

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

September 21, 2009

CALL TO PODIUM:

Fred Felton
Assistant City Manager

RESPONSIBLE STAFF:

Fred Felton
Assistant City Manager

AGENDA ITEM:

(please check one)

<input type="checkbox"/>	Presentation
<input type="checkbox"/>	Proclamation/Certificate
<input type="checkbox"/>	Appointment
<input type="checkbox"/>	Public Hearing
<input type="checkbox"/>	Historic District
<input type="checkbox"/>	Consent Item
<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	Policy Discussion
<input type="checkbox"/>	Work Session Discussion Item
<input type="checkbox"/>	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

TITLE:
Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract With Rifkin, Livingston, Levitan & Silver, LLC for Legal Services Associated With the City's 2010 State Legislative Agenda (\$37,500)

SUPPORTING BACKGROUND:
<p>For many years, the City has retained former Senator Larry Levitan from the firm of Rifkin, Livingston, Levitan & Silver, LLC to assist us with legislative issues pending before the General Assembly.</p> <p>Over the last several years, Senator Levitan and his staff have been extremely helpful in securing passage of bills such as the Metropolitan District Tax, the Hotel/Motel Tax, and numerous bond bills. Additionally, Senator Levitan and his staff worked extremely closely with staff on any issues that may arise affecting the City's interests during the legislative session.</p> <p>At this point, the City has not finalized its legislative agenda. But some of the items that staff is recommending that we retain Rifkin, Livingston, Levitan & Silver, LLC include the following:</p> <ul style="list-style-type: none"> • Opposition to Metropolitan District Tax • City's Bond Bill • Watkins Mill Road Interchange Project <p>As outlined in the attached letter, the retainer fee for the 2010 Legislative Session is \$35,000; however, staff is requesting the Council authorize an additional \$2,500 for any overhead costs that may arise.</p> <p>Attachment</p>

DESIRED OUTCOME:
Vote on Resolution.

Resolution Request Form

REQUEST FORM FOR RESOLUTIONS PERTAINING
TO EXPENDITURES FROM THE CITY BUDGET
(CONTRACTS/PURCHASES, TRANSFER FUNDS)

(Please attach the Mayor and Council Agenda Cover Sheet to this Form. For contracts/purchases, the Cover Sheet MUST include a list of all bidders and bid amounts.)

Requested by: Frederick J. Felton Date of City Council Meeting: September 21, 2009

AUTHORIZING

Purchase Award Contract Transfer Funds Negotiate/
Execute a Contract

BID INFORMATION:

Advertisement Date N/A
Newspaper(s) N/A
Bids Opened/Tabulated (date) N/A

DESCRIPTION OF ITEM(S):

CONTRACTED/PURCHASE FROM:

Rifkin, Livingston, Levitan & Silver, LLC (\$37,500.00)
225 Duke of Gloucester Street
Annapolis, Maryland 21401

CONTRACT/PURCHASE AMOUNT: **\$37,500.00**

Check One: In the Amount of Not to Exceed

FUNDS TO BE EXPENDED FROM: Operating Budget Capital Improvements Budget

Account Number: Non-Departmental (1911.536000)
(For Finance Department use only; not to be included in the Resolution)

VERIFICATION OF AVAILABILITY OF FUNDS Available Not available

Frederick J. Felton 9/9/09
Finance Dept. Date

RESOLUTION NO. _____

RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE
CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT
WITH RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC
FOR LEGAL SERVICES ASSOCIATED WITH THE
CITY'S 2010 STATE LEGISLATIVE AGENDA

WHEREAS, Section 57 of the Gaithersburg City Charter provides that the City Council may permit negotiations of contracts without sealed bids for projects and services where, in the opinion of the Council, the interests of the City would best served by negotiated contracts; and

WHEREAS, the Mayor and City Council have determined that the firm of Rifkin, Livingston, Levitan & Silver, LLC is uniquely qualified to assist the City in securing General Assembly approval of our 2010 State legislative agenda:

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized and directed to negotiate and execute a contract with Rifkin, Livingston, Levitan & Silver, LLC, 225 Duke of Gloucester Street, Annapolis, Maryland 21401 for legal services associated with the City's 2010 State legislative agenda, in an amount not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500); said funds to be expended from the Operating Budget.

ADOPTED by the Mayor and City Council this 21st day of September, 2009

SIDNEY A. KATZ, MAYOR and
President of the Council

THIS IS TO CERTIFY that the foregoing
Resolution was adopted by the City Council
in public meeting assembled on the 21st day
of September, 2009

Angel L. Jones, City Manager

RIFKIN, LIVINGSTON, LEVITAN & SILVER, LLC
ATTORNEYS AT LAW

ALAN M. RIFKIN
SCOTT A. LIVINGSTON (MD, DC)
LAURENCE LEVITAN
EDGAR P. SILVER†
MICHAEL V. JOHANSEN
JOEL D. ROZNER (MD, DC)
RICHARD K. REED
NORMAN D. RIVERA
M. CELESTE BRUCE (MD, DC)
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CHARLES S. FAX (MD, DC, NY) ††
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1133 21ST STREET, NW
WASHINGTON, DC 20007
(202) 639-0349

September 2, 2009

Mr. Frederick Felton
City of Gaithersburg
31 South Summit Avenue
Gaithersburg, MD 20877

RE: Revised Retainer Agreement

Dear Fred:

As a follow up to our conversation, the following will cover our representation of the City of Gaithersburg with regard to the three following issues as well as other issues of concern to the City: (1) the City's cost savings legislative proposals; (2) the City's bond bill; and (3) the Watkins Mill Road interchange project. In addition, we will aggressively oppose any effort to make the Metropolitan District Tax applicable within the City of Gaithersburg.

As is Rifkin, Livingston, Levitan & Silver's ("RLLS") standard practice, this letter serves to describe the terms and conditions upon which RLLS will render services to your company. RLLS will undertake all services you require in a manner consistent with all applicable rules, regulations and ethical standards of our profession and you agree to retain RLLS with the understandings and conditions set forth in this letter.

Our relationship should begin with a mutual understanding of expectations and should continue with candid communications between us throughout the course of our representation. Please let me know promptly if you have any questions at any time regarding any aspect of our firm's work for you. Within the firm, I shall be primarily responsible for this engagement. There may be occasions when your interests may be best served by involving other attorneys within the firm. These judgments will be made by me, and I will make every effort to inform you in advance of any such decision.

As you know our firm uses the team approach and for the record, our team includes: Joel Rozner, the chair of our Government Relations Division and the former chief of staff to the prior governor, Parris Glendening, during his days as Prince George's County Executive; Mike Johansen, the Administrative Partner of the firm and former counsel to the Senate Budget and Taxation Committee; Pat Roddy, the former County Attorney for Baltimore County, was responsible to directing the Baltimore County legislative office and is very familiar with how local governments function; Eric Bryant, the former Deputy Field Director for the NAACP, and a portfolio of political campaign experience across Maryland over 14 years; Josh White, Governor O'Malley's former campaign director who subsequently headed the Intergovernmental Relations Office; and Edgar Silver, former sitting Circuit Court Judge in Baltimore City and a former member of the House of Delegates. As for myself, I am the former chair of the Maryland Senate Budget and Taxation Committee and served more than 20 years in the Maryland General Assembly. As you can see the team covers all of the major political subdivisions in the State.

As we saw several years ago, the Metropolitan District Tax issue was contested at every stage and we can anticipate strong support for their legislation from the Maryland-National Capital Park and Planning Commission.

The fee for representing the City of Gaithersburg in these matters will be \$35,000 and will be payable in seven equal monthly installments of \$5,000 each with the first payment due on September 1, 2009.

Ordinarily, overhead expenses are covered by the firm's fees. You will be billed, however, for certain specific disbursements. Disbursements include: filing fees; business meals and/or entertainment related to your matter; travel expenses; copying and courier charges; or other business related fees and expenses. All cash advances made on your behalf will also be billed for reimbursement. Bills for fees and expenses shall be rendered monthly and payable within 30 days.

In order to enable us to effectively render these services, you agree to cooperate fully with us in all matters relating to our representation of you, fully and truthfully disclose to us all facts, provide to us all documents that may be relevant to the matter, and keep us apprised of developments relating to the matter. Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the matter or various courses of action and the results that might be anticipated. Any such statement made by any partner or employee of our firm is intended to be an expression of opinion only, based on information available to us at the time, and must not be construed by you as a promise or guarantee.

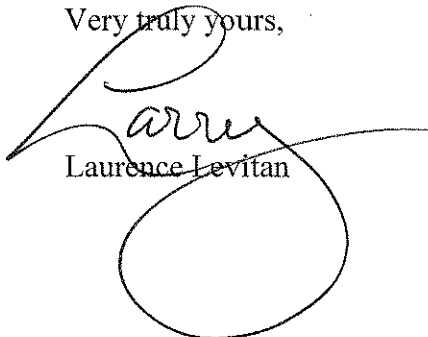
RLLS is not aware of any conflicts regarding our representation of the City of Gaithersburg on these matters. Needless to say, should a conflict arise during the pendency of our representation of the City on these matters, we will endeavor to resolve that conflict or assist you in retention of other counsel, should that be necessary.

Mr. Frederick Felton
September 2, 2009
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If this letter satisfactorily describes the terms of our agreement, please sign and return a copy of this letter indicating that you have read and agreed to the terms set forth herein. If you fail to execute this agreement but nonetheless call upon RLLS to perform work, you will be bound by the terms of this agreement. I look forward to working with you. Please do not hesitate to call me if you have any questions.

Again, it is a pleasure to work with you and the City of Gaithersburg.

Very truly yours,



Laurence Levitan

LL:dz

Cc: Alan Rifkin
Linda Casola

AGREED AND ACCEPTED:

Date