

FINANCE COMMITTEE

08-0596R

RESOLUTION AUTHORIZING PROFESSIONAL SERVICES AGREEMENT WITH BRIOL & ASSOCIATES, PLLC, AS SPECIAL COUNSEL TO ASSIST THE CITY ATTORNEY IN POTENTIAL LITIGATION RELATED TO THE MAINSAIL II INVESTMENT RECOVERY NOT TO EXCEED \$75,000.

BY COUNCILORS GILBERT AND FEDORA:

RESOLVED, that pursuant to Section 26 of the City Charter, the proper city officials are authorized to enter into a professional services agreement, a copy of which is on file in the office of the city clerk as Public Document No. _____, with Briol & Associates, PLLC, for legal services involving the city's claims against Merrill, Lynch, Pierce, Fenner & Smith, Inc., arising out of the purchase of \$3 million of Mainsail II, LLC, commercial paper, said agreement to be in an amount not to exceed \$75,000 payable from Fund 100-700-1407-5304.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

STATEMENT OF PURPOSE: This resolution authorize a professional services agreement with Briol & Associates, PLLC, to assist the city attorney in potential litigation against Merrill, Lynch, Pierce, Fenner & Smith, Inc., arising out of the city's purchase of \$3 million in Mainsail II commercial paper. Merrill, Lynch had recommended this investment as meeting the city's investment objectives but questions have arisen pertaining to disclosure and fulfillment of fiduciary-type obligations since the investment has proven to be less secure and therefore less valuable than originally represented.

Because of the highly specialized nature of the work, the city attorney has recommended hiring outside council to assist him in asserting the city's claim against Merrill Lynch and, after interviewing competing firms, has recommended contracting with Briol & Associates, PLLC, to do the work. Their expenses will be paid by the city but their fee will be contingent and will be payable from any recovery they obtain for the city.