



Title VI Complaint Form

AUG 17 2017

RECEIVED

When completed, submit the original signed form or letter in person or by mail to:

Questions?

Phone: (909) 884-8276  
California Relay Service 7-1-1 (for TTY users)

Tim Watkins, Public Information Officer  
San Bernardino Associated Governments  
1170 W. 3<sup>rd</sup> Street, Second Floor  
San Bernardino, CA 92410-1715

AND FEDERAL TRANSIT ADMINISTRATION  
OFFICE OF CIVIL RIGHTS ATTN: TITLE VI  
PROGRAM COORDINATOR, EAST BLD, ST#4  
1200 NEW JERSEY AVE, SE  
WASHINGTON D.C. 20590

1. Contact Information

Complainant's Name: (b) (6)

Address: (b) (6)

City, State, and Zip Code: (b) (6)

Home Telephone: (b) (6)

What are the most convenient days and times for us to contact you about this complaint?

Monday - Friday 9AM - 5PM

2. Basis of Discriminatory Action(s):

Check all categories below that apply to the act(s) of discrimination.

a	<input checked="" type="checkbox"/>	Race
b	<input checked="" type="checkbox"/>	Color
c	<input checked="" type="checkbox"/>	National Origin (Please indicate your national origin.): (b) (6)

3. Date and place of alleged discriminatory action(s).

Include the earliest date of discrimination and the most recent date of discrimination:

Date: July 12, 2017 Location: SBCTA/SanBAG Board Room, 1170 W. 3<sup>rd</sup> St.

~~Date:~~ ~~Location:~~ San Bernardino, CA 92410-1715

4. How were you discriminated against?

Describe the nature of the action, decision, or conditions of the alleged discrimination. Explain as clearly as possible what happened and why you believe your protected status (basis) was a factor in the discrimination. Include how other persons were treated differently from you. (Attach additional page(s), if necessary).

My written public comments were withheld from consideration and discussions by the SBCTA/SanBAG Board of Directors President Alan Warner thereby violating my First Amendment Constitutional Right to free speech, the Brown Act Open Public Meetings law, and my civil rights under Title VI of the Civil Rights Act of 1964 as reverse discrimination, and activity in violation of Title II of the Americans with Disabilities Act (ADA) of 1990 and Final Rule effective October 11, 2016, whereas I have been subjected to a prohibited action because of an actual or perceived physical or mental impairment. (See attached e-mail chain with the Clerk of the Board.)

**Tim Watkins**

---

**From:** (b) (6)  
**Sent:** Wednesday, July 12, 2017 7:57 PM  
**To:** clerkoftheboard  
**Cc:** Tressy Capps; Tim Watkins; Anthony 2; Massoud, Shane; Bulinski, John C@DOT; (b) (6)  
**Subject:** Re: Public Comments RE: July 12, 2017 SBCTA Board of Directors meeting Item #27 entitled: I-10 Corridor and I-10 Corridor Contract 1 Express Lanes Project

Hello Clerk of the Board for SBCTA-

I believe it to be extremely unfortunate that the subject comment letter was not distributed to the Board of Directors but only placed within the agenda package made available for public review in the meeting room. To make matters worse, President Wapner suggested during my two minute comment period that instead of my reading the comments for the record, that he would have the communication distributed to the Board. As far as I am aware, my comment letter was never provided for the Board of Director's consideration and deliberation on the item, so I consider President Wapner to be personally responsible for the improper withholding of my written public comments from Board consideration with their eventual approval of the item.

I intend to file a complaint of a Brown Act open public meeting law violation for this action whereby the SBCTA and President Wapner personally violated my First Amendment rights of free speech by withholding my correspondence sent to the Clerk of the Board on July 11, 2017. Additionally I hereby request copies of the Notice of Determination (NOD) and Record of Decision (ROD) for the FEIR-EIS document which were referred to by Ms Paula Beauchamp, the Staff Presenter for the subject agenda item (actually Item 28 on the final agenda rather than Item 27).

Thank you in advance for your continuing assistance. Please call me at (cell) (b) (6) should you have any questions about the contents of this communication.

Sincerely,

(b) (6)

On Jul 11, 2017 11:46 PM, (b) (6) wrote:  
Honorable President Wapner and SBCTA Board of Directors:

I offer the following public comments on behalf of the Mentone Area Community Association (MACA) for consideration by the San Bernardino County Transportation Authority/ Council of Governments, otherwise known as SanBAG, with your deliberations on the subject agenda item:

- 1) This item has been improperly noticed to the general public and should have been scheduled as a Public Hearing to consider approval/ certification of the Interstate 10 Corridor Project Final Environmental Impact Report/ Environmental Impact Statement (FEIR-EIS) pursuant to the requirements of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).
- 2) With this item, SBCTA is utilizing a piecemeal approach to approval of the FEIR-EIS document in apparent conflict with both CEQA and NEPA regulatory protocol for such approvals, as follows:

Honorable President Wapner and SBCTA Board of Directors:

I offer the following public comments on behalf of the Mentone Area Community Association (MACA) for consideration by the San Bernardino County Transportation Authority/ Council of Governments, otherwise known as SanBAG, with your deliberations on the subject agenda item:

1) This item has been improperly noticed to the general public and should have been scheduled as a Public Hearing to consider approval/ certification of the Interstate 10 Corridor Project Final Environmental Impact Report/ Environmental Impact Statement (FEIR-EIS) pursuant to the requirements of the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).

2) With this item, SBCTA is utilizing a piecemeal approach to approval of the FEIR-EIS document in apparent conflict with both CEQA and NEPA regulatory protocol for such approvals, as follows:

A. The proposed Resolution and associated staff report only recommend approval of the I-10 Corridor Project by the SBCTA Board rather than for consideration of approval/ certification of the FEIR-EIS pursuant to CEQA and NEPA.

B. The final outcome of the I-10 Corridor Project FEIR-EIS has been predetermined and unfairly biased during the project development process due to actions taken by the SanBAG (now SBCTA) Board of Directors in August 2011 to include the Express Lane(s) Alternative and in July 2014 approving Express Lanes as the Locally Preferred Alternative without the benefit of any completed environmental review and analysis.

C. Although the Measure I Gas Sales Tax has only been approved by the voters of San Bernardino County to extend through 2040, a design year of 2045 was selected for the I-10 Corridor Project in order to justify the addition of two toll lanes (Alternative 3) over the construction of one HOV lane between Milliken Avenue in Ontario and Ford Street in Redlands, which is the Project reflected in the voter approved Measure.

3) Alternative 3 (Express Lanes) should be rejected as the environmentally inferior option, in favor of Alternative 2 (HOV between Milliken and Ford) which better meets the original Project objectives and purpose, as follows:

A. Provide consistency with SCAG Regional Transportation Plan (RTP) where feasible and in compliance with federal and state regulations.

B. Provide a cost effective solution

C. Minimize environmental impacts and right of way acquisition.

D. Promote sustainable travel and livability for the corridor.

4) Since Caltrans is the lead agency for CEQA and NEPA because the Project is located on the State highway system (SHS) and is funded in part with federal funds, the recommended action by staff for the SBCTA Board of Directors to approve the project

as a Responsible Agency appears to be premature and inconsistent with the regulatory framework and project approval protocol contained in CEQA and NEPA.

5) The Notice of Availability (NOA) for the I-10 Corridor Project FEIR-EIS by Caltrans was dated May 22, 2017 beginning a 30-day public review period. The FEIR-EIS document cover sheet and summary which I received by US mail as was attached to the NOA was signed by District 8 Director John Bulinski on May 15, 2017.

6) The proposed SBCTA Resolution and associated staff report inappropriately recites: "On May 15, 2017, Caltrans certified and approved the final EIR which is available on the (SBCTA) website..." (See 5 above also).

7) Pursuant to the Resolution and associated staff report recommending Board approval, mitigation measures set out in the Mitigation Monitoring and Reporting Program that were approved by Caltrans avoid any significant environmental impacts by reducing or eliminating such impacts. Because significant environmental impacts are avoided through these mitigation measures, no Statement of Overriding Considerations is proposed. If in fact Alternative 2 were to have been selected as the environmentally superior option, then this would hold true; however, with the Locally Preferred Alternative 3 having been selected for approval (rather than Alternative 2), a Statement of Overriding Considerations is required in order to be compliant with CEQA (and NEPA) regulations for the combined EIR-EIS Project document.



as well as from working with other private government contractors.

>September 11, 2014 12:02:48 -0700 E-mail from OPD Chief, now recently retired:

From: Eric Hopley <EHopley@ontariopolice.org>

To: (b) (6)

CC: 'John Brown (john.brown@bbklaw.com)' <john.brown@bbklaw.com>

(b) (6)

I received your email and upon review of your request I have determined the topic you would like to discuss does not pertain to the Ontario Police Department, therefore I suggest if you still desire further information you should contact the City of Ontario's City Attorney John Brown.

Thank you again for your communication.  
Eric Hopley

(b) (6)







(b) (6)



FILARSKY & WATT LLP

ATTORNEYS AT LAW

1441 NINETEENTH STREET

MANHATTAN BEACH, CALIFORNIA 90266

(310) 545-7825

FACSIMILE (310) 545-2999

STEVE A. FILARSKY  
SHARON A. WATT

OJAI OFFICE  
408 BRYANT CIRCLE, SUITE C  
OJAI, CA 93023  
(805) 640-2970  
FACSIMILE (805) 640-2980

June 17, 2014

Jerry L. Johnson  
Parker Stanbury LLP  
444 S. Flower St., 19<sup>th</sup> Floor  
Los Angeles, CA 90071-2901

Re: (b) (6) / City of Redlands  
Your File No. 2624394

(b) (6)



Jerry L. Johnson  
June 17, 2014  
Page 2

(b) (6)



Sincerely,



Steve A. Filarsky

SAF:ss

Section I - Applicability

(b) (6)

Accessible Format Requirements:  Large Print  TDD  Audio Tape  Other

Are you filing this complaint on your own behalf?  Yes (Go to Section II)  No

If not, please supply the name and relationship of the person for whom you are complaining:

Briefly and clearly explain why you have filed for a third party.

Section II - Title VI

Discrimination Because of:

Race  Color  National Origin

Other Areas of Discrimination:

Sex  Age  Disability  Retaliation

Name and Position of Person(s) That Discriminated Against You:

David DeBerry/Ricia Hager, Attorneys  
w/ Woodruff Spradlin & Smart  
Raymond Wolfe, CEO sbeta/SanBAG  
Eileen Teichert, General Counsel sbeta

Location Including City, State, Zip:

San Bernardino Superior Court  
Justice Center  
247 W. Third Street  
San Bernardino, CA 92415

Explain as briefly and clearly as possible what happened, and how you were discriminated against. Include date of alleged discrimination (Month, Day, Year). Indicate all persons who were involved. Be sure to describe how other persons were treated differently than you. Attach any written material pertaining to your case.

General Condition (on-going) - Defamation of character, slander/libel, discrimination and retaliation in response to my First Amendment protected speech/writings in reporting conflict-of-interest, graft and fraudulent public contracting in violation of procurement policy, pertaining to legal services provided to sbeta/SanBAG by Woodruff Spradlin & Smart on I-10 project. The latest incidence of this ongoing discrimination & harassment occurred on September 14, 2018 just outside Courtroom 523 where Mr. DeBerry, in the presence of Mr. Mark Berkebile, CT Attorney, accused me of being sued by (b) (6) for defamation of character when no such legal action took place.

The laws prohibit retaliation against anyone because he/she has taken action, or participated in an action, to secure rights protected by these laws. If you feel you have been retaliated against (separate from the discrimination alleged above), please explain briefly and clearly the circumstances below. Please explain what actions you took which you believe were the basis for the allegation of retaliation.

See page 1

What remedy or action, do you seek for the alleged discrimination?

- 1) Terminate contract legal services of Woodruff, Spradlin & Smart and Attorneys David DeBerry & Ricia Hager
- 2) Impose appropriate disciplinary action (upto and incl. termination) against sbcta/SanBAG CEO Wolfe & GC Teichert

Have you previously filed a complaint with this agency?  Yes  No

Have you filed, or intend to file, a charge or complaint with the following?

- U.S. Equal Employment Opportunity Commission  Federal Highway Administration/U.S. Department of Transportation  
 Federal or  State Court (related to CIVDS 1711731)  Federal Transit Administration/U.S. Department of Transportation  
 Department of Fair Employment and Housing

If you have already filed a charge or complaint, please provide information about a contact person at the agency/court where the complaint was filed.

Name: Tim Watkins Title: Public Information officer  
Agency/Court: San Bernardino County Address: 1170 W. 3RD Street  
Telephone Number (Including Area Code): Transportation Authority San Bernardino  
909-884-8276 CA 92410-1715  
Date Filed: August 17, 2017  
Case Number: N/A  
Date of Trial/Hearing: N/A

Provide any additional information, including witnesses, that you believe would assist in the investigation.

See attached Title VI Complaint dated August 9, 2017, Redlands Police Department Citizen Report dated May 25, 2016 and Declaration with attachments, dated September 20, 2018 regarding Litigation Representation.

Signature of Complainant:

Date:

12/20/18

FOR OFFICE USE ONLY

Location:	District/Division:	Case:
Date Complaint Received:	Date Referred:	
Processed by:		
Referred to:	<input type="checkbox"/> USDOT <input type="checkbox"/> FHWA <input type="checkbox"/> FTA <input type="checkbox"/> OTHER	

**INSTRUCTIONS**

**Section I**

**Applicability** – The complaint procedures apply to the beneficiaries of Caltrans programs, activities, and services, including but not limited to the public, contractors, subcontractors, consultants, and other sub-recipients of Federal funds.

**All complaints must be in writing and signed by the complainant. Complaints must include the complainant's name, address, phone number, and specify all issues and circumstances of the alleged discrimination. In cases where the complainant is incapable of providing a written statement such as limited English proficient or having a disability, the complainant may be assisted in converting the verbal into a written complaint.**

**Section II**

**Title VI** – Any person who believes he/she has been excluded from participation in or denied benefits or services of any program or activity administered by Caltrans, or its sub-recipients, consultants, and contractors.

**Discrimination Because of** – Allegations must be based on issues involving race, color, national origin for a Title VI complaint or sex, age, disability, or retaliation.

**Filing Options and Time Limits** – The use of the complaint form is not mandatory. You may submit your complaint in any form that includes your signature. Title VI discrimination complaints may be filed with Caltrans, the Federal Highway Administration, or other agencies that provide federal financial assistance to Caltrans.

**Complaints must be filed no later than 180 days after the date of the alleged act of discrimination or retaliation unless the time for filing is extended. Failure to supply all information may be grounds for rejecting your complaint.**

**Submit Complaints** – The original-signed complaint form or letter is mailed to:

California Department of Transportation  
Office of Business and Economic Opportunity  
Attention: Title VI Branch Manager  
1823 14th Street, MS 79  
Sacramento, CA 95811

**Information** – Email: [Title.VI@dot.ca.gov](mailto:Title.VI@dot.ca.gov)  
Phone: (916) 324-8379  
Website: <http://www.dot.ca.gov/obeo/TitleVI.htm>

**PERSONAL INFORMATION NOTICE**

Pursuant to the Federal Privacy Act (Section 552, et seq.) and the Information Practices Act of 1977 (IPA) (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The principal purpose of the voluntary information is to facilitate the processing of this form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an identifying particular.



# CITIZEN REPORT

Your name: \_\_\_\_\_

(b) (6)

Home address: \_\_\_\_\_

Home phone: \_\_\_\_\_

Work <sup>phone</sup> address: \_\_\_\_\_

~~Work phone:~~ \_\_\_\_\_

Name(s) or badge number (s) involved: City Manager N.E. Martinez

Date of occurrence: continuing activity Time of occurrence: \_\_\_\_\_

Place of occurrence: City of Redlands, City Hall

Names and addresses of all known witnesses:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

## STATEMENT OF ALLEGATION

Describe in your own words what occurred, including all incidents leading up to the matter of your complaint.

SEE ATTACHED LETTER WITH ATTACHMENTS AS  
DISTRIBUTED TO THE REDLANDS CITY COUNCIL  
PRIOR TO CLOSED SESSION ON MAY 17, 2016.

STATEMENT OF ALLEGATION CONTINUED

(b) (6)



You have the right to make a complaint against a police officer for any improper police conduct. California law requires this agency to have a procedure to investigate citizens' complaints. You have the right to a written description of this procedure. This agency may find after investigation that there is not enough evidence to warrant action on your complaint. Even if that is the case, you have the right to make the complaint and have it investigated if you believe an officer behaved improperly. Citizen complaints and any reports or findings relating to complaints must be retained by this agency for at least five years.

*I have read and understand the above statement and hereby request an investigation to be initiated by the Chief of Police and state that the above facts are true and correct to the best of my knowledge and belief.*

(b) (6)



5-25-16

Complainant's signature: 

Date


Approved (if complainant is a juvenile) \_\_\_\_\_

Date and time complaint received: \_\_\_\_\_

Person receiving complaint: \_\_\_\_\_

This form is to be submitted to a supervisory employee at the  
**Redlands Police Department**  
1270 West Park Avenue

Or mailed to Redlands Police Department, Office of the Chief, PO BOX 1025, Redlands, CA 92373

Amanda Frye <amandafrye6@icloud.com>   
To: Steve Rogers <steve\_rogers@verizon.net>  
CA Codes (gov:45200-45210)

November 21, 2015 8:30 PM

1 Attachment, 17 KB

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=45001-46000&file=45200-45210>

## **CA Codes (gov:45200-45210)**

45200. It is unlawful for any person: (a) Wilfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his right of examination, application, or certification for employment under the personnel system, merit system, or civil service system of any city. (b) Wilfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the personnel system, merit system, or civil service system of any city, or to aid in so doing, or make any false representation concerning the same or the person examined. (c) Wilfully to furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined, certified or to be examined or certified under the personnel system, merit system, or civil service system of any city. 45201. It is unlawful for any person: (a) To impersonate another person or to permit or aid in any manner any other person to impersonate him in connection with any examination, application, or request to be examined under the personnel system, merit system, or civil service system of any city. (b) To furnish or obtain examination questions or other examination material prepared and intended for use in any examination under the personnel system, merit system, or civil service system of any city before such examination. (c) To use any unfair means to cause or attempt to cause any eligible to waive any rights obtained under the personnel system, merit system, or civil service system of any city. 45203. Any city employee, or person whose name appears on any city employment list who uses during duty hours, for training or target practice, any material which is not authorized therefor by the appointing power, shall be disciplined pursuant to the city personnel, merit or civil service system. 45210. Every person who violates any provision of this article is guilty of a misdemeanor.

November 16, 2015

City of Redlands Human Relations Commission  
Redlands City Hall  
35 Cajon St. Redlands CA 92373

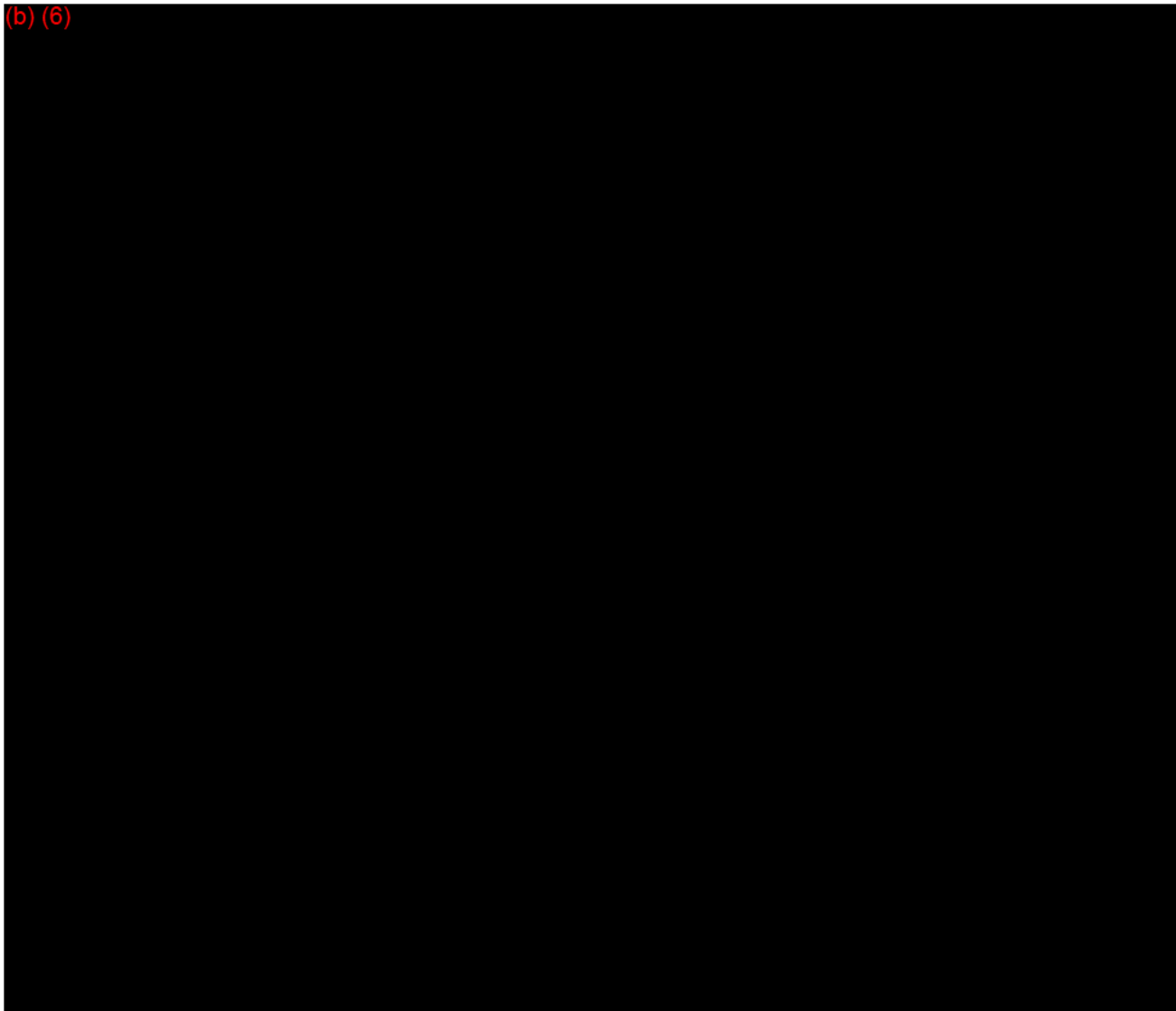
Attn: Ed Gomez, Chair; Gail Howard, Vice Chair; Carole Coley, Secretary;  
Commissioners: Evelyn Maldonado, Gretchen Andrews, Swathi Balaji (student), Judith  
Ashton, Donald Singer, Ronald Venegas; Council Liaisons: Paul Barich, Jon Harrison;  
Staff Liaison Officer Chris Mead

**SUBJECT: DISCRIMINATION AND RETALIATORY CONDUCT BY CITY  
OFFICIALS AGAINST A MEMBER OF THE GENERAL PUBLIC**

TO WHOM IT MAY CONCERN:

(b) (6)





# PARKER x STANBURY LLP

ATTORNEYS AT LAW  
444 SOUTH FLOWER STREET  
NINETEENTH FLOOR

LOS ANGELES, CA 90071-2901

TELEPHONE (213) 622-5124

FAX (213) 622-4858

E-MAIL: LA@PARKSTAN.COM

MANAGING PARTNER

ROBERT W. LOPRESTI

DOUGLASS H. MORI  
JOHN D. BARRETT, JR. \*  
ROBERT W. LOPRESTI \*  
RONALD L. SMITH  
J. LUIS GARCIA  
MICHAEL E. MCCABE  
CHRISTOPHER M. MOEN  
MATTHEW W. DAVIS  
REYNALDO C. SANTOS  
DAVID E. COWAN  
GEORGE A. HUNLOCK  
ALEX L. SHIA

B. PETER LEE  
MARCUS BASTIDA  
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DAVID C. LANE  
DANA C. GIOVINE  
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ALAN B. SHEATS  
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GLENN M. HABAS

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MICHAEL J. GRUSH  
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JOEL O. MARTINEZ  
TIEN H. LE  
RICARDO A. MERCADO  
GLORIA M. JUAREZ  
H. MICHAEL SONG  
J. MARTIN LATHROP

CHUONG Q. PHUNG  
JERRY L. JOHNSON  
JAMES L. WOLFSSEN  
LINDA H. MUCHAMEL  
ALEX MONTEALEGRE  
BERNARD R. USSERY  
GEORGE C. GONZALEZ  
KELLY A. SHERIDAN  
MAY KIM  
FELIX P. MONTERO  
CINDY G. MAGANA

\* MEMBER OF AMERICAN BOARD OF TRIAL ADVOCATES

HARRY D. PARKER (1891-1976)  
RAYMOND G. STANBURY (1904-1966)

IRVINE • LOS ANGELES • SACRAMENTO  
RIVERSIDE • SAN DIEGO

June 3, 2014

Mayor and City Council Members  
City of Redlands  
City Council  
35 Cajon Street  
Redlands, California 92373

Dear Mayor Aguilar and City Council Members:

Re:

(b) (6)

Our File No.: 2624394

(b) (6)



(b) (6)



Very truly yours,

PARKER · STANBURY LLP

By

JERRY L. JOHNSON

JLJ

cc: mbr via portal

San Bernardino Public Employees Association  
Attn: Deidre Rodriguez, General Manager  
433 N. Sierra Way

P.O. Box 432  
San Bernardino, California 92402

#26243901



**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

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Phone: (951) 686-1450 | Fax: (951) 686-3083 | www.bbklaw.com

Sacramento  
(916) 325-4000  
San Diego  
(619) 525-1300  
Walnut Creek  
(925) 977-3300  
Washington, DC  
(202) 785-0600

Howard B. Golds  
(951) 826-8339  
howard.golds@bbklaw.com  
File No. 17942.00081

June 12, 2014

VIA E-MAIL AND U.S. MAIL

Jerry L. Johnson, Esq.  
Parker Stanbury LLP  
444 South Flower Street  
Nineteenth Floor  
Los Angeles, CA 90071.2901

Re: (b) (6)

Dear Mr. Johnson:

(b) (6)





**BEST BEST & KRIEGER**  
ATTORNEYS AT LAW

Jerry L. Johnson, Esq.  
June 12, 2014  
Page 2

(b) (6)

A large black rectangular redaction box covers the majority of the page's content, starting below the header and ending above the signature.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Howard B. Golds', is written over the typed name.

Howard B. Golds  
of BEST BEST & KRIEGER LLP

HBG:cs  
cc: Daniel J. McHugh

17942.00081\8864810.2

---

FILARSKY & WATT LLP

ATTORNEYS AT LAW

1441 NINETEENTH STREET

MANHATTAN BEACH, CALIFORNIA 90266

(310) 545-7825

FACSIMILE (310) 545-2999

STEVE A. FILARSKY  
SHARON A. WATT

OJAI OFFICE  
408 BRYANT CIRCLE, SUITE C  
OJAI, CA 93023  
(805) 640-2970  
FACSIMILE (805) 640-2980

June 17, 2014

Jerry L. Johnson  
Parker Stanbury LLP  
444 S. Flower St., 19<sup>th</sup> Floor  
Los Angeles, CA 90071-2901

Re: (b) (6) / City of Redlands  
Your File No. 2624394

(b) (6)



Jerry L. Johnson  
June 17, 2014  
Page 2

(b) (6)



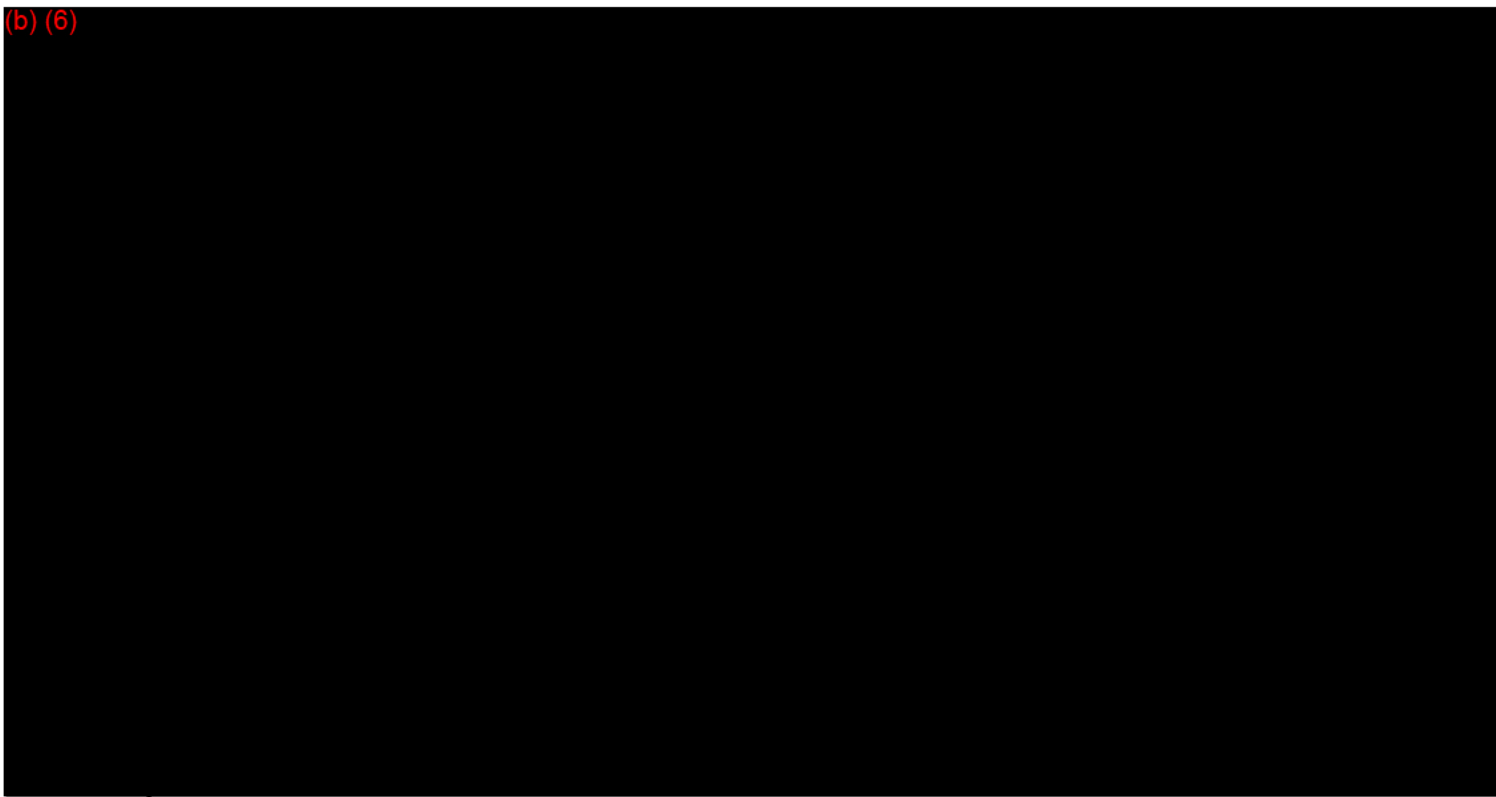
SAF:ss

---





ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): (b) (6)		FOR COURT USE ONLY  <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT  SEP 21 2018 BY <u>CRYSTAL D'AMICO</u> CRYSTAL D'AMICO, DEPUTY
TELEPHONE NO.:	(b) (6)	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <i>San Bernardino</i>		
STREET ADDRESS: <i>247 W. Third Street</i>		
MAILING ADDRESS: <i>San Bernardino, CA 92415-0210</i>		
CITY AND ZIP CODE: <i>San Bernardino, CA 92415-0210</i>		
BRANCH NAME:		
PLAINTIFF/PETITIONER:	(b) (6)	
DEFENDANT/RESPONDENT:		
<b>DECLARATION</b>		CASE NUMBER: <i>CIVDS 1711731</i>



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: *9/20/2018*

(b) (6)

(TYPE OR PRINT NAME)

(b) (6)

(SIGNATURE OF DECLARANT)

- Attorney for
- Plaintiff
- Petitioner
- Defendant
- Respondent
- Other (Specify):

**Subject:**

FW: RE: Motion to Dismiss - Case No CIVDS1711731

#0914 Redlands, CA  
FedEx Office  
333 Orange St.  
Redlands, CA 92374  
1.909.335.6608 TEL  
1.909.335.6609 FAX  
[usa0914@fedex.com](mailto:usa0914@fedex.com)  
[fedex.com/us](http://fedex.com/us)

**From:** (b) (6)

**Sent:** Thursday, September 20, 2018 2:13 PM

**To:** [usa0914@fedex.com](mailto:usa0914@fedex.com)

**Subject:** Fwd: RE: Motion to Dismiss - Case No CIVDS1711731

----- Forwarded message -----

**From:** (b) (6)

**Date:** Sep 13, 2018 8:54 AM

**Subject:** RE: Motion to Dismiss - Case No CIVDS1711731

**To:** "David A. DeBerry" <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)>

**Cc:** (b) (6)

(b) (6) "Ricia R. Hager" <[rhager@wss-law.com](mailto:rhager@wss-law.com)>, "Berkebile, Mark A@DOT" <[mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)>, "Bulinski, John C@DOT" <[john.bulinski@dot.ca.gov](mailto:john.bulinski@dot.ca.gov)>, "John Brown" <[john.brown@bbklaw.com](mailto:john.brown@bbklaw.com)>

Mr DeBerry- Thank you for your response.

Since the cost for preparing the Administrative Record is apparently the issue here, who authorized sbcta's consultant Parsons Transportation Group (PTG) to prepare the documentation for CalTrans, considering the fact that your firm Woodruff, Sprawling & Smart, APC (wss-law) was previously only under contract for on-call right-of-way legal services until June/July of this year, when a new contract was put into place between the sbcta General Counsel/ CEO & wss-law to cover "Litigation Representation"?

Additionally, I take offense with your inference that in some way the Petitioners are wasting taxpayer money by bringing this lawsuit against the sbcta & CalTrans.

The fact of the matter is that wss-law aka yourself and Ms Hager have taken full advantage of a bad situation involving the Petitioners Pro-per status and have refused to meet and confer with me and therefore have acted in bad faith by making misrepresentations to the Court in order to file the Motion to Dismiss.

It is apparent to me and I intend to make it clear to the Court at tomorrow's hearing, that sbcta, wss-law and CalTrans are the parties who have continued to waste taxpayer money and are placing an undue burden on the Court's time and resources by having refused to include me in settlement discussions in advance of the filing and by then unnecessarily pursuing the subject Motion to Dismiss.

Sincerely,

(b) (6)

Petitioner in Pro-per

On Sep 10, 2018 11:19 AM, "David A. DeBerry" <DDeBerry@wss-law.com> wrote:

(b) (6)

Thank you for your e-mail this morning. As to the questions posed:

1. The issue at Friday's hearing is whether Petitioners have the legal obligation to pay for costs incurred by Respondents in preparing the administrative record. SBCTA/Caltrans will subsequently file its cost bill, which will provide additional detail regarding the itemization of the costs. At that time, you may respond to the accuracy of those costs.
2. Any concerns you have with Ms. Capps representations, you will need to address those with her. As to the settlement proposal, we can only present the settlement proposal as crafted. Ms. Capps did not include you in that settlement proposal.

Hopefully this provides you with the clarification you requested, noting that we will oppose any effort by Petitioners to avoid their legal obligation to pay the taxpayers' cost in preparing the record.

David



**David A. DeBerry**

Woodruff, Spradlin & Smart

555 Anton Boulevard

Suite 1200

Costa Mesa, CA 92626-7670

(714) 415-1088 Direct

(714) 415-1188 FAX

ddeberry@wss-law.com

www.wss-law.com

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**From:** (b) (6)

**Sent:** Monday, September 10, 2018 10:58 AM

**To:** David A. DeBerry <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)>

**Cc:** (b) (6)

(b) (6) Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>; Berkebile, Mark A@DOT <[mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)>; John Bulinski <[john.bulinski@dot.ca.gov](mailto:john.bulinski@dot.ca.gov)>; John Brown <[john.brown@bbklaw.com](mailto:john.brown@bbklaw.com)>

**Subject:** RE: Motion to Dismiss - Case No CIVDS1711731

Mr DeBerry- The standard for a "cost bill" to which you refer below would be an itemized accounting of costs/ fees which the Respondents have incurred but all that has been provided the Petitioners at the time of filing and to date is a blank space to be filled in by the Court?

Am I missing something here since this situation is obviously related to your and Ms Hager's refusal to meet and confer with all Petitioners including myself and not just Ms Capps in advance of the filing of the Notice to Dismiss?

I am also very concerned about how Ms Capps' apparent desire to represent the interests of all the Petitioners who she requested to join her in this lawsuit has been encouraged by the Respondents and their legal counsel, to the degree that you would be presenting a separate settlement proposal to the sbcta at last week's meeting on behalf of Ms Capps.

Would you please provide me with clarifications to these matters as soon as possible so that I will be able to appropriately provide the Court with the information and documentation supporting my continued request for Respondents to withdraw the request to recoup costs in this case.

Thank you in advance for your assistance.

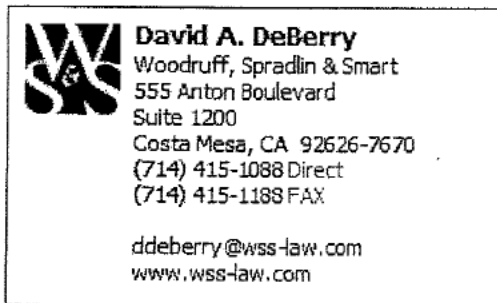
Sincerely,

(b) (6)

Petitioner in Pro-per

On Jun 14, 2018 6:57 AM, "David A. DeBerry" <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)> wrote:

The current plans is that SBCTA will be filing a cost bill to recoup costs to which it is legally entitled. Petitioners will receive a copy of the cost bill at the time of filing.



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**From:** Tressy Capps [mailto:[tlc36c@hotmail.com](mailto:tlc36c@hotmail.com)]

**Sent:** Thursday, June 14, 2018 6:29 AM

**To:** David A. DeBerry <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)>; (b) (6)

(b) (6)

Cc: Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>; Berkebile, Mark A@DOT <[mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)>

**Subject:** Re: Motion to Dismiss - Case No CIVDS1711731

**Importance:** High

Good morning David,

Per your email from May 17th, please indicate if you plan to seek costs against any of the petitioners in this matter.

Sincerely,

(b) (6)

---

**From:** David A. DeBerry <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)>

**Sent:** Thursday, May 17, 2018 2:47 PM

**To:** (b) (6)

**Cc:** Ricia R. Hager; Berkebile, Mark A@DOT

**Subject:** RE: Motion to Dismiss - Case No CIVDS1711731

Tressy,

While I appreciate the dismissals, please know that SBCTA has not agreed to waive its rights to seek costs against any petitioners. As I indicated in the past, we would agree to waive costs only in the event all petitioners dismissed the case. Since (b) (6) seems bent on attempting to litigate this matter, whatever rights SBCTA has to seek costs it is reserving. Having said this, we can revisit this issue next month.

David



**David A. DeBerry**  
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Suite 1200  
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(714) 415-1188 FAX

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www.wss-law.com

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**From:** (b) (6)

**Sent:** Thursday, May 17, 2018 12:51 PM

**To:** David A. DeBerry <DDeBerry@wss-law.com>; [mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov); Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>

**Cc:** (b) (6)

(b) (6)

**Subject:** Re: Motion to Dismiss - Case No CIVDS1711731

**Importance:** High

Hello.

Please see attached dismissals filed today. All future communication should be with (b) (6) the sole petitioner on this case moving forward.

Sincerely,

(b) (6)

---

**From:** David A. DeBerry <DDeBerry@wss-law.com>  
**Sent:** Tuesday, May 15, 2018 4:50 PM  
**To:** (b) (6)  
**Cc:** [mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)  
**Subject:** Re: Motion to Dismiss - Case No CIVDS1711731

Got it.

Sent from my iPhone

On May 15, 2018, at 4:21 PM, (b) (6) wrote:

---

**From:** (b) (6)  
**Sent:** Tuesday, May 15, 2018 12:59 PM  
**To:** Ricia R. Hager  
**Cc:** (b) (6)  
**Subject:** Re: Motion to Dismiss - Case No CIVDS1711731

Hello.

After reviewing stipulation attached we have decided to appear in court on May 17th. Our goal is to be dismissed from the case as soon as possible.

We do not wish to prolong this process any further. We have no control over (b) (6) and his decision to pursue the case.

Sincerely,

(b) (6)

---

**From:** Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>  
**Sent:** Tuesday, May 15, 2018 10:18 AM  
**To:** David A. DeBerry; (b) (6)  
**Cc:** (b) (6); Berkebile, Mark A@DOT  
**Subject:** RE: Motion to Dismiss - Case No CIVDS1711731

All,

The Court has requested that we file a formal stipulation and proposed order continuing the status conference for 30 days. On this basis, I have drafted the attached document. Please review and return your signatures to me electronically as soon as possible so that we can file with the Court in time to continue the status conference.

Thanks,

<image002.png>

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**From:** David A. DeBerry  
**Sent:** Tuesday, May 15, 2018 7:53 AM  
**To:** (b) (6)  
**Cc:** (b) (6); Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>; Berkebile.  
(b) (6)

Mark A@DOT <[mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)>

**Subject:** RE: Motion to Dismiss - Case No CIVDS1711731

Thanks (b) (6)

Will let everyone know if the Court grants.

David

<image003.png>

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**From:** (b) (6)

**Sent:** Monday, May 14, 2018 5:12 PM

**To:** David A. DeBerry <[DDeBerry@wss-law.com](mailto:DDeBerry@wss-law.com)>

**Cc:** (b) (6)

(b) (6)

Ricia R. Hager <[rhager@wss-law.com](mailto:rhager@wss-law.com)>; Berkebile, Mark A@DOT <[mark.berkebile@dot.ca.gov](mailto:mark.berkebile@dot.ca.gov)>

**Subject:** Re: Motion to Dismiss - Case No CIVDS1711731

Hello Mr DeBerry- I am willing to stipulate to a 30-day continuance for the scheduled status conference hearing. Thank you.

Sincerely,

(b) (6)

On May 14, 2018 10:01 AM, "David A. DeBerry" <DDeBerry@wss-law.com> wrote:

Petitioners,

Caltrans and SBCTA will be filing a motion to dismiss the above case for two reasons:

1. The Petitioners failed to request a hearing within 90 days of filing the Petition. Public Resources Code section 21167.4(a) requires a petitioner to serve a notice of the request for hearing to all parties. Failure to do so results in mandatory dismissal. See *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1987) 189 Cal.App.3d 498, 504 and *Fiorentino v. City of Fresno* (2007) 150 Cal.App.4<sup>th</sup> 596, 603.
2. The Petitioners have refused to pay for the administrative record or otherwise take any steps to prosecute this case to trial, evidencing a lack of good faith to pursue the litigation. As such, the Court has the authority to dismiss this matter under Code of Civil Procedure section 581(d). See *Black Historical Society v. City of San Diego* (2006) 134 Cal.App.4<sup>th</sup> 670, 677.
3. As in pro per litigants, you are held to the same restrictive rules of procedure as an attorney. See *Bianco v. California Highway Patrol* (1994) 24 Cal.App.4<sup>th</sup> 1113, 1125.

The intent of notifying you of our intent to file this motion is to meet and confer on this matter in the hope that ALL Petitioners will agree to dismiss this case, so that Caltrans and Authority do not incur any further costs, which they are entitled to seek if the motion to dismiss is granted. I recognize that all but (b) (6) have agreed to dismiss this case if Caltrans and SBCTA waive their rights to collect costs, but we are unwilling to do so unless all Petitioners agree to do so.

Since it does not appear that anything has changed since our last status conference, I suggest that we stipule to extend the current status conference by 30 days. In the meantime we can set a time for a conference call to discuss whether Petitioners are willing to dismiss the case and if not, Caltrans and the Authority will file the motion and let the Court decide. Please respond by the end of the day as to whether Petitioners are willing to stipulate to a continuance.

Thank you,

David

<image003.png>

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June 27, 2018

(b) (6)

Re: Public Records Request dated June 15, 2018

Dear (b) (6)

This letter is sent pursuant to Government Code Section 6253(c) in response to your public records request dated June 15, 2018 and received by San Bernardino County Transportation Authority (SBCTA) on June 15, 2018. Your public records request states you are seeking a "copy" of the following:

*"...wss-law contract with SanBAG/sbcta and all invoicing and payment records for legal services..."*

After a diligent search of SBCTA records, two responsive records were identified and are attached.

Sincerely,



Marleana Roman  
Deputy Clerk of the Board

- 
- San Bernardino County Transportation Commission •San Bernardino County Transportation Authority
  - San Bernardino County Congestion Management Agency •Service Authority for Freeway Emergencies
- 

February 8, 2016

Woodruff, Spradlin & Smart  
555 Anton Blvd, Suite 1200  
Costa Mesa, 92626  
Attn: Craig G. Farrington

**Subject: NOTICE TO PROCEED – CONTRACT 15-1001302**

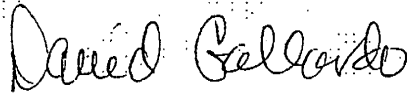
Dear: Craig G. Farrington

The San Bernardino Associated Governments (SANBAG) has reviewed and approved contract 15-1001302 for On-Call Legal Services for Major Projects Program. The "Notice to Proceed" date for this contract shall be February 3, 2016, on or after which SANBAG grants authorization to Woodruff, Spradlin & Smart to begin work on the contract.

SANBAG's Project Manager is Eileen Teichert who is the designated point of contact for all technical issues on this project. You may contact Eileen Teichert at (909) 884-8276 or via email at [eteichert@sanbag.ca.gov](mailto:eteichert@sanbag.ca.gov).

Should you have any questions or concerns with the contract, please contact our Procurement Manager, Jeffery Hill at (909) 884-8276 or via email at [jhill@sanbag.ca.gov](mailto:jhill@sanbag.ca.gov).

Sincerely,



David Gallardo  
San Bernardino Associated Governments  
Procurement Analyst

Enclosed: Contract 15-1001302

























































