



CITY OF KIRKLAND

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MEMORANDUM

To: Kurt Triplett, City Manager

From: Robin Jenkinson, City Attorney
Tracey Dunlap, Director of Finance & Administration

Date: September 20, 2012

Subject: Litigation Reserve Funding

RECOMMENDATION:

Staff recommends that Council approves the use of unexpended year-end cash to replenish the Litigation Reserve Fund. The City Attorney's Office has used the Litigation Reserve Fund for the payment of outside legal fees in two tax matters in which the City is represented by a law firm representing several other cities, one settlement, and on-going data storage costs. The amount needed to replenish the Litigation Reserve Fund is \$362,000.

BACKGROUND DISCUSSION:

2012 Litigation Reserve Funds to date have been spent as follows:

Data Retrieval and Storage	\$60,000
Settlement	\$20,000
Legal Fees	<u>\$ 7,000</u>
Total Uses	\$87,000

The data storage expense is for the cost of collecting and retaining electronically stored information as a result of the litigation discovery process or responding to extensive public records requests. "Discovery" is the pre-trial phase in a lawsuit in which parties may request documents and other evidence from other parties. Today, the discovery process and public records requests frequently extend to email, word processing files, and other electronic content that may be stored on desktops, laptops, file servers, smartphones, and other platforms. The projected costs for ongoing data storage for three pending matters for the 2013-2014 budget is \$18,000.

The City Attorney's Office anticipates potentially higher litigation costs for the upcoming biennium. The City Attorney's Office is estimating Litigation Reserve costs of \$200,000 for 2013 and \$150,000 for 2014 to cover potential litigation, settlement and data storage needs.

In total, staff recommends setting aside \$362,000 from year-end cash to replenish the balance and in anticipation of potential needs in the upcoming biennium. Funding the litigation reserve with unexpended 2012 cash also helps the 2013/2014 budget since we would not need to replenish the litigation reserve as part of the proposed budget.