



Information Item

October 9, 2020

To: Mayor and City Council
From: George S. Cardona, Interim City Attorney
Subject: Selection of OIR Group to Prepare Independent After-Action Report and Evaluation Regarding Events Leading To, During, and Following May 31, 2020

Summary

On May 31, 2020, in response to the killing of George Floyd in Minneapolis, Minnesota, protestors gathered in Santa Monica, California. On the afternoon of May 31, 2020, while the protest was ongoing, individuals engaged in looting and violence that resulted in significant damage to stores, restaurants, and vehicles in and around Santa Monica's downtown area and along its commercial boulevards.

A number of Santa Monica residents have criticized the preparation for and handling of the protest, looting, and violence that occurred on May 31, 2020 by the Santa Monica Police Department (SMPD). That criticism has extended to statements made by various City representatives to the media and the community on May 31 and subsequently and to actions taken by the City in the days following May 31.

On June 9, 2020, the City Council directed SMPD to conduct an after-action review of the events of May 31, 2020, to be reviewed by a third-party entity. Thereafter, on August 25, 2020, the City Council tasked the City Attorney's Office with soliciting and retaining an individual or entity with the required professional expertise to prepare an independent after-action report and evaluation regarding the events leading to, during, and following May 31, 2020.

A formal procurement process was completed on October 8, 2020 and resulted in the selection of OIR Group to prepare the independent after-action report and evaluation.

OIR Group brings approximately two decades of experience and expertise in oversight of law enforcement practices and activities, including preparation of after-action reports. As one example, OIR Group was given lead responsibility by the City of Los Angeles' Office of Inspector General to investigate the controversial, large-scale use of force by LAPD officers during the 2001 May Day incident in MacArthur Park. References from cities that have retained OIR Group have spoken highly of their work, commenting in particular on their thoroughness, fairness, integrity, and judgment, and noting their willingness to be critical of police and City actions if the facts warrant. OIR Group was also the low bidder, and has committed to a "do not exceed" expenditure of \$75,000 for the completion of the project, which will include virtual listening sessions with Santa Monica residents and business owners to ensure that they receive a full picture of the events at issue as well as a public presentation to City Council of the final report.

The City will negotiate and execute an agreement with OIR Group, and OIR Group will then begin work with the goal of having a final written report and evaluation within 180 days.

Discussion

On June 9, 2020, the City Council directed SMPD to conduct an after-action review of the events of May 31, 2020, to be reviewed by a third-party entity. On June 23, 2020, the City Council modified its direction; Council directed SMPD to conduct an after-action review of the events leading to, during, and following May 31 and directed the Interim City Attorney to solicit and retain an individual or entity with the required professional expertise and independence to review the after-action review conducted by the SMPD, conduct such independent investigation as it deemed appropriate, and provide the City Council with a public written report, to be presented to the City Council at a public meeting, setting out their independent determinations regarding the events leading to, during, and following May 31. In response, on June 30, 2020, the City Attorney's Office issued a solicitation for proposals, seeking an entity to conduct an independent investigation on an expedited timeline after being provided with an after-action review prepared by SMPD. After receiving three proposals by the specified deadline of July 13, 2020, the City Attorney's Office reviewed the proposals and was prepared to make a selection.

Thereafter, SMPD advised that given the scope of the materials to be reviewed, it would be unable to complete an after-action review within the anticipated time frame of two to two and one-half months. As a result, on August 25, 2020, the City Council modified its direction. Council directed the City Attorney's Office to retain an outside expert to prepare an independent after-action report and evaluation regarding the events leading to, during, and following May 31 and directed staff to provide that expert with ongoing access to all information relating to those events compiled to date by SMPD as well as any additional such information gathered by SMPD or from other sources. Council also directed that the individual or entity retained should be required to provide regular updates on progress.

Given the revised direction and anticipated potential cost, the City Attorney's Office worked with procurement staff to post a formal solicitation. On September 9, 2020, the solicitation was posted. The solicitation sought applications from interested firms to prepare an independent after-action report and evaluation regarding the events leading to, during, and following May 31, and described the scope of work as follows:

The independent after-action report and evaluation should include: (1) a written narrative of facts regarding those events as determined by the selected firm based on its independent review; and (2) an independent evaluation of, and recommendations regarding, the City's response to those events, including in particular the response by the SMPD, SMPD Chief, Interim City Manager, and City Council. The firm selected will be responsible for presenting the independent after-action report and evaluation to the City Council, including answering questions regarding the report and evaluation at a public meeting of the City Council.

The firm selected will be provided with initial materials gathered by the SMPD and other City Departments, including in particular the Fire Department and Emergency Operations Center. Additional materials gathered by the SMPD and other City Departments will be provided on an ongoing basis. The firm selected, however, will be responsible for making independent determinations and

providing independent direction regarding document gathering and interviews and for conducting interviews of City staff and others as it determines appropriate. The firm selected will also be responsible for developing and implementing procedures to provide community members and local businesses an opportunity to provide documents and information and their views regarding the City's response. Staff from the City Attorney's Office will be available to assist in the gathering of documents and scheduling of interviews in response to the selected firm's directions. Based on its independent review, the firm selected will then prepare an independent after-action report and evaluation regarding the events leading to, during, and following May 31, and the City's response to those events.

The selected firm will be asked to complete its independent after-action report and evaluation on an expedited timeline with the goal of having a final written report and evaluation within 180 days. The selected firm may, however, extend this time frame if it determines that additional time is necessary for it to complete a thorough independent report and evaluation. The selected firm will be required to provide bi-weekly updates regarding progress on the gathering of information and the preparation of the report and evaluation.

The solicitation closed on September 24, 2020. The City received five proposals. Between September 24 and October 1, 2020, the proposals were reviewed and scored by five evaluators, one of whom was the Interim City Attorney, based on the following criteria from Santa Monica Municipal Code Section 2.24.190 relevant to this solicitation:

- (a) The training, credentials, expertise, and experience of the firm and its proposed team.
- (b) The demonstrated competence, ability, capacity, and skill of the firm and its proposed team to provide the services requested within the time frame specified and without delay (including its ability to provide required paperwork on a timely basis).
- (c) The price which the firm proposes to charge, including whether the price is fair.
- (d) The character, integrity, reputation, and judgment of the firm and its proposed team (including information obtained from references).

Based on the scoring of the vendors, the evaluation process recommended OIR Group. This recommendation was posted on October 1, 2020. The protest period for the other vendors to challenge the recommendation ended October 8, 2020 at 11:59 pm. No protest was received. As a result, OIR Group has been selected and the City will negotiate and execute an agreement with OIR Group to provide the independent after-action report and evaluation.

Bidder Recommendation	
Best Qualified Person/Firm	OIR Group
Evaluation Criteria	Training/credentials/experience; competence/ability/capacity/skill to timely provide services; price; character/integrity/reputation/judgment.
Municipal Code	SMMC 2.24.190

RFPs Received		
OIR Group	Citygate Associates, LLC	JL Group, LLC
Lawrence S. Middleton, Attorney at Law	Renne Public Law Group	

RFP Data				
Posted On	Posted On	Advertised In (City Charter & SMMC)	Vendors Downloaded	Date Publicly Opened
9/9/2020	City's Online Bidding Site	Santa Monica Daily Press	18	9/24/2020

Justification to Award
Based on the relevant criteria in SMMC 2.24.190, staff recommends OIR Group as the best qualified person or firm to prepare an independent after-action report and evaluation regarding the events leading to, during, and following May 31 based on: OIR Group’s approximately two decades of experience and expertise in oversight of law enforcement practices and activities, including preparation of after-action reports; references from cities that have retained OIR Group speaking highly of their work, commenting in particular on their thoroughness, fairness, integrity, and judgment, and noting their willingness to be critical of police and City actions if the facts warrant; and low cost, committing to a “do not exceed” expenditure of \$75,000 for the completion of the project, which will include virtual listening sessions with Santa Monica residents and business owners to ensure that they receive a full picture of the events at issue as well as a public presentation to City Council of the final report.

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Financial Impacts and Budget Actions

Staff will be awarding to OIR Group a contract for professional services to be paid from the CAO budget.

Contract/Agreement/Purchase Order Request		
FY 2020-21 Budget Request Amount	Department/CIP Account #	Total Contract Amount
\$75,000	01120001.536550	\$75,000

Prepared By: George S. Cardona, Interim City Attorney