



Legislation Text

File #: 23-2134, Version: 1

Resolution to Approve the Tenth Amendment to Professional Services Agreement with Bodman, PLC, for Legal Services Relative to 1,4-Dioxane from Gelman Sciences, Inc., dba Pall Life Sciences (\$200,000.00) **(8 Votes Required)**

The City has previously litigated against Gelman Sciences, Inc., dba Pall Life Sciences (Gelman) relative to the 1,4-dioxane that Gelman released at its property in Scio Township that has migrated as one or more plumes, via aquifers, both under properties within the City of Ann Arbor and under properties in Scio Township.

On October 27, 2016, the Michigan Department of Environmental Quality (MDEQ) promulgated, and Governor Snyder approved, an emergency cleanup criterion of 7.2 ppb for 1,4-dioxane, which criterion of 7.2 ppb has since been adopted on a non-emergency basis.

The City was granted permission to intervene in a lawsuit brought by the State of Michigan, through various state agencies, against Gelman Sciences, Inc., dba Pall Life Sciences regarding the 1,4-dioxane plumes originating on Gelman's property. Through this intervenor suit, the City joined negotiations regarding possible amendment to the consent judgment between the State and Gelman in the State's case.

In 2021, in the State's case, the Washtenaw County Circuit Court issued a response activity order that modified the parties' prior consent judgment. Gelman appealed and the Michigan Court of Appeals vacated the response activity order, reinstated the parties' prior consent order, and ordered the Washtenaw County Circuit Court to require the intervening Plaintiffs to either file complaints or be dismissed from the case. Following the Court's order, the City did not file an intervenor complaint and the intervenor case was dismissed without prejudice.

During that time, the City filed a separate complaint against Gelman in the Washtenaw County Circuit Court to enforce the parties' 2006 settlement agreement and have been in negotiations for the location of various wells pursuant to that settlement agreement. This is the only action against Gelman that remains.

Since the 9th Amendment with Bodman was entered in May of 2023, there was activity both in the City's intervenor case until it was dismissed and in the City's independent action to enforce the 2006 settlement. Including Amendments 1 through 9, the legal services contract with Bodman, PLC, has reached \$1,070,000.00 for legal services and expert fees.

Although the amount of time and cost of legal services going forward on the City's action to enforce the 2006 settlement agreement, and related negotiations cannot be predicted with certainty, the total cost of the firm's additional legal services for this fiscal year is expected to be approximately \$200,000.00.

Bodman, PLC, complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances;

Approval of this tenth amendment in the amount of \$200,000.00 to the professional services agreement with Bodman, PLC for the Gelman 1,4-dioxane litigation is recommended.

The approved FY 2024 Public Services Area Budget includes funding for outside legal services; however, does not have the capacity for the additional required services; therefore, an appropriation of funds is necessary.

Prepared by: Jennifer Richards, Assistant City Attorney

Reviewed by: Atleen Kaur, City Attorney

Approved by: Milton Dohoney Jr, City Administrator

Whereas, On October 27, 2016, the Michigan Department of Environmental Quality (MDEQ) promulgated, and Governor Snyder approved, an emergency cleanup criterion of 7.2 ppb for 1,4-dioxane, which criterion of 7.2 ppb has since been adopted on a non-emergency basis;

Whereas, The City was granted permission to intervene in the lawsuit brought by the State of Michigan, through various state agencies, against Gelman Sciences, Inc., dba Pall Life Sciences regarding the 1,4-dioxane plumes originating on Gelman's property;

Whereas, The City joined the negotiations regarding possible amendment to the consent judgment between the State and Gelman in the state's case and has pursued those negotiations with other parties who also were granted permission to intervene;

Whereas, The City filed a separate complaint against Gelman in the Washtenaw County Circuit Court to enforce the parties' 2006 settlement agreement and have been in negotiations for the location of various wells pursuant to that settlement agreement;

Whereas, additional legal services are needed to pursue the City's action to enforce the 2006 settlement agreement;

Whereas, The Bodman, PLC, law firm is well qualified to provide legal services representing the City relative to the Gelman 1,4-dioxane plumes, including representing the City in both negotiations and litigation over the 2006 settlement agreement;

Whereas, The City and firm entered into an initial contract for legal services, which has been amended nine times for a total contract amount of \$1,070,000.00;

Whereas, The City Attorney recommends a tenth amendment in the amount of \$200,000.00 to continue those legal and expert services; and

Whereas, Bodman, PLC, complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances;

RESOLVED, That a tenth amendment to the professional services agreement for legal services with Bodman, PLC, be approved in the amount of \$200,000.00 to provide continuing legal and expert services relative to the Gelman 1,4-dioxane plumes;

RESOLVED, That \$200,000.00 be appropriated from Water Supply System Fund Balance into the FY 24 Water Supply System Fund (0042) (\$200,000.00) operations and maintenance budget to fund this

tenth amendment to the professional services agreement;

RESOLVED, That the Mayor and City Clerk be authorized to execute the tenth amendment to the professional services agreement with Bodman, PLC, subject to approval as to form by the City Attorney; and

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

**A "scribner's error" was corrected on January 26, 2024 to correctly reflect the reference to the tenth amendment in the Third Resolved Clause.*