



## CONSENT CALENDAR

### City of San Bernardino Request for Council Action

**Date:** July 3, 2024

**To:** Honorable Mayor and City Council Members

**From:** Rochelle Clayton, Acting City Manager;  
Andrea Russell, Director of Human Resources & Risk Management

**Department:** Human Resources & Risk Management

**Subject:** **Professional Services Agreements for Workers' Compensation Legal Services (All Wards)**

#### **Recommendation:**

It is recommended that the Mayor and City Council of the City of San Bernardino, California, authorize the City Manager or designee to execute professional services agreements with the Hanna, Brophy, MacLean, McAleer & Jensen, Black & Rose and Goldman, Magdalin & Straatsma for Workers' Compensation Legal Services.

#### **Executive Summary**

Staff prepared a Request for Proposal (RFP) for workers' compensation legal services which garnered four responses. The proposals were evaluated, and Hanna, Brophy, MacLean, McAleer & Jensen (Hanna Brophy), Black & Rose, and Goldman, Magdalin & Straatsma (GMS) were selected as the most qualified respondents.

#### **Background**

On September 5, 2018, the Mayor and City Council authorized the City Manager to execute the reinstated professional services agreement between Goldman, Magdalin and Krikes (GMK), LLP and the City of San Bernardino in the amount of \$300,000 for workers' compensation legal services.

Because the City's current contract with GMS, formerly GMK, is due to sunset and all contract extensions had been exhausted, Staff released an RFP that garnered four proposals from the respondents listed below. The proposals were evaluated by staff from the Human Resources & Risk Management Department. The quality of services to be provided were considered in determining the most qualified respondent.

RFP Respondent	Group Score
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Hanna, Brophy, MacLean, McAleer & Jensen (Hanna Brophy)	105
Black & Rose	73
Goldman, Magdalin & Straatsma (GMS)	97
Mullen & Filippi	72

### **Discussion**

As the City continues to grow and face increasingly complex legal issues in the workers' compensation realm, it has become beneficial to utilize a workers' compensation legal panel as opposed to working with only one firm. A legal panel is a group of law firms who are approved to provide legal services to the City. Using a panel of workers' compensation law firms can help the City get the best possible service and value for money from external legal counsel. A panel arrangement will ensure that each firm demonstrates their value and purpose. In addition, the perceived competitive nature could lead to faster resolution of claims, decreasing overall costs in legal fees.

The proposed agreements with Hanna Brophy, Black & Rose and GMS will support the City by providing strategic workers' compensation claims handling to reduce exposure and expenses efficiently and effectively.

The scope of services will include:

- Review and/prepare reports, resolutions, orders, agreements, forms, and documents required for Workers' Compensation matters.
- Research and interpret Workers' Compensation laws, court decisions and other legal authorities in order to prepare recommendations.
- Provide clear and concise legal advice and consultation on an as needed basis as requested and required.
- Prepare, review and revise staff documents, including, but not limited to initiation of memorandums concerning legal issues on Workers' Compensation Claims and recommended negotiated claim settlements.
- Attend City Council closed session meetings to present settlement recommendations on claims.
- Make appearances at Workers' Compensation Appeals Board (WCAB).
- Provide related Workers' Compensation training to City staff.
- Provide expert knowledge in temporary disability, permanent disability, indemnity and rating, industrial disability/causation, medical consultation, rehabilitation Voucher, Agreed Medical Examiner (AME), Panel Qualified Medical Examiner (PQME) and case settlement.

### **Hanna Brophy**

With over 80 years of experience, Hanna Brophy specializes in representing employers and insurance carriers throughout California, particularly in the defense of public entities. Having established 15 offices across California, they are well positioned to provide local representation at every Workers' Compensation Appeals

Board and Office of Administrative Hearings venue in the state. Their team of 130 attorneys, who represent approximately 250 governmental entities, insurance companies, self-insured employers, and third-party administrators, possesses extensive experience in managing the defense of public entity claims.

Hanna Brophy has a proven track record of success, demonstrated by their expertise in litigating the unique issues associated with claims filed by governmental employees and peace officers. They are litigation specialists and expert trial attorneys who prioritize early settlement negotiations while staying ahead of shifting industry trends.

They will offer legal representation to the City of San Bernardino for workers' compensation claims, industrial disability retirement claims (including safety officers), Labor Code §132(a) claims, serious and willful misconduct claims, and disability retirement. In addition, they will provide advisory legal opinions, training, and education on workers' compensation and industrial disability retirement topics.

### *Black & Rose*

For over 20 years, Black and Rose has been representing employers and carriers at WCABs across the state. In performing its legal services, their attorneys have represented cities, counties, and numerous other public entities. Black and Rose will focus on the reduction of workers' compensation claims and the costs associated therewith so as to increase the funds available for the City.

The attorneys designated to the City's litigation team are experts in temporary disability/causation medical consultation, SJDB vouchers, AME's, PQME's, and case settlement. The attorneys will conduct discovery which may include depositions of claimants, interviews with witnesses, cross-examination of and consultation with medical experts, permanent disability rating of medical reports, organizing and reviewing video surveillance in connection with a fraud investigation, and making appearances and taking cases and liens to trial on behalf of the City.

As a part of the Workers Compensation Legal Services program, the attorneys of Black and Rose will work closely with City contacts and the third-party administrator to control and reduce costs associated with workers' compensation claims. The attorneys will investigate claims so as to reduce medical treatment costs, minimize the outflow of resources, reduce exposure for future medical costs and permanent disability, and reduce reserves through case closures.

### *GMS*

Since its founding in 1999, GMS has represented employers, businesses, public entities and insurance companies in California and the United States. The expertise gained by GMS in representing and partnering with their public agency clients have allowed them to identify the best workers' compensation practices in the public agency sector.

GMS has demonstrated effective workers' compensation legal services by strategizing

cost savings opportunities through claim settlements and comprehensive claim management review techniques.

They will provide detailed reviews of each case to devise a strategic plan to fit the claim and organizational goals while reducing the City's exposure in the most professional, reasonable and expeditious manner with each claim. GMS Staff includes highly skilled, experienced and trained attorneys, including lien resolution specialists, in addition to experts in workers' compensation law, subrogation, lien resolution, mediation, public entities and disability retirement

If approved, all agreements will begin July 1, 2024, through June 30, 2027, with an option for two, one-year extensions thereafter.

### **2021-2025 Strategic Targets and Goals**

The proposed professional services agreements align with Goal No. 1: Financial Stability. Each firm will provide Workers' Compensation legal services to the City which will help minimize risk and litigation exposure.

### **Fiscal Impact**

There is no fiscal impact to the General Fund. There is sufficient budget in FY24/25 for this item.

### **Conclusion**

It is recommended that the Mayor and City Council of the City of San Bernardino, California, authorize the City Manager or designee to execute professional services agreements with the Hanna, Brophy, MacLean, McAleer & Jensen, Black & Rose and Goldman, Magdalin & Straatsma, LLP for Workers' Compensation Legal Services.

### **Attachments**

Attachment 1 – Exhibit A - Professional Services Agreements - Hanna, Brophy, MacLean, McAleer & Jensen

Attachment 2 – Exhibit B - Professional Services Agreements - Black & Rose

Attachment 3 – Exhibit C - Professional Services Agreements - Goldman, Magdalin & Straatsma

### **Ward:**

All Wards

### **Synopsis of Previous Council Actions:**

On September 8, 2015, the Mayor and City Council adopted Resolution No. 2015-198 authorizing the execution of a professional services agreement between Goldman, Magdalin and Krikes (GMK), LLP, and the City of San Bernardino in the amount of \$300,000 for workers' compensation legal services.

On September 5, 2018, the Mayor and City Council authorized the City Manager to

execute the amended and restated professional services agreement between Goldman, Magdalin and Krikes (GMK), LLP and the City of San Bernardino in the amount of \$300,000 for workers' compensation legal services.