

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: The Honorable City Council

FROM: Deborah S. Traffenstedt, Administrative Services Director/City Clerk *DST*

DATE: May 29, 2008 (CC Meeting of 6/4/08)

SUBJECT: Consider Approval of Addendum to Agreement for City Attorney Services

BACKGROUND

A new Agreement for City Attorney Services (Agreement) with Burke, Williams & Sorensen (BW&S) was approved by the City Council on June 20, 2007. Section 3.C. of the Agreement includes the following language pertaining to increases in billing rates:

The rates set forth in Exhibit "A" and listed in items A through C may be adjusted each July 1, beginning in 2008. The City Attorney shall notify the City in writing at least forty-five (45) days prior to July 1 of the proposed changes to the rates set forth in Exhibit "A." Any proposed change of five dollars (\$5) per hour or less shall become effective on July 1, unless City notifies the City Attorney in writing prior to July 1 of a rejection of the proposed increase. Any proposed change in excess of five dollars (\$5) per hour, or fifty dollars (\$50) per month for retainer work, in any given year must be requested at least forty-five (45) days prior to July 1 and requires the decision of the City Council to approve, deny, or modify said changes in rates.

By letter dated May 12, 2008, the City Attorney requested a \$5.00 per hour increase (see Attachment 1). The City Council is being asked whether there is any objection to the proposed rate increase.

An amendment to the Agreement is proposed to add Subsection C. under Section 1, Designation of a City Attorney, pertaining to appointment of a Deputy City Attorney. The Agreement does already provide in Subsection B. for the appointment of an Assistant City Attorney. The Deputy City Attorney language is proposed to allow recognition of other attorneys that may represent the City in a litigation matter (such as code enforcement).

The City Attorney has advised that there was a recent case in another city that resulted in a code prosecution being thrown out because the prosecuting attorney had not taken an oath of office as the city attorney, and State law allows prosecution by a city attorney. Going forward, the City Clerk will issue the oath of office to the City Attorney, Assistant City Attorney, and any designated Deputy City Attorney that is determined by the City Attorney to require the oath of office to act on behalf of the City Attorney in a litigation matter.

An amendment to Section D. (Billable Travel Time) of Exhibit A is also proposed to make portal-to-portal (round trip) travel time between the BW&S Ventura County office in Camarillo and the Moorpark City Hall, the BW&S Ventura County office in Camarillo and the Ventura County Government Center, and between the BW&S Ventura County office in Camarillo the East Ventura County Courthouse in Simi Valley all billed as .8 hours.

DISCUSSION

It is recommended that the City Council approve an Addendum to the Agreement for City Attorney Services as presented in this report.

FISCAL IMPACT

If the proposed rate increase is implemented on July 1, the costs for contract City Attorney services will increase by \$5 per hour (reference Attachment 1).

STAFF RECOMMENDATION

1. Accept the \$5 per hour rate increase effective July 1, 2008; and
2. Authorize the Mayor to execute an Addendum to the Agreement for City Attorney Services with Burke, Williams & Sorensen, with final language approval by the City Manager.

Attachments:

1. May 12, 2008, Letter from City Attorney
2. Draft Addendum to Agreement for City Attorney Services



444 South Flower Street - Suite 2400
Los Angeles, California 90071-2953
voice 213.236.0600 - fax 213.236.2700
www.bwslaw.com

RECEIVED

MAY 14 2008

CITY OF MOORPARK
OFFICE OF THE CITY MANAGER

Direct No.: 213.236.2736
Our File No.: 01359-0001
jmontes@bwslaw.com

ATTACHMENT 1

May 12, 2008

VIA FACSIMILE AND MAIL (805) 532-2528

Steven Kueny, City Manager
City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021

Re: Agreement for City Attorney Services

Dear Steve:

Pursuant to paragraph 3.C. of the Agreement for City Attorney Services entered into by and between BWS and the City and dated July 1, 2007, I am requesting that the rates set forth in Exhibit "A" be increased by five dollars per hour. This would increase the retainer to \$1,400, the range of Associate rates for 2008-09 to \$170 to \$200 and the range of partner rates to \$220 to \$250. The City Attorney and Assistant City Attorney rate would be \$190.

I am happy to discuss the above with you at your convenience. Thank you for your consideration of this request.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP

Joseph M. Montes

JOSEPH M. MONTES *JM*

cc: Deborah Traffenstedt, City Clerk

ATTACHMENT 2

ADDENDUM TO AGREEMENT FOR CITY ATTORNEY SERVICES

This ____ day of June, 2008, Burke, Williams & Sorensen, a partnership including professional corporations, and the City of Moorpark, a general law city, entered into this Addendum to the Agreement for City Attorney Services dated July 1, 2007.

IT IS MUTUALLY AGREED by and between the parties as follows:

1. Section 1, Designation of City Attorney, is amended to add subsection C. as follows:

C. The designation of any attorneys as Deputy City Attorneys to act on behalf of the City Attorney on litigation matters shall require the written approval of the City Manager. Written approval may include an email communication.

2. Effective July 1, 2008, Section D, Billable Travel Time, of Exhibit A, is amended and superseded as follows:

Portal-to-portal (round trip) travel time between the BW&S Ventura County offices in Camarillo and the Moorpark City Hall shall be billed as .8 hour, between the BW&S Ventura County offices in Camarillo and the Ventura County Government Center in Ventura shall be billed as .8 hour, and between the BW&S Ventura County offices in Camarillo and the East Ventura County Courthouse in Simi Valley shall be billed as .8 hour.

3. Effective July 1, 2008, the rates set forth in Exhibit A to the Agreement shall be increased by five dollars (\$5) per hour, as permitted by Section 3.C. therein.

4. Except as amended by this Third Addendum, all of the provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized officers the day and year first above written.

CITY OF MOORPARK

BURKE, WILLIAMS & SORENSEN

Patrick Hunter, Mayor

Joseph M. Montes

ATTEST:

John J. Welsh, Managing Partner

Deborah S. Traffenstedt
City Clerk

000208