



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann

SUBJECT: SEE BELOW

DATE: June 16, 2022

SUBJECT: AMENDMENTS TO AGREEMENTS FOR LEGAL SERVICES RELATING TO IMPLEMENTATION OF THE ALTERNATIVE PENSION REFORM SETTLEMENT FRAMEWORK

RECOMMENDATION

Adopt a resolution authorizing the City Attorney to negotiate and execute amendments to agreements for legal services relating to implementation of Measure F, the Alternative Pension Reform Settlement Framework approved by the voters at election in November 2016, as follows:

- (a) A Thirteenth Amendment and Continuation Agreement with Hanson Bridgett LLP (Hanson Bridgett) for legal services in connection with the City's retirement plans and other benefit plans and programs, retroactively extending the term from July 1, 2022 through June 30, 2023, with no increase in the amount of compensation; and
- (b) A Thirteenth Amendment and Continuation Agreement with Ice Miller LLP (Ice Miller) for legal services in connection with retiree health and dental benefits and related tax issues, retroactively extending the term from July 1, 2022 through June 30, 2023, with no increase in the amount of compensation.

OUTCOME

Execution of the amendments to the agreements with Hanson Bridgett and Ice Miller will allow these law firms to continue to provide legal services related to employment, labor and implementation of the Alternative Pension Reform Settlement Framework agreed to by the bargaining groups and City voters.

BACKGROUND

The City Council in May 2011 approved a Fiscal Reform Plan to achieve savings and/or new revenues to eliminate the General Fund structural deficit, restore services to the January 2011 level, and to open facilities built or under construction within five years. In June 2012, San José voters approved Measure B, modifying City retirement plans and retiree healthcare plans in accordance with the Fiscal Reform Plan. In November 2016, San José voters approved Measure F, an Alternative Pension Reform Settlement Framework agreed to by the City and employee bargaining groups, superseding the modifications made by Measure B.

Hanson Bridgett LLP

On May 21, 2012, the City Attorney executed an agreement with the law firm of Hanson Bridgett for a term ending June 30, 2013, in a total amount not to exceed \$50,000, to provide legal services relating to the City's retirement plans. This agreement has been amended since that time to expand the scope of services to include other City benefit plans and programs, to increase the total compensation, and to extend the term. The current total compensation under this contract is \$719,000, with the term expiring on June 30, 2022. The recommended action asks to retroactively extend the term through June 30, 2023, with no increase in the amount of total compensation.

Ice Miller LLP

On May 4, 2011, the City Attorney executed an agreement with the law firm of Ice Miller for a term ending June 30, 2012, in a total amount not to exceed \$50,000, to provide legal services relating to the establishment of an Other Post-Employment Benefits (OPEB) 115 trust, and to provide advice relating to that trust. This agreement has been amended since that time to expand the scope of services to include federal tax legal advice, to increase the total compensation, and to extend the term. The current total compensation under this contract is \$500,000, with the term expiring on June 30, 2022. The recommended action asks to retroactively extend the term through June 30, 2023 with no increase in the amount of total compensation.

ANALYSIS

The Association of Legal Professionals (ALP) represents the attorneys and other legal professionals in the Office of the City Attorney, except for the managing attorneys that are in Unit 99. Many of the labor and pension issues in the Alternative Pension Reform Settlement are issues which have been and may continue to be part of the labor negotiations with ALP. Additionally, because ALP and Unit 99 attorneys are part of the City's retirement plan, the City is required to use outside counsel.

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The legal issues referenced above require attorneys with specialized expertise and extensive public sector experience.

Management attorneys in the City Attorney's Office will coordinate and provide legal advice, as appropriate, on many of the labor and pension issues and will also provide oversight services for outside counsel. When appropriate, certain other attorneys may provide legal services on matters where no conflicts of interest exist.

The City Attorney's Office released three Requests for Qualifications (RFQ) in 2009-2011 to develop a pool of law firms that could provide advisory counsel and legal services on labor relations matters for all employee units in the City of San José. Law firms selected as a result of this Request for Qualifications process include Hanson Bridgett for retirement plan issues, and Ice Miller for tax-related issues including the establishment of the revised Retirement Health Care Administration.

As a result of the agreement between the City and the bargaining groups and the approval of Measure F by City voters in 2016, Hanson Bridgett's continued assistance is required to modify the City's Municipal Code to implement the Settlement Framework. Ice Miller's continued assistance is required in assessing federal tax implications/consequences for a variety of City retirement proposals, including those contemplated in the Settlement Framework.

CONCLUSION

To ensure the continued delivery of legal services in support of the Alternative Pension Reform Settlement Framework, staff recommends extending the term of the agreements with Ice Miller and Hanson Bridgett for one additional year through June 30, 2023, with no increase in the maximum amount of compensation.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's website as part of the June 28, 2022 City Council Agenda.

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Alternative Pension Reform Settlement Framework**

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CEQA

Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

NORA FRIMANN
City Attorney

By: /s/ Kevin Fisher
KEVIN FISHER
Assistant City Attorney

For questions, please contact Kevin Fisher, Assistant City Attorney, at (408) 535-1900.