

Council/Agency Meeting Held: _____	City Clerk's Signature _____
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: August 15, 2005	Department ID Number: 05-010

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

RECEIVED
 CITY CLERK
 CITY OF
 HUNTINGTON BEACH, CA
 2005 AUG -11 A 8:45

SUBMITTED TO: HONORABLE MAYOR CITY COUNCIL MEMBERS

SUBMITTED BY: JENNIFER MCGRATH, CITY ATTORNEY

PREPARED BY: JENNIFER MCGRATH, CITY ATTORNEY *JM*

SUBJECT: CONTRACT FOR LEGAL SERVICES WITH FRANDZEL ROBINS BLOOM & CSATO, L.C. *8/17/05*

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)
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Statement of Issue: The City of Huntington Beach has utilized the legal services of the law firm of Jeffer, Mangels, Butler & Marmaro in the matter of *City of Huntington Beach v. Huntington Beach Police Officers' Association, et al.*, U.S.D.C. Case No. SACV 01-1125-1125 JVS (ANx) and the Related Action, of *Scottsdale Insurance Company v. HBPOA*, USDC Case No. SA 03-1143 JVS. Hal Goldflam, an associate at the firm, had been one of the primary attorneys assigned to the case, but recently joined another firm.

Funding Source: N/A. There are sufficient funds in the current budget.

Recommended Action: Authorize the City Administrator to execute a contract in a form acceptable to the City Attorney to retain the services of Hal Goldflam via an agreement with Frandzel Robins Bloom & Csato, L.C..

Alternative Action(s): Do not authorize the City Administrator to execute a contract with Frandzel Robins Bloom & Csato, L.C.

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Analysis: From 1971 to 1997, the City leased to the Huntington Beach Police Officers Association ("POA") a portion of Huntington Central Park to operate a police and public gun range. In November 1998, the City discovered extensive lead contamination at the former gun range site. When the POA denied any responsibility for the lead contamination, in November 2001, it sued the POA in the case entitled, *City of Huntington Beach v. Huntington Beach Police Officers' Association, et al.*, U.S.D.C. Case No. SACV 01-1125-1125 JVS (ANx).

The law firm of Jeffer Mangels Butler & Marmaro ("Jeffer Mangels") represented the City in the suit. Jeffer Mangels was selected after soliciting multiple proposals from different law firms specializing in environmental contamination litigation.

The POA's insurance is their principal asset to satisfy any judgment the City obtains. However, the insurance policies contain certain exclusions that may deny the POA coverage. To resolve the coverage issues, two insurers, Scottsdale and American States filed the "Coverage Action," entitled, *Scottsdale Insurance Company v. HBPOA*, USDC Case No. SA 03-1143 JVS.

In Spring 2004, the City Attorney gradually began shifting responsibility for representing the City in both cases to Assistant City Attorney Scott Field, and that process was completed by Fall 2004.

Since 2003, Attorney Hal Goldflam, an associate at Jeffer Mangels, had been one of two attorneys principally responsible for representing the City, and he was instrumental in supporting Mr. Field during the transition to City Attorney staffing. Several months ago, Mr. Goldflam left Jeffer Mangels, and joined the firm of Frandzel Robins Bloom & Csato, L.C. On occasion, the City Attorney still requires assistance in both cases, and would prefer to retain the services of Mr. Goldflam to retain his familiarity with the matter, and because of his lower billing rate.

However, under Huntington Beach Municipal Code Chapter 3.03, the City is required to request three proposals to enter into a professional services contract. Although no other law firm could possibly have the equivalent qualifications as Mr. Goldflam to assist in the two suits, there is no exception to the "proposal" requirement even when a particular professional associated with a firm obtains employment with another firm. The City Attorney's Office will be proposing an applicable Municipal Code amendment in the near future to permit the City to retain the expertise and familiarity of particular professionals without the necessity of the formal proposal requirements of Huntington Beach Municipal Code Chapter 3.03 when the professional retains new employment.

There is no necessity to appropriate funds for the proposed Agreement. In addition, based on the current status of the litigation, the not to exceed amount of the contract is \$100,000, which would permit City Administrator approval only. Moreover, it is anticipated that the City will not spend in excess of \$50,000 on the Agreement.

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Environmental Status: N/A

Attachment(s): None

City Clerk's Page Number	No.	Description
—		None

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