

MEMORANDUM

TO: Board of Trustees

THROUGH: Steven J. Pinkerton
General Manager

FROM: Gerald W. Eick CPA CGMA
Director of Finance

SUBJECT: Review, discuss, and possibly approve a transfer from the General Fund Budget Contingency in the amount of \$90,000 to General Government - General Administration – Professional Services (included in Services and Supplies under form 4404LGF for the year ended June 30, 2017) to provide resources for legal costs

STRATEGIC PLAN: Long Range Principle #2 – Finance “Develop and maintain a long term plan to sustain financial resources”

DATE: May 23, 2017

I. RECOMMENDATION

The Board of Trustees authorize the transfer of the appropriation of General Fund Budget Contingency of \$90,000 to General Government - General Administration – Professional Services (included in Services and Supplies under form 4404LGF for the year ended June 30, 2017) to provide resources for legal costs.

II. DISTRICT STRATEGIC PLAN

This expenditure supports Long Range Principle #2, Finance, Develop and maintain a long term plan to sustain financial resources, and under Objectives for 2015-2017, 3. With allocated resources, equate service expectations and the capability to deliver.

III. FINANCIAL IMPACT AND BUDGET

The District has been engaged in ongoing litigation with a local property owner since 2011. After many years of activity, a ruling was made in the case that included dismissal of his claims, and awarded damages to the District. The local property owner has filed appeals with the Nevada Supreme Court that require the

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District to respond to his legal briefs and assertions. For many years prior to 2015-2016, there were budgeted amounts in the General Fund that were not fully utilized. The District received a bill for approximately \$60,000 for the legal services in May 2016 that was covered by use of the General Fund Contingency. For the fiscal year 2016-17, the District has only \$12,000 in a discretionary legal costs account under the Trustee activity. A billing for legal services directly related to the appeal is pending for about \$87,000. Therefore, we are requesting the Board authorize the use of \$90,000 of the available \$100,000 Contingency line item to avoid any further consequence to other areas of the budget. Contingency is intended for unbudgeted and unexpected items.

There is no other expected use of the General Fund's 2016-2017 Contingency. The use of the \$90,000 Contingency will reduce the Beginning General Fund Balance as of July 1, 2017, however there were no budgeted uses for fund balance that would be affected by this circumstance. This use of the Contingency does not increase the 2016-17 total appropriation of the General Fund.

IV. COMPLIANCE WITH NEVADA REVISED STATUTES (NRS)

Under NRS 354.598005 5 (c) 1-3; Budget appropriations may be transferred for the contingency account by (when it does not increase the total appropriation); the governing body announces the transfer a regularly scheduled meeting, the governing body sets forth the reason for the transfer and the action is recorded in the official minutes of the meeting.

VI. BACKGROUND

The background of the litigation with this local property owner is well known and was presented in detail at the May 18, 2016 Board of Trustees meeting. The District has proceeded with defense of the claims and has obtained successful resolution with the Courts on all twenty seven causes of action. The District's has used legal counsel first identified by the Nevada Public Agency Insurance Pool to respond to the initial complaints and eventually follow the case through to its current appeals. The current bill covers all unpaid prior services and the most recent actions since May 18, 2016. These include assessing the approach the District will take action to attempt to recover these and other costs from this litigation.

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V. ALTERNATIVES

The District could provide a budget augmentation for these costs but that procedure would add costs and possible time to the process. An augmentation for the General Fund requires additional steps because it receives Ad Valorem Taxes. The General Fund has a contingency of \$100,000 already included in its 2016-2017 budget. The only action required is that by the Board of Trustees. The recommended action is one of simplicity and expediency.

VII. BUSINESS IMPACT

This item is not a “rule” within the meaning of NRS, Chapter 237, and does not require a Business Impact Statement.