



Legislation Details (With Text)

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Title: CONSIDER APPROVAL OF THE THIRD AMENDMENT TO THE CONTRACT SERVICES AGREEMENT FOR STREET SWEEPING SERVICES WITH NATIONWIDE ENVIRONMENTAL SERVICES TO APPROVE A 3.8% ANNUAL COST OF LIVING RATE ADJUSTMENT REQUEST PER CONSUMER PRICE INDEX (CITY COUNCIL)

Sponsors:

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Attachments: 1. Amendment No. 3 to Nationwide Environmental Services Contract-Final, 2. Amendment No. 3 to Nationwide Environmental Services Contract (alternate) Final, 3. Resolution 19-135 - Nationwide CPI Adjustment-2019-Final, 4. NES CONTRACT-FINAL, 5. NES Amendment No. 1-FINAL, 6. NES Amendment No. 2-FINAL, 7. NES-CPI Request-2019-FINAL, 8. CPI-2019-US Dept. of Labor-FINAL

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

Tuesday, August 20, 2019

Consent

SUBJECT:

CONSIDER APPROVAL OF THE THIRD AMENDMENT TO THE CONTRACT SERVICES AGREEMENT FOR STREET SWEEPING SERVICES WITH NATIONWIDE ENVIRONMENTAL SERVICES TO APPROVE A 3.8% ANNUAL COST OF LIVING RATE ADJUSTMENT REQUEST PER CONSUMER PRICE INDEX (CITY COUNCIL)

I. SUMMARY

On April 2, 2019, Nationwide Environmental Services ("NES") submitted a request for an annual cost of living increase per the Consumer Price Index ("CPI"), in the amount of 3.8% of the contract sum, to be effective July 1, 2019. The request was submitted pursuant to Section 2.3 of NES' Contract Services Agreement for the Provision of Street Sweeping Services with the City, as amended ("Agreement"), which authorizes annual CPI adjustments to be granted by the City Council upon request and submission of the necessary information by NES.

The proposed Third Amendment to the Agreement would grant the request, thereby increasing the annual contract sum by \$32,770.32, to a total of \$895,148.76. The proposed

Third Amendment would also ratify four prior CPI requests totaling \$72,958.44 that were granted for budgeting purposes by the City, but were not memorialized via contract amendment.

The attached proposed budget resolution would increase the City's FY 2019-20 budget in the general fund by \$32,770.32 to account for the requested CPI increase.

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE the proposed Third Amendment to the Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California, to approve an annual CPI rate adjustment for FY 2019-20 in an amount not-to-exceed \$32,770.32, thereby increasing the total annual contract sum to \$895,148.76, and AUTHORIZE the Mayor to execute the same following approval as to form by the City Attorney (Exhibit No. 1).
2. ADOPT Resolution No. 19-135, "A RESOLUTION OF THE CITY COUNCIL OF CARSON, CALIFORNIA AMENDING THE FISCAL YEAR 2019-20 BUDGET IN THE GENERAL FUND" (Exhibit No. 3).

III. ALTERNATIVES

1. APPROVE the alternate version of the Third Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California, to approve an annual CPI rate adjustment for FY 2019-20 in an amount not-to-exceed \$32,770.32, thereby increasing the total annual contract sum to \$895,148.76, and to amend the term of the Agreement such that it will expire on March 31, 2022, subject to extension at the option of the City and by mutual agreement of the parties for up to two additional one-year extension periods thereafter, and AUTHORIZE the Mayor to execute the same following approval as to form by the City Attorney (Exhibit No. 2).

2. TAKE any other action that the City Council deems appropriate, consistent with the requirements of the law.

IV. BACKGROUND

The City entered into the original contract with NES in 2008. The contract provided for a term of three years, commencing July 1, 2008. On February 1, 2011, the parties entered into a First Amendment to the contract, which, among other things, authorized additional

sidewalk sweeping services and extended the term of the Agreement through June 30, 2018. On April 1, 2014, the parties entered into a Second Amendment to the contract, which, among other things, further extended the term as discussed below under the “Term of Agreement” sub-heading.

CPI Adjustments

On April 2, 2019, NES submitted a CPI rate adjustment request of 3.8% for FY 2019/20 pursuant to Section 2.3 of the Contract (Exhibit No. 7). Section 2.3 provides that the contract sum may be adjusted annually, on each July 1, to rates that are based on the CPI for the Los Angeles-Anaheim-Riverside area, as published by the United States Department of Labor, Bureau of Labor Statistics, provided NES submits a request and information in support of an annual adjustment, including changes in the CPI that occurred during the preceding calendar year. Section 2.3 also provides that the City Manager or designee shall review the information submitted by NES and will refer the proposed adjustment to the City Council for approval, in its reasonable judgment. (Exhibit No. 5).

Currently, the U.S. Department of Labor, Bureau of Labor Statistics annual average CPI for 2018 is 3.8% (Exhibit No. 8), therefore, NES’ CPI adjustment request is in accordance with the current CPI, which is effective as of July 1, 2019. Furthermore, the Agreement states that NES should submit the CPI adjustment request in April; therefore, the request made on April 2, 2019 was timely.

Staff has analyzed all of the data submitted by NES for the street sweeping services rate adjustment and found the information accurate and in compliance with contractual obligations. Accordingly, the proposed Third Amendment to the Agreement would amend the Agreement as necessary to provide for and effectuate approval of the requested CPI adjustment.

In addition, staff has determined that four prior CPI adjustments were granted to NES under the Agreement for City budgeting purposes (via Council adoption of budget resolutions), and have since been paid by the City, as follows: (1) CPI increase of 2.2%, effective July 1, 2013; (2) CPI increase of 1.3%, effective July 1, 2015; (3) CPI increase of 1.89%, effective July 1, 2017; and (4) CPI increase of 2.79%, effective July 1, 2018. However, these prior increases were not accompanied by contract amendments reflecting the changes in the contract sum. Accordingly, the proposed Third Amendment would also memorialize and ratify these prior CPI increases as included within the current contract sum.

Term of Agreement

The Second Amendment modified the Agreement to provide for a 10-year term, from April 1, 2014 through March 31, 2024, provided however, that commencing on April 1, 2015, and on each anniversary date of each year thereafter, an automatic one-year extension shall be applied such that the term shall remain at 10 years. It also amended the Agreement to provide that the parties may terminate the automatic one-year extension provision upon 60 days’ notice, but that such notice would only terminate the automatic one-year extension provision, and the Agreement would remain in effect for a ten-year term thereafter.

Staff and the City Attorney’s office, having consulted in regards to the current term of the

Agreement as provided in the Second Amendment, recommend that the City Council consider and discuss a potential amendment to the contract to change the term such that it is consistent with the City's other contracts. Most newly-awarded City contracts have a term in the range of three years, frequently with a City option to extend the term for up to two-one year terms thereafter. In contrast, the Agreement before the Council carries a 10-year term that is subject to automatic renewals such that the term always remains at 10 years. Moreover, the City has already been using NES under the Agreement for over 11 years, since 2008.

The City Council may wish at some point to issue a Request for Proposals for street sweeping services to ensure the City is receiving competitive rates for such services. However, issuance of an RFP would require expiration of the existing street sweeping services contract, and as such, the Council may wish to approve an amendment to the Agreement that would remove the automatically-renewing 10-year term and replace it with a standard 2-3 year term with an optional 1-2 year renewal period thereafter. In case the Council decides to proceed with this option, staff has attached an alternate version of the proposed Third Amendment to the Agreement, which would amend the term of the Agreement such that the term of the Agreement would expire on March 31, 2022, subject to two potential one-year extension periods thereafter that could be exercised at the City's discretion and by mutual agreement of the parties (Exhibit No. 2). The alternate version would also provide for approval of the requested CPI increase and ratification of the prior CPI increases in exactly the same manner as the proposed Third Amendment that is attached as Exhibit 1.

V. FISCAL IMPACT

The requested CPI increase to the annual contract sum, like the other contract costs, would be allocated from the Environmental Professional Services Account (101-80-840-276-6004). The total contract amount for FY 2018/19 was \$862,378.44. If the proposed 3.8% CPI increase is approved, the associated dollar amount is \$32,770.32, and the annual allocation for FY 2019/20 would increase to \$895,148.76. As a result, a budget amendment is necessary to increase the FY 2019/20 general fund budget allocation for the contract by \$32,770.32. Adoption of the proposed Resolution 19-135 would authorize the necessary budget amendment.

VI. EXHIBITS

1. Proposed Third Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California. (pgs. 5-11)
2. Proposed Third Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California (alternate version).(pgs. 12-18)
3. Resolution No. 19-135, "A RESOLUTION OF THE CITY COUNCIL OF CARSON, CALIFORNIA AMENDING THE FISCAL YEAR 2019-20 BUDGET IN THE GENERAL

FUND.” (pgs. 19-20)

4. Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California (Original Contract). (pgs. 21-36)
5. First Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California. (pgs. 37-42)
6. Second Amendment to Contract Services Agreement to Provide Street Sweeping Services for the City of Carson, California. (pgs. 43-47)
7. Nationwide Environmental Services’ CPI Rate Adjustment Request, dated April 2, 2019. (pg. 48)

8. Consumer Price Index - 2018, All Urban Consumers, for the Los Angeles-Anaheim-Riverside Area, as published by the United States Department of Labor, Bureau of Labor Statistics. (pg. 49)

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