Communication from Public

Name:

Date Submitted: 06/15/2026 11:21 AM

Council File No: 24-1168

Comments for Public Posting: Council File No. 24-1168 Public Comment Regarding Proposed Outside Counsel Contract I support the prior public comment requesting fiscal transparency before the City approves additional outside-counsel funding in this case. I want to add several additional concerns. see my comments attached

First, the proposed $160,000 contract amount should not be treated by the public as the full cost of this litigation. The City Attorney's own report describes the Burke, Williams & Sorensen contract as a three-year contract in an "initial amount" of $160,000. That means this is not necessarily a cap. It is more accurately a starting allocation, or what most people would understand as the beginning retainer.

The City's own recent outside-counsel history shows how quickly these contracts can grow. Burke, Williams & Sorensen has previously been included in City outside-counsel funding requests involving six- and seven-figure contract increases. In a recent City Attorney outside-counsel request, multiple Burke Williams contracts were listed for increases, including one for $750,000 and another for $1.7 million. That is the relevant context taxpayers deserve before this Council approves another outside-counsel agreement.

Using the City's own outside-counsel rate schedule as a benchmark, partner time can be billed at hundreds of dollars per hour. At those rates, $160,000 can be exhausted quickly by appellate briefing, record review, strategy meetings, post-judgment proceedings, motions, and further review. Once that money is gone, the City can come back for more. That is how a so-called "initial amount" becomes a much larger taxpayer obligation.

Looking into this case, it is especially troubling because the City has already lost on the core issue. The trial court already ruled that a conditional use permit is not required for this RV park, that the project satisfied LAMC § 14.00(A)7, and that the City must issue permits ministerially. This case is not starting from zero. The City is asking taxpayers to finance an appeal after the court has already rejected the City's position.

The City has not just received one adverse ruling and moved on. The court issued a judgment and writ of mandate, and the court also denied the City's request to stay enforcement of its ruling while the appeal proceeds. That is significant. Although appeals by public entities usually trigger an automatic stay in many circumstances, obtaining an order that lifts or limits that stay is generally difficult. Here, despite the City's appeal, the court declined to halt enforcement of its ruling and allowed enforcement to move forward. While that does not determine the ultimate outcome of the appeal, it is still noteworthy and underscores the litigation risk taxpayers are being asked to finance.

The taxpayer risk is even greater because this is not an ordinary discretionary land-use dispute. This case involves the City's refusal to issue permits after the project satisfied the applicable ministerial standards. California courts have treated that kind of permit obstruction seriously. In Lockaway Storage v. County of Alameda, the project had already secured its discretionary approval and the remaining permits were ministerial. After the County changed position and blocked the project, the result was nearly $1 million in damages and more than $700,000 in attorney fees. In Ellis v. City Council of Burlingame, the court recognized that withholding a permit after the applicant had met the legal requirements could amount to an intentional and arbitrary refusal to perform a ministerial act. Los Angeles has also recently paid substantial attorney-fee awards in permit-processing and housing cases where the City's handling of applications was rejected by the courts.

Taxpayers should also understand who the City is choosing to fight. The plaintiff is represented by Jeffer Mangels Butler & Mitchell LLP, one of California's highest-ranked and most experienced land-use firms, with decades of experience in zoning, entitlements, permitting disputes, takings, inverse condemnation, and land-use litigation. This is not a case where the City can assume the other side will be outmatched or outlasted. Continuing to litigate against experienced land-use counsel after an adverse trial court ruling only increases the risk that the public will end up paying the City's lawyers, the plaintiff's lawyers, court costs, interest, and potential damages or settlement costs.

The concern is not limited to this one case. The plaintiff has also recently filed a separate lawsuit involving another RV park project where the City is again taking action that appears to follow the same pattern of discretionary interference with a project that should be processed under applicable ministerial standards. That creates a second track of potential liability for the City. If the City continues litigating the same basic issue across multiple projects, the taxpayer exposure could substantially increase, and could potentially double, through additional attorney fees, court costs, damages, interest, and settlement exposure. This is not speculation that requires confidential legal strategy to understand. The case information is publicly available through the Los Angeles Superior Court's public case-access system and can be independently reviewed to corroborate the existence of the lawsuits and the basic pleadings.

The risk is also heightened because both projects appear to involve vested rights. In practical terms, vesting means the developer did not merely submit an application and hope for approval. The developer obtained approvals, relied on those approvals, incurred substantial costs, and proceeded with construction in good faith. Once a project has reached that stage, the City is no longer dealing with a theoretical land-use request. It is interfering with an approved and relied-upon property right.

That makes the City's timing especially troubling. In both projects, the City waited until after construction had been substantially completed, inspected, and approved before attacking the underlying land-use entitlement. That is a very different legal posture than denying an application before work begins. Once a project is vested, later attempts to revoke, reopen, or politically relitigate the land-use entitlement can expose the City not only to writ and attorney-fee liability, but also to potential constitutional claims, including due-process and civil-rights claims where the City acts arbitrarily, selectively, or without lawful procedure.

The due-process issue is equally serious. The City has not followed basic due process before taking action against either project. Before a government interferes with vested rights, closes or refuses permits, attacks an issued entitlement, or seeks to unwind completed and approved construction, the affected party should receive clear notice, a legally valid basis for the action, a meaningful opportunity to respond, and a fair decisionmaker. Failing to provide those basic protections is not a technical issue. It is exactly the type of conduct that makes these cases expensive to defend and dangerous for taxpayers.

The civil-rights exposure is another reason this outside-counsel request deserves more scrutiny. When a city interferes with vested permits, ignores due process, or acts arbitrarily after an applicant has satisfied the applicable legal standards, the risk is not limited to ordinary writ relief. Civil-rights claims can expose a public entity to damages and attorney-fee shifting. In some circumstances, they can also expose the officials who personally made or directed the unlawful decision. In Town of Orangetown v. Magee, a permit was revoked after work had begun and after political opposition developed. The result was reinstatement of the permit and more than $5 million in damages, costs, and attorney fees. In City of Monterey v. Del Monte Dunes, a California land-use dispute resulted in a $1.45 million jury award under constitutional land-use claims. In Bateson v. Geisse, the Ninth Circuit held that withholding a building permit after the applicant had satisfied the required conditions violated substantive due process, and the court held that both the City and the individual councilmembers involved could be liable for the constitutional injury. Those examples show why the City should not casually dismiss the due-process and vested-rights issues here as minor procedural arguments. They are exactly the kind of issues that can turn a $160,000 outside-counsel request into a much larger taxpayer problem.

That raises the obvious question: what is the realistic path to victory? If the City has no credible legal defense left, then spending more public money is not responsible litigation strategy. It is doubling down on a losing hand with taxpayer money.

There is also a serious ethical and appearance-of-conflict issue that must be addressed before this contract is approved. One of Burke, Williams & Sorensen's partners is John E. McOsker, the brother of Councilmember Tim McOsker. Councilmember McOsker has been the Councilmember driving the City actions that led to this litigation and has been directly involved in the political decisions surrounding this project. He also sits on the Budget and Finance Committee, which handles outside-counsel funding matters.

Before approving this contract, the Council should publicly disclose whether Councilmember McOsker has participated in any discussion, recommendation, or vote involving this law firm or this litigation; whether he has recused himself; whether the City Attorney has reviewed the conflict and appearance-of-conflict issue; and whether the public can see any written conflict analysis or waiver.

This is not a request for confidential litigation strategy. This is a request for basic fiscal and ethical accountability.

The Council should not approve this outside-counsel contract unless the City first explains:

1. Whether $160,000 is a hard cap or only an initial allocation;
2. Whether additional funding may be requested later;
3. The hourly rates Burke Williams will charge;
4. The City's total projected exposure if it loses the appeal;
5. The City's total projected exposure from related litigation involving the same pattern of permit interference;
6. Whether the City has evaluated the vested-rights issues created by allowing construction to proceed before attacking the land-use entitlement;
7. Whether the City has evaluated potential due-process and civil-rights exposure arising from its actions on both projects;
8. Whether the City has evaluated potential liability for officials who personally made, directed, or participated in decisions later found to violate constitutional rights;
9. Whether Councilmember McOsker has fully recused himself from this matter;
10. Whether Councilmember McOsker participated in any discussion, recommendation, or vote involving Burke, Williams & Sorensen;
11. How the City addressed the conflict created by retaining a law firm where his brother is a partner; and
12. Why the City believes it is financially responsible to continue litigating after the trial court ruled against the City on the core ministerial-permit issue.

Taxpayers should not be asked to fund another round of litigation in a case the City has already lost without a full accounting of the financial risk, the related litigation exposure, and the ethical issues surrounding the selected law firm.

The larger problem is that the City is not transparent on these types of issues and does not appear to care how taxpayer dollars are spent once litigation moves behind closed-session doors. The public is told only the opening number, not the likely total exposure, not the conflict concerns, not the related litigation risk, and not the true cost of continuing to defend decisions the court has already rejected.

This is exactly the kind of City spending that deserves more public scrutiny. Unfortunately, local news outlets rarely follow these permitting and land-use issues closely, even though they are more prevalent than most taxpayers realize. If the City is going to keep spending public money on litigation it has already been warned it may lose, then the public deserves a full explanation before another dollar is approved.

Communication from Public

Name:	Doug Ross
Date Submitted:	06/15/2026 01:15 PM
Council File No:	24-1168
Comments for Public Posting:	Please see my comments below. The appearance of a conflict of interest must be looked in to and resolved and provided to the public before this contract is discussed or approved.

Dear Councilmembers,

I am writing regarding Council File 24-1168 and the proposed legal services agreement with Burke, Williams & Sorensen, LLP to provide outside counsel services in Oceans 11 RV Park, LLC v. City of Los Angeles.

Before the Council approves any contract, funding, closed-session discussion, recommendation, or vote involving this law firm, the public deserves answers about two serious issues: first, the potential conflict of interest and appearance-of-conflict issue; and second, the lack of public transparency regarding why outside counsel is needed at all in a case where the City has already been ruled against on the central legal issue.

Burke, Williams & Sorensen identifies John E. McOsker as a partner in its Los Angeles office. John McOsker is the brother of Councilmember Tim McOsker. In addition, public reporting states that Councilmember Tim McOsker himself was previously a partner at Burke, Williams & Sorensen, where he served as contract city attorney for multiple cities.

That means this proposed outside-counsel contract does not involve a random law firm with no connection to the Councilmember driving the underlying issue. It involves a law firm where his brother is currently a partner and where Councilmember McOsker himself previously worked as a partner.

Councilmember McOsker has been directly involved in the City actions surrounding this litigation, is listed as the mover on Council File 24-1168, represents Council District 15, and has participated in Council actions involving this matter. That raises obvious questions that should be answered before public money is approved for this contract.

It is also worth noting that Council File 24-1168 currently refers to Council File 24-0787 as the related file. That appears to be incorrect or, at minimum, incomplete, and it misdirects anyone trying to understand the history of this matter. The relevant Council Files for this Oceans 11 / President Avenue matter should include Council File 24-1168, Council File 24-0711, and Council File 24-0711-S1. The file should be corrected so the public, Councilmembers, the City Attorney, and the Ethics Commission are not reviewing this matter through the wrong record.

To be clear, I am not making any claim of impropriety. I am stating that there is an obvious appearance issue that must be looked into. The public must be able to see that this issue has been reviewed, documented, and fully resolved before the City moves forward with this contract. Until that happens, Councilmember McOsker must be recused from this matter.

This is not just my personal concern. The City's own ethics guidance recognizes that even the appearance of a conflict can seriously damage public confidence. The City's Ethics Handbook tells City officials to avoid situations where their official actions may affect, or appear to affect, their private interests, financial or non-financial. It also describes the City's own "appearance" standard: it is not in the public interest for an official to act on a matter if the official does not believe they can act impartially, or if the public might reasonably reach that conclusion. The Handbook further explains that the City Attorney may determine under City Charter Section 222 that the public interest prevents an official from acting even when state conflict law would not otherwise require disqualification.

That is exactly why this issue must be reviewed before this contract is discussed or voted on. The standard is not simply whether someone can prove misconduct. The question is whether the public can reasonably have confidence that the decision is impartial, fully reviewed, and free from actual or apparent conflict. Until the City documents that review and makes the result available for public inspection, Councilmember McOsker should not participate in this matter in any way.

If John McOsker is a partner at Burke, Williams & Sorensen, would he benefit in any way from the City awarding this contract to his law firm? Would he share in firm profits, partner compensation, origination credit, firm revenue, or any other direct or indirect financial benefit from this contract? Has he been screened from the matter? Has the City confirmed whether he will have any role, access, profit participation, or financial benefit tied to this representation?

The public also deserves to know whether Councilmember McOsker's own prior relationship with Burke, Williams & Sorensen has been reviewed. Did the City evaluate whether his former partnership at the firm creates an appearance issue, a disclosure issue, or a basis for recusal? Did the City evaluate whether he has any continuing financial, professional, referral, pension, client, or business relationship with the firm?

Equally important, has the City Attorney, Ethics Commission, or any other City office reviewed the conflict or appearance-of-conflict issue created by selecting a law firm where Councilmember McOsker's brother is a current partner and where Councilmember McOsker himself was previously a partner? If that review has occurred, where is the written determination, conflict analysis, recusal memo, waiver, or other documentation available for public review?

If no review has occurred, why is the Council being asked to approve this contract before that issue is addressed?

It is also worth asking why outside counsel is needed at all in this matter. Who recommended retaining Burke, Williams & Sorensen? Was that recommendation made by the City Attorney, Councilmember McOsker's office, the Budget and Finance Committee, another Council office, or someone else? What analysis was done to determine that outside counsel was necessary, that this specific law firm was appropriate, and that the contract is a responsible use of taxpayer funds? Before taxpayers are asked to fund a three-year outside-counsel contract, the public should be told who requested it, who selected the firm, who reviewed the selection, whether other firms were considered, whether in-house City attorneys could handle the matter, and why this particular firm was chosen.

The need for that transparency is heightened by the facts of this case. The City Attorney's own report acknowledges that the trial court ruled that a conditional use permit is not required, that the project satisfied LAMC § 14.00(A)7, and that the City must issue permits on a ministerial basis. The City also did not obtain a stay that would stop enforcement of the writ while the appeal proceeds. In other words, the City is not starting from neutral ground. It is asking taxpayers to fund outside counsel after the trial court rejected the City's position on the core issue and after the City failed to stop enforcement while it appeals.

That raises a separate fiscal-accountability problem. If the City is going to spend public money on outside counsel after losing the core issue, the public deserves more than a closed-session request and an opening dollar amount. The City should explain the legal basis for believing the ruling will be reversed, the likelihood of success on appeal, the anticipated total cost of the appeal, whether more funding will be requested later, and the potential financial consequences if the City loses again. Without that analysis, this contract appears to be another example of the City spending taxpayer dollars to defend a position the court has already rejected.

The City's constantly changing positions in this matter make the need for transparency even greater. From the public record, it appears the City has repeatedly shifted theories in an effort to prevent this project from moving forward, even after the project satisfied the applicable ministerial standards. The public deserves to know why the City believes this appeal is financially responsible, what realistic path to victory the City believes exists, and why another outside law firm is needed to continue fighting a case where the City has already been ruled against on the central issue.

The Council should not vote on this contract until both issues are resolved: first, the conflict and appearance-of-conflict concerns involving Burke, Williams & Sorensen and Councilmember McOsker; and second, the lack of public transparency about why outside counsel is needed at all. The Council should not approve outside counsel first and explain the need later. Public money should not be committed until the City shows that this contract is necessary, conflict-free, fiscally responsible, and not simply taxpayer-funded delay in a case the City has already lost on the central issue.

If no written conflict review has been completed and made available for public inspection, then Councilmember McOsker must not participate in tomorrow's Budget and Finance Committee discussion, closed session, staff briefing, recommendation, or vote involving this contract. At minimum, he must be recused until the City publicly confirms that the conflict and appearance-of-conflict issues have been reviewed and resolved. The Council should not allow a contract involving a law firm where his brother is a current partner, and where Councilmember McOsker himself was previously a partner, to move forward without a documented conflict analysis and public disclosure.

Until all conflict and appearance-of-conflict issues are fully reviewed, documented, disclosed, and resolved beyond reasonable public scrutiny, no vote should take place on this contract. The Council should not move forward first and answer questions later. Public trust requires the conflict review to happen before any discussion, closed session, recommendation, vote, or approval.

At a minimum, the Council should publicly answer the following:

1. Whether Councilmember Tim McOsker has recused himself from all discussions, closed sessions, committee meetings, staff communications, recommendations, and votes involving Burke, Williams & Sorensen;
2. Whether Councilmember McOsker participated in any discussion, recommendation, meeting, closed session, or vote involving this outside-counsel contract;
3. Whether John E. McOsker, as a current partner at Burke, Williams & Sorensen, would receive any direct or indirect financial benefit from this City contract;
4. Whether John E. McOsker has been screened from the matter and from any financial participation in the contract;
5. Whether Councilmember Tim McOsker's former partnership at Burke, Williams & Sorensen was disclosed and reviewed before this law firm was selected;
6. Whether Councilmember McOsker has any continuing financial, professional, referral, client, pension, or business relationship with Burke, Williams & Sorensen;
7. Whether the City Attorney has performed a written conflict or appearance-of-conflict analysis;
8. Whether the Ethics Commission has been asked to review the issue;
9. Whether any written conflict determination, waiver, or recusal documentation exists;
10. Where the public can review that documentation before the contract is approved;
11. Who recommended retaining outside counsel in this matter;
12. Who selected Burke, Williams & Sorensen specifically;

13. Whether any other law firms were considered;
14. Whether the City evaluated using in-house counsel instead of outside counsel;
15. What analysis was done to determine that spending taxpayer money on outside counsel is necessary after the City has already been ruled against on the core ministerial-permit issue;
16. Whether the City has analyzed the likelihood of success on appeal;
17. Whether the City has estimated the total taxpayer exposure if the appeal fails, including additional outside-counsel fees, plaintiff attorney-fee exposure, costs, interest, damages, or settlement risk; and
18. Why the Council should vote on this contract before the conflict issues and fiscal-transparency issues are fully resolved.

The answer cannot simply be that this is active litigation or that some discussion occurred in closed session. The public is not asking for confidential legal strategy. The public is asking whether a City contract is being awarded to a law firm where the brother of the Councilmember driving the underlying issue is a current partner, where that same Councilmember was previously a partner, and whether that Councilmember has been fully recused from every part of that decision.

The public is also asking why the City needs outside counsel in a case where the trial court has already rejected the City's position on the core issue. If the City believes further litigation is a responsible use of taxpayer dollars, it should explain why before approving another contract. Without that explanation, this appears to be public money being used to prolong litigation over a position the City has already lost.

Even if the City believes there is no technical statutory conflict, the appearance problem is obvious. Public confidence requires more than a private assurance that everything is fine. It requires transparency, documentation, and recusal where appropriate.

This is especially important because the City Attorney's report describes this as a three-year contract in an initial amount of $160,000. That is public money. The Council should not approve this contract unless the potential conflict has been fully reviewed, documented, and disclosed to the public, and unless the City publicly explains why outside counsel is necessary and financially responsible under the facts of this case.

Please place this communication in Council File 24-1168 and provide a public response before any discussion, closed session, vote, or approval of the Burke, Williams & Sorensen contract. If no written conflict review has been completed, Councilmember McOsker must be recused from tomorrow's Budget and Finance Committee meeting on this item and from any further City discussion or decision involving this contract. If no public explanation has been provided for why outside counsel is necessary and fiscally responsible, then no vote should take place until that information is disclosed.

Respectfully,

Doug Ross