



# AGENDA REPORT

Department: City Attorney's Office  
Prepared by: Barry J. Schultz, City Attorney  
Meeting Date: Tuesday, September 5, 2023  
Approved by: Ben Martinez, Interim City Manager

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**SUBJECT:**

Approval of the Third Amendment to the Agreement between the City and Devaney Pate Morris & Cameron LLP for legal services.

**RECOMMENDATION:**

Adopt the Resolution Entitled, "Resolution of the City Council of the City of National City, California, Approving the Third Amendment to the Agreement Between the City and Devaney Pate Morris & Cameron LLP for Legal Services in the Specialized Area of General Civil Litigation Defense Arising from Government Claims by Increasing the Not-to-Exceed Amount by \$ 50,000 for a New Total Not-to-Exceed Amount of \$ 250,000 Pertaining to Litigation Titled Cummins v. City.

**BOARD/COMMISSION/COMMITTEE PRIOR ACTION:**

Not Applicable.

**EXPLANATION:**

On November 16, 2021, the City entered into an agreement with Devaney Pate Morris & Cameron LLP for specialized services in General Civil Litigation Defense arising from Government Claims, which include consultation with the City Attorney and Risk Management on Government Claims, defense of the City on litigated matters, advice and counsel to the City Council, and communications with City staff for an amount not-to-exceed \$75,000.00 per case and out of pocket disbursements pursuant to the Agreement.

On March 21, 2023, the parties amended the Agreement as it pertains to the case titled *Ashley Cummins v. City of National City* to cover the cost of providing the increase scope of services from the original amount of \$75,000 by increasing the not-to-exceed amount by \$75,000.00, for a new total not-to-exceed amount of \$150,000.

On June 20, 2023, the parties amended the Agreement as it pertains to the case titled *Ashley Cummins v. City of National City* to cover the cost of providing the increase scope of services from the not-to-exceed amount of \$150,000 by increasing the not-to-exceed amount by \$50,000.00, for a new total not-to-exceed amount of \$200,000.

The City Attorney's Office desires to amend the agreement by increasing the not-to-exceed amount by \$ 50,000 for a new total not-to-exceed amount of \$ 250,000 pertaining to litigation titled Cummins v. City.

**FINANCIAL STATEMENT:**

Additional contract cost will be paid from existing budget appropriations in the following account:  
627-405-081-432-0000 Risk Liability Claim Cost Account

**RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:**

Not Applicable

**ENVIRONMENTAL REVIEW:**

This is not a project under CEQA and is therefore not subject to environmental review.CCR15378;  
PRC 21065.

**PUBLIC NOTIFICATION:**

Agenda Report posted within 72 hours of meeting date and time in accordance with Brown Act.

**ORDINANCE:**

Not Applicable

**EXHIBITS:**

Exhibit A – Third Amendment to Agreement

Exhibit B - Resolution