



Agenda Item

City Council

Item #: 3.8.

10/13/2021

File #: 21-0546

TO: Honorable Mayor and Members of the City Council

THRU: Bonnie Hagan, Acting City Manager

FROM: Gary A. Sheatz, City Attorney

1. SUBJECT

First Amendment to Attorney Services Agreement with Everett Dorey LLP to provide legal services, including representation and defense of the City, relative to the termination of the License Agreement with Mary's Kitchen.

2. SUMMARY

The City currently has an agreement with Everett Dorey, LLP, to provide legal services for the representation and defense of the City relative to the termination of the License Agreement with Mary's Kitchen, for an amount not to exceed \$30,000. This matter is being actively litigated through the temporary restraining order and preliminary injunction proceedings and the amount of the original agreement will soon be expended. The proposed First Amendment will increase the agreement amount by \$100,000 for a total amount not to exceed \$130,000.

3. RECOMMENDED ACTION

1. Approve a First 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

While the City Attorney's Office handles most litigation matters in-house, the City does contract with outside counsel when the complexity of a case, or a significant burden to staff time requires additional staffing expertise. The litigation in this case involves multiple allegations, including a request for class action status, in State and Federal Court. This type of litigation is document and time sensitive and involves technical issues and complex remedies, which are time consuming and

would over-burden in-house legal staff.

As such, the City has retained the law firm of Everett Dorey, LLP, to provide legal services with respect to litigation defense in the matter of *Mary's Kitchen, et. al, v. City of Orange*. Everett Dorey LLP is a full service litigation firm that provides specialized services to public entities, with an expertise in handling the issues raised in this case.

The First Amendment of the agreement, to increase the not to exceed amount to \$130,000, is necessary to carry out further defense of the City in this case.

7. ATTACHMENTS

- First Amendment to Attorney Services Agreement