



City of Culver City

Staff Report

File #: 22-1152, Version: 1

Item #: C-13.

CC - CONSENT ITEM: Approval of Amendment to the Existing Professional Services Agreement with Colantuono Highsmith Whatley, PC for Legal Services on an As-Needed Basis.

Meeting Date: June 27, 2022

Contact Person/Dept.: Heather Baker/City Attorney
Phone Number: (310) 253-5660

Fiscal Impact: Yes No **General Fund:** Yes No

Attachments: Yes No

Commission Action Required: Yes No

Public Notification: (E-Mail) Meetings and Agendas - City Council (06/22/2022);

Department Approval: Heather Baker, City Attorney (06/21/2022)

RECOMMENDATION

Staff recommends the City Council approve an amendment to the existing professional services agreement with Colantuono Highsmith Whatley, PC for legal services on an as-needed basis within the available legal services budget approved by City Council for the applicable fiscal year.

BACKGROUND

The City Attorney's Office ("Office") is an in-house department that provides a significant variety of legal services. The Office is comprised of four staff attorneys (including the City Attorney), 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. In addition to litigation matters, outside counsel is also utilized for issues that require consultation with attorneys who have specific expertise in certain areas; including, but not limited to First Amendment, employment, environmental, elections, telecommunications, and tax law.

The Office uses a core group of approximately 17 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 the City's in-house legal 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.

The City's existing legal services agreement with Colantuono Highsmith Whatley, PC (CHW), who has assisted the City for many years in specialized areas of tax and business regulation, has a maximum compensation provision of \$50,000. This agreement was approved administratively, as it is within the City Manager's contracting authority. Although there are sufficient funds in the City Attorney's legal services budget for Fiscal Year 2021-2022 beyond \$50,000, the contracting authority for this agreement has been exhausted and an amendment is required due to outstanding invoices, which exceed the existing contract amount.

DISCUSSION

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 specialized needs of the Office. At that time, the City Council recognized that, in order to facilitate the handling of legal 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 in approving the City Attorney Department Work Plans, as well as unplanned issues that arise throughout the fiscal year.

Consistent with this direction, the City Attorney's Office is requesting that the existing legal services agreement with CHW be amended to authorize services on an as-needed basis, within the available legal services budget approved by City Council for the applicable fiscal year.

The Office's total budget for legal services is approved each fiscal year by the City Council. The City Council's approval of this amendment to the CHW agreement on an as-needed basis, rather than for maximum amount of compensation, 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 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 beyond those amounts identified in its Legal Services line item, as recommended in the City Manager's FY 2021/2022 budget. Funding for subsequent years will be incorporated in future annual budgets.

CHW's currently hourly rates are \$210 - \$375 for attorneys and \$135 - \$170 for paralegals, which is consistent with rates charged by other firms to governmental entities.

ATTACHMENTS

None.

MOTIONS

That the City Council:

Approve an amendment to the existing professional services agreement with Colantuono Highsmith Whatley, PC for legal services on an as-needed basis.