

## Staff Summary Report

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**Council Meeting Date:** September 11, 2008

**Agenda Item Number** 28

**SUBJECT:** Request authorization of the engagement of the Calderon Law Offices to provide legal consulting and investigative services.

**DOCUMENT NAME:** 20080911casv01 **LEGAL AND LEGISLATIVE SERVICES (0500)**

**SUPPORTING DOCS:** Yes.

**COMMENTS:** Calderon Law Offices has been retained for consulting and investigative services for the City Attorney's Office. Expenditures shall not exceed \$100,000.

**PREPARED BY:** Andrew B. Ching, City Attorney (Ext. 8575)

**REVIEWED BY:** N/A

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** Legal fees have been paid through the City Attorney's outside counsel budget, and shall be supplemented through interdepartmental transfers as needed.

**RECOMMENDATION:** Staff recommends approval of this item.

**ADDITIONAL INFO:** The City Attorney's Office interviewed three law firms and selected the Calderon Law Offices due to their expertise in employment law and personnel investigations, in addition to their competitive reduced billing rates. The firm commenced their investigation in July 2008. Based on the nature and complexity of the investigation, it was determined that the hours of work and resultant fees would require Council approval of the ongoing expenditures, with the parameters described above.



City of Tempe  
P.O. Box 5002  
21 East Sixth Street, Ste. 201  
Tempe, AZ 85280  
480-350-8227  
480-350-8645 (FAX)



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The Tempe Way    *Our Mission* To make Tempe the best place to live, work and play.    *We Value* People... Integrity... Respect... Openness... Creativity... Quality...

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City Attorney's Office

July 3, 2008

Ernest Calderon, Esq.  
CALDERON LAW OFFICES  
2020 N. Central Avenue, Suite 1110  
Phoenix, Arizona 85004-0001

Re: Personnel Investigation Engagement

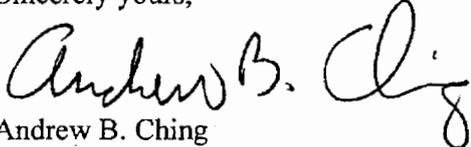
Dear Mr. Calderon:

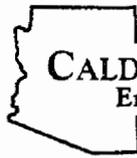
I wanted to thank you for your acceptance of an engagement with the City of Tempe to conduct a fact finding/personnel investigation into the complaints raised by a number of employees in the City's Water Utilities Department. As I mentioned to you in our meetings on June 25, 2008 and again on July 1, 2008, your firm has been retained to conduct a comprehensive, thorough, and objective review of all of the facts and circumstances related to these complaints. You have complete discretion to conduct the investigation in the manner that you determine to be the most effective. You and your staff will be provided access to any documents (confidential or otherwise) that you determine are necessary to review and may conduct interviews with any employees that you so choose. Neither my office, nor any other City department will direct you as to how to conduct the investigation or be allowed to edit or alter your ultimate conclusions.

We have designated Erin Fillmore in our office to help you coordinate interviews with City employees and obtain any documents that you request to view as part of your investigation. Her direct line is (480) 858-2386.

In the meantime, if you ever have any questions or need any further assistance, please feel free to contact Assistant City Attorney Dave Park or me directly. I look forward to working with you on this matter.

Sincerely yours,

  
Andrew B. Ching  
City Attorney



**CALDERÓN LAW OFFICES**  
Ernest Calderón, P.L.C.

2020 N. Central Avenue, Suite 1110 • Phoenix, AZ 85004  
Phone: 602-265-0004 • Toll Free: 866-605-4537 • Fax: 602-251-2978  
Website: [www.azlex.com](http://www.azlex.com)

RECEIVED

JUN 30 2008

TEMPE CITY ATTORNEY

June 27, 2008

**ATTORNEY CLIENT PRIVILEGED COMMUNICATION**

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**Mailed and Emailed**

Andrew Ching, Esq.  
City Attorney  
CITY OF TEMPE  
P. O. Box 5002  
Tempe, AZ 85280  
[andrew\\_ching@tempe.gov](mailto:andrew_ching@tempe.gov)

*Re: Representation Letter*

Dear Mr. Ching:

This letter will iterate Calderón Law Offices' billing and office procedures regarding the above-referenced matter.

My time on this matter will be billed at a reduced rate from \$350.00 per hour to \$175.00 per hour. In addition, my associates, Faith Klepper and Meagan Breeze's rates are reduced from \$200.00 per hour to \$160.00 per hour. Enclosed is a copy of our current Policy and Professionalism Fees and Disbursements. Depending on the issues presented, my paralegal and law clerk may assist us from time to time. If that occurs, you will be billed for their services at their current hourly rate. Presently, their rates are \$100.00 per hour. These rates are subject to change if you retain our firm for other work.

Fees for our services will be based primarily upon the time and labor reasonably required to be devoted to your matter. Other factors such as the complexity of the matter, the degree of expertise required, and the result obtained are the considerations which may affect the fee. The activities of the opposition are not generally something we can control and those activities and our required response may also bear on the total expense.

In addition to the fees referred to above, disbursements may be incurred in connection with this representation. For example, you may anticipate such disbursements as long distance telephone charges, duplication costs, messenger expenses, filing and recording fees, and other expenses. We may advance such expenses on your behalf, in which case we will expect reimbursement upon request or we may ask you to pay them directly or in advance. We have found it mutually desirable to render regular periodic billings and, therefore, our statements for fees and expenses will be sent monthly. It is

also possible that you may be requested to advance funds necessary to pay specific expenses before they will be incurred.

If any portion of a bill is unpaid more than thirty (30) days upon receipt of the bill, we reserve the right to withdraw from further representation by letter sent to you informing you of that fact. You agree to our right to withdrawal under those conditions notwithstanding the then status of the legal matter in which we may then be engaged.

If you have any questions about the matters set forth above, please contact me. Otherwise, we will consider that you have consented to the arrangements set forth in this letter. For our records, however, it would be helpful if you would sign and return to me the enclosed copy of this letter.

We look forward to working with you on this matter.

Sincerely,

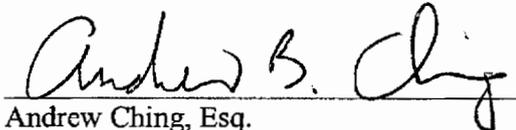
**CALDERÓN LAW OFFICES**



Ernest Calderón

EC:ecb  
Enclosure

AGREED TO BY:



Andrew Ching, Esq.  
City Attorney  
CITY OF TEMPE

Dated: 7-1-2008



City of Tempe  
P.O. Box 5002  
21 East Sixth Street, Ste. 201  
Tempe, AZ 85280  
480-350-8227  
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City Attorney's Office

June 13, 2008

**VIA FACSIMILE AND U.S. MAIL**

Ernest Calderon, Esq.  
Calderon Law Offices  
2020 N. Central Avenue, Suite 1110  
Phoenix, AZ 85004-0001

Re: Request for Qualifications for Procurement of Legal Services

Dear Mr. Calderon:

The Tempe City Attorney's Office is seeking a law firm to conduct investigations regarding personnel related matters within the City. Specifically we are interested in hiring legal counsel well-versed in both state and federal employment law, civil rights, and personnel investigations.

If you wish to be placed upon an interview list, please supply me with a brief background indicating your experience in the above areas, as well as your fee for such services as soon as possible, but no later than by the end of the day on Friday, June 20, 2008. If you are not able to meet this deadline, please contact me.

In the meantime, if you have any questions or require further information, please feel free to contact me or Deputy City Attorney, Rosemary Rosales. We look forward to hearing from you.

Sincerely yours,

Andrew B. Ching  
City Attorney