



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: RICHARD DOYLE
City Attorney

LEE PRICE
City Clerk

SUBJECT: Agreement for Elections
Commission Evaluator and
Investigator Services

DATE: December 7, 2007

RECOMMENDATION

Adoption of a resolution:

- (1) Authorizing the City Attorney to negotiate and execute an agreement with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP to provide legal and investigative services as the Evaluator to the San Jose Elections Commission for a two-year term beginning on December 10, 2007 and extending through December 10, 2009, in an amount not to exceed \$100,000, subject to appropriation of funds.
- (2) Authorizing the City Clerk to negotiate and execute an agreement with Roberto A. Rivera dba Rivera & Associates to provide investigation services to the San Jose Elections Commission for a term beginning December 1, 2007 and extending through December 1, 2009, in an amount not to exceed \$40,000, subject to appropriation of funds.

OUTCOME

Execution of the agreements with Hanson, Bridgett, Marcus, Vlahos, Rudy LLP and Rivera & Associates will allow the consultants to perform the applicable services for the Elections Commission.

BACKGROUND

The San José Municipal Code and the Elections Commission Regulations and Procedures provide that the City Council shall retain an independent and neutral Evaluator, selected by the Commission, to review and investigate complaints that are filed with the Commission alleging violations of the Ethics Ordinances in Title 12 of the

December 7, 2007

Subject: Elections Commission Evaluator/Investigator Agreement

Page 2

Municipal Code. The Commission's Regulations provide that the Evaluator serve for a two year term, with Section 12.04.080 of the Municipal Code providing that the City Council shall appropriate the funds necessary for the Evaluator.

Additionally, as recommended by the Blue Ribbon Task Force, the Elections Commission's Regulations were amended, and adopted by the City Council on March 1, 2005, to give the Commission authorization to hire an independent investigator. The amendment further provided that the City Clerk execute and administer the investigator contract.

ANALYSIS

A. Elections Commission Evaluator (Attorney)

The Elections Commission recently issued a Request for Qualifications (RFQ) for an Evaluator (Attorney). The Commission received two responses to the RFQ. Proposals were submitted by Hanson Bridgett Marcus Vlahos Rudy LLP from San Francisco and Sweeney and Greene LLP, a law firm from Elk Grove, California. Interviews were conducted by the Commission on November 5, 2007. On November 26, 2007, the Commission unanimously recommended that a new two-year agreement be awarded to the law firm of Hanson Bridgett Marcus Vlahos Rudy, in an amount not to exceed \$100,000, to serve as the Commission's Evaluator (Attorney.)

B. Elections Commission Investigator

The Commission recently issued a Request for Qualifications (RFQ) for an investigator to assist in the investigation of complaints filed with the Commission and to monitor compliance with the requirements of the Ethics Ordinances in Title 12 of the Municipal Code, including review of issues related to the Lobbyist Ordinance and the Campaign Ordinance.

Rivera and Associates was the only investigative firm that responded to the RFQ. The Commission interviewed Roberto Rivera at its November 5 meeting. On November 26, 2007, the Commission unanimously voted to recommend Rivera and Associates as the Commission's investigator.

C. Additional Recommendation to be Forwarded from Elections Commission

In order to address referrals to the Elections Commission concerning the activity of independent expenditure committees during the elections process and full disclosure of funds expended by committees, the Elections Commission requested proposals from elections audit consultants. The goal was to obtain complete and thorough audits of contributions and expenditures including those from independent committees. The Commission received a proposal from the Survey and Policy Research Institute at San Jose State. After a thorough review of the only proposal submitted in response to the Commission's request, the Commission recommended that an agreement be negotiated

December 7, 2007

Subject: Elections Commission Evaluator/Investigator Agreement

Page 3

and executed for the audit services in an amount not to exceed \$70,000. City Council approval of the agreement and the additional funding will be brought forward to the Council in January 2008 after staff has an opportunity to develop a work plan and scope of services for the consultant.

PUBLIC OUTREACH

This memorandum is posted on the City's website for the December 18, 2007 Council Agenda.

COORDINATION

This memorandum was coordinated with the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

Approval of this item is consistent with prior Council direction.

COST SUMMARY/IMPLICATIONS

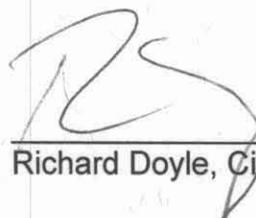
Contracts for an Evaluator and Investigator were anticipated as part of the annual budget process and funding was appropriated in the General Fund City-Wide Strategic Support to the Elections Commission.

BUDGET REFERENCE

Fund	Appn #	Name	RC#	Total Appn	Contract Amounts	Adopted Budget	Last Budget Action
001	3383	Elections Commission	008868	\$127,387	\$70,000 (this FY)	Page IX -17	6/19/07

CEQA

Not a Project.


Richard Doyle, City Attorney


Lee Price, City Clerk

cc: Debra Figone

DEC 10 10:15
CITY CLERK'S OFFICE