

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
SUBJECT: FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT WITH
MEYERS NAVE, P.C. FOR LEGAL REPRESENTATION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the City Attorney and Transportation & Public Works Department that the Council, by resolution, approve the First Amendment to Legal Services Agreement with Meyers Nave, P.C. in the amount of \$200,000 for a total amount not to exceed \$300,000 for continued legal representation in the matter of *Bay Cities Paving & Grading, Inc. v. City of Santa Rosa*, Sonoma County Superior Court Case No. SCV-265333.

EXECUTIVE SUMMARY

On January 13, 2020, the City entered into a Legal Services Agreement (LSA) with Meyers, Nave, Riback, Silver & Wilson (Meyers Nave) in the amount of \$100,000 for legal services related to a complex public works construction contract dispute involving Bay Cities Paving & Grading and GHD in connection the Stony Point Road Widening Project, also known as *Bay Cities Paving & Grading, Inc. v. City of Santa Rosa*, Sonoma County Superior Court Case No. SCV-265333 (Lawsuit).

Legal proceedings are continuing in the matter, with extensive and voluminous discovery underway. The issues are complex and document intensive. Meyers Nave has strong expertise in construction law and construction litigation. The City has reevaluated the LSA and determined that it is in the best interest of the City to amend the LSA to add additional compensation for continued legal services.

BACKGROUND

The Lawsuit concerns a complex public works construction contract dispute arising out of Phase 2 of the Stony Point Road Widening Project. The City awarded the bid to Bay Cities Paving and Grading as low bidder in May of 2015 and work began that August. Disputes arose almost immediately and continued throughout the project. In October 2019 Bay Cities filed suit alleging breach of contract.

PRIOR CITY COUNCIL REVIEW

None.

ANALYSIS

The original LSA compensation amount of \$100,000, entered into effective as of November 6, 2019, has been exhausted. In light of the complex and specialized nature of the lawsuit, the skills and expertise of Meyers Nave, and the continuing legal proceedings, it has been determined it is in the best interest of the City to amend the LSA and add additional compensation of \$200,000 to allow for the continued legal representation by Meyers Nave.

FISCAL IMPACT

The continuation of the agreement with Meyers Nave has been funded with budgeted funds within Transportation & Public Works budgeted project funds for the Stony Point Widening project.

ENVIRONMENTAL IMPACT

The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and that no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution/Exhibit A (First Amendment to LSA)

CONTACT

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