

LRB-FISCAL REVIEW SECTION ANALYSIS

JUDICIARY & LEGISLATION COMMITTEE

ITEM 5, FILE 011104

DECEMBER 17, 2001

MARK A. RAMION

File # 011104 is a resolution authorizing the expenditure of funds from the Outside Counsel/Expert Witness Fund for the purpose of on-going expert witnesses services relative to the lawsuit of Super Excavators, Inc. v. City of Milwaukee.

Background

1. The Outside Counsel/Expert Witness Fund covers the cost of hiring expert witnesses and outside counsel in legal cases. Funds are approved on a case-by-case basis and appropriated to a sub-account under City Attorney expenditure authority by Common Council resolution.
2. This file will authorize the expenditure of \$25,000 by the City Attorney for the purpose of retaining expert witnesses for Case No. 01-CV-001325, Super Excavators, Inc. v. City of Milwaukee.
3. In September 2001, the Common Council approved File # 010664 authorizing the expenditure of \$50,000 from the Outside Council/Expert Witness Fund for expert witness services related to this case.
4. This resolution also authorizes the City Attorney to pay other litigation expenses related to this lawsuit.

Discussion

1. In 1997, the City of Milwaukee Department of Public Works awarded a contract to Super Excavators, Inc. for sewer construction on West Brown Street from North 26th Street to North 29th Street. The contract total was \$5,412,049.
2. Super Excavators, Inc. claims that work in excess of \$880,000 was completed beyond the contract parameters. This extra work included excavation of a recovery shaft to retrieve a tunnel-boring machine and resulted in extended expenses for labor, equipment, supplies and overhead.
3. This case is presently involved in the discovery process with depositions being taken. No trial date has been set.

4. The facts of this case and background needed are scientifically intense with expertise required from technical experts such as engineers, chemists and hydro-geologists.
5. With interest added, the claim now stands at +\$1,000,000.

Fiscal Impact

1. The total funding for this resolution is \$25,000 to be appropriated from the Outside Counsel/Expert Witness Fund.
2. If this appropriation is approved, the Outside Counsel/Expert Witness Fund will have a balance of \$307,000.
3. As of December 11, 2001, \$30,186 has been paid for expert services related to this case.

Prepared by: Mark A. Ramion, X8680
LRB-Fiscal Review Section
December 14, 2001

Cc: Marianne Walsh
Laura Engan
W. Martin Morics
Grant F. Langley
Barbara Woldt
Linda Uliss Burke
David Schroeder