

FY 2012-13 BUDGET ADJUSTMENTS

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Submitted by
Floy Jones

June 17, 2013

Terence L Thatcher
Portland Office of City Attorney
1221 SW 4th Ave Ste 430
Portland, OR 97204

Re: *Anderson, et al. v. City of Portland*
Multnomah County Circuit Court Case No. 1112-05957

Dear Terry:

It has come to my attention that the agenda for the City Council meeting for Wednesday, June 19, calls for discussion and action on item 582 authorizing operating loans from various city funds to other purposes pending receipt of federal grant funds. In particular, the resolution <http://www.portlandonline.com/auditor/index.cfm?c=50265&a=452752> calls for the following:

BE IT FURTHER RESOLVED, that a temporary, interest-free operating loan is hereby authorized immediately from the Sewer System Operating Fund to the Grants Fund in the not-to-exceed amount of \$365,000 with a repayment of principal due by June 30, 2014;

BE IT FURTHER RESOLVED, that a temporary, interest-free operating loan is hereby authorized immediately from the Water Fund to the Grants Fund in the not-to-exceed amount of \$700,000 with a repayment of principal due by June 30, 2014; and

BE IT FURTHER RESOLVED, that the primary source of repayment of the loans collectively mentioned above is earned and deferred revenues for reimbursement of eligible grant expenses in FY 20T3-T4,

We believe that use of the Water and Sewer funds for these purposes violates the charter provisions at issue in our lawsuit for the following reasons:

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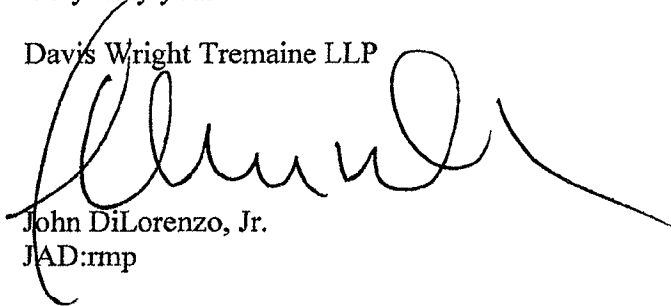
1. The charter does not authorize these funds to function as a lender;
2. The terms of the loan are such that should the federal government refuse to move forward with the grants (due to sequester or other budget reasons) there is no source of repayment; and
3. Both lending and the uses to which the "loaned funds" will be put are outside the scope of permitted uses for these funds.

We ask that the City Council pull this resolution from the agenda or amend it in such a way as to eliminate the provisions that require the sewer and water funds to loan the above referenced amounts. Should the Council adopt the resolution, we will file a supplemental complaint to add this particular to the list of expenditures we believe are being made illegally from these two funds.

Thank you for your time concerning this matter.

Very truly yours

Davis Wright Tremaine LLP



John DiLorenzo, Jr.

JAD:rmp

cc: Client