



Legislation Text

File #: 16-1684, **Version:** 1

Resolution to Approve First Amendment to Professional Services Agreement with Bodman, PLC, for Legal Services Relative to 1,4-Dioxane from Gelman Sciences, Inc., dba Pall Life Sciences (\$100,000.00)

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. Notwithstanding a consent judgment and amendments to that consent judgment between Gelman and the State of Michigan, and notwithstanding the settlement agreement between the City and Gelman, the plumes have continued to migrate and pose new threats to the health, safety and welfare of the residents of Ann Arbor and neighboring townships, including having a safe source for groundwater for the City's drinking water supply system.

Although the City entered into a settlement with Gelman in late 2006, the City did not release all future claims and reserved its right to bring those claims if they arose.

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, replacing the 85 ppb criterion that was previously in effect.

Under the circumstances, it is in the City's interest to pursue possible options, including litigation, relative to Gelman's obligations in light of both the new criterion and the continued migration of the 1,4-dioxane plumes.

The City Attorney selected the Bodman, PLC, law firm to provide advice and to draft and file a motion to intervene in the State's case against Gelman, and otherwise handle this matter. That selection is based on the firm's familiarity with the issues and details of this matter because of its representation of the City in the prior litigation against Gelman, and the firm's environmental experience and expertise.

The firm has done the initial work under a professional services agreement for legal services in an amount not to exceed \$25,000.00. However, to do the work required, an additional amount is required. Bodman, PLC, has calculated an estimate of \$100,000.00 for the legal service fees and costs for the initial work to continue this effort. That figure may need to change as matters progress and develop.

Fiscal/budget impact

Funds are available in the FY17 Water Supply Fund (0042)

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

Approval of a first amendment to the professional services agreement with Bodman, PLC, in the amount of \$100,000.00 for legal services relative to the Gelman 1,4-dioxane is recommended.

Prepared by: Abigail Elias, Chief Assistant City Attorney

Reviewed by: Stephen K. Postema, City Attorney

Approved by: Howard S. Lazarus, 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;

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

Whereas, Although the City entered into a settlement with Gelman in late 2006, the City did not release all future claims and reserved its right to bring those claims if they arose;

Whereas, It is in the City's best interest to pursue possible options, including litigation, relative to Gelman's obligations in light of both the new criterion and the continued migration of the 1,4-dioxane plumes;

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 litigation;

Whereas, The City and firm have already entered into a contract for an amount not to exceed \$25,000.00, and the firm has already filed a motion for the City to intervene in the State's case against Gelman, but additional amounts are required for the required legal services;

Whereas, The firm has calculated an estimated additional amount of \$100,000.00 for legal service fees and costs to provide those services; and

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

RESOLVED, That a first amendment to the professional services agreement for legal services with Bodman, PLC, be approved in the amount of \$100,000.00 to provide legal services relative to the Gelman 1,4-dioxane plumes;

RESOLVED, That this first amendment to the professional services agreement be funded from the FY17 Water Supply Fund, with the contract amendment amount of \$100,000.00 to be made available without regard to fiscal year;

RESOLVED, That the Mayor and City Clerk be authorized to execute 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.