



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 18-0683, Version: 1

REPORT TO COUNCIL

SUBJECT

Third Amendment to Outside Counsel Agreement with Liebert Cassidy Whitmore for Litigation Services

REPORT IN BRIEF

Approval is requested for a Third Amendment to the Outside Counsel Agreement with the law firm of Liebert Cassidy Whitmore for legal services and representation of the City in the matter of *Castro, Juan v. City of Sunnyvale*, Case No. 17-CV-309241, currently pending in the Santa Clara County Superior Court. This Third Amendment is needed to cover the pre-trial costs associated with this case, which is estimated to be \$155,000.

BACKGROUND

Suzanne Solomon, a partner in the law firm Liebert Cassidy Whitmore in San Francisco, is an experienced trial lawyer who has represented public entities, private companies and individuals in a wide range of employment disputes. Ms. Solomon and her firm were retained by the City Attorney under Section 908 of the City Charter to represent the City and provide legal services, consultation and advice concerning the above referenced case in litigation. The Agreement was entered in May 2017, and the not to exceed amount has been increased twice to the current not to exceed amount of \$150,000. The term of the Agreement expires in May 2020.

DISCUSSION

Plaintiff filed a race discrimination lawsuit against the City on April 3, 2017.

The City has been vigorously defending the case and a motion for summary judgment is pending. This amendment, which will increase the not-to-exceed amount by \$155,000 for a total new not-to-exceed amount of \$305,000, will cover the balance of costs for the summary judgment motion and, if it is not granted, anticipated pre-trial costs, including remaining depositions and case management.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

Funds are available in the FY 2018/19 Liability and Property Insurance Fund for this Third Amendment.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Authorize the City Attorney to execute a Third Amendment, in substantially the same form as Attachment 1 to the report, to the Outside Counsel Agreement with the law firm of Liebert Cassidy Whitmore to increase the not-to-exceed amount by \$155,000, for a total new not-to-exceed contract amount of \$305,000.

Prepared by: Nichole G. Anglin, Paralegal
Reviewed by: Melissa C. Tronquet, Assistant City Attorney
Approved by: John A. Nagel, City Attorney

ATTACHMENT

1. Draft Third Amendment to Outside Counsel Agreement