

COUNCIL ACTION FORM

SUBJECT: **EXTENSION OF ENGAGEMENT WITH AHLERS AND COONEY, P.C., FOR LEGAL SERVICES RELATED TO APPLICATION OF IOWA CODE CHAPTER 20**

BACKGROUND:

In 2017, Iowa law related to collective bargaining for public sector employees was modified. Due to federal protections for the collective bargaining rights of transit employees, a dispute arose between the City and the union representing the City's Blue Collar bargaining unit (which includes a mix of transit and non-transit City employees) regarding how bargaining should work under the new state law. The City engaged the services of the Ahlers and Cooney law firm to prepare a petition to get clarification from the Public Employment Relations Board (PERB) about the law. The City is now seeking judicial review of PERB's decision.

On July 9, 2019, the City Council approved an extension of the engagement with Ahlers and Cooney to a total amount of \$50,412.58. On May 12, 2020, the City Council approved an additional \$15,000 in funding, for a total contract amount of \$65,412.58. On July 2, 2021, City staff authorized an increase of \$7,000, for a total contract amount of \$72,412.58.

The City's brief for oral arguments has been completed, and staff estimates that funds will need to be authorized to complete the City's reply brief and to conduct oral arguments, which are scheduled for November. **Therefore, staff is requesting that an additional \$20,000 be added to the purchase order, for a total contract amount of \$92,412.58.**

The actual amount charged to the City is based on the hourly rates for the attorneys, plus actual fees for copying, printing, and related services. **Should additional services be required due to appeals by either party, additional funding may be recommended in the future. Expenses are distributed to the operating budgets of the seven City departments with employees represented by this bargaining unit.**

Normally, these types of services would be retained only after a competitive solicitation process and the evaluation of proposals. However, the City did not envision these issues would require such extensive legal services when it initiated the engagement with Ahlers and Cooney. It would be disadvantageous to the City to solicit proposals at this time, retain a new firm, and prepare that firm to represent the City in this matter at this point. Additionally, the attorney the City works with through Ahlers and Cooney has unique experience with federal transit labor protections, which may not be available through other firms.

ALTERNATIVES:

1. Waive the City's purchasing policy requirement for formal bidding procedures and extend the engagement with Ahlers and Cooney, P.C., of Des Moines, Iowa in an amount not to exceed \$20,000.
2. Reject the waiver request and direct staff to solicit competitive proposals for these services.

CITY MANAGER'S RECOMMENDED ACTION:

The City's collective bargaining agreement with the Blue Collar labor group has become significantly more complex due to the application of the new state law related to collective bargaining, and how that law interacts with federal labor protections. Outside legal assistance is required to navigate these issues, and the City has used Ahlers and Cooney to assist the City to date in this matter. The service from Ahlers and Cooney has been acceptable to City staff, and Council approval is required to continue using its services.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.