



City of Emeryville

CALIFORNIA

MEMORANDUM

Date: June 19, 2018

To: Chair John Bauters and MESA Board

From: Michael A. Guina, General Counsel

Subject: City Attorney Employment Agreement

Resolution Of The Board Of Directors Of The Management Of Emeryville Services Authority (MESA) Approving An Agreement Of Employment Between MESA And Michael A. Guina As City Attorney/General Counsel For The Period Of July 1, 2018 Through June 30, 2020 And Authorizing The Chair Of The Board Of Directors To Execute Said Agreement On Behalf Of The MESA

Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To An Agreement Of Employment Between The Management Of Emeryville Services Authority And Michael A. Guina As City Attorney/General Counsel For The Period Of July 1, 2018 Through June 30, 2020

RECOMMENDATION

Staff recommends the MESA Board of Directors and City Council review the attached resolutions regarding an Agreement of Employment ("Agreement") between MESA and Michael Guina as City Attorney/General Counsel for a two- year period commencing July 1, 2018, and expiring June 30, 2020.

The MESA resolution approves the Agreement and authorizes the Chair of the Board of Directors to execute the Agreement with Mr. Guina. The City Council resolution approves and consents to the Agreement between MESA and Mr. Guina. The proposed Agreement is attached as Exhibit A to both resolutions.

BACKGROUND

The MESA retained the services of Michael Guina as City Attorney in 2016 pursuant to that certain Amended and Restated Agreement of Employment effective July 1, 2016, for a two-year term ending June 30, 2018 (MESA Resolution No. MA25-16; City Council Resolution No. 16-155). The Amended and Restated Agreement of Employment allows for the Parties to meet periodically in closed session for the purpose of evaluating the performance of the City Attorney and to negotiate and consider a new contract as deemed necessary and appropriate. Pursuant to the Amended and Restated

Agreement, the Parties entered into negotiations for new terms of employment and wish to enter into a new Agreement for the period 2018-2020, described below.

DISCUSSION

The proposed new employment Agreement contains the following substantive deal points:

- Section 1 provides that as City Attorney for the City of Emeryville, Mr. Guina also serves as the City Attorney for the City of Emeryville Successor Agency, General Counsel of the Emeryville Public Financing Authority, General Counsel of the Emeryville Community Development Commission, and General Counsel of the Management of Emeryville Services Authority.
- Section 2 provides for a two-year term commencing July 1, 2018, and terminating on June 30, 2020, and that the parties will meet in good faith to renegotiate the terms of the Agreement at least three (3) months prior to its expiration.
- Section 3 specifies the City Attorney is an at-will employee.
- Section 4 provides that the MESA Board may terminate the Agreement prior to expiration, but the City Attorney is entitled to a maximum of six months' severance pay, plus 100% of any accrued vacation and administrative leave, plus 60% of accrued sick leave. The City Attorney may resign upon providing sixty (60) days' prior notice, at which time he is entitled to 100% of any accrued vacation and administrative leave, plus 60% of accrued sick leave.
- Section 6 provides that the City Attorney shall be paid a base salary of \$16,671.58 per month for the first year of the Agreement (FY 2018-2019). In addition, the City Attorney shall receive a one-time, lump sum payment of \$10,000 at the August 1, 2018 pay period. The base salary shall increase to \$16,838.30 per month for the second year of the Agreement (FY 2019-2020). The Board may increase the base salary following the annual evaluation of the City Attorney. In addition, the City Attorney shall receive the same annual increases to Base Salary as negotiated between MESA and the Confidential Administrative, Managerial and Professional (CAMP) bargaining group. The Current MOU between MESA and CAMP provides for an annual 3% increase.
- Section 7 provides for 4 weeks of vacation, 3 weeks of sick leave, and 80 hours of administrative leave.
- Section 8 provides for the 2% @ 55 PERS formula, and the City Attorney will pay the employee contribution.

FISCAL IMPACT

The salary and benefits have been included in the recently adopted budget for FY 2018-2019, FY 2019-2020.

CONCLUSION

Enclosed are resolutions for consideration by the Board of Directors of MESA and the City Council. The MESA resolution would approve the new Agreement and authorize the Chair of the Board of Directors to execute a new two (2) year employment agreement with Michael A. Guina. Further the City Council resolution would approve and consent to the Agreement between MESA and Michael A. Guina.

Respectfully submitted,



Michael A. Guina, General Counsel

Attachments:

1. MESA Resolution
Exhibit A: Proposed Agreement 2018-2020
3. City Council Resolution
Exhibit A: Proposed Agreement 2018-2020