

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 06/26/06	Item Number: <u>A-4</u>
AGENDA ITEM: Consideration of Authorization to Amend Existing Legal and Professional Services Agreements, Including Approval of Extension of Agreement Terms and Rate Changes.	
Contact Person/Dept.: Carol Schwab or Pam Graves/City Attorney	Phone Number: (310) 253-5660
Fiscal Impact: Yes ☒ No ☐	General Fund: Yes ☒ No ☐
Public Hearing: Yes ☐ No ☒	Action Item: Yes ☒ No ☐
Public Notification: Via e-mail on 06/21/06: Master Notification List; Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; Colantuono & Levin; Dapeer, Rosenblit & Litvak; Fox & Sohagi; Franscell, Strickland, Roberts & Lawrence; Greenberg Glusker; Jones & Mayer (attorney Greg Palmer); Kane, Ballmer & Berkman; Liebert Cassidy Whitmore; Masters & Ribakoff; and McCune & Harber.	
Department Approval: Carol Schwab, City Attorney	CAO Approval: Jerry B. Fulwood (06/21/2006)
City Controller Approval: Marlee Chang (06/21/2006)	

RECOMMENDATION:

Staff recommends that the City Council authorize the City Attorney's Office to amend existing legal services agreements with the firms of Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; Colantuono & Levin; Dapeer, Rosenblit & Litvak; Fox & Sohagi; Franscell, Strickland, Roberts & Lawrence; Greenberg Glusker; Jones & Mayer (attorney Greg Palmer); Kane, Ballmer & Berkman; Liebert Cassidy Whitmore; Masters & Ribakoff; and McCune & Harber for use on an as-needed basis, and to allow for revision of the agreements utilizing a uniform format, the extension of agreement terms and hourly rate changes.

BACKGROUND AND ANALYSIS:

The Culver City City Attorney's Office ("Office") is an in-house operation, providing a wide variety of legal services with four (4) attorneys, a Legal Operations Manager, Senior Management Analyst and administrative/clerical staff, as well as four full-time staff members and one half-time supervisor in the Code Enforcement Division. Although the Office handles the majority of legal issues facing the City, there are certain legal functions which the Office does not perform on a regular basis, such as representation in complex litigation matters, including, but not limited to tort, employment, and police cases, for which the Office retains outside counsel. As demonstrated during the past several years, there has been an abundance of issues

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that have arisen, requiring consultation with attorneys who have specific expertise in certain areas, such as First Amendment, employment, environmental and tax law. As discussed in our recent budget study session, the combination of our staff's in-house services, with outside counsel for specific tasks, is a model used by all in-house city attorney's offices. This continues to be an efficient and productive system.

The Office has identified a core group of law firms, most of which specialize in representing cities, that can be relied upon to provide consistent, high quality, legal representation. Such legal services are often needed to quickly respond to immediate requests. 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 with these firms that allow the Office to retain legal counsel as necessary.

THE LAW FIRMS:

Currently, the Office is using the following firms on a regular basis: (Firm resumes attached)

- Atkinson, Andelson, Loya, and Ruud & Romo: This firm has provided legal services to the City for the past five years, including workplace investigations, labor relations, employment law and civil litigation.
- Carpenter, Rothans & Dumont: Steve Rothans has ably handled a substantial number of the City's police defense cases and has been representing the City's interests for the past eight years. 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.
- Colantuono & Levin: Colantuono & Levin has provided legal services to the City over the past three years. The firm's services have included advice regarding public records, permit and licensing and NPDES issues (stormwater permit matters). In addition, the firm has represented the City as a real party in interest in a series of lawsuits filed by the County of Los Angeles and a host of cities located within the County challenging the storm water permit adopted by the Southern California Regional Water Quality Control Board.

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- Dapeer, Rosenblit & Litvak: This firm has provided legal services to the City for the past five years in a variety of matters related to code enforcement and the City's automated red light enforcement program, including general advice on legal issues and litigation in trial and appellate courts. Over the past several years, the firm has successfully handled over 50 red light citation matters at the trial and appellate levels.
- Fox & Sohagi: This firm has provided legal services to the City for over eight years, on matters relating to First Amendment issues, including adult use, signs, and assembly. Deborah Fox's expertise in these areas has resulted in the important defense of recent litigation related to signs in the City's public rights-of-way and off-site signs. In addition, the firm has assisted our Office in drafting and updating the free speech policy and guidelines. As new issues present themselves, Ms. Fox has been on-call and provides a quick response.
- Franscell, Strickland, Roberts & Lawrence: This firm has provided legal services to the City since 1992, including litigation defense in police matters, including civil rights issues; employment matters, including actions brought under the California Fair Employment and Housing Act and the Americans with Disabilities Act; and appellate matters.
- Greenberg Glusker: Greenberg Glusker has provided legal services to the City for nearly five years in connection with a number of environmental, oil and gas, tax and business matters. The firm's expertise and high quality legal services have proven successful in assisting the City Attorney's Office in removing several oil wells and a tank farm from Culver City Park and obtaining Brownfields funds to clean-up the site for the Dog Park. Recently, they have assisted in the collection of outstanding Transient Occupancy Tax.
- Jones & Mayer (attorney Greg Palmer): Jones & Mayer has provided legal services to the City for the past four years. The firm has represented the City in administrative hearings before the Civil Service Commission and the Committee on Permits & Licenses. In addition, attorney Greg Palmer has provided consultation with the Office as necessary in matters relating to massage establishment regulations and technician licensing, police department issues and the Public Records Act.
- Kane, Ballmer & Berkman: KBB has provided legal services to the City since 1989 and to the Redevelopment Agency since 1971. The services provided to the City have included interim city attorney services from November 1989 to March 1990, and from March 1991 to October 1991; and interim deputy city

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attorney services in 1996-1997 and as needed from 1998 to the present. Over the last several years, this firm has filled a much needed void in land use and other matters due to various absences of in-house staff, including medical and military leaves. The firm has also provided services for a multitude of subjects relating to local government law, both transactional and litigation related, including contract preparation and review, tort claim review, and public records, Brown Act, conflict of interest and election issues.

- Liebert Cassidy Whitmore: Liebert Cassidy Whitmore specializes in employment law and has provided legal services to the City since 1997, including general advice on human resources/personnel matters; MOU negotiations; legal advisor to the Civil Service Commission from 2000 – 2002; personnel investigations; recruitment and examination issues; Americans with Disabilities Act reasonable accommodation issues; employee discipline issues; and several litigation matters.
- Masters and Ribakoff: This firm has provided workplace investigations in response to personnel and employment matters.
- McCune & Harber: This firm handles a majority of the City's litigation cases, including tort and personnel cases. In addition, it has represented the City in numerous administrative hearings before the Civil Service Commission. McCune & Harber has provided quality legal representation to the City for nearly 20 years. It is also interesting to note, Dana McCune, who handles many of the City's cases personally, was recently named one of Southern California's "Super Lawyer" for 2003-2004 by *Super Lawyers* magazine and *Los Angeles* magazine.

In order for the City Attorney to effectively manage the City's outside legal services, through the retention of productive and high quality law firms to assist the City in certain areas of expertise, and represent it in various litigation matters, staff is requesting authority to amend its existing legal services agreements to "as-needed" agreements with all the firms listed above.

It should be noted that the City Council has authorized the use of other legal services for specific purposes. One example of this is the LAX expansion litigation, for which the City joined the City of Inglewood and the County of Los Angeles in retaining Chevalier, Allen & Lichman, experts in the area of airport issues litigation. Other situations may arise throughout the year, for which the Office will bring forward, if necessary, contracts for specialized legal services.

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HOURLY RATES:

Most of these law firms have not increased the rates they charge the City in several years. As such, it is understandable and quite reasonable that many have recently requested rate increases. Some firms requested a rate increase two years ago, but staff requested that implementation be deferred until this item was brought to Council for approval during the budget process.

The following chart and attached firm resumes (Attachment 1) represent the current and new hourly rates for each law firm:

Firm	Current Rate	New Rate
Atkinson, Andelson, Loya, Ruud & Romo	\$200 - \$225	No Change
Carpenter, Rothans & Dumont	\$130 - \$150	\$170 - \$185
Colantuono & Levin	\$205 - \$225	No Change
Dapeer, Rosenblit & Litvak	\$125	\$140
Fox & Sohagi	\$175 - \$295	\$225 - \$325
Franscell, Strickland, Roberts & Lawrence	\$175 - \$225	No Change
Greenberg Glusker	\$293 - \$441	\$235 - \$485
Jones & Mayer (Greg Palmer)	\$175	No Change
Kane, Ballmer & Berkman	\$125 - \$165	\$145 - \$200
Liebert Cassidy Whitmore	\$210 - \$260	No Change
Masters & Ribakoff	\$295	No Change
McCune & Harber	\$120 - \$135	\$175 - \$185

FISCAL ANALYSIS:

The funding for these services is budgeted in two different budget accounts — the City Attorney's budget and the Liability Reserve Fund. The Liability Reserve Fund is used for defense of cases filed against the City, the majority of which are tort (slip and fall), employment, and police cases. This fund is supported by allocations from each department. The City Attorney budget (Legal Services line item) covers expenses for assistance in transactional work, litigation initiated by the City as a plaintiff, advisory opinions and investigations.

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ATTACHMENT:

1. Firm Resumes

MOTIONS:

That the City Council:

1. Authorize amendments to existing legal services agreements to allow for retention of the following law firms on an as-needed basis: Atkinson, Andelson, Loya, Ruud & Romo; Carpenter, Rothans & Dumont; Colantuono & Levin; Dapeer, Rosenblit & Litvak; Fox & Sohagi; Franscell, Strickland, Roberts & Lawrence; Greenberg Glusker; Jones & Mayer (attorney Greg Palmer); Kane, Ballmer & Berkman; Liebert Cassidy Whitmore; Masters & Ribakoff; and McCune & Harber; and
2. Approve the rate increases as listed in the above chart; and
3. Direct the City Attorney to prepare the necessary agreements and authorize the Chief Administrative Officer to execute the agreements on behalf of the City.