



## Legislation Text

File #: 2020-151, Version: 1

### Report to Mayor and City Council

Tuesday, March 17, 2020

Consent

#### **SUBJECT:**

**CONSIDER APPROVAL OF AMENDMENT NO. 1 TO 2018 AGREEMENT FOR WORKERS' COMPENSATION DEFENSE ATTORNEY SERVICES CONTRACT (CITY COUNCIL)**

#### **I. SUMMARY**

The City is self-insured for its Workers' Compensation Program and contracts with a third party administrator ("TPA") to administer the claims. The City contracts separately with a law firm to defend against litigated claims.

On May 1, 2018, City Council awarded a three-year contract ("2018 Agreement") to the Law Offices of Dabbah, Haddad & Suleiman ("DHS") (Exhibit No. 1). The 2018 Agreement was for the period of May 2, 2018 through May 1, 2021 with two (2) optional one-year contract extensions, for a total contract sum of \$360,000. At that time City and DHS underestimated the amount of work that was required to address the open claims inventory as well as new litigated claims. This resulted in exceeding the contract sum.

Staff is now asking the Council to approve Amendment No. 1 to the 2018 Agreement adding an additional \$400,000 to the contract sum.

#### **II. RECOMMENDATION**

TAKE the following actions:

1. APPROVE Amendment No. 1 to the Contract Services Agreement by and between the City and Dabbah, Haddad & Suleiman, APC, authorizing an increase of \$400,000 for the cost of services, thereby increasing the total contract sum from \$360,000 to \$760,000.
2. AUTHORIZE the Mayor to execute the Amendment upon approval as to form by the City Attorney.

#### **III. ALTERNATIVES**

TAKE another action City Council deems appropriate.

#### **IV. BACKGROUND**

On May 1, 2018, City Council awarded a three-year contract (“2018 Agreement”) to the Law Offices of Dabbah, Haddad & Suleiman (“DHS”) (Exhibit No. 1). The 2018 Agreement was for the period of May 2, 2018 through May 1, 2021 with two (2) optional one-year contract extensions, for a total contract sum of \$360,000. At that time City staff and DHS underestimated the amount of work that was required to address the open claims inventory as well as new litigated claims. As of February 19, 2020 the cost of legal services provided by DHS was \$443,037.65.

When DHS took over the account in May 2018, it was assigned an inventory of 51 litigated claims dating back to 2002. City staff directed DHS to resolve as many of the legacy, complex cases as possible. Workers compensation claims involve complex medical, legal and employment issues, requiring substantial efforts to litigate and/or negotiate favorable settlement terms. Working with City staff and TPA, DHS has reduced the litigated claims inventory to 40 claims, including 5 new cases that were opened since DHS was awarded the contract.

DHS is paid on assigned cases through the workers compensation claims. Although Staff monitors case reserves and case payments, we were not receiving a summary report by Admsure, our third party TPA, until February 2020 when requested. Upon receipt of the requested report, we confirmed that the payouts to DHS had exceeded the contract amount. Admsure is now providing Staff with monthly reports for DHS which will allow us to better monitor the cases assigned to ensure that the contract amount is not exceeded.

#### **V. FISCAL IMPACT**

There is no fiscal impact. The cost of legal services is included in the annual self-insured workers compensation reserve budget. The reserves are actuarially forecasted and are not changing at this time.

#### **VI. EXHIBITS**

1. Contract Services Agreement by and between the City and Dabbah, Haddad & Suleiman, APC. (“2018 Agreement”) (pgs. 3-31).
2. Amendment No. 1 to 2018 Agreement (pgs. 32-36).

Prepared by: Faye Moseley, Director of Human Resources and Risk Management