

**City of Culver City, California
Agenda Item Report**

Meeting Date: 09/08/14		Item Number: C-7	
CITY COUNCIL AGENDA ITEM: (1) Approval of Amendments to Existing Legal Services Agreements to Approve Hourly Rate Changes; and (2) Authorization for the City Attorney to Negotiate and Approve Limited Future Rate Increases in an Aggregate Amount Not-to-Exceed 10% of Existing Rates.			
Contact Person/Dept.: Carol Schwab/City Attorney Heather Baker/Assistant City Attorney		Phone Number: 310-253-5660	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☐ Attachments: ☐	
Commission Action Required: Yes ☐ No ☒		Date:	
Public Notification: (Email) Meetings and Agendas – City Council (09/03/14)			
Department Approval: Carol A. Schwab: (09/03/14)		City Attorney Approval: Carol A. Schwab (09/03/14)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (09/03/14)		City Manager Approval: John M. Nachbar (09/03/14)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: (1) approve amendments to existing legal services agreements with the firms of Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; Meyers Nave; and McCune & Harber to approve hourly rate changes; and 2) authorize the City Attorney to negotiate and approve limited future rate increases for all retained law firms in an aggregate amount not-to-exceed 10% of each law firm's existing rates. <u>BACKGROUND / DISCUSSION:</u> The City Attorney's Office (Office) is an in-house operation that provides a significant variety of legal services. The Office is comprised of four staff attorneys, a legal operations manager, and two administrative/clerical staff members. Although the Office provides the majority of legal services to the City Council and City Departments related to issues facing the City, there are certain legal functions which the Office does not handle on a regular basis, such as representation in specialized litigation matters; including, but not limited to, tort (trip and fall, etc.), employment, and police defense cases, for which the Office retains and works with outside counsel. As demonstrated during the past several years, there has been a number of issues that have arisen which require consultation with attorneys who have specific expertise in certain areas, such as: First Amendment, employment, environmental,			

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telecommunications and tax law. The Office uses a core group of about a dozen law firms, most of which specialize in representing cities, that can be relied upon to provide consistent, high quality, legal representation of the City's and Community's interests. The combination of our staff's in-house services with outside counsel for specific tasks and expertise is a model commonly used by in-house city attorney's offices. This continues to be an efficient and productive system.

This item is presented to the City Council for consideration at this time due to the following: (1) the Independent Cities Risk Management Authority (ICRMA) revised its list of approved defense firms and set maximum hourly rates for those firms; and (2) several of the Office's existing firms have requested rate increases, after maintaining the same rate for the last several years (most of these firms have not had increases since 2007). These factors are discussed in further detail below.

ICRMA Approved Panel of Attorneys

The City is a member of the ICRMA, which is a joint powers authority formed by a number of independent cities in the early 1980s to support the cities' individual self-insurance programs. As a member of ICRMA, Culver City must abide by the Memorandum of Coverage and other policies and procedures established by ICRMA. ICRMA revised its Litigation Management Policies and Procedures as of November 1, 2013. As part of those revisions, ICRMA revised its panel of approved defense firms for its members to use and significantly decreased the number of firms on the panel. Additionally, ICRMA set maximum hourly rates that the approved defense law firms may charge a member when representing the member city in litigation matters.

The hourly not-to-exceed rates for ICRMA defense panel attorneys are as follows:

General Civil Litigation (including fire, police, premise liability and dangerous condition of public property)	\$225 Partner
Civil Rights and Employment Practices Litigation	\$250 Partner
Appellate Work	\$300 Partner

In all categories in the above table, the hourly rate for Associates shall be no greater than 80% of the existing approved rates, or the actual Partner rate charged, whichever is less. The rates are subject to change only with ICRMA's written consent.

Of the panel of approved defense firms, three of our Office's retained firms are requesting rate increases (as discussed further below): Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; and McCune & Harber. The requested increases are consistent with ICRMA's approved rates.

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Requested Rate Increases

Four of the outside firms that comprise our Office's core group have requested rate increases. As discussed above, three of the firms are included as part of the ICRMA's approval panel. The fourth firm, Meyers Nave, is not part of the ICRMA panel, as they do not generally provide the type of services covered by ICRMA. All of these firms have been providing services to the City without an increase over the last several years:

- Atkinson, Andelson, Loya, and Ruud & Romo (part of ICRMA approved panel): This firm has provided legal services to the City for the past thirteen years, including workplace investigations, labor relations, employment law, and civil litigation.
- Carpenter, Rothans & Dumont (part of ICRMA approved panel): Steve Rothans has represented the City's interests for the past fifteen years and, during that time, he has ably handled a substantial number of the City's police defense cases. In addition to providing legal services for compensation, this firm has also provided pro bono services to the City over the past several years, including various legal research projects, meetings with various police department personnel involving pending and threatened litigation, and other general advice and counsel.
- Meyers Nave: This firm has provided legal services to the City for over fifteen years on matters relating to First Amendment issues, including adult uses, signs, and assembly. Partner Deborah Fox's expertise in these areas has resulted in the important defense of litigation related to signs in the City's public rights-of-way and off-site signs. In addition, the firm has assisted the Office in drafting and updating the free speech policy and guidelines. As new subjects arise, including recent issues relating to billboards and digital signs, Ms. Fox has been on-call and provides a quick response.
- McCune & Harber (part of ICRMA approved panel): This firm handles a majority of the City's litigation cases, including tort and employment cases. In addition, it has represented the City in numerous administrative hearings before the Civil Service Commission. McCune & Harber has provided high quality legal representation to the City for nearly 25 years.

The following table summarizes the changes in rates proposed by the firms and recommended by staff:

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Firm	Current Rate	New Rate
Atkinson, Andelson, Loya, Ruud & Romo	\$200 - \$225	\$240 - \$275
Carpenter, Rothans & Dumont	\$170 - \$185	\$175 - \$225
Meyers Nave	\$225 - \$325	\$275 - \$375
McCune & Harber	\$175 - \$185	\$175 - \$225

Authorization to City Attorney to Negotiate and Approve Limited Future Rate Increases

In 2007, the City Attorney's Office was authorized to amend agreements with several of its law firms on an as-needed basis to address the need to quickly respond to immediate requests for legal advice. At that time, the City Council recognized that, in order to facilitate the handling of these issues, the City Attorney needs to have flexibility in managing outside counsel through the use of on-going legal services contracts and the authority to retain legal counsel as necessary pursuant to the overall direction of the City Council. Consistent with this reasoning, it is recommended the City Council authorize the City Attorney to negotiate and approve limited future rate increases with all retained law firms (including those firms that are the subject of this report and other law firms retained by the City Attorney's Office) in an aggregate amount not-to-exceed 10% of each law firm's existing rates.

The Office's total budget for legal services is approved each fiscal year by the City Council. If the City Council authorizes the City Attorney to approve limited future rate increases, as described above, this does not authorize the expenditure of additional funds beyond the total amount appropriated by the City Council via the annual budget process. The Office cannot exceed the amount budgeted without obtaining additional authorization from the City Council.

FISCAL ANALYSIS:

The funding for legal services is budgeted in the City Attorney's operating budget and the Liability Reserve Fund. The Liability Reserve Fund is used for defense of cases filed against the City and is supported by allocations from each City Department. The City Attorney's operating budget (Legal Services line item) covers expenses for legal assistance including, but not limited to, transactional work, litigation initiated by the City as a plaintiff, advisory opinions and investigations. At this time, the City Attorney's Office is not requesting an increase to the amounts currently budgeted in its Legal Services line item, as the rate increases will be absorbed into the amounts appropriated in the City Council Adopted Budget for Fiscal Year 2014/2015.

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ATTACHMENTS:

None.

MOTION:

That the City Council:

1. Approve amendments to existing legal services agreements to allow for rate increases as listed in the above chart for the following law firms: Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; Meyers Nave; and McCune & Harber; and,
2. Authorize the City Attorney to negotiate and approve limited future rate increases for all retained law firms (including those firms that are the subject of this report and other law firms retained by the City Attorney's Office) in an aggregate amount not-to-exceed 10% of each firm's existing rates; and,
3. Authorize the City Attorney to review/prepare the necessary documents; and,
4. Authorize the City Manager to execute such documents on behalf of the City.