



NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memo

MEETING DATE: January 10, 2023

TO: Board of Supervisors

FROM: County Counsel

SUBJECT: Resolution approving Amendment No. 3 to Personal Services Contract between the County of Nevada and Meyers Nave, increasing the Contract price by \$225,000 for a maximum Contract price of \$375,000, extending the term of the Contract to June 30, 2024, 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 General Liability Fund administered by Risk Management. Risk Management has reviewed the budget for Fiscal Year 2022/2023 and finds no budget amendment is needed to address the proportion of additional costs anticipated in the fiscal year. This loss is reported to PRISM, and a final coverage determination is pending. Eligible litigation costs in excess of \$100,000 will be reimbursed from PRISM.

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 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.

Due to the ongoing defense of this case, the parties now desire to increase the Contract price to \$375,000 (an increase of \$275,000) to cover the on-going litigation. In addition, the parties desire to extend the Contract 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 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: 12/29/22