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Title: TERMINATE OR AMEND CONSULTANT RETAINER AGREEMENTS TO PROVIDE ON-CALL ENGINEERING PROFESSIONAL SERVICES TO THE ENGINEERING DIVISION OF THE PUBLIC WORKS DEPARTMENT (CITY COUNCIL)

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5/7/2019	1	City Council		

Report to Mayor and City Council

Tuesday, May 07, 2019

Discussion

SUBJECT:

TERMINATE OR AMEND CONSULTANT RETAINER AGREEMENTS TO PROVIDE ON-CALL ENGINEERING PROFESSIONAL SERVICES TO THE ENGINEERING DIVISION OF THE PUBLIC WORKS DEPARTMENT (CITY COUNCIL)

I. SUMMARY

This item was considered at a Special City Council Meeting held on April 26, 2019. At the meeting, the City Council voted 3-0 (MPT Hicks, Councilmember Davis-Holmes, Councilmember Dear) to select Recommendation No. 2, Recommendation No. 6 and Recommendation No. 10 and amend the not-to-exceed amounts of the On-Call Engineering Professional Services Agreements with KOA Corporation, John M. Cruikshank Consultant Inc., and P.A. Arca Engineering, Inc., from \$500,000.00 to \$250,000.00.

Below is the staff report from April 26 in its entirety:

On April 2, 2019, the City Council approved three contracts with three separate vendors for On-Call Engineering Professional Services, in the amount of \$500,000 per contractor over a period of two years, until June 30, 2021. These were brought forward by the Engineering Division of the Public Works Department, which is responsible for the design and

construction of all public works projects, including several that are grant funded. As an example, the City Council recently approved the issuance of tax-exempt bonds for a portion of its annual Measure M/Measure R local share county sales tax for transportation projects for at least \$10,000,000 in local street improvement projects, as well as the refunding of bonds issued on behalf of the Dominguez Technology Center Community Facilities District, which will create about \$2,000,000 in net present value savings available for street projects which benefit that district.

Most of the projects proposed for bidding under these contracts would be bid or funded out of non-General Fund sources, such as Measure R/Measure M or SB-1 or the two bond issues. Other smaller projects would be funded out of the General Fund, such as the traffic signal requested by City Council at Central and Dimondale. This was to be the first project bid under this on-call process.

In consideration of the limited internal staff resources and the significant number of infrastructure related projects, having On-Call Engineering Professional Services will greatly reduce the time required to develop the necessary plans, specifications and estimates by eliminating the need to prepare separate Requests for Proposals (RFPs) for each project under consideration. Consultant Retainer Agreements were intended to provide flexibility and enhance the capacity of the Engineering Division to deliver projects in a timely manner. A staff Traffic Engineer would never have the time or resources to complete all of these designs in any type of timely manner.

Councilwoman Davis-Holmes first asked to reconsider the above-mentioned contracts on a regular Council meeting, but due to the number of intervening meetings, these items were unable to be reconsidered. This item is not a reconsideration of the previous approval, but rather the City either (a) exercising its right to terminate the contracts under Section 7.7, "Termination Prior to Completion of Term"; or (b) proposing an amendment to be mutually agreed upon by the contracting parties.

The proposed amendments would change two provisions of each of the three contracts, respectively, as follows: (1) total compensation to each of the contractors would be reduced from \$500,000 over two years to \$250,000 over two years; and (2) the amendment would require that project-specific Task Orders over \$25,000 be approved by the City Council before the Notice to Proceed is issued by the Contract Officer.

Note these are three separate contracts that were originally approved together. The recommendations here are broken down by contractor, with the Council given four choices for each contract: terminate, amend as proposed, amend in another manner, or take no action.

Finally, the last General Recommendation amends one overall action Council took with the approval of the original Agreements: the original approval limited the total amount expended in either fiscal year from the sum total of the three contracts to no more than \$750,000.00 per year from all sources. This effectively "budgeted" that amount in each of the two fiscal years, for an average of \$250,000.00 per year per contractor. If the contract amount is reduced in each of the contracts by half as proposed, that overall cap should be cut in half as well, which is accomplished in Recommendation No. 14. If the Council chooses to AFFIRM the amendment for each of the contractors, however,

Recommendation No. 14 would not be necessary.

II. RECOMMENDATION

TAKE the following actions:

KOA Corporation

1. DIRECT staff to proceed with termination under Section 7.7, "Termination Prior to Completion of Term," of the Consultant Retainer Agreement with KOA Corporation to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, in an amount not-to-exceed \$500,000.00.

or

2. APPROVE Amendment No. 1 to Consultant Retainer Agreement with KOA Corporation to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, amending the not-to-exceed amount from \$500,000.00 to \$250,000.00, and requiring that project-specific Task Orders greater than \$25,000.00 be approved by the City Council before the Notice to Proceed is issued by the Contract Officer.

or

3. DIRECT staff to prepare a different amendment to the Agreement on other terms.

or

4. AFFIRM the original Agreement and take no action.

John M. Cruikshank Consultant Inc.

5. DIRECT staff to proceed with termination under Section 7.7, "Termination Prior to Completion of Term," of the Consultant Retainer Agreement with John M. Cruikshank Consultant Inc., to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, in an amount not-to-exceed \$500,000.00.

or

6. APPROVE Amendment No. 1 to Consultant Retainer Agreement with John M. Cruikshank Consultant Inc., to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, amending the not-to-exceed amount from \$500,000.00 to \$250,000.00, and requiring that project-specific Task Orders greater than \$25,000.00 be approved by the City Council before the Notice to Proceed is issued by the Contract Officer.

or

7. DIRECT staff to prepare a different amendment to the Agreement on other terms.

or

8. AFFIRM the original Agreement and take no action.

P.A. Arca Engineering, Inc.,

9. DIRECT staff to proceed with termination under Section 7.7, "Termination Prior to

Completion of Term,” of the Consultant Retainer Agreement with P.A. Arca Engineering, Inc., to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, in an amount not-to-exceed \$500,000.00.

or

10. APPROVE Amendment No. 1 to Consultant Retainer Agreement with P.A. Arca Engineering, Inc., to provide On-Call Engineering Professional Services for the term of April 2, 2019 through June 30, 2021, amending the not-to-exceed amount from \$500,000.00 to \$250,000.00, and requiring that project-specific Task Orders greater than \$25,000.00 be approved by the City Council before the Notice to Proceed is issued by the Contract Officer.

or

11. DIRECT staff to prepare a different amendment to the Agreement on other terms.

or

12. AFFIRM the original Agreement and take no action.

General Recommendations

13. AUTHORIZE and DIRECT the Mayor to execute the proposed Amendment(s) to the Consultant Retainer Agreements following approval as to form by the City Attorney (pursuant to adoption of Recommendation No’s 2, 6 and/or 10).
14. AUTHORIZE and DIRECT the City Manager to execute amendments to the Consultant Retainer Agreements (including amendments resulting in compensation increases exceeding \$25,000) to adjust compensation for on-call engineering professional services as long as the total compensation for all three on-call engineering consultant services shall not exceed \$375,000 per fiscal year. Amendments causing on-call engineering consultant services compensation to exceed \$375,000 per fiscal year shall require further City Council approval.

III. ALTERNATIVES

1. TAKE another action the City Council deems appropriate, consistent with the requirements of the law.

IV. BACKGROUND

The City’s 5-Year Capital Improvement Program (CIP) was approved by the City Council on June 19, 2018, and the total estimated cost to complete all funded and unfunded projects is \$45,000,000. Given the number of potential projects and the limited staff resources within the Engineering Division of the Public Works Department, consultants are typically used to assist with the development of plans, specifications and estimates.

The following is the description of the current RFP/evaluation/contracting process. The on-call contracting process does this all at once for several contractors, rather than one step at a time:

Currently, several steps must be taken to retain a consultant for each potential project:

The initial stage is the conceptual phase, which sets a clear definition of the project’s

scope of work, funding, stakeholders, potential challenges, and any other significant information that the consultant needs to be informed of.

The data from the initial stage is included in details on the Request for Proposal (RFP) document. The RFP must also contain the expected content and format of the proposal as well as the submittal date. The RFP is drafted by staff and reviewed thoroughly with managers and directors, and depending on everyone's availability, the review process is time consuming and finalization of the RFP document could be delayed. Once the document is in its final format, it is given to the Purchasing Division (Purchasing) in order for them to ensure the document meets their criteria. This review process is also time-consuming due to staff's availability for review and acceptance of the document. Once Purchasing approves the document, it is advertised in Our Weekly and on the City's web based publication - Planet Bids for a specified time period depending on the magnitude of the services being solicited.

While the document is posted, inquiries may arise from interested firms and those inquiries require formal response from the City which may prolong the advertising time.

Once the response period has expired, proposals are submitted to the City Clerk for recordation and to Engineering staff for evaluation. The evaluation committee thoroughly reviews and assesses the content of each proposal based on set criteria. Depending on the number of responses, this process can take several weeks to complete. An interview of top candidates may be needed for the committee to finalize its selection. Top candidates are typically given a few weeks to prepare for the interview. Soon thereafter, the committee selects the most suitable firm for the particular professional service and the selection is discussed with the Public Works Director for recommendation of award.

Once a firm has been recommended, the contract agreement is circulated to the consultant for review and then routed to the City Attorney's office for review and approval. The City Attorney's office requires a minimum of four weeks for review. Sometimes the review is longer, depending on the number and type of exceptions or clarifications. Concurrent with the contract agreement review process, staff prepares a City Council agenda report to award a contract to the most responsive firm. The staff report is considered incomplete until the contract agreement has been approved by the City Attorney's office as final form.

Should the City Council approve the recommended selection, the approved contract is routed for signatures and fully executed prior to the City Clerk's Office entering the contract into the City's Enterprise Resource Planning management system (Tyler Munis). Once the contract has been entered into Tyler Munis, it is routed to Purchasing so that a Purchase Order (PO) can be generated. The selected firm is then issued a Notice to Proceed (NTP), which officially allows the firm to begin providing service.

As detailed above, the process of retaining a consultant for a specific project, from the initial conceptual phase to the issuance of the NTP, is extremely laborious and very time consuming; hence the desire for a set of on-call professional engineers to go through the process once, not for each project.

To streamline this process, Engineering would use these on-call consultants to reduce the time spent working on RFPs/RFQs, and allow staff to move quickly on projects without the delays caused by having to process separate RFPs/RFQs for each individual project. The use of consultants is not in lieu of using full-time employees, but rather these consultants will be utilized to enhance the capacity of the current staff. Larger projects tend to be way

beyond the scope of internal staff design, as the design may involve field work and is resource intensive.

Engineering solicited Statements of Qualifications (SOQs) by sending a Request for Qualifications (RFQs) to eight civil engineering firms. The firms were given a month to respond. The City received SOQs from five civil engineering firms, and based on the evaluation of all submittals, three firms were selected. The top three consultants are a mix of small, medium and large sized companies.

The Contractors

KOA Corporation (KOA) is the largest company of the three, with five offices through Southern California (Monterey Park, Orange, Ontario, La Quinta and San Diego). The company has been established for 31 years and primarily provides general civil and traffic engineering consulting services. They also have the capabilities to provide services such as grant applications, construction management, inspection services and transportation planning, and have retained sub-consultants that can provide material testing, surveying and landscape architectural services. KOA can assist the City with the immediate needs of projects that are time sensitive due to grant requirements. Their experience in construction management could also be a reliable source to assist staff in preparing an accurate estimate for a future bridge widening project. Staff is familiar with their services due to their involvement with the implementation of the Carson Street Master Plan project.

John M. Cruikshank Consultant Inc. (JMC²) is a medium-sized firm with nearby offices in San Pedro and Costa Mesa. Over the past 20 years of establishment, JMC² has worked on various public facilities, public sewage and drainage systems, and have the capabilities to provide land surveying and structural engineering design services. They have retained sub-consultants that can provide construction management services, environmental engineering and geotechnical inspections/testing.

The final engineering firm selected is a small firm that has previously provided services to the City for various types of engineering/surveying projects. P.A. Arca Engineering Inc. (AEI), is a local firm, located only a mile away from City Hall, that can ideally provide immediate attention to urgent needs. AEI increases their capacity through their sub-consultants to provide general civil design, surveying, traffic and construction management and inspection.

Aside from the professional engineering, surveying and construction management services, these firms can also provide additional personnel to temporarily augment staffing levels within Engineering, if necessary. This service will help expedite the process of plan reviews, applications or other needs the division may have.

Given that the City is working on approving proceedings to finance the reconstruction and construction of certain local streets and traffic signals from the proceeds of the Carson Public Financing Authority Revenue Bonds, it is anticipated that multiple public works projects will be added to the current CIP list, and the services of the engineering firms selected will be needed in order to implement those projects. In addition, there are several traffic related projects that currently require the services of consultants to meet the grant funding criteria.

Staff is confident that the three firms are well qualified and will be able to assist the City in efficiently providing the needed services.

All of the selected consultant's contracts will be exercised on an "on-call" basis. The three

engineering firms selected will be requested to submit a fee proposal for every service the division needs. Based on the submittals, Engineering will select the most efficient and economical solution. Under the Agreements, the Contract Officer would then issue a Notice to Proceed on a Task Order and the contractor would commence work. No additional Council action would be necessary.

The proposed amendments would require Council approval of all Task Orders greater than \$25,000.00, as is required for new contracts. These task orders would not be new, separate contracts, but would be charged against the overall \$250,000.00 contract. The "report" to Council would include the name of the contractor, a description of the scope of work, the amount of the Task Order and the cumulative amount of Task Orders issued to the contract under the entire contract.

V. FISCAL IMPACT

Funds for this item were not included in the FY 2018/19 budget; but, the department will be able to absorb the cost for the remainder of this fiscal year as the bidding and Task Order process is just getting underway and the first project is relatively small. Funds for FY 2019/20 are included in the current budget proposal. Staff will budget accordingly for FY 2020/21.

VI. EXHIBITS

1. Amendment No. 1 to Engineering Professional Services Agreement with KOA Corporation (pgs. 8-13)
2. KOA Corporation Engineering Professional Services Agreement (original signed contract) (pgs. 14-45)
3. Amendment No. 1 to Engineering Professional Services Agreement with John M. Cruikshank Consultant Inc. (pgs. 46-51)
4. John M. Cruikshank Consultant Inc. Engineering Professional Services Agreement (original signed contract) (pgs. 52-117)
5. Amendment No. 1 to Engineering Professional Services Agreement with P.A. Arca Engineering, Inc (pgs. 118-123)
6. P.A. Arca Engineering, Inc. Engineering Professional Services Agreement (original signed contract) (pgs. 124-172)

Prepared by: John S. Raymond, Acting City Manager