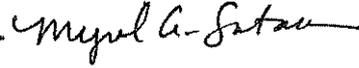


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCECAO File No. 0220-04563-0000
Council File No. 10-0529
Council District: --

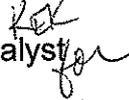
Date: April 19, 2010

To: The Mayor
The Council

From: Miguel A. Santana, City Administrative Officer



Gerry F. Miller, Chief Legislative Analyst

Subject: **CITY ATTORNEY'S REQUEST FOR ADDITIONAL RESOURCES
TO CONTINUED BILLBOARD ENFORCEMENT EFFORTS**

SUMMARY

This joint report has been prepared by the City Administrative Officer (CAO) and the Chief Legislative Analyst (CLA) in response to a Motion (Koretz-Zine-Hahn) which was considered at the Budget and Finance Committee meeting dated April 5, 2010. The Committee requested that additional information be provided regarding the pilot project objective, staffing resources needed and the funds identified as available for use.

Background

The Office of the City Attorney continues to defend more than 20 civil lawsuits brought by outdoor sign companies challenging the City's Sign Ordinance related to off-site signs and supergraphics (with an estimated exposure of over \$100 million). The Department's Criminal Branch has recently stepped up enforcement against those responsible for installing illegal signs, including filing 10 criminal prosecutions and two California Business and Professions Code Section 17200 enforcement actions. Enforcement efforts thus far have already led to a number of large illegal supergraphic signs coming down. The City Attorney reports the liability of not continuing to aggressively pursue enforcement against billboard violators would compromise the work already implemented thus far and would embolden unscrupulous sign companies to revert back to their practice of installing illegal signs. The Criminal Branch within the City Attorney's Office has filed numerous illegal sign cases with many cease and desist letters still pending and is anticipating the filing of more cases. The City Attorney asserts that the City is at risk without these additional resources to adequately support its litigation efforts and to effectively prosecute violators.

As such, the Office of the City Attorney is requesting additional resources to support enforcement efforts related to potential investigations and the resulting prosecutions which may occur as appropriate. The following resources are requested for the next six to twelve months; Two to four experienced investigators, one law clerk and one financial analyst with experience in the outdoor advertising industry.

The Office of the City Attorney has identified some critical functions to be performed by investigators as follows:

1. Identify, locate and interview witnesses;
2. Organize and conduct undercover operations;
3. Document sign installations for use as evidence in court;
4. Research the identity of those who install, own and manufacture illegal signs and those who contract to allow the signs to be installed on their building;
5. Perform record and background checks on individuals and corporate suspects and defendants and conduct asset searches; and
6. Locate defendants for service of process and/or arrest, serving subpoenas and assist in executing search warrants.

The Office of the City Attorney is open to utilizing currently employed investigators in other departments or by hiring from a list of qualified "experienced contract investigators" which are available on an as-needed basis. The list was developed from a Request for Proposal (RFP) process conducted in September 2009 by the Department. The Motion discusses the option of using City employees slated for layoff, however the Department contends that because its needs are of a critical and urgent nature the Department wants to avoid a prolonged search for candidates. The Department has inquired as to the availability of such employees and believes there is little chance the need can be met with current City employees due to lack of experience and training needed to do the work. Additionally, because continued funding for this program cannot be guaranteed, using contract employees is a more appropriate use for limited or one-time funds.

The Department has identified approximately \$616,000 available from funds recently received pursuant to a settlement which the City entered into in 2003 to allow continued on-site signage at the Westwood Medical Building by the supergraphic sign company Skytag. These funds represent net monthly revenue owed to the City accumulating since 2003. The Department reports that one settlement check was received in 2004 totaling \$36,000 and pursuant to a Council Motion (C.F. 02-2889) was deposited into the General Fund, which was then recommended to be used to renovate the library of Fairburn Avenue Elementary School in Council District (CD) Five. A second check was received in April 2009. The checks were deposited in a "miscellaneous account" used as a holding account for monies without a designated revenue account. The Department again contacted CD Five, but no direction was given. A third check was received in March 2010 and the Department contacted CD Five requesting use of funds for billboard enforcement efforts. The receipt of these revenues was the result of follow-up compliance efforts by the City Attorney's Office with the building owner as the conditions of the settlement were not being met.

Further Analysis and Fiscal Information

The CAO and the CLA have met with the City Attorney's Office to discuss a potential pilot project as proposed by the Committee and the history of the settlement funds. Court settlements are usually considered one-time revenue and once received are deposited into the General Fund (or Reserve Fund) and typically remain there or are further appropriated to a designated fund to be used as best determined by Council and Mayor. Although our Offices fully support the City Attorney's efforts, from a fiscal perspective because the City's Year-End

financial condition is still uncertain these funds should ideally remain within the General Fund to be used at a later date as requested or can be used toward the Reserve Fund to maintain sufficient cashflow.

At the April 5th Committee meeting, inquiry was made as to why these funds were not recognized, as numerous sweeps are made to department accounts throughout the year for surplus funds. As part of the CAO sweep exercises, accounts which have prior year encumbrances or current year appropriations are evaluated for potential reversion to the Reserve Fund. Since these funds were placed into a "miscellaneous account" and not a salary or expense account, they would not have been identified through typical sweep activity. Per the Controller's Office, when funds are deposited into such an account, department's are responsible to periodically reconcile the account and reclassify to the appropriate revenue account. The City Attorney reports that these funds were deposited into the "miscellaneous account" at the recommendation of Controller's Office with the intent to keep the funds in this account until the Council and Mayor determined how the funds were to be spent.

Proposed Staffing and Potential Cost

Should Council and Mayor determine that the best use of these funds is to continue enforcement efforts at the current pace for a limited time frame as requested, these actions would be in compliance with fiscal policy as this additional support is of a temporary nature and not on-going. The City Attorney's Office requested additional enforcement support for the next six to twelve months and has provided the additional cost information below:

Bill Board Investigation Team

Staff	Hourly Cost	Hours per Month	Monthly Cost	6 Month Cost	9 Month Cost
Investigator* Plus mileage	\$65 0.50 mile	174 hours 3,000 miles	\$11,310 \$1,500	\$67,860 \$9,000	\$101,790 \$13,500
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Financial Analyst**	\$250	20	\$5,000	\$30,000	\$45,000
Law Clerk***	\$25	174	\$4,350	\$26,100	\$39,150
TOTAL			\$60,590	\$363,540	\$545,310

*Four investigators would be from an existing panel of qualified investigative services.

**Financial Analyst would be sought as an independent billboard industry expert witness for case preparation

*** Law clerk would be an independent at-will contractor

There are potentially three options available for consideration once the funds are recognized as revenue;

1. Appropriate up to \$363,540 to the City Attorney's Office for a six month pilot program and request the City Attorney's Office to report back to Council and Mayor on results of the stepped up enforcement efforts along with an assessment of further liability; or
2. Appropriate up to \$545,310 to the City Attorney's Office for a nine month pilot program and request the City Attorney's Office to report back to Council and Mayor on results of the stepped up enforcement efforts along with an assessment of further liability; or
3. Appropriate all the available funds up to \$616,000 to the City Attorney's Office for a twelve month pilot program and request the City Attorney's Office to report back to Council and Mayor on results of the stepped up enforcement efforts along with an assessment of further liability;

RECOMMENDATION

That the Council, subject to the approval of the Mayor:

1. Request the department to reclassify the funds as revenue.
2. Receive and File the motion.
3. Should the City Council and Mayor wish to proceed with the City Attorney request, then instruct the City Attorney's Office or designee to prepare Controller instructions for an appropriated amount depending upon the length of the pilot program, subject to the approval of the CAO, and authorize the Controller to implement the instructions.

FISCAL IMPACT STATEMENT

The funds identified as available for use are one-time revenues resulting from a court settlement. The funds will be credited to the appropriate revenue account as a General Fund receipt and thereafter can either be used towards the Citywide deficit or can be appropriated to the Office of the City Attorney towards their additional enforcement efforts. The use of these one-time funds to supplement the Reserve Fund or to fund a one-time increase in City Attorney resources would be consistent with the City's Financial Policies.