

RESOLUTION NO. 12-008

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A ONE-YEAR EXTENSION TO THE MASTER AGREEMENT TO FURNISH FINANCIAL CONSULTING SERVICES BETWEEN MALCOLM PIRNIE AND THE CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution 09-137, the City Commission approved a three year Agreement with an option for two one-year renewals; and

WHEREAS, the contractor has requested, and staff has recommended, approval of the first of the one-year renewals; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That a one-year renewal of the "Master Agreement to Furnish Financial Consulting Services to the City of Key West" between Malcolm Pirnie and the City of Key West is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this 3rd day of January, 2012.

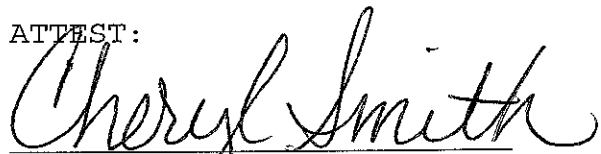
Authenticated by the presiding officer and Clerk of the
Commission on January 4, 2012.

Filed with the Clerk January 4, 2012.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
E. David Fernandez, Asst. City Manager - Operations

FROM: Jay Gewin, Utilities Manager

DATE: October 27, 2011

RE: Approval of a 1-Year Contract Extension with Malcolm Pirnie/Red Oak Consulting to Serve as Financial Consultants to the City.

ACTION STATEMENT:

This resolution will approve a one year extension to the City's financial services consulting contract with Malcolm Pirnie/Red Oak Consulting). The City Commission approved the original 3-year contract via City Commission Resolution 09-137.

The duration of this contract is three years, with an option, maintained by the City, to renew the contract on a yearly basis for up to two years. This would represent the first of the two one-year extensions allowed by the contract.

BACKGROUND:

The City has a need of financial consulting services to assist us as we create our rate models for utility budgets in sewer, stormwater, and solid waste. Financial consulting firms help staff analyze rates, revenues, capital expenditures, budgetary planning, projections, along with other tasks. They also assist with the utility budget presentations to the City Commission.

A Financial consulting firm under contract can also assist the City if there is a need for consulting in areas such as capital financing support, financial and compliance reporting support, special rate determination assistance (stormwater), and operations benchmarking.

As the City has multiple projects of all sizes and disciplines simultaneously, it typically contracts with multiple consultants to handle the workload.

Staff has reviewed the performance of Malcolm Pirnie/Red Oak Consulting, and determined that they are a qualified financial consultant with a beneficial historical

Key to the Caribbean – Average yearly temperature 77° F.

M E M O R A N D U M

knowledge of City budgeting and operations. The City Commission selected this firm from a shortlist at its May 19, 2009 meeting, and authorized a contract to be negotiated. The contract was approved in June, 2009.

PURPOSE AND JUSTIFICATION

This consultant has unique expertise in financial areas that can provide very beneficial information and knowledge for the City as we move forward on our annual utility budgets and other financial needs. Malcolm Pirnie/Red Oak Consulting can also provide resources and manpower to meet tight budgetary schedules.

Malcolm Pirnie/Red Oak Consulting has staff with experience working with City utility budgets in the past. This background knowledge facilitates the completion of the rate model in a timely fashion. Additionally, the City's sewer bonds require us to use a financial consultant in the creation of that utility's rate model.

OPTIONS / ADVANTAGES / DISADVANTAGES:

1. The City Commission can decline hiring financial consultants. This option is not recommended by staff. Utilizing consulting contracts with multiple firms has been one of the key ingredients in the City's ability to complete multiple large and small tasks simultaneously. Without the assistance of a financial consultant, the amount of City staff time required to complete the utility rate models independently would greatly inhibit our ability to manage other projects running concurrently.
2. The City Commission can approve this contract extension Malcolm Pirnie/Red Oak Consulting. Having several firms on contract assures that plenty of qualified resources are available regardless of project size or scope, without having to advertise a separate RFQ for every individual project. This makes project management much more efficient for the City saving much time, resources and money. It also provides the City with financial expertise in utility rate models that is of tremendous benefit.
3. The City can go out for bid for financial services consulting. This option is not recommended by staff, as the existing contract allows for two one-year extensions at the City's discretion. Staff is pleased with the level of service we have received in the past for financial consulting with Malcolm Pirnie/Red Oak Consulting, and believes that the City is best served extending the existing contract for another year.

FINANCIAL IMPACT:

Although there is no direct cost related to contracting this firm, having multiple firms under contract has helped the City complete projects in a timely manner. No tasks or minimum amount of work will have to be assigned under the contract. The cost of services for any particular project will be based on the amount of effort to complete the task assigned and the contract Per Diem Rates.

In past years, the utility rate models for sewer, stormwater, and solid waste have each been below \$20,000. Any task order created for one of these financial consultants that would surpass \$20,000 would require approval from the City Commission. Other task orders will be budgeted within whichever City Department that may be seeking financial consulting assistance.

Staff has analyzed the hourly rates that Malcolm Pirnie/Red Oak Consulting will be billing the City, and have determined that they are reasonable rates for the industry.

RECOMMENDATION:

Staff recommends that the City Commission select option 2, the approval of a one year extension to the City's financial consulting contract with Malcolm Pirnie/Red Oak Consulting.



The Water Division of ARCADIS

ARCADIS U.S., Inc.
8201 Peters Road
Suite 3400
Plantation
Florida 33324
Tel 954 761 3460
Fax 954 761 7939
www.arcadis-us.com

Jay Gewin
Utilities Manager
City of Key West
525 Angelia Street
Key West, FL 33041

Subject:
Extension to the Master Agreement to Furnish Financial Consulting Services

Dear Mr. Gewin:

Malcolm Pirnie, the Water Division of ARCADIS ("Malcolm Pirnie") respectfully requests a one-year extension of the executed Master Agreement to Furnish Financial Consulting Services to the City of Key West ("the Agreement") that was executed in accordance with Resolution No. 09-137. The Agreement was adopted by City Council on June 22, 2009 and the duration of the agreement is three years from the date of the agreement, with an option to renew the contract on a yearly basis for up to two years.

If you have any questions or need any additional information, please feel free to contact me at 518-250-7353.

Date:
November 3, 2011

Contact:
John Mastracchio

Phone:
(518) 250-7353

Email:
john.mastracchio@arcadis-us.com

Our ref:
00836053.0000

Sincerely,

Malcolm Pirnie, Inc.

John M. Mastracchio, CFA
Associate Vice President

Imagine the result

RESOLUTION NO. 09-137

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED MASTER AGREEMENT TO FURNISH FINANCIAL CONSULTING SERVICES BETWEEN MALCOLM PIRNIE AND THE CITY OF KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

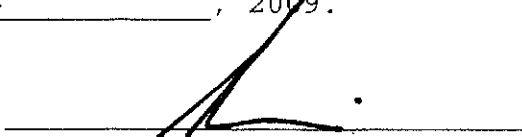
Section 1: That the attached Master Agreement to Furnish Financial Consulting Services between Malcolm Pirnie and the City of Key West is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 16TH day of JUNE, 2009.

Authenticated by the presiding officer and Clerk of the Commission on June 22, 2009.

Filed with the Clerk June 22, 2009.

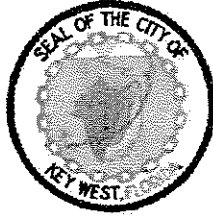


Mark Rossi, VICE-MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK



THE CITY OF KEY WEST
Post Office Box 1409 Key West, FL 33041-1409 (305) 899-3700

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EXECUTIVE SUMMARY

TO: Jim Scholl, City Manager
E. David Fernandez, Asst. City Manager - Operations

FROM: Gary W. Bowman, General Services Dept. Director

DATE: June 5, 2009

RE: **Approval of a 3-Year Contract with Malcolm Pirnie/Red Oak Consulting to Serve as Financial Consultants to the City.**

ACTION STATEMENT:

This resolution will approve a financial services consulting contract with Malcolm Pirnie/Red Oak Consulting. This was one of three firms the City Commission selected from a shortlist, and the Commission authorized staff to negotiate this contract at its May 19th, 2009 meeting. (Resolution 09-123)

The duration of this contract will be three years, with an option, maintained by the City, to renew the contract on a yearly basis for up to two years.

BACKGROUND:

The City has a need of financial consulting services to assist us as we create our rate models for utility budgets in sewer, stormwater, and solid waste. Financial consulting firms help staff analyze rates, revenues, capital expenditures, budgetary planning, along with other tasks. They also assist with the utility budget presentations to the City Commission.

A Financial consulting firm under contract would also be available should the City decide there is a need for financial consulting in areas such as capital financing support, financial and compliance reporting support, special rate determination assistance (stormwater), and operations benchmarking.

As the City has multiple projects of all sizes and disciplines simultaneously, it typically contracts with multiple consultants to handle the workload.

Staff has reviewed the submittal of Malcolm Pirnie/Red Oak Consulting and determined that they are a qualified financial consultant. The City Commission selected this firm from a shortlist at its May 19, 2009 meeting, and authorized a

Key to the Caribbean - Average yearly temperature 77° F

contract to be negotiated. Both the General Services Dept. and Legal Dept. have reviewed this contract and are recommending approval.

PURPOSE AND JUSTIFICATION

This consultant has unique expertise in financial areas that can provide very beneficial information and knowledge for the City as we move forward on our annual utility budgets and other financial needs. Malcolm Pirnie/Red Oak Consulting can also provide resources and manpower to meet tight budgetary schedules.

Malcolm Pirnie/Red Oak Consulting has staff with experience working with City utility budgets in the past. This background knowledge facilitates the completion of the rate model in a timely fashion. A third party analysis of our sewer rate model is required by our Bond Ordinance.

OPTIONS / ADVANTAGES / DISADVANTAGES:

1. The City Commission can decline hiring financial consultants. This option is not recommended by staff. Utilizing consulting contracts with multiple firms has been one of the key ingredients in the City's ability to complete multiple large and small tasks simultaneously. Without the assistance of a financial consultant, the amount of City staff time required to complete the utility rate models independently would greatly inhibit our ability to manage other projects running concurrently.
2. The City Commission can approve this contract with Malcolm Pirnie/Red Oak Consulting. Having several firms on contract assures that plenty of qualified resources are available regardless of project size or scope, without having to advertise a separate RFQ for every individual project. This makes project management much more efficient for the City saving much time, resources and money. It also provides the City with financial expertise in utility rate models that is of tremendous benefit.

FINANCIAL IMPACT:

Although there is no direct cost related to contracting this firm, having multiple firms under contract has helped the City complete projects in a timely manner. No tasks or minimum amount of work will have to be assigned under the contract. The cost of services for any particular project will be based on the amount of effort to complete the task assigned and the contract Per Diem Rates.

In past years, the utility rate models for sewer, stormwater, and solid waste have each been below \$20,000. Any task order created for one of these financial consultants that would surpass \$20,000 would require approval from the City Commission. Other task orders will be budgeted within whichever City Department that may be seeking financial consulting assistance.

Staff has analyzed the hourly rates that Malcolm Pirnie/Red Oak Consulting will be billing the City, and have determined that they are reasonable rates for the industry.

RECOMMENDATION:

Staff recommends that the City Commission select option 2, the approval of a financial consulting contract with Malcolm Pirnie/Red Oak Consulting.

CITY OF KEY WEST

MASTER AGREEMENT TO FURNISH
FINANCIAL CONSULTING SERVICES
TO THE
CITY OF KEY WEST

June 2009

Financial Consultants:

Master Agreement to Furnish Financial Consulting Services to the City of Key West

This AGREEMENT made and entered into by and between the City of Key West, a municipal corporation of the State of Florida, whose address is 525 Angela Street, Key West, Florida 33040, hereafter referred to as the "CITY" and Malcolm Pirnie, a corporation authorized to do business in the State of Florida, whose address is 8201 Peters Road, Suite 3400, Plantation, Florida 33324, hereafter referred to as the "CONSULTANT". This agreement shall be effective on the date of execution of the last party to sign the AGREEMENT for the term specified in Paragraph 6.1.

Article 1. Scope of Services

The CONSULTANT'S primary responsibilities include, but are not limited to, providing financial consulting assistance in the creation of stormwater, sewer, and solid waste annual rate studies. It is anticipated that services rendered hereunder shall be provided by Red Oak Consulting, a division of Malcolm Pirnie. Additional work may include capital financing support, financial and compliance reporting support, marinas economic consulting operations benchmarking or other consulting services which the CONSULTANT is qualified to provide and which the CITY authorizes the CONSULTANT to undertake in connection with the CITY's present and planned activities in the areas identified below. The specific services, which the CONSULTANT agrees to furnish, are set forth as follows:

- 1.1 Provide comprehensive financial consulting services that may include preparing utility rate models, budgets, and City Commission presentation documents, capital financing support, financial and compliance reporting support, special rate determination assistance (stormwater), operations benchmarking, auditing, analyzing City expenditures and resources, and assisting the CITY with other projects where financial consulting assistance is needed.

CONSULTANT shall provide the above-mentioned Scope of Services as tasked by the CITY for the projects specifically identified in RFQ No. 09-001, RFQ submission/proposal, and any other tasks as assigned under this scope. The terms that the CONSULTANT agrees to follow are set forth as follows:

- 2.1 The specific services to be provided by the CONSULTANT and the compensation for such services will be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.
- 2.2 Unless otherwise indicated in a Task Order, execution of a Task Order by the CITY shall constitute authorization for the CONSULTANT to proceed with the services enumerated in the Task Order. Each Task Order will be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
- 2.3 Task Orders shall be numbered consecutively. Each Task Order shall include a description of the scope of services, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.

- 2.4 The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the CONSULTANT'S cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to the Task Order.
- 2.5 A task order may be terminated at any time, with or without cause, by the CITY upon thirty (30) days written notice to CONSULTANT. No further work will be performed by CONSULTANT upon receipt of this notice unless specifically authorized by the General Services Dept. Director of the City of Key West.
- On termination, the CONSULTANT will be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY will not pay for anticipatory profits.
- 2.6 The CONSULTANT will provide ADDITIONAL SERVICES mutually agreed to and authorized by the CITY in writing but not specifically described and authorized by a Task Order.

Article 2. Compensation

As consideration for providing the services enumerated in Article 1 and supplemental Task Orders, the CITY shall pay the CONSULTANT fees as defined in each Task Order.

Field rates as identified in Exhibit A shall be applicable when the CONSULTANT'S employees are assigned to a field location for a continuous period exceeding 90 calendar days. Field location is defined as office space which is made available to CONSULTANT'S employees by the CITY at no cost to the CONSULTANT. Field rates shall be applied on the first day the CONSULTANT employee is assigned to a field location. Should the CONSULTANT'S employee assignment not exceed 90 continuous calendar days, CONSULTANT shall be permitted to retroactively reinvoice for the applicable field rate charges but based upon the CONSULTANT'S per diem rates.

The types of compensation methods which shall be used to pay for the CONSULTANT'S services are limited to the following:

- 2.1 Lump sum payment, which includes compensation for all the CONSULTANT'S salaries, general overhead costs, direct expenses, and profit.
- A. The lump sum is based on immediate authorization to proceed and timely completion of the PROJECT. If the PROJECT timing deviates from the assumed schedule for causes beyond CONSULTANT'S control, CONSULTANT and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change.
 - B. In the event of a change of scope, an appropriate decrease or increase in compensation will be authorized in writing.
 - C. Monthly invoicing will be based on an estimate of the percent complete at the end of the preceding month.
 - D. The CONSULTANT shall submit wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 2.2 Cost Reimbursable-Per Diem (Time and Expenses)

- A. Hourly Per Diem Rates are provided in Exhibit A to this Agreement. Per Diem Rates are those hourly rates charged for work performed on the PROJECT by CONSULTANT'S employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to fiscal year adjustments and shall be based on the Data Resources, Inc. (DRI) forecast of wage and price escalation. There shall be no rate increase until October 1, 2010.
- B. A budgetary amount will be established for each Task Order. This budgetary amount shall not be exceeded unless prior written approval is provided by the CITY. CONSULTANT will make reasonable efforts to complete the work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.
- C. CONSULTANT is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay CONSULTANT beyond these limits.
- D. When any budget has been increased, CONSULTANT'S excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.
- E. The CITY shall pay for reimbursable expenses invoiced at the actual cost of expenditures incurred by the CONSULTANT. Direct expenses are those necessary costs and charges incurred for the PROJECT including, but not limited to: 1) the costs of express courier charges, mail, supplies and field equipment incurred directly for the PROJECT, printing and reproduction of drawings, documents, and other material, , and subcontracts and other outside services; and 2) CONSULTANT'S standard project charges for computing services, special health and safety requirements of OSHA and telecommunication services; and 3) the costs of travel, including the use of CONSULTANT'S vehicles, subsistence, lodging and related expenses of personnel while traveling in connection with the PROJECT in accordance with CITY policy and Florida Statute FS 112.061. Required Documentation: All requests for travel reimbursement must provide enough detail to clearly indicate the reason (s) for travel, date (s) of travel, exact time (s) of travel, and mode (s) of travel. If travel is by privately owned vehicle, exact mileage traveled with odometer readings must be submitted. All receipts for which reimbursement is requested are subject to Florida Statute rates applicable at the time of travel. CONSULTANT is obligated to minimize all expenses incurred in the execution of this AGREEMENT and subsequent Task Orders. There shall be no markup on expenses reimbursed under this agreement.
- F. All reimbursement requested must be supported by a receipt except where a receipt could not be obtained such as an unattended toll booth or parking meters. In those situations where receipts cannot be obtained, reimbursement requested must be supported by documents that show dates, parking meter numbers and locations, toll booth locations, and signature of employee. Travel, in connection with the work and for convenience of CONSULTANT (to make use of talent not located in Monroe County), shall be included in CONSULTANT's Task Order. Travel requested by CITY'S AUTHORIZED REPRESENTATIVE and travel associated with permitting and grants, as required by state and federal agencies, will be reimbursed in accordance with this section.

- G. Transportation by passenger vehicles supplied by CONSULTANT in connection with the work will be reimbursed in accordance with Florida Statute 112.061. Required Documentation: Mileage log stating point of departure, point of destination, and odometer reading for both.

Article 3. Invoicing and Payment

Monthly invoices will be issued by CONSULTANT for all work performed during the preceding month under this AGREEMENT, as prescribed in Article 2. Invoices are to be submitted and paid in accordance with the Florida Prompt Payment Act.

Article 4. Obligations of the Consultant

4.1. General

- A. The CONSULTANT will serve as CITY'S professional representative under this AGREEMENT, providing professional financial and related consulting advice and furnish customary services incidental thereto.

4.2. Standard of Care

- A. The standard of care applicable to CONSULTANT'S services will be the degree of skill and diligence normally employed by financial and other related consultants performing the same or similar services at the time said services are performed. The CONSULTANT will perform any services not meeting this standard without additional compensation.

4.3. Opinions of Cost, Financial Considerations, and Schedules

- A. In providing opinions of construction cost, financial analyses, economic feasibility projections, and schedules for design projects, the CONSULTANT has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, the CONSULTANT makes no warranty that the CITY'S actual PROJECT costs, financial aspects, economic feasibility or schedules will not vary from the CONSULTANT'S opinions, analyses, projections, or estimates.
- B. If CITY wishes greater assurance as to any element of PROJECT cost, feasibility, or schedule, CITY will employ an independent cost estimator, contractor, or other appropriate advisor.

4.4 CONSULTANT'S Insurance

- A. The CONSULTANT will maintain throughout this AGREEMENT the following insurance:
 - 1. Worker's Compensation – statutory – in compliance with the compensation law of the State of Florida.
 - 2. Commercial General Liability insurance with a minimum limit of liability per occurrence of one million (\$1,000,000) dollars with an annual aggregate of no less than two million (\$2,000,000) dollars. Evidence of any and all pending claims which may exhaust the aggregate may be requested.

3. Business Automobile Liability insurance with a minimum limit of liability per occurrence of one million (\$1,000,000) dollars for bodily injury and property damage unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverage:
 - Owned automobiles
 - Hired automobiles
 - Non-owned automobiles
4. Professional Liability/Errors & Omissions insurance with a minimum limit of one million (\$1,000,000) dollars.

B. In addition, it is understood if at any time any of the policies required by the City shall become unsatisfactory to the City as to form or substance, or if a company issuing any such policy shall become unsatisfactory to the City, the CONSULTANT shall obtain a new policy, submit the same to the City for approval and submit a certificate of insurance as which may be required by the contract. It is understood that upon failure of the CONSULTANT to furnish, deliver, and maintain such insurance as above provided, the contract at the election of the City may be declared suspended, discontinued or terminated. Further, failure of the CONSULTANT to take out and/or maintain any required insurance shall not relieve the CONSULTANT from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the CONSULTANT concerning indemnification.

4.5 Subconsultants

- A. The CONSULTANT may not assign or subcontract its obligations under this AGREEMENT without the written consent of the CITY.

4.6 Licenses

- A. The CONSULTANT will be required to obtain a local required license prior to performing any work for the CITY. This license will be a Business Tax Receipt at a cost not to exceed \$98.70.

Article 5. Obligations of the City

5.1. Authorization to Proceed

- A. Authorization to proceed will be considered to be given upon execution of each Task Order by the CITY.

5.2. City-Furnished Data

- A. The CITY will provide to the CONSULTANT all data in the CITY'S possession relating to the CONSULTANT'S services on the PROJECT including, but not limited to, information on any pre-existing. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

5.3. Access to Facilities and Property

- A. The CITY will make its facilities accessible to CONSULTANT as required for CONSULTANT'S performance of its services and will provide labor and safety equipment as required by CONSULTANT for such access. CITY will be responsible for all acts of CITY'S personnel.

- 5.4. Timely Review
 - A. The CITY will examine the CONSULTANT's studies, reports, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner.
- 5.5. Prompt Notice
 - A. The CITY will give prompt written notice to CONSULTANT whenever CITY observes or becomes aware of any development that affects the scope or timing of CONSULTANT's services, or any defect in the work of the CONSULTANT.
- 5.6. Litigation Assistance
 - A. The Scope of Services does not include costs of CONSULTANT for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by CITY. All such services required or requested of CONSULTANT by CITY, except for suits or claims between the parties to this AGREEMENT, will be reimbursed as mutually agreed in a separate Task Order, and payment for such services shall be in accordance with Article 3, unless and until there is a finding by a court or arbitrator that CONSULTANT's sole negligence caused CITY's damage.

Article 6. General Legal Provisions

- 6.1. Agreement Period
 - A. The duration of the agreement shall be three (3) years commencing from the date this Agreement was entered into, with an option, maintained by the CITY, to renew the contract on a yearly basis for up to two (2) years.
- 6.2. Reuse of Project Documents
 - A. Reports, documents and other deliverables of the CONSULTANT, whether in hard copy or in electronic form, are instruments of service for the project of the CITY. All documents shall be made available on re-writable CD and are the property of the City of Key West. Reuse, change, or alteration on another project, by the CITY or by others acting on behalf of the CITY of any such instruments of service without the written permission of the CONSULTANT will be at the CITY's sole risk. Nothing herein shall constitute a waiver of City's sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.
- 6.3. Ownership of Work Product and Inventions
 - A. All of the work product of CONSULTANT in executing a Project under this contract shall become the property of the CITY. The City may use the deliverables solely for the purpose for which they were intended.
- 6.4. Force Majeure
 - A. The CONSULTANT is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the CONSULTANT.
 - B. In the event of a delay that results in additional costs to the CONSULTANT, an appropriate increase in compensation and schedule will be authorized in writing.

6.5 Termination

- A. This agreement may be terminated at any time, with or without cause, by the CITY upon thirty (30) days written notice to CONSULTANT. No further work will be performed by CONSULTANT upon receipt of this notice unless specifically authorized by the General Services Department Director of the City of Key West.
- B. On termination, the CONSULTANT will be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the AGREEMENT. The CITY will not pay for anticipatory profits.

6.6 Suspension, Delay, or Interruption of Work

- A. The CITY may suspend, delay, or interrupt the services of the CONSULTANT for the convenience of the CITY. In the event of such suspension, delay, or interruption, or any other act or neglect of CITY or CITY's subcontractors, CITY will pay CONSULTANT for work performed to date. An equitable adjustment in the PROJECT'S schedule and CONSULTANT's compensation will be made as agreed to by both parties.
- B. In the event delays to the project are encountered for any reason, the parties agree to undertake reasonable steps to mitigate the effect of such delays.

6.7 Third Party Beneficiaries

- A. This Agreement gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries. CONSULTANT's services are defined solely by this proposed scope of services, and not by any other contract or agreement that may be associated with the Project.

- B. All work products will be prepared for the exclusive use of CITY for specific application as described in the proposed scope of services. No warranty, expressed or implied, is made. There are no beneficiaries of the work products other than CITY, and no other person or entity is entitled to rely upon the work products without the written consent of CONSULTANT. Any unauthorized assignment of related work product shall be void and unenforceable.

6.8 Indemnification

- A. Consultant agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all Departments, Agencies, Boards, and Commissions, its officers, agents, servants and employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the CONSULTANT, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the CONSULTANT as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of the City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees. The CONSULTANT agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent.
- B. This indemnification shall survive the expiration or termination of this Agreement. In the event that any action or proceeding is brought against the CITY by reason of such claim or demand, CONSULTANT shall, upon written notice from the CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. The CONSULTANT shall defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the CITY's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the CITY whether performed by CONSULTANT, or by persons employed or used by CONSULTANT.
- C. In no event shall CONSULTANT, its affiliated corporations, officers, employees, or any of its subcontractors be liable for any incidental, indirect, special, punitive, economic or consequential damages, including but not limited to loss of revenue or profits, suffered or incurred by CITY or any of its agents, including other contractors engaged at the project site, as a result of this Agreement or CONSULTANT's performance or non-performance of services pursuant to this Agreement. Limitations of liability provided in this paragraph apply whether the liability is claimed to arise in contract, tort (including negligence), strict liability, or otherwise.

6.9 Limitation of Liability

- A. CONSULTANT's services shall be governed by the negligence standard for professional services, measured as of the time those services are performed.
- B. This Provision takes precedence over any conflicting Provision of this Agreement or any document incorporated into it or referenced by it.
- C. This limitation of liability will apply whether CONSULTANT'S liability arises under breach of contract or warranty; tort; including negligence; strict liability;

statutory liability; or any other cause of action, and shall include CONSULTANT's officers, affiliated corporations, employees, and subcontractors.

6.10 Assignment

A. Consultant shall not assign all or any part of this Agreement without the prior consent of the CITY by Resolution of the Key West City Commission.

6.11 Jurisdiction

A. The law of the state of Florida and Monroe County will govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

6.12 Severability and Survival

A. If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

B. ARTICLES 4, 5, and 6 will survive termination of this AGREEMENT for any cause.

6.13 Dispute Resolution

A. The parties will use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options.

B. Unless otherwise agreed in writing, the CONSULTANT shall continue the Work and maintain the approved schedules during any arbitration proceedings. If the engineer continues to perform, CITY shall continue to make payments in accordance with this Agreement.

Article 7. Schedules, and Signatures

This AGREEMENT, including its Schedules, constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

IN WITNESS WHEREOF, the parties execute below:

For the CITY, Key West

Dated this 23 day of June, 2009.

By: J. K. S. [Signature] City Manager
Name Title

By: _____
Name Title

By: _____
Name Title

For the CONSULTANT,

Dated this 3rd day of August, 2009.

By: [Signature] Vice President
Name Title

ATTACHEMENT "A"
DETAILED FEE SCHEDULE

Red Oak Consulting Fee Schedule		
Line	Position/Title	Billing Rate
1	Vice President	\$290.00
2	Principal II	\$255.00
3	Principal I	\$235.00
4	Senior Consultant	\$189.00
5	Consultant	\$153.00
6	Analyst	\$133.00
7	Administrative Staff	\$90.00

ATTACHEMENT "B"
LABOR CATEGORY DESCRIPTIONS

Vice President

- Typically an advanced degree or MBA is preferred with 12 years of general management consulting experience, 10 years of specific experience.
- A Bachelors degree with 17 years of general management consulting experience.
- 12 years of specific experience inclusive.

Principal II

- Typically an advanced degree or MBA is preferred with at least 10 years of general management consulting experience, 8 years of specific experience
- A Bachelors degree with 12 years of general management consulting experience.
- 10 years of specific experience inclusive.

Principal I

- Typically an advanced degree or MBA is preferred with at least 6 years of general management experience and at least 4 years of specific experience.
- A Bachelor's degree with 8 years of general management consulting experience.
- Must have at least 6 years of specific experience inclusive.

Senior Consultant

- Typically an advanced degree or MBA is preferred with at least 4 years of general management consulting experience including 2 years of specific experience.
- A Bachelors degree with 6 years of general management consulting experience.
- Must have at least 4 years of specific experience inclusive.

Consultant

- Typically an advanced degree or MBA is preferred with at least 3 years of general management consulting experience.
- A Bachelors Degree and 4 years of general management consulting experience.
- Must have at least 2 years of specific experience inclusive.

Analyst

- Typically an advanced degree or MBA is preferred with at least one year of general management consulting experience is preferred.
- Must have a Bachelors Degree in an applicable field.

RESOLUTION NO. 09-123

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RANKING FIVE (5) FINANCIAL CONSULTANTS AND AUTHORIZING STAFF TO NEGOTIATE THREE (3) CONTRACTS FOR A TERM OF THREE YEARS (WITH TWO, ONE YEAR OPTIONS); DIRECTING THE CITY MANAGER TO BRING THE CONTRACTS BACK TO THE COMMISSION FOR FINAL APPROVAL; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City issued RFQ 09-001 for Financial Consulting Services, to which 10 firms responded; and

WHEREAS, City staff, at a properly noticed meeting, proposed to have the top five firms appear at a City Commission meeting regarding their proposed services.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That top ranked firms as determined in order by the Commission are:

1. CDM Engineering
2. Red Oak Consulting (Malcom Pirnie)
3. HDR Engineering, Inc.
4. Municipal & Financial Services Group
5. Black & Veatch Corporation

Section 2: That City Staff is authorized to negotiate three contracts, starting with the topped ranked firm, for a term

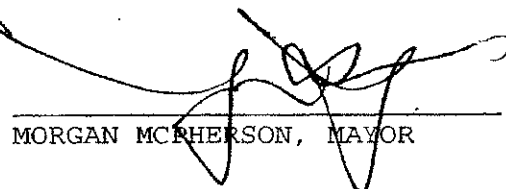
of three years, with two one year options. The City Manager is directed to bring the contracts before the City Commission for consideration.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 19th day of May, 2009.

Authenticated by the presiding officer and Clerk of the Commission on May 20, 2009.

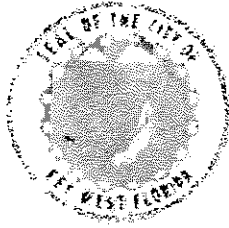
Filed with the Clerk May 20, 2009.



MORGAN MCPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



CITY MANAGER'S OFFICE MEMORANDUM

TO: Jim Scholl, City Manager
FROM: E. David Fernandez, Assistant City Manager
DATE: May 8, 2009

ACTION STATEMENT: This resolution will rank five Financial Consultants and authorize Staff to negotiate three year contracts (with two one year options) with the top three firms. Directing the Manager to bring the contracts back to the Commission for final approval.

BACKGROUND:

Historically, rate consultants were not hired pursuant to a formal procurement process. In the past the individual rate studies have not exceeded Bid/RFQ thresholds; however, single vendor expenditures have exceeded the RFQ limit. Current legal interpretation requires formal solicitation. On March 17, 2009, an RFQ was published for Financial Consulting Services. April 8, 2009 ten firms responded to the RFQ as follows:

- Black & Veatch Corporation
- Burton & Associates
- CDM Engineering
- The Government Consulting Service Company (GCSC)
- HDR Engineering, Inc.
- Municipal & Financial Services Group
- PMG Associates, Inc.
- Project Control Companies, Inc.
- Red Oak Consulting
- SKS Consulting

PURPOSE & JUSTIFICATION:

Proposed Financial Services will include Enterprise Fund Rate Studies, other economic analysis, and other financial consulting services as required. The contract will be utilized for enterprise fund rate studies, economic analysis, and other financial services as required.

This resolution ranks financial consulting firms for 3 year contracts with the option of extending their contract for an additional two (2) years and authorizes staff to negotiate contracts with the

top three firms. At a publicly noticed meeting 1:30 P.M., May 8, 2009 City staff short listed to five firms as follows:

- Black & Veatch Corporation
- CDM Engineering
- HDR Engineering, Inc.
- Municipal & Financial Services Group
- Red Oak Consulting (Malcolm Pirnie)

If the Commission would like any other firm to present prior final selection we can either invite them to the May 19, 2009 meeting or schedule a follow up meeting.

OPTIONS:

The City Commission can decline to award contracts under this RFQ and continue utilizing an existing firm for rate consulting. The City has a current engineering/consulting contract with CDM who has performed Key West Solid Waste Rate Studies since July 2002. This firm could be tasked to perform the Sewer and Stormwater rate studies.

The City Commission can decline to award contracts under this RFQ and continue utilizing an existing firm for rate consulting. The City has a current engineering/consulting contract with CDM who has performed Key West Solid Waste Rate Studies since July 2002. This firm could be tasked to continue performing the Solid Waste rate study. The Commission could direct staff to continue to B & V to perform the Sewer and Stormwater rate studies and waive the requirement for competitive selection under City Code.

The City Commission can rank as many firms as they would like (five recommended) and direct staff to negotiate contracts with the top three firms. Extending the contracts of these highly qualified firms provides the City with the maximum flexibility in meeting financial consulting for Solid Waste, Sewer and Stormwater needs into the future. It also provides flexibility for other financial consulting and economic analytical needs. The service level has been more than acceptable.

FINANCIAL IMPACT:

All future tasking of the engineers are budgeted in the appropriate funds. There is no additional financial impact.

RECOMMENDATION:

The staff recommends that the City Commission rank five (or more) firms and direct staff to negotiate contracts with the top three firms.

Consultant Name	Project Team	Sewer Rate Studies Y-n/x	Stormwater Rate Studies Y-n/x	Solid Waste Rate Studies Y-n/x	Marina Rate Studies Y-n/x	Feasibility Analysis Y-n/x	Capital Financial Support Y-n/x	Fin. & Compliance Reporting Y-n/x	Fin. Consulting General Y-n/x	WC/Ins. Prof. Lic. Y-n	Anti Kickbk Y-n	Pub. Ent. Crntes Y-n	Addendum (3) Y-n	Ref. / Resumes Y-n	Comments
Y Municipal & Fin. Serv. Group	PM 10 Yr	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	1,2,3	Y/Y	Detail response Relatively Strong team
	TA 30 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 32 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 31 Yr	X	X	X	X	X	X	X	X	X	X	X			
N PMG & Assoc., Etal.	TA 6 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 31 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 31 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 31 Yr	X	X	X	X	X	X	X	X	X	X	X			
N Project Control Co.	PIC 35 Yr	Y	Y	Y	Y	Y/Y	Y	Y	Y	N	Y	Y	1,2,3	Y/Y	Economic, marketing & management firm Joint Venture
	PM 37	X	X	X	X	X	X	X	X	X	X	X			
	TA 20 Yr	X	X	X	X	X	X	X	X	X	X	X			
	TA 20 Yr	X	X	X	X	X	X	X	X	X	X	X			
Y Red Oak Co (Malcolm Pirnie)	PIC 23 Yr	?	?	?	?	Y	Y	Y	Y	Y	Y	Y	n	Y/Y	Not enough info on Ref
	PM 32 Yr	?	?	?	?	X	X	X	X	X	X	X			Not enough info on Rate & Gen Consulting
	TA 37 Yr	?	?	?	?	X	X	X	X	X	X	X			Weak response
	PIC 30 Yr	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	1,2	Y/Y	
	PM 12 Yr	X	X	X	X	X	X	X	X	X	X	X			CPA
	QC 20 Yr	X	X	X	X	X	X	X	X	X	X	X			Robert Chambers, MBA (formally of B&V)
	QC 36 Yr	X	X	X	X	X	X	X	X	X	X	X			completed KW Sewer & Sim Rate Study
	TA 20 Yr	X	X	X	X	X	X	X	X	X	X	X			for last 3 yrs
	TA 41 Yr	X	X	X	X	X	X	X	X	X	X	X			Relatively Strong team
	TA 5 Yr	X	X	X	X	X	X	X	X	X	X	X			
N SKS Consulting	PIC	?	?	?	?	?	?	?	?	N	Y	Y	1,2	n**/y	Not enough info on Ref
	PM	?	?	?	?	?	?	?	?						Not enough info on Rate and Gen Consulting
	TA	?	?	?	?	?	?	?	?						Weak response
	TA	?	?	?	?	?	?	?	?						**No contact info on client list

DISPLAY AD

NOTICE OF MEETING

CITY OF KEY WEST FINANCIAL CONSULTANTS SHORTLIST

Friday, May 8, 2009 at 1:30 p.m.

City Manager's Conference Room, City Hall located at 525 Angela Street, Key West, FL

If signing, special seating, or other accommodations are required, please call 809-3772
(TDD number 809-1111) 24 hours prior to the meeting.

Publish: Wednesday, May 6, 2009

Keynoter P.O. #61544

Keynoter Financial Consultants Ranking - 5-8-2009

Financial Consultant Shortlist
Friday, May 8, 2009
1:30 p.m.

It's is 1:35, Friday, May 8, 2009. Let the record show that we have no attendants. The ad was place on May 6, 2009 in the Key West Citizen. We have proof of advertisement provided by the City Clerk. The shortlist is as follows: For the record we had 10 respondents to the RFQ advertised on March 17, 2009

- Black & Veatch Corporation
- Burton & Associates
- CDM Engineering
- The Government Consulting Service Company (GCSC)
- HDR Engineering, Inc.
- Municipal & Financial Services Group
- PMG Associates, Inc.
- Project Control Companies, Inc.
- Red Oak Consulting
- SKS Consulting

Staff has prepared a spread sheet that will be attached to the Commission package. The shortlist is:

- Black & Veatch Corporation
- CDM Engineering
- HDR Engineering, Inc.
- Municipal & Financial Services Group
- Red Oak Consulting (Malcolm Pirnie)

The analysis was based on years of service as a teams provided for consideration resumes the overall presentation of the RFQ responses and the type of experience and the other information provides in the responses.

It is now 1:40 p.m. There are no members of the public or the firms in attendance. Let the public records requirements to post this meeting and we will conclude the meeting at this time.

DISPLAY AD

NOTICE OF MEETING

CITY OF KEY WEST FINANCIAL CONSULTANTS SHORTLIST

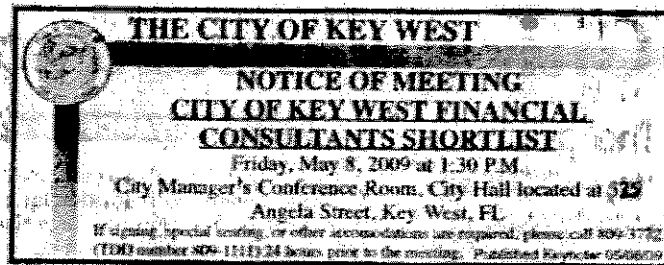
Friday, May 8, 2009 at 1:30 p.m.

City Manager's Conference Room, City Hall located at 525 Angela Street, Key West, FL

If signing, special seating, or other accommodations are required, please call 809-3772
(TDD number 809-1111) 24 hours prior to the meeting.

Wednesday, May 6, 2009

7



Publish: Wednesday, May 6, 2009

Keynoter P.O. #61544

Keynoter- Financial Consultants Ranking -- 5-8-2009

INTEROFFICE MEMORANDUM

To: David Fernandez, Assistant City Manager
CC: Sue Snider, Purchasing
From: Cheri Smith, City Clerk
Date: April 8, 2009
Subject: **Financial Consulting Services; RFQ NO. 09-001**

Attached for your review are copies of the qualifications opened Wednesday, April 8, 2009 at 3:30 p.m. in response to the above referenced project.

- 1 Black & Veatch Corporation
201 S. Orange Avenue
Suite 500
Orlando, Florida 32801
- 2 Burton & Associates
200 Business Park Circle
Suite 101
St. Augustine, Florida 32095
- 3 CDM
1715 North Westshore Boulevard
Suite 875
Tampa, Florida 33607
- 4 The Government Consulting Services Company (GCSC)
P.O. Box 12876
Tallahassee, Florida 32317
- 5 HDR Engineering, Inc.
315 East Robinson Street
Suite 400
Orlando, Florida 32801
- 6 Municipal & Financial Services Group
906-A Commerce Road
Annapolis, MD 21401
- 7 PMG Associates, Inc.
4171 West Hillsboro Boulevard
Suite 8
Coconut Creek, Florida 33073

INTEROFFICE MEMORANDUM

To: David Fernandez, Assistant City Manager
CC: Sue Snider, Purchasing
From: Cheri Smith, City Clerk
Date: April 8, 2009
Subject: **Financial Consulting Services; RFQ NO. 09-001**

Attached for your review are copies of the qualifications opened Wednesday, April 8, 2009 at 3:30 p.m. in response to the above referenced project.

- 8 Project Control Companies, Inc.
20 Trafalgar Square
Nashua, New Hampshire 03063
- 9 Red Oak Consulting
2301 Maitland Center Parkway
Suite 244
Orlando, Florida 32751-7414
- 10 SKS Consulting
950 Peninsula Corporate Circle
Suite 2018
Boca Raton, Florida 33487