



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Lincoln Bogard, Administrative Services Director
Lincoln Bogard, Administrative Services Director

MEETING DATE: December 10, 2024

SUBJECT: Selection of Firm to Conduct a Citywide Forensic Investigation as the City Council Chosen Finalist from the Request for Proposals for Citywide Forensic Investigation Services and Direct Staff to Bring a Negotiated Contract with Finalist to Council in January 2025

RECOMMENDATION:

Select a finalist for the completion of the Citywide Forensic Investigation and allow staff to negotiate a contract to bring to Council in January.

BACKGROUND:

The City hired a new Finance Director on June 23, 2022. Fiscal Year 2021-22 ended on June 30, 2022. As a part of the year-end close process and completion of the audited financial statements, the Finance Director determined that the Electric Utility had approximately \$4 million in unrestricted cash at fiscal year end. In approximately October 2022, the City Manager, Finance Director, and Deputy Finance Director held discussions with the then Electric Utility Director, about the low levels of cash reserves at the electric utility. The Council determined that the Electric Utility would maintain an unrestricted cash reserve of \$11 million. The audited financial statements confirmed that \$4 million level of unrestricted cash. Continuing conversations occurred over the remainder of FY 2022-23, and the Finance Director (now Administrative Services Director) conducted a much more thorough analysis as the departments unrestricted cash ultimately moved negative department-wide in March and April of 2023. When the Administrative Services Director brought the June 30, 2023, negative unrestricted cash balance of approximately \$9 million (later revised based on year-end GASB 31 entries to negative \$8.6 million) to the City Manager, we agreed on the critical importance of reporting the results to Council. The analysis was presented to Council in a Special Session on August 15, 2023. Also in August, we moved forward with contracting GHJ Associates to perform a Phase 1 forensic investigation into the results of operations since 2018. Council expanded the scope of the forensic investigation twice. The final results were presented to Council and the public on February 27, 2024.

The forensic investigation confirmed the reporting that was made to Council on August 15, 2023. That meeting can be viewed online and is accessible from the City's website. The majority of cash spend related to capital asset construction and was approved by Council as a part of the Capital Improvement Plan. While there were issues of non-conformance with procurement policy issues, Council retroactively approved all instances identified, and no allegations of fraud were noted in the forensic investigation. Almost all areas of concern from a financial operations perspective can be identified through a thorough analysis of cash. Ultimately, the Electric Utility unrestricted cash balances decreased by over \$30M during Mr. Miller's tenure (2018-2024, and as of June 30, 2023).

When Council and the public were informed about the cash decline that electric incurred over the last five years, some Councilmembers and residents expressed a desire to have a Citywide investigation performed. The Administrative Services Director stated that no other issues were identified in his Citywide analysis, but that he and the City Manager were agreeable to a Citywide investigation into treasury functions (cash in particular). The Administrative Services Director obtained Council approval to issue a Request for Proposals (RFP) for this investigation. Staff also recommended that the evaluation of submissions be conducted by Finance Directors from other area local governments in the Pass Area and Coachella Valley. Council approved and those Finance Directors and the elected City Treasurer for the City of Banning conducted the evaluation of the six proposals submitted for consideration.

On March 26, 2024, Council directed the Administrative Services Director to perform a Citywide Phase 1 investigation. Staff brought the results of that work back to Council on September 10, 2024. No additional funds were identified for further analysis and Council accepted the report and provided direction to end the investigation.

Since that time, several members of the public and at least one Councilmember have continued to request an external citywide forensic investigation. City management endeavors to be fully transparent with Council and the community and believes that it serves the interest of the community to allow Council to reconsider this item.

JUSTIFICATION:

When the final results of the forensic investigation of the electric utility were presented to Council on February 27, 2024, several members of Council and the public expressed concern that the City Council had authorized \$153,000 for the investigation that had not identified much more than the Finance Director (Administrative Services Director) presented to Council and the public on August 15, 2023.

Staff is aware that the cost of a Citywide forensic investigation of cash will likely cost as much as or several times more than the electric utility investigation, depending on the number of Phases approved by Council. If no other areas of concern are identified the cost could be as low as the electric investigation.

Council conducted interviews with the top three evaluated firms (Marsh Minick, P.C., FORVIS, LLP, and BDO USA, P.C.) on February 27, 2024. The initial round of scoring results of all firms are below. City staff provided the Council with the proposals and asked the Council to score the firms prior to this meeting and the top-rated firm will be disclosed to Council at this meeting for potential approval of initiating a contract.

Evaluation Criteria	
Criteria	Weight (Points)
Qualifications	25 (25% of Total)
Pricing	25 (25% of Total)
Experience (Projects of similar size and scope)	25 (25% of Total)
Professional References	10 (10% of Total)
Approach and Methodology	10 (10% of Total)
Value Added Services	5 (5% of Total)

Aggregate Scores Summary

Vendor	Evaluator 1	Evaluator 2	Evaluator 3	Evaluator 4	Evaluator 5	Evaluator 6	Total Score (Max Score 100)
Marsh Minick, P.C.	89	84	95	94	86	83	88.5
FORVIS, LLP	87	85	89	90	89	86	87.67
BDO USA, P.C.	85	86	91	89	97	59	84.5
GHJ Advisors	83	87	81.5	81	99	62	82.25
McKenzie Forensic Auditors, Inc.	72	80	77	87	90	58	77.33
Engel & Engel, LLP	42.5	63	45	78	75	34	56.25

Vendor Scores By Evaluation Criteria

Vendor	Qualifications (25 Points)	Pricing (25 Points)	Experience (25 Points)	Professional References (10 Points)	Approach and Methodology (10 Points)	Value Added Services (5 Points)	Total Score (Max Score 100)
Marsh Minick, P.C.	24.2	19.5	24.3	8.3	8.7	3.5	88.5
FORVIS, LLP	24.2	16.3	24.2	9.7	9.2	4.2	87.67
BDO USA, P.C.	20.7	20	21.5	9	8.5	4.8	84.5
GHJ Advisors	23.3	17.9	20.3	8.7	7.7	4.3	82.25
McKenzie Forensic Auditors, Inc.	21.5	22	18.7	6.7	6.7	1.8	77.33
Engel & Engel, LLP	19	7.7	14.5	7.2	6.8	1.1	56.25

FISCAL IMPACT:

To be determined based on the firm selected and the number of Phases of fieldwork that Council authorizes.

ALTERNATIVES:

1. Select a firm from the three finalist firms previously interviewed by the City Council to enter into a contract for a forensic investigation of Treasury functions and any other areas of Council concern. (Staff will negotiate the agreement with the selected firm and bring to Council at the earliest regular City Council meeting possible.)
2. Provide alternative direction to staff.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Marsh_Minick_Proposal.pdf](#)
2. [FORVIS_Proposal.pdf](#)
3. [BDO_USA_Proposal.pdf](#)
4. [March 12 Workshop - Council Interviews.pdf](#)
5. [March 26 City Council Meeting - Finalists Presented To Council.pdf](#)
6. [September 10 City Council Meeting - Presentation of Internal Investigation Results.pdf](#)