



FIRST AMENDMENT TO PROFESSIONAL
SERVICES AGREEMENT NUMBER F002270
WITH GEARY, SHEA, O'DONNELL, GRATTAN
& MITCHELL P.C. FOR LEGAL
REPRESENTATION

City Council Meeting
June 29, 2021

Sue Gallagher, City Attorney
Jennifer Burke, Director of Santa Rosa Water

BACKGROUND

- Effective October 19, 2019, the City entered into a Professional Services Agreement (PSA) with Geary, Shea, O'Donnell, Grattan & Mitchell, P.C. (Geary lawfirm) in the amount of \$75,000 for legal representation in the matter of *Pelayo, et al. v. Utility Partners of America, City of Santa Rosa, et al.* (Lawsuit).

ANALYSIS

- The Lawsuit concerns a contract executed in 2015, through which the City engaged Utilities Partners of America (UPA) for installation of approximately 35,000 smart water meters throughout the City. UPA hired plaintiff Pelayo and others to perform the individual installations. Pelayo and others filed suit in the spring of 2019, alleging that UPA had failed to pay appropriate prevailing wages. UPA, in turn, filed a cross-claim against the City seeking defense and indemnification.
- The Lawsuit has taken a number of unexpected turns, including UPA's disputed rejection of the City's tender of defense. The complexity of the litigation has thus increased, both from a procedural and substantive perspective.

ANALYSIS

- The original PSA, effective as of October 19, 2019, included a compensation limit of \$75,000. After review of upcoming legal proceedings, it has been determined that it is in the best interest of the City to amend the PSA to add additional compensation of \$100,000 to allow for the continued legal representation by the Geary lawfirm.

RECOMMENDATION

It is recommended by the City Attorney and the Director of Santa Rosa Water that the Council, by resolution, approve the First Amendment to Professional Services Agreement Number F002270 with Geary, Shea, O'Donnell, Grattan & Mitchell, P.C. in the amount of \$100,000 for a total contract amount not to exceed \$175,000 for continued legal representation in the matter of Pelayo, et al. v. Utility Partners of America, City of Santa Rosa, et al.