



**OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR**

717 14TH STREET N.W., SUITE 900

WASHINGTON, D.C. 20005

TEL. 202-727-3600 • FAX: 202-724-8814

Deborah K. Nichols

District of Columbia Auditor

013:07:DKN:LS:fs

**Letter Report: Auditor's Preliminary Findings From  
Examination of Contract Between  
the Office of Contracting and Procurement and  
Venable, Baetjer and Howard, LLP**

**June 1, 2007**



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The Honorable Vincent C. Gray  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Avenue, NE, Suite 504  
Washington, D.C. 20004

**Letter Report: Auditor's Preliminary Findings From Examination of  
Contract Between the Office of Contracting and Procurement and  
Venable, Baetjer and Howard, LLP**

Dear Chairman Gray,

This letter report presents the Office of the District of Columbia Auditor's findings, to date, from our examination of the contract awarded by the Office of Contracting and Procurement (OCP), on behalf of the Office of the Attorney General (OAG), to Venable, Baetjer and Howard, LLP (Venable). The contract arose out of the District government's exercise of its eminent domain powers to expeditiously acquire real property needed to construct the proposed baseball stadium in the District of Columbia.

**OBJECTIVES, SCOPE AND METHODOLOGY**

The objectives of this examination were to determine:

1. whether Contract No. POAM-2005-C-0100B was effectively administered and managed by the Office of the Attorney General, in conjunction with OCP and the Office of the Chief Financial Officer (OCFO), in compliance with all applicable D.C. Code provisions, supporting regulations, and contract provisions; and
2. the total amount of legal expenses the District has incurred with Venable as of February 28, 2007.

In conducting this examination, the Auditor reviewed relevant D.C. Code provisions, the District of Columbia Municipal Regulations, internal memoranda, emails, contract provisions, invoices, and other relevant supporting documentation. The Auditor conducted interviews with current and former OAG, OCP, and OCFO staff.

## **BACKGROUND**

On September 26, 2005, the OCP issued Solicitation No. POAM-2005-C-0100A on behalf of the OAG seeking prospective law firms to represent the District in exercising its eminent domain powers to acquire control and ownership of real property at the site of the proposed major league baseball stadium. On October 17, 2005, Indefinite Delivery Indefinite Quantity (IDIQ) contract<sup>1</sup> POAM-2005-C-0100B was awarded to Venable, Baetjer and Howard, LLP for a maximum dollar value of \$800,000 for each contract period including a base year and four option years.<sup>2</sup>

The reason for the contract was to obtain legal services to supplement and assist the OAG's Commercial Division staff in handling eminent domain and land acquisition legal issues relative to the construction of the District's new baseball stadium.

Very little creditable written pre-decisional documentation was made available for the Auditor's review which set forth: why outside legal services were required; how the services would be deployed; the assumptions and methodology used to develop the estimated cost of the services that would be needed; and the length of time the services would be needed. Instead, answers to these questions appear, in part, to have evolved after the contract was awarded and the contractor began providing services.

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<sup>1</sup>Indefinite quantity contract is a contract that provides for an indefinite quantity, within written stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing delivery or task orders with the contractor. The contract requires the District to order and the contractor to furnish at least a stated minimum of supplies or services. Title 27, Contracts and Procurements Chapter 24, Types of Contracts, Section 2499.

<sup>2</sup>Sections B.2(a), G.10.1 and G.10.2 of the contract state, in relevant part, the following:

- B.2.a. Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering Clause, Section G.10. The Contractor shall furnish to the District, when and if ordered, the supplies or services specified in the Schedule B.3 and Section C, Description /Specifications/Work Statement up to and including the maximum dollar value of \$800,000 each contract period (base and each option year)...
- G.10.1 Any supplies and services to be furnished under the contract **shall be ordered by issuance of delivery orders or task orders** [Auditor's Emphasis] by the contracting officer for each lawsuit, litigation task, or series of tasks relating to a condemnation action brought by the District to acquire property...
- G.10.2 All delivery orders or task orders will be subject to the terms and conditions of the contract...

While it appears that OAG had developed a preliminary real estate acquisition strategy, neither OAG nor OCP had determined the extent to which outside legal services would be needed, did not develop and document a realistic projection of costs, or the source and amount of funding available for such services. It appears that all of these matters were unclear, unsettled, or not realistically considered prior to and during the contract solicitation phase or the base year of contract performance. Thus, the projected annual cost of \$800,000 per 12 month contract period materially underestimated the extent to which these legal services would be relied upon and resulting expense of doing so.<sup>3</sup>

There was an assumption that the \$1.87 million in the February 2006 baseball stadium budget line item for Land Use Counsel under the soft cost cap from which OAG's eminent domain and land acquisition legal and expert services costs would be funded. That assumption has recently changed in light of the substantially increased level of spending incurred by OAG on various contracts, including the , related to eminent domain and land acquisition issues. The amount of expenses incurred with Venable alone totals approximately \$2.4 million as of February 28, 2007, and significantly exceeds the \$1.87 million initial budget. Costs are expected to continue at this level through FY 2007 and possibly FY 2008, if not beyond.

The new assumption is that the Council's intent was to cover the cost of experts and legal services for eminent domain and land acquisition costs in the non-capped land acquisition budget of \$97 million under Ancillary Costs. If this approach is not accepted then the land use counsel budget cap has been exceeded. In any event, a new source of funding will be needed to fund ongoing litigation costs. Further, legal services cost with Venable alone may result in over-expenditure of the \$611 million baseball stadium budget.

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<sup>3</sup> As I have previously stated in testimony before the Council, the District government desperately needs to improve accountability and ethics in the way the procurement and contracting process is carried out and to restore the faith of residents that tax dollars are being spent judiciously, economically, and competitively. The failure to conduct advanced planning for known projects, services, and procurement requirements ultimately manifests in costly internally generated emergencies.

## FINDINGS

The Auditor's examination of this matter revealed the following:

1. Venable proceeded to perform services, in violation of the terms of the contract, without having been issued a task order by the contracting officer and the encumbrance of funds to pay for the services. In fact the first Task Order, Task Order No. 1, was not issued by the contracting officer and executed by a representative of Venable until August 2006 which was 10 months after contract award and commencement of the delivery of services. We believe that OAG staff, in good faith, permitted Venable to start work even though sufficient funding was not available and the contracting officer had not authorized the delivery of services by issuing a task order. Funding of this contract was tied to the issuance of bonds by the District's CFO, issuance of Task Orders by the contracting officer, and encumbrance of funds by the OAG's CFO. However, in this case, work was improperly allowed to commence in the absence of a task order and encumbrance of funds. This course of action violated District procurement and contracting law and regulations. Inexplicably, Task Order No.1 was not issued until August 18, 2006, approximately two months after Task Order No. 2 was issued on June 20, 2006. This appears, in part, to be a manifestation of the chaos and lack of effective coordination, cooperation, and clear communication in effect at that time.
2. Venable regularly submitted invoices to the District for payment over an eight month period, however, none of the invoices were paid until June 28, 2006 when the first two checks were issued. This failure to timely fund the contract and pay invoices pursuant to the terms and conditions set forth in the contract apparently occurred, in part, because funds from the sale of bonds issued by the District were not available to OAG until late May or early June 2006. The CFO's process of borrowing money for the new baseball stadium project, including money to fund the Venable Contract, lagged badly with undesirable effects for the OAG. However, once these funds were made available, Task Orders were issued and funds were encumbered to pay many, but not all, of the outstanding invoices submitted by Venable. Table I presents invoices submitted by Venable during the base year of the contract and the dates of checks issued in payment by the District.

**Table I**  
**Contract Base Year:**

**Venable Invoices and District Payments**

| Invoice #    | Invoice Date | Amount<br>Invoiced  | Amount<br>Paid    | Unpaid            | Check Date |
|--------------|--------------|---------------------|-------------------|-------------------|------------|
| 829447       | 12/31/2005   | 213,106.14          | 213,106.14        | -                 | 7/27/2006  |
| 834140       | 2/6/2006     | 74,185.92           | 74,185.92         | -                 | 6/28/2006  |
| 840367       | 3/9/2006     | 74,373.74           | 74,373.74         | -                 | 6/28/2006  |
| Unavailable  | Unavailable  | 51,794.61           | 51,696.93         | 97.68             | 10/31/2006 |
| 850891       | 5/4/2006     | 94,658.30           | 94,658.30         | -                 | 6/28/2007  |
| 856647       | 6/7/2006     | 140,444.70          | 140,444.70        | -                 | 10/31/2006 |
| 863600       | 6/30/2006    | 82,986.72           | 82,986.72         | -                 | 10/31/2006 |
| 869016       | 7/31/2006    | 54,309.56           | 54,309.56         | -                 | 10/31/2006 |
| 875696       | 9/11/2006    | 82,735.17           | 82,735.17         | -                 | 1/31/2007  |
| 880365       | 9/30/2006    | 168,792.13          | 77,264.83         | 91,527.30         | 1/31/2007  |
| 888087       | 10/31/2006   | 156,021.91          | 0.00              | 156,021.91        |            |
| <b>Total</b> |              | <b>1,193,408.90</b> | <b>945,762.01</b> | <b>247,646.89</b> |            |

Source: Office of the Chief Financial Officer

3. The OAG failed to appoint a project manager or contract administrator (defined by DCMR 27-299.1 as the individual responsible for overseeing the conduct of contract work.) to administer the Venable Contract as set forth in District Municipal Regulations, Title 27, Chapter 40, Section 4001.
  
4. The OAG's appointed Contracting Officer's Technical Representative (COTR) failed to perform effectively any of the required duties and responsibilities of a COTR as enumerated in Sections G.9.1 - G.9.1.5 of the Venable Contract.<sup>4</sup> As a result of the absence of a contract administrator and the breakdown in the performance of the COTR's duties and responsibilities, invoices were not being properly reviewed, the contractor was not complying with some terms of the contract, there was no system of accountability in effect, and the contracting officer was not being kept adequately or timely informed of technical or contractual difficulties that required corrective actions.

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<sup>4</sup>The COTR's responsibilities include ensuring that work conforms to the contract requirements as well as the following: keeping the CO informed of technical or contractual difficulties; coordinating site entry for Contractor personnel; reviewing invoices for completed work and recommending approval by the CO if Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with rate of expenditure, reviewing and approving invoices for deliverables, including the timely processing of invoices; and maintaining a contract correspondence, modification record of inspection and invoice/voucher files.

5. Invoicing for this transaction did not follow the procedural path set forth in the contract, purchase orders, or task orders, which are inconsistent, to a significant degree, with each other. Instead of invoices being sent to the OAG's Chief Financial Officer, the contractor was directed by an OAG staff member, not the contracting officer, to send invoices to the OAG's Commercial Division.<sup>5</sup> By making this change, which was a circumvention of internal controls, the growing costs of these services, the resulting unpaid invoices, and other violations appear to have escaped notice of accountable managers and officials for a significant period of time. It was not until the Auditor's office began to request information about expenditures under the for audit that the matter began to unravel.
6. Although the original contract was awarded for \$800,000 in the base year and subsequently modified on September 21, 2006 (Modification 0001)<sup>6</sup> to increase the maximum value to \$950,000, the cost of services performed by the contractor in the base year exceeded \$1 million and, as of the date of this report, had again exceeded \$1 million in the absence of required Council approval of the contract.<sup>7</sup>

During the Base Year of the Venable Contract, the cost of services exceeded the maximum \$800,000 initial value by \$393,409, and exceeded the \$1 Million threshold requiring Council approval of the Contract by approximately \$244,000. As of February 28, 2007 of Option Year One, the District had incurred \$1,195,533 in legal expenses for eminent domain and land acquisition for the new baseball stadium. Option Year One total expenditures are expected to be approximately \$2.4 million.

7. Venable's invoices were not adequately, if at all, reviewed by the COTR or his designee before they were approved for payment. As a consequence, inappropriate or improper charges were approved by OAG Commercial Division staff for payment. The Auditor's review

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<sup>5</sup>See Section G, "Contract Administration Data", Section G.2 "Invoice Submittal" which states: invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer (CFO). . ."

<sup>6</sup>On September 22, 2006, P.O. 1888268-V2 was issued to increase the amount to \$950,000.

D.C. Code § 1-204.51 (b) (3) states that [n]o contract entered into under this subsection shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved. *See also* D.C. Code § 2-301.05a (a) which states that prior to the award of a contract in excess of \$1,000,000 during a 12 -month period, the proposed contract must be submitted by the Mayor to the Council for review and approval. See Sections I.11 and I.12 of the Venable Contract.

revealed that Venable invoiced the District for thousands of dollars of improper and inappropriate charges that did not comply with the terms of the contract including the following:

- a. consistent billing at incorrect hourly rates;
- b. billing hourly rates for individuals whose position titles were not declared on the invoice, not approved by the contracting officer, and possibly not covered under the approved titles and hourly rates set forth in the contract;
- c. interchanging or substituting legal personnel without prior notification to and approval from the District's contracting officer; and
- d. charging expenses that were not eligible for reimbursement under the contract.

Appendix I presents examples from Venable invoices of improper hourly rates billed to the District. Appendix II presents examples of charges not allowed by the contract that were billed to the District.

Under Section B of the Venable Contract, delivery and performance terms include a Base Year Schedule of fees paid to Partners, Associates, Paralegal, and Investigators, plus cost reimbursable items. Partners were to be paid \$390/hour; associates \$260/hour, Paralegal at \$150/hour, and investigators \$150/hour. Fees for the Base Year and Option Year 1 under the contract are presented in Table II.

**TABLE II**

**Contract Base Year Hourly Rates  
(October 17, 2005 thru October 16, 2006)**

| <b>Approved Position Title</b> | <b>Approved Hourly Rates</b> |
|--------------------------------|------------------------------|
| Partner                        | \$390.00                     |
| Associate                      | \$260.00                     |
| Paralegal                      | \$150.00                     |
| Investigator                   | \$150.00                     |

**Contract Option Year One Hourly Rates  
(October 17, 2006 thru October 16, 2007)**

| <b>Approved Position Title</b> | <b>Approved Hourly Rates</b> |
|--------------------------------|------------------------------|
| Partner                        | \$415.00                     |
| Associate                      | \$268.00                     |
| Paralegal                      | \$157.00                     |
| Investigator                   | \$157.00                     |

Source: Contract No. POAM-2005-C-0100B

Appendix III presents hourly rate schedules contained in the Venable Contract for the base year and each of the option years.

The current Attorney General has developed revised policies and procedures for monitoring contracts for outside legal services. An outline of these policies and procedures are presented in Attachment IV.

## **RECOMMENDATIONS**

The Auditor makes the following recommendations to address the deficiencies and violations set forth in this letter report.

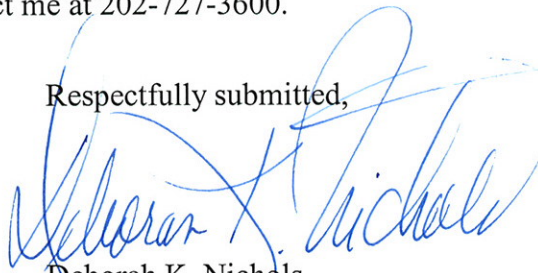
1. All expenses charged to the District under the in the absence of funding and the issuance of a task order represented unauthorized commitments by government personnel in the OAG, the legal arm of the District government. The Auditor recommends that all personnel involved in the unauthorized commitment of the District regarding services rendered by Venable in the absence of a task order executed by the contracting officer and a Venable representative should be held accountable to the fullest extent permitted un the applicable personnel rules of the District government, including termination.
2. The OAG track, evaluate, and substantiate all legal expenses charged the government by Venable under the eminent domain/land acquisition contract for accuracy, legitimacy, necessity, and relevance.
3. The OAG and assigned OCP contracting officer require Venable to declare in writing the names and position title of each member of its team providing services under contract POAM-2005-C-0100B, and obtain the written prior approval of the contracting officer for any changes thereto. If the contracting officer's prior written approval is not obtained, charges for personnel not listed on Venable's roster should not be paid.
4. OAG, in coordination with the CFO, immediately develop and implement effective cost controls and cost containment policies and procedures for the and other contracts pertaining to eminent domain and land acquisition litigation.
5. The OAG refrain from paying for unauthorized charges made by Venable and immediately recover any such payments already made.

6. Consideration be given to terminating the and performing the services in-house given the questionable billing practices engaged in by Venable personnel and the expensive hourly rates charged by Venable with no guarantee of success in any of the cases it is handling.

In closing, I want to express my concerns that expenses incurred under this contract may have violated the District and Federal Anti-Deficiency Acts. I will examine this issue and provide a written report on my findings in the near future.

Thank you for your assistance and attention to this important matter. Should you have any questions, please do not hesitate to contact me at 202-727-3600.

Respectfully submitted,



Deborah K. Nichols

District of Columbia Auditor

# **APPENDICES**

## APPENDIX I

### Base Year Rates (October 17, 2005 thru October 16, 2006)

| Approved       | Approved     |
|----------------|--------------|
| Position Title | Hourly Rates |
| Partner        | \$390.00     |
| Associate      | \$260.00     |
| Paralegal      | \$150.00     |
| Investigator   | \$150.00     |

### Invoice Dated February 6, 2006

| Position Title | Hourly Rate | Authorized  | Hours    | Amount      | Authorized  | overpayment       |
|----------------|-------------|-------------|----------|-------------|-------------|-------------------|
|                | Used        | Hourly Rate | Reported | Billed      | Amt.        |                   |
| Associate      | \$285.00    | \$260.00    | 68.1     | \$19,408.50 | \$17,706.00 | \$1,702.50        |
| Title Unknown  | \$285.00    | \$260.00    | 25.6     | \$7,296.00  | \$6,656.00  | \$640.00          |
| Title Unknown  | \$190.00    | \$0.00      | 4.9      | \$931.00    | \$0.00      | \$931.00          |
|                |             |             |          |             |             | <b>\$3,273.50</b> |

### Invoice Dated March 9, 2006

| Position Title | Hourly Rate | Authorized  | Hours    | Amount     | Authorized | Overpayment       |
|----------------|-------------|-------------|----------|------------|------------|-------------------|
|                | Used        | Hourly Rate | Reported | Billed     | Amt.       |                   |
| Title Unstated | \$230.00    | \$0.00      | 13.4     | \$3,082.00 | \$0.00     | \$3,082.00        |
| Title Unknown  | \$230.00    | \$0.00      | 13.1     | \$3,013.00 | \$0.00     | \$3,013.00        |
| Title Unknown  | \$190.00    | \$0.00      | 1.3      | \$247.00   | \$0.00     | \$228.00          |
|                |             |             |          |            |            | <b>\$6,323.00</b> |

### Invoice Dated May 4, 2006

| Position Title | Hourly Rate | Authorized  | Hours    | Amount      | Authorized  | Overpayment       |
|----------------|-------------|-------------|----------|-------------|-------------|-------------------|
|                | Used        | Hourly Rate | Reported | Billed      | Amt.        |                   |
| Associate      | \$285.00    | \$260.00    | 80.3     | \$22,885.50 | \$20,878.00 | \$2,007.50        |
| Associate      | \$290.00    | \$260.00    | 29.6     | \$8,584.00  | \$7,696.00  | \$888.00          |
| Title Unknown  | \$190.00    | \$0.00      | 1.2      | \$228.00    | \$0.00      | \$228.00          |
|                |             |             |          |             |             | <b>\$3,123.50</b> |

### Invoice Dated June 30, 2006

| Position Title | Hourly Rate | Authorized  | Hours    | Amount      | Authorized  | Overpayment        |
|----------------|-------------|-------------|----------|-------------|-------------|--------------------|
|                | Used        | Hourly Rate | Reported | Billed      | Amt.        |                    |
| Associate      | \$285.00    | \$260.00    | 71.3     | \$20,320.50 | \$18,538.00 | \$1,782.50         |
| Associate      | \$290.00    | \$260.00    | 16.1     | \$4,669.00  | \$4,186.00  | \$483.00           |
| Title Unknown  | \$210.00    | \$0.00      | 49.3     | \$10,353.00 | \$0.00      | \$10,353.00        |
| Associate      | \$300.00    | \$260.00    | 2.5      | \$750.00    | \$650.00    | \$100.00           |
|                |             |             |          |             |             | <b>\$12,718.50</b> |

### Invoice for August 3, 2006

## APPENDIX I

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment       |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|-------------------|
| Associate      | \$285.00            | \$260.00                  | 38.5              | \$10,972.50      | \$10,010.00        | \$962.50          |
| Associate      | \$290.00            | \$260.00                  | 12                | \$3,480.00       | \$3,120.00         | \$360.00          |
| Title Unknown  | \$210.00            | \$0.00                    | 2.2               | \$462.00         | \$0.00             | \$462.00          |
| Title Unknown  | \$160.00            | \$0.00                    | 7                 | \$1,120.00       | \$0.00             | \$1,120.00        |
| Title Unknown  | \$160.00            | \$0.00                    | 3                 | \$480.00         | \$0.00             | \$480.00          |
| Title Unknown  | \$160.00            | \$0.00                    | 16.6              | \$2,656.00       | \$0.00             | \$2,656.00        |
|                |                     |                           |                   |                  |                    | <b>\$6,040.50</b> |

### Invoice for September 11, 2006

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment       |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|-------------------|
| Associate      | \$285.00            | \$260.00                  | 25.1              | \$7,153.50       | \$6,526.00         | \$627.50          |
| Associate      | \$290.00            | \$260.00                  | 53.2              | \$15,428.00      | \$13,832.00        | \$1,596.00        |
| Title Unknown  | \$210.00            | \$0.00                    | 15.5              | \$3,255.00       | \$0.00             | \$3,255.00        |
| Title Unknown  | \$160.00            | \$0.00                    | 1.5               | \$240.00         | \$0.00             | \$240.00          |
|                |                     |                           |                   |                  |                    | <b>\$5,718.50</b> |

### Invoice for October 6, 2006

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment        |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|--------------------|
| Associate      | \$285.00            | \$260.00                  | 112.4             | \$32,034.00      | \$29,224.00        | \$2,810.00         |
| Associate      | \$290.00            | \$260.00                  | 66.1              | \$19,169.00      | \$17,186.00        | \$1,983.00         |
| Title Unknown  | \$210.00            | \$0.00                    | 2.6               | \$546.00         | \$0.00             | \$546.00           |
| Title Unknown  | \$210.00            | \$0.00                    | 35.8              | \$7,518.00       | \$0.00             | \$7,518.00         |
| Title Unknown  | \$190.00            | \$0.00                    | 51.6              | \$9,804.00       | \$0.00             | \$9,804.00         |
|                |                     |                           |                   |                  |                    | <b>\$22,661.00</b> |

### Option Year One Rates (October 17, 2006 thru October 16, 2007)

| Position Title | Hourly Rate |
|----------------|-------------|
| Partner        | \$415.00    |
| Associate      | \$268.00    |
| Paralegal      | \$157.00    |
| Investigator   | \$157.00    |

### Invoice for November 8, 2006

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|-------------|
| Associate      | \$285.00            | \$260.00                  | 37.9              | \$10,801.50      | \$9,854.00         | \$947.50    |
| Associate      | \$300.00            | \$268.00                  | 36.6              | \$10,980.00      | \$9,808.80         | \$1,171.20  |
| Associate      | \$300.00            | \$260.00                  | 34                | \$10,200.00      | \$8,840.00         | \$1,360.00  |
| Associate      | \$310.00            | \$268.00                  | 20.7              | \$6,417.00       | \$5,547.60         | \$869.40    |
| Title Unknown  | \$310.00            | \$268.00                  | 9                 | \$2,790.00       | \$2,412.00         | \$378.00    |
| Title Unknown  | \$190.00            | \$0.00                    | 43.8              | \$8,322.00       | \$0.00             | \$8,322.00  |
| Title Unknown  | \$165.00            | \$0.00                    | 0.2               | \$33.00          | \$0.00             | \$33.00     |
| Title Unknown  | \$235.00            | \$0.00                    | 32.8              | \$7,708.00       | \$0.00             | \$7,708.00  |

|               |          |        |      |            |        |                    |
|---------------|----------|--------|------|------------|--------|--------------------|
| Title Unknown | \$268.00 | \$0.00 | 27.6 | \$7,396.80 | \$0.00 | \$7,396.80         |
|               |          |        |      |            |        | <b>\$28,185.90</b> |

**Invoice for December 6, 2006**

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment        |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|--------------------|
| Associate      | \$300.00            | \$268.00                  | 98.9              | \$29,670.00      | \$26,505.20        | \$3,164.80         |
| Associate      | \$300.00            | \$268.00                  | 49.3              | \$14,790.00      | \$13,212.40        | \$1,577.60         |
| Associate      | \$300.00            | \$268.00                  | 5                 | \$1,500.00       | \$1,340.00         | \$160.00           |
| Title Unknown  | \$235.00            | \$0.00                    | 67.3              | \$15,815.50      | \$0.00             | \$15,815.50        |
| Associate      | \$300.00            | \$268.00                  | 2.5               | \$750.00         | \$670.00           | \$80.00            |
|                |                     |                           |                   |                  |                    | <b>\$20,797.90</b> |

**Invoice for December 31, 2006**

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment        |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|--------------------|
| Associate      | \$300.00            | \$268.00                  | 119.9             | \$35,970.00      | \$32,133.20        | \$3,836.80         |
| Associate      | \$300.00            | \$268.00                  | 87.6              | \$26,280.00      | \$23,476.80        | \$2,803.20         |
| Associate      | \$300.00            | \$268.00                  | 49.6              | \$14,880.00      | \$13,292.80        | \$1,587.20         |
| Title Unknown  | \$157.00            | \$0.00                    | 99.4              | \$15,605.80      | \$0.00             | \$15,605.80        |
| Title Unknown  | \$165.00            | \$0.00                    | 10                | \$1,650.00       | \$0.00             | \$1,650.00         |
| Associate      | \$300.00            | \$268.00                  | 44.2              | \$13,260.00      | \$11,845.60        | \$1,414.40         |
|                |                     |                           |                   |                  |                    | <b>\$26,897.40</b> |

**Invoice for February 12, 2007**

| Position Title | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment        |
|----------------|---------------------|---------------------------|-------------------|------------------|--------------------|--------------------|
| Associate      | \$300.00            | \$268.00                  | 222.8             | \$66,840.00      | \$59,710.40        | \$7,129.60         |
| Associate      | \$300.00            | \$268.00                  | 80.5              | \$24,150.00      | \$21,574.00        | \$2,576.00         |
| Associate      | \$300.00            | \$268.00                  | 129.6             | \$38,880.00      | \$34,732.80        | \$4,147.20         |
| Associate      | \$300.00            | \$268.00                  | 92.4              | \$27,720.00      | \$24,763.20        | \$2,956.80         |
| Associate      | \$300.00            | \$268.00                  | 23.9              | \$7,170.00       | \$6,405.20         | \$764.80           |
| Title Unknown  | \$165.00            | \$0.00                    | 2.4               | \$396.00         | \$0.00             | \$396.00           |
| Associate      | \$300.00            | \$268.00                  | 9.7               | \$2,910.00       | \$2,599.60         | \$310.40           |
| Title Unknown  | \$235.00            | \$0.00                    | 233.2             | \$54,802.00      | \$0.00             | \$54,802.00        |
|                |                     |                           |                   |                  |                    | <b>\$73,082.80</b> |

**Invoice for March 8, 2007**

| Position Title                                                | Hourly Rate<br>Used | Authorized<br>Hourly Rate | Hours<br>Reported | Amount<br>Billed | Authorized<br>Amt. | Overpayment         |
|---------------------------------------------------------------|---------------------|---------------------------|-------------------|------------------|--------------------|---------------------|
| Associate                                                     | \$300.00            | \$268.00                  | 162.6             | \$48,780.00      | \$43,576.80        | \$5,203.20          |
| Associate                                                     | \$300.00            | \$268.00                  | 65                | \$19,500.00      | \$17,420.00        | \$2,080.00          |
| Associate                                                     | \$300.00            | \$268.00                  | 107.2             | \$32,160.00      | \$28,729.60        | \$3,430.40          |
| Associate                                                     | \$300.00            | \$268.00                  | 66.1              | \$19,830.00      | \$17,714.80        | \$2,115.20          |
| Title Unknown                                                 | \$235.00            | \$0.00                    | 171.5             | \$40,302.50      | \$0.00             | \$40,302.50         |
|                                                               |                     |                           |                   |                  |                    | <b>\$53,131.30</b>  |
| <b>Preliminary Total of Questionable Hourly Rate Payments</b> |                     |                           |                   |                  |                    | <b>\$261,953.80</b> |

## APPENDIX II

### Examples of Venable Charges Not Allowed Under the Contract

|                    |                                                      |                   |
|--------------------|------------------------------------------------------|-------------------|
| September 8, 2006  | Lunch/Dinner Conference Meeting Order                | \$153.45          |
| September 15, 2006 | Lunch/Dinner Conference Meeting Order                | \$115.50          |
| September 19, 2006 | Lunch/Dinner Conference Meeting Order                | \$136.95          |
| September 20, 2006 | Lunch/Dinner Conference Meeting Order                | \$180.84          |
| September 26, 2006 | Lunch/Dinner Conference Meeting Order                | \$16.50           |
| September 27, 2006 | Lunch/Dinner Conference Meeting Order                | \$19.25           |
| October 3, 2006    | Lunch/Dinner Conference Meeting Order                | \$136.95          |
| October 12, 2006   | Lunch/Dinner Conference Meeting Order                | \$27.50           |
| October 18, 2006   | Lunch/Dinner Conference Meeting Order                | \$16.50           |
| October 19, 2006   | Lunch/Dinner Conference Meeting Order                | \$16.50           |
| October 26, 2006   | Lunch/Dinner Conference Meeting Order                | \$127.16          |
| November 15, 2006  | Lunch/Dinner Conference Meeting Order                | \$22.00           |
| November 28, 2006  | Lunch/Dinner Conference Meeting Order                | \$48.68           |
| December 28, 2006  | Lunch/Dinner Conference Meeting Order                | \$15.40           |
| January 4, 2007    | Lunch/Dinner Conference Meeting Order                | \$45.10           |
| January 10, 2007   | Lunch/Dinner Conference Meeting Order                | \$136.95          |
| January 5, 2007    | Lunch/Dinner Conference Meeting Order                | \$16.50           |
| January 16, 2007   | Lunch/Dinner Conference Meeting Order                | \$22.00           |
| January 25, 2007   | Lunch/Dinner Conference Meeting Order                | \$22.00           |
| January 29, 2007   | Lunch/Dinner Conference Meeting Order                | \$44.00           |
| January 30, 2007   | Lunch/Dinner Conference Meeting Order                | \$22.00           |
| February 9, 2007   | Luncheon/Dinner Conf: Meal Expenses for Weekend Work | \$79.88           |
| June 9, 2006       | Lunch/Dinner Conference Order                        | \$48.13           |
| July 25, 2006      | Lunch/Dinner Conference Meeting Order                | \$115.50          |
| May 31, 2006       | Luncheon/Dinner Conf: Order                          | \$33.00           |
| February 16, 2006  | Lunch/Dinner Conference Meeting Order                | \$91.96           |
| January 3, 2006    | Lunch/Dinner Conference Meeting                      | \$27.50           |
|                    | <b>Total</b>                                         | <b>\$1,737.70</b> |

**APPENDIX III**

Solicitation No. POAM-2005-C-0100A

Legal Services - Eminent Domain

Venable, LLP

**B.3 SCHEDULE****B.3.1 BASE YEAR**

| CLIN   | Item Description                                                                                                                                                                                                                                   | Price Per Unit  | Minimum Dollar Value       | Maximum Dollar Value |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------|----------------------|
| 0001   | Represent the District in lawsuits brought by the District under its eminent domain powers to acquire ownership of real property on behalf of the District that will be the site of a proposed major league baseball stadium as described in C.3.1 |                 |                            |                      |
| 0001AA | Partner                                                                                                                                                                                                                                            | \$ 390.00/ hour | \$1,000.00                 | \$800,000.00         |
| 0001BB | Associate                                                                                                                                                                                                                                          | \$ 260.00/ hour |                            |                      |
| 0001CC | Paralegal                                                                                                                                                                                                                                          | \$ 150.00/ hour |                            |                      |
| 0001DD | Investigator                                                                                                                                                                                                                                       | \$ 150.00/ hour |                            |                      |
| 0002   | Cost Reimbursement Components as described in G.11                                                                                                                                                                                                 |                 | Not to Exceed \$100,000.00 |                      |

## B.3.2

## OPTION YEAR ONE

| CLIN   | Item Description                                                                                                                                                                                                                                   | Price Per Unit  | Minimum Dollar Value       | Maximum Dollar Value |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------|----------------------|
| 1001   | Represent the District in lawsuits brought by the District under its eminent domain powers to acquire ownership of real property on behalf of the District that will be the site of a proposed major league baseball stadium as described in C.3.1 |                 |                            |                      |
| 0101AA | Partner                                                                                                                                                                                                                                            | \$ 415.00/ hour | \$1,000.00                 | \$800,000.00         |
| 0101BB | Associate                                                                                                                                                                                                                                          | \$ 268.00/ hour |                            |                      |
| 0101CC | Paralegal                                                                                                                                                                                                                                          | \$ 157.00/ hour |                            |                      |
| 0101DD | Investigator                                                                                                                                                                                                                                       | \$ 157.00/ hour |                            |                      |
| 0102   | Cost Reimbursement Components as described in G.11                                                                                                                                                                                                 |                 | Not to Exceed \$100,000.00 |                      |

**APPENDIX III**

Solicitation No. POAM-2005-C-0100B

Legal Services - Eminent Domain

Venable, LLP

**B.3.3****OPTION YEAR TWO**

| CLIN   | Item Description                                                                                                                                                                                                                                   | Price Per Unit  | Minimum Dollar Value          | Maximum Dollar Value |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------|----------------------|
| 0201   | Represent the District in lawsuits brought by the District under its eminent domain powers to acquire ownership of real property on behalf of the District that will be the site of a proposed major league baseball stadium as described in C.3.1 |                 |                               |                      |
| 0201AA | Partner                                                                                                                                                                                                                                            | \$ 425.00/ hour | \$1,000.00                    | \$800,000.00         |
| 0201BB | Associate                                                                                                                                                                                                                                          | \$ 283.00/.hour |                               |                      |
| 0201CC | Paralegal                                                                                                                                                                                                                                          | \$ 165.00/ hour |                               |                      |
| 0201DD | Investigator                                                                                                                                                                                                                                       | \$ 165.00/ hour |                               |                      |
| 0202   | Cost Reimbursement Components<br>as described in G.11                                                                                                                                                                                              |                 | Not to Exceed<br>\$100,000.00 |                      |

**APPENDIX III**

Solicitation No. POAM-2005-C-0100B

Legal Services - Eminent Domain

Venable, LLP

**B.3.4 OPTION YEAR THREE**

| CLIN   | Item Description                                                                                                                                                                                                                                   | Price Per Unit  | Minimum Dollar Value       | Maximum Dollar Value |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------|----------------------|
| 0301   | Represent the District in lawsuits brought by the District under its eminent domain powers to acquire ownership of real property on behalf of the District that will be the site of a proposed major league baseball stadium as described in C.3.1 |                 |                            |                      |
| 0301AA | Partner                                                                                                                                                                                                                                            | \$ 435.00/ hour | \$1,000.00                 | \$800,000.00         |
| 0301BB | Associate                                                                                                                                                                                                                                          | \$ 288.00/ hour |                            |                      |
| 0301CC | Paralegal                                                                                                                                                                                                                                          | \$ 175.00/ hour |                            |                      |
| 0301DD | Investigator                                                                                                                                                                                                                                       | \$ 175.00/ hour |                            |                      |
| 0302   | Cost Reimbursement Components as described in G.11                                                                                                                                                                                                 |                 | Not to Exceed \$100,000.00 |                      |

**APPENDIX III**

Solicitation No. POAM-2005-C-0100B

Legal Services - Eminent Domain

Venable, LLP

**B.3.5****OPTION YEAR FOUR**

| CLIN   | Item Description                                                                                                                                                                                                                                   | Price Per Unit  | Minimum Dollar Value       | Maximum Dollar Value |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------------------------|----------------------|
| 0401   | Represent the District in lawsuits brought by the District under its eminent domain powers to acquire ownership of real property on behalf of the District that will be the site of a proposed major league baseball stadium as described in C.3.1 |                 |                            |                      |
| 0401AA | Partner                                                                                                                                                                                                                                            | \$ 440.00/ hour | \$1,000.00                 | \$800,000.00         |
| 0401BB | Associate                                                                                                                                                                                                                                          | \$ 295.00/ hour |                            |                      |
| 0401CC | Paralegal                                                                                                                                                                                                                                          | \$ 180.00/ hour |                            |                      |
| 0401DD | Investigator                                                                                                                                                                                                                                       | \$ 180.00/ hour |                            |                      |
| 0402   | Cost Reimbursement Components as described in G.11                                                                                                                                                                                                 |                 | Not to Exceed \$100,000.00 |                      |

## APPENDIX IV

### OAG Revised Procedures and Policies for Monitoring Contracts for Outside Legal Services

Historically, OAG has not had a uniform procedure for obtaining or monitoring outside legal services. Going forward,

- The Attorney General must approve the use of outside counsel by OAG or subordinate agencies.
- Any contract for legal services that exceeds \$1 million per year will be submitted to Council for approval.
- Every contract for legal services will have a trained COTR.
- Before any contract is submitted for approval to OCP, it must be reviewed by OAG's Chief Administrative officer for compliance with procurement policies and procedures. OAG's CAO must ensure that (1) there is funding available for the contract; (2) the costs are reasonable; and (3) appropriate approvals are received.
- To ensure management of costs, OAG will seek to: (1) consolidate work to ensure better rates; and (2) negotiate flat fees, rather than hourly rates. OAG will form a review team of experienced litigators to evaluate the bids and bills submitted by outside counsel to assure that services are appropriately bid and billed.
- Invoices for legal services will be sent to OFRM, with a duplicate copy to the COTR.
- Bills will be reviewed regularly with the CAO, review team, and the Agency Fiscal Officer to ensure regular receipt, timely payments, and appropriate monitoring of expenditures.

OAG's CAO notified all OAG managers of this change on March 19, 2007 and is conducting a section-by-section training on procurement policies and procedures beginning in late April 2007.