



Legislation Text

File #: 23-1728, Version: 1

Resolution to Approve Amendment Number 2 to the Professional Services Agreement with CDM Smith Michigan Inc. for Consulting and Expert Witness Services Relative to *Platt Convenience, Inc. v. City of Ann Arbor* (\$50,000.00 amendment; \$125,000.00 total contract) and to Appropriate Funds (**8 Votes Required**)

Attached for your review and approval is a resolution to approve Amendment Number 2 to the Professional Services Agreement with CDM Smith Michigan Inc. for ongoing Consulting and Expert Witness Services relative to *Platt Convenience, Inc. v City of Ann Arbor*.

To assist with the City's defense of the Platt Convenience lawsuit, the City retained CDM Smith Michigan Inc. for consulting and expert witness services because of its qualifications and experience providing similar expert services relating to stormwater utility rates for various municipalities across the country. Additionally, the City has worked with CDM Smith Michigan Inc. in the past with respect to its utility rates.

The City Administrator approved an initial agreement with CDM Smith Michigan Inc. and Amendment Number 1 for a total amount not to exceed \$75,000.00 which has been exhausted during the intensive litigation which involved extensive expert support including document analysis, research, preparation of a report and opinions, and a deposition, among other support services, and there is a need for additional services from CDM Smith Michigan Inc. relating to the City's defense of this lawsuit.

The City Attorney requests approval of Amendment Number 2 to the Professional Services Agreement with Stantec Consulting Services Inc. for Consulting and Expert Witness Services Relative to *Platt Convenience, Inc. v City of Ann Arbor* in the amount of \$50,000.00, which will result in a total contract amount of \$125,000.00.

CDM Smith Michigan Inc. complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances.

Budget/Fiscal Impact: Funding for these services is available in the unobligated fund balance of the Stormwater Sewer System Fund.

Prepared by: Atleen Kaur, City Attorney
Tim Wilhelm, Deputy City Attorney

Reviewed by: Marti Praschan, Chief Financial Officer

Approved by: Milton Dohoney Jr., City Administrator

Whereas, Platt Convenience, Inc. filed a lawsuit against the City of Ann Arbor challenging the City's stormwater rates;

Whereas, CDM Smith Michigan Inc. was selected to provide consulting and expert witness services for the City relative to its defenses in the *Platt Convenience* litigation, and the City Administrator approved an initial Professional Services Agreement and Amendment Number 1 for a total amount not to exceed \$75,000.00 which has is nearing exhaustion;

Whereas, The City has a continued need for consulting and expert witness services from CDM Smith Michigan Inc. to defend the *Platt Convenience* litigation, and CDM Smith Michigan Inc. is well qualified to continue to provide such services;

Whereas, Funding for these services was included is available in the unobligated fund balance of the Stormwater Sewer System Fund; and

Whereas, CDM Smith Michigan Inc. complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances;

RESOLVED, That \$50,000.00 be appropriated from unobligated fund balance of the Stormwater Sewer System Fund thereby increasing the FY24 Stormwater Operations and Maintenance revenue and expenditure budgets;

RESOLVED, That City Council approve Amendment Number 2 to the Professional Services Agreement with CDM Smith Michigan Inc. in the amount of \$50,000.00 for continued consulting and expert witness services relative to *Platt Convenience, Inc. v. City of Ann Arbor* for a total contract amount not to exceed \$125,000.00;

RESOLVED, That the funding for these legal services, as appropriate, is made available without regard to fiscal year;

RESOLVED, That the Mayor and City Clerk be authorized to sign the amendment after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator be authorized to take the necessary actions to implement this resolution.