

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, CITY ATTORNEY
JILL SCOTT, REAL ESTATE MANAGER
TRANSPORTATION & PUBLIC WORKS
SUBJECT: FIFTH AMENDMENT TO PROFESSIONAL SERVICES
AGREEMENT NUMBER F002259 WITH BEST BEST & KRIEGER
LLP FOR REAL ESTATE LEGAL SERVICES

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney and the Transportation and Public Works Department that the Council, by resolution: (1) approve the Fifth Amendment to Professional Services Agreement Number F002259 with Best Best & Krieger LLP to extend services and to increase compensation by \$140,000 for a total contract amount not to exceed \$640,000 for continued legal advice relating to real estate matters; (2) delegate authority to the City Attorney to execute the Fifth Amendment; and (3) appropriate \$140,000 from unassigned General Funds to the City Attorney's professional services budget to fund continued real estate legal services.

EXECUTIVE SUMMARY

On November 4, 2020, the City entered into a Professional Services Agreement (Agreement) with Best Best & Krieger in the amount of \$100,000 for legal advice and assistance to the City of Santa Rosa on real estate transactions, development projects and related matters. The Agreement was amended by a First, Second, Third and Fourth Amendment all increasing compensation by \$100,000 for a total not to exceed amount of \$500,000.

The City Attorney's Office has evaluated its use of outside real estate counsel in coordination with Real Estate Services and the City Manager's Office and has determined it is in the best interest of the City to continue use of outside counsel for specialized real estate support until the end of the fiscal year as the City continues its recruitment to fill two vacant Assistant City Attorney positions. Accordingly, the City Attorney's Office recommends amending the Agreement to add an additional \$140,000 in compensation for specialized real estate legal advice for the rest of the fiscal year.

BACKGROUND

In November 2020, the City entered into an Agreement with Best Best & Krieger LLP to assist with complex real estate transactions and to offer general real estate related legal advice.

On June 29, 2021, by Resolution RES-2021-118, the Council approved the First Amendment to the Agreement increasing compensation by \$100,000.

On July 5, 2022, the City entered into a Second Amendment to the Agreement increasing compensation by an additional \$100,000 for continued legal services.

On August 22, 2023, by Resolution RES-2023-146, the Council approved the Third Amendment to the Agreement increasing compensation by \$100,000.

On March 5, 2024, the City entered into a Fourth Amendment to the Agreement increasing compensation by an additional \$100,000 for continued legal services.

PRIOR CITY COUNCIL REVIEW

On June 29, 2021, by Resolution RES-2021-118, the Council approved the First Amendment to the Agreement increasing compensation by \$100,000.

On August 22, 2023, by Resolution RES-2023-146, the Council approved the Third Amendment to the Agreement increasing compensation by \$100,000.

ANALYSIS

For the last four years, the City of Santa Rosa has had a continuing need for specialized legal services related to real estate transactions, development projects and other general real estate advice. The City Attorney's Office currently does not have available resources to assist the Real Estate Services team with ongoing and upcoming real estate transactions.

The City Attorney's Office recently hired a new Chief Assistant City Attorney who has real estate expertise. The Chief Assistant City Attorney will eventually take over providing routine real estate legal services for the City to reduce City's reliance on outside real estate legal counsel for routine real estate transaction and advisory matters.

Given the two current attorney vacancies and the overall volume of work in the City Attorney's Office, however the Chief Assistant City Attorney will continue to fill other substantive areas left open by the two vacant positions and support other needs in the office. Until the vacancies are filled and a meaningful amount of real estate work can be shifted to the Chief Assistant City Attorney, the Office recommends continued

engagement of Best Best & Krieger for ongoing real estate work to ensure appropriate support for the Real Estate Services team for the remainder of the fiscal year.

To date, Best Best & Krieger has provided the needed real estate legal advice in a professional, efficient, effective manner. The firm has shown the depth of its knowledge and expertise and has been timely and responsive.

Compensation under the Agreement has now been exhausted. Based on consultation with the City Manager's Office and Real Estate Services Team about the anticipated scope of real estate legal service needs for the remaining fiscal year, the City Attorney recommends amending the Agreement to add additional compensation of \$140,000 to allow for continued legal services. This proposed amount consists of \$55,155 for outstanding invoices for the months of September, October and November after a significant uptick of real estate legal service needs, and an estimated monthly budget of \$12,000 for continued legal services for December through the remainder of the fiscal year. This proposed amount assumes that there will not be any new large or complex projects that require substantial real estate legal services before the end of the fiscal year. If such large or complex projects were to move forward in that timeframe, additional funding may be required.

FISCAL IMPACT

Funding for the compensation added by the Fifth Amendment to the Agreement is requested to be appropriated from unassigned General Fund reserves in a total amount of \$140,000. The current year budgeted deficit is \$13,700,000, this will increase the deficit to \$13,840,000.

ENVIRONMENTAL IMPACT

The proposed action is not a project subject to the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15378 because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. .

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution/Exhibit A (Fifth Amendment to Agreement)

PRESENTER

Teresa Stricker, City Attorney