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Our File No. 48011.0003

March 15, 2018

VIA U.S. MAIL

Chief Justice Tani Cantil-Sakauye  
and Associate Justices  
California Supreme Court  
350 McAllister Street  
San Francisco, California 94102-4797

SUPREME COURT  
**FILED**

MAR 19 2018

Jorge Navarrete Clerk

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Deputy

Re: *City of Oroville v. Superior Court (California Joint Powers Risk Management Authority)* (Case No. S243247): Notice of New Authority

Honorable Chief Justice and Associate Justices:

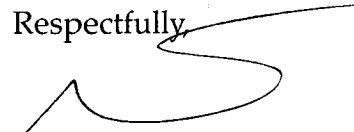
I represent Petitioner City of Oroville ("City") in the above-captioned matter. I write under California Rules of Court, rule 8.520(d), to inform the Court of a new authority not available to be included in the City's merits briefs: *Weiss v. People ex rel. Department of Transportation* (Mar. 1, 2018, G052735) \_\_ Cal.App.5th \_\_ [2018 WL 1100944] ("*Weiss*").

*Weiss* concludes the motion authorized by Code of Civil Procedure section 1260.040 ("CCP 1260.040") to obtain a judicial determination of legal issues is limited to eminent domain actions and is unavailable in inverse condemnation actions like the case at bar. (*Weiss, supra*, at p. \*2.) In doing so, the Court expressly disagrees with *Dina v. People ex rel. Dept. of Transp.* (2007) 151 Cal.App.4th 1029, which authorized a CCP 1260.040 motion in an inverse condemnation case. (*Ibid.*) It is relevant here because the appellate writ proceeding now pending before this Court arose from a ruling on a CCP 1260.040 motion.

That motion was brought by the WGS plaintiffs and no party preserved an objection for appeal to the trial court's resolving the merits of this case on such a motion.

If the Court would prefer the parties to provide supplemental briefing to discuss this new authority, the City would be happy to do so.

Respectfully,



Michael G. Colantuono  
SBN: 143551

MGC:mgc

Enclosure: Proof of Service by Mail


**PROOF OF SERVICE**

*City of Oroville v. Superior Court of Butte County*  
Supreme Court Case No. S243247  
Court of Appeal, Third Appellate District Case No. C077181  
Butte County Superior Court Case No. 152036 (Consol. With Case No. 153408)

I, Ashley A. Lloyd, declare:

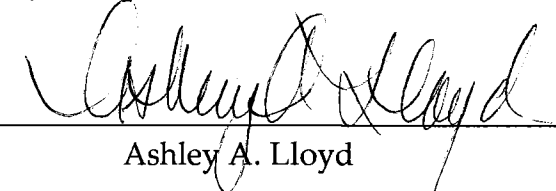
I am employed in the County of Nevada, State of California. I am over the age of 18 and not a party to the within action. My business address is 420 Sierra College Drive, Suite 140, Grass Valley, California 95945-5091. On March 15, 2018, I served the document(s) described as **LETTER REGARDING NOTICE OF NEW AUTHORITY** on the interested parties in this action addressed as follows:

**SEE ATTACHED SERVICE LIST**

 **BY MAIL:** By placing a true copy thereof enclosed in a sealed envelope. The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Grass Valley, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after service of deposit for mailing in affidavit.

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

Executed on March 15, 2018, at Grass Valley, California.

  
\_\_\_\_\_  
Ashley A. Lloyd

## SERVICE LIST

*City of Oroville v. Superior Court of Butte County*  
Supreme Court Case No. S243247

Court of Appeal, Third Appellate District Case No. C077181  
Butte County Superior Court Case No. 152036 (Consol. With Case No. 153408)

<p>Superior Court of Butte County Honorable Sandra L. McLean One Court Street Oroville, CA 95965 <i>Respondent</i></p>	<p>A. Byrne Conley Gibbons &amp; Conley Hookston Square 3480 Buskirk Avenue, Suite 200 Pleasant Hill, CA 94523 <i>Attorneys for Real Party in Interest, California Joint Powers Risk Management Authority</i></p>
<p>Randolph M. Paul Jordan M. Rojas Berding Weil LLP 2175 N. California Blvd, Suite 500 Walnut Creek, CA 94596 Telephone: 925-838-2090 Facsimile: 925-820-5592 Email: jrojas@berdingweil.com <i>Attorneys for Real Parties in Interest, Timothy G. Wall, Sims W. Lowry, and William A. Gilbert</i></p>	<p>Clerk of the Court Third District Court of Appeal 914 Capitol Mall Sacramento, CA 95814</p>
<p><i>Courtesy Copy:</i> Mark A. Habib Lia M. Juhl-Rhodes Peters, Habib, McKenna &amp; Juhl-Rhodes 414 Salem Street P.O. Box 3509 Chico, CA 95927-3509 <i>Attorneys for Petitioner City of Oroville</i></p>	<p><i>Courtesy Copy:</i> Scott Huber, City Attorney City of Oroville Cota Cole &amp; Huber, LLP 2261 Lava Ridge Court Roseville, CA 95661 <i>Attorneys for Petitioner City of Oroville</i></p>