



City of Culver City

Mike Balkman Council
Chambers
9770 Culver Blvd.
Culver City, CA 90232

Staff Report

File #: 23-405, **Version:** 1

Item #: C-4.

CC - CONSENT ITEM: Adoption of a Resolution Authorizing the City Attorney to Initiate Certain Types of Litigation and Respond to Requests for Amicus Curiae Participation or Assistance.

Meeting Date: January 23, 2023

Contact Person/Dept.: Heather Baker/City Attorney's Office
Phone Number: 310-253-5660

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

Attachments: Yes ☒ No ☐

Commission Action Required: Yes ☐ No ☒ **Date:**
Commission Name:

Public Notification: (E-Mail) Meetings and Agendas - City Council (01/18/23)

Department Approval: Heather Baker, City Attorney (01/17/23)

RECOMMENDATION

Staff recommends the City Council adopt a Resolution authorizing the City Attorney to initiate certain types of litigation and respond to requests for amicus curiae participation or assistance (Attachment 1).

BACKGROUND

Culver City Charter Section 901 sets forth the duties of the City Attorney, which include, among other things, serving as the chief legal adviser to the City in all matters pertaining to the business of the City and representing the City in all legal actions in which the City is concerned or is a party.

DISCUSSION

Initiation of Litigation

In the course of discharging the duties set forth in City Charter Section 901, it is necessary and

expedient for the City Attorney to have the authority to undertake certain actions and enter into certain agreements without seeking City Council approval; for example, matters pertaining to the health, safety and welfare of the community that require immediate action, such as civil injunctions for violations of the Culver City Municipal Code. The operation of an illegal business is one such example where time is of the essence in filing for an injunction (to obtain a court order prohibiting the business from operating) if the business owner does not comply with a cease and desist letter.

The proposed Resolution authorizes the City Attorney, in consultation with the City Manager, to initiate the following types of litigation:

- Time sensitive matters relating to the public's health, safety and welfare; and
- Collection of debt or obligations from third parties (e.g., subrogation, indemnity matters);

In addition, the proposed Resolution authorizes the City Attorney to execute the following litigation-related agreements:

- Agreements to toll any applicable statutes of limitations with respect to litigation brought by or against the City (known as tolling agreements); and
- Joint defense, joint privilege, or common interest agreements in order to share privileged information, strategies, or efforts without waiving the attorney-client and attorney work product privileges.

Requests for Amicus Curiae Support

In the course of discharging the duties set forth in City Charter Section 901, the City Attorney receives requests for amicus curiae participation or assistance from the League of California Cities, other municipal law organizations, individual cities, and other public entities. *Amicus Curiae* translates to "friend of the court". An amicus curiae is a person or an entity that is not a party to a case, but participates in the litigation by offering additional, relevant information or arguments they would like the court to consider before making a decision.

With respect to those matters that are routine in nature and advance the City's interest, it is expedient to authorize the City Attorney, in consultation with the City Manager, to provide amicus curiae participation or assistance. On September 22, 1986, the City Council, by motion, previously authorized the City Attorney to determine whether the City should join in amicus curiae briefs when such joinder is at no cost to the City, and to inform the City Council when such joinders are made (Attachment 2).

The proposed Resolution, which would supersede the prior motion, authorizes the City Attorney, in consultation with the City Manager, to respond to requests for amicus curiae participation or assistance when the subject matter involves issues that are routine in nature and advance the City's interest. The policy also requires the City Attorney to inform the City Council of any action taken by the City Attorney to provide amicus curiae participation or assistance. Matters that are determined to present sensitive issues of policy would continue to require approval of the City Council.

FISCAL ANALYSIS

There is no fiscal impact associated with the adoption of the proposed Resolution. Any litigation

costs that may be incurred on individual cases are funded by the City Attorney's legal services budget or the City's Self-Insurance Fund, as applicable.

ATTACHMENTS

1. 2023-01-23_ATT 1_Resolution Adopting Litigation and Amicus Policy
2. 2023-01-23_ATT 2_September 22, 1986 City Council motion

MOTION

That the City Council:

Adopt a Resolution authorizing the City Attorney to initiate certain types of litigation and respond to requests for amicus curiae participation or assistance.