



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: OCTOBER 21, 2025**

**FROM: CITY ATTORNEY'S OFFICE      WARDS: ALL**

**SUBJECT: APPROVE AN INCREASE TO THE COLANTUONO, HIGHSMITH & WHATLEY BUDGET IN AN AMOUNT NOT TO EXCEED \$83,000 FOR A REVISED TOTAL BUDGET OF \$499,400 -- SUPPLEMENTAL APPROPRIATION**

**ISSUE:**

To consider approval of an increase to the legal budget for Colantuono, Highsmith and Whatley in an amount not to exceed \$83,000 for a revised total budget of \$499,400.

**RECOMMENDATION:**

That the City Council:

1. Approve an increase the legal budget for the law firm of Colantuono, Highsmith & Whatley in an amount not to exceed \$83,000 for a revised total budget of \$499,400; and
2. With at least five affirmative votes, authorize the Chief Financial Officer, or designee, to record a supplemental appropriation in the amount of \$83,000 in the General Fund, City Attorney Outside Legal Services account.

**DISCUSSION:**

City Charter section 702, "Eligibility, powers and duties of City Attorney," provides, in part, that "the City Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein."

The City Council has previously approved the retention of Colantuono, Highsmith & Whatley and that firm has executed an Attorney Services Agreement with the City of Riverside for the provision of legal services. The City Council has previously approved budgets for this law firm and the City Attorney's Office is now seeking an increase to an existing budget in an amount not to exceed \$83,000.

On December 19, 2019, a class action lawsuit entitled Simpson v. City of Riverside was filed against the City alleging that the City is overcharging customers for water utility service in violation of Article XIII D, Section 6 of the California Constitution, on the grounds that the City is transferring 11.5% of water utility revenues to the City's general fund. The transfer, also known as the "General Fund Transfer", was approved by voters on June 4, 2013, as a general tax. The

plaintiff is seeking refunds for all customers for monies collected in violation and also that the court set aside the voter's 2013 approval of the General Fund Transfer. The trial was bifurcated into two phases, liability and damages.

The Court issued its ruling on the liability phase on August 17, 2023, finding that the City's water rates violated Article XIID, Section 6 of the California Constitution because they were set in an amount sufficient to recover the General Fund Transfer and the parties continue to negotiate and potentially brief the terms for the amount of the refund and the judgment, including attorneys' fees. Plaintiff has filed a motion for attorneys' fees, which will require opposition by the City.

The initial budget approved by the City Council in 2019 for the *Simpson v. City of Riverside* lawsuit was \$253,000.00, which was based upon the expectation of one hearing on the merits. The budget was increased on July 16, 2024 by an additional \$40,000, to reflect additional discovery. An additional increase to the budget in the amount of \$99,400 was approved on October 8, 2024, to compensate for the hearing (on liability but not damages), extensive discovery, the hearing on damages, and potential further hearings based upon the trial court's decision after the September 4, 2024 hearing. Additional hearings are now required regarding attorneys' fees and the final judgment. On June 10, 2025, an additional increase to the budget in the amount of \$24,000 was authorized due to briefing of new cases recently issued related to refunds, and post-hearing briefing on actual remedy and attorneys' fees.

An additional increase to the budget in the amount of \$83,000 is now being requested due to further briefing and expert fees to address issues raised by the trial court.

#### **FISCAL IMPACT:**

The total fiscal impact of this action is \$83,000. The approval of the increase to the budget for the law firm of Colantuono, Highsmith & Whatley is in an amount not to exceed \$83,000 and is for specialized legal assistance. Upon Council approval, a supplemental appropriation will be recorded in the amount of \$83,000 in the General Fund, City Attorney Outside Legal Services Account No. 1300000-421100. There are sufficient General Fund reserves to accommodate the supplemental appropriation.

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|------------------------|--------------------------------------------------------------------------------|
| Prepared by:           | Susan D. Wilson, Assistant City Attorney                                       |
| Certified as to        |                                                                                |
| availability of funds: | Kristie Thomas, Finance Director/Assistant Chief Financial Officer             |
| Approved by:           | Edward Enriquez, Assistant City Manager/Chief Financial Officer/City Treasurer |
| Approved as to form:   | Rebecca McKee-Reimbold, Interim City Attorney                                  |