



Legislation Details (With Text)

File #: 20-1173 **Version:** 1 **Name:** Resolution: Professional Service Contract for Small Cell Wireless Facility Permit Review Services
Type: Resolution **Status:** Adopted
File created: 9/22/2020 **In control:** Engineering
On agenda: 10/21/2020 **Final action:** 10/21/2020

Title: Dept/ Agency: Engineering
Action: ☐ Ratifying ☒ Authorizing ☐ Amending
Type of Service: Professional Services Contract
Purpose: To provide Small Cell Wireless Facility Permit Review Services.
Entity Name: Johnson, Mirmiran & Thompson, Inc. (JMT)
Entity Address: 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648
Contract Amount: Not to exceed \$25,000.00
Funding Source: Department of Engineering
Contract Period: One (1) year upon issuance of a Notice to Proceed
Contract Basis: ☐ Bid ☐ State Vendor ☒ Prof. Ser. ☐ EUS
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ
☐ Private Sale ☐ Grant ☐ Sub-recipient ☐ n/a
Addition Information:

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
10/21/2020	1	Municipal Council	Adopt	Pass

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Addition Information:

WHEREAS, the City of Newark, Department of Engineering (the “City”) is in need of Engineering Services to review applications received by the City from telecommunication companies requesting the installation of Small Cell Wired and Wireless facility deployments within the City’s right of way (the “Professional Engineering Services”); and

WHEREAS, the Professional Engineering Services are exempt from the requirements of

public bidding pursuant to the Local Public Contracts Law, more specifically, N.J.S.A. 40A:11-5(1)(a) (i); and

WHEREAS, on or about August 21, 2020, the City asked five (5) Engineering companies to provide quotations to perform the Professional Engineering Services; and

WHEREAS, the City received four (4) quotations in response to its request to perform the Professional Engineering Services; and

WHEREAS, Johnson, Mirmiran & Thompson, Inc. (JMT), with its offices located at 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648, provided the City with a Proposal and it was found to be in the best interest of the City to accept the Proposal for the purpose of providing the Professional Engineering Services; and

WHEREAS, the City wishes to enter into a Professional Services Contract with JMT for an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to provide the Professional Engineering Services for a period of one (1) year upon issuance of a Notice to Proceed; and

WHEREAS, the Local Public Contracts Law, (N.J.S.A. 40A:11-1 et seq.) requires that notice of the award of contracts for “Professional Services” without competitive bidding must be published in a local newspaper; and

WHEREAS, this contract is for an amount over \$17,500.00 and is being awarded pursuant to a “Non-Fair and Open Process” pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS, JMT, has completed and submitted a Business Entity Disclosure Certification, which certifies that JMT has not made any reportable contributions to a political or a candidate committee in the City of Newark in the previous one (1) year prior to award, and that the contract will prohibit JMT from making any reportable contributions through the term of the contract; and

WHEREAS, the Municipal Council adopted the Contractor Pay-to-Pay Reform Ordinance, Newark, New Jersey Municipal Code § 2:4-22C, which forbids the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates and County of Essex Candidates, office holders having ultimate responsibility for the award of a contract; candidate committees of the aforementioned candidates; and political or political party committees of the City of Newark or County of Essex; and continuing political committees or political action committees regularly engaged in the support of the City of Newark Municipal or County of Essex Elections; and certain other political party or candidate committees, in excess of certain thresholds.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Mayor and/or his designee, the Director of the Department of Engineering, are hereby authorized and directed on behalf of the City of Newark to enter into and execute a contract with Johnson, Mirmiran & Thompson, Inc. (JMT), to provide Professional Engineering Services for the review of applications received by the City from telecommunication companies requesting the installation of Small Cell Wired and Wireless facility deployments within the

City's right of way, for a period of one (1) year upon issuance of a Notice to Proceed, for an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).

2. Pursuant to the Federal Communications Commissions (FCC) regulations, the City of Newark is entitled to recover application fees from telecommunication companies and as a result the City is not expending any funding or incurring any costs under this contract. The funding for this contract shall come from the proceeds that the City receives from applications received by the City from telecommunication companies requesting the installation of Small Cell Wired and Wireless facility deployments within the City's right of way, which is also set forth in the City of Newark's Municipal Code.
3. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(a)(i) of the Local Public Contracts Law because the performance of the service required will be performed by someone who is a licensed engineer in the State of New Jersey.
4. This contract is awarded pursuant to the Non-Fair and Open Procedures of the State Pay-to-Play Law, (N.J.S.A. 19:44A-20.5) and pursuant to the provisions of the Local Public Contracts Law, (N.J.S.A. 40A:11-5(1)(a)(i)) and is in compliance with the Pay-to-Play Reform Ordinance, Newark, New Jersey, Municipal Code §2:4-22C.
5. Attached hereto is a Certification of Funds from the Director of the Department of Finance, which states that there are available sufficient legally appropriated funds in the amount of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) for the purposes set forth herein provided from Business Unit: NW011; Department 110; Div./Proj.; Account#: 71280; Budget Year: B2020. A copy of the Certification of Funds issued shall be filed in the Office of the City Clerk by the Director of the Department of Engineering together with this resolution.
6. A copy of the Political Contribution Disclosure Form and the Determination of Value letter are attached and shall be placed on file with the resolution in the Office of the City Clerk.
7. JMT, has completed and submitted a Business Entity Disclosure Certificate, which shall be placed on file with the resolution in the Office of the City Clerk, certifying that JMT has not made any reportable contributions to a political or a candidate committee in the City of Newark in the previous one (1) year, and the contract will prohibit JMT from making reportable contributions through the term of the contract.
8. A copy of the fully executed contract herein authorized shall be filed in the Office of the City Clerk by the Director of the Department of Engineering and shall be made available for public inspection.
9. There shall be no advance payments made against this contract in accordance with N.J.S.A. 40A:5-16.
10. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of the adoption of this resolution.

STATEMENT

This resolution authorizes the Mayor and/or his designee, the Director of the Department of Engineering, to enter into a Professional Service contract with Johnson, Mirmiran & Thompson, Inc. (JMT), located at 1200 Lenox Drive, Suite 101, Trenton, New Jersey 08648, to review applications received by the City from a Telecommunication Company for the installation of Small Cell Wired and Wireless facility deployments within the City's right of way, for a period of one (1) year upon issuance of a Notice to Proceed, for an amount not to exceed \$25,000.00.