

# Mayor and Council Communication

**DATE:** 09/12/23

**M&C FILE NUMBER:** M&C 23-0745

**LOG NAME:** 12OUTSIDECOUNSEL CARTERAUG2023

**SUBJECT**

(ALL) Adopt Resolution Authorizing an Increase of \$400,000.00 in the Total Amount to be Paid to the Law Firm of Carter Arnett, PLLC, as Outside Legal Counsel to Provide Legal Representation to the City of Fort Worth in the Lawsuit Entitled, Joel F. Fitzgerald, Sr. v. City of Fort Worth, Texas (Cause No. DC-19-08184)

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**RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution authorizing an increase in the amount of \$400,000.00 to the maximum amount to be paid to the law firm of Carter Arnett, PLLC, as outside legal counsel for legal services related to legal representation for the City of Fort Worth in the lawsuit entitled, Joel F. Fitzgerald, Sr. v. City of Fort Worth, Texas (Cause No. DC-19-08184), for a total amount of \$900,000.00.

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**DISCUSSION:**

Joel F. Fitzgerald, Sr. (Fitzgerald) was hired as the Chief of Police in 2015. On May 20, 2019, Fitzgerald was terminated from his employment with the City of Fort Worth (City). Fitzgerald filed a lawsuit against the City on June 6, 2019, claiming that his termination of his employment with the City violated the Texas Whistleblower Act, the Texas Open Meetings Act, the Public Information Act, and the Texas Constitution. Due to the complex nature of the litigation and the importance to the City, on February 8, 2022, by Mayor and Council Communication M&C G-21-0298 and Resolution No. 5526-02-2022, the City Council approved the hiring of the Law Firm of Carter Arnett, PLLC to represent the City in the lawsuit entitled, Joel F. Fitzgerald, Sr. v. City of Fort Worth, Texas (Cause No. DC-19-08184). The City Council approved legal expenses up to \$250,000.00. On May 24, 2022, the City Council increased that amount to a total of \$500,000.00. To date, the City has incurred approximately \$475,000.00 in legal expenses to Carter Arnett for their work in this case.

The City Attorney's Office handled the legal work related to the successful appeal that dismissed Fitzgerald's Texas Constitutional claims, leaving only his Whistleblower Act claims remaining. The litigation is still pending in the trial court and trial is set for January 8, 2024. Because the City has had to respond to Fitzgerald's attorney's numerous motions, and challenge many discovery requests that have no real relevance to Fitzgerald's claims, the legal fees the City has incurred are beyond what would normally be expected in a one-plaintiff Whistleblower Act case. It is estimated that an additional amount of approximately \$400,000.00 beyond the current authorized \$500,000.00 will be needed for the necessary legal services, through trial.

Adoption of this Resolution will increase the amount of compensation to be paid to the Law Firm of Carter Arnett, PLLC, by \$400,000.00, for a total amount of \$900,000.00.

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**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that upon approval of the recommendation, funds are available in the current operating budget, as appropriated, in the Risk Financing Fund. Prior to an expenditure being incurred, the Human Resources Department has the responsibility to validate the availability of funds.

**Submitted for City Manager's Office by:** ALL ACMs                      6122

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