



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: OCTOBER 3, 2023

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: REQUEST TO APPROVE EXPENDITURE OF \$225,000 TO RETAIN OUTSIDE COUNSEL ALANA ROTTER AT GMSR APPELLATE LAWYERS

ISSUE:

Requesting approval of a \$225,000 budget for the City Attorney's Office to retain Alana Rotter, GMSR Appellate Lawyers, to serve as associated counsel to handle the appeal in the case of *Shawn Casteel v. City of Riverside*, Riverside Superior Court Case No. RIC1906046 and to authorize the City Attorney to execute the Outside Counsel Engagement Letter.

RECOMMENDATIONS:

That the City Council:

1. Approve the \$225,000 budget to retain Alana Rotter GMSR Appellate Lawyers, who is already on the City's panel of approved outside counsel; and
2. Authorize the City Attorney to execute the Outside Counsel Engagement Letter

DISCUSSION:

The City Attorney's Office has developed an in-house legal services team. However, there are times when it is necessary to employ a panel firm to provide legal services, if for example there are inadequate office resources. The City Attorney's Office recently tried the case of *Shawn Casteel v City of Riverside*. Unfortunately, the jury found in favor of Plaintiff. As set forth in more detail below, the City Attorney's Office has identified several potential appealable issues. However, due to current workloads of the assigned attorneys and the specialized practice area of appellate law, the City Attorney's Office needs to retain outside counsel to handle the appeal.

The case of *Shawn Casteel v City of Riverside* involves a single cause of action for Retaliation under LABOR CODE 1102.5. Plaintiff Shawn Casteel ("Plaintiff") is a retired Police Officer for the Riverside Police Department who claimed he was being subjected to adverse employment actions for reporting what he believed was an unlawful citation quota. Senior Deputy City Attorney Debra Cook and Deputy City Attorney Cecilia Rojas took this case to trial on August 4, 2023. The Court denied most of the City's pre-trial motions, which included two (2) potentially dispositive motions regarding: (1) Plaintiff's failure to comply with the Government Tort Claims Act, and (2) Plaintiff's failure to comply with the City's grievance procedure. In addition, the Court

refused to give a jury instruction on the workers' compensation exclusivity rule.

The City Attorney's Office has already begun its post-trial law and motion to perfect its appeal. However, the short deadlines to file the appeal, the specialize nature of appellate practice and the current workload of the assigned attorneys, outside counsel assistance is required to prepare this case for appeal.

Alana Rotter is a partner at GMSR Appellate Lawyers and is already on the City's pre-approved panel of outside counsel. Ms. Rotter is a State Bar-certified appellate specialist, and Chambers USA ranks her among the top appellate litigators in California. Ms. Rotter has submitted a total proposed budget of \$225,000 for attorneys' fees.

However, because the size of the jury verdict exceeds the City's self-insured retention, we intend to seek reimbursement from the City's excess carrier for these appellate legal services.

FISCAL IMPACT:

It will cost the City up to \$225,000 to retain Alana Rotter, GMSR Appellate Lawyers, to work with in-house Senior Deputy City Attorney Debra Cook and Deputy City Attorneys Cecilia Rojas and Judith Gallardo through this Appeal. The funds to cover all costs are currently budgeted in the Liability Trust Fund account 1310000-421100 for legal fees in the amount of \$225,000. As noted above, the City Attorney's Office intends to seek reimbursement from the City's excess carrier for the cost of these legal services.

STRATEGIC PLAN ALIGNMENT:

This item aligns with the following *Strategic Priority and Goal* from the Envision Riverside 2025 Strategic Plan: high performing government. In addition, it aligns with the following *Cross-Cutting Threads*:

1. **Fiscal Responsibility** – The City Attorney's Office went through a formal RFP process for outside counsel. Competitive procurement was used to secure qualified law firms at competitive rates for legal services.

Prepared by:	Cecilia Rojas, Deputy City Attorney
Certified as to availability of funds:	Edward Enriquez, Assistant City Manager/Chief Financial Officer
Approved by:	Mike Futrell, City Manager
Approved as to form:	Phaedra A. Norton, City Attorney

Attachment:

1. Proposed Budget for the appeal of *Shawn Casteel v City of Riverside*
2. Outside Counsel Engagement Letter