



Legislation Text

File #: 20-0299, **Version:** 1

Resolution to Accept and Appropriate Michigan Indigent Defense Commission Grant Award, Approve Grant Contract, and Reallocate Local Share (\$393,530.00) **(8 Votes Required)**

This resolution seeks Council approval for a grant contract with the Michigan Indigent Defense Commission (MIDC), and further seeks authorization to accept and appropriate grant funds from the MIDC without regard to City Fiscal Year.

The MIDC was created by legislation in 2013 after an advisory commission recommended improvements to the state's legal system. (MCL §780.991)

The MIDC is statutorily required to develop and oversee the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that criminal defense systems are providing effective assistance of counsel to all indigent adults in this state consistent with the safeguards of the United States constitution, the state constitution of 1963, and with the Michigan Indigent Defense Commission Act.

MIDC requires that all indigent defense delivery systems in Michigan must submit compliance plans and cost projections for all the standards approved by the Department of Licensing and Regulatory Affairs.

A system's duty of compliance with the terms of the compliance plan is contingent upon receipt of a grant in the amount contained in the plan and cost analysis approved by the MIDC. See MCL §780.997.

Budget/Fiscal Impact: No matching funds are required for acceptance of this grant award.

However, the City is required to maintain local indigent defense funding, an amount referred to as the "Local Share." For FY20, the local share is determined by taking the FY19 local share amount of \$202,061.50 and indexing it by 3% or the recent Urban Consumer Price Index (CPI), whichever is less. The most recent period CPI was 2.2%. Thus, the FY20 local share amount is \$206,506.85. The Local Share has been budget in the FY20 General Fund 15th District Court budget. For reporting purposes, the Local Share funding does need to be transferred from the FY20 General Fund 15th District Court budget to the FY20 Indigent Defense Fund.

The Michigan Indigent Defense Act requires indigent defense funds, both State and Local, to be allocated and maintained in a separate fund within the local chart of accounts to allow for better management and monitoring of indigent defense funds.

Prepared by: Shryl Samborn, Court Administrator, 15th Judicial District Court

Approved by: Tom Crawford, Interim City Administrator

Whereas, The United States Constitution and the amendments thereto, as well as the Michigan Constitution provide that people charged with criminal offenses are entitled the right to have an attorney represent them in court proceedings;

Whereas, The judicial system recognizes the rights of persons without the ability to pay for an attorney and/or other legal services (such as hiring investigators or expert witnesses) have the same right of legal representation in the court system as a person who can afford to pay for an attorney and/or other legal services;

Whereas, The State of Michigan ("State") has created the Michigan Indigent Defense Commission ("MIDC") within the Department of Licensing and Regulation;

Whereas, The MIDC is purposed with creating more effective and equitable funding at the State and local level for persons who are charged with criminal offenses and do not have the financial ability to pay for an attorney and/or other legal services;

Whereas, The State, through the MIDC, is separating the financial matters of court appointed cases away from the court system to local court funding units (i.e., in this case, the City of Ann Arbor on behalf of the 15th District Court, which requires creation of a separate fund within the local chart of accounts);

Whereas, The MIDC accepted grant applications to fund court-appointed attorney and related legal services;

Whereas, This separate fund within the local chart of accounts will accept State funds through MIDC grants and the Local Share, and charge all MIDC-related costs to this fund;

Whereas, At the end of the City's fiscal year any fund balance in the Indigent Defense Fund must remain in the separate fund and not revert to the City's general fund so that funds are used exclusively for court appointed attorney and related legal services;

Whereas, The MIDC recommends any fund balance at the end of the City's fiscal year shall remain in the fund to carry-over to the next year to be used for future compliance expenditures;

Whereas, The City acknowledges that a separate fund will allow for better management of the grant funds and monitoring by the local and state interested parties; and

Whereas, City Council determines that this is an important service and source of funding for defendants in criminal cases who do not have the ability to afford an attorney or legal services in the 15th District Court;

RESOLVED, That City Council accept the MIDC Grant Award for expenditure without regard to City Fiscal Year and approve the Grant Contract;

RESOLVED, That \$73,139 be appropriated to the FY20 Indigent Defense Fund with the source of revenue as the State of Michigan, that \$113,884 be appropriated from the Indigent Defense Fund fund balance, that \$206,507 be appropriated in the FY20 Indigent Defense Fund with the source of revenue as a transfer from the FY20 15th District Court General Fund for the local share contribution, and that \$206,507 be reallocated from Professional Services to Transfers to Other Funds within the FY20 15th District Court General Fund budget to be transferred to the FY20 Indigent Defense Fund for the local share contribution;

RESOLVED, That all amounts appropriated in this resolution are made available without regard to fiscal year;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute the contract on behalf of the Court and the City following approval as to form by the City Attorney and as to substance by the City Administrator;

RESOLVED, That Council authorize the City Administrator to take all necessary administrative actions to implement this resolution; and

RESOLVED, That City Council authorize the City Finance Department to establish and maintain a separate fund to receive, hold, disburse and account for funds awarded pursuant to this grant as well as the local share contribution.