



Legislation Text

File #: 21-0924, **Version:** 1

DISCUSSION AND POSSIBLE ACTION TO APPROVE AN ADDENDUM TO THE REQUEST FOR QUALIFICATIONS (RFQ # PD-21-03) FOR CITYWIDE TOWING SERVICES.

SUMMARY EXPLANATION AND BACKGROUND:

On the September 13, 2021 Commission meeting, the City Commission approved to defer Agenda Item # 18 (File ID # 21-0808), as a result the City's Administration is bringing this item back with a revised addendum incorporating the City Commission's requests and comments.

1. On May 2, 2018, the City Commission approved the findings and recommendation of the evaluation committee and awarded PD-17-07 "Citywide Towing Services" to Bazin Corporation d/b/a A & B Towing Services and on May 23, 2018 the City Commission approved to pass proposed ordinance no. 2018-04 on second and final reading. The agreement was for an initial three (3) year period beginning August 1, 2018 and ending July 31, 2021, with the option to extend for two (2) additional three (3) year period(s).
2. On September 21, 2020, Governor DeSantis signed House Bill 133 ("HB 133") and it is now Chapter No. 2020-174, Laws of Florida, effective October 1, 2020. HB 133 requires counties and allows municipalities to establish maximum rates for the towing or immobilization of vehicles or vessels. However, HB 133 prohibits a county or municipality from enacting a rule or ordinance that imposes a fee, charge, cost, expense, fine, or penalty on an authorized wrecker operator or a towing business. As a result, the City can no longer require a franchise fee on towing contractors.
3. On October 1, 2020, the City Attorney's Office issued Memo # 2020-165, which stated that:
 - Despite this prohibition, HB 133 permits the imposition of a reasonable administrative fee or charge, limited to 25 percent (25%) of the maximum towing rate, to cover the cost of enforcement, including parking enforcement.
 - If a municipality has a pre-existing franchise contract or any other contract imposing fees on a wrecker operator or a towing business, HB 133 may not retroactively apply to this contract and affect the value of the contract, as nothing has been presented in HB 133 or in its legislative analysis to justify a violation of the constitutional right to contract.
 - However, upon renewal or expiration of that contract, the City must comply with the requirements of HB 133 as provided herein.
4. As a result, on June 16, 2021, the City Commission approved proposed ordinance # 2021-12, on second and final reading, to establish a reasonable administrative fee for towing services which shall be equal to 25% of the Broward County towing rates as may be amended from time to time, to cover

the cost of towing enforcement when vehicles are towed from public property by amending the City's Code of Ordinances to establish § 72.09, entitled "Towing Services Administrative Charge."

5. The City is estimating that the City would receive approximately \$22,781.83 to \$30,453.05 in revenues from a 25% Administrative Fee, which would result in a net loss in revenue of \$179,077.45 to \$186,748.67 from not being able to receive a franchise fee due to the change in law.
6. On the May 19, 2021 Commission meeting there was an agenda item (#21-0383) to approve the first amendment to the existing agreement with Bazin Corporation d/b/a A&B Towing Service to renew the agreement for Citywide Towing Services and address the required change from franchise fees to administrative fees, as allowed per the existing contract and the City Attorney's memo. At that meeting, Vice Mayor Good made a substitute motion to go out to rebid, and develop a "library of services." Vice Mayor Good's substitute motion was passed by the City Commission.
7. As a result, the Police Department has drafted the attached memo, dated June 7, 2021, addressing the logistical burden of utilizing more than one vendor and the reduction of efficiency by utilizing more than one vendor.
8. On August 4, 2021, the City Commission approved the advertisement of PD-21-03 "Citywide Towing Services," however made a motion to amend the solicitation to include language requiring staff to conduct site visits to the Storage Lots for each of the proposers and to also include language to give points to proposers that own Class D equipment. The Procurement Department made the changes to the solicitation and issued the solicitation on BidSync on August 10, 2021 and with a closing date of September 7, 2021.
9. On September 1, 2021, Commissioner Siple brought up an item on Old Business to review the changes that were made to PD-21-03 "Citywide Towing Services" to ensure that they met the intent of the Commission's motion.
10. As a result of the discussion at the September 1, 2021 Commission meeting, the Procurement Department drafted an Addendum that was presented to the City Commission on the September 13, 2021 Commission meeting (Agenda Item # 18 / File ID # 21-0808) to address the Commission's comments. The agenda item also requested guidance from the City Commission on whether the City Commission would like to set a maximum or goal of how many contractors they would like in the pool of contractors or if they would want to leave this decision up to Administration or the Evaluation Committee, as they did not previously state how many contractors they wanted to be included in the "library of services." However, at the September 13, 2021 Commission meeting, the City Commission deferred the item after they further discussed their intent on what the City Commission wanted in the RFQ and how the City Commission wanted the RFQ to be scored by the evaluation Committee.
11. As a result, the Procurement Director met with the City Manager and revised the draft Addendum (see attached) and sent it to the City Commission on September 22, 2021 for review and feedback from the City Commission so that any necessary comments or adjustments could be made to the draft addendum. The draft addendum includes language that states that "There shall be a maximum of two vendors that will be selected to participate in the pool." As of October 11, 2021, the City's Administration has not received any feedback on the draft addendum, as a result the attached draft addendum is the same draft addendum that was provided to the City Commission via e-mail on

September 22, 2021.

12. The due date for proposals has been extended until November 2, 2021, however it may be adjusted to give any potential proposers ample time to adjust their proposals based on the final approved addendum.

13. Request the City Commission to discuss and approve an addendum to the Request for Qualifications (RFQ # PD-21-03) for Citywide Towing Services.

FINANCIAL IMPACT DETAIL:

Revenues from this contract are budgeted in account # 001-000-0800-341315-0000-000-0000 (Admin Fee - Towing).