

SUMMARY REPORT TO MANAGER
for City Council Meeting of February 26, 2007

SUBJECT: Approval of payment of contracted legal services.

INITIATED BY: City Attorney

RESOLUTION SUMMARY: This resolution authorizes payment to Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C. for contracted legal services relating to the City's defense in the Midland Cogeneration Venture's appeal to the Michigan Tax Tribunal.

ITEMS ATTACHED:

- 1. Letter of Transmittal.
- 2. Resolution.

COUNCIL ACTION:

- 1. 3/5 vote required to approve.

James O. Branson III
City Attorney



City Hall • 333 West Ellsworth Street • Midland, Michigan 48640-5132 • 989.837.3300 • 989.835.2717 Fax • www.midland-mi.org

February 20, 2007

Honorable Mayor and City Council
City Hall
333 W. Ellsworth Street
Midland, Michigan 48640

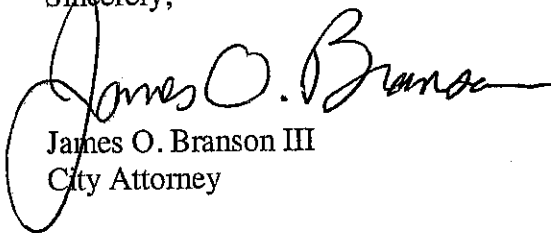
Dear Council Members:

The Midland Cogeneration Venture (MCV) appealed the 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 assessments and taxable values of certain property it owns located in the City of Midland to the Michigan Tax Tribunal. The law firms of Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C., formerly known as Westrate and Holmstrom, P.C., have been retained.

This resolution for your consideration increases the amount authorized to the law firms of Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C. for their legal assistance in this matter to an amount not to exceed \$6,200,000. Budgetary funding for this expenditure is included in the 2006-2007 Legal Fees budget for the MCV tax appeal cases.

Please feel free to contact my office if you should have any questions or comments.

Sincerely,



James O. Branson III
City Attorney

JOB/lak



City Hall • 333 West Ellsworth Street • Midland, Michigan 48640-5132 • 989.837.3300 • 989.835.2717 Fax • www.midland-mi.org

BY COUNCILMAN

WHEREAS, the Midland Cogeneration Venture (MCV) appealed the 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 assessments and taxable values of certain property it owns in the City of Midland to the Michigan Tax Tribunal; and

WHEREAS, the law firms of Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C., formerly known as Westrate and Holmstrom, P.C., have been utilized in assisting the City of Midland in its legal defense of said appeal; and

WHEREAS, on October 9, 2006, Council authorized payments to Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C. for the aforementioned services in a total amount not to exceed \$5,950,000; and

WHEREAS, the cost of continuing said services is expected to exceed the previously approved amount and therefore approval of the City Council is required under Section 2-18 of the Code of Ordinances; and

WHEREAS, sufficient budgetary funding exists within the 2006-2007 Legal Fees budget for the MCV tax appeal cases; now therefore

RESOLVED, that the above-referenced services are hereby determined to be professional services within the meaning of Section 2-19 of the Code of Ordinances and do not require sealed proposals; and

RESOLVED FURTHER, that authorization for payment to the law firms of Braun, Kendrick, Finkbeiner, P.L.C. and Westrate and Thomas, P.C. for their assistance in connection with the aforementioned appeal is hereby increased to an amount not to exceed \$6,200,000.

YEAS:

NAYS:

ABSENT:

I, Selina Tisdale, City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yea vote of all of the Councilmen present at a regular meeting of the City Council held on Monday, February 26, 2007.

Selina Tisdale, City Clerk