



Legislation Text

File #: 020609, Version: 1

020609

THE CHAIR

Substitute resolution authorizing the transfer of funds within the Outside Counsel/Expert Witness Fund from *Bradley DeBraska, et al. v. City of Milwaukee*, U.S. District Court, Eastern District of Wisconsin, Case No. 96-C-402 (FLSA Case) to *Continental Insurance Company, et al. v. Federal Marine Terminals v. City of Milwaukee*, Milwaukee County Circuit Court Case No. 01-CV-008164. This resolution authorizes the transfer of funds with the Outside Counsel/Expert Witness Fund from *DeBraska, et al. v. COM*, Case No. 96-C-402 to *Continental Insurance Company, et al. v. Federal Marine Terminals v. COM*, Case No. 01-CV-008164.

Whereas, The City Attorney's Office requests that funds be transferred from the case entitled *DeBraska, et al. v. City of Milwaukee* (U.S. District Court Case No. 96-C-402) to the case entitled *Continental Insurance Company, et al. v. Federal Marine Terminals v. City of Milwaukee/Board of Harbor Commissioners of the City of Milwaukee* (Milwaukee County Circuit Court Case No. 01-CV-008164); and

Whereas, The latter case involves multiple claims against the City and the Board of Harbor Commissioners for damage to steel cargos stored in Terminal No. 2 of the Port of Milwaukee as a consequence of two separate incidents of water damage occurring on April 12, 1999 and December 15-18, 2000; and

Whereas, The City has been sued both directly by the owners of the steel cargos that were damaged in these incidents and by Federal Marine Terminals, Inc. by way of a third-party complaint; and

Whereas, It has answered the third-party complaint, and is in the process of answering the plaintiff's complaint, and asserting a cross-claim against Federal Marine Terminals, Inc.; and

Whereas, This case involves a number of issues associated with both insurance and maritime law, including potential applicability of the Carriage of Goods by Sea Act (COGSA); and

Whereas, The City has engaged the firm of Pretzel and Stouffer Chtd. of Chicago, IL as of counsel in this case to provide assistance, particularly with respect to these issues; and

Whereas, The firm is already assisting in attempts to tender the City's defense of this matter to Federal Marine Terminals' insurance carrier, and the City Attorney expects to engage this firm from time to time as issues may arise in this complex case; and

Whereas, Funds for the engagement of expert assistant that will no longer be needed in *DeBraska* can be productively used in the *Continental Insurance Company Case*; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that \$25,000 be transferred within the Outside Counsel/Expert Witness Fund No. 0001 1490 0001 S157 2002 006300 from the *Debraska*

case to the above-named case; and, be it

Further Resolved, That the proper city Officers be and are hereby authorized and directed to make whatever fund transfers are necessary and appropriate to carryout the provision of this resolution and that the application of the funds directed herein to a case other than that specifically referred to herein shall be subject to the further direction of the Common Council.

CITY ATTORNEY

SSM:bgw:55032

SSM:kef:55930