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February 16, 2018

VIA U.S. MAIL & EMAIL

Greg Rubens, Esq.
City Attorney, City of San Carlos
600 Elm Street
San Carlos, CA 94070

**Re: Pre-Litigation Hold Demand of the City of San Carlos Pursuant to
Code of Civil Procedure §§ 2031.060 & 2031.280**

Dear Mr. Rubens:

This letter is to put you on notice that our client Turner's Outdoorsman has claims against the City of San Carlos ("City") for violations related to the issuance of a Moratorium by the City of San Carlos City Council, dated November 27, 2017.

The Moratorium sought to prevent Turner's Outdoorsman from lawfully opening a retail establishment in the City. Claims against the City include violations of the Brown Act (Gov. Code § 54950), violation of the ten-day written notice of factual findings that must be provided prior to a vote of a moratorium taking place (Gov. Code § 65858), and fraudulent and bias acts on by members of the City Council in conspiring with outside organizations to create a hostile environment where open, honest, and unbiased debate could be considered by the City.

These claims arise out of the following alleged acts and omissions of the City of San Carlos:

1. Failure by City and its agents to provide the required 10 day written notice to the public of any findings of fact prior to a vote of a Moratorium extension taking place.
2. The City refusing to proceed with Turner's Outdoorsman application for business license, and hiding the fact that they could proceed with their process of becoming licensed, prior to the vote on the Moratorium because the City lacked any other processes for refusing retail establishments like Turner's Outdoorsman from opening.
3. The City forcing Turner's Outdoorsman to participate in processes that other retail

establishments who sell ammunition and firearms did not have to go through-namely inspection and approval by the City Chief of Police.

4. The City working with and meeting with groups that oppose and actively work to prevent the opening of retail stores like Turner's Outdoorsman from opening in cities to develop strategies, while refusing meetings with groups that are in support of the opening of retail stores like Turner's Outdoorsman, thus establishing a bias in the investigative process before the City Council had a chance to consider arguments.

5. The City showing outright bias by making a mockery of comments by persons that supported the opening of Turner's Outdoorsman in emails between City Council Members and City employees.

Given these claims, the City is hereby given notice to immediately take all steps necessary to prevent the destruction, loss, concealment, or alteration of any paper, document, or electronically stored information ("ESI") including, but not limited to, those documents and ESI that may be stored on both City devices, equipment, and servers and those documents and ESI that may be stored on private accounts, devices, equipment, and servers of any elected officials or City employees that have a relation to the items listed below, and other data or information generated by and/or stored on its computers and storage and storage media (e.g., cellular telephone memory, flash drives, hard disks, floppy disks, back up tapes, etc.), and email related to:

1. The aforementioned claims regarding the City, its agents, officials, or employees in regards to the temporary Moratorium dated November 13, 2017 and any communications prior to the City Council's action on the temporary Moratorium and after the City Council's action to pass the temporary Moratorium.

2. The aforementioned claims regarding the City, its agents, officials, or employees in regards to the Moratorium extension dated November 27, 2017 and any communications before the City Council's action on the Moratorium extension and after the City Council's action to pass the Moratorium extension.

3. All communications, spreadsheets, records, emails, texts, calendar entries, lists, contracts, draft documents, final documents, and any other writings, recordings, or documents relating in any way to the proposed Moratorium, the temporary Moratorium and the extension of the Moratorium and the passage thereof by the City Council. These should include those communications, spreadsheets, records, emails, texts, final documents, or other writings, recordings, and documents that pertain to government business of the City but which may be housed on private devices, servers, or social media.

4. All communications between the City, its agents, officials, or employees with any members of the public, any organization offering assistance to the City, and any acceptances of such offer from those organizations, any documented contact with organizations with differing opinions and those communications as they refer to the proposed Moratorium, the temporary Moratorium, and the Moratorium extension.

5. Any documents, reports, letters, approval or denials of the process that Turner's

Mr. Greg Rubens, Esq.
February 16, 2018
Page 3 of 5

Outdoorsman was required to go through in attempting to secure approval to open a retail store in San Carlos and any documents, reports, letters, approvals or denials of the process that other similar retail establishments in San Carlos have been required to go through in order to secure approval to open.

6. Any and all communications, calendar entries, follow-up documents, meeting notes, or emails between the City Attorney's Office and organizations, members of the public, individuals, or groups that expressed either opposition or support for the actions of the City Council regarding the proposed Moratorium, the temporary Moratorium, and/or the Moratorium extension.

You should anticipate that much of the information subject to disclosure and responsive to discovery in this action is stored on the City's current or former computer systems and other media and devices (including personal digital or data assistants, voice-messaging or voice-mail systems, online repositories, and cell phones-both personal and city issued).

ESI should be afforded the broadest possible definition and includes, but is not limited to, all digital communications (e.g., e-mail, voice mail, instant messaging, text messages, SMS and MMS messages), word processed documents (e.g., Word, WordPerfect, and Google Office documents and drafts), spreadsheets and tables (e.g., Excel and Lotus 123 worksheets), accounting application data (such as QuickBooks, Money, or Peachtree), image and facsimile files (including PDF, TIFF, JPG, and GIF images), sound recordings (including WAV and MP3 files), video recordings, all databases, all contact and relationship management data, calendar and diary application data, online access data (including temporary internet files, History, and Cookies), all presentations (including PowerPoint and Corel), all network access and server activity logs, all data created with the use of any Personal Data Assistant (PDA) such as Palm Pilot, HP Jornada, Cassiopeia, or other Windows-based or Pocket PC devices, all CAD files, and all back-up and archival files.

Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. The City must also intervene to prevent loss due to routine operations and employ proper techniques to safeguard all such evidence. Please note that under California law, an attorney representing a party who destroys ESI, whether such destruction is intentional or through inaction, can be held liable to a third-party for such destruction where the attorney failed to adequately advise the client on how to properly and lawfully preserve such evidence.

You have an affirmative duty to ensure that no regular deletion protocol or other procedure results in inadvertent or intentional deletion of any identified ESI relevant to the claims. This affirmative duty includes instructing all principals, supervisors, employees, contractors, and other agents of your client who have possession or control over such ESI to preserve such ESI.

Because hard copies do not preserve electronic searchability or metadata, they are not an adequate substitute for ESI. If information exists in both electronic and paper form, your client should preserve both.

LITIGATION HOLD

The City is requested to immediately initiate a litigation hold for potentially relevant ESI,

documents, and tangible things, and to act diligently and in good faith to secure and audit compliance with that litigation hold. The City is also requested to preserve and not destroy any and all passwords, decryption procedures (including, if necessary, the software to decrypt the files), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view, and (if necessary) reconstruct any ESI. The City should not pack, compress, purge, or dispose of any file or any part thereof.

The City is further requested to immediately identify and modify or suspend features of the City's operations, information systems, and devices (or cloud services over which you exercise partial or full control of features) that, in routine operations, operate to cause the loss of documents, tangible items, or ESI. Examples of such features and operations include, but are not limited to, purging the contents of e-mail repositories by age, capacity, or other criteria; using data or media wiping, disposal, erasure, or encryption utilities or devices; overwriting, erasing, destroying, or discarding back-up media; re-assigning, re-imaging or disposing of systems, servers, devices, or media; running antivirus or other programs that alter metadata; using metadata stripper utilities; and destroying documents or any ESI by age or other criteria.

SERVERS

With respect to servers like those used to manage electronic mail and network storage, the entire contents of each user's network share and e-mail account should be preserved and not modified.

STORAGE

With respect to on-line storage (such as cloud services) and/or direct access storage devices attached to the City's mainframe computers and/or minicomputers, in addition to the above, the City is not to modify or delete any ESI, "deleted" files, and/or file fragments existing on the date of this letter's delivery that contain potentially relevant information.

With regard to all electronic media used for off-line storage, including magnetic tapes and cartridges, optical media, electronic media, and other media or combinations of media containing potentially relevant information, the City is requested to stop any activity which may result in the loss of any ESI, including rotation, destruction, overwriting and erasure in whole or part. This request is intended to cover all media used for data storage in connection with the City's computer systems, including magnetic tapes and cartridges, magneto-optical disks, floppy diskettes, and all other media, whether used with personal computers, minicomputers, mainframes or other computers, and whether containing backup and/or archival ESI.

PERSONAL COMPUTERS

The City should take immediate steps to preserve all ESI on all personal computers used by it, its agents, employees, elected officials, or anyone else conducting City business that in any way relate to the subject matter described in the first paragraph of this letter. As to the fixed devices, (1) a true and correct copy is to be made of all such ESI, including all active files and completely restored versions of all deleted electronic files and file fragments; (2) full directory listings (including hidden

Mr. Greg Rubens, Esq.
February 16, 2018
Page 5 of 5

files) for all directories and subdirectories (including hidden directories) on such fixed devices should be written; and (3) all such copies and listings are to be preserved until the litigation has ended. As to floppy diskettes, CDs, tapes, jump drives, flash drives, thumb drives and other non-fixed media relating to this matter, they are to be collected and stored pending resolution of the litigation.

PORTABLE SYSTEMS

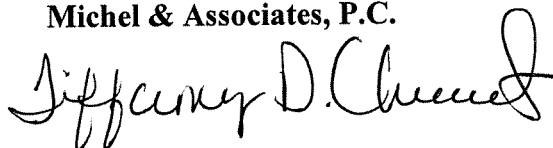
In addition to your immediate preservation of ESI, documents and tangible items in the City's possession, whether on servers, on standalone computers, or on workstations, the City should also determine if any home or portable systems may contain potentially relevant data or information. To the extent that the City or its agents, employees, or elected officials have sent or received potentially relevant e-mails or created or reviewed potentially relevant documents away from their homes, the City must preserve the contents of systems, devices, and media used for these purposes (including not only potentially relevant data from portable and home computers, but also from portable thumb drives, CD-R and DVD-R discs, PDAs, smart phones, voice mailboxes, or other forms of ESI storage). Additionally, if the City, its agents, employees, or elected officials used online or browser-based e-mail accounts or services to send or receive potentially relevant messages and attachments, the contents of these account mailboxes should be preserved.

EVIDENCE CREATED OR ACQUIRED IN THE FUTURE

With regard to documents, tangible things, and ESI that are created or come into the City's custody, possession, or control subsequent to the date of delivery or this letter, potentially relevant evidence is to be preserved. The City should take all appropriate action to avoid destruction of potentially relevant evidence.

Please forward a copy of this letter to all persons and entities possessing or controlling potentially relevant evidence. Your obligation to preserve potentially relevant evidence is required by law.

Sincerely,
Michel & Associates, P.C.



Tiffany D. Chevront

cc: Mayor Bob Grassilli
Vice Mayor Cameron Johnson
Matt Grocott, San Carlos City Council
Ron Collins, San Carlos City Council
Mark Olbert, San Carlos City Council
Jeff Maltbie, San Carlos City Manager
Crystal Mui, San Carlos City Clerk