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Title: CONSIDER APPROVAL OF AMENDMENT NO. 2 TO CONTRACT SERVICES AGREEMENT WITH GOVERNMENTJOBS.COM, INC. (D/B/A "NEOGOV") FOR ADDITIONAL RECRUITMENT SOFTWARE SERVICES AND EXTENSION OF THE CONTRACT TERM (CITY COUNCIL)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - NeoGov Agreement 2019, 2. Exhibit 2 - NeoGov Amendment No. 1, 3. Exhibit 3 - Neogov Proposed Amendment 2, 4. Exhibit 4 - Budget Reso 23-135, 5. Exhibit 5 - NEOGOV Executive Summary

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, September 05, 2023

Consent

SUBJECT:

CONSIDER APPROVAL OF AMENDMENT NO. 2 TO CONTRACT SERVICES AGREEMENT WITH GOVERNMENTJOBS.COM, INC. (D/B/A "NEOGOV") FOR ADDITIONAL RECRUITMENT SOFTWARE SERVICES AND EXTENSION OF THE CONTRACT TERM (CITY COUNCIL)

I. SUMMARY

On August 15, 2019, the City of Carson signed a contract services agreement with GovernmentJobs.com, Inc., dba "NeoGov," for NeoGov's Insight Hiring Management software and subscribing to Governmentjobs.com (Exhibit No. 1; "Agreement"). On August 15, 2022, The City and consultant entered into Amendment No. 1 to the Agreement exercising City's option to extend the term of the Agreement for two-year extension period, thereby extending the term expiration date from August 15, 2022 to August 15, 2024.

The proposed Amendment No. 2 would extend the term of the Agreement and existing services through September 30, 2026; add additional products/services; commencing October 1, 2023 and continuing through September 30, 2026; correct certain provisions of the Agreement related to the existing services; and increase the not-to-exceed contract

sum by \$325,980.02, from \$73,509.60 to \$399,489.62.

II. RECOMMENDATION

1. Approve the proposed Amendment No. 2 to the Agreement with NeoGov (Exhibit No.3; Amendment No. 2)
2. Authorize the Mayor to execute Amendment No. 2 following approval as to form by the City Attorney.
3. Approve Budget Resolution No. 23-135 "A RESOLUTION OF THE CITY OF CARSON CITY COUNCIL AMENDING THE FISCAL YEAR 2023-24 BUDGET IN THE GENERAL FUND AND SPECIAL REVENUE FUNDS."

III. ALTERNATIVES

Take any action deemed appropriate.

IV. BACKGROUND

The City of Carson's Human Resources department has used GovernmentJobs.com's NEOGOV software services since August 15, 2019, under the current Agreement, for recruitment and selection hiring practices and management. The software has helped Human Resources attract, retain, develop, and manage talent.

On August 15, 2019, the City of Carson signed the Agreement with GovernmentJobs.com, Inc., dba "NeoGov," for NeoGov's Insight Hiring Management software and subscribing to Governmentjobs.com (Exhibit No. 1; "Agreement"). Previous annually-renewing agreements had been in place between the parties since at least 2014. On August 15, 2022, the City and NeoGov entered into Amendment No. 1 to the Agreement exercising City's option to extend the term of the Agreement for two-year extension period, thereby extending the term expiration date from August 15, 2022 to August 15, 2024.

As stated in the summary above, staff and NeoGov now desire to amend the Agreement to extend the term of the Agreement through September 30, 2026; correct certain provisions retroactive to the effective date of the Agreement, as explained in the legal discussion section of this report (below); add the additional products/services set forth herein commencing as of October 1, 2023; and increase the not-to-exceed contract sum by \$325,980.02, from \$73,509.60 to \$399,489.62.

Legal Discussion

The existing Agreement expressly provides that subscriptions to NeoGov's Perform, Onboard, Learn, and NeoGov Integrations software programs are included in the services, despite the fact that subscriptions to Perform, Onboard and Learn are included among the proposed additional services (listed below) under Amendment No. 2, at additional charge to the City. NeoGov has not at any point been providing these subscriptions to the City, and

has informed the City that it believes these provisions were erroneously included in the Agreement.

Based on the express provisions of the contract, the City has a legal argument that these services should have been provided since the commencement of the Agreement in 2019 within the existing rates of compensation, and therefore that NeoGov should not be able to charge the City additional amounts to provide these services commencing October 1, 2023 under Amendment No. 2. On the other hand, a review of NeoGov's underlying quote and prior agreements reveal that NeoGov never provided the Perform, Onboard, Learn, and NeoGov Integrations subscriptions to the City in the past and likely did not intend to include such subscriptions within the quoted prices and total compensation, which were in turn included in the Agreement). This is also consistent with NeoGov's subsequent actions of not providing such services to the City.

Staff believes that these provisions were included by the City when drafting the Agreement and that NeoGov inadvertently did not notice them and therefore signed the Agreement without objecting to their inclusion. Although NeoGov should have been more diligent in reviewing the draft of the Agreement before signing it, staff believes this was a matter of inadvertence rather than attempted bad faith on NeoGov's part. Moreover, staff believes that the pricing rates and total compensation paid by the City under the Agreement to date, compared with the services actually rendered, likely reflects a fair or standard market rate of compensation for such NeoGov services.

After taking into account all relevant considerations, including the limitation of liability provisions in the Agreement, staff and the City Attorney's office are of the view that it would be more constructive, and possibly more cost-effective, to move forward with the proposed Amendment No. 2 as presented than to engage in a contract dispute with NeoGov by contending the aforementioned subscription services should have been provided from the commencement of the Agreement. The proposed Amendment No. 2 would, among other things, correct these discrepancies such that it is understood the original Agreement did not include the Perform, Onboard, Learn and NeoGov Integrations subscriptions.

The sole source exception to bidding requirements of the City's purchasing ordinance applied to the agreement and apply to the proposed amendment, pursuant to CMC 2611 (e).

Additional Services

Upon Council approval the additional products and services commencing October 1, 2023 are as follows:

Perform: Automates annual and probationary employee evaluations, allowing the HR team and department heads to identify skills gaps and areas of improvement in their employees. Perform is the only full-featured performance management software in the marketplace with public sector functionality and a mobile-friendly interface.

Onboard: Supports the public sector's compliance requirements. Ensures day-one readiness for new employees, expedites productivity, and helps retain hires longer. Allow new hires to complete paperwork prior to their first day, share organizational values and mission, reinforce job duties, assign mentors, and schedule check-ins, all within one

onboarding platform.

Learn: Promotes employee training with an easy-to-use system for HR department managers, and employees. eliminates the administrative burden of managing multiple employee training programs by providing a centralized online platform designed for the specific needs of the public sector.

eForms: A digital platform designed to streamline and automate the process of creating, managing, and distributing electronic forms. The platform offers features like drag-and-drop form builders, pre-built templates, and workflows, allowing for seamless data collection and processing.

PowerPolicy: A centralized platform to create, distribute, and update policies and procedures. The platform allows for the creation of policy templates, version control, automated notifications, and acknowledgement tracking. It also provides reporting and auditing capabilities to ensure accountability and monitor policy adherence across the agency.

Position Import: NEOGOV can import an ongoing update of position data from your HRIS/ERP system to the NEOGOV platform. This data will be used to populate the requisition form and hire form with position information. It will also update the position tables across the rest of the NEOGOV platform.

Single Sign On: NEOGOV offers a single sign-on (SSO) solution that allows users to be securely authenticated and logged into NEOGOV applications without having to re-enter their credentials. This is made possible by delegating identification of the logged in user to the customer's network.

Employee Import: NEOGOV can import an ongoing update of employee data from your HRIS/ERP system to the NEOGOV platform. All files are to be placed in the Customer's 'Inbound' folder on the NEOGOV SFTP server. NEOGOV retrieves the files from the SFTP server and then imports the data into the NEOGOV platform.

Candidate Text Messaging: Enables the ability to send text messages to candidates through the Insight product. Employers can send automated messages to candidates, such as interview invitations, application status updates, and reminders for upcoming appointments.

New Hire Export: NEOGOV automatically exports a file of hires to be sent to an SFTP site for processing into your HRIS/ERP system. Hires include any new hires, rehires, or promotions that have been entered into Insight. The data exported is configurable to include the Insight fields that you specify.

V. FISCAL IMPACT

Per Council approval \$93,215.60 will be transferred from the general fund reserve to Information Technology Professional Services GL account 101-54-520-101-6004 to cover the cost for fiscal year 23/24. Additionally, staff will budget annually for the remainder of the contract years.

VI. EXHIBITS

1. NeoGov Agreement 2019 (pgs.6-63)
2. Amendment No. 1 to NeoGov Agreement (pgs.64-80)
3. Proposed Amendment No. 2 NeoGov Agreement (pgs.81-90)
4. Budget Resolution 23-135 (pgs.91-92)
5. NeoGov Executive Summary (pgs.93-148)

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