



## Legislation Text

---

**File #:** 22-707, **Version:** 1

---

Adopt a Resolution to Approve an Extension of the Existing Legal Services Agreement with Meyers Nave ("Meyers Nave") Through December 31, 2029, the Total Annual Cost of Which Shall Not Exceed \$1,014,300 in Fiscal Year 2023-2024

### **SUMMARY AND RECOMMENDATIONS**

Staff presents for the City Council's consideration the attached Resolution that would authorize an amendment to Meyers Nave's existing Agreement to provide legal services to the City of San Leandro. If adopted, the proposed amendment would extend the term of the existing agreement until December 31, 2029. During that period of time, the previously adopted hourly rates for legal services will be adjusted each July 1, beginning July 1, 2023 by the April percentage change in the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose area, though in no case would those rate changes be less than 1% or greater than 3.5% each year.

### **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 2013, the City contracted with Municipal Resources Group, LLC ("MRG") to analyze the City's legal services. 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 several additional periods, with the current agreement set to expire on December 31, 2025. Both the current agreement as well as the proposed amended agreement continue to utilize the fee-for-service cost structure.

The current biennial budget provides \$980,000 for the provision of the existing legal services agreement in FY 2022-2023 fiscal year. There would be no change in the level of service or the budget for FY 2023-2023 under the proposed amendment.

### **Analysis**

The City has now been operating under the fee-for-service contractual structure since 2013. Based upon staff's analysis, the current contract structure is effective in controlling costs and generating financial savings as predicted by the MRG analysis.

Meyers Nave now requests that the City Council authorize an amendment to its existing agreement that would extend the agreement's term through December 31, 2029. In recognition of ongoing macroeconomic inflationary pressures and increased costs of doing business, the proposed agreement includes a modest adjustment to the existing previously authorized hourly billing rates based upon changes in the consumer price index (CPI) each year for the duration of the contract, up to a cap. More specifically, the rates for all city attorney work except litigation and land use cost recovery work (the costs of which are passed through to developers through the development application, which is best practice throughout the State) will be adjusted each July 1, beginning July 1, 2023 by the April percentage change in the CPI for the San Francisco-Oakland-San Jose area, though in no case would those rate changes be less than 1% and no greater than 3.5% each year.

### **Fiscal Impacts**

The adopted 2022-2023 biennial budget appropriations for legal services is \$980,000. If authorized, the proposed new agreement would establish a not to exceed amount for all city attorney services of \$1,014,300 in Fiscal Year 2023-2024. Prospective future budget year costs would never increase more than 3.5% annually thereafter, and would slide back to a lower percentage if the CPI were less for a given year.

Per the Agreement, Meyers Nave's contract cost is structured with a not-to-exceed amount that constitutes a "hard cap" in the budget that the City Council has no obligation to increase.

### **Budget Authority**

If the proposed amendment is adopted, sufficient funds for future budget years will be incorporated into upcoming proposed biennial budgets, in account 010-11-040-5110.

### **Attachment to Resolution**

- Attachment A: Resolution Authorizing Legal Services Agreement Amendment
- Attachment B: Legal Services Agreement Amendment

**Prepared by:** Eric Engelbart, Deputy City Manager