



City of Rialto

Legislation Text

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For City Council Meeting [November 27, 2018]

TO: Honorable Mayor and City Council

APPROVAL: Ahmad R. Ansari, Interim City Administrator

FROM: Fred Galante, City Attorney

Request that the City Council Approve the First Amendment to the Agreement for City Attorney Services Increasing Hourly Billing Rates.

(ACTION)

BACKGROUND:

On January 28, 2014, the City Attorney's office, Aleshire & Wynder, LLP ("Firm") and the City entered into the "Agreement for Legal Services" ("Agreement") included as **Attachment 1**. The Firm has not requested any increase to its hourly rates since its approval almost 5 years ago. Since that time, the cost of living (CPI) has risen by approximately 12.3%, as demonstrated by the index shown on **Attachment 2**, measuring October 2013 through and including October 2018 increases.

At its September 26, 2018 adjourned closed session, the City Council performed an evaluation of the Firm's performance and provided its feedback, at which time, the City Council approved having an amendment to the Agreement return to open session for approval.

ANALYSIS/DISCUSSION:

If a straight CPI increase were calculated to keep up with CPI increases, the 12.3% amount would equate to \$20.65/hour increase for services charged at the \$175 rate and \$21.83/hour for the \$185 rate. For the calendar year commencing 2020, another approximately \$5-6/hour would apply under a likely CPI increase. The proposed rate increases described below would be less than the amount needed to keep up with CPI. Instead, the increase would be phased-in for an average increase to each of the rates charged to the City and described below of approximately \$15/hour, commencing January 1, 2019 and then approximately \$10/hour on January, 2020. The City Attorney would agree not to seek an increase for at least another 3 years.

The only rates that would be increased by a higher percentage would be those that are reimbursed by third parties and paralegal and law clerk rates, which would be increased to be on par with standard rates charged to other cities of the Firm.

| CLASSIFICATION | HOURLY RATES |
|----------------|--------------|
|----------------|--------------|

| | EXISTING | PROPOSED | |
|---|---|--|---|
| | | January 2019 | January 2020 |
| General, such as covering Council and Commission hearings, public works, planning and contract work | \$175/1st 80 hours thereafter | \$190/1st 80 hours \$200 thereafter | \$200/1st 80 hours \$210 thereafter |
| Special Services, such as litigation, labor and employment, housing. | \$205 Blended Rate | \$210 Associate \$230 Partner | \$215 Associate \$245 Partner |
| Insurance defense litigation | Same as Special Services | Remain at \$205/hour | \$210/hour |
| Reimbursable work | \$235/hour | \$335/hour and discounted to \$275 for local developers | \$350/hour and discounted to \$290 for local developers |
| Financings | Contingent based on formula. Non-contingent at option of the client \$400 per hour. | \$350 per hour for attorneys, \$150 per hour for paralegals/law clerks | no additional change |
| Paralegals and Law Clerks | \$100 paralegals/law clerks | \$125 paralegals/ \$110 law clerks | no additional change |

In comparing the proposed rates to other firms in this field that are or have provided legal services to the City, the rates below are significantly lower than the amount charged by Liebert Cassidy & Whitmore for employment matters of \$370/hour for partners and \$210-\$300/hour for associates. For Best Best & Krieger, the rates are \$262/hour for general work and \$325/hour for special work.

ENVIRONMENTAL IMPACT:

The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: ... (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

GENERAL PLAN CONSISTENCY:

This action is consistent with Guiding Principle 3A of the General Plan:

- Our City government will lead by example, and will operate in an open, transparent and

responsive manner that meets the needs of the citizens and is a good place to do business.

LEGAL REVIEW:

The City Attorney prepared and approved this staff report and the attached amendment.

FINANCIAL IMPACT:

Operating Budget Impact

Approval of the First Amendment to the Fee Agreement for City Attorney Services will cause an increase to the fees paid to the Firm by the City and its related agencies. The amount of such increase is uncertain because it depends on the level of service requested by the City Council and City Staff. Therefore, an analysis of legal fees will be included as part of the Mid-Year Financial Review, and should a budget increase be necessary, the request will be made at that time. Any increase to the fees reimbursed by third parties would not impact the City's budgets

Capital Improvement Budget Impact

There is no impact to the Capital Improvement Budget.

Licensing

Not applicable at this time.

RECOMMENDATION:

Staff recommends that the City Council approve the attached First Amendment to the City Attorney Fee Agreement