



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 14-1917, Version: 1

Dept/ Agency: Law

Action: (X) Ratifying (X) Authorizing (X) Amending

Type of Service: Professional Services Contract (Resolution 7R7-I December 18, 2013)

Purpose: First Amendment to the Agreement to Provide Legal Services to serve as Litigation Defense Counsel

Entity Name: Hardin, Kundla, McKeon & Poletto

Entity Address: 673 Morris Avenue, Springfield, New Jersey 07081

Contract Amount: An amount not to exceed \$150,000.00

Funding Source: City of Newark Budget/Law Department

Contract Period: January 1, 2014 through December 31, 2014

Contract Basis: () Bid () State Vendor (X) Prof. Ser. () EUS

() Fair & Open (X) No Reportable Contributions () RFP () RFQ

() Private Sale () Grant () Sub-recipient () n/a

Additional Information:

Increasing contract amount by \$30,000.00, not to exceed \$180,000.00

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

WHEREAS, the City of Newark by Resolution 7R7-I, adopted on December 18, 2013, awarded a contract to, Hardin, Kundla, McKeon & Poletto, 673 Morris Avenue, Springfield, New Jersey 07081, to serve as Litigation Defense Counsel, for matters that were currently being handled by Hardin, Kundla, McKeon & Poletto and any new matters that may arise during the contract term, in an amount not to exceed One Hundred Fifty Thousand (\$150,000.00) Dollars, for the period of January 1, 2014 through December 31, 2014; and

WHEREAS, Hardin, Kundla, McKeon & Poletto, have outstanding legal bills, which when paid will exhaust the total contract amount; and

WHEREAS, Hardin, Kundla, McKeon & Poletto, continues to vigorously defend the City of Newark in several cases in which bills will be submitted for the months of October, November and December; and

WHEREAS, the outstanding legal bills and open cases pending require an increase in the total contract amount; and

WHEREAS, Hardin, Kundla, McKeon & Poletto, represents to the City of Newark that an additional Thirty Thousand (\$30,000.00) Dollars is necessary for it to continue to provide legal

services through December 31, 2014; and

WHEREAS, the requested increase in the total contract amount is deemed reasonable and necessary to pay the outstanding and anticipated legal bills through December 31, 2014; and

WHEREAS, the increase of an additional Thirty Thousand (\$30,000.00) Dollars brings the total contract to an amount not to exceed One Hundred Eighty Thousand (\$180,000.00) Dollars, for January 1, 2014 through December 31, 2014; 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 competitive bidding must be published in a local newspaper; and

WHEREAS, this contract amendment was awarded as a Non-Fair and Open contract pursuant to *N.J.S.A. 19:44A-20.5*; and

WHEREAS, the Mayor of the City of Newark signed into law Executive Order Number MEO-07-0001 (hereinafter "Pay-to-Play Executive Order") and the Contractor Pay-to-Play Reform Ordinance, 6PSF-a, adopted on August 1, 2012, which forbids the award of a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates and 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 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 requires reporting of political contributions to Newark Municipal Candidates, and prohibits certain political contributions during the duration of the contract.

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

1. The Mayor and/or his designee, the Corporation Counsel, are hereby authorized and directed on behalf of the City of Newark to execute a First Amendment to the Agreement to Provide Legal Services with Hardin, Kundla, McKeon & Poletto, 673 Morris Avenue, Springfield, New Jersey 07081, to continue providing the contracted Litigation Defense Counsel legal services for an additional Thirty (\$30,000.00) Dollars, for a total contract amount not to exceed One Hundred Eighty Thousand (\$180,000.00) Dollars, for the period of January 1, 2014 through December 31, 2014, to cover pending and existing matters.
2. The Municipal Council hereby ratifies this First Amendment to the Agreement to Provide Legal Services from January 1, 2014 to the date of the adoption of this resolution.
3. All other terms and conditions of the contract shall remain the same.
4. This first contract amendment is made in accordance with the professional services exception to public bidding in the Local Public Contracts Law (*N.J.S.A. 40A:11-5(1)(a)(ii)*), and pursuant to the Non-Fair and Open Procedures of the State Pay-to-Play Law (*N.J.S.A. 19:44A-20.5*) and is in compliance with City of Newark Executive Order on Pay-to-Play Reform, MEO-07-0001, effective March 31, 2007 and the Contractor Pay-to-Play Reform

Ordinance, 6PSF-a adopted on August 1, 2012.

5. The funds for this first contract amendment shall be paid from the City of Newark Budget/Law Department, after the issuance of a Certification of Funds from the Acting Chief Financial Officer, which states that funds in the amount of Thirty Thousand Dollars (\$30,000.00) Dollars are available in the aforementioned Law Department budget. The Certification of Funds shall be filed along with the original resolution in the Office of the City Clerk.
6. A copy of the executed First Amendment to the Agreement to Provide Legal Services herein authorized shall be filed in the Office of the City Clerk by the 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 hereby ratifies, amends and authorizes the Mayor and/or his designee, the Corporation Counsel, to enter into and execute a First Amendment to the Agreement to Provide Legal Services for Litigation Defense Tax Counsel matters for an additional Thirty Thousand Dollars (\$30,000.00), for a total contract amount not to exceed One Hundred Eighty Thousand (\$180,000.00) Dollars, for the period of January 1, 2014 through December 31, 2014.