



Legislation Text

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MOTION TO APPROVE THE NEGOTIATED AGREEMENT WITH CH2M HILL ENGINEERS, INC., PURSUANT TO THE AWARD OF PSUT-18-03 "UTILITIES COMPREHENSIVE MASTER PLAN SERVICES," IN ACCORDANCE WITH FLORIDA STATUTE 287.055, CONSULTANT'S COMPETITIVE NEGOTIATION ACT (CCNA) FOR AN AMOUNT NOT TO EXCEED \$542,628.

This item was deferred at the January 15, 2020 Commission Meeting.

PROCUREMENT PROCESS TAKEN:

- ***Chapter 35 of the City's Code of Ordinance is titled "PROCUREMENT PROCEDURES, PUBLIC FUNDS."***
- ***Section 35.18 of the City's Code of Ordinances is titled "COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS."***
- ***Section 35.18(C) states that "Only the following situations are exempt from the competitive bid and competitive proposal requirements of this section:"***
- ***Section 35.18(C)(2) states "Contracts for professional services involving peculiar skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, or competitive proposals, are exempt from this section; however, state laws, such as the Consultants' Competitive Negotiation Act of the state statutes, as may be amended from time to time to the extent applicable, shall be followed."***
- ***Florida Statute (F.S.) 287.055 is known as the "Consultant's Competitive Negotiation Act" (CCNA).***
- ***F.S. Section 287.055(2)(a) defines Professional services as "those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice."***
- ***F.S. Section 287.055(3)(a)(1) states "Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s.287.017 for CATEGORY FIVE (\$325,000) or for a planning or study activity when the fee for professional services exceeds the threshold amount provided***

in s.287.017 for CATEGORY TWO (\$35,000), except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration."

- Section 35.21(A)(1) of the City's Code of Ordinance states, "An initial purchase of, or contract for, commodities or services, in excess of \$25,000, shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed."

SUMMARY EXPLANATION AND BACKGROUND:

1. On June 6, 2018, the City Commission authorized the advertisement of PSUT-18-03 "Utilities Comprehensive Master Plan Services," which was advertised on June 12, 2018.

2. On July 10, 2018, the City opened three (3) proposals from the following vendors:

Vendor Name:

Calvin, Giordano & Associates, Inc.
Carollo Engineers, Inc.
CH2M Hill Engineers, Inc.

3. On August 14, 2018, the City convened an evaluation committee to evaluate the qualifications of the proposers based on the weighted criteria provided for in the bid documents and listed below:

- Firm's Qualifications and Experience in Similar Projects (35%)
- Qualifications & Experience of Key Personnel (15%)
- Firm's Understanding and Approach to the work (35%)
- Client References and Past Performance (10%)
- Local Vendor Preference/Veteran Owned Small Business Preference (5%)

4. At the August 14, 2018 evaluation committee meeting, the evaluation committee listened to presentations, held a question and answer session and ranked the vendors as shown below:

<u>Rank</u>	<u>Vendor Name</u>
1	CH2M Hill Engineers, Inc.
2	Carollo Engineers, Inc.
3	Calvin, Giordano & Associates, Inc.

5. During the presentation, the evaluation committee discussed whether there was a possible conflict of interest with awarding PSUT-18-03 "Utilities Comprehensive Master Plan Services" to CH2M Hill Engineers, Inc. while the City currently has an agreement with Operations Management International, Inc. for the Operations Management International, Inc. (OMI) for the Operation, Maintenance, and Management of the City's Utility System. In addition, after the scoring was read aloud one of the evaluation committee members asked the City Attorney that was present at the meeting whether there was a possible conflict of interest with awarding CH2M Hill Engineers, Inc. At the meeting, the City Attorney stated that he did not have all of the details in regards to the OMI contract, however that information can be looked into and brought up if needed.

6. Based on the scoring results, the evaluation committee unanimously approved a motion to recommend the City Commission to award PSUT-18-03 "Utilities Comprehensive Master Plan Services" to the first ranked vendor, CH2M Hill Engineers, Inc., and to direct the City Manager to negotiate a contract for services and if the City is unable to negotiate a satisfactory contract with the first ranked vendor, to begin negotiations with the next ranked vendor.

7. After the Evaluation Committee meeting, staff reached out to the City Attorney's Office to review the possible conflict of interest comment closer, in which the City Attorney's office stated that there was no legal conflict of interest in awarding CH2M Hill Engineers, Inc.

8. On August 22, 2018, the City Commission deferred the agenda item for the approval of the findings and recommendations of the evaluation committee and to award PSUT-18-03 "Utilities Comprehensive Master Plan Services" to CH2M Hill Engineers, Inc., and to direct the City Manager to negotiate a contract for services, in order to have further legal review on issues of conflicts of interest in the procurement evaluation committee process.

9. The City Attorney's Office examined the information provided and revisited the discussion from the August 22, 2018 Commission Meeting and made the following statements:

- An award of the contract to CH2M Hill Engineers, Inc., as recommended, does not create an actual, legal conflict given OMI's operation of the utility plant. Both the utility master plan and the plant management were procured through an open and transparent competitive selection process. As you know, the City currently has certain vendors performing multiple services for the City which were procured through similar competitive processes. Additionally, it is our understanding that OMI, as the plant management, will not have any approval or oversight role with regards to the preparation of the master plan. Further, as the City Manager previously indicated, there may be some inherent benefit to having an entity with some knowledge of the City working on the master plan.

- Regarding the local vendor preference inquiry, it appears that the City LBTR is issued to Operations Management International, Inc. The County LBTR is issued to CH2M Hill Engineers, Inc. In light of this distinction, it is our recommendation that CH2M Hill Engineers, Inc. would qualify as a county local vendor, but not qualify as a city local vendor. We would suggest that City staff revisit the evaluation committee's recommendation and determine whether the City local vendor preference awarded to CH2M Hill Engineers, Inc. was decisive in their recommendation. If the City preference was decisive, we would recommend that the matter be sent back to the evaluation committee for further consideration of a county preference only. If the City preference was not decisive, the issue may be moot. We would also recommend that the agenda summary include an explanation of how the preference affected the evaluation committee's recommendation, if at all.

10. Staff revisited the evaluation committee's recommendations and determined that the local vendor preference was not decisive in their recommendation as there would be no impact to the ranking if the evaluation gave 2.5 Local Vendor Preference points to CH2M Hill Engineers, Inc. instead of 5 points.

11. On September 17, 2018, the City Commission approved the findings and recommendations of the evaluation committee and awarded PSUT-18-03 "Utilities Comprehensive Master Plan Services" to CH2M Hill Engineers, Inc., and directed the City Manager to negotiate a contract for services. In

addition, the City Commission also amended the main motion so that in addition to the negotiation of the contract, a conflict of interest mitigation plan would be included.

12. City staff was able to negotiate a compensation, which is fair, competitive and reasonable. In addition, the agreement also includes section 12.21 which addresses conflicts of interest.

13. The City Attorney's Office has reviewed the PSUT-18-03 "Utilities Comprehensive Master Plan Services" procurement process for compliance with Section 287.055, F.S., the Consultants Competitive Negotiation Act (CCNA) and has provided their legal opinion, PSUT-18-03 legally complies with the requirements of the CCNA. Attached to the agenda is a copy of the City Attorney's memorandum.

14. On April 15, 2020, this item was presented to the City Commission for approval. At that time, the City Commission deferred this item to allow for the inclusion of a Conflict Mitigation Plan into the Agreement. The Agreement has now been revised to include **Exhibit C Conflict of Interest Mitigation Plan**. The revised agreement is attached to this Agenda Item.

15. Request City Commission to approve the negotiated agreement with CH2M Hill Engineers, Inc., pursuant to the award of PSUT-18-03 "Utilities Comprehensive Master Plan Services," in accordance with Florida Statute 287.055, CCNA for an amount not to exceed \$542,628.

FINANCIAL IMPACT DETAIL:

- a) **Initial Cost:** \$542,628
- b) **Amount budgeted for this item in Account No:** Funds are currently budgeted for this project in account #471-536-6010-31500 (Professional Services - Other)
- c) **Source of funding for difference, if not fully budgeted:** Not Applicable.
- d) **5 year projection of the operational cost of the project:** Not Applicable.
- e) **Detail of additional staff requirements:** Not Applicable.