

**TO:** City Council  
**FROM:** James L. App, City Manager  
**SUBJECT:** **City Attorney Contract Amendment**  
**DATE:** March 21, 2006

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**NEEDS:** For the City Council to consider modifications to the City Attorney Contract for Services.

**FACTS:**

1. The City contracts with McDonough, Holland & Allen (MHA) for legal services and has done so since 1994.
2. MHA provides basic City Attorney, and other legal, services through Ms. Iris Yang, Attorney at Law. The basic services include legal review of documents, contracts and agreements, as well as consultation, advice and opinions regarding matters that affect the City.
3. The hourly rate for basic services has been adjusted only once over the last 12 years. In 2001, it was increased from \$130 to \$145 per hour.
4. MHA requests amendment of the hourly billing rate to \$165 effective April 1, 2006 and to \$180 effective July 1, 2006 (see attached letter).
5. The requested adjustment (at July 1, 2006) represents an annualized increase of 3.2% over the term of the contract, or 4.8% since the adjustment of 2001.
6. Two other minor adjustments to the contract are proposed:
  - Reimburse expenses for round-trip, rather than just one-way, for attendance at regular City Council meetings;
  - Charge standard private client hourly billing rate when the City can be reimbursed by third-parties for legal fees.

**ANALYSIS &**

**CONCLUSION:** McDonough, Holland & Allen, and Ms. Yang in particular, have served the City with distinction for nearly twelve years. They have done so at a reasonable and competitive rate. In the context of that now 12 year contract, and increase in all costs generally over the same period, the request for adjustment (3.2% annualized) is understandable.

Hourly rates for contract City Attorney services for other Cities (Atascadero, Arroyo Grande, Grover Beach, & Pismo Beach) within S.L.O. County range from \$125 to \$185.

**POLICY**

**REFERENCE:** Contract for Services with McDonough, Holland & Allen.

**FISCAL**

**IMPACT:** City legal service demands result in approximately 157 City Attorney hours billing per month. At \$165 per hour beginning April 1, 2006, the additional cost through June 30 of the current fiscal year is \$9,500. After July 1, 2006 when the rate is \$180 per hour, the annual incremental cost is \$66,100. The majority of this cost is anticipated in the General Fund, although some may be born by enterprise and other non-General funds.

Given the mid-FY2006 budget report, which projects positive and sustainable increases in General Fund revenues resulting in a surplus, the projected costs can be absorbed.

**OPTIONS:** A. Adopt Resolution Authorizing Amendment of the:

1. City Attorney Contract as Requested including:

- amendment of the hourly billing rate to \$165 effective April 1, 2006 and to \$180 effective July 1, 2006,
- reimbursement of expenses for round-trip travel, rather than just one-way, for attendance at regular City Council meetings, and
- charging standard private client hourly billing rate when the City can be reimbursed by third-parties for legal fees.

2. FY 2007 Budget by \$66,000 for City Attorney Services.

B. Amend, Modify or Reject the Option Above.

Attachment: City Attorney Correspondence  
Resolution Amending City Attorney Contract



**McDonough Holland & Allen PC**  
Attorneys at Law


**Memorandum**

**Iris P. Yang**  
Attorney at Law

Sacramento Office  
916.444.3900 tel  
916.444.3826 fax  
iyang@mhalaw.com

**DATE** January 30, 2006

**TO** Mayor Frank Mecham  
Councilmembers Jim Heggarty; Gary Nemeth, Duane Picanco and Fred Strong  
Jim App, City Manager

**FROM** Iris P. Yang 

**RE** Proposed revisions to City Attorney contract

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**Sacramento**  
555 Capitol Mall  
9th Floor  
Sacramento CA  
95814-4692  
tel 916.444.3900  
toll free 800.403.3900  
fax 916.444.8334

**Oakland**  
1901 Harrison Street  
9th Floor  
Oakland CA  
94612-3501  
tel 510.273.8780  
toll free 800.339.3030  
fax 510.839.9104

**Yuba City**  
422 Century Park Drive  
Suite A  
Yuba City CA  
95991-5729  
tel 530.674.9761  
fax 530.671.0990

[www.mhalaw.com](http://www.mhalaw.com)

We would like to request that the City Council consider revisions to the current contract for City Attorney services being provided by our firm. We have been providing these services to the City since 1994; since that time, we have revised the contract only once, in 2001, to raise the rate for normal City Attorney services from \$130 to \$145 an hour. That was a significant discount from our standard public agency rates in 2001; in addition, our standard public agency rates have increased since that time.

We would like to propose that the blended billing rate for Basic City Attorney Services (described below) be increased to \$165 per hour, beginning April 1, 2006, and to \$180 per hour, beginning July 1, 2006. Those amounts represent roughly a 5% increase per year since 2001, the last time the contract was amended, but is still a discount from my standard public agency rate.

Basic City Attorney Services would include attendance at City Council meetings; preparation and/or review of agendas, ordinances, resolutions, agreements, notices, declarations, certificates, deeds, ordinary leases and other legal documents as required by the City; and consultation with staff; provision of legal advice and opinions that affect the City, including new legislation and court decisions.

The current contract provides that the firm only charges the City for travel one-way for my attendance at regular City Council meetings. We would propose that the contract be amended to allow charging for round-trip travel, including hotel and meal expenses. As you know, I normally attend one (1) council meeting per month; the other meeting is attended by Jon Seitz, and we would propose that that arrangement would continue. Therefore, we do not believe that this amendment would represent a significant increase.



**McDonough Holland & Allen PC**  
Attorneys at Law

Mayor Frank Mecham  
Councilmembers Jim Heggarty;  
Gary Nemeth, Duane Picanco, Fred Strong  
Jim App, City Manager  
January 30, 2006  
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The current City Attorney contract provides that services provided outside of Basic City Attorney Services for the City are charged at the firm's standard rates. These "Non-Basic City Attorney Services" include such matters as redevelopment, employment and personnel, construction and public works matters, litigation, and other non-routine and/or specialized matters. We do not propose any change in that provision, with one exception. If the City is able to charge or be reimbursed by third-parties for legal fees (such as developer reimbursable legal fees), then we would propose that we charge our standard private hourly rate for these specific "Cost Recovery Services."

I hope this proposed arrangement is acceptable to the Council, as we have greatly enjoyed our relationship with the City over the almost 12 (!) years. Please feel free to let me know if you have any questions. Thank you very much for considering this request.

RESOLUTION NO. 06-

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF EL PASO DE ROBLES  
APPROVING AMENDMENT OF THE CITY ATTORNEY CONTRACT

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WHEREAS, the City has a contract with the law firm of McDonough, Holland & Allen (MHA) for City Attorney Services; and

WHEREAS, MHA has provided City Attorney services to the City since 1994; and

WHEREAS, City Attorney services have been provided by Ms. Iris Yang of MHA for the entire term of the contract and done so with distinction; and

WHEREAS, MHA has increased its hourly billing rate for City Attorney services only once since 1994; and

WHEREAS, the hourly billing rate increase requested (including the one previous increase in 2001) represents an annualized increase of 3.2% over the term of their contract;

THEREFORE BE IT HEREBY RESOLVED by the City Council of the City of El Paso de Robles that the City Manager is authorized to execute an amendment to the City Attorney Contract to effect changes to:

- the hourly billing rate to \$165 beginning April 1, 2006 and to \$180 effective July 1, 2006, and
- provide reimbursement of round-trip travel expenses for attendance at regular City Council meetings,
- charging standard private client hourly rates when the City can be reimbursed by third-parties for legal fees, and

approves a recurring base budget appropriation from the General Fund beginning July 1, 2006 in the amount of \$66,000 to the budget accounts noted as follows:

100-120-5224-120	\$66,000	
100-120-5239-120	(\$66,000)	
FND-DPT-5225-PRG	\$66,000	(to be allocated per cost allocation plan)

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 21<sup>st</sup> day of March, 2006 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN: