



Midpeninsula Regional
Open Space District

R-17-129
Meeting 17-30
December 6, 2017

AGENDA ITEM 2

AGENDA ITEM

Award of Contract for Legal Services

GENERAL MANAGER'S RECOMMENDATIONS

Authorize the General Manager to enter into a contract with Gary Baum, Esq. to provide legal services in an amount not to exceed \$150,000.

SUMMARY

As recently announced, upon the General Counsel's retirement, the District's Assistant General Counsel will serve as Acting General Counsel, leaving the Assistant General Counsel position vacant for approximately seven months. After a review of four proposals to perform the duties of the position on an interim basis, and on recommendation of the current Assistant General Counsel Hilary Stevenson, General Counsel Sheryl Schaffner recommends contracting with Mr. Gary Baum to assist with the workload. He and his firm are highly qualified to fill the position and provide legal services at a fair and reasonable price. Salary savings arising from the General Counsel's retirement will cover the cost of the proposed contract.

DISCUSSION

The District's General Counsel will retire at the end of calendar year 2017. The Board of Directors asked the District's Assistant General Counsel, Hilary Stevenson, to step up and take on the role of Acting General Counsel, pending the completion of a recruitment and selection process to fill the General Counsel position.

The net effect is that the District's internal attorney staffing will be reduced by one-half, from two to one attorney, during this period. To reduce the impact of the staffing gap, staff solicited four proposals from attorneys who are well-qualified to perform legal services on a contract basis. Staff carefully reviewed the proposals and considered the mix of skills, experience, rate structures, and availability to provide Assistant General Counsel level services beginning in January 2018 for approximately seven months. All four proposers have previously served in similar positions throughout the area and their rates range from \$150 to \$285 per hour.

With the concurrence of District General Counsel Sheryl Schaffner regarding this selection, Ms. Stevenson recommends contracting with Mr. Gary Baum. Mr. Baum is highly qualified, having worked in many municipal law offices and completed his distinguished public sector career as City Attorney for the City of Palo Alto. He has the relevant experience in the public sector, including experience with public contracts, real estate transactions, wireless leases, personnel

matters, and principles of public finance. He has served in an interim capacity to numerous small public law offices similar to the District General Counsel's Office over the past several years since his retirement. Mr. Baum offers his services at a fair and reasonable rate, and approaches the opportunity to serve the District and its mission with wholehearted enthusiasm.

Mr. Baum can be available for 16-20 hours per week of work. Mr. Baum has agreed to be available in the Administrative Office twice a week to provide "office hours" in person, to meet with staff and attend other meetings, and would also be available via telephone and email as needed. The vacancy of the General Counsel position creates a salary and benefits savings of \$21,300 per month. Mr. Baum's contract can be funded from these salary savings.

With a concurrent vacancy in the General Manager position beginning in January 2018, the Board has decided that it will recruit a new General Manager before commencing the recruitment for the new General Counsel. The proposed seven-month term is an approximation, intended to cover the period of time needed for the Board to fill these positions. If the office is fully staffed earlier than July, the District can terminate the agreement with Mr. Baum with reasonable notice. If there are changes to this timeline, the General Counsel will return to the Board to obtain additional contract help to fulfill staffing needs.

It is important to recognize that the salary savings fund about half of the hours of service the District is accustomed to receiving from the Assistant General Counsel position, which is fairly typical when obtaining outside counsel services. Assuring the effective operation of the General Counsel's Office while it is partially vacant will also require the cooperation and patience of District staff during this transition period.

FISCAL IMPACT

The Legal Department's FY2017-18 budget includes \$21,300 monthly for salaries and benefits for the General Counsel position, which will be available as salary savings during the vacancy in the General Counsel position, to offset the costs of this contract.

BOARD COMMITTEE REVIEW

The Board Appointee Committee was previously informed of the proposed contract to address the gap in staffing arising from the temporary vacancy in the General Counsel position.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

The award of contract is not a project subject to the California Environmental Quality Act.

NEXT STEPS

Following Board approval, the General Counsel and General Manager will execute a contract with Gary Baum, Esq.

Responsible Department Head:
Sheryl Schaffner, General Counsel

Prepared by:
Hilary Stevenson, Assistant General Counsel