



CITY COUNCIL AGENDA REPORT

MEETING DATE: April 7, 2015

ITEM NUMBER: **CC-7**

SUBJECT: BUDGET ADDENDUM TO ENGAGEMENT OF LEGAL SERVICES LETTER WITH MEYERS, NAVE, RIBACK, SILVER & WILSON AS SPECIAL LEGAL COUNSEL ON FAIRVIEW PARK

DATE: MARCH 31, 2015

FROM: CITY ATTORNEY'S OFFICE

PRESENTATION BY: Thomas P. Duarte, Esq., City Attorney

FOR FURTHER INFORMATION CONTACT: Thomas P. Duarte, 714-446-1400

RECOMMENDATION:

City Council authorize the Mayor to execute a Budget Addendum, dated March 31, 2015, to the Legal Services Agreement with Meyers, Nave, Riback, Silver & Wilson ("Meyers Nave") for special counsel legal services in connection with endangered species, environmental and other issues relating to Fairview Park.

BACKGROUND:

On December 6, 2013, the City retained Meyers Nave to provide legal services concerning environmental and regulatory issues at Fairview Park including assisting with the U.S. Fish and Wildlife Service ("USFWS") review related to one or more vernal pools at Fairview Park ("Park") and other related issues involving endangered species and other environmental concerns at the Park. At the time Dawn McIntosh was assigned as the primary contact. Meyers Nave has assisted the City in restoration of the Park by assisting in coordination with the USFWS, retention of a consultant to conduct the necessary review and restoration efforts, and interfacing USFWS enforcement agents, as needed.

Now that the initial phase of Meyers Nave's work is complete, the next phase includes the environmental and regulatory issues at the Park, including development of a restoration plan which addresses impacts to vernal pools near Estancia High School and the Waldorf School, additional review of potentially sensitive habitats elsewhere in the Park, an overall management plan for the Park that protects sensitive habitats while allowing recreational uses in appropriate areas, and USFWS's conclusion of its review of the Park. In order to continue retaining Meyers Nave for the purpose of this phase, approval of this Budget Addendum is necessary.

ANALYSIS:

The original Legal Services Engagement Letter, dated December 4, 2013, provided for a maximum expenditure of \$50,000. Principal attorneys are billed at \$360/hour, Of Counsel at \$335/hour, Senior Associates at \$325/hour and Junior Associates at \$300/hour. Additionally, the original engagement letter required that the City pay Meyers Nave certain costs incurred in the course of their representation of the City such as third party expenses, delivery charges, travel expenses, outside research services,

filing fees, expert witness and expert consultant fees. Please see Attachment 2 of this Staff Report for a further breakdown of these rates and costs.

At this time, the maximum expenditure of \$50,000 has been reached. In order for Meyers Nave to continue its representation of the City in this matter, the attached Budget Addendum must be approved. Meyers Nave estimates that the next phase of the USFWS review would cost approximately \$38,190. The engagement with Meyers Nave remains otherwise unchanged. Please see Attachment 1 of this Staff Report for a further breakdown of these rates and costs. Dawn McIntosh will continue as the principal contact.

ALTERNATIVES CONSIDERED:

The City Council could choose not to approve the Budget Addendum, in which case, Meyers Nave's work on behalf of the City would stop.

FISCAL REVIEW:

If approved, the City would incur an estimated \$38,190 in legal fees, funded by the current year contingency account.

LEGAL REVIEW:

The City Attorney's office has reviewed and approved the Budget Addendum as to form.

CONCLUSION:

Staff recommends that the City Council approve the Budget Addendum and authorize the Mayor to sign the addendum.

THOMAS R. HATCH
CEO

THOMAS P. DUARTE
City Attorney

Stephen Dunivent
Interim Finance Director

Attachment: 1. [Budget Addendum, dated March 31, 2015](#)

2. [Original Legal Services Engagement Letter, dated December 4, 2013](#)