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Staff Report for a Resolution Approving a 5-Year Legal Services Agreement with Meyers, Nave, Riback, Silver & Wilson ("Meyers Nave") in an amount not to exceed \$824,415 in FY 2016-17

SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council consider Meyers Nave's request for a new five-year Agreement to provide legal services for the City of San Leandro, commencing on July 1, 2016 and concluding on June 30, 2021.

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 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; Alameda, Berkeley, Fremont, Hayward, Livermore, Pleasanton, Union City, Pittsburg, and Richmond.

Based upon 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. Per 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 from June 1, 2013 through June 30, 2014, which was subsequently extended for two additional twelve-month periods, with the current agreement set to expire on June 30, 2016. The current agreement continues to utilize the fee-for-service cost structure outlined above, with a not-to-exceed cap of \$802,780 that includes a \$50,000 set-aside for use at the City Manager's discretion in consultation with the City Attorney to retain separate outside legal counsel.

Analysis

The City has now been operating under the new contractual structure for approximately three years, and based upon staff's analysis, the current contract structure is effective in controlling costs and generating financial savings as predicted by the MRG analysis. In the current fiscal year concluding on June 30, 2016, projections indicate that total fees for city attorney/general counsel services will remain approximately 20% below the not-to-exceed threshold that was adopted as part of the current contract.

Following several months of negotiations with the City Council, Meyers Nave now requests that the City Council authorize a new contract for legal services for a 5-year period, i.e. commencing July 1, 2016 and concluding June 30, 2021. As part of this proposed new contract, Meyers Nave will provide a \$550,000 volume discount, to be distributed incrementally over the first three years of the contract period.

In recognition of increased regional cost of living expenses, the proposed agreement boosts the hourly billing rates in FY 2016-17 from the current rate of \$230/hour for general legal services to \$245/hour. For all litigation services, the rate would change from the current cap of \$280/hour to a range of between \$280/hour to \$350/hour. The cost of paralegal services would remain flat at its current rate of \$150/hour. As a result, the total annual budget cap for legal services in FY 2016-17 will increase to \$824,415 from its current cap of \$802,780, exclusive of reimbursable costs. During the remaining four years of the five-year term, the hourly rates will be adjusted each July 1, beginning July 1, 2017, by the April percentage change in the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area. Except for automatic annual CPI adjustments rounded to the nearest \$5.00, the hourly compensation will remain fixed and no renegotiation of hourly rates may occur during the term of the agreement.

Fiscal Impacts

For Fiscal Year 2016-17, the budget for "city attorney/general counsel services" is \$824,415. This amount includes a \$50,000 set-aside that may be used by the City Manager for outside legal services, consistent with the existing Agreement. Per the Agreement, Meyers Nave's contract is a not-to-exceed amount that constitutes a "hard cap" in the budget that the City Council has no obligation to increase..

Budget Authority

Sufficient funds for the first year of the proposed five-year contract have been included in the adopted FY 2015-17 biennial budget.

Attachment to Resolution

- Draft Legal Services Agreement

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