



Legislation Details (With Text)

File #: 76513 **Version:** 1 **Name:** Retain Outside Counsel
Type: Resolution **Status:** Passed
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Title: Authorizing the City to retain outside counsel on noncompetitive basis to represent its interest in filing suit against Kia and Hyundai for their role in creating a public nuisance.

Sponsors: Satya V. Rhodes-Conway, Erik Paulson, Yannette Figueroa Cole

Indexes:

Code sections:

Attachments: 1. 030723_CC_public_comments

Date	Ver.	Action By	Action	Result
3/7/2023	1	COMMON COUNCIL	Adopt unanimously under suspension of MGO 2.055	Pass
3/1/2023	1	Attorney's Office	RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF MGO 2.055	

Fiscal Note

The proposed resolution authorizes outside counsel to represent the City on a contingency fee basis. The outside counsel will be paid through any awarded amounts. Any expenses incurred by the City are expected to be covered with existing budget authority. No additional City appropriation required.

Title

Authorizing the City to retain outside counsel on noncompetitive basis to represent its interest in filing suit against Kia and Hyundai for their role in creating a public nuisance.

Body

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Authorizing the City to retain outside counsel on noncompetitive basis to represent its interest in filing suit against Kia and Hyundai for their role in creating a public nuisance.

Body

WHEREAS, the number of Kias and Hyundais stolen in Madison dramatically increased in 2022; and

WHEREAS, 45% of vehicles stolen in Madison in July and August of 2022 were Kias and Hyundais; and

WHEREAS, there was a 270% increase in the number of stolen Kias and Hyundais in the summer of 2022 compared to 2021; and

WHEREAS, the rate of theft for Kias and Hyundais remains elevated; and

WHEREAS, these thefts are a part of a dangerous social media trend that has individuals targeting certain Kia and Hyundai vehicles manufactured between 2011- 2021; and

WHEREAS, Kia and Hyundai failed to equip vehicles manufactured between 2011- 2021 with industry-standard security features, including engine immobilizers and other anti-theft systems, which could have

helped prevent the thefts; and

WHEREAS, the dramatic increase in Hyundai and Kia thefts constitutes a substantial threat to public health and safety; and

WHEREAS, the rise in the thefts of Kias and Hyundais has caused the City to expend more resources to investigate the thefts, respond to criminal activity related to the thefts, and assess associated property destruction, all at the increased expense of taxpayers; and

WHEREAS, there is a pending multi-district litigation in the Central District of California regarding the Kia and Hyundai theft litigation; and

WHEREAS, Gretchen Freeman Cappio of Keller Rohrback LLP has been appointed as the Chair and, to date, sole member of the Governmental Entities Committee in that litigation; and

WHEREAS, the Order appointing Ms. Cappio Chair of the Governmental Entities Committee contemplates additional individual Governmental Entity complaints to be filed by March 27, 2023; and

WHEREAS, the City will join other affected cities by filing suit against Kia and Hyundai in order to abate the public nuisance and recover the costs sustained by the City in responding to the rise in thefts; and

WHEREAS, Keller Rohrback LLP and its Wisconsin local counsel, MWH Law Group, have the requisite specialized knowledge and expertise having previously represented government agencies in public nuisance lawsuits; and

WHEREAS, under MGO Sec. 4.26(4)(a)3, the City may retain services of outside counsel without competitive bids; and

WHEREAS, Keller Rohrback LLP and MWH Law Group have agreed to represent the City of Madison on a contingency fee basis;

NOW, THEREFORE, BE IT RESOLVED that the City hereby agrees to retain the firms of Keller Rohrback LLP and MWH Law Group to assist the City Attorney's Office in representing the City's interest in the Kia and Hyundai theft litigation; and

BE IT FINALLY RESOLVED that the City Attorney will review and execute a retainer agreement with Keller Rohrback LLP and MWH Law Group on the terms approved by the City Attorney.