



---

# CITY OF POMONA COUNCIL REPORT

---

March 5, 2018

To: Honorable Mayor and Members of the City Council

From: Linda Lowry, City Manager

Submitted by: Linda Matthews, Human Resources/Risk Management Director

Subject: **Approval of Updated Special Legal Counsel Panel and Adjustment to the Hourly Rates for Legal Services Provided by McCune and Harber**

## OVERVIEW

### **Recommendations** - That the City Council:

- 1) Approve the proposed updated Special Legal Counsel Panel (Attachment A) for use in selecting outside counsel to represent the City in certain types of litigation matters and specialized areas of law which includes the addition of the law firms of Jones and Mayer; Cooksey, Toolen, Gage, Duffy & Woog; Colantuono, Highsmith & Whatley; Stradling, Yocca, Carlson & Ruth and the Law Office of Linda L. Daube.
- 2) Approve the proposed adjustment to the hourly rates for McCune and Harber.

**Fiscal Impact-** Legal bills for Workers' Compensation claims and most liability litigation cases are paid through budget appropriations from the Self-Insurance Fund under Risk Management. The various departments that require outside counsel on legal matters pay for their respective legal services from funds appropriated in the budget. There are no funding appropriation requests associated with the proposed action.

### **Prior City Council Action**

- Nov. 21, 2005 - Approved Legal Referral Policy
- Sept. 22, 2006 - Approved outside counsel panel pursuant to the Legal Referral Policy
- Nov. 20, 2006 - Approved addition of Davis & Assoc. to the outside counsel panel
- Nov. 10, 2007 - Approved addition of the following law firms to the outside legal panel – Bryne & Nixon; Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg; Lightfood, Vandevelde, Sadowskt, Rouchley, Rutherford & Levine; Connor, Fletcher, & Williams; Jackson, DeMarco, Tidus & Peckenpaugh; Fullbright & Jawarski and Resolution Law Group

Submitted to City Council: \_\_\_\_\_

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

Agenda Item # \_\_\_\_\_

Resolution No(s): \_\_\_\_\_

Ordinance No. \_\_\_\_\_

- Nov. 17, 2008 - Approved the addition of Lister, Martin & Thompson and also, Dorey & Horelly to the outside counsel panel
- Feb. 27, 2012 - Approved rate increase for Liebert Cassidy Whitmore (LCW) and Dapeer Rosenblit Litvak (DRL)
- July 21, 2014 - Approved addition of Lagerlof, Senecal, Gosney & Krust, LLP to the outside counsel panel and approved rate increases for McCune & Harber and LCW
- July 18, 2016 - Approved revised list removing certain firms no longer used and adding Pillsbury Winthrop Shaw Pittman LLP and Atkinson, Andelson, Loya, Rudd & Roma. Approved a rate increase for Liebert Cassidy Whitmore.

## **EXECUTIVE SUMMARY**

The Special Legal Counsel Panel is comprised of attorneys and/or law firms that have been selected for placement on the panel based on the attorney's or law firm's background and qualifications in a specialty area of law, such as police liability, dangerous condition of public property, environmental challenges, water rights, eminent domain, etc. The proposed update to the Special Legal Counsel Panel (the Panel) includes the addition of Cooksey, Toolen, Gage, Duffy & Woog which specializes in environmental clean-up; Jones and Mayer for police liability conflict counsel; Colantuono, Highsmith & Whatley for municipal finance matters; Stradling, Yocca, Carlson & Ruth for municipal bonds and the Law Office of Linda L. Daube for personnel and employment law. It also includes a rate increase for McCune and Harber (\$185 to \$200 per hour).

## **DISCUSSION**

Pomona City Charter Section 703 provides that "...[t]he City Attorney shall serve as the chief legal advisor to the Council, the City Manager, and all City departments and appointed bodies, and shall have the authority to represent the City in all civil and criminal matters..." In addition, Section 2-977(e)(3) exempts specialized legal services as recommended by the city attorney relating to current or probable litigation from the formal bidding process for procuring such legal services.

On November 21, 2005, the City Council approved the Legal Counsel Referral Policy, which sets forth a procedure for utilizing outside counsel when expertise in specialized areas of law is required. The initial Panel approved by the City Council was comprised of special counsel currently retained and firms that submitted proposals to be included on the panel. The Panel has been updated and approved by the Council as necessary since the first panel was approved in 2006.

The updated Panel (Attachment A) proposed for Council approval includes all special counsel currently utilized by the City and the firms' hourly rates. The updated panel includes the law firm of Cooksey, Toolen, Gage, Duffy & Woog which has been added to assist the City with environmental clean-up issues, specifically, the CalSol lot and dealings with the Department of Toxic Substances Control (DTSC). In addition, the updated panel also includes the inclusion of Jones and Mayer as conflict counsel for police liability cases; Colantuono, Highsmith & Whatley for municipal finance matters; Stradling, Yocca, Carlson & Ruth for municipal bond matters and the Law Office of Linda L. Daube for labor and employment related matters.. Counsel or firms no longer needed or retained by the City have been removed from the Panel listing.

Update to Special Outside Counsel Panel

March 5, 2018

Page 3 of 3

Special Counsel McCune and Harber provide representation to the City for those liability cases alleging a dangerous condition of public property and also, those cases that involve catastrophic injuries. McCune and Harber is requesting an hourly rate increase at this time and the proposed new rate is \$200 per hour. The last rate increase granted to McCune and Harber occurred on July 21, 2014.

Attachment A – Special Legal Counsel Panel as of February 26, 2018 with proposed rates.