09-0384R

RESOLUTION AMENDING RESOLUTION 08-0344 (AS AMENDED) RETAINING KENNEDY & GRAVEN, CHARTERED, AS SPECIAL COUNSEL TO ASSIST THE CITY ATTORNEY IN RETIREE HEALTH CARE LITIGATION BY $100,000.

CITY PROPOSAL:

RESOLVED, that the proper city officers are hereby authorized to amend Resolution 08-0344 (as amended by Resolution 09-0029), retaining Kennedy & Graven, Chartered, to assist the city attorney in the representation of the city in a matter currently pending in the St. Louis County district court and entitled *Hartley Conrad, Paula Savela and Carol Griak v. City of Duluth*, Court File No. 69DU-CV-08-1793, and to be available on a continuing basis to advise the city on the issues involved in the lawsuit, as set out in the request for proposals, pursuant to its proposal dated May 20, 2008, not to exceed $180,000, payable from Fund 610-036-1650-5319.

Approved: Approved for presentation to council:

_____   _____
Department Director   Chief Administrative Officer

Approved as to form: Approved:

_____   _____
Attorney   Auditor

ATTY   GBJ:cjk   5/28/2009

STATEMENT OF PURPOSE: This resolution will further amend Resolution 08-0344, approved May 30, 2008, and previously amended by Resolution 09-0029 dated January 26, 2009, increasing the total amount to be paid by $100,000. This increase is necessary due to the expansion of the matter in question. Whereas this matter previously only encompassed three retirees and their particular benefits it recently became a class action lawsuit covering all retirees and their dependents from January 1, 1983, to December 31, 2006. The city has asserted a counterclaim for declaratory judgment on the issue of whether the class members have a right to health benefits that are greater than active employees. The city has brought a motion for summary judgment on the meaning of the language "to the same extent as active employees." If this matter proceeds to trial it would take place after November of 2009. It is also anticipated that any decision by the trial court would be appealed.