



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 17-1379, Version: 1

**Dept/ Agency:** Law

**Action:**  Ratifying  Authorizing  Amending

**Type of Service:** Professional Services Contract

**Purpose:** Litigation Defense

**Entity Name:** Hardin, Kundla, McKeon & Poletto, P.C.

**Entity Address:** 673 Morris Avenue, Post Office Box 730, Springfield, New Jersey 07081-0730

**Contract Amount:** Amount not to exceed \$12,000.00

**Funding Source:** 2017 Budget/Law Department

**Contract Period:** January 1, 2017 through December 31, 2017

**Contract Basis:**  Bid  State Vendor  Prof. Ser.  EUS

Fair & Open  No Reportable Contributions  RFP  RFQ

Private Sale  Grant  Sub-recipient  n/a

**Additional Information:**

**WHEREAS**, the City of Newark is involved in ongoing legal matters and therefore has a need to acquire legal services; and

**WHEREAS**, legal services are professional services, exempt from the requirement for public bidding, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i); and

**WHEREAS**, the Corporation Counsel of the City of Newark caused to be published on the City of Newark's website, a Notice of Request for Qualifications ("RFQ") for Litigation Defense Counsel Services on or about September 30, 2016; and

**WHEREAS**, Hardin, Kundla, McKeon & Poletto, P.C. ("Hardin Kundla" or "the Firm"), 673 Morris Avenue, Post Office Box 730, Springfield, New Jersey 07081-0730, is presently handling two (2) litigation matters with a significant and complex history which are on appeal one before the United States Third Circuit Court of Appeals and the other before the New Jersey Appellate Division; and

**WHEREAS**, the Law Department had a contract with Hardin Kundla for Litigation Defense Services for 2016, but the Firm inadvertently did not pick up a Request for Qualifications when they were published on or about September 30, 2016; and

**WHEREAS**, these matters have been in litigation for several years, and the Firm has continued to vigorously represent the City's interests; and

**WHEREAS**, given the lengthy history and complexity of both matters, and the Firm's unique familiarity with the same, it is more efficient and cost-effective for Hardin Kundla to continue to represent the City's interests rather than assign these matters to new counsel; and

**WHEREAS**, Hardin Kundla submitted a proposal to continue to provide legal services concerning these two matters, and it was found to be in the best interest of the City of Newark to accept the proposal for the purpose of continuing to vigorously represent the City's interests and provide legal services for these limited litigation matters; and

**WHEREAS**, the Mayor and the Acting Corporation Counsel wish to enter into a contract with Hardin Kundla to continue to provide legal services, as it pertains to these two matters, in an amount not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00), for the period of January 1, 2017 through December 31, 2017; and

**WHEREAS**, this Contract is awarded without competitive bidding as an exception to public bidding, pursuant to *N.J.S.A. 40A:11-5(1)(a)(i)*, professional services; and

**WHEREAS**, Local Public Contracts Law *N.J.S.A. 40A:11-1*, et seq. requires a Resolution of the Governing Body authorizing the award of contracts for Professional Services and further requires that the contract itself must be available for public inspection; and

**WHEREAS**, this contract is below \$17,500.00 and the New Jersey Pay To Play Law *N.J.S.A. 19:44A-20.5* is not applicable; and

**WHEREAS**, the Local Public Contracts Law (*N.J.S.A. 40A:11-1* et seq.) requires that notice of the award of contracts for "Professional Services" without public bidding must be published in a local newspaper; and

**WHEREAS**, the Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance, 6PSF-a, August 1, 2012, which forbids the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates, office holders having ultimate responsibility for the award of a contract; candidate committees of the aforementioned candidates; and political or political party committees of the City of Newark or County of Essex; and continuing political committees or political action committees regularly engaged in the support of the City of Newark municipal or County of Essex elections; and certain other political party or candidate committees, in excess of certain thresholds.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Mayor of the City of Newark and his designee, the Acting Corporation Counsel, are authorized to execute a contract with Hardin, Kundla, McKeon & Poletto, P.C., 673 Morris Avenue, Post Office Box 730, Springfield, New Jersey 07081-0730, to continue to provide legal services concerning Richard Williams, Eddie Brown, et.al. v. City of Newark, et als., Docket No. ESX-L-5682-10 and Darren Nance v. City of Newark, et al., Docket No. 97-6184, and the appeals in these matters in federal and state court, respectively, in an amount not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00), for the period of January 1, 2017 through December 31, 2017.

2. The Municipal Council ratifies this contract for the period January 1, 2017 to the date of adoption of this resolution.

3. Attached hereto is a Certification of Funds from the Director of Finance which states (1) that there are sufficient funds in the amount not to exceed twelve thousand dollars (\$12,000.00) and (2) that the line appropriation which shall be charged is Business Unit: NW011; Dept. ID: 040; Div./Proj.: 0401; Account # 71260; Budget Ref. B2017.

4. This contract is below \$17,500.00 and the New Jersey Pay-to-Play Law N.J.S.A 19:44A-20.5 is not applicable.

5. This contract is being awarded pursuant to provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)); and is in compliance with the Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C.

6. A copy of the executed agreement herein authorized shall be filed in the Office of the City Clerk by the Acting Corporation Counsel and shall be made available for public inspection.

7. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of the adoption of this Resolution.

#### **STATEMENT**

This resolution ratifies and authorizes the Mayor of the City of Newark and/or his designee, the Acting Corporation Counsel, to enter into a contract with Hardin, Kundla, McKeon & Poletto, P.C., to provide Professional Legal Services in an amount not to exceed Twelve Thousand Dollars and Zero Cents (\$12,000.00), for the period of January 1, 2017 through December 31, 2017.