



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: June 24, 2025

FROM: CITY ATTORNEY'S OFFICE WARDS: ALL

SUBJECT: APPROVE AN INCREASED BUDGET IN AN AMOUNT NOT TO EXCEED \$183,750 FOR A REVISED TOTAL BUDGET OF \$208,750 FOR OUTSIDE COUNSEL SHUTE, MIHALY & WEINBERGER, LLP TO CONSULT ON LITIGATED EMINENT DOMAIN CASES RELATED TO THE THIRD STREET GRADE SEPARATE PROJECT

ISSUE:

To consider approval of an increase to the legal budget for Shute, Mihaly & Weinberger, LLP in an amount not to exceed \$183,750 for a revised total budget of \$208,750.

RECOMMENDATION:

That the City Council approve an increase to the legal budget for the law firm of Shute, Mihaly & Weinberger, LLP in an amount not to exceed \$183,750 for a revised total budget of \$208,750.

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."

On February 28, 2025, the Interim City Attorney retained Shute, Mihaly & Weinberger, LLP ("SMW") to consult on the Third Street Grade Separation Project before any eminent domain litigation was filed in an amount not to exceed the City Attorney's authority of \$25,000. SMW is on the City's approved panel of outside counsel and previously executed an Attorney Services Agreement with the City of Riverside for the provision of legal services. The goal for the initial retention was to mentor and train in-house attorneys on eminent domain as it is a nuanced practice area. The City has not had an eminent domain project since 2016 and the Deputy City Attorney who used to handle eminent domain cases has since retired. Now that this project has proceeded to litigation, the City Attorney's Office is now seeking an increase to SMW's existing budget in an amount not to exceed \$183,750 (for a revised total budget of \$208,750).

The Third Street Grade Separation Project (Project) proposes to construct a railroad underpass at Third Street and the BNSF railroad tracks. Third Street will be lowered, and a bridge will be constructed to convey rail traffic. The Project will require the realignment of Commerce Street, construction of slopes, retaining walls, a storm water pump station, and relocation of wet and dry

utilities. The City of Riverside's Public Works Department has identified twenty-nine (29) properties with thirteen (13) ownerships along Third Street that are necessary to facilitate the Project. On March 25, 2025, the City Council adopted resolutions of necessity to acquire those properties through eminent domain and subsequently filed nine (9) separate lawsuits for such acquisitions.

SMW has the necessary expertise in eminent domain litigation and the City Attorney's Office wishes to continue to utilize SMW to supplement its in-house attorneys who are litigating these cases. In order to be cost effective, in-house attorneys will discuss strategy and/or have outside counsel review a motion in one case, and then incorporate any feedback received across all of our eminent domain cases related to this project. In addition, outside counsel would guide the in-house attorneys through their first eminent domain trial with the understanding that the in-house attorneys will handle all witnesses and evidence and that outside counsel's role would be limited to answer strategy questions as they arise during trial. From there, the expectation is that the in-house attorneys would be able to complete the remaining 8 eminent domain trials on their own and that we would no longer need consulting services at that time. This collaborative consulting arrangement will provide a great learning opportunity for the in-house attorneys and will be financially responsible as the Deputy City Attorneys will do the majority of the work across all nine (9) eminent domain cases.

STRATEGIC PLAN ALIGNMENT:

The retention of experienced outside counsel to assist in eminent domain lawsuits by contributing to Strategic Priority No. 5 High Performing Government, by supporting the following:

Goal No. 5.4. Achieve and maintain financial health by addressing gaps between revenues and expenditures and aligning resources with strategic priorities to yield the greatest impact.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Riverside is transparent and makes decisions based on sound policy and inclusive community engagement. Use of outside counsel that specialize in certain areas of the law promote trust in the community.
2. **Equity** – Use of outside counsel that specialize in eminent domain shows that the City is committed to advancing the fairness of treatment, recognition of rights, and equitable distribution of services ensuring that every member of the community has equal access to share in the benefits of community progress y.
3. **Fiscal Responsibility** – The City Attorney's Office is expending funds in a careful and judicious manner in order to achieve cost savings for the City by acquiring the property through eminent domain.
4. **Innovation** – The retention of outside counsel that specialize in eminent domain that provides mentorship and training for in-house attorneys ensures responsible management of the City's financial resources while providing quality public services to all.
5. **Sustainability & Resiliency** – The City is committed to meeting the needs of the present without compromising the needs of the future. Use of outside counsel that specialize in

eminent domain ensures the City's capacity to persevere, adapt and grow during good and difficult times alike.

FISCAL IMPACT:

The total fiscal impact of the approval of the increase to the budget for the law firm of Shute, Mihaly & Weinberger, LLP is in an amount not to exceed \$183,750. Funds are budgeted and available in TUMF Fund, Third Street Grade Separation Project account number 9990119-440315. Public Works supports and concurs with the City Attorney's Office recommendation.

Prepared by:	Susan D. Wilson, Assistant City Attorney
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