



## Legislation Details (With Text)

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<b>Type:</b>	Staff Report	<b>Status:</b>	Filed	<b>In control:</b>	City Council
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<b>Enactment date:</b>		<b>Enactment #:</b>		<b>Title:</b>	Staff Report for a City of San Leandro City Council Resolution to Approve a Legal Services Agreement Between The City Of San Leandro And Allen, Glaessner, Hazelwood, & Werth for Tort Litigation Services, Authorize the City Manager to Negotiate and Approve Contract Amendments Up to 20% (or \$50,000) of the Original Contract Amount, and Appropriate Funds from the Self-Insurance Unrestricted Fund Balance (Fund 689).

### Indexes:

### Code sections:

**Attachments:** 1. 2021 1201 - FY22 and FY23 CSA AGHW draft

Date	Ver.	Action By	Action	Result
1/18/2022	1	City Council	Received and Filed	Pass

Staff Report for a City of San Leandro City Council Resolution to Approve a Legal Services Agreement Between The City Of San Leandro And Allen, Glaessner, Hazelwood, & Werth for Tort Litigation Services, Authorize the City Manager to Negotiate and Approve Contract Amendments Up to 20% (or \$50,000) of the Original Contract Amount, and Appropriate Funds from the Self-Insurance Unrestricted Fund Balance (Fund 689).

## RECOMMENDATIONS

City staff recommends that the City Council approve by resolution the legal services agreement between the City of San Leandro and Allen, Glaessner, Hazelwood & Werth, for legal services related to tort litigation matters.

## BACKGROUND AND SUMMARY

The consulting services agreement before City Council sets forth that Allen, Glaessner, Hazelwood & Werth represent the City of San Leandro and its officers in tort litigation matters, primarily federal tort litigation. The litigation services under the agreement are to be provided after a notice or summons is served upon the City of San Leandro regarding tort claim litigation, as follows:

1. Counsel shall meet and confer with the City of San Leandro on options for litigation strategy and receive approval for the City's preferred course of action;
2. Counsel shall prepare responsive pleadings for federal court including, but not limited to, appropriate motions to dismiss or answer;
3. Counsel shall meet with City personnel, investigate the case and provide an explanation of the legal proceedings;

4. Counsel shall prepare for and meet and confer with opposing counsel on preparation of the joint case management conference (CMC) statement and appear in Court on behalf of the City for the initial CMC;
5. Counsel shall prepare a discovery plan, propound and respond to written discovery, and analyze plaintiffs' discovery responses;
6. Counsel shall prepare clients and attend alternative dispute resolution (ADR) as ordered by federal court;
7. Counsel shall prepare clients and defend clients' depositions, prepare for and depose plaintiff (s) and depose other witnesses as necessary and relevant;
8. Counsel shall prepare a Motion for Summary Judgment (MSJ), or other dispositive motion(s), upon authority from the City and after meet and confer with clients on options and preferred strategy;
9. Counsel shall prepare for and attend settlement conferences, including meet and confer with clients; and
10. Where a case is not resolved by MSJ or settlement, counsel shall prepare for and attend jury trial of the case and review with clients appellate strategy and options following verdict and post-verdict motions, if necessary.

Additionally, the consulting services agreement provides that upon the City of San Leandro's request, counsel shall advise City staff, including the City of San Leandro Police Department command staff on necessary policy changes, revisions, and legal implications and provide officers with training to limit civil liability and future claims.

Patrick Moriarty and Vincent Castillo are partners at Allen, Glaessner, Hazelwood & Werth and members of the firm's public entity practice group. Mr. Moriarty and Mr. Castillo shall serve as lead counsel on behalf of the firm.

Mr. Moriarty specializes in defending police officers and departments in civil rights litigation. He joined the firm in 2019 after five years in civil practice. Prior to that his practice included fourteen years as a prosecutor with the Alameda County District Attorney's Office where Mr. Moriarty tried 37 jury trials to verdict. In 2012, Mr. Moriarty worked for the California Attorney General where he wrote responses to criminal appeals and argued before the California Court of Appeal.

Mr. Castillo specializes in the defense of general liability, product liability, whistleblower, and employment-related claims. He has extensive experience representing clients involved in the railroad and busing industries, including investigation and litigation of catastrophic accidents resulting in serious personal injury and death. Mr. Castillo also represents clients in investigations conducted by the National Transportation Safety Board and local law enforcement agencies and handles employment-related claims arising under the Federal Railroad Safety Act, the California Fair Employment and Housing Act, and various federal laws. Mr. Castillo has tried numerous cases to verdict in federal and state courts in California and Nevada.

Allen, Glaessner, Hazelwood & Werth will serve as counsel for the City of San Leandro and its officers named in any action in federal tort litigation matters effective January 1, 2022, through June

30, 2023. Services will be provided at an hourly rate of: \$260 Senior Partner/Partner; \$210 Associate; and \$95 Paralegal, in an amount not to exceed \$250,000.

### **Fiscal Impacts**

This Self-Insurance Fund contract will cost \$250,000, which will require Council to approve an appropriation from the Self-Insurance (Fund 689) unrestricted fund balance to its consulting services operating budget for Fiscal Year 2021-2022 and 2022-2023.

### **Budget Authority**

This Self-Insurance (Fund 689) contract will require an appropriation of \$100,000 for Fiscal Year 2021-2022 and \$150,000 for Fiscal Year 2022-2023 from its unrestricted fund balance into its consulting services account 689-19-004-5110. This contract will not exceed \$250,000 throughout the term ending June 30, 2023, and staff requests Council authority to increase Fiscal Year 2022-2023 appropriations in Account 689-19-004-5110 by the exact amount of any unspent Fiscal Year 2021-2022 funding for this contract.

In the event where legal services reach \$250,000, staff requests Council authorize a contract increase in an amount not to exceed 20%, or \$50,000, for a new contract value not to exceed \$300,000.

### **ATTACHMENT**

- Attachment A: Legal Services Agreement Between The City Of San Leandro And Allen, Glaessner, Hazelwood, & Werth For Legal Services

### **PREPARED BY**

Scott Koll, Financial Services Manager