

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: January 20, 2017

CAO File No. 0670-00030-0000

Council File No. 16-1420

15-0206-S1

Council District: All

To: The Council

From: Patricia J. Huber, Acting City Administrative Officer



Subject: **Reimbursement Resolution Related to Certain Judgment or Settlement Obligations; Payment Authorization for Cole v. City of Los Angeles**

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### RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Adopt the attached Resolution declaring the intention to reimburse and/or refund the City's Reserve Fund expenditures or other City fund expenditures to be incurred in connection with certain judgment or settlement obligations;
2. Regarding the case entitled Reggie D. Cole v. City of Los Angeles, et al. (the Case):
  - a. Transfer \$5.2 million from the Reserve Fund to the Unappropriated Balance Fund No. 100/58, and appropriate therefrom to the Liability Claims Account Fund No. 100/59, Account 009792 Police Liability Payouts, to be reimbursed by proceeds from a future Judgment Obligation Bond;
  - b. Authorize the City Attorney to process payment in the amount of \$5.2 million via check to the Law Offices of Dale K. Galipo Trust Account for settlement of the Case from Fund No. 100/59, Account 009792;
  - c. Find that the settlement reached is in the best interest of the City;
  - d. Find that the City intends to make an inter-fund borrowing or advance from the Reserve Fund on an interim basis to pay the settlement reached, which loan or advance will be refunded or reimbursed with proceeds of a Judgment Obligation Bond;
  - e. Authorize the City Attorney, or designee, to prepare Controller instructions for any necessary technical adjustments subject to the approval of the City Administrative Officer, and authorize the Controller to implement the instructions.

### SUMMARY

The 2016-17 Second Financial Status Report (C.F. 16-0600-S169) identified shortfalls in the

Liability Claims Account, which includes some payouts for litigation matters that have concluded but are still pending Council approval, and which will need to rely on the Reserve Fund as a funding source. As previously discussed in the Report, this Office, with the assistance of the City Attorney, is exploring the potential issuance of Judgment Obligation Bonds (Bonds) to finance eligible judgment and settlement payouts. Proceeds of these Bonds would be utilized to reimburse the Reserve Fund (or other City Fund) for advances or loans made to pay such judgments and settlements, or to pay for such judgments and settlements directly.

On January 18, 2017, the City Council approved a recommendation instructing this Office, with the assistance of the City Attorney, to proceed with a Judgment Obligation Bond issuance of between \$50 and \$70 million to reimburse the Reserve Fund for extraordinary liability payouts made resulting from settlements and judgments (C.F. 16-1322). To date, two prior Reimbursement Resolutions have been adopted for amounts not-to-exceed \$25.5 and \$23 million respectively (C.F. 12-0014-S23 and C.F. 16-1420). The attached Resolution will allow the City to reimburse and/or refund the City's Reserve Fund or other City fund for an additional not-to-exceed amount of \$15 million, from Bond proceeds, for expenditures incurred in connection with the case entitled Reggie D. Cole v. City of Los Angeles, et al. and certain other judgment or settlement payments. This Resolution does not authorize the issuance of Bonds but provides a potential financing mechanism. Any issuance of Bonds would require future Council and Mayor approval and would be subject to a validity determination by the Superior Court.

### **Reggie Cole v. City of Los Angeles**

On January 18, 2017, the City Council approved a settlement offer for an amount not-to-exceed \$5.2 million in the case entitled Reggie D. Cole v. City of Los Angeles, et al., a police litigation case against the City of Los Angeles. An offer of \$5.2 million was accepted by the plaintiff, and funding is now needed to make payment. A Reserve Fund advance is recommended to the Liability Claims Fund in this amount. It is also recommended that the City Attorney be authorized to process these payments. Depending on future financing options approved, there is potential that the Reserve Fund can be restored at a later date upon reimbursement of these funds from a future Bond issuance.

### **FISCAL IMPACT**

Approval of these recommendations will reduce the Reserve Fund by \$5.2 million. However, depending on future financing options approved, there is potential that the Reserve Fund can be restored at a later date upon reimbursement of these funds.

### **DEBT IMPACT STATEMENT**

Approval of this recommendation will have no impact to the City's debt service payments, as this recommendation does not authorize the issuance of any bonds.

## RESOLUTION

Resolution of the Council of the City of Los Angeles (the "City") authorizing one or more advances or interfund borrowings from the City's Reserve Fund or other City funds to pay certain judgment or settlement obligations, and declaring the City's intention to reimburse itself for such advances and/or refund such borrowings from the proceeds of tax-exempt bonds.

**WHEREAS**, the City is a municipal corporation organized and existing under its charter and the laws of the State of California;

**WHEREAS**, the Council of the City (the "Council") is the governing body of the City;

**WHEREAS**, the City is or may be the subject of certain court judgments relating to tort claims or other legal claims filed by third parties against the City in court, and the Council has approved and authorized, or may approve and authorize, the City to enter into settlement agreements for the purpose of resolving such claims against the City, in each case which require the City to pay amounts (the "judgment or settlement payments") to one or more third parties;

**WHEREAS**, the City plans to initially pay such judgment or settlement payments, on an interim basis, with one or more advances or interfund borrowings from the City's Reserve Fund or other City funds;

**WHEREAS**, the City intends to reimburse itself for such advances and/or refund such borrowings from the proceeds of judgment obligation bonds (the "Bonds"), expected to be issued on a tax-exempt basis and pursuant to the provisions of the City Charter and Section 11.27 *et seq.* of the City Administrative Code concerning the issuance of bonds to pay or provide for the payment of judgment or settlement obligations, as the same may be amended from time to time;

**WHEREAS**, each advance or interfund borrowing used to make a judgment or settlement payment will constitute an indebtedness owed to the Reserve Fund or other City fund, as applicable, which the City intends to refinance with the proceeds of the Bonds;

**WHEREAS**, the Council previously declared its intent to initially pay certain obligations relating to *Independent Living Center of Southern California, et al. v. City of Los Angeles, et al.* (Case No.: 12-CV-00551 FMO (PJWx)), as well as certain other obligations relating to other judgments or settlements (C.F. 16-1420) (the "Other Judgment Obligations"), with advances or interfund borrowings from the City's General Fund or other City funds, and to reimburse itself for such advances or borrowings from proceeds of a tax-exempt judgment obligation bond issue; and

**WHEREAS**, the principal amount of Bonds expected to be issued in connection with the judgment or settlement payments referred to herein are in addition to the principal amount of judgment obligation bonds expected to be issued in connection with *Independent Living Center* and the Other Judgment Obligations;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LOS ANGELES AS FOLLOWS:**

Section 1. The recitals herein and the findings made by the Council herein are true and correct.

Sec. 2. The City hereby declares its intention to reimburse and/or refund the City's Reserve Fund or other City funds for any judgment or settlement payments, and reasonably expects to do so by issuing the Bonds, in a maximum principal amount not to exceed \$15,000,000, within 18 months after making such judgment or settlement payments.

Sec. 3. The judgment or settlement payments constitute extraordinary nonrecurring items that are not customarily payable from current revenues, and neither the City nor any of the City's divisions, departments, agencies or affiliated entities has maintained a reserve or has otherwise set aside amounts to pay any portion of the judgment or settlement payments to be reimbursed and/or refunded with proceeds of the Bonds.

Sec. 4. This Resolution shall take effect immediately upon its passage.

I hereby certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting held on \_\_\_\_\_.

HOLLY L. WOLCOTT, City Clerk

By \_\_\_\_\_ Deputy