

Subject: City Attorney Contract

Meeting Date: January 23, 2023	
Submitted/Presented by/Department: Nate Burkett, City Manager	
Action Type	
<input type="checkbox"/> Consent Item	<input type="checkbox"/> Discussion/Direction
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Informational Only
<input checked="" type="checkbox"/> Action/Motion	<input type="checkbox"/> Report
<input type="checkbox"/> Resolution	<input checked="" type="checkbox"/> Other: Contract
Action	
<p>Approve a contract with Kennedy and Graven and appoint Pam Whitmore as City Attorney for the City of West St. Paul effective January 24, 2023 and authorize the Mayor and City Manager to sign.</p> <p>AND</p> <p>Approve a memorandum of agreement with Levander, Gillen and Murray which sets forth conditions of transition out of the role of City Attorney.</p>	
Background	
<p>On November 12, 2022 the City Council authorized the issuance of an RFP for legal services to consider alternative firms to serve in the capacity as City Attorney. On December 21, 2022 a group of staff who work closely with the City Attorney interviewed three candidate firms and recommended the City Council interview two of them. The City Council met in open session on January 11, 2023 to interview the candidate firms. At the time of interview the consensus preference was to contract with Kennedy and Graven to serve as City Attorney. Since two members of the City Council were not present, the City Manager was directed to determine if the absent members agreed with the members in attendance. After discussion with the two members it was determined that there was a general consensus to proceed with consideration of a contract with Kennedy and Graven.</p> <p>The attached contract sets forth terms and conditions under which Kennedy and Graven will serve as City Attorney. Pam Whitmore will serve as lead City Attorney with Sam Ketchum and Mary Tietjen serving as assistant City Attorneys. Sam Ketchum will typically be the attorney in attendance at City Council meetings. Pam Whitmore will typically be in attendance at Planning Commission and Charter meetings, and can be available during regular Council meetings at times when there are significant legal issues that the Council will be handling at a particular meeting. The City will have access to the full complement of attorneys at Kennedy and Graven - which number more than 35 and there are many internal specialties.</p> <p>The primary difference between the current contract with Levander and the new contract with Kennedy and Graven is that there is no retainer and Kennedy and Graven's hourly rates are higher. Because of this discrepancy, calculating a true cost comparison is difficult. However,</p>	

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for general legal services only (not inclusive of project based costs, development and pass through attorney fees) if the city uses 290 hours of legal services per year the cost for Kennedy and Graven will be the same as Levander in an "average" year and if the city uses 360 hours of legal services the cost will be approximately \$5,000 higher. Staff believes we can manage the cost of city attorney services under the hourly contract model to a same or similar cost with Kennedy and Graven as we typically pay to Levander. In addition - much of our development related legal work is currently done by attorneys at Kennedy and Graven.

An additional item is a memorandum of understanding with Levander which states a mutual understanding that Levander will continue to assist with transition at their contracted hourly rate, and will continue to work on the condemnation proceedings on the Oakdale/Thompson project until their conclusion at their contracted hourly rate. We expect some additional legal bills during the time of transition but will most likely be able to manage that within the approved budget.

Attachments

Legal Services Agreement - Kennedy and Graven
Memorandum of Agreement - Levander

Previous Relevant Actions

Alternatives

Financial

Budgeted: Yes

No Financial Impact

Fund:

Department:

Account:

Amount: