



## STAFF REPORT

**DATE:** June 12, 2018  
**TO:** Ronald L. Olson, City Manager  
**FROM:** Jonathan Locke, Executive Director of Finance  
**SUBJECT:** Budget Amendment for Legal Services

### **BACKGROUND AND FINDINGS:**

At the June 5, 2018 City Council Workshop, staff briefed City Council regarding potential litigation with McLean Construction and Spectrum. City Council provided direction to bring both items forward for consideration. If City Council chooses to move forward and litigate both issues, a budget amendment will be needed to cover the associated legal expenses.

Staff is proposing a professional services agreement for legal services with Naman Howell Smith & Lee to assist with the litigation against McLean Construction. It is estimated that between \$60,000 and \$100,000 will be required in this fiscal year. If this case is fully prepared and tried in a court of law, expenditures in the next fiscal year could reach \$400,000. The total estimated cost for legal services is \$500,000, and staff has already identified \$25,000 in the current year budget. For this reason, the recommended budget amendment to cover the McLean Construction legal expenses is \$475,000.

Staff is proposing a professional services agreement for legal services with Lloyd Gosselink who will represent all interested cities that were impacted by the methodology used by Spectrum to calculate franchise fee payments. The total estimated cost to take the case through trial is \$375,000. The cost will be divided among those cities that choose to participate based on the amount each city stands to recover. The City's estimated allocation of costs is \$25,237.50. The recommended budget amendment to cover the Spectrum legal expenses is \$25,238.

The combined budget amendment necessary to litigate both issues is \$500,238. The total budget amendment is comprised of \$475,000 to cover legal expenses related to McLean Construction and \$25,238 to cover legal expenses related to Spectrum.

### **THE ALTERNATIVES CONSIDERED:**

(1) Approve the ordinance amending the FY 2018 Annual Budget and Plan of Municipal Services for legal services; (2) Do not approve the ordinance.

### **Which alternative is recommended? Why?**

Staff recommends option 1 as a budget amendment is required to cover the legal expenses.

**CONFORMITY TO CITY POLICY:**

The City's Financial Governance Policies, Section V. Budget Administration (B)(1) states that City Council may amend or change the budget by ordinance.

**FINANCIAL IMPACT:****What is the amount of the expenditure in the current fiscal year? For future years?**

It is estimated that up to \$125,238 will be required in this fiscal year. An additional \$400,000 may be needed next fiscal year. Staff has already identified \$25,000 in the current year budget, so the total budget amendment needed is \$500,238. The budget amendment will increase the legal services account number 010-3435-432.47-11 by \$475,000 and the legal services account number 010-1005-416.47-11 by \$25,238. The total budget amendment of \$500,238 will be covered by the fund balance of the General Fund. The General Fund ended last fiscal year with an unassigned fund balance of \$19.92 million.

**Is this a one-time or recurring expenditure?**

Expenditures will occur in the current fiscal year and next fiscal year.

**Is this expenditure budgeted?**

A budget amendment is required.

**If not, where will the money come from?**

Funding for the professional services agreements will come from the fund balance of the General Fund.

**Is there a sufficient amount in the budgeted line-item for this expenditure?**

Upon approval of the budget amendment.

**RECOMMENDATION:**

Staff recommends that City Council approve the ordinance amending the FY 2018 Annual Budget and Plan of Municipal Services to increase expenditure accounts in the General Fund for legal services.

**DEPARTMENTAL CLEARANCES:**

City Attorney  
Finance

**ATTACHED SUPPORTING DOCUMENTS:**

Ordinance