

MEMORANDUM

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Department of Human Resources

To: Honorable Mayor and City Council
Through: Thomas C. Williams, City Manager
From: Carmen Valdez, Human Resources Director
Subject: **Analysis and Comparison of an Internal Attorney Group versus Contract City Attorney Services**
Date: March 27, 2007

Please see attached reports for the analysis of internal City Attorney versus contract services.

1. Memo from City Attorney dated December 2, 2005
2. Analysis for full year salary and benefits for internal attorney staff
3. City's record summary of hours and costs for FY 03-04, 04-05, 05-06 and 06-07
4. Memo from City Attorney dated March 21, 2007

Thank you.

MEMORANDUM

Department of the City Attorney



To: City Council Finance Subcommittee

From: Emma Karlen, Director of Finance
Steven T. Mattas, City Attorney
Richard D. Pio Roda, Assistant City Attorney

Subject: Request for Information: City Attorney's Office Staffing Requirements

Date: December 2, 2005

This memo concerns information requested by the City Council Finance Subcommittee regarding the estimated in-house costs, including salary and all benefits, for staffing a City Attorney's Office composed of (1) a City Attorney, an Assistant City Attorney (minimum of 6 years experience), a Paralegal and a Secretary, and (2) a City Attorney, an Assistant City Attorney (minimum of 6 years experience), a Deputy City Attorney (minimum of 4 years experience) and a Secretary.

When the City previously had in-house counsel, there were three attorneys and one secretary. The City Attorney believes the City could operate with one City Attorney, one senior assistant city attorney, one experienced paralegal and one secretary. This staffing level would not include any coverage of any substantive litigation or arbitration other than general management of the litigation. Thus, those costs would be in addition to the costs listed below.

Our office conducted a survey of the salaries for each position mentioned above from local cities of comparable size. The cities surveyed included those listed below. All benefits were then calculated and loaded at current Milpitas rates, expressed as a percentage, for "Miscellaneous employee - management." The overhead rate included in the cost estimates below is 28 percent, which the Finance Director believes is a conservative estimate.

The Assistant City Attorney salaries were calculated based upon 6 years experience, which was approximately the average, and the Secretary's rates were calculated based upon an Executive Assistant classification. The Subcommittee should be aware that the averages shown below are a conservative estimate of costs. Milpitas does not normally compensate its employees at the average of comparison cities. Instead, Milpitas employees have, in recent history, tended to be paid near or at the top of comparison cities.

Example Number 1: City Attorney, Senior Assistant City Attorney, Paralegal and Executive Assistant.

<u>City</u>	<u>City Attorney</u>	<u>Assistant City Attorney</u>	<u>Paralegal</u>	<u>Secretary</u>
Cupertino	\$179,640	\$97,776		\$70,176
Palo Alto	\$186,160	\$142,771	\$68,578	\$86,133
Mountain View	\$183,725	\$120,373		\$64,927
Redwood City	\$162,228	\$96,576	\$57,761	\$51,864
San Mateo	\$159,390	\$122,886		\$60,008
Santa Clara	\$174,960	\$148,860		\$82,512
Sunnyvale	\$178,000	\$141,259	\$78,170	\$70,264
Fremont	\$215,941	\$168,477	\$71,999	\$72,342

Based on the above, the average City Attorney's salary would be \$180,005, the average Assistant City Attorney's salary would be \$129,872, the average Paralegal's salary would be \$69,127, and the average Secretary/Executive Assistant would be \$69,778, for a total salary calculation of \$448,782. The Director of Finance estimates that the total overhead for these positions expressed as a percentage would be 28%. Thus, the total costs -- salary and benefits included -- would be \$574,441 per year. This does not include normal additional costs such as training and seminars.

Example No. 2: City Attorney, Senior Assistant City Attorney, Deputy City Attorney and Executive Assistant

The amounts would be different if the paralegal position were substituted for a Deputy City Attorney with a minimum of 4 years experience. The average salary for a Deputy City Attorney with a minimum of 4 years experience is \$118,615, which would increase the total salary numbers for this type of City Attorney's Office to \$498,270. Total costs including the 28% overhead factor would be \$637,786 per year. This does not include normal additional costs such as training and seminars.

Memo to City Council Finance SubCommittee
Re: City Attorney's Office staffing requirements
December 2, 2005
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<u>City</u>	<u>City Attorney</u>	<u>Asst. City Atty.</u>	<u>Dep. City Atty.</u>	<u>Secretary</u>
Cupertino	\$179,640	\$97,776		\$70,176
Palo Alto	\$186,160	\$142,771	\$129,995	\$86,133
Mountain View	\$183,725	\$120,373	\$109,052	\$64,927
Redwood City	\$162,228	\$96,576		\$51,864
San Mateo	\$159,390	\$122,886		\$60,008
Santa Clara	\$174,960	\$148,860	\$90,072	\$82,512
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In comparison, the amount allocated for general city attorney services for the prior three fiscal years was \$596,000, 2005-2006, \$563,000, 2004-2005, and \$553,550 2003-2004. This amount does not include litigation costs, labor negotiation costs and labor arbitration costs incurred during those years. While a small percentage of that work may have been able to be done by in-house counsel, the majority probably could not have been done with in-house counsel.

Please contact our office if you have any further questions.

RDP

CC: Charles Lawson, Interim City Manager
Emma Karlen, Director of Finance

**Full Year
In-House City Attorney**

Effective Date: January 2007

Hourly

(12 months)

4111	Full Salary- Position	184,299	88.61
4131	PERS	27,018	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	2,672	
4135	Workers' Comp	921	
4138	Deferred Comp	900	
Salary & Benefit Total		228,446	

Assistant Attorney

Effective Date: January 2007

(12 months)

4111	Full Salary- Position	137,256	65.99
4131	PERS	20,122	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	1,990	
4135	Workers' Comp	686	
4138	Deferred Comp	900	
Salary & Benefit Total		173,590	

Assistant Attorney

Effective Date: January 2007

(12 months)

4111	Full Salary- Position	137,256	65.99
4131	PERS	20,122	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	1,990	
4135	Workers' Comp	686	
4138	Deferred Comp	900	
Salary & Benefit Total		173,590	

Secretary

Effective Date: January 2007

(12 months)

4111	Full Salary- Position	84,192	40.48
4131	PERS	12,343	
4131	PERS	26	
4132	Group Insurance	12,610	
4133	Medicare	1,221	
4135	Workers' Comp	421	
4138	Deferred Comp	900	
Salary & Benefit Total		111,712	

Total

687,338

65.26

Hourly Average

Legal Services

	FY 03-04			FY 04-05			FY 05-06		
	<u>Average Rate</u>	<u>Hours</u>	<u>Expense</u>	<u>Average Rate</u>	<u>Hours</u>	<u>Expense</u>	<u>Average Rate</u>	<u>Hours</u>	<u>Expense</u>
General City Attorney Services (includes contract review, legal opinion, ordinance compliance issues and employment contracts.)	\$ 158	2,652	\$ 419,085	\$ 158	3,567	\$ 563,569	\$ 165	2,924	\$ 482,524
Developers agreements				\$ 195	210	\$ 40,854	\$ 207	286	\$ 59,104
Labor Negotiation/Arbitration/Grievance Services (includes MOU negotiation with the unions - MPOA, IAFF, MSA, MEA, ProTech, LIUNA-MMC and personnel grievances)	\$ 201	364	\$ 73,147	\$ 201	606	\$ 121,905	\$ 214	126	\$ 26,945
Legal Services - Public Works construction claims (includes Turner, RRM Design & Aztec, Albert V Witt Jr and Pacific Bell.)	\$ 201	2,595	\$ 521,670	\$ 201	3,943	\$ 792,587	\$ 210	3,760	\$ 789,677
Total		5,612	\$1,013,903		8,326	\$1,518,915		7,096	\$1,358,250

Legal Services

FY 06-07

	<u>Average Rate</u>	<u>Hours</u>	<u>Expense</u> (7 months)	
General City Attorney Services (includes contract review, legal opinion, ordinance compliance issues and employment contracts.)	\$ 169	1,702	\$ 287,689	*
Developers agreements	\$ 211	413	\$ 87,200	*
Labor Negotiation/Arbitration/Grievance Services (includes MOU negotiation with the unions - MPOA, IAFF, MSA, MEA, ProTech, LIUNA-MMC and personnel grievances)	\$ 214	182	\$ 39,012	*
Legal Services - Public Works construction claims (includes Turner, RRM Design & Aztec, Albert V Witt Jr and Pacific Bell.)	\$ 214	3,145	\$ 672,972	**
Total		<hr/> 5,443	<hr/> \$ 1,086,873	

Note

- * Amounts reflect invoices through January 2007
- ** Amounts reflect invoices through December 2006

MEMORANDUM

Department of the City Attorney



To: Thomas C. Williams, City Manager
Carmen Valdez, Human Resources Director

From: Steven T. Mattas, City Attorney and
Richard D. Pio Roda, Assistant City Attorney

Subject: Transmittal Memo: Comparison of Santa Clara County Cities' Legal Budgets

Date: March 21, 2007

At recent City Council and in prior City Attorney Subcommittee meetings, the City Council and Subcommittee reviewed issues associated with comparing in-house versus contract city attorney services. The Subcommittee did not make a recommendation, but did want to have the City Council consider information gathered to date by our office and City staff. This memo serves to convey additional information that we request be included in the packet to the City Council for consideration at the April 3, 2007 meeting. It will assist the City Council to compare what the City spends for legal services per capita versus the other cities in the County with populations over 30,000¹.

To recap, the City Manager, Directors of Human Resources and Finance in consultation with the Subcommittee, created documents showing cost estimates to staff an in-house City Attorneys office and the City's record summary of hours and costs. The City Attorney's office also submitted a memo addressed originally to the Finance Subcommittee describing in-house v. contract city attorney services and a summary of hours billed between December 2005 and November 2006.

The attached spreadsheet presents a comparison of the other Santa Clara County cities' populations versus those cities' approved legal budgets over the last two years. Our office generated separate columns to present a cost breakdown of legal dollars per capita. Milpitas' numbers are presented in bold below the chart for ease of reference.

Please contact me or Steve if you have any questions.

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¹ Population figures in the chart are from California Department of Finance estimates as of January 1, 2006.

Legal Budgets of County Cities with Populations over 30,000

City	Population*	2005-2006 Approved Budget	2005-2006 Legal Dollars per capita	2006-2007 Approved Budget	2006-2007 Legal Dollars per capita
Campbell	38,408	\$203,951.00	\$5.31	\$206,151.00	\$5.37
Cupertino	53,840	\$513,440.00	\$9.54	\$524,309.00	\$9.74
Gilroy	48,527	\$520,500.00	\$10.73	\$510,500.00	\$10.52
Morgan Hill	37,091	\$844,690.00	\$22.77	\$667,697.00	\$18.00
Mountain View	71,995	\$1,233,731.00	\$17.14	\$1,356,852.00	\$18.85
Palo Alto	62,148	\$2,143,767.00	\$34.49	\$1,715,911.00	\$27.61
San Jose	953,679	\$13,549,857.00	\$14.21	\$14,735,023.00	\$15.45
Santa Clara	110,771	\$1,122,955.00	\$10.14	\$1,067,050.00	\$9.63
Saratoga	30,835	\$396,800.00	\$12.87	\$421,400.00	\$13.67
Sunnyvale	133,544	\$1,356,189.00	\$10.16	\$2,756,489.00	\$20.64
			\$14.73		\$14.95

* Population figures are from CA Department of Finance estimates as of January 1, 2006

Milpitas	65,276	\$771,000	\$11.81	\$788,460	\$12.09
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