



TO: Mayor Chuck Barney
Members of the City Council

FROM: Chris Owen, Federal Compliance Officer

DATE: April 21, 2017

SUBJECT: EMINENT DOMAIN LEGAL SERVICES ACTIONS (DR0003)

I. RECOMMENDED ACTION

1. Recommend the Committee and Council authorize extension of exiting eminent domain legal services contract work being performed by Swanson & Warcup for current cases.
2. Authorize city staff to prepare a request for proposal for new eminent domain legal services

II. DEPARTMENT CONTACT PERSONS

Chris Owen, Federal Compliance Officer 857-1553

III. DESCRIPTION

A. Background

The city is currently under contract with Swanson & Warcup to provide eminent domain legal services and requires continued services for existing and future cases. The current contract began on July 1, 2016 and is due to expire on June 30, 2017, however does have a provision for the city to extend up to two (2) twelve month periods.

IV. IMPACT:

A. Strategic Impact:

The city requires an attorney skilled at eminent domain proceedings to ensure properties needed to support the flood control project occur in a timely manner. The city attorney's workload capacity is not sufficient to support eminent domain cases.

B. Service/Delivery Impact:

Continuous eminent domain service coverage is important to ensure property acquisitions proceed in a timely manner. Failing to do so may cause construction delays of the flood control project.

C. Fiscal Impact:

Funds are coming from HUD CDBG-DR grant allocations. The previous contract year was for a maximum of \$1,050,000 for no more than 30 properties. The same terms are outlined in the contract extension. The request for proposal would establish a bid process for new services.

V. ALTERNATIVES

Alt 1 - City Council could deny the extension and let the existing contract lapse, relying solely on RFP provider for services. Risk is continuity of case knowledge would not be effectively transferred and the city's position may become degraded or processes delayed as new attorneys are brought on board to continue existing cases. For historical awareness, Swanson and Warcup was the only firm to bid on last year's RFP, so cutting them out without a backup in hand may be risky.

Alt 2 - City Council can approve contract extension and deny RFP use for new services. This will continue all eminent domain proceedings with Swanson & Warcup. Risk is missing out on an opportunity to evaluate and possibly select other potential service providers.

Alt 3 - City Council can choose to do nothing and let the existing contract lapse with no mechanism to procure eminent domain legal services. Risk is that during the acquisition process the city will come to a point in negotiations where eminent domain needs to be used, however there is limited/no means to conduct it by city staff. Failed negotiations with property owners may end up delaying construction of flood control structures.

VI. TIME CONSTRAINTS

Timeliness is essential because the existing contract does have an approaching expiration date and the city needs to remain prepared for legal action, if needed, to support the flood control project.

Approved for Council Agenda: _____

Date: _____