



## Legislation Text

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**File #:** 18-341, **Version:** 1

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*Report Prepared by: Kelly C. Fincher, Chief Deputy City Attorney*

**SUBJECT:** Agreement with Berliner Cohen, LLP. for Interim City Attorney Legal Services

### REPORT IN BRIEF

Considers Approving an Agreement with Berliner Cohen, LLP for continued Interim City Attorney Legal Services

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving the Agreement for Interim City Attorney Legal Services with Berliner Cohen, LLP, and;
- B. Authorizing the City Manager or Assistant City Manager to execute the Second Amendment to the Agreement for Interim Legal Services with Berliner Cohen, LLP, and;
- C. Approving a Supplemental Appropriation in the amount of \$57,000 from the General Fund to account 001-0301-512.17-00 City Attorney Professional Services.

### ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Provide direction on specific revisions to the Agreement; or,
- 3. Request additional information; or,
- 4. Continue the matter to a certain date; or,
- 5. Decline to take action.

### AUTHORITY

Charter of the City of Merced, Sections 200 and 603

### CITY COUNCIL PRIORITIES

N/A

### DISCUSSION

On August 15, 2016, the City Council approved an Agreement with the law firm, Berliner Cohen, LLP (hereafter Berliner Cohen) to provide Interim City Attorney and other legal services for the City. Under the terms of that Agreement, Berliner Cohen Partner Jolie Houston was appointed Interim City Attorney and two Berliner Cohen attorneys, Jeff Kaufman and Kim Flores were retained to provide 100 hours of interim City Attorney legal services.

Ms. Houston has been serving as the City's Interim City Attorney continuously following her appointment in August 2016. Since that time, the City Council has approved two amendments to the original agreement. In February 2017, the City Council approved a First Amendment to the Agreement which extended the term Agreement through January 31, 2018, and increased the hours worked from 100 to up to 120 hours per month. On January 16, 2018, the Agreement was extended to continue Berliner Cohen's services through June 30, 2018.

The original Agreement with Berliner Cohen has now expired, however, it is anticipated that the City Council may desire to continue to contract with the firm for interim legal services. Accordingly, a new Agreement for Legal Services with Berliner Cohen has been drafted for the City Council's consideration. Approval of this Agreement will allow the following: (1) the continued appointment of Jolie Houston as Interim City Attorney; (2) the staffing of the City Attorney's Office with Mr. Kaufman and Ms. Flores from Berliner Cohen's Merced office two days a week for eight hours a day (approximately 16 hours a week); and, (3) the performance of legal services as assigned for up to 120 hours a month. The cost of the Agreement will not exceed \$36,000 per month, most of which will be paid for from the City Attorney's Office budget through salary savings due to the vacant City Attorney and Senior Deputy City Attorney positions. Any hours worked over the 120-hour monthly limit will only be paid if Berliner Cohen obtains advanced authorization from the City to exceed the 120-hour monthly limit. As written, the instant Agreement will continue until terminated at any time by either party without cause upon 30 days' written notice.

Staff recommends that the Agreement with Berliner Cohen be approved to allow for the continuity of service to the City through June 30, 2018. Staff is seeking authority for a supplemental appropriation to support the anticipated cost of the full term of the agreement. Should the City Council appoint a full-time City Attorney prior to the end of the agreement, the supplemental appropriation will not be needed.

## **IMPACT ON CITY RESOURCES**

The agreement will not exceed \$432,000 for the entire fiscal year, \$375,000 will be paid from salary savings of the City Attorney and Senior Deputy City Attorney and a Supplemental Appropriation of \$57,000 will be required from the General Fund.

## **ATTACHMENTS**

1. Agreement for Interim City Attorney Services