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Title: CONSIDER AWARDING AND APPROVING CONTRACT SERVICES
AGREEMENTS/AMENDMENTS FOR PROVISION OF ON-CALL EMPLOYEE RELATIONS
INVESTIGATION SERVICES (CITY COUNCIL)

Sponsors:

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Attachments: 1. RFQ 20-015 WORKPLACE INVESTIGATION SERVICES, 2. RFQ Workplace Investigation
Combined Score Sheet (09 1 20)

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

Tuesday, October 06, 2020

Consent

SUBJECT:

**CONSIDER AWARDING AND APPROVING CONTRACT SERVICES
AGREEMENTS/AMENDMENTS FOR PROVISION OF ON-CALL EMPLOYEE
RELATIONS INVESTIGATION SERVICES (CITY COUNCIL)**

I. SUMMARY

The City has utilized various third-party consultants for employee relations investigations and related matters in the past. However, the City's need for such services has substantially increased in recent months as several new matters requiring third party investigation services have arisen, beginning in the summer of 2019.

In an initial attempt to address the immediate demand, staff solicited interest from investigators recommended by the City Attorney's Office or senior staff in other cities, and two firms were retained under City Manager contract authority; and, pursuant to the City's purchasing ordinance, staff issued a Request for Qualifications ("RFQ") to retain a new on-call panel of firms with sufficient funding authorization to allow for performance of the necessary professional services on an on-call basis for a sustained period of time moving forward.

Staff issued the RFQ (Exhibit No. 1), received and evaluated the 15 proposals received in

response, and based thereon, on September 1, 2020, recommended that the City Council award contract service agreements to the four highest rated attorney firms and the one highest rated non-attorney firm according to staff's Internal Panel Rating Worksheet (Exhibit No. 2). The City Council did not make the recommended award and instead requested that an external panel review the proposals and provide its recommendation, and staff was questioned as to whether four on-call firms were needed.

The external panel has been established and will be concluding its evaluation of the RFQ responses prior to October 6, 2020. The result of that evaluation, the External Rating Worksheet, will be walked on during the City Council meeting as Exhibit No. 3 to this report. Staff recommends that the City Council award contracts to the two highest rated attorney firms and the one highest rated non-attorney firm as determined by the external panel and reflected in the External Panel Rating Worksheet.

The proposed award to each recommended firm would be a contract services agreement (or amendment, to the extent the award is made to one of the two firms currently under contract with the City) for a term of three years at a not-to-exceed contract sum of \$150,000, with City options to extend the term of each agreement for up to two additional one-year periods thereafter (at a compensation limit of \$50,000 for each annual extension period). In the event the award is made to one or both of the two firms currently under contract (Harris & Associates and Boucher Law), the proposed contract terms will mimic the aforementioned terms, but in the form of amendments to the existing contracts that are in place with these firms. The existing agreements have some approved funding left (approximately \$3,000 for Harris & Associates and \$20,000 for Boucher Law) and are set to expire in November of 2020 (for Harris & Associates) and February of 2021 (for Boucher).

II. RECOMMENDATION

TAKE the following actions:

1. APPROVE the proposed Contract Service Agreements/Amendments for provision of on-call employee relations investigation services (Exhibit No. 4) (the "Agreements") with the two highest rated attorney firms and the one highest rated non-attorney firm as reflected in the External Panel Rating Worksheet (Exhibit No. 3); and
2. AUTHORIZE the Mayor to execute the Agreements after approval as to form by the City Attorney.

III. ALTERNATIVES

The City Council may take other action deemed appropriate, including approving contracts with more than the two highest rated attorney firms and the one highest rated non-attorney firms.

IV. BACKGROUND

Over an eight-month period beginning in mid-2019, the number of pending City employee relations investigations requiring third party services grew significantly. Some of these matters were submitted to Human Resources and others were submitted to the City Council anonymously.

The investigations were initially assigned to two investigator firms (Boucher Law and Harris & Associates) retained under City Manager contract authority and an RFQ was issued in compliance with the City's purchasing ordinance to enable the City to award new contracts with higher approved contract sums to a panel of firms that can provide the City with the necessary professional services on an on-call basis.

Carson Municipal Code (CMC) Section 2611(c) applies to the procurement of professional services of attorney(s) or other providers of professional services involving a high degree of technical or individual skill, and provides that the procurement shall be based on demonstrated competence, the professional qualifications necessary for satisfactory performance of the required services, and a fair and reasonable price, after notice to a number of potential offerors adequate to permit reasonable competition consistent with the nature and requirements of the procurement. Offerors shall provide evidence that the person or firm carrying out contract responsibilities possesses the expertise and experience to perform the requisite professional services.

Pursuant to CMC Section 2611(c), staff issued the RFQ (Exhibit No. 1) and obtained 15 responses with quotes/offers for services (7 responses from attorney firms and 8 responses from non-attorney firms). Consistent with Section 2611(c), staff evaluated the responses based upon the criteria of quality of proposal, investigation approach, staff, and pricing. The Rating Worksheet reflecting staff's internal evaluation is attached (Exhibit No. 2; the "Internal Panel Rating Worksheet").

On September 1, 2020, staff recommended that the City Council award contracts to the four highest-rated attorney firms (Leal Trejo, APC, Boucher Law, Law Office of Roberta M. Yang, P.C. and Harris & Associates, rated in that order), and the one highest rated non-attorney firm (Batza & Associates), according to the Internal Rating Worksheet. The City Council did not approve staff's recommendation and instead requested that an external panel review the proposals and provide its recommendation.

Staff was able to establish an external panel consisting of two attorney raters and one non-attorney rater, all of whom have significant experience with employee investigations. As of the date of this report, the external panel is in the process of concluding its evaluation of the responses to the RFQ, which is expected to be prior to October 6, 2020. Staff will endeavor to provide the City Council with the External Panel Rating Score Sheet prior to the October 6 City Council meeting but, at the very latest, it will be walked on during the October 6 City Council meeting for the City Council's consideration as Exhibit No. 3 to this report.

Given the demand for attorney services and after consultation with the external panel as to

the preferred number of consultants, staff recommends awarding contracts to the two highest rated attorney firms and the one highest rated non-attorney firm as determined by the external panel and will be reflected in the External Panel Rating Worksheet. Having two attorney firms on call will help ensure the City has the flexibility needed to ensure all the City's needs can be met, including with respect to expertise, availability, and objectivity. Staff also recommends having a non-attorney-firm option, as there may be situations where the nature of the investigation does not require an attorney and thus can be performed at a lower rate. Non-attorney investigation services might include surveillance, record searches, background checks, and skip traces, whereas attorney firms perform full scope investigations, conduct interviews, and issue legal opinions and recommendations, which must be defensible in a court of law. Staff anticipates that the three proposed consultants collectively, in addition to the services of the City Attorney's office where necessary and appropriate, will provide the City with the proper amount of service availability to correspond to the City's demand.

Proposed contracts (or contract amendments, as applicable) with the recommended firms will be prepared and walked on during the City Council meeting for the City Council's consideration as Exhibit No. 4 to this report.

The proposed contracts will provide for an initial term of three years, with City options to extend the term for up to two additional one-year terms thereafter, for a total potential contract term of five years for each firm. The contract sum for each firm will be limited to \$150,000 over the initial three-year term, plus up to \$50,000 for any optional extension period exercised. All the firms have proposed to perform the professional services at specified hourly rates, and the proposed contracts will specify the hourly rates in accordance with the firms' responses to the RFQ.

In the event the award is made to one or both of the two firms currently under contract (Harris & Associates and Boucher Law), the proposed contract terms will mimic the aforementioned terms, but in the form of amendments to the existing contracts that are in place with these firms. The existing agreements have some approved funding left (approximately \$3,000 for Harris & Associates and \$20,000 for Boucher Law) and are set to expire in November of 2020 (for Harris & Associates) and February of 2021 (for Boucher).

V. FISCAL IMPACT

No impact to the general fund budget. Funds for these services are budgeted in Account #101-65-680-101-6004.

VI. EXHIBITS

1. RFQ (pgs. 5-39)
2. Internal Panel Rating Worksheet (pg. 40)

3. External Panel Rating Worksheet (to be walked on)
4. Proposed Contracts (to be walked on)

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