

Resolution
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2011-185

Council Meeting Date: 06-27-2011

Date Adopted: 06-27-2011

TITLE RESOLUTION AWARDDING CONTRACT TO L. R. KIMBALL, 2001
MARKET STREET, PHILADELPHIA, PA., FOR CONSULTING
SERVICES FOR IMPLEMENTING A CONSOLIDATED PUBLIC SAFETY
COMMUNICATIONS CENTER

Councilperson Galluccio submitted the following resolution, which was duly seconded by Councilperson Muñoz.

WHEREAS, the Borough of New Providence has a need to acquire Construction Consultant/Technical Project Coordinator Services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19-44A-20.5; and

WHEREAS, the Purchasing Agent has determined and certified in writing that the value of the service will not exceed \$68,400.00; and

WHEREAS, the anticipated term of this contract is one (1) year; and

WHEREAS, L. R. Kimball has submitted a proposal, dated December 20, 2011, indicating they will provide Construction Consultant/Technical Project Coordinator Services for an amount not to exceed \$68,400.; and

WHEREAS L. R. Kimbal has completed and submitted a Business Entity Disclosure Certificate which certifies that L. R. Kimball. has not made any reportable contributions to a political or candidate committee in the Borough of New Providence in the previous one year, and that the contract will prohibit L. R. Kimball from making any reportable contributions through the term of the contract, and

WHEREAS, the maximum amount of the contract is not to exceed \$68,400.00, and said funds are available and have been certified by the Chief Financial Officer; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-5) requires that the resolution authorizing and awarding of contracts for "professional services" without

competitive bids and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of New Providence that they hereby agree as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute the attached agreement with L. R. Kimball, for Construction Consultant/Technical Project Coordinator Services.
2. Such contract is awarded without competitive bids as a "professional service" in accordance with N.J.S.A. 40A:11-5(1) (a) of the Local Public Contracts Law, because the services to be rendered are professional in nature and are un-specifiable as to requirements for performance. Such services must be rendered by a person particularly trained and licensed in this area, which requires extensive specific education and long experience in both the Federal and State procedural requirements.
3. A notice of this action shall be published once in the Courier News.

APPROVED, this 27th day of June, 2011.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUCCO	X			
GALLUCCIO	X			
GENNARO	X			
LESNEWICH	X			
MUÑOZ	X			
VYZAS		X		
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 27th day of June, 2011

Wendi B. Barry, Borough Clerk

Prepared by
CARL R. WOODWARD, III, ESQ.
5 Becker Farm Road
Roseland, NJ 07068

AGREEMENT

This AGREEMENT, entered into this _____ day of June 2011, between the BOROUGH OF NEW PROVIDENCE, a municipal corporation of the State of New Jersey, hereinafter called the “BOROUGH,” having municipal offices located at the Municipal Building, 360 Elkwood Avenue, Borough of New Providence, County of Union, NJ, 07974, and CDI-Infrastructure, LLC, dba L.R. KIMBALL, a limited liability company, having an office at Two Commerce Square, 1002 Market Street, Suite 810, Philadelphia, PA 19103, hereinafter referred to as the “CONTRACTOR.”

WITNESSETH:

WHEREAS, there is a need for the BOROUGH, the City of Summit and the Township of Berkeley Heights to acquire consulting services for the specific governance, management, operational, technological, facility and funding/cost requirements for implementing a consolidated public safety communications center (PSAP and dispatch) among the three municipalities serving all of their public safety response agencies; and

WHEREAS, CONTRACTOR submitted a proposal dated December 20, 2010 at a total fixed fee for Tasks 1 and 2 of the Statement of Work of \$68,400.00, a cost per meeting fee in case attendance is required at more than six meetings of \$1,500.00, and a cost per report (in excess of 1,000 words) in excess of the required 10 reports of \$36.00, with an understanding that a proposal for Task 3 will not be provided until Tasks 1 and 2 are completed, and which will be subject to a new agreement; and

WHEREAS, the BOROUGH has determined that the services to be provided constitute

professional services as provided in the Local Public Contracts Law of the State of New Jersey;
and

WHEREAS, the BOROUGH, by Resolution 2011-185, dated June 27, 2011, has authorized a contract with the CONTRACTOR to provide the aforementioned services to the BOROUGH in accordance with the compensation set forth herein;

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, the parties agree as follows:

I. PARTS OF CONTRACT

The parties agree that the terms and conditions contained in the following documents which comprise and are hereinafter called the contract documents are made part of this agreement and are binding on all parties as if all conditions contained in the contract documents were set forth in this agreement:

- A. Contractor's Proposal dated December 20, 2010
- B. Resolution 2011- 185 dated June 27, 2011
- C. This Agreement, including its four recitals

II. CONTRACT PERIOD

This contract shall be effective from the date of execution of this Agreement by both parties.

III. WORK

The CONTRACTOR agrees to provide all services necessary for the following:

All necessary and proper consulting services for the specific governance, management, operational, technological, facility and funding/cost requirements for implementing a consolidated public safety communications center (PSAP and dispatch) among the three municipalities serving all of their public safety response agencies as needed in accordance with the Contractor's proposal dated December 20, 2010.

The CONTRACTOR declares and agrees that it will be responsible for the full performance and completion of all work to be done under this Agreement and by the execution hereof

acknowledges that it has carefully informed itself regarding conditions pertaining to the work to be done.

IV. PAYMENT

The BOROUGH shall pay and the CONTRACTOR shall accept in payment and in consideration for the performance of the CONTRACTOR'S obligations hereunder compensation of a total fixed fee for Tasks 1 and 2 of the Statement of Work of \$68,400.00. In addition, a fee of \$1500 shall be paid for CONTRACTOR'S attendance at each meeting in excess of six meetings with the working group (i.e., police chiefs, fire chiefs and administrators). A meeting is defined as a meeting with the working group, not meetings to gather information for completion of said report. In the event the CONTRACTOR is required to produce more than 10 reports (in excess of 1,000 words each), then CONTRACTOR shall be paid a fee of \$36.00 per additional report. It is understood that a proposal for Task 3 will not be provided until Tasks 1 and 2 are completed, and said proposal will be subject to a new agreement. Such services shall be paid in two equal payments of \$30,780.00 at the completion of Tasks 1 and 2, with a 10 per cent reserve of \$6,840 payable upon delivery of the final report. Contractor shall submit vouchers for payment on Borough forms specifying the services rendered by CONTRACTOR.

V. CONTRACT DOCUMENTS

The contract documents comprise the documents listed in Article I of this Agreement, entitled "Parts of Contract". In the event that any provisions of one document conflict with the provisions of another document, the provisions in the document first listed as follows shall govern, except as otherwise specifically stated:

1. Agreement (this instrument)
2. Resolution dated June 27, 2011
3. Any other documents

V. WAIVER

Neither the inspection by the BOROUGH nor any of its agents, nor any order,

measurement, or certificate by the BOROUGH or its agent, nor any order by the BOROUGH for the payment of money nor payment for, nor acceptance of, the whole nor any part of the work by the BOROUGH, nor an extension of time, nor any possession taken by the BOROUGH or its employees, shall operate as a waiver of any provisions of this agreement or of any power herein reserved to the BOROUGH, or any right to damages herein provided, nor shall any waiver of any breach of this contract be held to be a waiver of any other or subsequent breach. Any remedy provided for in this agreement shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, and in addition to all other suits, actions, or legal proceedings, the BOROUGH shall also be entitled as of right to a writ of injunction against any breach of any of the provisions of this agreement.

VII. RESPONSIBILITY OF THE BOROUGH COUNCIL

The BOROUGH COUNCIL or its authorized agents or employees shall decide any and all questions which may arise as to the quality, acceptability and completion of work furnished and all questions as to the acceptable fulfillment of the agreement on the part of the CONTRACTOR. Any and all directions, communications and/or inquiries from the BOROUGH shall be made by the Borough Administrator.

VIII. AFFIRMATIVE ACTION

The CONTRACTOR shall comply in all respects with the provisions of N.J.S.A. 10:5-31, et seq., and the regulations promulgated thereunder, a copy of which is attached hereto and expressly made a part hereof as Exhibit A. The CONTRACTOR shall, within seven days after receipt of notification of intent to award this contract or receipt of the contract, whichever is sooner, provide the BOROUGH with a letter of Federal Affirmative Action Approval, a Certificate of Employee Information Report from the State of New Jersey, or a completed Form AA302.

IX. SUCCESSORS AND ASSIGNS

This agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the BOROUGH and the CONTRACTOR and their respective successors, assigns and legal representatives. Neither the BOROUGH nor the CONTRACTOR shall have the right to assign, transfer, or sublet its interests or obligations hereunder without prior written consent of the other party.

X. WRITTEN NOTICE

All notices, requests or other communications pursuant to this agreement shall be in writing and shall be sent pursuant to this agreement by U.S. Mail, addressed as set forth above.

XI. ENTIRE AGREEMENT

This agreement contains the entire agreement between the parties and no amendment, modification or addendum to this agreement shall be effective unless in writing, dated subsequent to the date hereof, and executed by the duly authorized officers of the respective parties. The requirement for such a writing shall apply to any waiver of the requirement of a written modification pursuant to this Article and this shall be deemed an essential term of the agreement.

XII. VALIDITY

If any term or conditions of this agreement, or any application of this agreement shall be determined to be contrary to the laws of the State of New Jersey or the United States, then such term or condition or application shall not be deemed valid except to the extent permitted by law, but all other terms and conditions or applications shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized officers and their seals to be affixed the day and year above written.

BOROUGH OF NEW PROVIDENCE

Dated: _____

J. BROOKE HERN, Mayor

ATTEST:

Wendi B. Barry, Clerk

CDI- Infrastructure, LLC, dba L.R. KIMBALL

Dated: _____

BY: _____

WITNESS:

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31, et seq., N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2,

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable

Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

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