

August 20, 2015

By Electronic Mail

Daniel McHugh
City Attorney
City of Redlands
35 Cajon Street
Redlands, CA 92373
dmchugh@cityofredlands.org

Re: Proposal for Legal Services for City of Redlands

Dear Mr. McHugh:

Thank you for contacting me about the airport and land use compatibility issues at Redlands Municipal Airport. I enjoyed talking to you briefly about these issues earlier this week and appreciate the opportunity to provide a proposal for legal services to assist you in connection with airport, land use compatibility, Federal Aviation Administration and related matters. This letter describes our firm's qualifications and current schedule of proposed fees and costs.

QUALIFICATIONS AND EXPERIENCE

Our firm is located in Carlsbad, California. We currently represent several airport clients in numerous counties throughout California, including San Diego, Orange, San Jose, Riverside, Santa Barbara and Monterey, as well as airport clients in Hawaii.

We specialize in the representation of public and private sector clients on complex airport, land use, and environmental advisory and litigation matters. Our firm also specializes in assisting clients with the preparation or review of transactional documents, including lease issues, airport master plans, environmental impact reports, environmental impact statements, and other regulatory documents for complex or controversial projects arising under federal, state and local laws and regulations, including the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA").

Our firm is "AV" rated by Martindale-Hubbell, which is the highest rating given to a law firm. The rating means that the legal community has rated the firm's legal ability as very high, and has recognized its professional reliability, diligence and faithful adherence to ethical standards.

A major area of our firm's practice includes pre-litigation counseling and assistance on projects of substantial complexity or public controversy, and on proposed activities that present novel or

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difficult issues, or have a high potential for eventual litigation. This work includes advising clients regarding compliance with federal, state and local airport laws and regulations and other laws and regulations, and involves the review and preparation of environmental reports, studies, and regulatory documents in compliance with CEQA, NEPA, Endangered Species Act, Clean Water Act, Clean Air Act, and other federal, state and local laws and regulations. Our work also includes advice and litigation on all airport, land use and environmental matters.

We are committed to working with and assisting clients to pursue their goals and objectives in a responsive and cost-effective manner. We have established a reputation for providing quality work product and thorough court representation, both with our clients and the attorneys representing opposing parties.

SCHEDULE OF PROPOSED FEES AND COSTS

The firm's schedule for legal fees and costs for a matter of this type is as follows:

Partners	\$325.00 per hour
Associates	\$225.00 - \$275.00 per hour
Assistants	\$125.00 per hour

Lori Ballance would be the partner principally responsible for the work performed on this matter. Additionally, Danielle Morone, a senior associate at the firm, would be assisting Ms. Ballance. Ms. Morone's rate would be \$275.00 per hour.

The firm does not charge separately for routine secretarial or clerical time. Our current copying charges are \$.15 per copy for copies made in-house on behalf of the client. In addition, we have the capability to generate color copies, when needed. Our current color copying charges are \$.75 per copy. All other costs and out-of-pocket disbursements, such as travel expenses and messenger or courier services, are re-billed at our cost.

Our practice is to submit statements on a monthly basis for fees and costs incurred. Our bills are presented in a line-item format describing the specific services performed, and the specific costs incurred. Payment on each of our billings is due within thirty (30) days of receipt. These billing rates would remain in effect at least through December 2015. We reserve the opportunity to increase our rates based upon our 2016 schedule of fees and costs.

Thank you for the opportunity to be considered for possible retention as counsel. If you have any questions regarding this letter, or the terms of our representation, please do not hesitate to



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contact us. If you decide to utilize our services, please date and sign this letter below and return a signed copy of this letter. Please retain the original signed version for your files.

Very truly yours,

A handwritten signature in cursive script, reading 'Lori D. Ballance'.

Lori D. Ballance
of
Gatzke Dillon & Ballance LLP



Gatzke Dillon & Ballance LLP
L A W Y E R S

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Acceptance of Agreement

The undersigned has read and understands the foregoing terms and conditions of this Agreement. The undersigned agrees to be responsible for all obligations arising under this Agreement. The undersigned is authorized to, and hereby agrees to, the above-described terms and conditions.

Dated: 9/1/15

City of Redlands

By: Paul W. Foster

Paul W. Foster, Mayor

ATTEST:

Sam Irwin
Sam Irwin, City Clerk

LORI BALLANCE

Admitted to Bar, 1988, California

SUMMARY OF PRACTICE

Lori Ballance devotes a substantial part of her practice to airport related environmental planning and litigation, including issues related to airport master plans, airport layout plans, and state and federal regulations regarding air quality, endangered species, hazardous waste laws and regulations, water quality, noise, funding sources and related rules and regulations. Her representation of airports includes work involving greenhouse gas emissions standards and regulations, general conformity regulations, national and state ambient air quality standards, California's Global Warming Solutions Act, federal and state implementation plans, the California Environmental Quality Act ("CEQA"), the National Environmental Policy Act ("NEPA"), the Hawaii Environmental Policy Act ("HEPA"), airport land use commission ("ALUC") matters, and related environmental law matters.

For many years, Ms. Ballance has been special counsel to the County of Orange, CA, for noise, access, settlement agreement, CEQA, NEPA, air quality, federal, state and local airport regulations, airline leases, and related legal matters relating to John Wayne Airport and special counsel to the San Diego County Regional Airport Authority for land use compatibility matters relating to San Diego International Airport. In addition, she has been retained by a number of other airport proprietors, including, among others, the City of San Jose (proprietor of Mineta San José International Airport), the Monterey Peninsula Airport District (proprietor of Monterey Regional Airport), the Santa Barbara County Association of Governments (SBCAG, the ALUC for Santa Barbara County), the City of South Lake Tahoe (proprietor of Lake Tahoe Airport), the State of Hawaii, Department of Transportation, Airports Division (proprietor of Maui's Kahului Airport and Kauai's Lihue Airport), the City of Oceanside (proprietor of Oceanside Municipal Airport), the San Bernardino International Airport Authority (proprietor of San Bernardino International Airport), and Riverside County, California (proprietor of Riverside County airports).

Ms. Ballance holds a J.D. from the University of California, Hastings College of Law, as well as a bachelor's degree in Economics from the University of California, San Diego.

Ms. Ballance was a co-author of the California Airport Land Use Planning Handbook published by the State of California Department of Transportation, Division of Aeronautics (January 2002) and the Update to the Handbook (October 2011). Ms. Ballance is also the author of many articles on air quality, land use, hazardous waste laws and regulations, and other environmental issues.

EDUCATION

University of California, San Diego (B.A. Economics, Dean's Honor List, 1982)

University of Michigan, School of Law (1985)

University of California, Hastings College of Law (J.D., 1987)

COURT ADMISSIONS

United States District Court, Northern District of California, 1987
United States District Court, Central District of California, 2002
United States District Court, Southern District of California

PROFESSIONAL AFFILIATIONS

June 1988 to March 1990: Associated with Berliner, Cohen, San Jose, California
March 1990 to March 1995: Associated with Gatzke Dillon & Ballance LLP
March 1995 to present: A member of Gatzke Dillon & Ballance LLP

MEMBERSHIPS

San Diego County Bar Association
Hastings College of the Law Board of Governors
Association of Environmental Professionals
Environmental/Land Use Section, San Diego County Bar Association

REPORTED OPINIONS

Native Sun/Lyon Communities v. City of Escondido (1993) 15 Cal.App.4th 892
Save Our Bay, Inc. v. San Diego Unified Port District (1996) 42 Cal.App.4th 686

PUBLICATIONS

Aviation Noise Report, Special Report - California's Seminal Airport Land Use Compatibility Planning Laws Are Up For Repeal (March 2012) (Co-authored).

Aviation Emissions Report, Special Report - 2012: Will So-Called 'Sustainable Community' Laws Result in Airport Encroachment? (February 2012) (Co-authored).

Airport Advocate, California Pilots Association, Contributor, 2012 to present.

California Land Use Planning Handbook Update, State of California Department of Transportation, Division of Aeronautics (October 2011) (Co-authored).

Aviation Emissions Report, Special Report - 2011: A Year Of Possibilities (As Always) (January 2011) (Co-authored).

Airport Noise Report, Special Report - Neighboring States Offer Potentially Different Thoughts on the Constitutionality of Aviation Easements Required as a Condition of Land Use Development Approval (October 2010) (Co-authored).

Airport Noise Report and Aviation Emissions Report, Special Report - The New Frontier in Air Quality Regulation: Greenhouse Gas Emissions and Global Climate Change (July 2008) (Co-authored)

San Diego Lawyer (The Journal of the San Diego County Bar Association), Stalled on the Tarmac: The Importance of a Strategic Legal Compliance System and the Building of a New Airport (January/February 2007) (Co-authored)

State of California Department of Transportation Division of Aeronautics, *California Land Use Planning Handbook* (January 2002) (Co-authored)

Longtin's *California Land Use*, (3d. Ed.) Chapter 4, CEQA (1993, 1994, 1995 and 1996 Supplements) (Co-authored)

Longtin's *California Land Use*, (3d. Ed.) Chapter 5, Other Environmental Controls (1993, 1994 , 1995 and 1996 Supplements) *Airport Noise Report*, Special Report - Air Quality Rules May Restrict Airports (August 1993)

Longtin's *California Land Use*, (3d Ed.) Part J - CEQA Judicial Review (1992 Supplement) (Co-authored)

Longtin's *California Land Use*, (3d. Ed.) Hazardous Waste Laws and Regulations (1991 and 1992 Supplement)

SPEAKING SEMINARS AND CONFERENCES

SWAAAE 55th Annual Airport Management Conference, Monterey, California, Speaker. Subject: *View From the Other Side: Working with Outdated Airport Land Use Compatibility Plans*, January 24, 2015.

Association of California Airports' Annual Fall Conference, South Lake Tahoe, California, Speaker. Subject: *CEQA: A Year in Review*, September 11, 2013.

California Airport Land Use Consortium Statewide Conference, Sacramento, California, Speaker. Subject: *CEQA: A Legal Perspective and The 2011 Caltrans Handbook Update: A Legal Perspective*, May 15, 2012.

SWAAAE 52nd Annual Airport Management Conference, Monterey, California, Speaker. Subject: *Land Use Planning Legal Updates*, January 28, 2012.

SWAAAE 51st Annual Airport Management Conference, Monterey, California, Speaker. Subject: *A Recap of 2010's ALUC and Air Quality Developments*, January 29, 2011.

American Planning Association California 2010 Conference, La Costa, California, Speaker. Subject: *Airport Land Use Compatibility Planning*, November 3, 2010.

American Planning Association California 2010 Conference, La Costa, California, Panelist. Subject: Balancing Competing Public Objectives – Airport Land Use Compatibility Planning in Growing Communities, November 1, 2010.

SWAAAE 64th Annual Summer Conference, San Diego, California, Panelist. Subject: Recent Developments in Airport Land Use Compatibility Planning, July 20, 2010.

Workshop on Airport Land Use Commission, Shasta County, California, Speaker. Subject: Land Use Compatibility Issues, July 13, 2009.

SWAAAE 49th Annual Airport Management Conference, Monterey, California, Speaker. Subject: Overview of California's Statutory and Regulatory Framework for Greenhouse Gas Emissions, January 24, 2009.

SWAAAE 48th Annual Airport Management Conference, Monterey, California, Speaker. Subject: Airport Land Use Commissions and Airport Land Use Compatibility Planning, January 26, 2008.

AIRPORT AND RELATED ENVIRONMENTAL MATTERS

The following is a description of projects or litigation in which the firm has represented public agencies that own and operate airports throughout the country. Members of the firm have expertise with the federal Airport Noise and Capacity Act as well as other laws addressing airports, and have dealt extensively with the Federal Aviation Administration. As part of this practice area, the firm's lawyers have developed extensive experience and expertise on issues arising under CEQA, NEPA, airport revenue issues, airport land use commission matters, transportation planning, airport/land use regulation matters, and the defense of inverse condemnation/nuisance claims and litigation.

FOR THE COUNTY OF ORANGE:

This firm has advised and represented the County of Orange on issues relating to John Wayne Airport ("JWA") since 1978. This representation has included advising JWA on legal matters pertaining to airline access and regulatory issues, revenue diversion and related revenue generation issues, advising JWA on all state and federal laws, regulations and advisory circulars and County ordinances, representing the County before local, state and federal judicial and administrative bodies, and advising JWA on compliance with the CEQA, the NEPA, and other applicable environmental laws and regulations involving noise, air quality, traffic and other environmental quality issues. Representative activities in which the firm has represented the County of Orange on these types of issues are provided below.

John Wayne Airport Access Regulations - The 1985 Settlement Agreement

City of Newport Beach v. County of Orange, et al.; ***County of Orange v. Air California, et al.***

In the late 1970s, the County initiated preparation of a proposed airport master plan for JWA and a related land use compatibility program. The proposed project involved the preparation of EIR 232 under CEQA and the CEQA Guidelines. The first action (*City of Newport Beach v. County of Orange, et al.*) was a challenge to the adequacy of EIR 232. After EIR 232 was circulated for public review and comment and certified by the Orange County Board of Supervisors, this firm was asked to represent the County in the pending litigation.

The Court ruled that portions of EIR 232 were inadequate under CEQA, and an appeal was filed. However, the Orange County Board of Supervisors ultimately determined that it wished to initiate an airport master plan project different from the one considered by EIR 232. The resulting 1985 Master Plan and related land use compatibility program envisioned a project substantially larger than that for which EIR 232 was prepared.

This firm was consulted extensively, and made significant contributions to the four-volume EIR that was prepared under CEQA and the EIS that was prepared under NEPA (EIR 508/EIS). The EIR component was the basis for the County's approval of the 1985 Master Plan, and the EIS (and related Record of Decision) was the basis for the FAA's approval of the Airport Layout Plan,

and for the federal funding of some of the 1985 Master Plan improvements under authority of the Airport and Airway Improvement Act of 1982, as amended. EIR 508/EIS was prepared with the anticipation of a significant litigation challenge by the City of Newport Beach and other interested parties.

In February 1985, immediately following EIR certification by the Orange County Board of Supervisors, and on advice of this firm, the County initiated a declaratory relief action (*County of Orange v. Air California, et al.*, U.S. District Court, Central District of California, Civ. No. CV 85-1542 TJH (MCx)), which, among other things, requested declaratory relief in respect of controversies between the County and the City of Newport Beach (and others) regarding the adequacy of EIR 508/EIS under CEQA and NEPA.

Within six months of filing the declaratory relief action, a comprehensive agreement was reached between the County, the City, community groups, and other parties and entities, ending all of the environmental litigation involving JWA (the 1985 Settlement Agreement). Under the 1985 Settlement Agreement, the City of Newport Beach agreed that it would support the County in implementation of virtually all elements of the JWA Master Plan and Land Use Compatibility Plan project. The 1985 Settlement Agreement also contemplated and sanctioned that portion of the project that authorized an increase in the number of commercial air carrier operations at JWA to a level more than double the operations level authorized by the Board of Supervisors prior to 1985, and an increase of approximately 440% in the number of passengers served at the airport over 1984 levels.

The Phase 1 Commercial Airline Access Plan and Regulation

Implementation of the 1985 Settlement Agreement consisted of a two-phased increase in the permitted number of operations at JWA, and associated construction of certain facilities at JWA necessary to support the increase in operations.

This firm was retained by the County to prepare the Phase 1 Commercial Airline Access Plan and Regulation ("Phase 1 Access Plan") for JWA in order to implement the initial increase in authorized daily departures ("ADDs") at JWA to 55 Class A ADDs. The Phase 1 Access Plan was a mitigation measure identified and committed to in EIR 508/EIS for the master plan project. The Phase 1 Access Plan was adopted by the Orange County Board of Supervisors on February 26, 1985.

The Phase 2 Commercial Airline Access Plan and Regulation

This firm also was retained by the County to prepare the Phase 2 Commercial Airline Access Plan and Regulation ("Phase 2 Access Plan") to implement the Phase 2 mitigation measures identified and committed to in EIR 508/EIS in connection with the County's consideration and approval of the 1985 Master Plan for JWA.

Certain events then occurring in Washington, D.C., regarding formulation of a "national noise policy" (the Airport Noise and Capacity Act of 1990 (49 U.S.C. §47521 et seq.)), which might have had some preemptive effect on the County's regulation of JWA, caused JWA staff to bring the text of the Phase 2 Access Plan to the Orange County Board of Supervisors for approval on an emergency basis. The purpose of this emergency action was to ensure that the Phase 2 Access Plan would be "grandfathered" and unaffected by the federal activities. On August 29,

1990, the Board approved and adopted the Phase 2 Access Plan for JWA. Ultimately, Congress passed legislation on the subject as part of the Budget Reconciliation Act of 1990.

Amendments to the 1985 Settlement Agreement and Phase 2 Access Plan

For the past several years, the firm has represented the County in the negotiation, preparation and execution of several amendments to the 1985 Settlement Agreement and related amendments to the Phase 2 Access Plan. A number of these amendments are highlighted below.

Modifications to the Maximum Permitted Noise Levels at JWA

The firm assisted the County in the preparation of EIR 546, responses to comments, findings, mitigation monitoring, and related environmental documents under CEQA, for proposed amendments to the Phase 2 Access Plan. The proposed amendments related to modifications of the maximum permitted noise levels at JWA to accommodate FAA actions affecting the use of noise abatement departure procedures at JWA. EIR 546 was certified and amendments to the Phase 2 Access Plan were approved without litigation challenge. Eventually FAA incorporated its regulatory actions into FAA Advisory Circular 91-53A.

Ms. Ballance also assisted the FAA in the preparation of an EA pursuant to NEPA and FAA policies and procedures for proposed route changes at JWA necessitated by the amendments to the Phase 2 Access Plan.

Initiation of All-Cargo Service at JWA

The firm assisted the County in the preparation of EIR 552, responses to comments, findings, mitigation monitoring, and related environmental documents under CEQA for proposed amendments of the Phase 2 Access Plan to facilitate the initiation of all-cargo operations at JWA.

The firm also worked with the County to obtain written assurances from the FAA regarding issues of federal law potentially implicated by the County's actions. This work included assisting the County in reaching an agreement with the City of Newport Beach and other parties to the 1985 Settlement Agreement to amend the prior stipulation of those parties and the existing confirming order of the United States District Court in *County of Orange v. Air California, et al.*, which permitted the County to allocate Authorized Class A Departures to all-cargo operators at JWA.

Capacity Increases and Facility Improvements at JWA

The most significant amendments to the 1985 Settlement Agreement were authorized and approved by the Orange County Board of Supervisors in 2002. These amendments authorized an increase in the permitted operational and facility capacity at JWA.

The firm represented and advised the County with respect to the preparation, negotiation, and adoption of the 2002 amendments to the 1985 Settlement Agreement. These amendments establish important parameters for the operations and facility improvements that can be made at JWA through December 31, 2015.

In connection with this representation, the firm assisted in the preparation of EIR 582, the Addendum to EIR 582, the Supplement to EIR 582, and related CEQA documents, including the preparation of responses to comments, findings, mitigation monitoring report, staff reports and Board Resolutions, which analyzed the potentially significant environmental impacts related to the proposed capacity and facility improvement amendments to the 1985 Settlement Agreement.

The firm also worked closely with the County in obtaining a written legal opinion from the Chief Counsel of FAA providing necessary assurances to the County with respect to the approval of amendments to the 1985 Settlement Agreement.

As part of the County's implementation of the capacity and facilities improvements permitted by the 2002 amendments to the 1985 Settlement Agreement, the firm worked closely with the County, the commercial air carriers (both incumbent and potential new entrants), and other interested parties to prepare amendments to the Phase 2 Access Plan that address allocation of the authorized increase in capacity and related issues at JWA.

***Program EIR for the Community Reuse Plan
(Marine Corps Air Station, El Toro)***

This firm acted as special counsel for the County in connection with the planning and environmental review for the closure of Marine Corps Air Station El Toro ("MCAS El Toro") in Orange County, California. This firm assisted the County in the preparation of a "Community Reuse Plan" and a related Program EIR for the reuse of MCAS El Toro. In connection with this process, the firm worked closely with environmental, planning and other consultants in the preparation of the Program EIR and related environmental documents needed for certification of that EIR. In addition, this firm assisted the County with an extensive outreach program to educate the public and interested public agencies regarding plans for the reuse of the former military base and the potential value capture rate of a new commercial airport at the former MCAS El Toro site. The firm also was selected to represent the County in defending the legal adequacy of the Program EIR.

City of Lake Forest, et al. v. County of Orange, et al.

In September 1993, Congress slated MCAS El Toro for closure, forcing the County to confront two connected but quite different problems: (i) the negative economic impacts of base closure on all of the cities surrounding the air base; and (ii) conversion of the military air station to some rational civilian use. In early 1994, certain community groups in the County drafted and placed on the November 1994 ballot an initiative that would create an airport planning area at MCAS El Toro and establish a planning process for that area. The initiative was known as "Measure A."

On November 8, 1994, the County electorate enacted Measure A. Soon afterward, eight cities located near the El Toro airport planning area filed a petition for writ of mandate in Orange County Superior Court, requesting that Measure A be ruled invalid on the ground that it violated the State Planning and Zoning Law and was preempted by the State Aeronautics Act. The action was later transferred to the San Diego Superior Court.

The County of Orange retained this firm to defend Measure A and preserve the public's right to establish airport planning areas by local initiative. At trial, the firm successfully demonstrated to the Court that Measure A neither violated the State Planning and Zoning Law, nor was preempted by the State Aeronautics Act. The Fourth District Court of Appeal upheld the trial court's ruling.

Revenue Report and Study

In 1993, continuing budgetary constraints caused the County to investigate new sources of potential general fund revenue to support County-wide programs. As part of that investigation, this firm assisted JWA staff in preparing a Revenue Report and Study. This report was originally intended to address issues relating to the feasibility of providing additional revenues to the general fund beyond those already realized by the County as part of the operations of JWA. This firm also assisted in updating the report in 1995 and in early 2000.

Certificated Passenger Airline Lease Issues

The firm has also worked extensively with the County and JWA staff in preparing new Certificated Passenger Airline Leases with the County. These new Airline Leases were executed in connection with the allocation of increased capacity at JWA authorized by the 2002 amendments to the 1985 Settlement Agreement.

The General Aviation Master Plan Study

This firm assisted the County in the preparation of the General Aviation Master Plan study ("GAMP"). The draft GAMP generated a great deal of controversy among the airport's general aviation business tenants and aircraft owners. Many objections to the draft were based upon economic arguments involving the number of Fixed Base Operators ("FBOs") that could successfully compete at the airport.

This firm coordinated and provided oversight in connection with follow-up activities, including the development of a Request for Proposals for a General Aviation Economic Analysis. The firm worked with the consultants, airport staff, and tenants to insure that the study adequately addressed the issues and concerns raised by all interested and affected parties. This firm then researched and prepared a draft General Aviation Staff Report addressing issues relating to general aviation operations and capacity that had been raised in the General Aviation planning process. The Staff Report contained numerous recommendations developed by this firm. It was adopted without change by the County's Board of Supervisors in March of 1993, and the firm has assisted staff in the implementation phase.

PSA, etc. v. County of Orange, et al., etc.

This action involved a significant number of claims, which were filed against the County by various airlines and by the FAA, challenging the County's authority to regulate JWA. Although this case involved numerous issues, this firm assisted the County in continuing to establish its right to adopt and enforce regulations governing the type of aircraft, which may use JWA based upon their noise characteristics, and in enforcing other restrictions in the context of a complex and detailed scheme of airport regulation that has evolved at JWA.

Andrews v. County of Orange (and other consolidated cases)

This and four other noise damage actions were consolidated for trial. As tried, the actions involved inverse condemnation and nuisance claims on 54 parcels of residential property and more than 250 personal injury claims. The trial lasted for approximately four months and resulted in verdicts in favor of the County in all of the actions.

Harold Anderson v. County of Orange

This action involved inverse condemnation and nuisance claims on 63 parcels of residential property, and approximately 250 individual personal injury claims. The action proceeded to trial and, again, resulted in a jury verdict (on the nuisance/personal injury claims), and a court verdict (on the inverse condemnation claims), in favor of the County.

FOR THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY:

Airport Land Use Commission – Airport Land Use Plans for San Diego County Airports (or its predecessor, the San Diego Unified Port District)

This firm is currently working closely with the San Diego County Regional Airport Authority ("Airport Authority") in connection with the preparation of new Airport Land Use Compatibility Plans ("ALUCPs") for 18 San Diego County airports. This effort includes an extensive public outreach program with local jurisdictions, community groups and other interested parties. This firm also is working with the environmental consultant on the preparation of EIRs and negative declarations that will provide the necessary CEQA compliance for the proposed plans.

Airport Land Use Compatibility Plan for MCAS Miramar And Related EIR

The firm assisted the Airport Authority in preparing an ALUCP for Marine Corps Air Station Miramar. In connection with this process, the firm assisted in preparing the necessary CEQA documentation (*e.g.*, NOP/IS; EIR; responses to comments; CEQA Findings and Statement of Overriding Considerations; Mitigation Monitoring and Reporting Program; staff reports; and, certification and approval resolutions) for review, certification, and approval by the Airport Authority Board. The EIR was certified and the ALUCP was approved without subsequent litigation.

Comprehensive Land Use Plan Amendments and Related EIR

This firm assisted the Airport Authority in preparing amendments to the existing comprehensive land use plans ("CLUPs") for San Diego County airports, including San Diego International Airport ("SDIA") and McClellan-Palomar Airport. In connection with this process, this firm prepared an EIR, under the provisions of CEQA, findings, mitigation monitoring, staff reports, and Board Resolutions for review, certification and approval by the Airport Authority Board. The EIR has been certified and the amendments were approved without litigation.

Variance Issues

This firm has successfully represented the Airport Authority (and its predecessor agency, the San Diego Unified Port District) on issues relating to SDIA's compliance with the California Noise Standards (Cal. Code Regs., tit. 21, §5000 et seq.), and has obtained variances from the California Department of Transportation, Division of Aeronautics ("Caltrans"), for continued operations at SDIA.

Quieter Home Program for Noise Impacted Communities Surrounding San Diego International Airport

One of the conditions of the current (and previous) variances for SDIA is implementation of the Quieter Home Program for the noise impacted area surrounding SDIA. This firm worked closely with the Airport Authority in defining the terms of the Program. The firm continues to work with the Airport Authority in implementing this Program.

FOR THE SAN DIEGO UNIFIED PORT DISTRICT:

San Diego International Airport Facilities Improvements

The firm assisted the Port District, former owner and operator of SDIA, in reviewing the EIR/EIS, responses to public comments, findings, and overriding considerations for proposed improvements to the passenger facilities at SDIA. The project proposed an expansion of the existing passenger terminal, construction of a west terminal apron, an expanded airport fuel farm, increased airport parking facilities, and construction and realignment of the airport surface road system.

San Diego Unified Port District, et al. v. Gianturco, et al.

In this action, our firm successfully represented the Port District in challenging an attempt by Caltrans to impose curfew restrictions on SDIA. The opinions of the District Court and the Ninth Circuit Court of Appeals in this case established important, and frequently cited, precedent defining the respective regulatory roles and authority of airport proprietors and non-proprietor agencies of state and local government.

Lewis v. San Diego Unified Port District; Banks, et al. v. San Diego Unified Port District; Britt, et al. v. San Diego Unified Port District

The *Lewis* action was originally filed against the Port District as a class action. Claims were made under seven separate legal theories for both property damage and personal injury. The class action allegations of the complaint were successfully demurred to by arguing that class actions were inappropriate in airport noise damage litigation. This principle was subsequently confirmed by the California Supreme Court in *City of San Jose v. Superior Court* (1974) 12 Cal.3d 447.

Thereafter, the *Britt* and *Banks* actions were filed and ultimately consolidated and tried together with the *Lewis* action. The inverse condemnation and other property damage claims were tried

in a jury trial that lasted approximately six months. The trial involved in excess of 250 parcels of property. The Port District prevailed on an advisory jury verdict, confirmed by the Court acting as the final trier of fact, based upon a determination that the statute of limitations had expired on any inverse condemnation or other property damage claims. Although the personal injury claims were bifurcated for a separate trial, the plaintiffs abandoned those claims.

San Diego Unified School District v. San Diego Unified Port District

Following the verdict in favor of the Port District on the property damage claims in the *Britt* action, this action, which involved claims for damages by the San Diego Unified School District made on behalf of a number of its elementary, junior high and high schools allegedly affected by noise from SDIA, was settled for a nominal amount substantially less than the probable costs of defense.

***Schultz, et al. v. San Diego Unified Port District
(and 11 other consolidated cases)***

The firm successfully represented the Port District in the consolidated *Schultz* actions. The consolidated actions, initiated by approximately 1,200 plaintiffs, involved claims for personal injuries, emotional distress, and uncompensated takings of avigation easements with respect to 802 separate parcels of property in the vicinity of the airport. The amount in controversy was approximately \$200 million. The actions were favorably settled before trial. Under the settlement agreement, the Port District agreed to act as the airport sponsor for Airport Improvement Program ("AIP") grants to insulate five public schools and to sponsor a "demonstration soundproofing" project of one single family residence in the 65 dB CNEL contour for SDIA. No moneys were paid to the plaintiffs or to their counsel.

FOR THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DIVISION OF AERONAUTICS:

The firm co-authored the *California Airport Land Use Planning Handbook* (the "*Handbook*") issued in January 2002 by the California Department of Transportation, Division of Aeronautics, and currently is assisting in the preparation of the 2010 update to the *Handbook*. The objective of the *Handbook* is to provide guidance to ALUCs and local agencies on provisions of the State Aeronautics Act (see Pub. Util. Code, §21670 et seq.) relating to airport land use compatibility planning. In conjunction with these efforts, the firm has coordinated with a large number of aviation planning consultants and developed a thorough understanding of the legal, technical, and practical aspects of land use compatibility planning, including the interface between ALUCs and local planning jurisdictions.

FOR THE CITY OF OCEANSIDE:

Since 2008, this firm has represented the City of Oceanside, in its capacity as proprietor of Oceanside Municipal Airport, in connection with pending federal litigation relating to the City's compliance with grant assurances incurred as a condition of the receipt of federal funds pursuant to the FAA's Airport Improvement Program. At issue in the litigation is a settlement agreement entered into by and between the City and a third party that attempts to impair the City's performance of its airport-related federal obligations and would otherwise result in the

transfer of airport property from public to private ownership without the consent of the FAA. The parties to the litigation include the City, as airport proprietor, the FAA, and a private third party; the legal questions presented to the court include issues of implied federal preemption and various breach of contract theories.

FOR THE CITY OF LONG BEACH:

This firm has represented the City of Long Beach, the proprietor of a commercial air carrier airport, on various matters since 2002. Long Beach Airport is a regulated airport, which limits the permitted number of daily flights by various classes of commercial aircraft for noise control purposes. Initially, this firm was retained to represent the City in connection with a dispute between two of its incumbent airlines, American Airlines and Alaska Airlines, and a new entrant airline, JetBlue, over issues relating to the allocation of flights among the airlines under the City's airport noise ordinance. Although litigation was threatened and the FAA did become involved in negotiations and discussions between the parties, the controversy was resolved between the airline parties and the City by a written agreement that preserved the regulatory limit on the number of flights. This agreement continues to be implemented. This firm has continued to advise the City on various airport regulatory issues since that agreement was concluded.

In addition, the firm has represented and advised the City with respect to the preparation of a substantial EIR prepared with respect to a terminal facilities enhancement project, which is controversial in the community and opposed by some local residents groups.

FOR THE CITY OF SAN JOSE:

This firm was retained by the City of San Jose, owner and operator of the Norman Y. Mineta San Jose International Airport, to assist in the preparation of an EIR/EA under both CEQA and NEPA for a proposed runway extension project. The estimated cost of the project was \$11 million. No significant litigation was pursued. The project has since been constructed.

The City of San Jose also retained this firm to assist in the preparation of an EIR/EIS under both CEQA and NEPA for the proposed airport master plan project. In connection with this legal representation, Mr. Gatzke and Ms. Ballance successfully worked with the FAA and the environmental regulatory agencies, including the California Air Resources Board and Bay Area Air Quality Management District, in order to reach agreement on appropriate mitigation for the project, and to obtain approvals from both the City and the FAA for the project.

FOR THE SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

The firm was retained by the Santa Barbara County Association of Governments (SBCAG), acting in its capacity as an ALUC, to assist with a comprehensive update to the ALUCP for the six airports located in Santa Barbara County. The airports at issue included two public use airports located in urban settings; three public use airports located in rural settings; and, one military airport. The firm provided legal and policy guidance to SBCAG on the development of airport land use compatibility criteria that are commensurate to the type of airport (e.g., public

use versus military) and the airport location (e.g., urban versus rural setting). The firm also assisted with project outreach and local agency consultation, and participated in regular project team meetings.

FOR THE RIVERSIDE COUNTY AIRPORT LAND USE COMMISSION:

The firm currently assists the Riverside County Airport Land Use Commission ("ALUC") on litigation and planning matters related to the preparation, adoption and amendment of the ALUCPs for Riverside County airports. In connection with these ALUCPs, the firm has assisted in the preparation of various negative declarations and mitigated negative declarations in compliance with CEQA.

FOR THE RIVERSIDE COUNTY ECONOMIC DEVELOPMENT AGENCY:

Hemet-Ryan Air Attack Base

On behalf of Riverside County, this firm successfully negotiated a joint development and lease agreement with the California Department of Forestry and Fire Protection ("Cal Fire") for the improvement of the Hemet-Ryan Air Attack Base. Ms. Ballance and Mr. Sunseri worked closely with Riverside County and Cal Fire officials to reach an agreement on the funding, contracting, and management of a \$23 million improvement project. The new air attack base will provide a much-needed asset for Southern California fire fighters and will help combat the devastating seasonal wildfires that are frequent in the region.

Jacqueline Cochran Regional Airport

This firm assisted The Riverside County Economic Development Agency ("EDA") with its objective of redeveloping portions of the Jacqueline Cochran Regional Airport. Specifically, the firm assisted EDA in reacquiring airport property to allow for the construction of new facilities and taxiways.

FOR THE CITY OF TEHACHAPI:

This firm was retained by the City of Tehachapi in 2005 to provide guidance on: (a) ALUCP adoption for two airports and related CEQA compliance issues, (b) the compatibility of proposed developments in the vicinity of Tehachapi Municipal Airport and Mountain Valley Airport, and (c) the alternative ALUC process established in the State Aeronautics Act.

FOR THE SAN BERNARDINO INTERNATIONAL AIRPORT AUTHORITY:

This firm was retained by the San Bernardino International Airport Authority ("SBIAA") in 2007. The SBIAA is a joint powers authority comprised of the County of San Bernardino and the cities of San Bernardino, Colton, Loma Linda and Highland. The firm provided legal guidance on the State Aeronautics Act's alternative ALUC process, and assisted in the

negotiation and execution of a cooperative agreement between the SBIAA and a local land use jurisdiction.

FOR THE SAN RAFAEL AIRPORT, LLC:

Since 2002, this firm has assisted San Rafael Airport, LLC on various matters relating to the operation of the San Rafael Airport pursuant to a master use permit issued by the City of San Rafael. The Airport is a privately-owned, "special use" airport, as defined by state regulation. The use permit imposes various conditions on Airport operations, and the firm has coordinated with the City to ensure that operational terms are consistent with federal and state aeronautic laws.

FOR THE CITY OF RIO VISTA, CALIFORNIA:

The City of Rio Vista planned and constructed a new airport to serve its community. Issues involving tenants at the City's old airport, including questions regarding compliance with FAA grant assurances, delayed the opening of the new airport for an extended period of time, causing potentially significant financial impact.

This firm was retained to resolve tenant issues and deal with questions raised by the FAA and state agencies. Despite threats of litigation, all issues were resolved successfully enabling the new airport to open. The issues included potential hazardous waste concerns, lease disputes, and relocation questions involving long term tenants.

In connection with the opening of the new Rio Vista Municipal Airport, the firm prepared all necessary documents including a revised airport ordinance, airport policies and regulations, minimum standards for aeronautical operators, lease and license agreements, a rates and charges ordinance, and tiedown and automobile parking licenses. Issues addressed included compliance with FAA standards and mandates, and the development of a policy for off airport operations ("through-the-fence" policies).

FOR THE CITY OF SOUTH LAKE TAHOE, CALIFORNIA:

***People of the State of California Ex Rel.
John K. Van De Kamp v. City of South Lake Tahoe, et al.;
People of the State of California, etc.,
et al. v. The City of South Lake Tahoe***

These actions were initiated by the California Attorney General under CEQA, challenging the adequacy of various negative declarations and an EIR prepared by the City of South Lake Tahoe with respect to the initiation of regularly scheduled commercial air service at South Lake Tahoe Airport by Air California. This firm was retained by the City of South Lake Tahoe to act as special counsel. The firm secured an appellate decision in favor of the City in the *Van De Kamp* litigation; the companion action was not actively pursued by the Attorney General.

FOR THE HAWAII DEPARTMENT OF TRANSPORTATION:

Since 2006, this firm has assisted the Hawaii Department of Transportation, Division of Aeronautics, on numerous airport projects, including the preparation of an EIS under NEPA and the Hawaii Environmental Policy Act for the proposed airport master plan projects at Kahului Airport, Maui, and Lihue Airport, Kauai. These projects included a major runway expansion and the relocation of helicopter operations.

This firm also assisted on federal Endangered Species Act issues, and in the preparation of an Alien Species Action Plan as mitigation for the Kahului master plan project.

FOR THE KENTON COUNTY AIRPORT BOARD, KENTON COUNTY, KENTUCKY:

***Construction of a New Air Carrier Runway at
Greater Cincinnati International Airport***

This firm represented the Kenton County Airport Board in its capacity as the proprietor of Greater Cincinnati International Airport. This firm consulted with the airport proprietor and its aviation and planning consultants in the preparation of a detailed EA under NEPA for the proposed construction of a new air carrier runway and related improvements at the airport. Because of strong local opposition to the proposed project in certain areas near the airport, litigation challenging the project was anticipated.

Following its review of the EA, the FAA issued a Finding of No Significant Impact ("FONSI") under NEPA, and made corresponding determinations in favor of the project under the National Historic Preservation Act ("NHPA") and other provisions of federal law. Prior to issuance of the FONSI, the firm represented the Airport Board in negotiations with one of two groups (and their counsel) opposing the project. These negotiations resulted in an agreement under which the opposing group actively supported federal approval of the runway project and waived all litigation claims.

Township of Delhi, et al. v. T. Allan McArtor, et al.

A second group (including an Ohio township and a local school district) continued to oppose the airport project approved by the Kenton County Airport Board. After unsuccessful negotiations, this group initiated litigation challenging the airport project under NEPA and NHPA in federal court in Ohio. This firm represented the Airport Board in all phases of the litigation. The District Court initially granted an *ex parte* temporary restraining order on the project. One week later, after the matter was fully briefed and argued, the District Court dissolved the temporary restraining order and denied plaintiffs' request for a preliminary injunction. Plaintiffs' emergency requests for relief to the United States Court of Appeal for the Sixth Circuit were denied. Construction of the project commenced and is now completed. The plaintiffs ultimately terminated the litigation on terms proposed by the Airport Board.

FOR THE MONTEREY PENINSULA AIRPORT DISTRICT

The firm currently is assisting the District with the preparation of a comprehensive update to the Airport Master Plan for Monterey Peninsula Airport, including the CEQA and NEPA compliance documents required for the Master Plan Update. The Airport Master Plan includes a land use compatibility plan that will be used by the airport land use commission to update its airport land use compatibility plan for the Airport. The firm's assistance includes pre-litigation counseling and assistance because of the high potential for eventual litigation on the master plan project. The work includes advising the District on compliance with federal, state and local laws and regulations, and reviewing and preparing environmental reports, studies and regulatory documents prepared in furtherance of CEQA, NEPA, federal and state Endangered Species Acts, Clean Water Act, Clean Air Act, and other federal, state and local laws and regulations.

FOR THE COUNTY OF MODOC

The firm was retained by the County of Modoc to assist in CEQA litigation relating to the development of Tulelake Airport. The firm is also currently involved in assisting the County with an Airport Layout Plan (ALP) update process that includes a number of locally controversial projects.