

RESOLUTION NO. ~~3506~~ 3982

A RESOLUTION SETTING FORTH POLICIES AND PROCEDURES FOR THE SELECTION OF PROFESSIONAL CONSULTING SERVICES WITHIN THE SCOPE OF THE PRACTICE OF ARCHITECTURE, ENGINEERING, ~~AND LAND SURVEYING,~~ APPRAISAL AND ACQUISITION; RESCINDING RESOLUTION NO. ~~3506~~2615.

WHEREAS, it is deemed advisable to establish a policy and procedure for contracting Professional Consulting Services within the scope of the practice of Architecture, Engineering and Land Surveying, Appraisal and Acquisition;

~~NOW~~, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, ~~as follows~~ AS FOLLOWS:

SECTION 1. Definitions

- (1) “Administering Department” shall mean the department responsible for the project.
- (2) “Council Committee” shall mean one of the four standing Committees of the City Council having jurisdiction over the involved project.
- (3) “Director” shall mean the department director having jurisdiction over the involved project or that person’s designee.
- (4) “Firm” shall mean any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering or land surveying in the State of Kansas.
- (5) “Professional Services” shall mean those services within the scope of practice of architecture, engineering or land surveying, as defined by the laws of the State of Kansas, or those performed by any architect, professional engineer, ~~or~~ registered land surveyor, appraiser or acquisition agent in connection with this professional employment or practice.
- (6) “Selection Committee” shall mean at least two members of the City Council, one of whom shall be a member of the Council Committee, and a Staff Committee.
- (7) “Staff Committee” shall mean a committee of at least three City employees designated by the Director, at least one of whom shall be a person with appropriate professional qualifications.

SECTION 2. Roster of Consultants

- (1) The Director will maintain a roster, classified by category of Professional Service, of qualified Firms interested in performing Professional Services for the City.

- (2) Each Firm meeting the following minimum qualifications shall be deemed to be a qualified Firm:
 - a. Duly authorized to conduct business in the State of Kansas in its particular profession.
 - b. Professional registration by the State of Kansas.
 - c. At least one staff professional assigned to each project. Adequacy of personnel will be determined on a contract-by-contract basis against the City's estimate of personnel required to perform the work in the desired time frame.

- (3) Each Firm listed on the roster shall be responsible for maintaining a current resume with the City, describing its qualifications and experience. Data which should be included is as follows:
 - a. Firm name, address and telephone numbers.
 - b. Types of services for which it is qualified.
 - c. Names of principals of the Firm and states in which they are registered.

SECTION 3. Classes of Services

Projects will be divided into three (3) classes as follows:

- (1) Class A - Services for projects where fees will exceed ~~\$50,000~~\$100,000. The Selection Committee will participate in scheduled interviews and will recommend the Firm and appropriate contract to the City Council for its approval. If circumstances exist where Council members choose not to serve on the Selection Committee, a recommendation of a Staff Committee, acting as the Selection Committee, will be provided to the appropriate Council Committee for approval of the proposed selection prior to final approval by the City Council.

- (2) Class B - Services for projects where fees will exceed ~~\$10,000~~20,000 but will not exceed ~~\$50,000~~100,000. A Staff Committee will select and recommend the Firm and appropriate contract to the City Manager for his/her approval.

- (3) Class C - Services for projects where fees will not exceed ~~\$10,000~~20,000 will not be subject to the detailed procedures set out in Section 4 of this resolution. Services will be contracted by the Director with the Firm considered to be the most qualified, at a price determined in writing to be fair and reasonable to the City, based on discussion regarding the proposed contract with no fewer than three Firms drawn from the roster of consultants.

SECTION 4. General Procedures and Responsibilities

- (1) Project Initiation - When the Administering Department identifies a project exceeding ~~\$10,000~~\$20,000 for which Professional Services will be necessary, the department will

draft a scope of services for the specific project.

(2) Initial Screening - The Administering Department will determine which Firms will be invited to submit a detailed proposal. Factors to be determined in the initial screening may include:

- a. Types of services for which it is qualified.
- b. Specialized experience in the type of work required.
- c. Record of the Firm in accomplishing work on other public projects.
- d. Quality of work previously performed by the Firm for the City.
- e. List of completed projects on which the Firm was principal architect/engineer.

The Administrative Department will identify at least three Firms that will be requested to present detailed proposals on the project.

(3) Detailed Proposals - A formal letter will be provided to each Firm asked to provide a detailed proposal so that the Firm can be fully informed of the parameters of the proposed project and general City contracting policies. The letter will be prepared by the Administering Department, with the assistance of the Legal Department.

Firms submitting detailed proposals will be asked to provide:

- a. A resume of its proposed project supervisor.
- b. The name of the principal who would be responsible for the work.
- c. Current projects underway and estimated cost of each.
- d. The ability of the Firm to meet required time schedules.
- e. A description of how the project would be conducted.
- f. Other facts it wishes to present in favor of its Firm.

(4) Interview and Selection - Upon receipt of the detailed proposals, the Selection Committee or the Staff Committee, whichever applicable, will be convened to review the proposals, interview the prospective Firms, if desired, and make the final selection as to the Firm for the project.

(5) Contract Negotiation - The selected Firm will then be requested to come in for a final conference with the Administering Department to define precisely the scope of service to be provided and to submit a proposal covering the compensation requirements for the work. A fee will then be negotiated for the project, which is fair and reasonable. Upon agreement on a fair and reasonable fee, a contract is prepared by the Law Department in consultation with the Administering Department and submitted to the City Manager, Standing Committee or City Council for approval. ~~A contract will be prepared and submitted to the Legal Department for review, and then submitted to the City Manager or to the City Council, whichever is applicable, for approval.~~

If, after reasonable effort, a contract cannot be negotiated, the negotiations with the designated Firm shall be terminated and negotiations shall be started with the next Firm

recommended.

SECTION 5. Prohibition Against Contingent Fees

- (1) Each contract entered into by the City Council for Professional Services shall contain a prohibition against contingent fees as follows:

“The architect, engineer or land surveyor (as applicable) warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the architect, engineer or land surveyor to solicit or secure this contract, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fees, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this contract.”

- (2) For the breach or violation of the foregoing provision, the City Council shall have the right to terminate the contract without liability and, at its discretion to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

SECTION 6. The City Council in its sole and absolute discretion, may waive any and all aforementioned procedural requirements.

SECTION 7. Resolution No. 26153506 is hereby rescinded.

ADOPTED by the City Council this 14th day of October, 2013.

APPROVED AND SIGNED by the Mayor this 14th day of October, 2013.

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy Owens

Deputy City Attorney

~~APPROVED AS TO FORM:~~

~~Jane Neff Brain
Senior Assistant City Attorney~~