



Legislation Text

File #: ID#14-408, **Version:** 1

SUBJECT/RECOMMENDATION:

Authorize the City Attorney to allocate an additional \$25,000 to cover outside counsel costs in the appeal of the case of Thomas Petersen and Inge Spatuzzi v. City of Clearwater, Case No. 13-008224-CI.

SUMMARY:

The City was sued by Petersen (a resident of Waters Edge) and Spatuzzi (a resident of Pierce 100). Their complaint sought declaratory and injunctive relief in the form of a ruling that (1) the ballot question that seeks to authorize a long term lease of the "bluff" where City Hall is presently located, to the Clearwater Marine Aquarium, is misleading and fails to comport to statutory requirements, (2) the Memorandum of Understanding between the City and CMA constitutes an unlawful pledge of credit by a municipality to a private entity, and (3) the proposed aquarium does not serve a valid municipal purpose, and that, therefore, the City could not place the referendum question on the ballot in the November 2013 election. The referendum question was placed on the ballot and approved by the voters of the City.

The defense of this case was assigned to Alan Zimmet, Esq. of Bryant, Miller, Olive, with an initial budget in the amount of \$40,000.00. The total amount billed for the case was \$40,067.11. The Clearwater Marine Aquarium has reimbursed the City for this amount.

On June 24, 2014, the Judge entered an order granting Final Summary Judgment in favor of the City, stating that the referendum question was not misleading and satisfied statutory requirements.

On July 18, 2014, the Plaintiffs, Spatuzzi and Petersen, appealed that ruling to the Second District Court of Appeal. The City Attorney is requesting an initial allocation of \$25,000.00 for Mr. Zimmet to defend this appeal.

APPROPRIATION CODE AND AMOUNT:

Funds are available in the City Attorney's Professional Services Fund 010-09600-5301-514-000-0000 to fund this representation.