

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: The Honorable City Council

FROM: Steven Kueny, City Manager 

DATE: August 8, 2006 (CC Meeting of August 16, 2006)

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

BACKGROUND

The Agreement for City Attorney Services (Agreement) with Burke, Williams & Sorensen (BW&S) was most recently revised in March 2004. Section 3.C. of the Agreement provides that the billing rates may be increased by up to \$5.00 per hour if requested by the City Attorney and the City does not reject such request. This provision also applies to the monthly retainer, which provides for 20 hours of service at a reduced hourly rate. Currently, the monthly retainer is \$2,500 with an equivalent hourly rate of \$125.00, rather than the \$175.00 hourly rate for the City Attorney and designated Assistant City Attorney. BW&S has requested that in addition to a \$5.00 an hour increase in rates that the monthly retainer be eliminated.

DISCUSSION

The monthly retainer has been a part of the City's agreement with BW&S since 1984. It should be continued in some form. After discussions with the City Attorney, the BW&S proposal has been modified to have a monthly retainer for the first ten (10) hours at a rate of \$1,300. Ten hours is the estimated average time for the two regular City Council meetings. This revision to the request is recommended for approval. The proposed Addendum and changes to Exhibit "A" of the BW&S Agreement showing the change in hourly rates and modification to the General Retainer Rate are attached. The proposed changes would be effective July 1, 2006.

The Honorable City Council
Agenda Report
Page 2 of 2
August 8, 2006 (CC Meeting of 8-16-06)

STAFF RECOMMENDATION

Authorize the Mayor to sign an Addendum to the Agreement for City Attorney Services with Burke, Williams & Sorensen, with final language approval by the City Manager.

SK:db

Attachments:

Addendum to Agreement for City Attorney Services with attached Exhibit "A",
Revised July 1, 2006
May 12, 2006, Letter from City Attorney

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ADDENDUM TO AGREEMENT FOR CITY ATTORNEY SERVICES

This 16th day of August, 2006, 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 March 1, 2004.

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

1. The General Retainer Rate and hourly rates are modified as shown in the attached Exhibit "A" revised July 1, 2006.
2. Except as amended by this Addendum, all of the provisions of the referenced Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by the 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

Deborah S. Traffenstedt, City Clerk

(SEAL)

EXHIBIT "A"
Revised July 1, 2006

A. General Retainer Rate.

The rate for the first ten (10) hours of time billed to the general retainer account, irrespective of the attorney who performed the work, shall be \$1,300.

B. City Attorney and Assistant City Attorney Rates.

The rate for the City Attorney and Assistant City Attorney shall be \$180 per hour for Services performed under this Agreement.

C. Other Rates.

The hourly rate, for attorneys based on the number of years admitted to the bar, shall be as follows, irrespective of whether the Service is Retainer, Litigation or Non-retainer:

Partners	-	25 years or more	\$240
	-	15 to 25 years	\$220
	-	14 years or less	\$210
Associates	-	5 th year or more	\$190
	-	4 th year	\$180
	-	3 rd year	\$175
	-	2 nd year	\$170
	-	1 st year	\$160
Paralegal			\$ 95

D. Billable Travel Time.

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 .9 hours and between the BW&S Ventura County offices in Camarillo and the Ventura County Government Center shall be billed as .8 hours.

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BURKE, WILLIAMS & SORENSEN, LLP

RECEIVED
MAY 12 2006
CITY OF MOORPARK
OFFICE OF THE CITY MANAGER

Writer's Direct Dial:
213-236-2736
Our File No:
01359-0001
jmontes@bwslaw.com

May 12, 2006

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, I am requesting that the rates set forth in Exhibit "A" be increased by five dollars per hour. This would increase the range of Associate rates for 2006-07 to \$160 to \$190 and the range of partner rates to \$210 to \$240. The City Attorney and Assistant City Attorney rate would be \$180.

Additionally, I would like to request that the City Council consider elimination of the monthly retainer. As described in more detail below, the operation of the Agreement since March of 2004 has resulted in a dramatic discount in the billing rate of the City Attorney and Assistant City Attorney.

As you are aware, the billing rate for City Attorney and the Assistant City Attorney is a discounted rate under the Agreement. Specifically, we currently bill at \$175 an hour for services not captured under the monthly retainer amount. Absent this discounted rate, my time would be billed at \$205 currently and Scott's would be billed at \$185.

At the same time, an analysis of the work done since the March 2004 Agreement was negotiated shows that more than half of the work billed to the 20 hour per month retainer (at a current rate of \$125 per hour) is done by me or Scott. This is a function, I believe, of the relatively low volume of work in the City during the last two years. With higher volume, this effective double discount of the City Attorney and Assistant City Attorney rates is offset by the rates received for other attorneys' work performed in the City. However, I do not foresee a dramatic increase in the volume of legal work for the City, and thus, would request the elimination of the retainer.

I believe the impact to the City of such a change to the contract would be approximately 12 to 15 thousand dollars, annually. I calculate this difference assuming

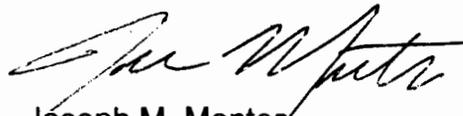
Steven Kueny
May 12, 2006
Page 2

60% of the retainer work (144 hours) is performed by Scott and I at the 2006-07 rate of \$180 versus the 2006-07 retainer rate (if the retainer were not eliminated) of \$130 (\$50 x 144 = 7200). The remaining 96 hours of retainer time would be performed by other associates and partners at the firm, at 2006-07 rates of \$160 to \$240.

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

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP



Joseph M. Montes