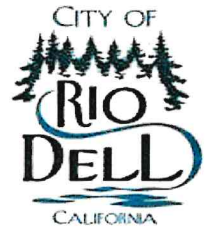

*675 Wildwood Avenue
Rio Dell, CA 95562*



TO: Mayor and Members of the City Council

FROM: Josh Phinney, Chief of Police

THROUGH: Kyle Knopp, City Manager

DATE: March 12, 2025

SUBJECT: Conflict Waiver-Mitchell Law Firm

RECOMMENDATION

Approve the Conflict of Interest Disclosure and Waiver as presented by the Mitchell Law Firm, LLP.

BACKGROUND AND DISCUSSION

Rio Dell Police Department currently lacks qualified instructors to keep on ongoing professional and POST required "Perishable skills" training. A training MOU between the City of Fortuna Police Department and the City of Rio Dell Police Department would not only lower these costs for the City of Rio Dell, but strengthen relationships and improve officer safety and cohesiveness between allied agencies.

The mentioned MOU was reviewed by Mitchell Law Firm for its content and structure. As the firm represents both the City of Fortuna and the City of Rio Dell presenting a conflict, they are requesting this waiver be signed as to their involvement in this MOU.

Attachments:

Conflict of Interest Disclosure and Waiver



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March 12, 2025

Kyle Knopp, City Manager
City of Rio Dell
675 Wildwood Avenue
Rio Dell, CA 95562

Amy Nilsen, City Manager
City of Fortuna
621 11th Street
Fortuna, CA 95540

Re: Conflict of Interest Disclosure and Waiver
City of Rio Dell/City of Fortuna

Dear Mr. Knopp and Ms. Nilsen:

This letter requests the consent of both the City of Rio Dell (“Rio Dell”) and City of Fortuna (“Fortuna”), a California corporation, to The Mitchell Law Firm, LLP’s (“Firm”) continued representation of the Rio Dell and Fortuna, in unrelated matters, and review of the Memorandum of Understanding between Fortuna and the Fortuna Police Department and Rio Dell and the Rio Dell Police Department for Perishable Skills Training and Specialty Training Contract, dated March 1, 2025 (“MOU”) exclusively on behalf of Rio Dell.

Existing Relationships

Both the Rio Dell and Fortuna are existing and valued clients. This Firm, and principally attorney Russell Gans, has historically performed legal services for Rio Dell. This Firm also represents Fortuna, with Ryan Plotz serving as the principal attorney.

Past and Current Representation

Rio Dell has requested that the Firm review the MOU. This Firm has provided no legal advice to Fortuna regarding the MOU. This Firm has historically and currently provides legal counsel to Fortuna and Rio Dell on numerous, unrelated matters. This conflict waiver is sought to facilitate that representation of Rio Dell with respect to the MOU, as well as assisting Rio Dell in unrelated matters, while allowing the Firm to also continue to represent Fortuna in other unrelated matters.

Potential Conflicts of Interest

Our Firm's representation of Rio Dell regarding the MOU, creates a conflict of interest relating to our representation of Fortuna because the interests of Rio Dell and Fortuna are not identical and may, in certain aspects, conflict with one another. Our exclusive representation of Rio Dell in this matter requires that we represent Rio Dell's interests vigorously, even if their interests do not align with Fortuna's interests. The fact that this Firm has a concurrent relationship with Fortuna and is providing unrelated legal services to Fortuna must be disclosed and, if mutually acceptable to both Fortuna and Rio Dell, potential conflicts related to the concurrent relationships must be waived. Providing your mutual consent to this letter will authorize the Firm to exclusively represent Rio Dell regarding the MOU, without regard to what may be in the best interest of Fortuna.

Rule 1.7 of the California Rules of Professional Conduct provides in pertinent part:

- (a) A lawyer shall not, without informed written consent from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person, or by the lawyer's own interests.
- (c) Even when a significant risk requiring a lawyer to comply with paragraph (b) is not present, a lawyer shall not represent a client without written disclosure of the relationship to the client and compliance with paragraph (d) where:

(1) the lawyer has, or knows that another lawyer in the lawyer's firm has, a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter; or

(2) the lawyer knows or reasonably should know that another party's lawyer is a spouse, parent, child, or sibling of the lawyer, lives with the lawyer, is a client of the lawyer or another lawyer in the lawyer's firm, or has an intimate personal relationship with the lawyer.

(d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law; and

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

(e) For purposes of this rule, "matter" includes any judicial or other proceeding, application, request for a ruling or other determination, contract, transaction, claim, controversy, investigation, charge, accusation, arrest, or other deliberation, decision, or action that is focused on the interests of specific persons, or a discrete and identifiable class of persons.

In accord with the foregoing, written consent to the concurrent representation of the Rio Dell regarding the MOU, while continuing to represent Fortuna in unrelated matters is hereby requested.

Consent

As attorneys where we have a relationship with multiple parties a conflict of interest must be disclosed and informed written consent obtained from both parties. Accordingly, we are seeking the informed written consent of Rio Dell and Fortuna before representing Rio Dell in review of the MOU.

Providing your mutual consent does not, however, obviate our obligation to maintain client confidences or otherwise permit us to disclose any confidential information obtained from Fortuna to Rio Dell. At this time, we believe that we can exclusively represent Rio Dell regarding the MOU and still maintain our duty of loyalty and confidentiality to both Fortuna and Rio Dell in all unrelated matters. We do not believe we have obtained any confidential information from Fortuna which is material to our representation of Rio Dell. Further, we do not believe we have obtained any confidential information from Rio Dell that is material to our representation of Fortuna in unrelated matters.

If additional facts come to our attention which lead us to believe that: (i) we could not maintain our duty of loyalty and confidentiality to Fortuna in unrelated matters, (ii) the issue in dispute is substantially the related to the same issue in an unrelated matter in which we represent Fortuna; or (iii) we have obtained confidential information from the Rio Dell which is material to our representation of Fortuna in unrelated matters, we would require further written consent from Rio Dell and Fortuna before we could continue to represent Rio Dell with regard to the MOU.

Request

If, after considering the foregoing, Fortuna and Rio Dell are willing to consent, please sign and return to us the enclosed copy of this letter (i) acknowledging that we have informed you of our existing relationships with Rio Dell and Fortuna; (ii) acknowledging that Rio Dell and Fortuna have been advised of the conflict of interest associated with our representing Rio Dell with regard to the MOU, while continuing to represent Fortuna in other unrelated matters; and (iii) indicating that Rio Dell and Fortuna consent to our representation as described in this letter.

If Rio Dell and/or Fortuna are not willing to consent, we will declare a conflict and assist Rio Dell in locating alternate counsel for the matter.

If you have any questions regarding this letter or our representation of Rio Dell with regard to the MOU, please call us before signing and returning the enclosed copy of this letter.

Very truly yours,

THE MITCHELL LAW FIRM, LLP



Russell S. Gans

RSG/kb

CONSENT

The Mitchell Law Firm, LLP ("Firm") has explained the conflict of interest related to Firm's representation of the City of Rio Dell ("Rio Dell") for review of the Memorandum of Understanding between Rio Dell and the Fortuna Police Department for Perishable Skills Training and Specialty Training Contract, dated March 1, 2025 ("MOU").

We further acknowledge the disclosure of Firm's past and continuing representation of Rio Dell and Fortuna in unrelated matters, the conflict arising from such representation, and the consequences of any actual conflicts that may arise. The undersigned nevertheless provides its informed written consent to Firm's representation of Rio Dell to assist in review of the MOU between Rio Dell and Fortuna, while continuing to represent Fortuna as well as Rio Dell in other unrelated matters.

CITY OF FORTUNA

By: _____
Amy Nilsen, City Manager

CITY OF RIO DELL

By: _____
Kyle Knopp, City Manager