



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
Lee Price

**SUBJECT:** Fifth Amendment to Consultant  
Agreement – Elections  
Commission Evaluator

**DATE:** June 17, 2004

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## **RECOMMENDATION**

Adopt a Resolution authorizing the City Attorney to negotiate and execute a fifth amendment to the Agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP, to increase the maximum amount of compensation to provide investigation services as the Evaluator to the San Jose Elections Commission by an additional \$60,000, to a total amount not to exceed \$200,000, and to extend the term of the Agreement through June 30, 2005.

## **BACKGROUND**

The San Jose Municipal Code and the Election Commission's Regulations and Procedures provide that the Commission select an Evaluator to review and investigate complaints that are filed with the Commission. The law firm of Hanson, Bridgett, Marcus, Vlahos, Rudy LLP serves as Evaluator to the Elections Commission.

The Municipal Code provides that the City Council shall appropriate funds necessary to fund the Evaluator for a period of 2 years.

## **ANALYSIS**

In 2002 and 2003, the Election Commission's Evaluator conducted investigations for three complaints arising out of the 2002 Municipal Election cycle. These investigations required thorough interviews of witnesses, legal research, and detailed investigative reports with recommendations to the Elections Commission.

The Commission conducted 5 public hearings related to the complaints with the last hearing completed on November 19, 2003. The hearings have involved extensive testimony, preparation and service of numerous documents, and the need for a court reporter to be present at each of the hearings.

The Evaluator is currently investigating three complaints filed with the City Clerk in March, April and May of 2004. The recommended increase to the Agreement is necessary to complete the investigations related to these complaints. Additionally, investigations would be required if any complaints related to the November 2004 municipal election are filed with the Commission. Since it is not possible to predict the number of complaints or complexity of investigations that may be needed to resolve complaints filed with the Commission, it is difficult to assess whether the requested funding is adequate to cover the Evaluator's services to the end of the 2004-2005 Fiscal Year.

### **PUBLIC OUTREACH**

Not applicable.

### **COORDINATION**

This memorandum has been coordinated with the Budget Office.

### **BUDGET REFERENCE**

There is a separate memorandum before Council recommending the approval of a 2003-2004 Clean-up action to increase the funding for the Campaign Finance Review/Ethics appropriation in the amount of \$60,000.

### **CEQA**

Not a Project.

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Richard Doyle, City Attorney

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Lee Price, City Clerk

cc: Del Borgsdorf