

DISCUSSION

Some preliminary data from a survey being administered by the ACC-OC on the City's behalf provides a glimpse at the limited information available. Although a small sample size at the writing of this report, of the 9 cities responding to the survey on this subject, 100% report that they contract out for legal services. Of these cities, 77% obtained legal services through an RFP process. None of the cities responding report any requirement – either by the municipal code or by Council Policy – that legal services be subject to market competition on any scheduled basis. The length of the terms of current legal service contracts varies widely from over 30 years to as recently as 2014. There does not appear to be any consistency (again, based on a limited response to date) as to the length of legal service contracts.

Based strictly on informal conversations with other Orange County Cities, the general opinion is that legal services are typically not put out for proposals unless at least one of two circumstances arise – (1) concern or dissatisfaction with the quality of services being provided or (2) concern over the cost of services provided. In sharing this, I want to be very clear that these are strictly “general opinions” and not based on market research. However, the preliminary results of the survey underway suggest that municipalities do not routinely put legal services out to bid unless there are motivating factors to do so. Whether the “motivating factors” are strictly limited to quality of service and cost of service is a subjective determination.

Staff is awaiting financial data on legal services from an associate member of the ACC-OC which has been collecting information from cities throughout Orange County over the better part of the past year. Typically, municipal contracts provide for a base, hourly rate for general legal advisement and separate hourly rates for more specific legal services. Consequently, it is generally not enough to simply look at budgeted/actual figures for legal services by city in an effort to determine cost effectiveness. Legal services by city vary widely making a simple “side-by-side” comparison extremely difficult. Beyond this, it is not uncommon for cities to use multiple law firms depending on the expertise required in various fields. This simply underscores some of the complexity in providing what one might term an “apples-to-apples” comparison.

With Mr. Nixon's pending retirement and the delay in completing the report on legal options, I am bringing forward to the City Council at this time the matter of appointing an individual to serve as City Attorney. Woodruff, Spradlin and Smart, Mr. Nixon's employer and contract provider of legal services to the City of Garden Grove, has submitted Mr. Omar Sandoval, Esq. for appointment as City Attorney (please see attached correspondence and resume). As the City Council is aware, Mr. Sandoval has extensive experience in serving the City for a number of years under its existing contract with Woodruff, Spradlin and Smart.

In light of the City Council's request for a review of options for the provision of legal services and the delay in providing that review prior to Mr. Nixon's retirement, the attached resolution has been prepared naming Mr. Sandoval as Acting City Attorney.

In so doing, I want to emphasize that the recommendation for an "Acting" appointment is strictly based on the City Council's request for a review of options for legal services and the delay in getting that report to you. **It in no way is any reflection on Mr. Sandoval's qualifications to serve as City Attorney.** As the attached resume indicates, Mr. Sandoval is a highly qualified individual with experience in serving the City. It should also be kept in mind that unlike other Department Directors, the position of City Attorney does not carry with it any employment rights. Consequently, the naming of the City Attorney – whether as an Interim, Acting or in a Permanent capacity – does not alter either the responsibilities of the position nor the existing terms of the agreement with Woodruff, Spradlin and Smart.

In closing, we will do our best to conclude the research requested by the City Council so this matter may be brought forward to you as soon as possible.

RECOMMENDATION

It is recommended that the City Council adopt the Resolution appointing Omar Sandoval as Acting City Attorney.



ALLAN ROEDER
Interim City Manager

Attachment 1: Letter regarding City Attorney Services Transition
Attachment 2: Resolution



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July 9, 2015

BY E-MAIL AND HAND DELIVERED

Mayor Bao Nguyen
Mayor Pro Tem Steve Jones
Councilmember Christopher Phan
Councilmember Kris Beard
Councilmember Phat Bui

Re: City Attorney Services Transition

Dear Mayor Nguyen and Members of the Garden Grove City Council,

Woodruff, Spradlin & Smart is very proud to serve the City of Garden Grove in providing legal services to the City Council, City administration and the City's various departments. As you know, Tom Nixon has served as the city attorney since 2006 but has announced his retirement scheduled for the end of this month. In an effort to continue to provide the highest level of service, the Firm offers Omar Sandoval to transition as city attorney effective August 1, 2015. James Eggart would further continue to serve as assistant city attorney and Planning Commission counsel.

Mr. Sandoval has over 20 years of experience in municipal law, and has worked in various capacities for the City of Garden Grove for over 15 years. Omar joined the Firm in 1999 and became a principal in 2005. He has served as city attorney and general counsel for many of the Firm's public agency clients, and is eager and more than capable to provide a seamless transition as your city attorney. Omar earned a Bachelor of Arts degree in philosophy, politics and economics from Pomona College, Claremont, in 1991, and earned his law degree from the UCLA School of Law in 1994. A copy of Omar's résumé showing his extensive experience is attached to this letter.

James Eggart is also a principal of our Firm and has been the chief representative for several public bodies, including Planning Commissions since 2007. He has served as Planning Commission Counsel for Garden Grove since 2009. James specializes in municipal, planning, land use, and conflict of interest law. He attended the University of Montana (B.A., 1998), and received a Master's of Business Administration degree from the Eller Graduate School of Management, University of Arizona (M.B.A., 2001). He earned his law degree from the James E. Rogers College of Law, University of Arizona (J.D., cum laude, 2001).

Neither Omar nor James are strangers to the City and the Garden Grove community. Omar served many years as Planning Commission counsel, and provided counsel to the Garden Grove

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Community Foundation during its first six years of existence. Omar and James have worked and continue to work with staff in implementing Council policies in a wide variety of areas, including municipal code amendments and implementation, contract negotiations, development of the Harbor Blvd. corridor (the latest projects involving entitlements for Site C), redevelopment (including the project entitlements for the Brookhurst Triangle), public works and professional services contract procurement, to name a few.

Omar and James will continue to be supported by our strong litigation department which has successfully defended the City in numerous lawsuits, all without any liability assessed against the City. For example, *Gaine, et al. v. City of Garden Grove*; *Robin Winger v. City of Garden Grove*; *Hanchett v. Garden Grove*; *Tony Thanh Nguyen v. City of Garden Grove*. In addition to the strong tort litigation and police defense attorneys headed by Daniel Spradlin, the Firm provides attorneys who are specialists in public works construction, environmental law, code enforcement, and eminent domain.

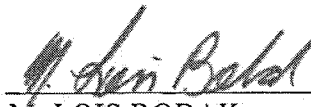
Omar, James and the many other lawyers in our Firm who provide services to the City are excited to continue to assist the City Council and City staff in implementing the policies that have helped shape Garden Grove into a vibrant residential community with strong businesses to support those residents, and to assist in expanding the City's revenue base to ensure the City's continued growth for many years to come.

A change in the City's contract with the Firm is not necessary to effectuate the transition of Omar to the city attorney position, but we feel that adoption of a resolution formally appointing him as the city attorney effective upon Tom's retirement would be appropriate.

We look forward to many more years of service to the City of Garden Grove.

Very truly yours,

WOODRUFF, SPRADLIN & SMART
A Professional Corporation



M. LOIS BOBAK
President

Enclosure

cc: Allan L. Roeder, Interim City Manager

OMAR SANDOVAL

EDUCATION:

Pomona College, Claremont (B.A., 1991)
University of California at Los Angeles, School of Law (J.D., 1994)

PROFESSIONAL AFFILIATIONS:

State Bar of California, Public Law Section
Orange County Bar Association
Orange County City Attorneys Association (2012 President)

PROFESSIONAL EXPERIENCE AND CREDENTIALS:

Admitted to California Bar, 1994
Admitted to California Supreme Court, 1994
Admitted to United States District Court, Central District of California, 1994
Admitted to United States Court of Appeals, Ninth District, 1994
City Attorney, City of Hawaiian Gardens, 2009-present
General Counsel, Rossmoor-Los Alamitos Area Sewer District, 1999-present
City Attorney, City of San Juan Capistrano, 2008-2012 (Assistant 1999-2007)
General Counsel, Midway City Sanitary District, 2005-2007 (Assistant, 1999-2004)
Assistant City Attorney, City of Indio, 2005-2011
Assistant City Attorney, City of Garden Grove, 2005-present
Assistant City Attorney, City of Paramount (2000-2005)
Assistant City Attorney, City of Chino (1994-1999)
Assistant City Attorney, City of Coachella (1994-1999)

Mr. Sandoval began his legal career in 1994 clerking at the law offices of A. Tod Hindin, Los Angeles, where he worked on civil litigation matters. After graduating from law school, he joined the law offices of Jimmy Gutierrez, in Chino, California, where he served as Assistant City Attorney for the Cities of Chino and Coachella from 1994 to 1999. Mr. Sandoval joined Woodruff, Spradlin & Smart in 1999 where he handles transactional work and serves in an advisory capacity for its many public entity clients, providing city attorney and general counsel services to cities, planning commissions, and special districts. He became a Principal of WSS in 2005.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
APPOINTING THE ACTING CITY ATTORNEY.

WHEREAS, the City contracts with Woodruff, Spradlin & Smart to provide legal services and fulfill the position of City Attorney for the City of Garden Grove; and

WHEREAS, Thomas F. Nixon, a principal of Woodruff, Spradlin & Smart, who has served as the designated City Attorney since 2006 has announced his retirement as of July 31, 2015; and

WHEREAS, Woodruff, Spradlin & Smart has proposed Omar Sandoval, a principal of the Firm, to be designated City Attorney upon Mr. Nixon's retirement; and

WHEREAS, the City Council previously requested a review of its options for the provision of legal services including fulfilling the position of City Attorney; and

WHEREAS, although the review of options is not complete as of this date, there is a pending need to appoint a qualified individual to succeed Mr. Nixon.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Garden Grove that Omar Sandoval of Woodruff, Spradlin & Smart shall be appointed and serve as Acting City Attorney of the City of Garden Grove effective August 1, 2015.

PASSED AND ADOPTED this ____ day of July, 2015.