

A G E N D A



Recommendation for Council Action

Austin City Council	Item ID	28752	Agenda Number	16.
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Meeting Date:	11/21/2013	Department:	Legal
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Subject

Authorize negotiation and execution of a legal services agreement with the Law Firm of Tydings and Rosenberg, LLP to provide legal services related to the Minority/Women/Disadvantaged Business Enterprise availability and disparity study and legal advice on implementation of study recommendations in an amount not to exceed \$150,000.00

Amount and Source of Funding

Funding available in the 2013-2014 budget of the Small and Minority Business Resources Department.

Fiscal Note

Purchasing Language:	
Prior Council Action:	
For More Information:	Cindy Crosby, Law Department 512-974-2268
Boards and Commission Action:	
MBE / WBE:	
Related Items:	

Additional Backup Information

This proposed contract is to retain outside legal counsel to provide secondary legal support to the City's Small and Minority Business Resources Department (SMBR) on issues related to the completion of a minority/women/disadvantaged business enterprise (MBE /WBE /DBE) availability and disparity study, including an analysis of veteran owned businesses.

In June 2013, the City Council approved the negotiation and execution of an agreement with National Economic Research Associate, Inc. (NERA) to conduct an availability and disparity study to document the necessary anecdotal and statistical evidence of racial discrimination in the City's relevant marketplace necessary for the support of the City's MBE /WBE /DBE program. A Council resolution was passed to also direct the consultant to provide an analysis regarding veteran owned businesses. At the conclusion of the disparity study, NERA will provide recommendations that may result to revisions to the City's MBE /WBE Program ordinances and rules.

The leading United States Supreme Court case of *City of Richmond v. J.A. Croson Co.*, held that a local government may redress past race discrimination in its contracting activities if it can demonstrate through relevant evidence (such as a

disparity study) a compelling governmental interest sought to be remedied, and that the remedies adopted are narrowly tailored to promote that interest.

The City and NERA have executed an agreement and NERA has begun performance on the disparity study. The last time the City completed a disparity study was in 2008. Due to the uniqueness and importance of the disparity study, outside counsel is being sought to provide legal review in addition to support from the Law Department staff.

This legal services agreement is proposed to be executed with the law firm of Tydings and Rosenberg, LLP, with Franklin Lee as the primary attorney assigned to this matter.

Prior to entering private practice, Mr. Lee's relevant service includes fifteen years as Chief Counsel to the Minority Business Enterprise Legal Defense and Education Fund, Inc. In the latter position, he advised numerous governmental entities in drafting minority business and disadvantaged business enterprise programs, and in defending those programs against constitutional challenges.

Mr. Lee has assisted numerous governments in reforming their procurement practices and policies to make them more accessible. He has provided detailed guidance to government clients regarding such procedures including the Metropolitan District Commission in Hartford, Connecticut, San Diego, California, Columbia, South Carolina, and San Antonio, Texas.

The proposed scope of services will include advice and consultation during the disparity process as well as after its conclusion. The proposed cost is a total not-to-exceed amount to include travel costs to the City.