

Mayor and Council Communication

DATE: 06/11/24

M&C FILE NUMBER: M&C 24-0510

LOG NAME: 60INCREASE FUNDING FOR MARTEN LAW LLP AND LLOYD GOSSELINK

SUBJECT

(ALL) Adopt Resolution Increasing Compensation Paid to Marten Law LLP and Lloyd Gosselink Rochelle & Townsend, P.C., by \$500,000.00 For a Total Amount Not to Exceed \$875,000.00 for Legal Services Related to Litigation Against Manufacturers, Distributors, and/or Users of Aqueous Film-Forming Foam Products and/or Per-and Polyfluoroalkyl Substances Involving the Water Department

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution increasing the compensation paid to Marten Law LLP and Lloyd Gosselink Rochelle & Townsend, P.C., by \$500,000.00 for a total amount not to exceed \$875,000.00 for legal services for the Water Department involving litigation against the manufacturers, distributors, and/or users of aqueous film-forming foam products and/or per-and polyfluoroalkyl substances.

DISCUSSION:

On October 31, 2023, by Mayor and Council Communication (M&C) 23-0915 and Resolution No. 5834-10-2023, the City Council approved the Law Firm of Marten Law LLP, as legal counsel to provide representation regarding the City's status as a class member in federal multi-district class action litigation (MDL) in which E.I. DuPont de Nemours and Company and the 3M Company are defendants, the amount was \$125,000.00. On November 28, 2023, by Resolution No. 5850-11-2023, the City Council authorized the commencement of litigation in the MDL against 3M, DuPont, other Aqueous Film-Forming Foam (AFFF) manufacturers, and other necessary defendants including, but not limited to, the United States Department of Defense, after fulfilling Federal Tort Claims Act jurisdictional prerequisites. On April 9, 2023, by Resolution 5930-04-2024, the City Council authorized the City to retain Marten Law LLP and Lloyd Gosselink Rochelle & Townsend, P.C. and increased the total compensation paid to Marten Law LLP and Lloyd Gosselink Rochelle & Townsend, P.C, by \$250,000.00, for a total amount of \$375,000.00.

The City continues to anticipate litigation will commence by the end of 2024. Marten Law LLP has performed additional work in order to satisfy jurisdictional prerequisites. Once suit is filed after satisfying jurisdictional prerequisites, there will likely be more fees generated necessitating future M&Cs for increased funding.

Adoption of this resolution will increase the amount of compensation to be paid to the Law Firms of Marten Law LLP and Lloyd Gosselink Rochelle & Townsend, P.C., by \$500,000.00, for a total amount of \$875,000.00.

Funding is budgeted in the Operating & Maintenance category in the Water and Sewer Fund for the Water Department.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the recommendation, funds are available in the current operating budget, as previously appropriated, in the Water and Sewer Fund. Prior to an expenditure being incurred, the Water Department has the responsibility to validate the availability of funds.

Submitted for City Manager's Office by: ALL ACMs 6122

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