Legislation Details (With Text)

File #:	22-0979	**Version:**	1	**Name:**	6/6/22 Resolution to Approve Amendment 1 to RSJA PSA for legal services relative to Platt Convenience
Type:	Resolution			**Status:**	Passed
File created:	6/6/2022			**In control:**	City Council
On agenda:	6/6/2022			**Final action:**	6/6/2022
Enactment date:	6/6/2022			**Enactment #:**	R-22-183

Title: Resolution to Approve Amendment Number 1 to the Professional Services Agreement with Rosati, Schultz, Joppich, & Amtsbuechler P.C., for Legal Services

Sponsors:

Indexes:

Code sections:

Attachments: 1. Platt - ROSATI SCHULTZ AMENDMENT NO. 1 5-16-22.pdf

Date	Ver.	Action By	Action	Result
6/6/2022	1	City Council	Approved	Pass

Resolution to Approve Amendment Number 1 to the Professional Services Agreement with Rosati, Schultz, Joppich, & Amtsbuechler P.C., for Legal Services

Attached for your review and approval is a resolution to approve Amendment Number 1 to the Professional Services Agreement with Rosati, Schultz, Joppich, & Amtsbuechler P.C., for Legal Services Relative to *Platt Convenience, LLC v City of Ann Arbor*.

In October 2021, Platt Convenience, LLC, filed a lawsuit on behalf of a purported class challenging the City's stormwater fees as unlawful taxes imposed in violation of the Headlee Amendment, Mich. Const. 1963, Art 9, Secs 25-33, seeking to invalidate the City's ability to charge stormwater fees and for the return of stormwater fees collected from the purported class for the period starting one year prior to the date the complaint was filed (October 22, 2021) through judgment (if any) and fees and expenses.

This case was filed by the same law firm that filed *Hahn v City of Ann Arbor*, which was also a claimed class action challenging the City's water, sanitary sewer and stormwater fees which was dismissed voluntarily after the denial of Plaintiffs' motion for class certification. Platt Convenience's attorneys chose to file this case directly with the Michigan Court of Appeals as permitted under Michigan law.

The City Attorney selected Rosati, Schultz, Joppich & Amtsbuechler, P.C. as the law firm to provide specialized legal services for the *Platt Convenience* litigation because of its experience in defending other communities against similar utility fee lawsuits, its familiarity with the plaintiff's attorneys, its specialized experience in municipal law and municipal litigation, because it was already handling the *Hahn* litigation on the City's behalf, and its ability and capacity to prepare and file responsive pleadings for the City within the short period allowed.

Council approved an initial contract with the Firm in the amount of $90,000.00 for the initial response

stage of the litigation, which has been exhausted.

On April 1, 2022, the Michigan Court of Appeals referred the case to Washtenaw County Circuit Court for factual development, among other things, and it is now clear the City will need additional legal services from Rosati, Schultz, Joppich & Amtsbuechler, P.C. relative to the *Platt Convenience* litigation.

The City Attorney requests approval of Amendment Number 1 to the Professional Services Agreement with Rosati, Schultz, Joppich, & Amtsbuechler P.C. in the amount of $520,000.00 for legal services relative to *Platt Convenience*, which will result in a total contract amount of $610,000.00.

Rosati, Schultz, Joppich, & Amtsbuechler P.C. complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances.

Fiscal/Budget Impact: Funding for these services is available in the approved FY 23 Stormwater Operations and Maintenance budget.
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, LLC has filed a lawsuit against the City of Ann Arbor;

Whereas, The Rosati, Schultz, Joppich, & Amtsbuechler P.C. law firm was selected to provide specialized legal services for the City relative to its defenses in the *Platt Convenience* litigation, and City Council approved an initial Professional Services Agreement with the Firm in the amount of $90,000.00 which has been exhausted;

Whereas, The City has a continued need for specialized legal services to defend the *Platt Convenience* litigation, and Rosati, Schultz, Joppich, & Amtsbuechler P.C. is well qualified to continue to provide such legal services;

Whereas, Funding for these services was included in the FY 23 Stormwater Fund Operations and Maintenance Budget; and

Whereas, Rosati, Schultz, Joppich, & Amtsbuechler P.C., complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances;

RESOLVED, That City Council approve Amendment Number 1 to the Professional Services Agreement with Rosati, Schultz, Joppich, & Amtsbuechler P.C., in the amount of $520,000.00 for continued legal services relative to *Platt Convenience, LLC v City of Ann Arbor* for a total contract amount of $610,000.00;

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.