

**CITY OF HOUSTON – CITY COUNCIL**

Meeting Date: 11/20/2019

District ALL

Item Creation Date: 11/13/2019

Agenda Item #: 16

**Summary:**

ORDINANCE approving and authorizing an Agreement for Legal Services between **DLA PIPER LLP** and the City of Houston; providing a maximum contract amount

**Background:**

The City is seeking a contract in an amount not to exceed **\$175,000.00** for professional legal services with the firm of DLA Piper LLP (the “Firm”) to represent the City in matters related to the Centers for Medicare and Medicaid Services (“CMS”) review of the City’s health care billing under Medicare and Medicaid. The firm will prosecute the City’s Medicare Appeal and Crossover Appeal Nos. 1-3119919092 and 1-3119919284, respectively pending before the Office of Medicare Hearings and Appeals (“OMHA”), and will handle any hearings, subsequent appeals and proceedings. The Firm has satisfactorily represented the City on these matters for years.

These appeals stem from a federal audit of the City’s receipt of Medicare payments for emergency medical services rendered to patients with Medicare benefits in which a Medicare contractor reviewed 40 randomly selected claims that were paid between June 1, 2009 and May 31, 2013. The audit concluded that 100% of the audited claims had been paid in error, and the error rate was extrapolated to the entire population of Medicare claims paid during the audit period. The contractor informed the City that it must repay \$19.5 million in alleged overpayments along with interest charges. After two levels of partially successful appeals, the amount of alleged overpayment has been significantly reduced to \$2.9 million. The reduced overpayment amount was recouped by CMS in 2015 by offsetting against funds due the City for then-current Medicare claims.

In 2015, the Firm filed the City’s request for a hearing before an Administrative Law Judge, which is the third level of appeals. Due to a massive backlog of appeals of these audits, the City’s appeal was not assigned to an Administrative Law Judge until October 7, 2019 and briefing on the matter is due December 5, 2019. The City hopes to recover up to approximately \$4 million (the \$2.9 million overpayment plus 9.5% interest over the past four years) in Medicare funds and interest recouped from the City by CMS in prior years.

The City recommends the Firm because of its experience with Medicare appeals and its unique history and knowledge regarding this matter. The Firm’s attorneys are experienced and highly capable subject matter experts who have successfully defended clients in Medicare appeals.


The agreement will be effective on the countersignature date by the City Controller and will remain in effect until the appeals are concluded unless terminated earlier.

**Hire Houston First:** This procurement is exempt from the City’s Hire Houston First Ordinance based on the department’s determination that compliance with the ordinance would unduly interfere with contract needs.

**Pay or Play:** The proposed contract requires compliance with the City’s Pay or Play ordinance regarding health benefits for employees of City contractors. In this case, the Firm provides health benefits to eligible employees in compliance with City policy.

**M/WBE Information:** M/WBE Zero-Percent Goal Document approved by the Office of Business Opportunity

**Fiscal Note:** Funding for this item is included in the FY20 Adopted Budget. Therefore, no Fiscal Note is required as stated in the Financial Policy Ord. 2018-390.

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Ronald C. Lewis, City Attorney

**Prior Council Action:**

None

Estimated Spending Authority			
DEPARTMENT	FY2020	OUT YEARS	TOTAL
Legal Department	\$175,000.00	\$0.00	\$175,000.00

**Amount of Funding:**

\$175,000.00 - Property & Casualty Fund (1004)

**Contact Information:**

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