



City of Rochester

City Hall Room 308A, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

FINANCE INTRODUCTORY NO.

371

Lovely A. Warren
Mayor

Law -15

October 8, 2020

TO THE COUNCIL

Ladies and Gentlemen:

Re: Statement of Necessity

I am submitting this Statement of Necessity so that action may be taken at the October 8 Council Committee Meeting on the attached legislation authorizing the amendment of a professional services agreement with Morrison & Foerster LLP to continue to provide conflict counsel services in the context of the independent investigation being conducted pursuant to Ordinance 2020-283. Because City employees have already begun to receive subpoenas for testimony in the context of the investigation, time is of the essence in approving this amendment to the PSA.

Respectfully submitted,

Lovely A. Warren
Mayor

RECEIVED
CITY OF ROCHESTER
CLERK / COUNCIL OFFICE
2020 OCT -8 P 12: 29





City of Rochester

City Hall Room 308A, 30 Church Street
Rochester, New York 14614-1290
www.cityofrochester.gov

Lovely A. Warren
Mayor

FINANCE INTRODUCTORY NO.

371

October 8, 2020

LAW -15

TO THE COUNCIL

Ladies and Gentlemen:

Re: Amendatory Agreement with Morrison &
Foerster LLP for Conflict Counsel services
relating to the Independent Investigation
authorized by Ordinance No. 2020-283

Transmitted herewith for your approval is legislation authorizing an amendatory agreement with Morrison & Foerster LLP, New York, NY (partner: Carrie Cohen) to continue to provide conflict counsel in the context of the independent investigation being conducted by Emery, Celli, Brinkerhoff, Abady, Ward & Maazel LLP ("Emery Celli") pursuant to Ordinance 2020-283 ("Celli Investigation"). The amendment would increase the maximum compensation by \$75,000, which will be funded from the 2020-21 Budget of Undistributed Expenses.

The Celli Investigation is focusing on the City's communications, processes, and procedures that took place related to the death of Daniel Prude in police custody. Typically, pursuant to Article 9 of the City Charter, the Corporation Counsel attends to all the legal business of the City, and would, through the Law Department, work in concert with Emery, Celli to represent the City and its employees in the context of the independent investigation. Here, however, the Corporation Counsel has determined that a conflict exists due to the fact that the Law Department is defending the City against a lawsuit brought by the Prude Estate, and because of the Corporation Counsel's role under the City Code as FOIL Appeals Officer.

The Law Department, therefore, retained Morrison & Foerster to act as outside conflict counsel in relation to the Celli Investigation. Morrison & Foerster was selected based upon the firm's prowess in the area of internal investigations, and only after evaluating a number of local firms as well as firms or attorneys practicing in the Capital and New York City regions. The Law Department's initial PSA with Morrison & Foerster was limited to \$10,000 and engaged the firm for the limited purposes of negotiating with Emery, Celli concerning the scope of the investigation, the procedures to be employed during the investigation, and the manner in which testimony would be taken. Now that documents have been produced in the Celli Investigation and individual City employees are being subpoenaed for testimony, the Law Department seeks to engage Morrison & Foerster to continue to provide representation to the Administration and to individual employees during the course of the investigation and, for that reason, seeks to increase the fee payable from \$10,000 to \$85,000.

Respectfully submitted,

Lovely Warren
Mayor



INTRODUCTORY NO.

371

Law #15

Ordinance No.

Authorizing an amendatory agreement for outside conflict counsel services relating to the independent investigation authorized by Ordinance No. 2020-283

BE IT ORDAINED, by the Council of the City of Rochester as follows:

Section 1. The Mayor is hereby authorized to enter into an amendatory professional services agreement with Morrison & Foerster LLP to continue to provide legal services as outside conflict counsel with regard to the independent investigation being conducted pursuant to Ordinance No. 2020-283 (the Investigation). The amendatory agreement shall amend the existing agreement to increase the maximum compensation by \$75,000 to a new total of \$85,000 and to extend the term of the agreement to the completion of the Investigation. The amendatory compensation shall be funded from the 2020-21 Budget of Undistributed Expenses.

Section 2. The amendatory agreement shall contain such additional terms and conditions as the Mayor deems to be appropriate.

Section 3. This ordinance shall take effect immediately.