



CONSENT CALENDAR

City of San Bernardino Request for Council Action

Date: April 19, 2023

To: Honorable Mayor and City Council Members

From: Charles E. McNeely, Interim City Manager

By: Suzie Soren, Director of Human Resources

Department: Human Resources

Subject: **Amendment to Professional Services Agreements for
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:

1. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Karen Cervantes v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012538;
2. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Matthew Brown v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2025900;
3. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Don Smith v. John Valdivia, City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDSB2025375;
4. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Jackie Aboud v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2013562;

5. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for the representation in the Mirna Cisneros v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012926;
6. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for the representation in the Sedna Moseley v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2022209;
7. Fourth Amendment to the Professional Services Agreement with Lynberg and Watkins for the representation in the Gary Saenz, et al. v. City of San Bernardino et al., San Bernardino Superior Court Case No. CIVDS2003802.

Background

Karen Cervantes v. John Valdivia, et al.

- On August 28, 2020, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 each pursuant to 3.04.085(A) of the Municipal Code to represent the City in the Karen Cervantes v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012538. This case remains active.
- On May 5, 2021, the City entered into the first amendment to the agreement for a total not to exceed \$200,000.

Matthew Brown v. City of San Bernardino, et al.

- On January 27, 2021, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 each pursuant to 3.04.085(A) of the Municipal Code to represent the City in the Matthew Brown v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2025900. This case remains active.
- On May 05, 2021, the City entered into the first amendment to the agreement for a total not to exceed \$150,000.

Don Smith v. John Valdivia, City of San Bernardino, et al.

- On January 27, 2021, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 each pursuant to 3.04.085(A) of the Municipal Code to represent the City in the Don Smith v. John Valdivia, City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDSB2025375. This case remains active.
- On May 5, 2021, the City entered into the first amendment to the agreement for a total not to exceed \$150,000.

Jackie Aboud v. John Valdivia, et al.

- On August 28, 2020, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 each pursuant to 3.04.085(A) of the Municipal Code to represent the City in the Jackie Aboud v.

John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2013562. This case remains active.

- On May 5, 2021, the City entered into the first amendment to the agreement for a total not to exceed \$175,000.

Mirna Cisneros v. John Valdivia, et al.

- On August 28, 2020, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 each pursuant to 3.04.085(A) of the Municipal Code to represent the City in the Mirna Cisneros v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012926. This case remains active.
- On May 5, 2021, the City entered into the first amendment to the agreement for a total not to exceed \$250,000.

Sedna Moseley v. City of San Bernardino, et al.

- On January 14, 2021, the City entered into an agreement with Atkinson, Andelson, Loya, Ruud and Romo in the amount of \$50,000 to represent the City in the Sedna Moseley v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2022209. This case remains active; however, it has been transferred to Best, Best and Krieger. The City is paying Atkinson, Andelson, Loya, Ruud and Romo's final invoices.
- On March 13, 2022, the City entered into the first amendment to the agreement for a total not to exceed \$150,000.

Gary Saenz, et al. v. City of San Bernardino, et al.

- On July 08, 2019, the City entered into an agreement with Lynberg and Watkins in the amount of \$50,000 to represent the City in the Gary Saenz, et al. v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2003802. This case remains active.
- On February 26, 2020, the City entered into the first amendment to the agreement with a cap of \$25,000.
- On July 15, 2020, the City entered into the second amendment to the agreement for a total not to exceed \$75,000.
- On August 17, 2022, the City entered into the third amendment to the agreement for a total not to exceed \$150,000.

Discussion

At this time, it is necessary to increase the not-to-exceed contract amounts for all agreements listed above.

Atkinson, Andelson, Loya, Ruud and Romo have worked on behalf of the City on the Karen Cervantes, Matthew Brown, Don Smith, Jackie Aboud and Mirna Cisneros matters. It is advisable to maintain this firm as continued representation is essential to protect the City's interest and avoid unnecessary liability. In addition, utilizing the same firm provides efficiency that would be lost should the case need to be transferred to a different firm.

The Sedna Moseley matter has been transferred to Best, Best and Krieger, however, there are final Atkinson, Andelson, Loya, Ruud and Romo invoices pending payment.

Lynberg and Watkins have consistently worked on the Gary Saenz matter. Continued representation by this firm is vital to protect the City's interest and avoid unnecessary liability. Also, utilizing the same firm maintains efficiency that would be lost if the case is transferred to a different firm.

The proposed amendments to the contract amounts are as follows:

Case	Firm	Current Not-to-Exceed Amount	Proposed Not-to-Exceed Amount
K. Cervantes; CIVDS2012538	Atkinson, Andelson, Loya, Ruud and Romo	\$200,000	\$350,000
M. Brown; CIVDS2025900	Atkinson, Andelson, Loya, Ruud and Romo	\$150,000	\$300,000
D. Smith; CIVDSB2025375	Atkinson, Andelson, Loya, Ruud and Romo	\$150,000	\$300,000
J. Aboud; CIVDS2013562	Atkinson, Andelson, Loya, Ruud and Romo	\$175,000	\$325,000
M. Cisneros; CIVDS2012926	Atkinson, Andelson, Loya, Ruud and Romo	\$250,000	\$450,000
S. Moseley; CIVDS2022209	Atkinson, Andelson, Loya, Ruud and Romo	\$150,000	\$175,000
G. Saenz; CIVDS2003802	Lynberg and Watkins	\$150,000	\$225,000
TOTAL		\$1,225,000	\$2,125,000
Additional Funds			\$900,000

2021-2025 Strategic Targets and Goals

Authorization of these amendments aligns with Key Target No. 1e: Improved Operational & Financial Capacity – Minimize Risk and Litigation Exposure. Continued legal representation protects the City's interest and avoids unnecessary liability.

Fiscal Impact

The total increase to the contracts is \$900,000. Sufficient funding was added to the FY 2022/23 budget with the mid-year adjustment to support the contract amendments.

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:

1. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Karen Cervantes v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012538;
2. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Matthew Brown v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2025900;
3. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Don Smith v. John Valdivia, City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDSB2025375;
4. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Jackie Aboud v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2013562;
5. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for the representation in the Mirna Cisneros v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012926;
6. Second Amendment to the Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Sedna Moseley v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2022209;
7. Fourth Amendment to the Professional Services Agreement with Lynberg and Watkins for the representation in the Gary Saenz, et al. v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2003802.

Attachments

Attachment 1	Exhibit A – Original and Amended Agreements
Attachment 2	Exhibit B – New Amended Agreements

Ward:

All Wards

Synopsis of Previous Council Actions:

August 17, 2022	The Mayor and City Council authorized the City Manager to execute a Professional Services Agreement with Lynberg and Watkins for representation in the Gary Saenz et al. v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2003802.
March 16, 2022	The Mayor and City Council authorized the City Manager to execute a Professional Services Agreement with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Sedna Moseley v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2022209.
May 5, 2021	The Mayor and City Council authorized the City Manager to execute the First Amendment with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Karen Cervantes v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012538.
May 5, 2021	The Mayor and City Council authorized the City Manager to execute the First Amendment with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Matthew Brown v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2025900.
May 5, 2021	The Mayor and City Council authorized the City Manager to execute the First Amendment with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Don Smith v. John Valdivia, City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDSB202537.
May 5, 2021	The Mayor and City Council authorized the City Manager to execute the First Amendment with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Jackie Aboud v. John Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2013562.
May 5, 2021	The Mayor and City Council authorized the City Manager to execute the First Amendment with Atkinson, Andelson, Loya, Ruud and Romo for representation in the Mirna Cisneros v. John

Valdivia, et al., San Bernardino Superior Court Case No. CIVDS2012926.

July 15, 2020

The Mayor and City Council authorized the City Manager to execute the Second Amendment with Lynberg and Watkins for the representation in the Gary Saenz, et al. v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2003802.

February 26, 2020

The Mayor and City Council authorized the City Manager to execute the First Amendment with Lynberg and Watkins for the representation in the Gary Saenz, et al. v. City of San Bernardino, et al., San Bernardino Superior Court Case No. CIVDS2003802.