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Title: Approve Addendum to Lease Agreement with Ray Morgan Company

Sponsors: Information Services Department

Indexes:

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Attachments: 1. Addendum to Agreement, 2. Lease Agreement, 3. RFP #9592

Date	Ver.	Action By	Action	Result
6/23/2022	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

FROM: BRYON HORN, Chief Information Officer
Information Services Department

BY: KIM JACKSON, Administrative Manager
Information Services Department

SUBJECT
Approve Addendum to Lease Agreement with Ray Morgan Company

RECOMMENDATION

Staff recommends City Council approve the Addendum to Lease Agreement with Ray Morgan Company with the following changes:

1. Removing the Termination for Convenience clause in RFP 9592, SERVICE CONTRACT, III GENERAL CONDITIONS. The current contract has a Termination for Cause clause, and the City would not terminate this agreement for convenience, so there is no risk to the City with this change.
2. Revising 4. INSURANCE; COLLATERAL PROTECTION; INDEMNITY; LOSS OR DAMAGE, removing the notification of any changes to insurance.
3. Reassign leasing agent to be Great America Financial Services Corporation in the lease agreement 5. ASSIGNMENT.
4. Remove in its entirety 7. INSPECTIONS AND REPORTS. Removing the ability to have impromptu inspections.
5. Amend 8. END OF TERM by deleting “12-month renewal term(s)” and replacing with “month-to-month terms” in the first sentence.

EXECUTIVE SUMMARY

On August 30, 2021, the City released Request for Proposals (RFP #9592). On December 2, 2021, Council approved an agreement with Ray Morgan Company in the amount of \$386,500.00 per year for 5 years with an option for four one-year extensions. In order for Ray Morgan to secure their financing for the lease, Great America is requiring Ray Morgan to have the Termination for Convenience clause removed. Termination for Convenience puts the leasing company and Ray Morgan at much higher financial risk if the City is allowed to terminate on any given day, and without cause. The current contract does have a Termination for Cause clause giving the City an option to terminate based on performance.

BACKGROUND

On August 30, 2021, the City released Request for Proposals (RFP #9592). On December 2, 2021, Council approved an agreement with Ray Morgan Company in the amount of \$386,500.00 per year for 5 years with an option for four one-year extensions at the City of Fresno's (City) discretion based upon performance and adherence to contract requirements.

Ray Morgan's leasing company, Canon Financial Services, would not accept the City's insurance requirements, the Termination for Convenience clause and other contract items Canon Financial deemed unacceptable. Ray Morgan was subsequently able to secure their lease financing through Great American Financial who is accepting of all of the City's insurance requirements but requires removal of the Termination for Convenience clause as it puts them and Ray Morgan at a much higher financial risk if the City decided to terminate on any given day, and without cause.

As a Termination for Cause clause does exist in the contract, City is protected from lack of performance issues and is able to terminate if that situation occurred.

ENVIRONMENTAL FINDINGS

The approval of this agreement is not a project for the purposes of the California Environmental Quality Act.

LOCAL PREFERENCE

Local preference was implemented, and Ray Morgan Company is a vendor within the City of Fresno.

FISCAL IMPACT

Funding is available in the Information Services Department's (ISD) Systems Acquisition and Maintenance (SAM) Fund, which has the appropriate appropriations and is where the current copier contract is paid from.

Attachments:

Addendum to Agreement

Lease Agreement

RFP #9592