



CITY OF HOUSTON - CITY COUNCIL

Meeting Date: 4/5/2022

ALL

Item Creation Date: 2/2/2022

LGL - Appropriation Ordinance - Norton Rose

Agenda Item#: 19.

Summary:

ORDINANCE Amending Ordinance No. 2017-0445, as amended by 2018-0585, to increase the maximum contract amount for Professional Services Agreement between City of Houston and **NORTON ROSE FULBRIGHT US LLP** for representation of the City, certain Elected Officials and the Finance Director in the pending lawsuit of Houston Firefighters' Relief and Retirement Fund v City of Houston and any other related or ancillary litigation regarding Senate Bill 2190 - \$220,000.00 - Property and Casualty Fund

Background:

City Council approved an ordinance approving and authorizing a professional services agreement between Norton Rose Fulbright US LLP (the "Firm") and the City of Houston providing a maximum contract amount of \$815,000.00 to represent the City, its elected officials and the Finance Director in the pending litigation styled *Houston Firefighters' Relief and Retirement Fund v. City of Houston, et. al., Cause No. 2017- 36216*, filed on May 30, 2017. The Trial Court dismissed Cause No. 2017-36216 on June 30, 2017. HFRRF appealed the dismissal to the 14th Court of Appeals. The 14th Court of Appeals Affirmed the Trial Court decision on June 20, 2019. On March 13, 2020, the Supreme Court denied HFRRF's petition for review.

Ordinance No. 2018-0585 approved an amendment to Ordinance # 2017-0445 to increase the maximum contract amount by \$576,000 to \$1,391,000.00, for the agreement for professional services between the City of Houston and the Firm, for representation of the City, certain elected officials and the Finance Director in the lawsuit styled *Houston Firefighters' Relief and Retirement Fund (HFRRF I) v. City of Houston, et. al.; Cause No. 2017-36216*; and any other related or ancillary litigation regarding Senate Bill 2190. Additionally, HFRRF sued the City, its elected officials and the Finance Director ("Defendants") challenging the as-applied constitutionality of Senate Bill 2190, the Pension Reform Legislation, seeking injunctive relief and a declaratory judgment in respect to such legislation in the lawsuit styled *Houston Firefighters' Relief and Retirement Fund v. City of Houston, et. al.; Cause No. 2019-51405 (HFRRF II)*, filed on July 26, 2019. HFRRF was granted Declaratory Judgment on October 7, 2020. Defendants filed an appeal on October 15, 2020 which was assigned to the 1st Court of Appeals. The parties have filed all their briefs.

The City recommends amending the ordinance to increase the maximum contract amount by \$220,000 because oral argument before the 1st Court of Appeals and possibly additional briefing are anticipated. The City anticipates an appeal from the decision of the 1st Court of Appeals will be filed before the Texas Supreme Court by either party. Oral argument and briefing is anticipated before the Texas Supreme Court. The additional funding will increase the maximum contract amount from \$1,391,000 to \$1,611,000.

The City recommends the Firm because of its litigation experience. The Firm's attorneys are experienced and highly capable subject matter experts who have successfully defended complex, high exposure cases.

M/WBE Participation: The Office of Business Opportunity approved a 24% M/WBE participation goal for the Agreement. To date, the Firm achieved 2.725% participation, met by the certified firm of Ogden, Brooks & Hall, L.L.P., with partner Linda Brooks assisting in the litigation. The firm of Ogden, Brooks & Hall, L.L.P. has dissolved. Most of the billing time for this case has been for work in the appellate courts, and it is difficult to divide the labor between firms at the appellate level. The Prime is reviewing the City's list of certified M/WBE firms to determine whether there is a firm with the requisite highly specialized experience at the appellate level to assist with this case, and if so, will submit a deviation request to OBO to add a new certified firm to the contract for goal credit. The Office of Business Opportunity will continue to monitor this contract to ensure maximum M/WBE participation.

Fiscal Note: Funding for this item is included in the FY22 Adopted Budget. Therefore, no Fiscal Note is required as stated in the Financial Policies.

Amount and Source of Funding:

Estimated Spending Authority				
Department	Current FY	Out Year	Total	Fund
Legal	\$187,000.00	\$33,000.00	\$220,000.00	Property and Casualty (1004)

DocuSigned by:

Arturo Michel

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Arturo G. Michel, City Attorney 4/5/2022

Pierre Grosdidier, City Attorney,

Prior Council Action:

2017-445 passed June 21, 2017
2018-585 passed July 25, 2018

Amount and Source of Funding:

\$220,000.00
Property & Casualty Fund
Fund 1004

Contact Information:

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ATTACHMENTS:

Description	Type
Prior Council Action 2017-445	Backup Material
Prior Council Action 2018-585	Backup Material
Prior Contract	Backup Material
Funding Document	Backup Material
Affidavit of Ownership-March 2022	Backup Material
Ordinance	Ordinance/Resolution/Motion
Funding & OA Verification	Financial Information
Coversheet (revised)	Signed Cover sheet