

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, CITY ATTORNEY
SUBJECT: FOURTH AMENDMENT TO PROFESSIONAL SERVICES
AGREEMENT NUMBER F002672 WITH GEARY, SHEA,
O'DONNELL, GRATTAN & MITCHELL P.C. FOR CONTINUED
LEGAL REPRESENTATION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney that the Council, by resolution: 1) approve the Fourth Amendment to Professional Services Agreement Number F002672 with Geary, Shea, O'Donnell, Grattan & Mitchell, P.C. increasing compensation by \$190,000, for a total contract amount not to exceed \$540,000, for continued legal representation through trial in the matter of *Vannucci, et al. v. County of Sonoma, City of Santa Rosa, et al.*, United States District Court for the Northern District of California, Case 18-CV-01955-VC; 2) delegate authority to the City Attorney to execute the agreement; and 3) appropriate \$290,000 from unassigned General Fund reserves to the City Attorney's professional services budget to fund the continued legal services in *Vannucci* through trial.

EXECUTIVE SUMMARY

The City entered into Professional Services Agreement Number F002672 with Geary, Shea, O'Donnell, Grattan & Mitchell, P.C. (Geary law firm) effective August 17, 2023 for representation in the matter of *Vannucci, et al. v. County of Sonoma, City of Santa Rosa, et al.*, United States District Court Northern District of California, Case 18-CV-01955-VC, (*Vannucci*) in an amount not to exceed \$100,000. A First Amendment was entered into to amend the Scope of Services to include representation of the City in *Cressy, et al. v. California Department of Transportation, City of Santa Rosa, et al.*, United States District Court, Northern District of California Case C23-05201-WHO (*Cressy*).

BACKGROUND

Vannucci, originally served on the City of Santa Rosa in April 2018, concerns a Complaint for Declaratory Relief and Injunctive Relief related to homeless

encampments within the City. Three individuals and an advocacy group known as Homeless Action! filed suit against Sonoma County, the County Community Development Commission, and the City, alleging a variety of claims, including that enforcement of camping ordinances against individuals experiencing homelessness was cruel and unusual punishment in violation of the 8th Amendment of the Constitution.

In 2019, the parties in *Vannucci* entered into a stipulated injunction related to the process by which enforcement of the City's camping ordinance could occur. Although the stipulated injunction expired in 2021, the City has continued to voluntarily comply with its terms.

As a result of attorney vacancies in the City Attorney's office and the exceedingly large volume of documents involved in *Vannucci*, the case was transferred to outside legal counsel in August 2023 by the then-Interim City Attorney. Effective, August 17, 2023, the City entered into a Professional Services Agreement (Agreement) for legal representation in *Vannucci* by the Geary law firm and a First Amendment was entered into on December 6, 2023, to add legal representation in the *Cressy* matter, a separate lawsuit brought against CalTrans, Sonoma County and the City by individuals experiencing homelessness, that was ultimately dismissed.

Vannucci was stayed pending the United States Supreme Court's decision in *Grants Pass v. Johnson, et al.*, a case involving an 8th Amendment challenge to the enforcement of a camping ordinance in Grants Pass, Oregon. On February 13, 2024, Council approved a Second Amendment to the Agreement adding additional funds for legal services needed through the end of the stay. At that time, the City Attorney informed Council that she would return to Council after the Supreme Court ruled in *Grants Pass* with a request for additional funding needed for representation of the City in *Vannucci* through trial.

On June 28, 2024, the Supreme Court issued a ruling in *Grants Pass* holding that laws regulating camping on public property do not violate the Eight Amendment. Following the Supreme Court's ruling, the stay has been lifted in *Vannucci* and trial has now been set for October 6, 2025.

A Third Amendment to Professional Services Agreement was entered into on August 20, 2024, in the amount of \$100,000 at the staff level to fund part of the legal services needed through trial. Any further amendment to add funds to the Agreement requires City Council approval.

PRIOR CITY COUNCIL REVIEW

On February 13, 2024, by Resolution RES-2024-025, Council approved a Second Amendment to the Professional Services Agreement Number F002672 adding compensation and amending the scope of services.

FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT NUMBER
F002672 WITH GEARY, SHEA, O'DONNELL, GRATTAN & MITCHELL P.C. FOR
LEGAL REPRESENTATION
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ANALYSIS

The City Attorney recommends that the Council approve a Fourth Amendment to the Agreement with the Geary law firm to add an additional \$190,000 in compensation, for a total compensation amount not to exceed \$540,000 under the Agreement as amended. That funding level is anticipated to be sufficient for all legal services rendered to date in both *Vannucci* and *Cressy* and ongoing legal services needed in *Vannucci* through trial.

Additionally, the City Attorney recommends that the Council appropriate \$290,000 from unassigned General Fund reserves to fund the additional compensation added by the Third and proposed Fourth Amendments to the Agreement.

FISCAL IMPACT

Funding for the \$100,000 in compensation added by the Third Amendment to the Agreement and the \$190,000 in compensation to be added by the proposed Fourth Amendment to the Agreement is requested to be appropriated from unassigned General Fund reserves in a total amount of \$290,000. The current year budgeted deficit is \$13,300,000 this will increase the deficit to \$13,590,000.

ENVIRONMENTAL IMPACT

The action is not a project subject to the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15378(b)(4) because it is a fiscal activity, which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution / Exhibit A (Fourth Amendment to PSA F002672)

PRESENTER

Teresa Stricker, City Attorney