



LAW DEPARTMENT

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3-16-23

To: David Whitaker, Director, Legislative Policy Division
Council Members, City Clerk's Office

From: Conrad Mallett, Corporation Counsel

Date: March 16, 2023

RE: 2023-2024 Budget Analysis Response

1. Please briefly explain the Law Department's new expense initiatives, new capital funding requests, operational reform and savings proposals, and new revenue initiatives/proposals to be implemented in FY 2024. Please provide which appropriation/cost center the new initiative/request/proposal is impacting in FY 2024.

A: The Law Department is not a revenue generating department per se. That said we supply vigorous support to our enterprise service delivery department colleagues. The key for us is to develop with department leaders a trusted counselor relationship allowing the department to efficiently deliver service while avoiding errors that could result in litigation. We are working with the Detroit Demolition Department (3D) and BSEED to recover owner responsible emergency demolition costs.

Our goal remains to do have City of Detroit lawyers do as much of the City's legal work as possible. It is true we rely on outside counsel assistance in the prosecution of our conviction integrity cases, some complex public finance, complex labor, election and federal litigation matters.

We do not have any new capital funding requests even as we bring back into the office our full complement of attorneys and support staff.

2. The Budget Summary show 122 positions in the Law Department on February 10, 2023. This is 3 positions greater than the FY 2023 adopted budgeted positions of 119. Please briefly describe the need for the additional positions.

A: Please look at the budget summary for February 10, 2023. Please note that eight of the attorneys listed service our clean slate program clients. This is a very successful program that in 2022 represented more than 2500 clients and is on track to represent 3000 persons seeking expungement in 2023.

This Honorable Body is aware that we are in full ARPA program mode. The five attorneys hired work primarily on ARPA contract development. The eight clean slate attorneys will be transferred to a Non-Department budget. The five ARPA attorneys will also be charged similarly to a Non-Department budget.

The fact that we are budgeted for 119 attorneys reflects our hiring success as well as our increased focus on department client service. The Blight elimination initiative as well as increases in FOIA demands and Personal Injury Protection claims supports the Law Department's need for additional attorneys.

3. Please explain why positions decrease from 119 in FY2023 to 112 in FY2024. Please explain the impact this reduction in FTEs will have on Law Department's operations in FY 2024.

A. The decrease in positions is due to the Project Clean Slate (PCS) Program and staff being moved out of the Law Department's budget. Therefore, said decrease in positions will have no effect on the Law Department's operations in FY2024.

4. On page B32-14, it is indicated that the Michigan Indigent Defense Commission Grant will fund the two new non-General Fund FTEs starting in FY 2024. What services will these two new positions will provide? Please explain why the Law Department's budget doesn't reflect this grant amount starting in FY 2024 and the forecast years.

A. The Grant funds 2 positions (Project Managers) for the Grant. Historically the MIDC grant has never been included in the City's adopted budget. Each year, the Office of Development and Grants prepares a request to Council to accept the grant once we have received the notice of award from the State. This generally occurs in late August. The period of performance for this grant is October 1 through September 30. The request to Council includes all the basic info about the grant, i.e. amount, purpose, and dates of performance. Once Council approves the acceptance of the grant, a budget amendment is processed by the budget office to increase the department's budget to reflect the new funding.

The two project managers are, both, licensed attorneys that manage the vendors (Misdemeanor and Felony Defenders, P.C. & other individual vendors) that provides indigent legal defense services for adult citizens charged with criminal misdemeanors and felony arraignments at 36th District Court.

5. The Mayor's FY 2024 recommended total appropriations for the Law Department is \$18.4 million a \$4.2 million decrease from the \$22.6 million in FY 2023.

Questions:

a. On page B32-7, please explain why salaries and wages decrease by \$613,103 in FY 2024.

A. This is due to eight (8) Project Clean Slate program staff salaries removed from the Law Department budget in FY2024.

- b. On page B32-7, please explain why employee benefits only decrease by \$94,000 in FY 2024 when salaries and wages are decreasing by a large amount.
 - A. This is due to Project Clean Slate (PCS) TASS employees received less benefits than regular FTE employees. In FY2024 PCS employees are moved from the Law Department Budget to Non-Department budget.
- c. On page B32-7, please explain why contractual services decrease by \$2.7 million in FY 2024.
 - A. The decrease was due to \$2.5 million outside legal services budget being moved to risk management fund for reverse conviction cases and \$188K was reduced from the lobbying contracts budget.
- d. On page B32-7, please explain why operating services decrease by \$644,783 in FY 2024.
 - A. This is due to Office rent budget (\$644,783) being removed from the Law Department budget to the Non-Department budget.
- e. On page B32-8, please explain why sales & charges for services revenue decreases by \$544,000 in FY 2024.
 - A. FY 24 sales and charges revenue budget reduced by \$544,000 based on the past two years actual billing trend for services provided to enterprise agencies.

6. Please list the contracts which comprise the FY 2023 and FY 2024 professional and contractual services budgets for the Law Department. Please list the services that the professional and services contractors provide. Also, list the amount of the professional and services contracts that is expected to be expended for each contract in FY 2023.

A. See attached.

7. What is the total number of open litigation cases against the City as of February 28, 2023 or the latest date where data is available? What is the total amount reserved for the open litigation cases?

A. As of 2/28/23 there are 1,857 open litigation cases against the City.
The law department will be glad to share the exact number in our current liability reserve during a closed City Council session. As of June 30, 2022, the number reported was \$283 million dollars.

8. Is the City settling these cases without taking them to trial? What is the Law Department's strategy to minimize large litigation payouts?

A. Law Department senior leadership has met and will continue to be available to meet with City Council. Law department attorneys take their representational responsibilities seriously.

Every case is carefully considered. Settlement decisions are the product of deliberation and every recommendation no matter the size represents vigorous lawyering. There is no doubt personal injury protection cases are plague on the City of Detroit. The increase in conviction integrity cases has proved both costly and difficult. At City Council's request will be glad to, in a closed session, review both subjects.

List of Professional & Contractual Services Contracts for FY 23

Vendor Name	Description	FY23
CANNABIS PUBLIC POLICY CONSULTING LLC	Legal expertise to assist the City with the application and approval process under the new marijuana regulation and any other legal matter as assigned by Corporation Counsel.	\$ 50,000
CARDELLI LANFEAR	Legal services in the trial of Jessica Webb v City of Detroit.	\$ 150,000
CLARK HILL	Assistance with legal matters that include governmental affairs and litigation, including ongoing lawsuits in which the firm is already representing the City (e.g. Lotus Industries, LLC v Mayor Duggen et al, 16-14112; Citizens United Against Corrupt Government et al v State of MI et al, 13-1195-AW; 17-cv-11742; Davis v. COD, 18- 015502-CZ; COD v. Carmack, 18-359400-LT); The New Energy to Reinvent and Diversify (NERD) Fund litigation; and related matters as determined by Corporation Counsel. Legal representation for the Detroit Will Breathe v COD and Emma Howland-Bolton matter.	\$ 200,000
CUMMINGS MCCLOREY DAVIS & ACHO	Legal representation to the City of Detroit in connection with Darwin Heard v COD, Willie Burton v COD and Debra Guilbeaux v COD. Litigation Services for No-Fault cases.	\$ 300,000
DWAYNE'S WORLD	Project manager to assist COD, MDOC and 36th District Court in implementation of MIDC standards	\$ 10,000
EGGAN LAW, PLLC	Expert witness testimony for the MGM Grand v. City of Detroit case.	\$ 50,000
Exela Enterprise	Full service reprographics center, mail/messenger services including staff	\$ 170,489
FINK BRESSACK	Tow Litigation Matters, NO-Fault Litigation, labor litigation and other litigation matters. Legal services for the Census Bureau's handling of non-response follow ups in Detroit.	\$ 440,000
FLOYD E. ALLEN & ASSOCIATES. PC	The Attorney shall provide litigation services to the City of Detroit in connection with labor matters as assigned by the Corporation Counsel. Legal representation for Sergeant Winston Craig and other labor matters. Legal assistance in the City of Detroit Health Department HIPPA requirements.	\$ 300,000
GOVERNMENTAL CONSULTANT SERVICE	Furnish Lobbyist Services for the City of Detroit	\$ 216,000

Vendor Name	Description	FY23
KHOURY JOHNSON LEAVITT	Legal Lobbyist Services	\$ 96,000
KING TILDEN MCETTRICK & BRINK (MI) PLLC	The Attorney shall provide litigation services in no-fault cases as assigned by Corporation Counsel.	\$ 300,000
LEWIS & MUNDAY PC	Legal services as needed for acquisition and title clearance issues associated with real estate involved in the Joe Louis Greenway Project.	\$ 150,000
MOGILL POSNER & COHEN	Legal counsel and support in connection with claims being pursued by the Office of Inspector General.	\$ 50,000
NATHAN and KAMIONSKI LLP	To provide legal services as experienced police litigation attorneys, in the Danny Burton v COD litigation, case No. 2:20-cv-11948, conduct jail telephone call reviews, and other matters as assigned by Corporation Counsel.	\$ 600,000
NOVARA TESIJA CATENACCI McDONALD & BAAS PLLC	The Attorney shall provide litigation services as conflict counsel for Officer Frederick E. Person, a defendant, in Karpovich, Troy as guardian of Michael Karpovich v COD, et al. Conflict counsel for Police Officer Dwayne Jones in Rowan v COD. Litigation services as conflict counsel for officer Frederick E. Person in Karpovich v. COD. Conflict counsel for officer Moises Jimenez in Ansari v COD.	\$ 300,000
PLUNKETT & COONEY PC	Represent COD and Officer T. Zberkot and provide litigation services in the post-verdict proceedings and appeals of Marvin Seals v COD, et al, 12-cv-11679. litigation support services for Ahmed, Mubarez v Ernest Wilson and COD, Us and the wrongful incarceration case of Desmond Ricks. Appeals of Murriel v COD: COD and GLWA v Highland Park; and HRT v COD.	\$ 100,000
RANAJIT SAHU	Legal Expert Witness services for Marathon Oil's appeal to the Department of Administrative Hearings.	\$ 50,000
RUTLEDGE, MANION, RABAUT, TERRY, & THOMAS PC	Litigation services as conflict counsel for Police Officer Gary Steele in Murriel v COD, Legal representation and conflict counsel for Police Officers Gary Steele and Michael Garrison in Moore v City of Detroit. Litigation conflict counsel services for for Sergeant Raytheon Martin in Gregory Price Jr. v CoD and Police Officer Joshua Davis in Norman Peoples v CoD.	\$ 100,000
SALVATORE PRESCOTT & PORTER	Legal representation to COD Office of Inspector General (OIG) in connection w/a dispute btw OIG and COD Corporation Counsel ("CC") related to the respective rights, duties and obligations of the OIG and CC under the City Charter.	\$ 50,000

Vendor Name	Description	FY23
SEWARD PECK & HENDERSON PLLC	Davonte Sanford v. City of Detroit, Michael Russell & James Tolbert, U.S. District Court, E.D. Mich, No 17-cv-13062, and such additional litigation matters as determined by the Law Department. Conflict counsel for Police Officer Gary Steele in Murriel v COD, Legal representation and conflict counsel for Police Officers Gary Steele and Michael Garrison in Moore v City of Detroit.	\$ 600,000
SQUIRE PATTON BOGGS US LLP	Federal lobbyist services. To serve as the City of Detroit's liaison with the White House, congressional, and federal agency/regulatory officials.	\$ 150,000
N/A	For federal lobbying contract	\$ 200,000

\$ 4,632,489