

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: JULY 7, 2014

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer



TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #14 – AMENDMENT #5 TO CONTRACT FOR EXECUTIVE OFFICER

RECOMMENDATION:

Staff recommends that the Commission:

1. Determine that Contract Extension #5 meets the requirements of Government Code Section 7522.56 applicable in that:
 - a) The contract is of limited duration;
 - b) The retiree employed has specialized skills required in performing the work; and,
 - c) The total hours worked will not exceed 960 during the fiscal year.

2. Approve Amendment #5 to the Contract for Professional Services for the Executive Officer to include:
 - a) Extension of the term until September 30, 2018;
 - b) Modify the severance provision to comply with changes in State law;
 - c) Provide for an increase for FY 2014-15 and an annual increase equal to the increase in the Consumer Price Index (CPI) for the previous calendar year (January 1 through December 31) for all urban consumers in the Los Angeles-Anaheim-Riverside area rounded up to the nearest full dollar or the percentage increase granted other LAFCO management employees, whichever is greater; and,
 - d) Allow the ability to participate in LAFCO's 401(k) program without benefit match provided other LAFCO employees.

3. Approve increase to Account 1010 (Regular Salary) of \$1,920 and a decrease in Account 1000 (Salary Reserve) of \$1,920.

BACKGROUND:

At the April and May 2014 hearings, the Commission was apprised that the Ad Hoc Budget Committee was reviewing the option to extend the contract for my services as the Executive Officer beyond its current termination of September 2015. Those negotiations have resulted in a proposal to extend the contract to September 2018 (a three year extension), to provide for a methodology for an annual increase, and the option for participation in the 401(k) deferred compensation program without benefit match. The proposed Contract Amendment #5 is attached to this report and the changes are highlighted in yellow. The application of the methodology proposed by the ad hoc committee for this fiscal year results in the increase of the hourly rate to \$107 (1.1% increase rounded up to the nearest dollar). The contract language reflecting the methodology for the annual increase is proposed to read as follows:

For Fiscal Year 2014-15 compensation shall be \$107 per hour effective with the beginning of Pay Period 15 of 2014. In Pay Period 15 of each subsequent year the hourly rate shall be increased in an amount equal to the increase in the Consumer Price Index (CPI) for the previous calendar year (January 1 through December 31) for all Urban Consumers in the Los Angeles-Anaheim-Riverside area (provided that the CPI adjustment shall be rounded up to the nearest full dollar) or the percentage increase granted other LAFCO management employees, whichever is greater.

In discussions related to the amendments with Legal Counsel, it was determined that an additional change related to the severance language in Section 1 was needed based upon changes enacted to the Government Code Section 53260. The language change is shown in italics as follows:

LAFCO may terminate this contract with cause at any time and may terminate without cause through thirty (30) day written notice of termination and the payment of severance in the equivalent of the lesser of three months or the remaining number of months left in the term of this contract compensation.

Legal Counsel has advised that it would be appropriate for the Commission to identify its determinations that the extension meets the requirements of Government Code Section 7522.56 (Public Pensions and Retirement Plans). Three of the six determinations required by this section apply and are outlined as follows:

- a) The contract is of limited duration;
- b) The retiree employed has specialized skills required in performing the work; and,
- c) The total hours worked will not exceed 960 in a fiscal year.

The change in cost for Fiscal Year 2014-15 is an additional \$1,920 in salary paid. In order to accommodate this change, staff is recommending that Account 1010 -- Regular Salary be increased by \$1,920 and Account 1000 – Salary Reserve be decreased by \$1,920. There will be no change in total appropriation for the 1000 series of accounts.

LAFCO staff will be happy to answer any questions of the Commission prior to or at the hearing related to this action.

/krm

Attachment (1)

AMENDMENT #5
CONTRACT FOR PROFESSIONAL SERVICES BETWEEN
THE LOCAL AGENCY FORMATION COMMISSION FOR
SAN BERNARDINO COUNTY
AND
KATHLEEN ROLLINGS-McDONALD

AMENDMENT #5 is made this ____ day of ____, 2014, by and between the LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY (hereafter shown as LAFCO) and KATHLEEN ROLLINGS-McDONALD (hereafter shown as CONTRACTOR).

IT IS HEREBY AGREED THAT THE FOLLOWING PROVISIONS OF THE CONTRACT FOR PROFESSIONAL SERVICES BETWEEN LAFCO AND CONTRACTOR ARE AMENDED AS FOLLOWS:

...

1. Term of Contract:

The term of this contract commenced on October 23, 2010 (pay period 23/10) and shall continue in effect through September 30, 2018 unless terminated as hereinafter provided. With the mutual agreement of the parties, the period of time covered by this contract may be increased or decreased. Notwithstanding the foregoing, this Contract may be terminated at any time by CONTRACTOR by giving fourteen (14) days written notice of termination. LAFCO may terminate this contract with cause at any time and may terminate without cause through thirty (30) day written notice of termination and the payment of severance in the equivalent of the lesser of three months or the remaining number of months left in the term of this contract compensation.

...

3. Compensation for CONTRACTOR:

a. For and in consideration of CONTRACTOR's services, LAFCO agrees to pay CONTRACTOR, and CONTRACTOR agrees to accept the following compensation. For Fiscal Year 2014-15 compensation shall be \$107 per hour effective with the beginning of Pay Period 15 of 2014. In Pay Period 15 of each subsequent year the hourly rate shall be increased in an amount equal to the increase in the Consumer Price Index (CPI) for the previous calendar year (January 1 through December 31) for all Urban Consumers in the Los Angeles-Anaheim-Riverside area (provided that the CPI adjustment shall be rounded up to the nearest full dollar) or the

percentage increase granted other LAFCO management employees, whichever is greater.

...

d. CONTRACTOR shall be able to participate in LAFCO's 401(K) and Deferred Compensation Programs; however, no benefit match shall be provided

...

Except as amended herein, all other terms and conditions of this contract and Amendments #1, #2, #3 and #4 shall remain in full force and effect.

APPROVED AS TO FORM:

Legal Counsel
Local Agency Formation Commission
For San Bernardino County

**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

BY: _____
JAMES V. CURATALO, Chairman

CONTRACTOR:

BY: _____
KATHLEEN ROLLINGS-McDONALD