

**Council Meeting: May 21, 2013**

SUBJECT: Approval of Budget Modification No. 45 to Appropriate \$275,000 from the Liability and Property Insurance Fund Reserve and \$150,000 from the Office of the City Attorney's General Fund Operating Budget for Litigation Costs and Services

BACKGROUND

In lieu of having permanent litigation staffing in the City Attorney's Office, the City retains outside counsel for tort litigation. In general, this approach is cost effective because outside counsel is retained only on an as-needed basis as new litigation is filed. Budgeting for outside litigation counsel is based on average historical costs, as actual litigation costs vary year to year based on the number of cases, complexity, and status of litigation. The current fiscal year budget amount for tort litigation is \$80,710 in the Liability and Property Insurance Fund.

DISCUSSION

The City was required to defend two significant civil-rights cases this year, in addition to its typical caseload for torts. This has resulted in expenditures to date of \$480,000 for outside legal services and other costs related to tort litigation, which puts the outside counsel services budget over by nearly \$400,000. Staff is requesting a budget modification in the amount of \$425,000 to cover these expenditures, as well as anticipated costs for the remainder of FY 2012/13. \$275,000 will be an additional appropriation from the Liability and Property Insurance Fund Reserve, with the remaining \$150,000 coming from the Office of the City Attorney's (OCA) current operating budget in the General Fund. The \$150,000 in funds for the current budget were originally allocated for general, non-tort related litigation, and are available for reallocation to the Liability and Property Insurance Fund.

FISCAL IMPACT

During the FY 2013/14 budget development process, staff anticipated these increased legal costs for the current fiscal year and set the reserve in the Liability and Property Insurance Fund to be able to absorb this impact. As such, the Liability and Property Insurance Fund has sufficient reserves to appropriate \$275,000 for these additional legal costs without adversely impacting the fund's long-term plan. Further, there is no net impact to the General Fund for taking this action, as the \$150,000 being transferred to the Liability and Property Insurance Fund is currently available in OCA's existing operating budget.

**Budget Modification No. 45
FY 2012/13**

	<u>Current</u>	<u>Increase (Decrease)</u>	<u>Revised</u>
Liability & Property Insurance Fund			
<u>Expenditures</u>			
Legal Costs	\$80,710	\$425,000	\$505,710
<u>Reserves</u>			
Liability and Property Insurance	\$814,569	(\$275,000)	\$539,569
General Fund			
<u>Expenditures</u>			
Comprehensive Legal Services (Program 750)	\$1,644,884	(\$150,000)	\$1,494,884

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Staff recommends Approval of Budget Modification No. 45 to appropriate \$275,000 from the Liability and Property Insurance Fund Reserve and \$150,000 from the Office of the City Attorney's current operating budget in the General Fund to cover outside legal services and other costs related to tort litigation.

Reviewed by:

Grace K. Leung, Director of Finance

Prepared and reviewed by:

Joan A. Borger, City Attorney