

MEETING DATE

November 21, 2005

AGENDA ITEM

Consideration of an Extension to the Agreement with Richards, Watson & Gershon for Legal Services for Legal Services Related to Cable Television Franchise Issues for the Period of July 1, 2005 through March 31, 2006 in an Amount Not to Exceed \$28,353 00

ATTACHMENTS

	<u>Pages</u>
1 Contract No 2004-181 - Standard Form Contract with Richards, Watson & Gershon for Legal Services Related to Cable Television Franchise Issues	1-9

CITY OF CULVER CITY
STANDARD FORM CONTRACT
WITH RICHARDS, WATSON & GERSHON
FOR LEGAL SERVICES RELATED TO
CABLE TELEVISION FRANCHISE ISSUES

THIS AGREEMENT is made and entered into by and between THE CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City," and RICHARDS, WATSON & GERSHON, a professional corporation, hereinafter referred to as "Consultant "

- 1 CONSULTANT'S SERVICES Consultant agrees to perform, during the term of this Agreement, the tasks, obligations and services set forth in the "Scope of Service" attached to and incorporated into this Agreement as Exhibit "A "
- 2 TERM OF AGREEMENT The term of this Agreement shall be from the effective date pursuant to Paragraph 27 of this Agreement and shall end upon satisfactory completion of the work, as reasonably determined by City's Assistant Chief Administrative Officer
- 3 PAYMENT FOR SERVICES City shall pay for the services performed by Consultant pursuant to the terms of this Agreement, the compensation set forth in the "Schedule of Compensation" attached to and incorporated into this Agreement as Exhibit "B " The compensation shall be paid at the time and manner set forth in said Exhibit "B "
- 4 TIME FOR PERFORMANCE Consultant shall not perform any work under this Agreement until (a) Consultant furnishes proof of insurance as required under Paragraph 7 of this Agreement, and, (b) City gives Consultant a written and signed Notice to Proceed
- 5 DESIGNATED REPRESENTATIVE(S)

William B Rudell shall be the designated Consultant Representative and shall be responsible for job performance negotiations contractual matters and coordination with the City Consultant Representative shall actually perform or provide immediate supervision of Consultant's performance of the Scope of Service
- 6 HOLD HARMLESS Consultant shall be responsible for any and all injuries to or death of any person, and for any and all damage to any and all real or personal property including City's or others caused by or resulting from any acts, errors or omission of Consultant its employees or

its agents arising out of or connected with rendition of services hereunder Consultant shall defend hold harmless and indemnify City and its officers and employees from any and all liability claims, including costs, for damages to real or personal property or personal injury or death, resulting from Consultant's its employees or agent's acts, errors or omissions arising out of or connected with rendition of services hereunder

- 7 INSURANCE Without limiting its obligations pursuant to Paragraph 6 of this Agreement Consultant shall submit one or more duly executed certificates of insurance for Comprehensive General Liability in the minimum amount of One Million Dollars (\$1 000,000) single limit coverage (endorsed by an endorsement, approved by the City Attorney) Automobile Liability in the minimum amount of \$500,000/\$500,000, Professional Liability Insurance in the minimum amount of \$1,000,000/\$2 000,000 and Workers Compensation insurance in statutorily required amounts
- 8 INDEPENDENT CONSULTANT STATUS City and Consultant agree that Consultant, in performing the services herein specified, shall act as an independent Consultant and shall have control of all work and the manner in which it is performed Consultant shall be free to contract for similar service to be performed for other employers while under contract with City Consultant is not an agent or employee of City, and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees Consultant shall be responsible to pay and hold City harmless from any and all payroll and other taxes and interest thereon and penalties therefor which may become due as a result of services performed hereunder
- 9 NON-APPROPRIATION OF FUNDS Payment due and payable to Consultant for current services is within the current budget and within an available, unexhausted and unencumbered appropriation of City In the event City has not appropriated sufficient funds for payment of Consultant services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year
- 10 ASSIGNMENT This Agreement is for the specific services with Consultant as set forth herein Any attempt by Consultant to assign the benefits or burdens of this Agreement without written approval of City shall be prohibited and shall be null and void, except that Consultant may assign payments due under this Agreement to a financial institution
- 11 RECORDS AND INSPECTIONS Consultant shall maintain full and accurate records with respect to all services and matters covered under this Agreement City shall have free access at all reasonable times to such records and the right to examine and audit the same and to make transcripts therefrom and to inspect all program data, documents, proceedings and activities Consultant shall maintain an up-to-date list of

key personnel and telephone numbers for emergency contact after normal business hours

- 12 OWNERSHIP OF CONSULTANT'S WORK PRODUCT City shall be the owner of any and all computations, plans, correspondence and/or other pertinent data, information documents and computer media, including disks and other materials gathered or prepared by Consultant in performance of this Agreement, or at any earlier or later time when the same may be requested by City. Such work product shall be transmitted to City within ten (10) days after a written request therefor. Consultant may retain copies of such products. All written documents that are intended for public review shall be provided to City in a format suitable for posting on the Internet.

- 13 NOTICES All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To City City of Culver City
 Attention: Deborah Fancett
 Assistant Chief Administrative Officer
 9770 Culver Boulevard
 Culver City, CA 90232-0507

To Consultant Richards, Watson & Gershon
 Attention: William B. Rudell
 355 South Grand Avenue, 40th Floor
 Los Angeles, CA 90071-3101

- 14 TAXPAYER IDENTIFICATION NUMBER Consultant shall provide City with a complete Request for Taxpayer Identification Number ("TIN") and Certification, Form W-9, as issued by the Internal Revenue Service. Consultant's Tax Identification Number is _____.

- 15 PERMITS AND LICENSES Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses and certificates that may be required in connection with the performance of services under this Agreement including, but not limited to, a Culver City business tax certificate.

- 16 APPLICABLE LAWS, CODES AND REGULATIONS Consultant shall perform all work in accordance with all applicable laws, codes and regulations required by all authorities having jurisdiction over such work. Consultant agrees to comply with prevailing wage requirements as specified in the California Labor Code Sections 1770 et seq.

- 17 This Section intentionally omitted.

- 18 RIGHT TO UTILIZE OTHERS City reserves the right to utilize others to perform work similar to the services provided hereunder
- 19 MODIFICATION OF AGREEMENT This Agreement may not be modified nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties hereto
- 20 WAIVER If at any time one party shall waive any term provision or condition of this Agreement, either before or after any breach thereof, no party shall thereafter be deemed to have consented to any future failure of full performance hereunder
- 21 COVENANTS AND CONDITIONS Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition
- 22 RIGHT TO TERMINATE City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty-days' (30-days) written notice
- 23 EFFECT OF TERMINATION Upon termination as stated in Paragraph 22 of this Agreement, City shall be liable to Consultant only for work satisfactorily performed by Consultant up to and including the date of termination of this Agreement, unless the termination is for cause in which event Consultant need be compensated only to the extent required by law Consultant shall be entitled to payment for work satisfactorily completed to date, based on a proration of the monthly fees set forth in Exhibit "B" attached hereto Such payment will be subject to City's receipt of a close-out billing
- 24 GOVERNING LAW The terms of this Agreement shall be interpreted according to the laws of the State of California If litigation arises out of this Agreement, then venue shall be in the Superior Court of Los Angeles County
- 25 LITIGATION FEES If litigation arises out of this Agreement for the performance thereof, then the court shall award costs and expenses including attorney's fees, to the prevailing party In awarding attorney's fees the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid or incurred in good faith
- 26 INTEGRATED AGREEMENT This Agreement represents the entire Agreement between City and Consultant regarding cable franchise issues, and all preliminary negotiations and agreements are deemed a part of this Agreement No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement This Agreement shall bind and

inure to the benefit of the parties to this Agreement and any subsequent successors and assigns

- 27 EFFECTIVE DATE The effective date of this Agreement is the date it is signed on behalf of City, and shall remain in full force and effect until amended or terminated, provided that the indemnification and hold harmless provisions shall survive the termination

RICHARDS WATSON & GERSHON

Dated 9/14/04

By [Signature]
Kaiser O. Sume
Its Secretary

Dated 9/14/04

By [Signature]
Kaiser O. Sume
Its Chairman of Board

CITY OF CULVER CITY, CALIFORNIA

Dated 9/23/04

By [Signature]
Jerry Fulwood
Chief Administrative Officer

APPROVED AS TO CONTENT

[Signature]
Deborah Fancett
Assistant Chief Administrative Officer

APPROVED AS TO FORM

[Signature]
Carol A. Schwab,
City Attorney

APPROVED AS TO FINANCING

[Signature]
Eric Shapiro
City Controller

EXHIBIT A

CITY OF CULVER CITY
AGREEMENT

WITH RICHARDS WATSON & GERSHON

FOR LEGAL SERVICES RELATED TO
CABLE TELEVISION FRANCHISE ISSUES

SCOPE OF SERVICE

Consultant shall perform the following tasks

- 1 Review City's current Franchise Agreement with Comcast, including any ~~amendments or supplements to that agreement~~
- 2 Review City's current cable television regulatory ordinance and any additional regulations that may have been adopted to implement that ordinance
- 3 Draft a new cable television franchise renewal agreement that reflects current federal and state statutes and regulations, current case law, and the City's cable-related needs and interests
- 4 Consult with City staff and City-selected consultants to ensure that the cable-related needs and interests of the community are fully addressed in the cable television franchise renewal agreement and in the negotiations with Comcast related to that agreement
- 5 If directed by the City, draft a new cable, video, and telecommunications regulatory ordinance that addresses all categories of multi-channel video programming distributors, including cable operators, open video system operators and direct broadcast satellite operators, as well as telecommunications service providers that use the public rights-of-way. A critical element of this new ordinance would be stringent customer service and protection standards to be imposed upon all franchise operators

- 6 As directed by the City negotiate with Comcast's representatives concerning the draft cable television franchise renewal agreement that addresses the cable-related needs and interests of the community, including the cable operator's support of public, educational and governmental access channels
 - 7 As directed by City's Chief Administrative Officer, attend public hearings or meetings and periodic meetings of City staff and City consultants, for the purpose of addressing issues concerning the cable television franchise renewal process and monitoring its progress
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