

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 12C
Amend No. _____

Date Prepared: February 17, 2009

Council Meeting Date: March 3, 2009

TO: Honorable Mayor and Council
FROM: Steve Kemp, City Attorney
SUBJECT: Budget Transfer Request

RECOMMENDATION:

That the Mayor and Council authorize the use of General Fund Reserves and approve the budget transfer of One Hundred Five Thousand, Six Hundred Dollars (\$105,600.) from General Fund Contingency, Acct # 1000-0300-570000 to City Attorney Civil Division Operating Fund – Legal Services (#1000-0200-520001) Litigation Expense (#1000-0200-520024) and Administrative Hearing Costs (#1000-0200-520026.)

SUMMARY:

1000-0200-520001 Legal Services

The City Attorney's office serves as counsel to the City in litigations and matters of state wide importance. In that capacity, it is necessary to retain outside counsel to handle matters before the legislature and courts. It has been the City's practice not to budget these items, but to make up any shortfall in the City Attorney's Office budget at the end of the year. During the current fiscal year, it has become necessary to use outside counsel for two matters: State of Arizona v. Maricopa County (Luke AFB) and ICMA Pension Plan Corrections.

The City has committed \$30,000. for each litigation's outside counsel fees for a total of \$60,000.00, \$50,000 in FY 2009 and \$10,000 in FY 2010. Contingency funds in the approximate amount of \$23,100.00 will need to be requested to pay billings to the end of FY 2009.

1000-0200-520024 Litigation Expenses

Litigation Expenses original budget was \$10,000. As of December 2008, the ½ year expenditure totals for the forty five current cases and matters are \$18,920. Projections and estimates for the balance of the year total \$30,000, exclusive of the Tolleson litigation expenses paid through Utilities. These costs have increased due to a rapidly expanding

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- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # _____ RES. # _____
 LCON# _____ LIC. # _____
 Action Date: _____

sales tax and collection caseload, as well as additional non-insurance covered cases. A budget transfer of Contingency funds in the approximate amount of \$20,000. is requested to pay billings to the end of FY 2009.

1000-0200-520026 Administrative Hearings

In the current fiscal year, we have incurred a significant, unanticipated case load increase in personnel administrative hearings, contract bid protests, and Arizona Corporation Commission hearings. The collapsing economy creates an inverse relationship resulting in the increase of these types of matters. Additionally, the APS Line Siting Hearings held over the last 9 months have greatly impacted the Administrative Hearing budget. FY2009 Administrative Hearing Expenses base budget is \$3,000. Half (½) year costs incurred to date total \$33,550 with anticipated total costs of \$66,500, for FY 2009 leaving a shortfall of \$62,500. The APS Line siting costs alone are projected at \$48,500, for FY 2009. A budget transfer of Contingency funds in the approximate amount of \$62,500. is requested to pay billings to the end of FY 2009.

Therefore, it is requested that the Mayor and Council approve and authorize a budget transfer in the amount of One Hundred Five Thousand, Six hundred dollars \$105,600 from General Fund Contingency, Acct # 1000-0300-570000 to City Attorney Civil Division Operating Fund – Legal Services (\$23,100 to #1000-0200-520001,) Litigation Expense (\$20,000 to #1000-0200-520024) and Administrative Hearing Costs (\$62,500 to #1000-0200-520026.)