
OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 24, 2010

IBA Report Number: 10-78

City Council Docket Date: September 27, 2010

Item Number: S400

Agreement with Burke, Williams and Sorenson, LLP

OVERVIEW

At the City Council meeting on Monday, September 27, 2010, the Mayor is requesting the Council to approve an Agreement with Burke, Williams and Sorensen, LLP, to “serve as lead negotiator for pension reform items, FY 2012 contract negotiations, and negotiations over retiree health.” This contract continues Mr. Tim Davis as the City’s lead labor relations negotiator. Mr. Davis has served as the City’s lead negotiator for the past two years including the FY 2010 contract negotiations with the POA, DCAA, MEA, AFSCME Local 127 and Fire Local 145, and the FY 2011 contract negotiations with the Teamsters Local 911, AFSCME Local 127 and POA. He has also served as the lead on the City’s Joint Retiree Health Care Task Force since September 2009.

Previously authorized contracts with Burke, Williams and Sorenson, LLP, for carrying out this role have been approved as “Agreements for Legal Services” and have been administered by the City Attorney’s Office. The contract Council is being asked to approve on Monday is also an “Agreement for Legal Services”, however, contract administration is to be handled by Jay Goldstone, COO.

On September 17, 2010 the City Attorney issued a memo (see backup materials) to Jay Goldstone, COO; Mary Lewis, CFO; and Scott Chadwick, Human Relations Director, regarding the legal services being provided by this firm. In summary, the City Attorney has stated three primary concerns: 1) The City Attorney’s Office now has the necessary

expertise to provide the City's legal advice in the area of labor negotiations; 2) Concerns exist about excessive costs associated with this contract; and 3) Concerns exist about contract compliance and difficulties in effectively administering this contract. For these reasons, the City Attorney does not support the Mayor's request to continue either the legal services of Burke, Williams and Sorensen, LLP or their services as lead negotiator for the City.

Between implementation of the fiscal reform measures tied to Proposition D; the upcoming negotiations on FY 2012 labor contracts with the Teamsters Local 911, DCAA, Fire Local 145 and MEA; and retiree health negotiations with all City labor organizations, the Labor Relations Office is facing a monumental workload of the highest priority with a small staff. Mr. Davis has provided necessary and substantial staff support to the Labor Relations Office for the past two years, and the Labor Relations Office is relying on this support to accomplish the tasks ahead.

OPTIONS FOR ADDRESSING THE IMMEDIATE NEED FOR LEAD LABOR NEGOTIATOR

It should be noted that City Attorney Memorandum of Law dated January 26, 2009 states: "Under the Strong Mayor form of government, the Mayor assumes the responsibility of labor negotiations, which is an administrative function of local government."* In an effort to address areas of disagreement, the following options are offered to resolve the need for a lead labor negotiator:

Option 1- Authorize Agreement for Outside "Legal Services"

Approve the Agreement with Burke, Williams and Sorensen, LLP, as requested by the Mayor. The proposed agreement is for "legal services" in connection with FY10 labor negotiations. Mr. Tim Davis would continue to serve as the City's lead negotiator and provide legal advice on labor relations matters where necessary. The City Attorney and appropriate City Attorney staff would continue to be designated as members of the Negotiating Team.

Option 2- Authorize Agreement for Outside "Labor Negotiations Services"

Revise the Agreement with Burke, Williams and Sorensen, LLP, to clarify the principal duty of labor negotiations and the role of lead labor negotiator for the City; and strike references to providing legal services, legal advice, and legal expertise. The City Attorney and appropriate City Attorney staff would continue to be designated as members of the Negotiating Team.

*See City Attorney Memorandum of Law dated January 26, 2009, "Impasse Procedures under Strong Mayor Trial Form of Government"

Option 3- Mayor or His Designee to Serve as Lead Negotiator/No Outside Assistance

For the past two years, the Labor Relations Office which reports directly to the Mayor has been supplemented by the services of Burke, Williams and Sorenson, LLP, to assist with the significant workload. Should this Agreement with them to serve as lead negotiator not be approved, the Mayor in carrying out his responsibility for labor negotiations would presumably appoint a lead negotiator from amongst his staff. The City Attorney and appropriate City Attorney staff would continue to be designated as members of the Negotiating Team. With no outside assistance to assist the Mayor with the role of lead negotiator, the numerous upcoming negotiations processes could be considerably slowed at a time when this activity is of the highest priority.

[SIGNED]

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