



City of San Leandro

Meeting Date: June 15, 2015

Staff Report

File Number: 15-361

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.K.

TO: City Council

FROM: Chris Zapata
City Manager

BY: City Council

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for Amendment of Legal Services Agreement with Meyers Nave

SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council consider Meyers Nave's request for an Amendment and one-year extension of its Agreement to provide legal services for the City of San Leandro, commencing on July 1, 2014 and concluding on June 30, 2015.

BACKGROUND

The City of San Leandro entered into a Professional Services Agreement with Steven R. Meyers in 1986, to provide contract legal services to the City and its agencies, and to perform the functions, duties and responsibilities of the City Attorney, as set forth in the City's Charter. In 2000, Amendment No. 1 assigned the Professional Services Agreement to Meyers Nave, a professional corporation. Amendment No. 2 and Amendment No. 3 were approved in 2005 and 2008, respectively. The above contracts were structured such that a fixed monthly retainer was provided to Meyers Nave in exchange for the firm's legal services.

In February 2013, the City of San Leandro contracted with Municipal Resource Group, LLC ("MRG") to complete an analysis of the City's legal services agreement framework. As part of this analysis, MRG completed an extensive review of the costs associated with the agreement, as well as a benchmark survey of nine other jurisdictions in Alameda and Contra Costa counties, including the cities of Alameda, Berkeley, Fremont, Hayward, Livermore, Pleasanton, Union City, Pittsburg, and Richmond.

Based upon the results of this analysis, the City Council ultimately negotiated a new agreement with Meyers Nave that eliminated the flat retainer structure, which was replaced by a fee-for-service arrangement. Based upon the MRG analysis, this structure was designed to simplify the administration of the contract and ultimately reduce the City's costs. This analysis subsequently was presented to the City Council for consideration on February 19, 2013.

On May 20, 2013, the City Council voted to adopt a new 13-month agreement with Meyers Nave, effective June 1, 2013 through June 30, 2014, which was then extended on June 16, 2014 for an additional 12 months, through June 30, 2015. The current agreement utilizes the fee-for-service cost structure outlined above, with annual fees for service not-to-exceed \$783,200 during the contract period, which includes a \$50,000 set-aside for use by the City Manager at his discretion to retain special counsel.

Analysis

The City of San Leandro has now been operating under the new contractual structure for approximately two years, and based upon staff's analysis, the current contract structure is effective in controlling costs and generated financial savings as predicted by the MRG analysis. In the current fiscal year concluding on June 30, 2015, projections indicate that total fees for city attorney/general counsel services will remain at least 20% below the not-to-exceed threshold that was adopted by the City Council as part of the current contract.

Meyers Nave requests that the City Council extend the existing contract for legal services by an additional 12-month period, i.e. through June 30, 2016 (see associated "Amendment No. 2 to Agreement for Legal Services"). As part of this contract amendment, Meyers Nave requests approval to increase the hourly billing rates (e.g. from \$220/hour to \$230/hour for general legal services; from \$145/hour to \$150/hour for paralegal services; from \$274/hour to \$280/hour for all litigation services, as well as other minor adjustments as further outlined in the attached agreement). The total annual budget for legal services would increase from \$783,200 to \$802,780.

Fiscal Impacts

For Fiscal Year 2015-16, the budget for "city attorney/general counsel services" is \$802,780. This amount includes a \$50,000 set-aside that may be used by the City Manager at his discretion for outside legal services, consistent with the existing Agreement. Per the Agreement, Meyers Nave's contract is to a not-to-exceed amount that constitutes a "hard cap" in the budget that the City Council has no obligation to increase. Additional details are provided in the associated Resolution, to which the draft contract Amendment No. 2 has been attached.

Budget Authority

Sufficient funds for the 12-month contract extension have been included in the FY 2016-17 biennial budget that was adopted by the City Council on June 1, 2015.

ATTACHMENT

Attachment to Resolution

- Amendment No. 2 to Legal Services Agreement

PREPARED BY: Eric Engelbart, Assistant to the City Manager, City Manager's Office



City of San Leandro

Meeting Date: June 15, 2015

Resolution - Council

File Number: 15-362

Agenda Section: CONSENT CALENDAR

Agenda Number:

TO: City Council

FROM: Chris Zapata
City Manager

BY: City Council

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION Approving Amendment No. 2 to Current Agreement for Legal Services with Meyers, Nave, Riback, Silver & Wilson ("Meyers Nave") (extends the existing agreement for one year in an amount not to exceed \$802,780)

WHEREAS, Amendment No. 2 to the existing agreement for legal services between the City of San Leandro and Meyers Nave for an amount not to exceed \$802,780, which includes a \$50,000 set aside for the retention of special counsel at the discretion of the City Manager in consultation with the City Attorney, is presented to the City Council; and

WHEREAS, the City Council is familiar with the contents thereof.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said amendment is hereby approved and execution by the City Manager is hereby authorized.

AMENDMENT NO. 2 TO AGREEMENT FOR LEGAL SERVICES BETWEEN THE CITY OF SAN LEANDRO AND THE LAW FIRM OF MEYERS NAVE RIBACK SILVER & WILSON

This 2nd Amendment ("Amendment") to Agreement for Legal Services ("Agreement") is entered into by and between the City of San Leandro ("City") and Meyers Nave Riback Silver & Wilson to amend that certain Agreement dated effective June 1, 2013, and subsequent Amendment No. 1 effective July 1, 2014. This Amendment in no way alters the terms and conditions of the Agreement, or Amendment No. 1 except as specifically set forth herein. The effective date for this Amendment shall be July 1, 2015.

AMENDMENTS

Section 1 (Appointment of City Attorney) shall be amended to state as follows: "City retains Meyers Nave and appoints Richard D. Pio Roda (hereinafter referred to as "Attorney") as City Attorney; and Jennifer E. Faught and Kristopher Kokotaylo as Assistant City Attorneys. Meyers Nave and Attorney agree to faithfully represent the legal interests of the City during the term of this Agreement."

Section 4a (Compensation) shall be amended such that for all legal services rendered in FY 2015-2016 other than those described in Sections 4(b) and 4(c) of the Agreement, the City will compensate Meyers Nave in the amount of \$230 per hour for all attorney services whether by Attorney (Richard D. Pio Roda, the City Attorney) or by other attorneys associated with Meyers Nave, and will compensate Meyers Nave \$150 per hour for all paralegal services;

Section 4b: Attorney, through Meyers Nave, shall be compensated in the amount of \$280 per hour for all litigation services (as defined in Section 2B of the Agreement) rendered in FY 2015-2016 whether by Attorney or by other attorneys associated with Meyers Nave. As provided in the current Agreement, it nevertheless bears reiterating that these rates are only applicable if the City selects Meyers Nave to provide litigation services; the City has the discretion to select any other qualified firm to provide litigation services, which it has done for several cases since the current Agreement's execution;

Section 4c: For all legal services for which the City is reimbursed by third parties, referred to in the Agreement as "Cost Recovery Work," Meyers Nave will be compensated in FY 2015-2016 at between \$280 and \$375 per hour depending on the experience level of the Meyers Nave attorney assigned to the project.

Sections 4(f), 4(g), and 4(h) shall be amended to coincide with a 12-month agreement at the new not-to-exceed threshold of \$802,780 (exclusive of reimbursable costs). This amount continues to include a \$50,000 set-aside that may be used at the discretion of the City Manager in consultation with the City Attorney for the retention of separate legal counsel.

Section 16 (Term of Agreement) shall be extended by a term of twelve (12) months, i.e. from July 1, 2015 to June 30, 2016. The agreement shall continue to be terminable by the City at will and by Attorney upon 30 days' written notice.

IN WITNESS WHEREOF, City and Meyers Nave have executed this Amendment as of the Effective Date.

CITY OF SAN LEANDRO:

Chris Zapata, City Manager

Date

ATTEST:

Tamika Greenwood, City Clerk

Date

MEYERS NAVE RIBACK SILVER & WILSON P.C.

David Skinner, Managing Principal

Date

2283687.1