



## Legislation Details (With Text)

**File #:** 19-262      **Version:** 1      **Name:**  
**Type:** Consent Calendar      **Status:** Agenda Ready  
**File created:** 2/26/2019      **In control:** Council and Authorities Concurrent Meeting  
**On agenda:** 6/25/2019      **Final action:** 6/25/2019  
**Title:** Action on an Agreement for Professional Services with Hyas Group, LLC to provide consulting services related to the Deferred Compensation Plan

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Agreement for Professional Services

Date	Ver.	Action By	Action	Result
6/25/2019	1	Council and Authorities Concurrent Meeting	Approved	

## REPORT TO COUNCIL

### SUBJECT

Action on an Agreement for Professional Services with Hyas Group, LLC to provide consulting services related to the Deferred Compensation Plan

### BACKGROUND

The City currently provides a Deferred Compensation Plan ("Plan"), qualified under Section 457(b) of the Internal Revenue Code, to its employees. The Plan is a voluntary defined contribution savings plan that is separate and distinct from the CalPERS pension system. The City does not provide matching contributions to the Plan. The purpose of the Plan is to encourage employees to save additional funds on a tax-qualified basis to be available for their post-employment use. Approximately 715 current employees and 435 former employees participate in the City's Plan with aggregated assets of over \$155 million.

As stated in Resolution No. 12-7948, the Plan is overseen by the City Manager as the Plan Administrator ("Administrator"). Historically, the City has used a committee to advise on the administration services provider, along with other milestones relative to this effort. California Constitution Article XVI, Section 17 ("Constitution") contains provisions governing the fiduciary duties for the administration of public pension and retirement systems. Government Code Section 53609 states that deferred compensation plans are considered "public pension or retirement funds" for the purposes of the Constitution.

The Constitution provides that retirement boards of public pension and retirement systems (including deferred compensation plans) have a duty to invest the assets of the plan, administer the plan, act for the exclusive purpose of providing benefits to participants and beneficiaries, and engage in a prudent process for making all decisions related to the operation of the plan, including decisions related to the plan's investments and related services. Government Code Sections 53601, et seq., describes the types of investments that can be made by a deferred compensation plan, which includes the

investments offered by the City's Administration Services provider, Nationwide Retirement Solutions ("Nationwide").

As part of fiduciary best practices in the administration of deferred compensation plans, the City Manager's designee, with input from the Committee, elected to issue a Request for Proposals ("RFP") for Deferred Compensation Plan provider services in December 2017. Through a separate RFP process, the City contracted with the Hyas Group, LLC ("Hyas Group") to assist with preparing the RFP for administration and record keeping services for the Plan. The scope of services included preparing the RFP, reviewing and summarizing the responses, assisting with the preparation of any agreement as a result of the RFP, and assisting the City with any transition to a new provider.

Hyas Group met or exceeded expectations while executing the scope of services and successfully assisted the Committee with selecting Nationwide as the new Administration Services provider to the Plan. The transition to Nationwide as the Plan's Administration Services provider was completed in December 2018.

## **DISCUSSION**

As part of the objective to adhere to fiduciary best practices related to oversight of the Plan, the desire to hire a consultant on an ongoing basis to assist with making well-informed decisions regarding overall Plan management and the selection of investment options. Specifically, the Consultant will be requested to provide, but not limited to, the following consulting services:

- Be a fiduciary to the Plan and help monitor compliance with Plan guidelines and the Investment Policy Statement,
- Report on the performance of investment managers/funds,
- Oversee changes to Plan design,
- Provide updates regarding legal and regulatory changes related to Section 457(b) Plans,
- Provide education to City staff and Committee members, and
- Help assess the services and performance of Nationwide as the Administration Services provider.

The City did not go through a formal RFP process for this service due to the fact that the City did not receive many proposals a year ago and Hyas Group exceeded the expectations of the previous scope of services for the deferred compensation transition plan contract. City Manager designee, along with Committee representatives, supported this approach with moving forward and, additionally, staff performed a cost survey with other government agencies requiring similar scope of services, and determined that Hyas Group's proposed fees were very competitive. The City and Committee also believes that Hyas Group is uniquely qualified to provide such services based on the expertise and knowledge of the firm and the experience acquired working with the Plan on the Administration Services and Record-keeper procurement and transition.

## **ENVIRONMENTAL REVIEW**

This Agreement is for professional services and the action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") Guidelines section 15378 as the action being considered does not commit the City to undertake the project and future discretionary approvals are required by the City to approve the project for construction.

### **FISCAL IMPACT**

The proposed Agreement is for one year with four, 1-year renewal options at the sole discretion of the City. The proposed Agreement is for a not to exceed amount of \$38,000 in year one with a 3% average annual escalation for the five-year period, and a total not-to-exceed amount of \$202,000 over the five-year period. With the option to extend the agreement annually for up to a maximum of five years, the City will not be required to initiate the RFP process in the short-term, while maintaining the flexibility to not renew the agreement at the end of any year. In addition, the agreement allows the City to terminate the agreement for convenience with thirty days' written notice to Hyas Group. It is anticipated that all administrative fees pertaining to the services of this Agreement will be borne by plan participants on a pro-rata basis based on each participant's balance in the Plan. There is no cost to the City other than administrative staff time and expense.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **RECOMMENDATION**

1. Approve and authorize the City Manager to execute the Agreement for Professional Services with Hyas Group, LLC to provide consulting services related to the Deferred Compensation Plan in the amount not-to-exceed \$202,000; and
2. Authorize the City Manager to make minor, non-substantive modifications to the Agreement, if needed.

Reviewed by: Angela Kraetsch, Director of Finance

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Agreement for Professional Services