



Agenda Report

20-609

Agenda Date: 6/23/2020

REPORT TO COUNCIL

SUBJECT

Action on Amendment No. 1 to the Agreement for Professional Services with Hyas Group, LLC to provide consulting services related to the City's Deferred Compensation Plan [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND

The City 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 retirement savings plan. The purpose of the Plan is to provide employees an option to save additional funds on a tax-qualified basis to be available for their post-employment use. Approximately 1300 current and former employees participate in the Plan with aggregated assets of approximately \$160 million.

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").

The City Manager is designated as the Plan Administrator ("Administrator") and the Administrator utilizes a Deferred Compensation Plan Committee ("Committee"), which was originally created by the City Council, and comprised of five City employees to assist with providing fiduciary oversight of the Plan, including monitoring of Plan performance and selecting investment options. The composition of the Committee includes the Director of Finance as the chair and employees from the Police, Fire, Parks and Recreation, and Electric departments and since June 2019 has utilized a consultant to assist in carrying out its fiduciary duties as noted above.

DISCUSSION

As part of the Committee's objective to adhere to fiduciary best-practices related to Plan administration, the Administrator and Committee requested City Council approval to hire the Hyas Group, LLC ("Consultant") to be a fiduciary to the Plan, help monitor compliance with Plan guidelines and the Investment Policy Statement (IPS), report quarterly on the performance of investment

managers/funds and fees, 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, and help assess the services, performance and fees of Nationwide as the Administration Services provider.

On June 25, 2019, City Council approved a one-year agreement with the Consultant with the option to renew for four (4) additional one-year periods.

Hyas Group has demonstrated the ability to successfully deliver quality professional services as described in the Agreement, and extension of the Agreement will provide for the continuous delivery of fiduciary consulting services related to Plan administration.

Staff recommends entering into Amendment No. 1 for Deferred Compensation Plan Professional Consulting Services with Hyas Group, LLC to extend the time period and authorize the City Manager to execute options over the five-year term.

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

Total cost of Amendment No. 1 is \$39,000 for a one-year extension to the Agreement. In addition, the City may extend the Agreement with three, one-year renewal options at the sole discretion of the City. The Agreement is for a not to exceed amount of \$202,000 over the five-year period from June 25, 2019 through June 24, 2024. The administrative fees pertaining to the services of this agreement, which are accounted for in the City's Deposits Fund, 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 time and expense.

COORDINATION

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

RECOMMENDATION

1. Approve and authorize the City Manager to execute Amendment No. 1 to 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 over the five-year potential contract period; and
2. Authorize the City Manager to make minor, non-substantive modifications to the Agreement, if needed and execute subsequent options over the five-year potential contract period.

Reviewed by: Aracely Acevedo, Director of Human Resources
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Amendment No. 1 to the Agreement for Services with Hyas Group, LLC