STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: David Ott, City Manager
MEETING DATE: January 14, 2015
ORIGINATING DEPT: City Attorney’s Office
SUBJECT: Approval of First Amendment to Professional Services Agreement for Special Legal Services with Richards, Watson & Gershon, APC

BACKGROUND:
In May 2013, the City retained the services of Steven H. Kaufmann of the law firm Richards, Watson & Gerson, APC, to represent it in the cases of Steinberg v. City of Solana Beach, Case No. 37-2013-00044897-CU-WM-NC, Homeowner’s Association of the Solana Beach & Tennis Club v. City of Solana Beach, Case No. 37-2013-00046245-CU-WM-NC, Beach & Bluff Conservancy v. City of Solana Beach, Case No. 37-2013-00046561-CU-WM-NC, and any related cases pertaining to the City’s Local Coastal Plan Land Use Plan. These lawsuits were brought to challenge the City’s adoption of the Land Use Plan as modified by the California Coastal Commission.

This is before Council to modify an existing legal services agreement to include related legal cases.

DISCUSSION:
On December 3, 2014, the City was served with a complaint in the case Hamilton v. City of Solana Beach, Case No. 37-2014-00034514-CU-WM-NC, challenging specific provisions of the City’s Local Coastal Plan Land Use Plan as being inconsistent with California’s Coastal Act. This case is substantially similar to the other three lawsuits in which Mr. Kaufmann represents the City. Accordingly, City Staff recommends that the scope of services for the Professional Services Agreement with Richards, Watson & Gerson be amended to include this new lawsuit.

CEQA COMPLIANCE:
Not a project as defined by CEQA

CITY COUNCIL ACTION:

AGENDA ITEM A.7.
FISCAL IMPACT:
At this time, there are sufficient funds allocated for legal services in the City Attorney's budget for the 2014-2015 fiscal year for special counsel work. The litigation will also be considered as the 2015-2016 legal budget is prepared.

WORKPLAN: N/A

OPTIONS:
- Approve Staff recommendation.
- Provide alternate direction.

DEPARTMENT RECOMMENDATION:
Staff recommends the City Council:

1. Adopt Resolution 2015-007 approving the First Amendment to the Professional Services Agreement for Legal Services with Richards, Watson & Gershon, APC and to authorize the City Manager to execute the Amendment.

CITY MANAGER'S RECOMMENDATION:
Approve Department Recommendation

David Ott, City Manager

Attachments:
1. Resolution No. 2015-007
2. First Amendment to Professional Services Agreement for Legal Services.
RESOLUTION 2015-007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT FOR LEGAL SERVICES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT BETWEEN THE CITY OF SOLANA BEACH AND RICHARDS, WATSON & GERSHON, APC

WHEREAS, on May 14, 2013, the City of Solana Beach ("CITY") entered into the Professional Services Agreement for Legal Services ("AGREEMENT") with Richards, Watson & Gershon, APC ("CONSULTANT"); and

WHEREAS, the CONSULTANT represents the CITY in the cases of Steinberg v. City of Solana Beach, Case No. 37-2013-00044897-CU-WM-NC, Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach, Case No. 37-2013-00046245-CU-WM-NC, Beach & Bluff Conservancy v. City of Solana Beach, Case No. 37-2013-00046561-CU-WM-NC, and any related cases pertaining to the City's Local Coastal Plan Land Use Plan; and

WHEREAS, on December 3, 2014, the CITY was served with a complaint in the case Hamilton v. City of Solana Beach, Case No. 37-2014-00034514-CU-WM-NC, challenging specific provisions of the City's Local Coastal Plan Land Use Plan as being inconsistent with California's Coastal Act; and

WHEREAS, the CITY requires legal services of independent special counsel to represent it in this new, related matter; and

WHEREAS, the City Council has determined that it is necessary and appropriate to amend the scope of services for the AGREEMENT for Steven H. Kaufmann of the law firm of Richards, Watson & Gershon, APC to provide legal services to the City as special counsel to represent the CITY in the case Hamilton v. City of Solana Beach.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council approves the First Amendment to the Professional Services Agreement for Legal Services with Richards, Watson & Gerson, APC, and authorizes the City Manager to execute the Amendment.

PASSED AND ADOPTED this 14th day of January 2015, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES:        Councilmembers –
NOES:        Councilmembers –
ABSTAIN:     Councilmembers –
ABSENT:      Councilmembers –

______________________________
LESA HEEBNER, Mayor

APPROVED AS TO FORM:

______________________________
JOHANNA N. CANLAS, City Attorney

ATTEST:

______________________________
ANGELA IVEY, City Clerk
CITY OF SOLANA BEACH

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
FOR LEGAL SERVICES

This First Amendment to the Professional Services Agreement (hereinafter “AMENDMENT”), dated May 14, 2013, is entered into this ___ day of January 2015, by and between the City of Solana Beach, a California municipal corporation, (hereinafter “CITY”) and Richards, Watson & Gershon, APC (“CONSULTANT”) (collectively “PARTIES”).

WHEREAS, the CONSULTANT represents the CITY in the cases of Steinberg v. City of Solana Beach, Case No. 37-2013-00044897-CU-WM-NC, Homeowner's Association of the Solana Beach & Tennis Club v. City of Solana Beach, Case No. 37-2013-00046245-CU-WM-NC, Beach & Bluff Conservancy v. City of Solana Beach, Case No. 37-2013-00046561-CU-WM-NC, and any related cases pertaining to the City’s Local Coastal Plan Land Use Plan; and

WHEREAS, on December 3, 2014, the CITY was served with a complaint in the case Hamilton v. City of Solana Beach, Case No. 37-2014-00034514-CU-WM-NC, challenging specific provisions of the City's Local Coastal Plan Land Use Plan as being inconsistent with California’s Coastal Act; and

WHEREAS, the CITY requires legal services of independent special counsel to represent it in this new, related matter.

NOW, THEREFORE, the PARTIES hereby mutually covenant and agree to the following AMENDMENT to the May 14, 2013 Professional Services Agreement, Exhibit A, Section A:

A. SCOPE OF SERVICES.


All other provisions of the May 14, 2013 Professional Services Agreement remain in full force and effect and are incorporated herein.
IN WITNESS WHEREOF, the PARTIES have caused this AMENDMENT to be executed on the date specified above.

CITY of SOLANA BEACH, a municipal corporation

[Signature]
City Manager, David Ott

RICHARDS, WATSON & GERSHON, APC

By: ____________________________
Steven H. Kaufmann, Esq.

ATTEST:

[Signature]
Angela Ivey, City Clerk

APPROVED AS TO FORM:

[Signature]
Johanna Canlas, City Attorney

Page 2 of 2
AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES