

..Number

150700

..Version

PROPOSED SUBSTITUTE A

..Reference

140690, 140779, 141677, 150060, 150061, 150071, 150422, 150649, 150745

..Sponsor

THE CHAIR

..Title

Substitute resolution reserving and appropriating up to \$525,000 from the 2015 Common Council Contingent Fund to the Outside Counsel/Expert Witness Fund Special Purpose Account, the 2015 Damages & Claims Fund Special Purpose Account and the 2015 Operating Expenditures Account of the City Attorney's Office for costs and expenditures relating to litigation.

..Analysis

This resolution reserves and appropriates \$525,000 from the 2015 Common Council Contingent Fund for the purpose of meeting financial obligations related to the defense of claims and litigation brought against the City upon allegations of constitutional violations associated with law enforcement activities. These funds are reserved and appropriated as follows:

1. \$ 385,000 to the Damages & Claims Fund SPA.
2. \$ 90,000 to the Outside Counsel/Expert Witness SPA.
3. \$ 50,000 to the Operating Expenditures Account of the City Attorney's Office.

..Body

Whereas, Exposure of the City to claims, costs and other unanticipated expenditures has increased significantly over the last 2 years as a result of settlements and payments arising from law enforcement activities associated with stop-and-search incidents; and

Whereas, Police stop-and-search cases involving more than 60 plaintiffs have contributed to a 40% increase in the numbers of cases in litigation docketed by the City Attorney's Office since the beginning of 2013, as reported in Common Council Communication File Number 140779; and

Whereas, Outside counsel was retained in August, 2014, to assist in addressing this increase in constitutional litigation, at a monthly average cost of more than \$120,000, as indicated under Common Council Communication File Number 140690; and

Whereas, Settlements and payment of judgments in 2015 to date, and in matters recently before the Common Council, including the Carter, Tracy and Hardy litigation (Common Council Resolution File Numbers 141677, 150061 and 150060, respectively), required expenditures in excess of \$680,000 from the Damages & Claims Fund Special Purpose Account, in addition to regularly-anticipated expenditures; and

Whereas, Small claims settlement exposure continues at a high rate in 2015 with over \$423,000 paid in the first 6 months of 2015 (Common Council File Number 150422); and

Whereas, Current claims now pending and anticipated to be paid before the end of 2015 amount to more than \$400,000 (paragraph 3, 1, Contingent Request Information Form in this File); and

Whereas, Expenditures from the Operating Expenditures Account of the City Attorney's Office related to pretrial discovery, including costs of depositions, court-reporting, transcript preparation, copying and exhibit preparation, have more than tripled in 2014 and 2015; and

Whereas, Additional costs for outside counsel and for trial and trial preparation are anticipated in tax assessment appeals and related litigation; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that \$525,000 shall be reserved and appropriated from the 2015 Common Council Contingent Fund (001-990-C001-006300) (2015) to the following funds and accounts:

1. \$385,000 to the Damages & Claims Fund SPA (0001-1490-0001-S118-006300);
2. \$90,000 to the Outside Counsel/Expert Witness Fund SPA (0001-1490-0001-S157-006300)
3. \$50,000 to the CA Operating Expenditures Account (0001 1490 0001 R999 006300); and, be it

Further Resolved, That the City Comptroller and other appropriate City officials are directed to take all actions necessary to fulfill the intent of this resolution.

..Requestor  
City Attorney  
..Drafter  
RLW  
#220714v2  
10/5/2015