

# Mayor and Council Communication

DATE: 10/31/23

M&C FILE NUMBER: M&C 23-0913

LOG NAME: 12GAMEROOM ADDL FUNDS

## **SUBJECT**

(ALL) Adopt Attached Resolution Authorizing an Increase of \$50,000.00 in the Total Amount to be Paid to the Law Firm of Kelly Hart & Hallman, LLP, as Outside Legal Counsel for Legal Matters Relating to Lawsuits Challenging the City's Game Room Ordinances for a Total Amount of \$590,000.00

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## **RECOMMENDATION:**

It is recommended that the City Council adopt the attached resolution authorizing an increase in the amount of \$50,000.00 to the maximum amount to be paid to the law firm of Kelly Hart & Hallman, LLP, as outside legal counsel for legal services related to lawsuits challenging the City's Game Room Ordinances, for a total amount of \$590,000.00.

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## **DISCUSSION:**

On August 18, 2015, by Mayor and Council Communication (M&C) G-18529 and Resolution No. 4501-08-2015, the City Council approved the Law Firm of Kelly Hart & Hallman, LLP, as legal counsel to provide legal representation regarding any lawsuit filed challenging the City's game room ordinances. The City has been sued in three separate lawsuits challenging the City's new game room ordinances. The three separate lawsuits are as follows: Cause No. 48-276440-15, *Apolonio Garcia, et ux. v. City of Fort Worth*, Cause No. 17-276483-15, *Rylie, et al. v. City of Fort Worth* and Cause No. 352-276568-15, *AFAD Investments, Inc. v. City of Fort Worth*. Because of the complex nature of the litigation and the importance to the City, the City hired the Law Firm of Kelly Hart & Hallman, LLP, to represent the City in any litigation related to the game room ordinances. In 2017, the Court entered a judgment in the *Rylie* litigation. Both parties filed an appeal and the Second Court of Appeals issued its opinion in October, 2018. The City and Plaintiffs filed petitions for review in the Texas Supreme Court. The Texas Supreme Court issued an opinion favorable to the City and remanded to the Court of Appeals; the Court of Appeals issued a favorable opinion to the City. The plaintiffs have sought review in the Texas Supreme Court and the Court has asked for briefing; the briefing should be completed this Fall. If the Court accepts the case, there will likely be more fees generated necessitating future M&Cs for increased funding.

Since the initial M&C, City Council has adopted several M&Cs to increase funding for this lawsuit. Adoption of this Resolution will increase the amount of compensation to be paid to the Law Firm of Kelly Hart & Hallman, LLP, by \$50,000.00, for a total amount of \$590,000.00.

Funding is budgeted in the Lawsuit Expenses account within the Risk Financing Fund for the Human Resource Department.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

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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 previously 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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