

**MEMO TO FILE**

PLACE IN FILES

OCT 23 2001

DEPUTY



Date: October 11, 2001

Re: Council File No. 01-0096

Contract amendment/appropriation for attorney contracting for the following cases:

Robert Cunningham, et. al. v. Gates, et al.; Grover Smith v. Gates, et al.; and W.

Figueroa, C. Gonzales, et al., v. Gates

Pursuant to the attached letter from Cecil Marr, Assistant City Attorney, no additional Council action is necessary on this request from the City Attorney's Office. Therefore, this file can be closed and placed as "File in Files".



OFFICE OF THE CITY ATTORNEY  
ROCKARD J. DELGADILLO  
CITY ATTORNEY

October 18, 2001

City Clerk's Office  
200 N. Main Street, Room 395  
Los Angeles, CA 90012

Re: File No. 01-0096

Gentlepersons:

This transmits Council File No.01-0096.

Following this office's correspondence on January 10, 2001, there were further discussions between this office and the law firm of Christensen, Miller, Fink, Jacobs, Glaser, Weild and Shapiro, LLP, which obviated the need for further Council action.

Thank you for your attention to this matter.

Very truly yours,

CECIL W. MARR  
Managing Assistant

CWM:mcr  
(213) 485-4462

Attachment: File No. 01-0096



J. MICHAEL CAREY  
City Clerk

FRANK T. MARTINEZ  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

Office of the  
CITY CLERK  
Council and Public Services  
Room 615, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705  
Fax: (213) 847-0636  
Fax: (213) 485-8944

HELEN GINSBURG  
Chief, Council and Public Services Division

01-0096

January 25, 2001

CITY ATTORNEY(w/file)

At the meeting of the Council held January 24, 2001, the motion was adopted that the closed session for the cases entitled Robert Cunningham, et al. v. Gates, et al., United States District Court Case Nos. CV96-02666, CV98-55208, CV98-56077; Grover Smith v. Gates et al., United States District Court Case Nos. CV97-01286, CV98-56081, CV99-55136; and W. Figueroa, C. Gonzalez, et al. v. Gates, United States District Court Case No. CV00-041158 was WITHDRAWN from the agenda and REFERRED TO the CITY ATTORNEY for further consideration.

*J. Michael Carey*  
City Clerk  
vdw



CF 01-0096

January 17, 2001

M E M O R A N D U M   T O   F I L E

The City Council scheduled a Closed Session on Wednesday, January 17, 2001 pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to contract amendment and appropriation for attorney contracting for the following cases: Robert Cunningham, et al. v. Gates, et al., United States District Court Cases Nos. CV96-02666, CV98-55208, CV98-56077; Grover Smith v. Gates, et al., United States District Court Cases Nos. CV97-01286, CV98-56081, CV99-55136; and W. Figueroa, C. Gonzalez, et al. v. Gates, United States District Court Case No. CV00-041158.

The purpose of this memorandum is to note for the record that the City Attorney requested this matter be withdrawn from the agenda and referred to the City Attorney.

*Maria Kostrencich*  
MARIA KOSTRENCICH  
Council Clerk

LOS ANGELES CITY COUNCIL, CONTINUATION AGENDA  
WEDNESDAY, JANUARY 24, 2001  
COUNCIL CHAMBER, ROOM 300, CITY HALL - 10 AM

CONTINUED FROM: JANUARY 23, 2001

**CLOSED SESSION - ITEM 26**

**ITEM NO. (26) - WITHDRAWN FROM AGENDA - REFERRED TO THE CITY ATTORNEY**

01-0096 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to contract amendment and appropriation for attorney contracting for the following cases: Robert Cunningham, et al. v. Gates, et al., United States District Court Cases Nos. CV96-02666, CV98-55208, CV98-56077; Grover Smith v. Gates, et al., United States District Court Cases Nos. CV 97-01286, CV98-56081, CV99-55136; and W. Figueroa, C. Gonzalez, et al. v. Gates, United States District Court Case No. CV00-041158.

LOS ANGELES CITY COUNCIL, CONTINUATION AGENDA  
TUESDAY, JANUARY 23, 2001  
COUNCIL CHAMBER, ROOM 300, CITY HALL - 10 AM

CONTINUED FROM: FRIDAY, JANUARY 19, 2001

**CLOSED SESSIONS - ITEMS 35-36**

ITEM NO. (35) - MEETING NOT HELD - CONTINUED TO JANUARY 24, 2001

01-0096 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to contract amendment and appropriation for attorney contracting for the following cases: Robert Cunningham, et al. v. Gates, et al., United States District Court Cases Nos. CV96-02666, CV98-55208, CV98-56077; Grover Smith v. Gates, et al., United States District Court Cases Nos. CV 97-01286, CV98-56081, CV99-55136; and W. Figueroa, C. Gonzalez, et al. v. Gates, United States District Court Case No. CV00-041158.

ITEM NO. (36) - MEETING HELD - ACTION TAKEN IN CLOSED SESSION

00-0211 - The City Council shall recess to Closed Session, pursuant to  
S19 Government Code Section 54956.9(a) to confer with its legal counsel relative to a status report from the City's Negotiating Team regarding the Consent Decree between the City and the U.S. Department of Justice.

## CLOSED SESSIONS - ITEMS 21-22

ITEM NO. (21) MEETING NOT HELD - CONTINUED TO JANUARY 23, 2001

01-0096 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to contract amendment and appropriation for attorney contracting for the following cases: Robert Cunningham, et al. v. Gates, et al., United States District Court Cases Nos. CV96-02666, CV98-55208, CV98-56077; Grover Smith v. Gates, et al., United States District Court Cases Nos. CV 97-01286, CV98-56081, CV99-55136; and W. Figueroa, C. Gonzalez, et al. v. Gates, United States District Court Case No. CV00-041158.

(Budget and Finance Committee to consider the above matter in Closed Session on January 17, 2001)

ITEM NO. (22) MEETING NOT HELD - CONTINUED TO JANUARY 23, 2001

00-0211 - The City Council shall recess to Closed Session, pursuant to  
S19 Government Code Section 54956.9(b) to confer with its legal counsel relative to a status report from the City's Negotiating Team regarding the Consent Decree between the City and the U.S. Department of Justice.

## ADJOURNING MOTIONS

## COUNCIL ADJOURNMENT

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EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

COUNCIL RULE NO. 51 - Any member of Council may move to reconsider any vote on any question except to adjourn, suspend the Rules, or to reconsider, or where an intervening event has deprived the Council of jurisdiction, provided that said member had voted on the prevailing side of the question. The motion shall only be in order once during the legislative day in which the given question was voted upon, and once during the next regular meeting. If a motion to reconsider is first made at the next regular meeting after the question had been first voted upon, the member requesting reconsideration shall identify for all members present the Agenda number, Council file number and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of eight members of the Council. If a motion to reconsider is adopted, the subject matter shall be the next order of business after that which is before the Council at the time of the motion. This limitation shall not apply if the motion for reconsideration specifies a different time for further consideration of the subject and appropriate posting thereafter takes place where required by law.

COUNCIL RULE NO. 53 - If an Agenda item or other item has been duly placed before the Council at a Council meeting and the Council has failed by sufficient votes to approve or reject the item, or the Council has not by its vote placed the item beyond its jurisdiction at the meeting, or by operation of law, or by passage of time the Council has not lost the power to act thereon, the item is continued to the next regular meeting unless the Council affirmatively votes to continue the item beyond such next meeting. Each Council Agenda shall indicate that if the Council has not lost jurisdiction over an item voted upon at the meeting, or caused it to be continued beyond the

J. MICHAEL CAREY  
City Clerk

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CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

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Los Angeles, CA 90012  
Council File Information - (213) 485-5703  
General Information - (213) 485-5705

21

01-0096

January 11, 2001

BUDGET & FINANCE COMMITTEE

In accordance with Council Rules, communication from the City Attorney relative to appropriation regarding attorney contract in the cases entitled Robert Cunningham, et al. v. Gates et al., United States District Court Case No. CV96-02666, CV98-55208, CV98-56077, Grover Smith v. Gates et al., United States District Court Case No. CV97-01286, CV98-56081, CV99-55136 and W. Figueroa, C. Gonzalez et al. v. Gates, United States District Court Case No. CV00-04158, was referred on January 11, 2001, to the BUDGET & FINANCE COMMITTEE.

*J. Michael Carey*

City Clerk  
amm







JAMES K. HAHN  
CITY ATTORNEY

Office of the City Attorney  
Los Angeles, California

WRITER'S DIRECT DIAL:

FAX:  
TTY:

REPORT NO. R01-0032

REPORT RE:

*Robert Cunningham, et al. v. Gates et al.*  
United States District Court Case No. CV96-02666, CV98-55208, CV98-56077  
*Grover Smith v. Gates et al.*  
United States District Court Case No. CV97-01286, CV98-56081, CV99-55136  
*W. Figueroa, C. Gonzalez et al. v. Gates*  
United States District Court Case No. CV00-04158

APPROPRIATION RE ATTORNEY CONTRACT

The Honorable City Council  
City of Los Angeles  
Room 615, City Hall East  
Los Angeles, California 90012

Honorable Members:

RECEIVED  
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01 JAN 10 PM 4:48  
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OF CITY

This letter requests that the Council determine (a) whether to amend Contract No. 95507 with the law firm of Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, to provide for that firm's representation of members of the City Council and the Board of Police Commissioners in the lawsuits listed above; and (b) whether to appropriate the sum of \$300,000 or some other sum from the unappropriated balance to the City Attorney's Office, Department 12, Fund 100, Account No. 3040-Contracted Services. Those questions present policy issues for the determination of the Council and the Mayor.

We request that the matter be placed on the **closed session agenda** of the Budget and Finance Committee on **January 17, 2001**, and on the **closed session agenda** of the City Council on **January 24, 2001**.

The Christensen firm has represented members of the City Council, the Mayor, City attorneys, and the Board of Police Commissioners in the *Cunningham* and *Smith* litigation, which arose as the result of actions by the Police Department's Special Investigative Services ("SIS"). On September 15, 2000, the City received a favorable decision from the United States Court of Appeals for the Ninth Circuit in those cases. That decision dismissed the Council members, the "non-shooting officers", the City attorneys, and Captain Daniel Koenig from those lawsuits on the grounds of qualified

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BUDGET AND FINANCE

JAN 11 2001

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immunity. The dismissal of the Police Commissioners will take further motion work, which the Christensen firm has proposed to undertake.

The City's success in *Cunningham* and *Smith* has been costly. Attorney fees paid to the Christensen firm during the past five fiscal years for that litigation are noted below:

1995/96:	\$53,389
1996/97:	\$957,417
1997/98:	\$848,709
1998/99:	\$249,821
1999/00:	\$105,387

The Christensen firm recommends its continued defense of the Police Commissioners in the ongoing *Cunningham* and *Smith* litigation, and its involvement in the other listed case, *W. Figueroa, C. Gonzales, et al. v. Gates et al.* The latter, more recent, case is related to SIS, and names individual Council members and Police Commissioners. The Christensen firm suggests that it would perform motion work in all of those cases during the remainder of the fiscal year for the sum of \$300,000.

The City Attorney's Office recognizes the contributions of the Christensen firm in the *Cunningham* and *Smith* cases. However, that the firm's continued involvement in SIS cases may not be cost effective in light of the capabilities of the City Attorney's Police Division. Although we expect that undertaking the defense of all of the City's official defendants would require readjustments within that division, our office believes that it can effectively manage that litigation without further assistance from the Christensen firm. However, some members of the Council have expressed the need for additional resources in SIS litigation involving City officials, and we submit that this is a policy decision for the Council and the Mayor.

Very truly yours,  
JAMES K. HAHN, City Attorney

By   
CECIL W. MARR  
Managing Assistant

CWM:pd:vl  
129468

cc: Executive Director, Board of Police Commissioners  
Bernard Parks, Chief of Police  
Deputy Chief, Human Resources Bureau  
Commander, Employee Relations Division  
Captain & Lieutenant, Risk Management Division

For the TAB office nearest you call: (800) 672-3109 ext. 3304

SEE ALSO CF 97-0693

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