



AGENDA REPORT

Human Resources

DATE:	May 17, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Anil Comelo, Interim Deputy City Manager
Subject:	Approve Legal Services Agreements with Three Firms to Perform Confidential Personnel Investigations
FINANCIAL IMPACT:	The cost of these services is considered a part of the program administration costs and accounted for in the FY 2021-2022 Risk Management budget. The services are provided on an hourly rate so the actual amount could be less. (Risk Management Legal Service Cost– Non-General Fund 50182316-400206).
PREVIOUS COUNCIL ACTION:	January 11, 2022 – First Amendment to Ellis Investigations, L.C. legal services agreement
STATEMENT OF THE ISSUE:	The Human Resources Department is requesting City Council approval to amend the term and payment limit of the legal services agreement with Kramer Workplace Investigations and Ellis Investigations, and to approve a legal services agreement with Boucher Labor and Employment Law for employment attorneys to conduct confidential personnel investigations on an as needed basis for an amount not to exceed of \$50,000 per agreement, over a three-year term.

RECOMMENDED ACTION:	APPROVE a first amendment to the legal services agreement with Kramer Workplace Investigations and a second amendment to the legal services agreement with Ellis Investigations and an initial legal services agreement with Boucher Labor and Employment Law. Terms of these agreements are until June 30, 2024, for an amount not to exceed \$50,000 per agreement, to conduct confidential personnel investigations for the Human Resources Department – Human Resources Department (Anil Comelo/Sharrone Taylor 510-620-6600). This item was continued from the May 3, 2022, meeting.
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DISCUSSION:

The City must address complaints of discrimination, harassment, and retaliation by conducting an immediate, thorough, and objective personnel investigation. The City also investigates other workplace issues when appropriate. Investigations can be conducted internally or externally depending on the circumstances and the alleged parties.

When an external personnel investigation is needed, the City engages a firm to conduct such an investigation. Kramer Workplace Investigations, Boucher Labor and Employment Law, and Ellis Investigations all have highly skilled employment law attorneys who conduct personnel investigations. These firms specialize in workplace investigations involving allegations of discrimination, harassment, and retaliation, as well as misconduct and disciplinary matters. They have previously conducted investigatory services for the City and performed in a satisfactory manner. Further, continuing the working relationship with Kramer Workplace Investigations, Boucher Labor and Employment Law, and Ellis Investigations will ensure current, critical investigations will continue and provide stability and uniformity in the investigations process.

Kramer Workplace Investigations was engaged to conduct a critical investigation, and therefore a \$10,000 legal service agreement was executed on March 3, 2022. In addition, the City entered into an initial legal services agreement with Ellis Investigations on October 22, 2021, for \$10,000 and an amendment on January 22, 2022, to amend the payment limit by \$90,000, for a total contract limit of \$100,000, to enable the firm to continue providing investigatory services for the City.

The Human Resources Department is now requesting approval to amend Kramer Workplace Investigations legal services agreement to extend the term to June 30, 2025, and increase the contract by \$40,000 for a not-to-exceed limit of \$50,000, amend Ellis Investigations legal services agreement for a second amendment to extend the term to June 30, 2025, and increase the contract by \$50,000, for a not-to-exceed limit of \$150,000, and execute a new legal services agreement with Boucher Labor and

Employment Law for a three-year term beginning April 5, 2022 through June 30, 2025, and a not-to-exceed payment limit of \$50,000.

These firms responded to the Request for Proposals (RFP) sent out by the City Attorney's Office in 2018 and 2021 and are on the approved vendor list. In addition, the City Attorney has issued a legal opinion on the firms' engagement and supports this action.

CONCLUSION:

The Human Resources Department recommends approval of the legal services agreements with Kramer Workplace Investigations, Boucher Labor and Employment Law, and Ellis Investigations for the purpose of conducting confidential personnel investigations.

DOCUMENTS ATTACHED:

Attachment 1 – Legal Services Agreement – Kramer Workplace Investigations

Attachment 2 – First Amendment Legal Services Agreement – Kramer Workplace Investigations

Attachment 3 – Legal Services Agreement – Boucher Labor and Employment Law

Attachment 4 – Legal Services Agreement – Ellis Investigations

Attachment 5 – First Amendment Legal Services Agreement – Ellis Investigations

Attachment 6 – Second Amendment to Legal Services Agreement – Ellis Investigations