each proposal submitted. It is anticipated that the review process will be completed by October 27, 2023.
- D. **Notification to all proposers:** We anticipate sending written email notification to all proposing firms regarding the outcome of the review process by Monday, October 30, 2023.
- E. **Oral Presentations, as needed:** During the notification to all proposing firms, any finalists selected for an oral presentation will be so notified. Oral presentations, if conducted, will take place at Robert Livermore Community Center, 4444 East Ave., Livermore, CA on November 6-10, 2023.
- F. **Notification to finalists:** The review committee will forward its recommendation to the Livermore Area Recreation and Park District Board of Directors for approval at the regularly scheduled meeting of December 13, 2023. All finalists will be notified of the final decision by email on December 14, 2023. Upon written request, we will provide an electronic copy of the selected proposal once the contract is executed.
- G. **Contract Term:** The Legal Services contract will become effective on the execution of the contract for two (2) years with the option to extend the contract as agreed upon. An annual review by the Board of Directors will be stipulated in the agreement for legal services.

LARPD will make every effort to administer the proposal process in accordance with the terms and dates discussed in this RFP. However, we reserve the right to modify the proposal process and dates as deemed necessary, and reserve the right to not award a contract. LARPD assumes no obligation for any costs incurred by any proposer in preparing the response to this request, attending an interview, or any other activity prior to award of the contract to the selected proposer.

V. **PROPOSAL REQUIREMENTS**

A. **Format of Proposal**

- 1. Title page
 - a) The RFP subject.
 - b) The proposing firm's name.
 - c) Primary contact person's name, local address, telephone number, and email address. If the firm has more than one office, state which office will be responsible for providing services to LARPD.
 - d) The date of submission.
- 2. Table of Contents

- a) Identification of material submitted, by section and page number.
 - b) Cross reference to section and page number of RFP.
3. Transmittal Letter
- a) General introduction stating the proposer's understanding of the services to be provided.
 - b) A positive commitment to perform the service within the time period specified.
 - c) A statement why the firm believes itself to be best qualified to perform the engagement.
 - d) A statement of how long you have been in business and the types of similar clients served by your firm during the past five (5) years.
 - e) A statement that the proposal is a firm and irrevocable offer for the stated period of time.
 - f) Name(s) of person(s) authorized to represent the proposer, title, address, telephone number, and email address.
 - g) Signature.
4. Detailed Proposal Following the Order Set Forth in Section B

B. Contents of Proposal

The purpose of the Proposal is to demonstrate the qualifications, competence, and capacity of the firms seeking to provide legal services to LARPD in conformity with the requirements of this RFP. The Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify how the firm will meet the RFP requirements.

The Proposal should address all the points in the order outlined in the RFP (exclude any cost information, which should only be included in the cost proposal section). The proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's capabilities to satisfy the requirements of the RFP. While additional data may be presented, the areas detailed below must be included. They represent the criteria against which the proposal will be evaluated.

1. License to Practice in California

An affirmative statement should be included that the firm and all assigned key professional staff are properly licensed to practice in California.

2. Independence

The firm should provide affirmative statement that it is independent of the Livermore Area Recreation and Park District as defined by law.

The firm should also list and describe the firm's professional relationships involving LARPD for the past five (5) years, together with a statement explaining why such

relationships do not constitute a conflict of interest relative to performing LARPD's legal services.

3. Insurance Requirements

In order to provide services to LARPD, your organization must maintain the following insurance:

- A. Worker's Compensation and Employer's Liability Insurance in accordance with the applicable laws of the state of California or in accordance with the applicable laws of the State in which the contractor is obligated to pay compensation to employees engaged in the performance of the work. The policy limit shall not be less than five hundred thousand dollars (\$500,000) per occurrence with one million dollars (\$1,000,000) aggregate.
- B. Commercial General Liability and Bodily Injury Insurance. A commercial general liability insurance policy for at least two million dollars (\$2,000,000) combined limit for bodily injury and property damage.
- C. Professional liability (E&O) insurance covering the work, the performance of the work and everything incidental thereto, with limits of not less than two million dollars (\$2,000,000.00) per occurrence combined single limit, or in whatever higher amounts as may be required by LARPD's insurer. The policy shall be on a claims-made basis and designated as such on the certificate.
- D. This policy shall be endorsed to cover Contractual liability assumed by the contractor under the indemnity agreement set forth below. If any of the work is sub-contracted, independent contractor's liability providing coverage in connection with such portion of the work, which may be sub-contracted, broad form property damage liability, and personal injury liability.
- E. Automobile Liability and Property Damage Insurance, including coverage on owned, hired, and non-owned automobiles and other vehicles, if used in connection with the performance of the work, with bodily injury and property damage limits of not less than one million dollars (\$1,000,000.00) per person/per occurrence.
- F. Insurance covering loss of customer data and or data breach with limits of not less than one million dollars (\$1,000,000.00).

Prior to commencing any work hereunder, you shall provide to LARPD proper certificates demonstrating that the types and amounts of insurance coverage specified above and any endorsements required hereunder are properly issued and in effect, and provide that LARPD, its officers, employees and agents are named additional insureds under the policy. The policy shall state in writing either on the Certificate of Insurance or attached rider thereof that this insurance will operate as primary insurance for work performed by your organization, its employees, agents and sub-contractors, and that no other insurance carried by LARPD or other named insured will be called on to cover a loss covered thereunder.

4. Firm Qualification and Experience

To qualify, the firm must have extensive experience in providing legal services to local governments, preferably special districts.

The proposal should briefly introduce your firm, indicating whether your firm is local, regional, national, or international. State the size of the firm, the size of the firm's governmental services staff, the location of the office from which the work on this contract is to be performed (LARPD has a strong preference to work with a firm with office and assigned staff located in Northern California), and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis. Indicate the name of the person who will be authorized to answer questions and to bind the firm, the person's title, address, email and telephone number.

The proposer should not be a joint venture or consortium.

5. Staff Qualifications and Experience

Identify the senior-level staff, including who would be assigned to this contract on an ongoing basis. Please provide information on the governmental experience of these individuals. LARPD reserves the right to approve or reject any replacements in the senior-level staff providing legal services to LARPD.

Include resumes of those who will be providing legal services to LARPD.

6. References

Please provide the name of all cities, counties and special districts for which the firm has provided legal services during the past three (3) years. Indicate the scope of work, date, engagement partner, total hours.

Please include reference contact information for at least three local government agencies, including the name, telephone number and email address of the principal client contact. LARPD reserves the right to contact any or all of the listed references.

7. Delegation or sub-contract responsibilities

Proposer will not delegate or sub-contract its responsibilities without prior written consent of LARPD.

8. Cost Proposal and Additional Services

- A. **Monthly Retainer.** Proposals shall include a cost per month flat-fee retainer for basic services to include preparation for and attendance at two regular Board meetings each month and general legal advice to Board and staff. If only one Board meeting is held in the month, the cost would be reduced proportionately.
- B. **Hourly Litigation and Other Services.** Any such additional work agreed to between LARPD and the firm shall be performed at the same rates set forth in the schedule of fees and expenses included in the Cost Proposal section. Any and all additional work as agreed in advance by LARPD shall be compensated for at the same rate quoted in the schedule submitted in the proposal. Firms may propose an alternative to this method of compensation.

VI. **EVALUATION PROCEDURES**

Proposals will be evaluated using the following criteria: past experience that demonstrates the firm's ability to meet LARPD's scope of work for legal services, qualifications of staff that would work on LARPD's legal services, references, and price. The top candidates may be invited to make an oral presentation to a committee representing the Board of Directors.

It is anticipated that the Board of Directors will select a firm on December 13, 2023. Following notification of the firm selected, it is expected a contract will be executed between both parties by January 8, 2024.

Mathew Fuzie, General Manager

Date

**AGREEMENT BETWEEN
LIVERMORE AREA RECREATION AND PARK DISTRICT
AND
COLANTUONO, HIGHSMITH & WHATLEY, PC
FOR LEGAL COUNSEL SERVICES**

THIS AGREEMENT made and entered into effective _____, 2023 (hereinafter “Effective Date”) between the Livermore Area Recreation and Park District (hereinafter “LARPD”), and Colantuono Highsmith & Whatley, PC (hereinafter “Legal Counsel”)

WITNESSETH:

WHEREAS, LARPD is a special district organized and operating under the Recreation and Park District Law (Public Resources Code section 5780 et seq.); and

WHEREAS, Public Resources Code section 5786.1 and other applicable law and policies authorize LARPD to engage and retain legal counsel; and

WHEREAS, LARPD wishes to engage and retain the services of a law firm to provide legal representation and legal advice as provided herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between the parties as follows:

I. EMPLOYMENT OF LEGAL COUNSEL

LARPD agrees to retain and engage Legal Counsel and Legal Counsel hereby agrees to perform the services hereinafter set forth.

II. SCOPE OF LEGAL COUNSEL SERVICES

Legal Counsel shall perform those services listed in Exhibit “A,” attached hereto and fully incorporated by this reference, when requested by the General Manager and/or the Board of Directors.

III. ADMINISTRATOR OF AGREEMENT

The General Manager is LARPD's representative for purposes of administering this Agreement. Gary B. Bell (Colantuono, Highsmith and Whatley, PC) is Legal Counsel's representative for purposes of administering this Agreement, and is Legal Counsel's LARPD representative and contact person.

IV. LEGAL COUNSEL'S EMPLOYEES AND EQUIPMENT

Legal Counsel agrees that it has secured or will secure at its own expense all persons, employees and equipment required to perform the services required under this Agreement and that all such services will be performed by Legal Counsel, or under Legal Counsel's supervision, by persons authorized by law to perform such services.

V. TERM

Upon execution by both parties, this Agreement shall become effective on the Effective Date and shall continue until terminated in accordance with its provisions.

VI. COMPENSATION AND MANNER OF PAYMENT

Legal Counsel will be compensated only for legal representation / legal advice services described in Section II above performed at the direction of the General Manager and/or the Board of Directors. Compensation shall include only labor and expenses, to be paid as follows:

A. Labor

Compensation for labor of personnel shall be billed at Legal Counsel's standard rates capped at \$325 per hour for those services listed under "Scope of Services" in Exhibit "A" and capped at \$375 per hour for litigation services. The standard rates currently in effect are described in Exhibit "B," attached hereto and fully incorporated by this reference, which may be adjusted from time to time during the term of this Agreement provided the maximum rates do not exceed the caps described in this paragraph.

Compensation during travel to and from the LARPD's offices or meetings shall be billed at one-half the time actually incurred.

B. Expenses

Legal Counsel will also be compensated for its actual expenses incurred for materials, mileage at current IRS rates, long-distance telephone calls, and other expenses authorized by the General Manager and/or the Board of Directors. Outgoing faxes will be reimbursed at \$1 per page and in-house photocopies will be reimbursed at twenty cents per page. Legal Counsel shall charge no administrative or other markup on expenses for which reimbursement is sought from LARPD.

C. Manner of and Maximum Payment

Payment shall be made in arrears pursuant to written invoices submitted to the General Manager on a monthly basis. Payment shall be made within 30 days of receipt of invoices. Such payment shall constitute full and complete payment for the period covered by the invoice. The total amount paid to Legal Counsel for work within any fiscal year shall be subject to the approval of the General Manager and may not exceed the amount budgeted for this purpose by LARPD for that fiscal year.

VII. INSPECTION OF RECORDS

At a time that is agreed upon by LARPD and Legal Counsel and as often as LARPD may deem necessary, Legal Counsel shall make available to LARPD or its designated agents for inspection all of Legal Counsel's data and records with respect to all matters covered

by this Agreement, and Legal Counsel will permit LARPD, or its designated agents to inspect and make excerpts or transcripts from such data and records, and all invoices, materials, payrolls, records of personnel, and other data relating to all matters covered by this Agreement. Unless otherwise specified by LARPD in writing, said data and records should be made available for inspection for a period of two (2) years following completion of this Agreement.

VIII. INTEREST OF LEGAL COUNSEL

- A. Legal Counsel covenants that he/she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Legal Counsel further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained under this Agreement.
- B. Except as provided in paragraph C. below, Legal Counsel agrees to not act as Legal Counsel or perform services of any kind for any LARPD applicant or other person with business before LARPD, without the prior written consent of LARPD. When consent has been given, Legal Counsel shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Legal Counsel or convey, utilize, or permit to be utilized, confidential information gained through its association with LARPD for the benefit of any other client. Whether to give consent is in the sole discretion of LARPD.
- C. Legal Counsel has informed LARPD that it provides or has provided advisory and litigation services to the County of Alameda and the City of Pleasanton. Legal Counsel is generally in the business of providing general and special counsel services to local governments Alameda County and elsewhere in California. Provided that Legal Counsel does not provide services in Alameda County which create a conflict under the Rules of Professional Conduct applicable to attorneys or which pertain to an actual or potential application to or business before LARPD, Legal Counsel may continue its practice of providing legal services to local governments in Alameda County without further consent of LARPD. Legal Counsel shall not provide services in Alameda County which create a conflict under the Rules of Professional Conduct applicable to attorneys or which pertain to an actual or potential application to or business before LARPD, without the informed, written consent of LARPD. Whether to give consent is in the sole discretion of LARPD.
- D. Legal Counsel agrees to alert every client for whom consent is required to this conflict of interest provision and to include language in its agreement with said client, which would enable Legal Counsel to comply fully with its terms.
- E. Legal Counsel shall recuse himself/herself from discussions or actions that may result in a financial benefit to him/her or to any governmental agency that he represents. Notwithstanding this recusal provision, the following positions, by name or job title, are hereby classified "designated employees," as defined by

LARPD's Conflict of Interest Code. Such "designated employees" will be required to complete and submit any Conflict of Interest Statements that may become due during the effective period of this Agreement.

1. Gary B. Bell
2. Mackenzie D. Anderson

IX. TERMINATION OF AGREEMENT FOR CAUSE

If, through any cause, Legal Counsel shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if Legal Counsel shall violate any of the covenants, agreements, or stipulations of this Agreement, LARPD shall thereupon have the right to terminate this Agreement by giving written notice to Legal Counsel of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports, and other materials prepared by Legal Counsel shall, at the option of LARPD, become its property, and Legal Counsel shall be entitled to receive just and equitable compensation for any work completed on such documents and other materials, not to exceed the amounts payable under Section VI above.

X. TERMINATION OF AGREEMENT FOR CONVENIENCE

LARPD reserves the right to terminate this Agreement at any time by written notice to Legal Counsel thirty (30) days prior to date of termination thereof. LARPD shall thereafter pay Legal Counsel for work performed to the date of termination. Such notice shall terminate this Agreement and release LARPD from any further fee, cost or claim hereunder by Legal Counsel other than for work performed to date of termination. In the event of termination, all finished and unfinished documents and other material shall, at the option of LARPD, become its property.

Legal Counsel reserves the right to terminate this Agreement at any time by written notice to LARPD's representative sixty (60) days prior to date of termination thereof and subject to the Rules of Professional Conduct applicable to attorneys.

XI. INSURANCE AND HOLD HARMLESS AGREEMENT

Legal Counsel agrees to maintain such insurance as will fully protect Legal Counsel and LARPD from any and all claims under any workers' compensation act or employer's liability laws, and from any and all other claims of whatsoever kind or nature for the damage to property or for personal injury, including death, made by anyone whomsoever which may arise from operations carried on under this Agreement, either by Legal Counsel, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them. Legal Counsel shall exonerate, indemnify, defend, and hold harmless LARPD from and against, and shall assume full responsibility for payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws, with respect to Legal Counsel and Legal Counsel's employees engaged in performance of this Agreement. LARPD and its agents, officers, and employees shall not be, nor be held liable for any claims, liabilities, penalties, fines, or forfeitures, or

for any damage to the goods, properties, or effects of Legal Counsel or of any other persons whatsoever, nor for personal injury to or death of them, or any of them, caused by or resulting from any negligent act or omission of Legal Counsel or Legal Counsel's agents, employees, or representatives. Legal Counsel further agrees to indemnify, defend, and hold harmless LARPD and its agents, officers, and employees, against and from any and all of the foregoing liabilities, and any and all costs or expenses incurred by LARPD on account of any claim therefor. In the event that a court of competent jurisdiction should determine that LARPD does not have the authority to provide by agreement for the provision of the hereinabove-set-forth professional service, Legal Counsel nevertheless agrees to assume the foregoing obligations and liabilities, by which it is intended by both parties that Legal Counsel shall indemnify and save LARPD free and harmless from all claims arising by reason of any negligent act or omission of Legal Counsel.

XII. INTEREST OF LARPD OFFICERS AND OTHERS

No officer, member, or employee of LARPD and no member of its Board of Directors shall participate in any decision relating to this Agreement which affects his/her personal interest, or the interest of any corporation, partnership, or association in which he/she is directly interested; nor shall any such person have any interest, direct or indirect, in this Agreement or the proceeds thereof.

XIII. ASSIGNABILITY

Legal Counsel shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of LARPD thereto. Provided, however, that claims for money due or to become due to Legal Counsel from LARPD under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to LARPD. Any assignment requiring approval may not be further sub-assigned without LARPD approval.

XIV. OWNERSHIP, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL

Any reports, information, data, statistics, forms, procedures, systems, studies and any other communication or form of knowledge given to or prepared or assembled by Legal Counsel under this Agreement which LARPD requests to be kept as confidential shall not be made available to any individual or organization by Legal Counsel without prior written approval of LARPD unless pursuant to a valid and enforceable order of any court with jurisdiction of the matter.

XV. NOTICE

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

LARPD: Mathew Fuzie, General Manager
Livermore Area Recreation and Park District
4444 East Ave.
Livermore, CA 94550
Phone: (925) 373-5700
E-mail: mfuzie@larpd.org

Legal Counsel: Gary B. Bell
333 University Avenue, Suite 200
Sacramento, CA 95825
Phone: (916) 898-0049
E-mail: GBell@chwlaw.us

Payments shall be directed to Legal Counsel as follows:

Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

Either party may alter its address for notice under this Agreement by written notice to the other party at any time.

XVI. INDEPENDENT CONTRACTOR

Legal Counsel and any agent, subcontractor, or employee of Legal Counsel shall act in an independent capacity and not as an officer or employee of LARPD. LARPD assumes no liability for Legal Counsel's action in performance, nor assumes responsibility for taxes, funds, payments or other commitments, implied or expressed, by or for Legal Counsel. Legal Counsel shall not have authority to act as an agent on behalf of LARPD unless specifically authorized to do so in writing by the General Manager and/or the Board of Directors. Legal Counsel acknowledges that it is aware that, because it is an independent contractor, LARPD is making no deductions from its fee and is not contributing to any fund on its behalf. Legal Counsel disclaims the right to fee or benefits except as expressly provided for in this Agreement.

Legal Counsel shall provide the services required by this Agreement and arrive at conclusions with respect to the rendition of information, advice or recommendations, independent of the control and direction of LARPD, other than normal contract monitoring; provided, however, Legal Counsel shall possess no authority with respect to any LARPD decision beyond rendition of such information, advice or recommendations unless authorized by the General Manager and/or the Board of Directors.

XVII. EQUAL OPPORTUNITY

Legal Counsel will not discriminate against any employee, or against any applicant for such employment because of age, race, color, creed, religion, sex, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading,

demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.

XVIII. SUBCONTRACTS

None of the services covered by this Agreement shall be subcontracted or assigned without the prior written consent of LARPD, provided however, that this provision shall not apply to secretarial, clerical, routine mechanical, and similar incidental services needed by Legal Counsel to assist in the performance of this Agreement. Legal Counsel shall not hire LARPD's employees to perform any portion of the work or services provided for herein including secretarial, clerical, and similar incidental services except upon the written approval of LARPD. Performance of services under this Agreement by associates or employees of Legal Counsel shall not relieve Legal Counsel from any responsibility under this Agreement.

XIX. CHANGES

LARPD may, from time-to-time, require changes in the scope of the services of Legal Counsel to be performed hereunder. Such changes, including any increase or decrease in the amount of Legal Counsel's compensation, which is mutually agreed upon by and between LARPD and Legal Counsel shall be effective when incorporated in written amendments to this Agreement.

XX. ARBITRATION

LARPD may require that any fee dispute be resolved by binding arbitration pursuant to the arbitration rules for legal fee disputes of the County Bar Association in any county in which Legal Counsel maintains an office. The parties agree that all disputes regarding the services rendered or fees charged under this Agreement, which are not resolved via County Bar fee arbitration, will be submitted to binding arbitration in Sacramento County to be conducted by ADR Services, Inc. in accordance with its commercial arbitration rules. **YOU SHOULD REVIEW THIS PARAGRAPH CAREFULLY AND, IF YOU WISH, SEEK INDEPENDENT LEGAL COUNSEL REGARDING IT, AS YOU AND WE ARE AGREEING TO FOREGO SIGNIFICANT RIGHTS IN THE EVENT OF A DISPUTE BETWEEN US, INCLUDING THE RIGHT TO A JURY TRIAL.**

XXI. APPLICABLE LAW

This Agreement shall be construed and interpreted according to the laws of the State of California.

IN WITNESS WHEREOF, LARPD and Legal Counsel have executed this Agreement as of the dates written below:

Livermore Area Recreation and Park
District,

Colantuono, Highsmith & Whatley PC,

By: _____
Mathew Fuzie, General Manager

By: _____
Gary Bell, Vice President

Date: _____

Date: _____

Exhibit A (Scope of Services)

- Attend regular and special meetings of the Board of Directors and other committees, commissions, and boards, and other staff meetings, when requested, either physically or via teleconference;
- Advise the Board of Directors and District Staff on legal matters such as the Brown Act, Public Records Act, conflicts of interest, parliamentary procedures, risk management, and legal compliance with federal, state, and local laws and regulations;
- Prepare and/or review all ordinances, resolutions, contracts, and other agreements entered into by the District;
- Review and comment on documents prepared by District Staff, including meeting materials, agendas, correspondence, and other writings;
- Research and submit legal opinions on matters affecting the District and special districts generally;
- Coordinate and manage the services of outside legal counsel;
- Interpret laws, rulings, and regulations for the District;
- Provide written updates on pending and recently signed federal, state, and local legislation and judicial decisions impacting the District and suggest action or changes in operations or procedures regarding compliance;
- Examine legal matters to determine advisability of defending or prosecuting lawsuits;
- Advice and representation regarding matters before or related to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (LAFCO Law) and Alameda LAFCO;
- Real estate and eminent domain services other than routine review of escrow documents;
- Labor, employment, and personnel related services;
- Advice regarding revenue measures, local taxes, fees and assessments, and other advice regarding the law of municipal finance, including Propositions 218 and 26;
- Environmental legal services including review of negative declarations, environmental impact reports, and project-level environmental documentation;
- Water law services;
- Representation and appearances before administrative bodies, other local agencies, hearing officers, and the like except for litigation matters;
- Such other services requested in writing by the General Manager and/or the Board of Directors.

EXHIBIT B
(Rates)

COLANTUONO
HIGSMITH
WHATLEY, PC

ATTORNEY HOURLY BILLING RATES

As of January 1, 2023

Shareholders and Contract Attorneys	\$375
10th Year and more Senior Associates	\$375
9 th Year Associates	\$375
8 th Year Associates	\$375
7 th Year Associates	\$345
6 th Year Associates	\$315
5 th Year Associates	\$300
4 th Year Associates	\$285
3 rd Year Associates	\$275
2 nd Year Associates	\$265
1 st Year Associates	\$255
Paralegals	\$190
Legal Assistants	\$170

**THE BOARD OF DIRECTORS
OF THE
LIVERMORE AREA RECREATION AND PARK DISTRICT**

RESOLUTION NO. xxxx

A RESOLUTION APPROVING AN AGREEMENT FOR LEGAL SERVICES

BE IT RESOLVED, by the Board of Directors, as the governing body of the Livermore Area Recreation and Park District, that an agreement for legal services with Colantuono, Highsmith & Whatley, PC, is hereby approved.

ON MOTION of Director _____, seconded by Director _____, the foregoing resolution was passed and adopted this 1st day of September, 2023 by the following roll call vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Approved this 1st day of September, 2023,

James Boswell
President, Board of Directors

ATTEST:

Mathew L. Fuzie
General Manager and ex-officio Clerk
to the Board of Directors



Advocacy News

[Settings](#)

[Community Home](#)

[Discussion](#) 1.2K

[Library](#) 97

[Members](#) 217

ACA 13 Majority Vote Protection Act Clears First Hurdle



By Vanessa Gonzales posted 5 days ago

[Follow](#) ☆

0 [LIKE](#)



By @Kyle Packham

[Chat-How Can We Help?](#)



Assembly Constitutional Amendment 13 (Ward) passed the Assembly Elections Committee August 23 on a 5-2 vote. The CSDA-supported measure would require initiatives seeking to raise voter thresholds to meet the same threshold they seek to impose on others.

ACA 13 will protect local control in communities throughout California by preserving the majority vote and preventing a smaller percentage of statewide voters from overruling the actions of local voters concerning their water, parks, health, public safety, and other essential services and infrastructure needs.

Because ACA 13 protects the democratic process in local communities, CSDA is supporting the measure and encouraging its members to submit letters of support. CSDA members may use a sample letter of support to better facilitate this process. Dozens of CSDA members have already responded to this call to action.

Under ACA 13, if a future initiative constitutional amendment includes provisions that impose a supermajority vote threshold and fails to gain the corresponding supermajority of voters in support of the underlying amendment, the initiative constitutional amendment would not be considered approved, thereby failing in its entirety.

If passed into law by voters in March 2024, ACA 13 would apply to Initiative #21-0042A1 (aka #1935), recently made eligible for the November 2024 Statewide Ballot through petition sponsored by the California Business Roundtable (CBRT). Formally entitled “LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES,” CBRT has dubbed the initiative the “Taxpayer Protection and Government Accountability Act.”

Last week, CalMatters published an in-depth article uncovering the single-largest donor behind the California Business Roundtable (CBRT) initiative (#21-0042A1).

CSDA CEO Neil McCormick was quoted throughout the article, stating, “It is painful to imagine why an out-of-state company with a mission to make a difference by caring for people in need would contribute millions of dollars-worth of its profits toward an initiative that will undermine publicly-provided emergency services to our communities.”

Ballot Initiative 21-0042A1 would result in the loss of billions of dollars annually in critical state and local funding, restricting the ability of local agencies and the State of California to fund services and infrastructure by:

- Adopting new and stricter rules for raising taxes, fees, assessments, and property-related fees.
- Amending the State Constitution, including portions of Propositions 13, 218, and 26 among other provisions, to the advantage of the initiative’s proponents and plaintiffs, creating new grounds to challenge these funding sources and disrupting fiscal certainty.

- Restricting the ability of local governments to issue fines and penalties to corporations and property owners that violate local environmental, water quality, public health, public safety, fair housing, nuisance and other laws and ordinances.

The CBRT-sponsored initiative includes provisions that would retroactively void all state and local taxes, fees, assessments, and other charges adopted after January 1, 2022 if they did not align with the provisions of this initiative. Some may argue the initiative could even affect indexed fees that adjust over time for inflation or other factors. Effectively, it would allow voters throughout California to invalidate the prior actions of local voters, undermining local control and voter-approved decisions about investments needed in their communities.

To take effect, ACA 13 must be approval by two-thirds of lawmakers in each house of the Legislature and then by a majority of statewide voters in March 2024.

For additional information or questions about ACA 13, reach out to CSDA Legislative Representative [Marcus Detwiler](#).

For more information on Initiative 21-0042A1, including a sample oppose resolution visit [csda.net/VoterLimitations](https://www.csda.net/VoterLimitations)

#AdvocacyNews

#FeatureNews

#Elections

#Revenue

0 comments

829 views

Permalink

<https://www.csda.net/blogs/vanessa-gonzales/2023/08/25/aca-13-majority-vote-protection-act-clears-first-h>



Livermore Area
Recreation and Park District
An independent special district

4444 East Avenue, Livermore, CA 94550-5053
(925) 373-5700 www.larpd.org

General Manager
Mathew L. Fuzie

September 1, 2023

The Honorable Christopher Ward
California State Assembly
1021 O Street, Suite 6350
Sacramento, CA 95814

RE: Assembly Constitutional Amendment 13 (Ward) – Support [As Amended August 17, 2023]

Dear Assembly Member Ward:

The Livermore Area Recreation and Park District is pleased to support your Assembly Constitutional Amendment 13, related to protecting the majority vote. The Livermore Area Recreation and Park District is an Independent Special District, providing parks, recreational programs and facilities, and open space for a 243.5 square mile area for residents of eastern Alameda County.

Under current law, an initiative constitutional amendment that proposes to amend the California Constitution requires a simple majority of voters casting votes in favor of the measure for the amendment to be approved. Notably, this simple majority requirement is irrespective of any of the provisions contained within the proposed constitutional amendment; should the text of the proposed constitutional amendment contain provisions that would otherwise require voter thresholds in excess of a simple majority in the future, those increased vote thresholds may nonetheless be imposed with a simple majority of voters. Phrased another way, this allows a simple majority of voters to insert a three-fifths, two-thirds, four-fifths, or higher vote threshold into the California Constitution, even without the corresponding level of support in terms of votes cast in favor of the original amendment proposal.

ACA 13 would propose to California voters a solution to this problem with the initiative process: if placed on the ballot by the California Legislature, California voters would be asked to decide whether an initiative constitutional amendment containing provisions that increase vote thresholds should be required to attain the same proportion of votes in favor of the amendment that the proposed increased vote thresholds would demand. In this way, ACA 13 would ensure that a proposal cannot impose vote thresholds on our communities and our State that exceed the level of support for imposing such thresholds.

Board of Directors

James E. Boswell

Maryalice Faltings

David Furst

Jan Palajac

Philip Pierpont

ACA 13 protects the democratic process in local communities by ensuring that a simple majority of statewide voters cannot restrict the will of a supermajority of voters in a local community. For these reasons, Livermore Area Recreation and Park District is pleased to support Assembly Constitutional Amendment 13. Please feel free to contact me with any questions

Sincerely,

James Boswell
Chair, Board of Directors
Livermore Area Recreation and Park District

CC: The Honorable Rebecca Bauer-Kahan
The Honorable Steven M. Glazer
Marcus Detwiler, Legislative Representative, California Special Districts
Association [advocacy@cda.ne]

**THE BOARD OF DIRECTORS
OF THE
LIVERMORE AREA RECREATION AND PARK DISTRICT**

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE BOARD CHAIR TO SIGN A LETTER ON BEHALF
OF THE BOARD IN SUPPORT OF ASSEMBLY CONSTITUTIONAL AMENDMENT 13**

BE IT RESOLVED that the Board of Directors, as the governing body of the Livermore Area Recreation and Park District, hereby authorizes the Board Chair to sign a letter on behalf of the Board of Directors of the Livermore Area Recreation and Park District in support of Assembly Constitutional Amendment (ACA) 13.

ON MOTION of Director _____, seconded by Director _____, the foregoing resolution was passed and adopted this 1st day of September, 2023 by the following roll call vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

Approved this 1st day of September, 2023,

James Boswell
Chair, Board of Directors

ATTEST:

Mathew L. Fuzie
General Manager and
Ex-officio Clerk to the Board of Directors