



Agenda Item

300 E. Chapman Avenue
Orange, CA 92866

City Council

Item #: 3.10.

4/13/2021

File #: 21-0167

TO: Honorable Mayor and Members of the City Council

THRU: Rick Otto, City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

Second Amendment to Attorney Services Agreement with Everett Dorey LLP to provide legal services related to litigation defense in the matter of *Christine Haynes v. City of Orange*.

2. SUMMARY

The City currently has an agreement and first amendment with Everett Dorey LLP to provide litigation services for the City's defense in the matter of *Christine Haynes v. City of Orange*, for an amount not to exceed \$80,000, which will soon be expended. The proposed Second Amendment will increase the not to exceed amount by \$100,000 for a total amount not to exceed \$180,000.

3. RECOMMENDED ACTION

1. Approve a Second Amendment to Attorney Services Agreement with Everett Dorey LLP in the amount of \$100,000 and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the appropriation of \$100,000 from the General Fund unreserved fund balance to expenditure account number 100.0301.51600.00000, General Fund - Legal Services.

4. FISCAL IMPACT

The total expenditure for this amendment is \$100,000 and will be funded through General Fund (100).

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

- a. Expend fiscal resources responsibly.

6. DISCUSSION AND BACKGROUND

The City has retained the law firm of Everett Dorey, LLP, to provide legal services with respect to litigation defense in the matter of *Christine Haynes v. City of Orange*. This case was previously handled by in-house staff, however the attorney assigned to the case departed from city employment in late 2020. As a result, the case was transferred to the litigation defense firm.

While the City Attorney's Office handles most litigation matters, the City does contract with outside counsel when the specialized expertise, complexity, or burden on staff time requires such. This case involves allegations of catastrophic personal injuries suffered from a trip and fall caused by a sidewalk off-set. The parties were unable to resolve this case and the matter, originally scheduled for

trial in November, proceeded to trial at the end of February.

The Second Amendment of the agreement to increase the not to exceed amount by \$100,000 is necessary to carry out an appropriate defense in this case. Most of the costs associated with the requested amendment were incurred preparing for and conducting the in-person jury trial that resulted in a unanimous defense verdict in favor of the City. Due to the success at trial, a motion is currently pending seeking reimbursement for costs and expert witness fees associated with trying the case. Any costs awarded to the City will be replenished to the General Fund.

7. ATTACHMENTS

- Second Amendment to Attorney Services Agreement