



Legislation Details (With Text)

File #: 17-1379 **Version:** 1 **Name:** Professional Services Contract (Hardin, Kundla)
Type: Resolution **Status:** Adopted
File created: 7/17/2017 **In control:** Law
On agenda: 9/7/2017 **Final action:** 9/7/2017

Title: 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:

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
9/7/2017	1	Municipal Council	Adopt	Pass

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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.