



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: MAY 18, 2021

FROM: CITY MANAGER'S OFFICE WARD: ALL

SUBJECT: FOURTH AMENDMENT TO PROFESSIONAL CONSULTANT SERVICES AGREEMENT WITH ARC STRATEGIES, LLC, FOR STATE LOBBYING SERVICES IN THE AMOUNT OF \$80,000 ANNUALLY

ISSUES:

Approve the Fourth Amendment to Professional Consultant Services Agreement with Arc Strategies, LLC, for State Lobbyist Services to correct a mutual mistake in the original Agreement dated February 10, 2016, to accurately reflect the annual compensation of \$80,000.

RECOMMENDATIONS:

That the City Council:

1. Approve the Fourth Amendment to Professional Consultant Services Agreement with Arc Strategies, LLC for State Lobbyist Services in the amount of \$80,000 annually; and
2. Authorize the City Manager, or his designee, to execute the Fourth Amendment to Professional Consultant Services Agreement with Arc Strategies, LLC, including making minor and non-substantive changes, and to execute the remaining optional one-year extension in the amount of \$80,000 annually.

BACKGROUND:

On December 4, 2015, the City issued a Request for Proposals (RFP 1565) for a consultant to perform state lobbyist services. Three proposals were received and evaluated by the City Manager's Office, and DiMare Brown Hicks Kessler (DBHK) was selected as the successful proposer based on their qualifications and cost. A Professional Consultant Services Agreement (Agreement) with DBHK was negotiated in the amount of \$80,000 annually.

On February 9, 2016, the City Council approved the Agreement with DBHK in an amount not to exceed \$210,000 for an initial term through December 31, 2019, with the option to extend for three additional one-year terms.

DBHK legally changed their name to Arc Strategies, LLC, in 2019 and a First Amendment to the Agreement was executed on October 11, 2019, to reflect the name change.

On March 17, 2020, City Council approved a Second Amendment to the Agreement to exercise the first option to extend the term of the Agreement through December 31, 2020, and increased compensation by \$80,000, and authorized the City Manager to execute the remaining two optional one-year extensions.

The Third Amendment to the Agreement was executed by the City Manager on January 1, 2021, to extend the term through December 31, 2021, and increase compensation by an additional \$80,000.

DISCUSSION:

A mistake was recently discovered in the original Agreement with the Consultant executed on February 9, 2016 (Attachment 1), which does not accurately reflect the negotiated and agreed-upon annual compensation of \$80,000. The original Agreement included a compensation in the amount not to exceed \$210,000 for a four-year term; however, based on the negotiated and agreed-upon compensation of \$80,000 annually, the total compensation should have been an amount not to exceed \$320,000 for the initial four-year term. As such, the amount currently authorized for payment under the original Agreement and the subsequent amendments does not match the amount the City is required to pay for the services rendered, which is outlined in the following table:

Agreement / Year		Actual Expenditures <i>(based on \$80,000 annual compensation)</i>
Original Agreement	2016	\$320,000
	2017	
	2018	
	2019	
2nd Amendment	2020	\$400,000
3rd Amendment	2021	\$480,000

In order to authorize the actual expenditures needed to pay for services rendered during the contract term, a Fourth Amendment to the Agreement is needed to correct the mutual mistake of the parties in the original Agreement and confirm the negotiated and agreed-upon compensation of \$80,000 annually.

Section 702(g) of Purchasing Resolution 23256 allows for an exception to competitive procurement “When Services can be Procured from a Contractor who offers the same or better price, terms and conditions as the Contractor previously offered as the Lowest Responsive Bidder under Competitive Procurement or negotiations conducted by the City or another public agency, provided that, in the opinion of the Manager, it is in the best interests of the City to do so.”

The Purchasing Manager concurs that the recommended action is in compliance with Purchasing Resolution 23256, section 702(g).

FISCAL IMPACT:

The fiscal impact of the Fourth Amendment to the Agreement with Arc Strategies, LLC is \$80,000 annually. Sufficient funding is budgeted annually and available in the City Manager-Administration Professional Services Account #1100000-421000.

Prepared by: Donna Finch, Principal Management Analyst
Certified as to
availability of funds: Edward Enriquez, Chief Financial Officer/Treasurer
Approved by: Moises Lopez, Deputy City Manager
Approved as to form: Kristi J. Smith, Interim City Attorney

Attachments:

1. Original Professional Consultant Services Agreement
2. Fourth Amendment to Professional Consultant Services Agreement