



**DATE:** October 24, 2017

**CATEGORY:** Consent

**DEPT.:** City Manager's Office/Human Resources Division

**TITLE:** **Appropriations for Outside Legal Services**

### **RECOMMENDATION**

1. Appropriate and transfer from the General Fund Reserve to the City Manager's Office General Non-Operating Fund budget \$50,000 to amend the existing contract for outside legal services with Renne Sloan Holtzman Sakai LLP from \$35,000, resulting in a total contract amount of \$85,000 for July 1, 2017 through June 30, 2018 for additional services supporting labor contract negotiations and other legal services. (Five votes required)
2. Appropriate and transfer from the General Fund Reserve to the City Manager's Office General Non-Operating Fund budget \$25,000 for a study regarding tax regulations related to potential constructive receipt issues for compensatory time. (Five votes required)

### **BACKGROUND**

To increase efficiency and coordination throughout the negotiation process of multiple successor Memoranda of Understanding (MOU's), it is the City's practice to engage the services of a labor attorney to participate in formal labor negotiations with some bargaining units representing City employees. In addition to the use of a labor attorney for negotiations, the City has contracted with outside consultants to review contract language and pay practices to ensure compliance with current tax laws and mitigate potential risks.

### **ANALYSIS**

In Fiscal Year 2016-17, four separate Memoranda of Understanding (MOU's) were scheduled to expire June 30, 2017. The City Manager's Office, Human Resources Division Fiscal Year 2016-17 budget appropriated \$60,000 in limited-period funds for a labor attorney to assist with formal labor negotiations. Staff anticipated the need for

continued use of a labor attorney for post contract implementation for Fiscal Year 2017-18; thus, the City Manager's Office, Human Resources Division Fiscal Year 2017-18 budget appropriated an additional \$35,000 in limited-period funds.

The City utilized the services of Renne Sloan Holtzman Sakai LLP from January 2017 through October 2017. The actual costs associated with labor relations legal consulting are anticipated to exceed funds appropriated this fiscal year based on the following:

- At the end of June 2017, one of the bargaining units declared impasse requiring additional, unanticipated legal services to assist with mediation and the preparation for the fact-finding process.
- Over the course of negotiations, a question was raised regarding the taxability of the use of compensatory time off for overtime hours worked. All parties agreed the City would procure an opinion from an attorney who specializes in taxation. Depending on the findings of the opinion, the parties will meet and confer as necessary over options to address the subject of compensatory time and constructive receipt.
- The City plans to utilize the services of Renne Sloan Holtzman Sakai LLP for a number of complex employee relations matters, including implementing the constructive receipt findings.

### **FISCAL IMPACT**

The requested amount of \$50,000 to amend the contract with Renne Sloan Holtzman Sakai LLP and \$25,000 for the constructive receipt study will be funded from the General Fund Reserve. Through contract negotiations, the Mountain View Professional Firefighters, Local 1965 have agreed to share in the cost of the constructive receipt legal tax opinion.

### **ALTERNATIVES**

1. Do not authorize the appropriations and transfers.
2. Provide other direction to staff.

**PUBLIC NOTICING** – Agenda posting.

Prepared by:

Rebecca K. Wolfe  
Senior Human Resources Analyst

Audrey Seymour Ramberg  
Assistant City Manager

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Approved by:

Daniel H. Rich  
City Manager