

Amendments to Retainer Agreement Purchase Order 6046014 with Hicks Morley Hamilton Stewart Storie LLP for Legal Services Related to Pay Equity Issues

Date: January 30, 2023

To: City Council

From: The City Solicitor and the Chief People Officer

Wards: All

SUMMARY

The law firm of Hicks Morley Hamilton Stewart Storie LLP (“Hicks LLP”) was retained in 2017 by the City, through a retainer agreement, to provide legal services in respect of application of two former employees regarding the City's Non-Union Pay Equity Plan.

The services provided by Hicks LLP deal with all aspects of the matter identified above, including providing legal advice to the City, preparing for and attending meetings, mediations and hearings on behalf of the City in regard to the application.

Initially, the retainer was subject to the fee cap of twenty-five thousand (\$25,000.00) dollars which served as the upset limit. By retainer amendment dated November 22, 2019, the upset limit was changed from \$25,000.00 to \$85,000.00.

An increase of the upset limit by \$30,000, to a total of \$115,000.00, should be sufficient to complete the outstanding matters. The initial amount of the retainer was for preliminary work prior to litigation being commenced, with other amounts being added as the matter moved through the various stages of the litigation process. Due to the retainer exceeding 5 years, Council authority is required for the extension pursuant to Chapter 195, Purchasing, of the City's Municipal Code.

RECOMMENDATIONS

The City Solicitor and the Chief People Officer recommend that:

1. City Council authorize the extension of the City's retainer with Hicks Morley Hamilton Stewart Storie LLP (Purchase Order number 6046014) for legal services in respect of the application of two former employees regarding the City's Non-Union Pay Equity Plan, until the services under the retainer agreement, as they may be amended, are completed, and amend the extended retainer to increase the maximum amount to \$115,000.00 from \$85,000.

FINANCIAL IMPACT

This report is seeking approval to extend the retainer agreement with Hicks LLP and increase the funding commitment by \$30,000, to be funded from the tabled 2023 Operating Budget of the City Manager's Office (People and Equity), in order to complete the ongoing representation of the City at the Pay Equity Tribunal.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

There was no previous Council decision because none was required under Chapter 195, Purchasing, of the City's Municipal Code when the retainer was continued.

COMMENTS

In 2017, the City retained Hicks LLP to provide legal services in respect of the application of two former employees regarding the City's Non-Union Pay Equity Plan.

Hicks LLP has a longstanding involvement in this multi-year proceeding. They have made effective representation on the numerous unanticipated complexities arising over time, and the current proceeding before the Pay Equity Tribunal is now near completion. The continued involvement of Hicks LLP until the services under the retainer agreement are completed would be appropriate given the history and familiarity that Hicks LLP has with this nearly completed matter.

The services to be provided would deal with all aspects of the application made by the two former employees regarding the City's Non-Union Pay Equity Plan.

Initially, the retainer was subject to the fee cap of twenty-five thousand (\$25,000.00) dollars which served as the upset limit. The retainer agreement was amended in November 22, 2019 to change the upset limit from \$25,000.00 to \$85,000.00. It is necessary to further amend the upset limit by increasing it by \$30,000, to a total of \$115,000.00, to accord with the estimated maximum fees chargeable by that firm until the completion of the services.

The Chief Procurement Officer has reviewed this report and agree with the recommendations made pursuant to Chapter 195, Purchasing, of the City's Municipal Code.

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SIGNATURE

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