



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: APRIL 24, 2018**

FROM: CITY ATTORNEY **WARDS: ALL**

SUBJECT: PROPOSED BILLING RATE INCREASE FOR CERTAIN MEMBERS OF THE CITY'S PUBLIC LIABILITY LITIGATION LAW FIRM PANEL AND ADDITION OF HURRELL CANTRALL LLP TO THE PANEL

ISSUE:

Approve an increase the hourly billing rates for the law firms on the City's Public Liability Litigation Law Firm Panel.

RECOMMENDATION:

That the City Council:

1. Approve an increase from \$165 to \$200 per hour for certain firms on the City's Public Liability Litigation panel;
2. Approve an increase from \$235 to \$295 per hour for the law firm of Greines, Martin, Stein & Richland for appellate legal services; and
3. Add the law firm of Hurrell Cantrall LLP to the City's Public Liability Litigation Panel.

BACKGROUND:

In July, 2015, the City Attorney's Office hired two experienced tort trial attorneys to augment its current litigation staff. Since that time, over 95% of all tort matters against the City are handled by City Attorney staff. However, there are rare occasions when a particular matter is referred to a panel firm to handle based upon the need for a particular expertise, or because of a conflict situation where an employee is personally named. In cases that are not conflict situations, the City Attorney's Office is co-counsel of record on the case and a staff attorney works with and assists the panel firm in the handling of the matter. This arrangement not only reduces outside counsel costs, but also augments the experience level of the staff attorney assisting in the defense of the action.

In 2006, the hourly rates for panel firms defending tort litigation for the City were increased to \$150.00 per hour. In 2013, those rates were again increased to \$165.00 per hour. Currently, the County of Riverside's rates for its tort litigation panel firms is \$180.00. By way of comparison, the County of San Bernardino pays its panel firms \$250.00 per hour; the City of San Bernardino

pays its panel firms between \$190.00 and \$250.00 per hour; the City of Fontana pays its panel firms \$242.00 per hour; the City of Jurupa Valley pays its panel firms \$265.00 per hour; the City of Colton pays its panel firms between \$200.00 and \$250.00 per hour; and the Cities of Perris, Moreno Valley, Hesperia, Eastvale, and Banning pay their panel firms \$195.00 per hour.

DISCUSSION:

In order to stay competitive with other public agencies in the Inland Empire, it has become necessary for the City to reconsider the hourly rate paid to the City's Public Liability Litigation Law Firm panel members. Since the number of liability litigation matters that the City refers to its panel firms has decreased significantly over the past few years, it is imperative for the City to pay a reasonable hourly rate so that these firms remain incentivized to accept City cases when referred. It is further in the best interests of the City to continue to use these panel firms when necessary at rates consistent with the rates currently paid in the Inland Empire.

The panel firms to which this increase will apply include: Lewis, Brisbois, Bisgaard & Smith; Liebold, McClendon & Mann; Manning & Kass, Ellrod, Ramirez, Trester; Orrock, Popka, Fortino, Tucker & Dolan; Silver & Wright; Smith Law Offices; and Think Legal 360.

Currently, the City Attorney's Office is developing its skills in appellate law practice. However, oftentimes it is necessary to employ a panel firm to provide those services. The law firm of Greines, Martin, Stein & Richland is the firm the City primarily uses for appellate services. It is recommended that the City Council approve an increase from \$235.00 to \$295.00 per hour for the law firm of Greines, Martin, Stein & Richland for appellate legal services. Appellate legal services are a specialized area of the law that requires a specific knowledge and expertise. Timothy Coates is the managing partner who personally provides appellate services on behalf of the City. Currently, the City of Riverside is their lowest paying client for appellate services. Even with the increase proposed herein, the City would still remain one of the firm's lowest paying clients for appellate services.

It is also recommended that the City Council add the law firm of Hurrell Cantrall LLP to its Public Liability Litigation Panel. This law firm specializes in the defense of "use of force" cases. Given the retirement from trial practice of John Porter with the Lewis firm, it is essential that the City add more firms qualified to handle "use of force" cases. Hurrell Cantrall LLP is a firm with an excellent reputation for handling these types of cases. This firm has also agreed to the \$200.00 hourly rate, if approved.

Although it is expected that the number of litigation matters handled by staff attorneys of the City Attorney's Office will continue to increase, there will still remain certain cases that, for reasons individual to that case, need to be referred for handling to a panel firm. In order to ensure that the City can obtain the best representation possible, it is necessary for the City to remain competitive in the hourly rates paid to those panel firms. In addition, it has become necessary for the City to add law firms having a proven expertise in the handling of "use of force" cases. Finally, in order to ensure that the City has the best appellate representation available, it is necessary that the City increase the hourly rates of the appellate law firm referred to above. For these reasons, it is recommended that the City Council approve the recommendations herein.

FISCAL IMPACT:

Given that it is anticipated that the percentage of litigation matters handled by staff attorneys in the City Attorney's Office will continue to increase, it is anticipated that the above recommendations will have no significant adverse fiscal impact.

Prepared by: Gary G. Geuss, City Attorney

Certified as to
availability of funds: Adam Raymond, Chief Financial Officer/City Treasurer
Approved by: Marianna Marysheva, Assistant City Manager