

Agenda Item # \_\_\_\_\_  
For Council Meeting of: November 10, 2009

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
SUBJECT: AUTHORIZATION FOR CITY MANAGER, JEFF KOLIN TO  
HAVE SIGNATORY AUTHORITY FOR THE SETTLEMENT  
AGREEMENT BETWEEN THE UNITED STATES  
ATTORNEY GENERAL'S OFFICE AND THE CITY OF  
SANTA ROSA; AND FOR THE FUNDING OF THE  
EXPENSES TO BRING THE CITY INTO COMPLIANCE  
UNDER THE ADA OUTLINED IN THE AGREEMENT  
STAFF PRESENTER: MARDELL MORRISON, LIABILITY ANALYST/ADA  
COORDINATOR  
RISK MANAGEMENT DEPARTMENT  
AGENDA ACTION: RESOLUTION

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ISSUE(S)

1. Should the Council, by resolution, approve and authorize the City Manager, Jeff Kolin, to sign a settlement agreement with the US Attorney General's Office; and
2. Authorize necessary funding needed to comply with the terms of that agreement over the next five budget year periods through 2014?

BACKGROUND

On January 28, 2008, United States Department of Justice (Department) initiated a compliance review of the City of Santa Rosa under title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131-12134, and the Department's implementing regulation, 28 C.F.R. Part 35. Because the Santa Rosa receives financial assistance from the Department of Justice, the review was also conducted under the authority of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Department's implementing regulation, 28 C.F.R. Part 42, Subpart G.

The City Attorney, Risk Manager and the ADA Coordinator have spent five months negotiating with the representatives of the Department of Justice regarding the required improvements and time frames and have reached a tentative agreement to resolve these issues.

## ANALYSIS

1. From January 28 through February 1, 2008, The US Attorney General's office (USAG) conducted an audit of the City of Santa Rosa under its Project Civic Access. The audit included review of City Policies, Programs, and Facilities under the rules of the ADA to assist the City in eliminating physical and communication barriers that prevent people with disabilities from participating fully in our community life.
2. As part of its compliance review, the USAG reviewed the following facilities, which, because construction or alterations commenced after January 26, 1992, must comply with the ADA's new construction or alterations requirements: A Place to Play, Bellevue Ranch Park, Bicentennial Park, Frank Nielson Park, Laguna Wastewater Treatment Plant, Martin Luther King Park, Transit Operation, Nagasawa Park, Parks and Recreation Annex, Rincon Valley Library, Southwest Community Park, Bennett Valley Golf Course, Franklin Park, Garage #12, General Services, Howarth Park, Ridgeway Swim Center, and Sam Jones Community Center.
3. The USAG's program access review covered those of the City's programs, services, and activities that operate in the following facilities: Bennett Valley Senior Center, Benton Street Clubhouse, Central Library, City Hall, City Hall Annex, Doyle Park, , Finley Aquatic Community Center and Park, Fire Station #2, Fire Station #4, Galvin Community Park, Garage #1, Garage #3, Garage #5, Garage #9, Julliard Park, Luther Burbank Home and Gardens, Municipal Service Center - South, Municipal Service Center - North, North Park, Northwest Community Park, Northwest Library, Public Safety Building, Rincon Park, Sonoma County Museum (Old Post Office), Steele Lane Community Center, and Youth Park.
4. The USAG reviewed the City's policies and procedures regarding emergency management and disaster prevention and sidewalk maintenance to evaluate whether persons with disabilities have an equal opportunity to utilize these programs.
5. Finally, the USAG reviewed the City's Police Department's policies and procedures regarding providing effective communication to persons who are deaf or hard-of-hearing.
6. On May 13, 2009, the City received a draft Settlement Agreement from the USAG including scopes of the non-compliant elements found in their audit. City staff reviewed and inspected all variances and negotiated the terms of the final draft.
7. As a part of the agreement, the City has retained the services of a consulting firm to assist in updating the current Emergency Operations Plan to bring it into compliance with ADA requirements with final draft to be completed at a cost of \$45,000 over the next twelve month period.

8. Estimated expenses for bringing the City into compliance are approximately \$2,000,000 for facility improvements and additional expense requirements for Public Work sidewalk curb cut projects.
9. As a part of the agreement, within 24 months the City is required to self-audit facilities not included in the scope of the USAG inspections. To comply with this requirement, the City has retained the services of a Certified Accessibility Specialist program (CASP) consultant to survey facilities that were not audited by the USAG, to be completed over the next 24 months at a cost of \$50,000. The City is required to submit a plan to address any alterations needed to bring those facilities into compliance, which will be brought back to Council for approval.
10. It is a violation of the Agreement for the City to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement with the Department for an extension of the relevant time frame imposed by the Agreement.

### RECOMMENDATION

It is recommended by the City Attorney's and Risk Management offices that City Council grant City Manager, Jeff Kolin signatory authority on the Final Settlement Agreement between the City and the US Attorney General's Office and that funding sources be diverted to the projects necessary to bring the City into compliance required in that Agreement.

Author: Mardell Morrison

#### Attachments:

- SETTLEMENT AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF SANTA ROSA, CALIFORNIA UNDER THE AMERICANS WITH DISABILITIES ACT DJ 204-11-284
- ATTACHMENT I: Modifications to Newly Constructed Facilities
- ATTACHMENT J: Modifications to Altered Facilities
- ATTACHMENT K: Program Access in Existing Facilities
- ATTACHMENT L: City Staff Estimates for Required Improvement to Attachments I, J, K.