



Meeting Date: February 25, 2026

TOWN OF MORAGA

STAFF REPORT

To: Honorable Mayor and Councilmembers

From: Town Attorney Performance Review Ad Hoc Council Committee (Mayor Kerry Hillis & Councilmember Lisa Maglio)

Subject: First Amendment to Agreement for Town Attorney Services Between the Town of Moraga and Burke, Williams & Sorensen, LLP

RECOMMENDATION

Adopt a resolution authorizing and approving a First Amendment to Agreement for Town Attorney Services between the Town of Moraga and Burke, Williams & Sorensen, LLP; and authorizing the Town Mayor to execute the First Amendment.

BACKGROUND

Michelle Marchetta Kenyon has served as the Town Attorney for the Town of Moraga since 1996. Initially, Ms. Kenyon provided Town Attorney services through the prior law firm of McDonough Holland & Allen PC ("MHA"). However, in 2010, Ms. Kenyon joined Burke Williams & Sorensen, LLP ("Burke" or "Firm") and Burke and Michelle Kenyon have continued to provide Town Attorney services since that time pursuant to the August 30, 2010 Agreement for Town Attorney Services between the Town and Burke. Burke has not raised its rates for general counsel services since 2010.

DISCUSSION

Burke has been in existence since 1927 and was one of the select number of private law firms to have originated the specialized practice of public law in California. Burke is a full-service law firm providing public entities with a full range of legal, advisory, transactional and litigation services. The Firm's practice is organized into six practice groups: Public Law; Labor and Employment; Litigation; Environmental and Natural Resources; Real Estate and Business, and Education. The Firm's attorneys currently serve clients from 10 regional offices located in Inland Empire, Los Angeles, Marin County, Oakland, Orange County, Palm Desert, San Diego, San Francisco, Silicon Valley and Ventura County.

Recognizing that public entities exist in a legal environment which is both diverse and

complex, Burke's Public Law Practice Group contains a number of specialized inter-divisions, allowing many of its attorneys to focus their attention in a particular area of public law in addition to maintaining general public law expertise. This enables Burke's attorneys to quickly draw upon the experience of an in-house expert for assistance with a wide range of legal problems that may confront its public law clients.

The Firm's public law attorneys specialize in issues including, but not limited to, the following: water/wastewater, planning, land use, CEQA, labor and employment, police, fire, parks and community services, engineering, public works, solid waste, sewer and wastewater treatment, real estate, property acquisition, eminent domain, inverse condemnation, trial and appellate litigation. The Firm also specializes in representing public agencies in construction disputes having some of the pre-eminent legal experts in advice and litigation (including trials) surrounding bid protests, construction management, design defects, surety issues, change orders, extra work and delay claims. In addition, Burke has an outstanding record in representing public employers in all areas of employment law including labor relations, administrative hearings, arbitrations, investigation, training and personnel litigation.

Because Burke is focused primarily on public agency representation, it understands the tremendous fiscal pressures that are facing cities and towns throughout the State, in particular those which are facing the Town of Moraga. Accordingly, when Ms. Kenyon joined Burke in 2010, the Agreement for Town Attorney services recommended proposed rates of \$240 per hour for work performed by Michelle Marchetta Kenyon, an amount not to exceed \$225 for work performed by other shareholders and senior associates and an amount not to exceed \$195 per hour for work performed by junior associates for general counsel services. These rates have not changed, and have stayed the same for over 15 years.

Due to ever increasing costs since 2010, Burke is now requesting a 10% rate adjustment for general counsel services in order to maintain the highest standard of legal services for the Town. Burke is proposing to amend the rates for general counsel services as follows: \$265 per hour for work performed by Michelle Marchetta Kenyon, an amount not to exceed \$248 per hour for work performed by other partners and senior associates and an amount not to exceed \$215 per hour for work performed by junior associates.

These proposed rate increases are comparable and in some instances lower than rates being charged in the neighboring jurisdictions of Orinda and Lafayette. Orinda's rates for general legal services are \$244 - \$359 per hour depending on the level of attorney and Lafayette's charges a flat retainer for general legal services equating to \$26,605/month.

For "Special Legal Services" (such as litigation), the proposed amendment would require the Town Attorney to provide the Town Manager with an updated list of Specialty Service rates each year.

Please note that this request has been reviewed by the Town Manager and he concurs that the request is reasonable.

FISCAL IMPACT

The Town Attorney's Office adopted budget for FY 2025-2026 and FY 2026-2027 is \$359,000 for each fiscal year. Based on the actual expenditures through the first seven months of FY 2025-2026, it is anticipated that year-end expenditures for this office will be well below the

total \$359,000 budget appropriation authority.

With a 10% increase to the firm's general counsel services billable hourly rate, it is possible that this will result in a total annual cost increase of up to \$30,000. Even at this amount, the total cost to the General Fund is anticipated to remain under the \$359,000 appropriation included in the adopted budget for both FY 2025-2026 and F 2026-2027.

As a result, the General Fund Budget does not need to be amended for either fiscal year. There is sufficient budget authority in both fiscal years to absorb the proposed 10% general counsel services hourly rate adjustment.

CEQA COMPLIANCE

Approval of the proposed First Amendment to Agreement for Town Attorney Services is not subject to review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.), because it constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

ALTERNATIVES

1. Make revisions to the proposed First Amendment to the Agreement.
2. Not approve the proposed First Amendment to the Agreement and provide direction to staff.

NEXT STEPS

Upon approval by Town Council, the amended Agreement will go into effect upon adoption of the proposed resolution.

ATTACHMENTS

[Attachment A - Resolution Approving First Amendment to Agreement for Town Attorney Services.docx](#)

[Attachment B - First Amendment to Agreement for Town Attorney Services.docx](#)