



COUNCIL COMMITTEE REPORT AUDIT AND FINANCE COMMITTEE

Date: September 23, 2015

Agenda Item #:7

Request to approve outside legal counsel services related to the Municipal Civil Service Commission hearings

Vote

4-0 [Committee members are Mayor Pro Tem Tovo (chair), Council Member Troxclair (vice-chair), Council Member Renteria, and Council Member Pool]

Sponsors/Department:

Human Resources

Summary of Discussion

Rebecca Kennedy, Chief Administrative Officer for the Human Resources Department, and Mark Washington, Acting Assistant City Manager, provided an overview of the materials provided to Council, including the financial impacts, and answered questions from the Committee members.

Direction

The proposed request with an amendment of establishing a cap of \$34,500 for the legal services was forwarded to the full City Council with the recommendation to approve it.

Recommendation:

The motion to forward the proposed request to the full Council with a recommendation to approve the policy passed on Council Members Pool's motion, Vice Chair Troxclair's second on a 4-0 vote. An amendment to the motion to establish a cap of \$34,500 for the legal services passed on Council Members Renteria's motion, Vice Chair Troxclair's second on a 4-0 vote.



**Board and Commission
Council Committee Agenda Item Request**

Name of Board or Commission: **Municipal Civil Service Commission**

Request Number: **20150713—4a**

Description of item: **Request to approve independent legal counsel for the Municipal Civil Service Commission to continue for each hearing held, as well as general legal advice, up to five hours a month.**

Board or Commission Vote to refer item to Council: **Municipal Civil Service Commission approved the request to refer to Council Committee on Commissioner Rubinett's motion, Commissioner Murphy's second, on 5-0 vote.**

Date of Approval of Request: **July 13, 2015**

Attachments: Yes No

If yes, please list the attachments: **Memo to the Commission—Cost for Outside Legal Counsel for the Commission**

Attest: *Rebecca Kennedy 8/3/15*

Signature of Board/Commission Chair or Staff Liaison

MAYOR'S OFFICE USE ONLY

Council Committee Assigned:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Audit & Finance | <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Planning & Neighborhood |
| <input type="checkbox"/> AE Utility Oversight | <input type="checkbox"/> Mobility | <input type="checkbox"/> Public Safety |
| <input type="checkbox"/> Economic Opportunity | <input type="checkbox"/> Open Space, Environment & Sustainability | <input type="checkbox"/> Public Utilities |
| <input type="checkbox"/> Health & Human Services | | |

Recommend a Fiscal Analysis be completed?

Recommend a Legal Analysis be completed?

Notes:

Mayor Signature & Date:

[Handwritten Signature] *8-19-15*



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Recommended Council Committee(s) to refer the item to:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Audit & Finance | <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Planning & Neighborhood |
| <input type="checkbox"/> AE Utility Oversight | <input type="checkbox"/> Mobility | <input type="checkbox"/> Public Safety |
| <input type="checkbox"/> Economic Opportunity | <input type="checkbox"/> Open Space, Environment & Sustainability | <input type="checkbox"/> Public Utilities |
| <input type="checkbox"/> Health & Human Services | | |

Attachments: Yes No

If yes, please list the attachments: **Memo to the Commission—Cost for Outside Legal Counsel for the Commission**

Attest: *Rebecca Kennedy, Executive Liaison* *7/14/15*

Signature of Board/Commission Chair or Staff Liaison

MAYOR'S OFFICE USE ONLY

Council Committee Assigned:

Recommend a Fiscal Analysis be completed?

Recommend a Legal Analysis be completed?

Notes:

Mayor Signature & Date:



City of Austin
Law Department

MEMORANDUM

TO: City of Austin Municipal Civil Service Commission
FROM: Lee Crawford 
DATE: July 1, 2015
RE: Costs for Outside Legal Counsel for the Commission

The Law Department was asked to provide information for the Commission on potential costs for the continued use of outside legal counsel to advise the Commission in connection with both appeal hearings conducted under the Commission's rules, and as requested by the Commission on other matters of Commission business.

1. Background

Shortly after its formation in 2014, the Commission asked City management for a legal advisor to assist it with a variety of issues, including providing advice and counsel to the Commission at appeal hearings. Based on several discussions involving the Commission, the Municipal Civil Service Director, and the Law Department, management elected to provide the requested legal advisor by retaining an outside law firm for that purpose.

Because the Law Department has the responsibility for providing legal representation for the City, including the activities of the Commission when appropriate, we took the lead on retaining that outside legal advisor. Following a selection procedure, the Law Department assigned the firm of Boulette Golden & Marin LLP (BG&M), and specifically Steven H. Garrett of that firm, as the legal advisor for the Commission.¹ Since that time we understand that Mr. Garrett has attended numerous appeal hearings and other Commission meetings as the Commission's legal advisor.

After we were asked to provide cost information to the Commission, we contacted BG&M and obtained their proposal for legal fees for the requested services for FY 2015-16. That information is set out below. We did not solicit proposals from other outside legal services providers because we were advised that the Commission is satisfied with the services provided by BG&M, and because the cost proposal from that firm is well within the range of outside law firm fees that are acceptable to the City.

¹ Mr. Garrett formerly worked in the City Law Department, and was already familiar with the Municipal Civil Service Commission Rules, the City Charter provisions under which the Commission's rules were promulgated, and the City's Personnel Policies. The Law Department considered those parts of Mr. Garrett's professional background to be advantageous for this assignment.

2. Fee Proposal and Discussion

Based upon our request, BG&M provided us with the following fee proposals for appeal hearings and for general advice and legal counsel to the Commission outside of the appeal hearings:

- Appeal hearings – flat rate fee of \$1,500.00 per hearing
- General advice and counsel - \$275.00 per hour

The analysis of the Law Department is that these rates are appropriate and acceptable, particularly in light of the specialized knowledge of the Commission's rules and City policies necessary to provide effective legal counsel to the Commission, and the rates charged by attorneys in the Austin area generally. It appears that appeal hearings typically take between six and eight hours to complete, which equates to an hourly rate between about \$185 and \$250. This is an acceptable range of outside legal counsel rates for the City for services of this type. The \$275 hourly rate for general advice and counsel is likewise reasonable for the type of legal services, and within the acceptable range for outside legal fees for the City. BG&M proposes that if Mr. Garrett (or other member of that firm) is asked to attend a non-hearing Commission meeting, the general advice hourly rate would apply. This appears reasonable and is likely more cost efficient to the City than charging the full hearing flat rate.

It is difficult for the Law Department to estimate accurately the total expense likely to be incurred in FY 2015-16 under the BG&M proposal because we are not certain of the likely demand for services by the Commission. However, the Commission could estimate the potential total expense using a variation of the following model, based on the Commission's own assessment of its expected usage:

	Volume Usage	Unit Cost	TOTAL
Appeal Hearings	1 per month x 12 months	\$1,500	\$18,000.00
General Advice	5 hours / month x 12 months	\$275/ hour	\$16,500.00
		TOTAL	\$34,500.00

3. Next Steps

The Law Department will await direction before engaging BG&M under their proposal as described above. Our suggestions to the Commission at this time are to determine its reasonably expected usage of the legal advisor, then discuss with the Commission's staff liaisons how that expense should be incorporated into the City's FY 2015-16 budget. Once we have direction from staff on how to proceed with this item, we will move forward to secure the legal services contract with BG&M.

We are available to answer any questions you may have about this information.