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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 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