



Legislation Text

File #: 20-0542, Version: 1

MOTION TO APPROVE THE NEGOTIATED CONTINUING CONTRACT WITH R.J. BEHAR & COMPANY, INC., PURSUANT TO THE AWARD OF PSEN-19-07 "CIVIL ENGINEERING, INSPECTION, PERMIT REVIEW SERVICES AND DEVELOPMENT REVIEW COMMITTEE ASSISTANCE (DRC)", IN ACCORDANCE WITH FLORIDA STATUTE 287.055, CONSULTANT'S COMPETITIVE NEGOTIATION ACT (CCNA), FOR AN INITIAL THREE (3) YEAR PERIOD FOR AN ANNUAL AMOUNT NOT TO EXCEED \$85,000.

PROCUREMENT PROCESS TAKEN:

- Chapter 35 of the City's Code of Ordinances is titled "**PROCUREMENT PROCEDURES, PUBLIC FUNDS.**"

- Section 35.15 defines a Request for Qualifications as "A written solicitation for competitive sealed offers with the title, date and hour of the public opening designated. A request for qualifications shall include, but is not limited to, general information, functional or general specifications, statement of work, instructions for offer and evaluation criteria. All requests for qualifications shall state the relative importance of the evaluation criteria. The city may engage in competitive negotiations with responsible offerors determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of offers, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offer."

- 35.18(A) states, "A purchase of or contracts for commodities or services that is estimated by the Chief Procurement Officer to cost more than \$25,000 shall be based on sealed competitive solicitations as determined by the Chief Procurement Officer, except as specifically provided herein."

- Section 35.19(A) states "All sealed competitive solicitations as defined in § 35.18 shall be presented to the City Commission for their consideration prior to advertisement."

- 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(2)(f) states “Project” means that fixed capital outlay study or planning activity described in the public notice of the state or a state agency under paragraph (3)(a). A project may include:

- 1. A grouping of minor construction, rehabilitation, or renovation activities.***
- 2. A grouping of substantially similar construction, rehabilitation, or renovation activities.***

- 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.”

- F.S. Section 287.055(2)(g) states “A “continuing contract” is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction costs of each individual project under the contract does not exceed \$2 million, for study activity if the fee for professional services for each individual study under the contract does not exceed \$200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.”

- On June 29, 2020, Governor Ron DeSantis signed House Bill 441 “Public Procurement of Services”, which increases the maximum cost thresholds for individual projects governed by a “continuing contract” pursuant to CCNA. The bill increases the maximum cost threshold for individual contract projects from \$2 million to \$4 million. In addition, the bill also increases the maximum cost threshold for an individual study from \$200,000 per study to \$500,000. The new bill is effective as of July 1, 2020. The newly enacted cost thresholds will apply to CCNA continuing contracts entered into after July 1, 2020 and will not apply retrospectively to continuing contracts entered into prior to July 1, 2020.

- Section 35.21(A)(1) 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 October 16, 2019, the City Commission authorized the advertisement of RFQ # PSEN-19-07 “Civil Engineering, Inspection, Permit Review Services and Development Review Committee (DRC) Assistance”, which was advertised on October 22, 2019.

2. The purpose of this solicitation was to establish a “continuing contract,” as defined by Florida Statute 287.055(2)(g), with the most highly qualified firm to serve in the capacity of Plan Review Engineers. The awarded firm would perform reviews of plans associated with new and modified projects for the Development Review Committee (DRC), in addition to Engineering Reviews of projects submitted for permitting, miscellaneous civil engineering, inspection and study services on an as needed basis.

3. On April 15, 2020 the City Commission approved the findings and recommendation of the evaluation committee and awarded PSEN-19-07 “Civil Engineering, Inspection, Permit Review Services, and Development Review Committee (DRC) Assistance”, to R.J. Behar & Company, Inc., and directed the City Manager to negotiate a contract for services.

4. City Staff was able to negotiate a contract with rates, which staff determines are fair, competitive and reasonable. The agreement is for a three (3) year period, which may be renewed in writing by the parties for two (2) additional one (1) year terms.

5. Pursuant to Section 2.1 of the Agreement, the City may request from R.J. Behar & Company, Inc. from time to time, on an as needed basis, to provide Civil Engineering, Inspection, Permit Review Services and Development Review Committee Assistance. These requests will describe the scope of work, desired time frame for its completion and the method of payment to be used. Upon receipt of these requests, R.J. Behar & Company, Inc. shall timely review the scope of work and schedule described in each request, and provide the City with a not to exceed fee or a list of professionals required for the assignment and an estimate of the work hours required to accomplish the services. Once an understanding is reached between the City and R.J. Behar & Company, Inc. regarding the scope, schedule and fee, the City may, in its sole discretion, issue a work order authorizing R.J. Behar & Company, Inc. to perform the services.

6. Request City Commission to approve the negotiated continuing contract with R.J. Behar & Company, Inc., pursuant to the award of PSEN-19-07 “Civil Engineering, Inspection, Permit Review Services and Development Review Committee (DRC) Assistance”, in accordance with Florida Statute 287.055, Consultant’s Competitive Negotiation Act (CCNA), for an initial three (3) year period for an annual amount not to exceed \$85,000.

FINANCIAL IMPACT DETAIL:

a) Initial Cost: \$85,000 Annually (Pro-Rate of \$14,200 for remaining FY2019-20)

b) Amount budgeted for this item in Account No: Funds are available in account # 100-541-6003 -31100 (Professional Services - Engineering)

c) Source of funding for difference, if not fully budgeted: Not Applicable.

d) 5 year projection of the operational cost of the project: The agreement is for a three (3) year

period, which may be renewed in writing by the parties for two (2) additional one (1) year terms.

	Year 1	Year 2	Year 3	Year 4	Year 5
Revenues	\$0	\$0	\$0	N/A	N/A
Expenditures	\$85,000	\$85,000	\$85,000	N/A	N/A
Net Cost	\$85,000	\$85,000	\$85,000	N/A	N/A

e) Detail of additional staff requirements: Not Applicable