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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 from July 1, 2014 through 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 ("MRC") to complete an analysis of the City's legal services agreement framework. As part of this analysis, MRC 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, MRC provided three possible options for the City Council's consideration:

- 1) Continue to Contract for City Attorney services

- 2) Implement an In-House City Attorney's Office
- 3) Issue a Request for Proposals for City Attorney Services

The attached MRC report also recommended that if the City Council ultimately proceeded with Option 1, that it should attempt to negotiate into a new agreement that eliminated the flat retainer structure, to be replaced by a fee-for-service arrangement. Based upon the MRC analysis, this structure would simplify the administration of the contract and ultimately reduce costs for the City. This analysis subsequently was presented to the City Council for its consideration on February 19, 2013.

On May 20, 2013, the City Council voted to adopt a new 13-month agreement (attached) with Meyers Nave, to be effective from June 1, 2013 through June 30, 2014. Consistent with the approach outlined in Option 1, the agreement incorporated a fee-for-service cost structure, with annual fees for service not to exceed \$778,700 during the contract period, which included a \$50,000 set-aside for retention by the City Manager of special counsel. This amount became the general city attorney services budget for the City, effectively creating a budget cap of \$778,700 for all general counsel type legal services.

Analysis

The City of San Leandro has now been operating under the new contractual structure for nearly one year, and based upon staff's analysis, the current contract structure has been effective in controlling costs and has generated financial savings as predicted by the MRC analysis. Specifically, to date the City has expended approximately \$479,125 on City Attorney services, and staff's projections indicate that any outstanding expenditures for the remainder of the current fiscal year will remain below the not-to-exceed threshold that was adopted by the City Council as part of the current contract.

Fiscal Impacts

For Fiscal Year 2014-2015, the amended not-to-exceed amount for "city attorney/general counsel services" would be \$783,200 (exclusive of reimbursable costs) budgeted in the City Attorney division account. This amount includes a \$50,000 set-aside that may be used by the City Manager at his discretion for outside legal assistance, consistent with the existing Agreement. Per the Agreement, this not-to-exceed amount is a "hard cap" that the City has no obligation to increase. These costs incorporate a 2% increase from the prior fiscal year in order to reflect changes in the Consumer Price Index (CPI) for the San Francisco/Oakland/San Jose Bay Area Region over the past year. Additional details are provided in the associated Resolution, to which the draft contract Amendment has been attached.

ATTACHMENT

Attachments to Staff Report

- Legal Services Report from Municipal Resource Group, LLC
- Current Legal Services Agreement

Attachment to Resolution

- Amendment No. 1 to Legal Services Agreement

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