



CITY COUNCIL AGENDA REPORT

City of Anaheim CITY MANAGER'S OFFICE

DATE: JUNE 21, 2022
FROM: CITY MANAGER'S OFFICE
SUBJECT: INDEPENDENT INVESTIGATION/AUDIT REGARDING
CAMPAIGN CONTRIBUTIONS AND CITY CONTRACTS

ATTACHMENT (Y/N): YES **ITEM # 12**

ACTION:

That the City Council, by Motion, discuss and provide direction to staff on an independent review regarding former Mayor Harry Sidhu's and the City Council's campaign contributions and potentially related contractors and agreements along with an evaluation of staff's involvement, if any. This includes the possibility of selecting Orrick to commence an investigation/audit or else directing a request for proposal to solicit bids from other firms.

DISCUSSION:

At the June 7 City Council meeting, Council discussed conducting an independent audit to examine all campaign contributions to former Mayor Harry Sidhu and Council members and City contracts with those contributors. Council also discussed that the independent audit should investigate whether any malfeasance may have resulted in City funds paid to those contractors, including determining what the funds were used for. Council directed staff to develop a Request for Proposals (RFP) to contract with an independent firm to conduct a financial forensic audit of contracts and agreements with campaign contributors to the existing City Council and the former mayor and to present the proposed RFP to the City Council on June 21 in order for it to be approved, amended as needed, and to be put out to bid.

Following the June 7 Council meeting, staff contacted Orrick, a law firm with a long-standing relationship advising the City and with experience conducting investigations into potential malfeasance at government entities and working with forensic accountants. Orrick provided staff information regarding the considerations to take into account and key decision points for framing an independent audit or investigation. Staff also spoke with a forensic accountant at Heming Morse to gather an additional perspective.

Staff determined that additional direction from Council is needed in order to take action regarding an audit or investigation.

Staff learned that "forensic audit" is a term used to refer to an examination or investigation of financial and other records to gather facts regarding potential mismanagement or illegal activity. Unlike a regular financial audit of financial

statements, which has established industry standards and guidelines, a forensic audit is conducted within a legal framework that is specific to the issues at hand. The forensic audit is typically scoped to assist in addressing questions of law. Forensic audits, therefore, are typically directed by lawyers, whether inside or outside counsel. A forensic accounting firm brings the capability to conduct a detailed review of financial transactions and supporting documentation. If the desired outcome of a review is to understand if there are indicia that a law or ordinance has been broken, then lawyers use the facts gathered by the forensic accountants combined with additional legal work as needed (for example, reviewing non-financial records and conducting interviews not related to finances) to prepare those findings. Because the forensic accountant's work is directly related to legal analysis, a forensic accounting firm is typically retained through a law firm.

Timeline. The speed with which Council would like to receive an audit or investigation report will drive next steps for framing the review. As mentioned above, Staff consulted with Orrick, who is prepared to begin an investigation and to retain forensic accounting consultants following the June 21 Council meeting. This would allow for an expedited start. Alternatively, after receiving direction from Council, staff could conduct an RFP, which would take approximately 4-6 weeks and return to Council at a future date.

Point of Contact. In addition to presenting formal report(s) to Council, the independent investigators/auditors will need to be in contact with City representatives relating to the review to discuss topics such as challenges identifying and obtaining information and fine-tuning approaches. Council has previously discussed the need for independence associated with this audit and review. Accordingly, staff requires direction from Council as to who should be appointed to administer the independent review on a day-to-day basis. The City Council could identify two individuals who can be appointed on a temporary basis as the liaison and governance representatives from the city. These two individuals will be a combination of: 1) a current city employee who would assist with obtaining records, such as the City Clerk, and 2) an individual who would serve as a temporary consultant to the city as a third party neutral person to administer the investigation and audit.

Decision Points for Council:

1. Law Firm – Should Council select legal counsel to conduct the investigation and oversee the forensic audit?

If yes, should Council approve:

- a. Orrick to conduct an investigation; or
- b. Approve staff to issue an RFP for legal services
 - i. Should Council elect to not move forward with Orrick and direct staff to conduct an RFP for an outside law firm, a draft RFP outline for Council consideration is attached and staff seeks Council direction on any desired amendments; and/or

ii. Should Council direct staff to conduct an RFP for a forensic audit in addition to an RFP for an outside law firm, staff would seek legal counsel to develop the RFP.

2. Point of Contact - Who will oversee the investigation/audit?

- a. Current city employee to facilitate records (e.g. City Clerk); and
- b. Third party neutral person to administer the investigation and audit who would work with the legal firm (Orrick will provide examples during the Council presentation of individuals who have served in this role in other investigations and who could serve in this role in Anaheim's investigation)

IMPACT ON BUDGET:

It is anticipated that an investigation including the forensic accounting investigation could range from \$250,000 to \$500,000.

Respectfully submitted,

Jim Vanderpool
City Manager

Attachment:

1. Draft RFP Outline