



NEVADA COUNTY CALIFORNIA

OFFICE OF THE COUNTY COUNSEL

Katharine L. Elliott, County Counsel
Trevor J. Koski, Assistant County Counsel
Jamie L. Hogenson, Deputy County Counsel
Douglas M. Johnson, Deputy County Counsel
Jennifer R. Walters, Deputy County Counsel
Sims Ely, Deputy County Counsel

NEVADA COUNTY BOARD OF SUPERVISORS Board Agenda Memo

MEETING DATE: April 23, 2024

TO: Board of Supervisors

FROM: County Counsel

SUBJECT: Resolution approving Amendment No. 6 to Personal Services Contract between the County of Nevada and Meyers Nave, extending the term of the Contract to June 30, 2025, and increasing the Contract price by \$75,000 for a maximum Contract price of \$475,000 and authorizing the Chair of the Board to execute the Amendment (4/5 affirmative vote required)

RECOMMENDATION: Adopt the attached Resolution.

FUNDING: Legal services provided under this Contract are paid on an as needed basis. The cost of this Contract is being paid from the Risk Management's Fiscal Years 2023/2024 General Liability Fund. Litigation costs in excess of \$100,000, and eligible for coverage, will be submitted to PRISM and may be reimbursed subject to PRISM's approval. There is significant risk that some legal costs related to this matter will not be covered by insurance and could result in a cost to the General Fund. We are working closely with coverage counsel so that costs will be covered as much as possible.

BACKGROUND:

On November 11, 2020, litigation was filed against Nevada County, individual members of the Board of Supervisors ("Board"), Public Health Officer Amy Irani, and County Counsel Katharine Elliott, in the lawsuit entitled *Tuck's Restaurant and Bar, et al. vs. Gavin Newsom, et al.*; USDC Eastern District, Case No. 20-cv-02256-KJM-CKD. The Board authorized County Counsel to hire outside counsel for this litigation. On November 20, 2020, the County entered into a Personal Services Contract with the law firm of Meyers Nave, Riback, Silver & Wilson to provide legal advice and litigation services in connection with this case.

Due to the ongoing defense of this case, which involves complex challenges to the constitutionality of regulations as well fact-intensive questions of retaliatory enforcement, by way of Resolution 21-086, on March 23, 2021, the parties amended the Contract to increase the maximum Contract price to \$150,000 (an increase of \$100,000) to cover the additional legal expenses related to the litigation. Further, by Resolution 22-278, the parties extended the contract to June 30, 2023.

On January 24, 2023, by Resolution 23-053, the Contract was Amended to increase the maximum Contract amount \$225,000 for a maximum Contract amount of \$375,000 and extending the contract term to June 30,2024.

It should be noted the Contractor changed its name from Meyers, Nave Riback, Silver & Wilson to Meyers Nave. Amendment No. 3 shall reflect the name change of the Contractor.

Meyers Nave has recently increased its hourly rate. They have not increased their rates since 2020. Parties have agreed to amend the scope of services to reflect the firms' new rates.

In early January, by Resolution 24-046, the parties increased the Contract price by \$25,000 to cover the cost of Summary Judgment. While the parties are still awaiting the ruling on the Summary Judgment with the District Court, an extension of the terms of this Contract are needed as a ruling may not be determined until later this year. In addition, we are seeking an additional \$75,000 in Contract price to complete any necessary work with the District Court regarding the Summary Judgement. Should the matter proceed to trial, a proposed new budget will be submitted for review.

Meyers Nave is well qualified to represent the County in this matter and has handled the litigation well thus far. I recommend that the Board approve the proposed Amendment as submitted.

Item Initiated by: Kelly McKinley

Approved by: Katharine L. Elliott, County Counsel

Submittal Date: 4/3/24