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Staff Report for a Resolution Authorizing a Legal Services Agreement Amendment No. 1 with Bertrand, Fox, and Elliot for Legal Representation Associated with General Liability Claims and Claims Litigation to Increase the Contract Amount up to \$285,000 from the Self-Insurance Fund

SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council consider and approve a Legal Services Agreement Amendment No. 1 with Bertrand, Fox, and Elliot to continue to provide legal representation services associated with general liability claims and claims litigation for the City through June 30, 2016.

BACKGROUND

The City of San Leandro originally entered into a Legal Services Agreement with Bertrand, Fox, and Elliot on June 25, 2013, to provide contract legal representation services to the City on the *Mengel et al. v. City of San Leandro* litigation. The original agreement was for a not to exceed amount of \$49,999.00.

On November 3, 2014, the City entered into a new agreement with Bertrand, Fox, and Elliot to provide legal representation on claims and litigation presented to the City on various issues for a not to exceed amount of \$100,000.00.

Analysis

The City contracted with the law firm of Bertrand, Fox, and Elliot (“BFE”) on the recommendation of its third party administrator, York Services, telephone and in-person interviews, reference checks, and BFE’s success rate and experience in defending local public agencies with public safety civil rights litigation. The *Mengel* litigation budget for defense costs was originally estimated to be less than \$50,000.00, and the actual defense costs totaled \$42,000. Additionally, BFE was successful in

tendering an automobile accident lawsuit to another agency, which caused the City to be dismissed.

Given the continued successful outcomes of litigated matters, staff has requested, with the City Attorney's approval, the continued use of BFE legal services for a variety of risk management issues and claims. To continue the relationship and history of good service, staff requests approval to amend the current legal services agreement with BFE to use its legal expertise on an as needed basis, subject to the City Attorney's approval.

Fiscal Impacts

The amendment is for a not to exceed amount of \$285,000. For 2015-16, the Self-Insurance Fund General Liability division legal fees adopted budget is \$400,000. Based on the current number of claims and litigated matters, with this amendment the budget for legal fees is sufficient.

Budget Authority

The Self-Insurance Fund General Liability division legal fees adopted budget is \$400,000 for fiscal year 2015-16, account # 689-19-001-5110.

ATTACHMENTS

Attachment to Staff Report

- Current Legal Services Agreement

Attachment to Resolution

- Amendment No. 1 Legal Services Agreement for general liability claims and claims litigation

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