

**CITY OF DANA POINT**  
**AGENDA REPORT**

Reviewed By:	
DH	X
CM	X
CA	X

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**DATE: APRIL 27, 2005**

**TO: CITY MANAGER / HONORABLE MAYOR AND CITY COUNCIL**

**FROM SHARIE APODACA, DIRECTOR OF ADMIN. SERVICES**

**SUBJECT: 2004-2005 BUDGET ADJUSTMENT**

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**RECOMMENDED ACTION:**

That City Council transfer \$50,000 from the Undesignated General Reserve Fund to the City Attorney account number 01-71-20-0000-231 to pay for additional City Attorney fees related to unanticipated litigation.

**BACKGROUND:**

The City Attorney budget for fiscal year 2004-2005 was approved as part of the City's biennial budget in June of 2003. The approved budget did not anticipate the Diedrich's Coffee litigation that the City is currently experiencing. The aforementioned case could potentially exceed the budgeted amount for legal services in fiscal year 2005. In order to pay for City Attorney services through June 30, 2005, a \$50,000 budget adjustment from the Undesignated General Reserve Fund to the City Attorney account is necessary.

As the Council is aware, some land use permits approved by the City are subject to specific conditions of approval. The City has been prudent by requiring Memoranda of Understanding (MOU) for private development projects or imposing a condition on certain land use permits that places the responsibility for any potential legal fees associated with such permits upon the property owner. Any legal costs incurred by the City are billed to the property owner who is required to reimburse the City as required by the MOU or a condition of approval attached to the permit. As of March 31, 2005, the City has incurred \$375,283 in reimbursable legal expenses for this fiscal year. Because these costs are reimbursable by private developers, and will have a fiscal impact on the City's General Fund, the Administrative Services Department has been making the appropriate budget adjustments in the appropriate accounts to offset reimbursed expenditures.

**DISCUSSION:**

The department of Administrative Services has been closely tracking City Attorney expenditures, and carefully assigning City Attorney bills to the proper account for the past several months. The City of Dana Point expects to be fully reimbursed for the legal bills incurred by the Headlands Reserve LLC, Makar Properties, Hamilton v. the City of Dana Point and CR&R during fiscal year 2005. As of March 31, 2005, the City has incurred \$375,283 in *reimbursable* legal expenses this fiscal year. We anticipate that any outstanding expenses incurred this fiscal year will be fully reimbursed by June 30<sup>th</sup>.

The recommended budget adjustment of \$50,000 is necessary to pay for legal expenses related to a combination of normal legal business and *unanticipated, non-reimbursable* legal expenses and expenses primarily associated with a lawsuit filed by Diedrich's Coffee.

**NOTIFICATION/FOLLOW-UP:**

City of Dana Point

**FISCAL IMPACT:**

Transfer \$50,000 from Undesignated General Reserve Fund to City Attorney account number 01-71-20-0000-231.

**ALTERNATIVE ACTIONS:**

Do not transfer \$50,000 from Undesignated General Reserve Fund to the City Attorney account to pay for unbudgeted litigation.