



CITY OF POMONA

COUNCIL REPORT

July 15, 2019

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 Hourly Rates for Legal Services Provided by Liebert Cassidy Whitmore and Removal of Rutan and Tucker from the Special Legal Counsel Panel

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1) Approve adjustments to the hourly rates for Liebert Cassidy Whitmore (LCW) as listed in Attachment 1 and in the full legal panel list in Attachment 2;
- 2) Delete the law firm of Rutan and Tucker from the Panel; and
- 3) Authorize the City Manager to execute retainer agreements and/or amendments with the approved firms as needed.

EXECUTIVE SUMMARY: The Special Legal Counsel Panel is comprised of law firms that have been selected for placement on the panel based on 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, and other areas as needed. The proposed update adjusts the rates for Liebert Cassidy Whitmore (Attachment 1) and incorporates the new rates for Liebert Cassidy Whitmore into the list of approved firms (Attachment 2). Additionally, the update to the Panel includes the deletion of Rutan and Tucker from the approved Panel (Attachment 2).

FISCAL IMPACT: The rate adjustments for LCW have been incorporated in the adopted FY 2019/20 operational budget in anticipation of this increase. There are no funding appropriation requests associated with the proposed action.

PREVIOUS RELATED ACTION:

- November 21, 2005 - Approved Legal Referral Policy.
- September 22, 2006 – Approved outside Counsel panel pursuant to the Legal Referral Policy.
- November 20, 2006 – Approved addition of Davis & Associates.
- November 10, 2007 – Approved addition of Byrn & Nixon; Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg; Lightfood, Vandeveld, Sadowski, Rouchley, Rutherford & Levine; Connor, Fletcher, & Williams; Jackson, DeMarco, Tidus & Peckenpaugh; Fullbright & Jawarski and Resolution Law Group..

- November 17, 2008 – Approved addition of Lister, Martin & Thompson and Dorey & Horelly.
- February 27, 2012 – Approved rate increase for Libert Cassidy Whitmore (LCW) and Dapeer Rosenblit Livak (DRL).
- July 21, 2014 – Approved addition of Lagerlof, Sencal, Gosney & Kruse, LLP and rate increase for McCune & Haber and LCW.
- July 18, 2016 – Approved deletion of firms no longer used, the addition of Pillsbury Winthrop Shaw Pittman, LLP and Atkinson, Andelson, Loya, Rudd & Roma, and a rate increase for LCW.
- March 5, 2018 - Approved 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 and a rate increase for McCune & Harber.
- May 21, 2018 – Approved the addition of Lozano Smith.
- December 17, 2018 – Approved the addition of the Law Office of Robert Gokoo and a rate increase of Lagerlof, Sencal, Gosnevy & Kruse LLP.

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.

Liebert Cassidy Whitmore (LCW) provides representation regarding employment law matters. LCW is requesting a rate increase as set forth in Attachment 1. At the request of the City, LCW held the rates for the City at the Fiscal Year (FY) 2017/18 rate for FY 2018/19 as a cost saving measure when the City was facing difficult financial times. LCW is continuing to provide a discount to the City by offering the standard rates from FY 2018/19 instead of the FY 2019/20. The effective date for the rate increase for FY 2019/20 is August 1, 2019. Attachment 2 is the current legal panel with the updated rates for LCW incorporated, shown in bold and underlined. In addition, staff is recommending deletion of the law firm, Rutan and Tucker from the Panel. Rutan and Tucker was originally placed on the Panel to handle environmental contamination cases that could have potentially been filed against the City. However, as no cases have been assigned to Rutan and Tucker, this firm is being deleted from the Panel.

Prepared by: Chris Millard, Risk Manager

ATTACHMENTS:

Attachment No. 1 – Proposed Hourly Rates for Liebert Cassidy Whitmore
Attachment No. 2 – Special Legal Counsel Panel