



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL**      **DATE: DECEMBER 13, 2016**  
**FROM: HUMAN RESOURCES DEPARTMENT**      **WARDS: ALL**  
**SUBJECT: RETENTION OF EXTERNAL WORKERS' COMPENSATION LEGAL COUNSEL SERVICES**

## **ISSUES:**

Confirm the policy for Retention of Outside Counsel applies to the retention of Outside Workers' Compensation Legal Counsel Review, approve an updated panel of Outside Workers' Compensation Legal Counsel, and approve a rate increase from \$150 per hour to \$160 per hour for legal services performed by the law firms on the City's Outside Workers' Compensation Legal Counsel Panel.

## **RECOMMENDATION:**

That the City Council:

1. Confirm that the Policy for Retention of Outside Counsel, approved by the City Council on June 16, 2015, applies to the retention of Outside Workers' Compensation Legal Counsel (Attachment 1); and
2. Approve the Panel of Workers' Compensation Attorneys (Attachment 2); and
3. Approve a rate increase from \$150 per hour to \$160 per hour for services performed by the panel firms.

## **BACKGROUND:**

In December 2006, the City Council approved the establishment of a Workers' Compensation panel of law firms to provide legal services for the self-administered Workers' Compensation Program for handling industrial claims. The panel's composition is modified every few years as necessary to reflect activity level in the workers' compensation arena and to add or delete firms based upon the needs of the City. Selection of counsel is made on a case by case basis with the intent of identifying specific defense expertise with the particular issues involved in each case.

On June 16, 2015, the City Council approved a policy for the retention of outside counsel by the City Attorney's Office. The policy provides as follows:

1. A panel of attorneys to assist in various advisory and litigation matters.

2. A retainer agreement for an initial period of three (3) years.
3. A preset hourly rate for the term of the agreement.
4. All outside counsel retained will provide a letter of engagement, which will include an estimated budget for both litigation and non-litigation matters and projects.
5. Engagement letters will be signed by the City Attorney. City Attorney has \$25,000 authority limit for the retention of outside counsel. Anything over \$25,000 requires City Council approval.
6. The City Attorney will provide quarterly reports to the City Council with the attorneys/firm retained, the project/litigation, the initial budget, costs incurred for that quarter and the total costs incurred to date.
7. Any firm not on the panel requires City Council approval.

## **DISCUSSION:**

### *Legal Counsel Retention Policy*

The City Attorney and Interim Human Resources Director concur that the Policy for Retention of Outside Counsel, approved by the City Council on June 16, 2015, applies to the retention of Outside Workers' Compensation Legal Counsel. The City Attorney proposed selecting outside counsel on a case by case basis after consulting with the Human Resources Director. The Human Resources Department will work in partnership with the City Attorney's Office in assessing the services provided by each of the law firms. This ensures that the handling and administration of the workers' compensation cases adhere to the regulations set forth by the State of California and internal policies within the City of Riverside.

### *Panel of Workers' Compensation Attorneys*

The panel of attorneys consists of law firms that the Workers' Compensation Division has worked with over the years. These firms have been the City's sole resource for litigation services, with most firms fulfilling this need for the City for 15-20 years. Their services have been well vetted by the Workers' Compensation Division and they have proven to be very effective in working collaboratively with the City, the Workers' Compensation Appeals Board as well as opposing counsel.

### *Rates*

External firms have requested an increase in the contract hourly rate from \$150 to \$160 per hour for legal services. The below table confirms that \$160 per hour is consistent with the rates paid by other public entities in neighboring jurisdictions for similar external legal services.

Agency	Hourly Rate	Average
City of Anaheim	\$140-\$165	\$152.50
County of Riverside	\$165	\$165
City of San Bernardino	\$150-\$165	\$157.50
County of San Bernardino	\$160	\$160
City of Santa Ana	\$165-\$175	\$170
City of Santa Monica	\$150-\$175	\$162.50

*Assessment of Insourcing of Legal Counsel*

The City Attorney's Office, City Manager's Office and the Human Resources Department are currently evaluating insourcing of outside legal counsel for workers' compensation matters. Preliminary analysis indicates that the work currently performed by outside counsel can be accomplished in-house in the City Attorney's Office, at a lower cost and with greater control over workers' compensation cases. Once such analysis is complete, it will be presented to the City Council (through the Government Affairs Committee) for discussion and approval.

**FISCAL IMPACT:**

The estimated cost increase, based on historical annual billing hours, is approximately \$20,000 that will be absorbed within the existing budgetary allocations.

Prepared by:	Pia Rose, Interim Human Resources Director
Certified as to availability of funds:	Scott Miller, PhD, Chief Financial Officer/City Treasurer
Approved by:	Marianna Marysheva, Assistant City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachments:

1. Policy for Retention of Outside Workers' Compensation Counsel
2. Panel of External Workers' Compensation Counsel