



January 15, 2013

SUBJECT: Amendment of Outside Counsel Agreement with Bertrand, Fox & Elliot for Litigation Advice and Services**REPORT IN BRIEF**

Approval is requested for a fifth amendment to the contract with the law firm of Bertrand Fox & Elliot for legal services and representation in police liability and civil rights litigation. The current contract began in 2007, and currently provides for fees not to exceed \$650,000. This amendment is needed to cover costs to conclude several complex police civil rights cases.

BACKGROUND AND DISCUSSION

Gregory Fox, a specialist in the areas of constitutional and civil rights law, and partner in the law firm of Bertrand Fox & Elliot, was retained by the City Attorney under Section 908 of the City Charter to represent the City and provide legal services and representation in police liability and civil rights matters. Mr. Fox has extensive experience in police civil rights litigation and has aggressively litigated cases on behalf of DPS and the City, with a significant number of claims dismissed or adjudicated in favor of the City.

Bertrand Fox & Elliot recently represented the City in the Oberg and Millar constitutional rights cases, and successfully tried the *Canas* shooting case. The work on the cases is substantially complete. The amendment to include an additional \$65,000 in the total contract not-to-exceed amount is necessary to cover final costs and fees for the litigation.

FISCAL IMPACT

Funds are available in the budgeted FY 12/13 Liability and Property Insurance Fund.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

RECOMMENDATION

It is recommended that the City Council authorize a fifth amendment to increase the contract with the law firm of Bertrand Fox & Elliot by \$65,000, for a total not-to-exceed contract amount of \$715,000.00.

Prepared and reviewed by:

Joan A. Borger, City Attorney
City Attorney's Office