

**FINANCE & PERSONNEL COMMITTEE**  
**CONTINGENT FUND REQUEST INFORMATION FORM**

DEPT.: City Attorney CONTACT PERSON & PHONE NO.: Vince Moschella, 414-286-8409

**A. REASON FOR REQUEST** (Refer to File 921360 for definitions)

CHECK ONE: ☐ EMERGENCY CIRCUMSTANCES  
☒ OBLIGATORY CIRCUMSTANCES  
☐ FISCAL ADVANTAGE/COMPLIANCE WITH FISCAL MANAGEMENT PRINCIPALS

**B. SUPPORTING INFORMATION**

1. State the action requested, including the dollar amount and specific departmental accounts(s) to which the Contingent Fund appropriation would be made.

CCFN reserved \$460,000 in the Contingent Fund for the Outside Counsel/Expert Witness Fund SPA for purposes of paying legal expenses for the City Hall restoration litigation. The City Attorney has determined that the entire \$460,000 is not needed in 2013 for this purpose. However, the City Attorney does need \$220,141 in 2013 to pay legal expenses related to the Reep sewer overflow case. This file would reduce the \$460,000 reserved in the Contingent Fund for the City Hall restoration litigation by \$220,141 and transfer this amount from the Contingent Fund to the Outside Counsel/Expert Witness Fund SPA in order to pay the Reep sewer overflow case legal expenses.

2. State the purpose of the action requested which includes the program, service or activity to be supported by the funding, as well as the objective(s) to be accomplished.

This transfer of Contingent Funds will allow the City Attorney to pay for legal expenses incurred in 2013 for defending the City's interests in the Reep sewer overflow case. This case required the use of outside counsel (Friebert, Finerty & St. John) which involved securing expert witnesses to rebut plaintiffs' claims and present testimony in trial proceedings. Outside counsel and expert witnesses were needed to minimize the City's exposure to damages claims.

3. Describe the circumstances which prompt the request.

The Outside Counsel/Expert Witness Fund SPA has a current balance (as of 11/26/2013) of \$12,138.75, which is not sufficient to pay the Reep case legal expenses. There is not a need in 2013 for the entire \$460,000 previously reserved in the Contingent Fund for the City Hall restoration case. The \$460,000 reservation for the City Hall restoration case can be reduced, thereby allowing some of this \$460,000 to be used for a similar purpose, legal expenses for the Reep sewer overflow case.

4. What are the consequences of not providing the program, service, or activity which is funded by this request?

If the file is not approved, there will likely be a need to use Contingent Borrowing to pay for the Reep sewer overflow case legal expenses in 2013.

5. Explain why funds authorized in the Budget are insufficient to provide for the program, service, or activity in question.

The Outside Counsel/Expert Witness Fund has been used for several cases, reducing the amount available for the Reep sewer overflow case. The actual costs for outside counsel and expert witness services cannot be accurately predicted.

- 5a. Are there any unexpended funds in the departmental control account for which this appropriation is requested, that could be used to fund this request?

The City Attorney does not anticipate that there will be sufficient funds remaining at year-end in other accounts to pay for the Reep sewer over case legal expenses.

- 5b. What are the consequences of using budgeted operating funds for this request?

The City Attorney does not anticipate that there will be sufficient operating funds available to pay for this request.

6. State why funding was not included in the Budget.

The Outside Counsel/Expert Witness Fund receives an annual budget appropriation. However, the actual expenses in a given year cannot be accurately predicted because of uncertainty regarding which cases may be brought against the City, which cases require outside counsel and/or expert witness services, which cases go to trial, and the extent to which outside counsel and/or expert witness services are needed on any particular case. In 2013, expenses have exceeded the available funds.

7. Will the conditions prompting the request be limited to the current year, or will they continue into the following year?

The City Attorney does not expect a need for any additional outside counsel or expert witness costs after 2013 relating to the Reep sewer overflow case.

8. Has your department made a similar Contingent Fund request in previous years? ☒ YES ☐ NO

\*If yes, what is the most recent year the request was made?

The most recent Contingent Fund request was CCFN 130211 acted on in July 2013.  
A prior Contingent Fund request was approved in 2007 via CCFN 070713.

9. Will this funding be used to implement provisions of a collective bargaining agreement? ☐ YES ☒ NO

10. Will the funding being requested provide a level of service authorized by the Budget? ☒ YES ☐ NO

\*If yes, why can't your department accomplish the authorized service level with the authorized funding level?

As noted, actual outside counsel and expert witness service costs cannot be accurately predicted in the budget because of the complexities and uncertainties involved in legal actions and claims facing the City.

11. Will the requested funding provide a level of service higher than that authorized by the Budget? ☐ YES ☒ NO

\*If yes, why is a higher service level necessary?

\*What is the estimated amount of additional service units to be provided if the entire Contingent Fund request is approved?

12. What performance measures and sub-measures are affected by this request, and what are the anticipated changes if the entire Contingent Fund request is approved?

Not applicable to this request.

13. What reductions to performance measures are expected if the request is not approved?

Not applicable to this request.

14. Is any grant funding associated with the program service, or activity pertaining to the request? ☐ YES ☒ NO

\*If yes, name the grant and current year amount.

15. Will the program, service, or activity affect any electronic data processing system? ☐ YES ☒ NO

**The following questions only apply to Contingent Fund requests which transfer appropriations into capital purpose accounts:**

16. Does this request transfer an appropriation into a capital purpose subaccount? ☐ YES ☐ NO

\*If yes, are similar projects planned and funding available in a capital purpose (parent) account for the current year?

17. Why is the project for which Contingent Funds are requested more important than other similar projects?

18. Does this request fund a project outside the normal order of planned projects of a kind which are funded through a capital purpose (parent) account for the current year? ☐ YES ☐ NO

\*If yes, what is the consequence of deferring the lowest priority planned project until next year?

19. Was this project included in the Department's Budget request? ☐ YES ☐ NO

\*If not, why not?

**If you have any questions about the completion of this form, you may call the Director of the Legislative Reference Bureau (x2267)**

**C. THANK YOU FOR YOUR COOPERATION. PLEASE SEND A COPY OF YOUR RESPONSE TO:**

Staff Assistant, Finance & Personnel Committee, Room 205, City Hall  
Manager, Legislative Reference Bureau, Room 307, City Hall  
Budget & Management Director, DOA, Room 603, City Hall