

# CITY OF MILWAUKEE

Form CA-49

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February 24, 2005

Mr. Dennis Yaccarino  
Budget & Management Division  
Room 307 – City Hall

Re: Reallocation of Worker's Compensation Special Purpose Account Fund

Dear Mr. Yaccarino:

In your February 22, 2005 communication, you requested our opinion on whether excess funds appropriated from the Contingent Fund to a special purpose account could be returned from that special purpose account to the Contingent Fund for further distribution. The specific facts underlying your request were that \$510,000 was appropriated from the Contingent Fund to the Worker's Compensation Fund Special Purpose Account. However, only \$240,000 of that appropriation was expended from that special purpose account during the budget year. You would like to amend the initial resolution appropriating the \$510,000 to allocate only \$240,000 to the Worker's Compensation Special Purpose Account and return the remaining funds to the Contingent Fund for further Common Council distribution.

Appropriations from the Contingent Fund are governed by the provisions of sec. 65.06(6)(a), Stats., and sec. 18-06-6-a, Milwaukee City Charter, both of which provide: "The common council by resolution adopted by a three-fourths vote of all the alderpersons, may appropriate money from its contingent fund for any lawful purpose."

Expenditure of funds appropriated to special purpose accounts are governed by sec. 65.06(6)(b), Stats., and sec. 18-06-6-b, Milwaukee City Charter, both of which provide:

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“The common council at any time after the adoption of the budget may, by resolution adopted by a majority vote of the members thereof direct the proper officers of any department to expend such sum or sums of money as are specially appropriated out of any specific fund under its control for any of the several purposes enumerated therein. The adoption of such resolution shall be the authority for such department to proceed and expend such specified sum for the purpose as directed therein.”

The Council does have the authority to allow a City department to change an appropriation specified in its budget for one purpose which is found unnecessary for that purpose to another purpose which the department finds necessary to spend a greater sum than specified in the budget for that purpose. Section 65.06(4), Stats., and sec. 18-06-4, Milwaukee City Charter. Funds not expended during the budget year “revert to the general revenues of the city” pursuant to sec. 65.06(15), Stats., and sec. 18-06-6-15, Milwaukee City Charter. Pursuant to sec. 65.07(1)(o), Stats., and sec. 304-29-3-a, Milwaukee City Charter, such surpluses are placed in the Tax Stabilization Fund (“TSF”), rather than the general fund.

Since appropriations to a special purpose account from whatever source, including the Contingent Fund, are not appropriations to a departmental budget, we are of the opinion that changes in special purpose account fund expenditures are not limited by the constraints of sec. 65.06(4), Stats., i.e., only intra-departmental expenditure changes are allowed under that provision. Therefore, since the Council retains the ultimate expenditure authority over the disposition of funds in a special purpose account, the Council can at any time redirect the expenditure of any unexpended, committed, or reserved funds in a special purpose account under its control pursuant to sec. 65.06(6)(b), Stats.

Any redirected but unexpended, committed or reserved special purpose account funds remaining at the end of the budget year would have to be deposited in a TSF pursuant to sec. 304-29-3-a, MCO, unless the redirected appropriation was to a fund that can accumulate from year to year as provided in sec. 66.07(2), Stats.

Based upon the above, it is our opinion that your proposed resolution amending the Contingent Fund transfer to the Worker’s Compensation Special Purpose Account and providing for the potential redistribution of the returned Contingent Fund appropriation, is legal and enforceable.

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A separate resolution, adopted in accordance with sec. 65.06(6)(a), would be necessary to redistribute the funds returned to the Contingent Fund.

Very truly yours,



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PBM:dms

c: W. Martin Morics

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