



## Legislation Text

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File #: R-2021-135, Version: 1

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CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2021-135: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING \$150,000 FROM THE GENERAL FUND BALANCE TO PAY PENDING OUTSIDE LEGAL FEES ACCRUED THROUGH FYE 2021.

**BACKGROUND:** The Fiscal Year Ending June 30, 2021 (FYE 21) Budget appropriated \$215,000 for outside legal fees. That funding has now been depleted. Additional expense for outside legal work for the remainder of FYE 21 is estimated to be \$150,000.

**DISCUSSION:** The Legal Services account (1012220-44011) was allocated \$215,000 for FYE 21 for litigation expenses incurred for cases processed through the legal system during the fiscal year. This account pays all litigation costs, including outside legal counsel (supplemental, specialized and independent legal expertise to in-house City Attorney staff), trial preparation, expert and general witness fees, subpoenas, discovery, union contract arbitration and employment related issues, costs of appeals when necessary, and various other litigation expenses.

Because the filing of new lawsuits and litigation costs are somewhat unpredictable, additional funding is requested as a supplemental appropriation on an “as-needed” basis. In FYE 21, the primary draws on this account have come from employee grievance arbitrations; litigation related to appeals of two City Council zoning decisions to District Court; and litigation related to a death while in custody at Cleveland County jail. June invoicing has not been received yet and additional appropriation is anticipated to cover the remainder of the FYE 21 invoices.

### **Grievance Arbitrations**

The City Attorney’s Office provides advice concerning the employee disciplinary process and grievance filing. If grievances are not resolved in the grievance process, then an arbitration process can be requested resulting in a hearing before a neutral arbitrator; outside legal counsel has been utilized for arbitration processes for the last several years. Thus far, almost \$65,000 has been billed in FYE 21 for labor matters.

### **Appeals of Zoning Denials**

A second major draw on the Outside Legal Services account has come from litigation regarding two zoning change applications that were rejected by Council. The law firm of Williams, Box, Forshee & Bullard is representing the City in both cases. *Golden Tribe, LLC. v. City of Norman* (CV-2018-1142) is an appeal of a denial of a rezoning request for property located at 410, 414, and 416 North Park Avenue. This case was filed in June of 2018 for injunctive relief and attorney’s fees and costs. A bench trial was held last July and the City was successful. The matter is currently on appeal. Expenses this fiscal year for this case total just under \$75,000.

*Fleske Holding Company, LLC v. City of Norman* (CV-2018-956) is an appeal of a denial of a rezoning request for property located at 801 36<sup>th</sup> Avenue NW. This case was filed in May of 2018 for injunctive relief and attorney's fees and costs. A bench trial was held in April and the Plaintiff was successful. Expenses this fiscal year for this case total just over \$75,000, \$71,857 of which is pending appropriation of additional funds.

**Thompson v. City of Norman**

A third major draw on the Outside Legal Services account has come from litigation related to a death of someone in custody of the jail. This litigation involves multiple defendants and has resulted in numerous depositions, expert witnesses, and extensive discovery. Costs so far this fiscal year total over \$126,000, \$44,758 of which is pending appropriation of additional funds.

**RECOMMENDATION:** It is recommended that \$150,000 be appropriated into the Legal Services account (10122220-44011) from the General Fund Balance (10-29000).