



Legislation Details (With Text)

File #: ID 17-091 **Version:** 1 **Name:**

Type: Ordinance

File created: 1/12/2017 **In control:** City Council

On agenda: 4/4/2017 **Final action:**

Title: Consider adoption of an ordinance of the City Council of the City of Denton, Texas authorizing the City Manager to execute an Engagement Letter with the law firm of David A. Portz, P.C., Houston, Texas, for Professional Legal Services to be provided to the Energy Management Organization of the City’s Electric Department, Denton Municipal Electric; authorizing the expenditure of funds therefor; providing an effective date (File No. 5554-in the additional amount of not-to-exceed \$75,000, aggregating not-to-exceed \$250,000). The Public Utilities Board recommended approval (6-0) on 3/21/2017 (PUB17-033).

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance-Portz.pdf, 2. Engagement Letter.pdf, 3. List of EMO Counterparties.pdf

Date	Ver.	Action By	Action	Result
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AGENDA INFORMATION SHEET

DEPARTMENT: Denton Municipal Electric

ACM/CM: Todd Hileman

DATE: April 4, 2017

SUBJECT

Consider adoption of an ordinance of the City Council of the City of Denton, Texas authorizing the City Manager to execute an Engagement Letter with the law firm of David A. Portz, P.C., Houston, Texas, for Professional Legal Services to be provided to the Energy Management Organization of the City’s Electric Department, Denton Municipal Electric; authorizing the expenditure of funds therefor; providing an effective date (File No. 5554-in the additional amount of not-to-exceed \$75,000, aggregating not-to-exceed \$250,000). The Public Utilities Board recommended approval (6-0) on 3/21/2017 (PUB17-033).

BACKGROUND

In order to meet the demands of the operations of the Energy Management Organization (EMO) additional professional legal services are required by the City Attorney’s Office. These demands, while occurring periodically, do not require a full-time attorney. What is needed, though, is a very experienced attorney whose practice is in the area of power trading and power-related transactions. Mr. David A. Portz is such an attorney and came highly recommended to the City Attorney’s Office. Specifically, Mr. Portz has participated at the national industry level in developing the standard form agreements which are used throughout the energy industry and has the experience and familiarity with the power industry and its participants and attorneys to negotiate favorable terms and

conditions for his clients. Mr. Portz has been assisting the City Attorney's Office in meeting these specialized needs of the EMO since May 2014. Beyond his qualifications and experience, Mr. Portz's fee structure is competitive in the market and responsiveness to both of the City Attorney's Office and the EMO is excellent.

Initially, the legal services of Mr. Portz were used to develop agreements to support wholesale power purchases and sales for repeated short-term (less than 3 years) transactions and to work with the City Attorney's Office and the EMO in negotiating these agreements with other energy market participants. Subsequently, Mr. Portz has assisted in the negotiation and documentation of these short-term trading transactions.

The activities of the EMO have increased and the further legal services of Mr. Portz are required by the City Attorney's Office to support on-going contract negotiations, the continued development and refinement of agreements to support specialized energy marketing and trading transactions and master agreements, and regulatory compliance related to trading documentation. Mr. Portz will be working with the City Attorney's Office and EMO on the following:

- Negotiating agreements with counterparties to buy or sell wholesale energy, including:
 - facilitating dialog with counterparty attorneys on contract language needed to allow City to comply with both federal and Texas law;
 - supplementing the City Attorney's Office with highly specialized knowledge on energy market-related contracting matters, particularly credit documentation issues and hedging arrangements in the energy industry; and
 - other issues that arise from time to time.

- Assessment and implementation of Dodd-Frank-related compliance measures for the City's EMO.

On April 28, 2014 the City entered approved the original agreement with Mr. Portz for an amount not-to-exceed \$75,000, within the City Manager's delegated signature authority, for legal services relating to the review and negotiation of agreements with various counterparties in physical power transactions.

On November 18, 2014 the City entered into a first supplemental engagement letter with Mr. Portz for an additional amount not-to-exceed \$50,000 and increased the scope of Mr. Portz's professional services. The Council approved the engagement by Ordinance No. 2014-393.

Last year, on March 1, 2016 the City entered into the second supplemental engagement letter with Portz for an additional amount not-to-exceed \$50,000 and increased the scope of Mr. Portz's professional services. The Council approved the engagement by Ordinance No. 2016-065.

Both the City Attorney's Office and the EMO have been pleased with the performance by Mr. Portz and wish to continue the engagement. Staff is seeking an additional expenditure authority of not-to-exceed \$75,000, aggregating an amount not-to-exceed \$250,000.

RECOMMENDATION

City staff recommends that the Board approve the third supplemental and amended engagement letter with Portz.

ESTIMATED SCHEDULE OF PROJECT

The services to be performed will begin immediately upon Council approval. The agreement will remain in effect for the period which may be reasonably required.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

On March 27, 2017, the Public Utilities Board recommended approval to forward this item to the City Council for consideration.

FISCAL INFORMATION

The legal services will be funded from Denton Municipal Electric Power Supply Administration Operating Account# 600002.7856.9210A.

BID INFORMATION

In accordance with Texas Local Government Code 252.022, the procurement of professional services is exempt from the requirement of competition based selection. The City of Denton has previous successful experience with the recommended firm, and has elected to not seek qualification based competition for these identified services.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: Organizational Excellence
Related Goal: 2.3 Promote superior utility services and facilities

EXHIBITS

1. Proposed Ordinance
2. Third Supplemental and Amended Engagement Letter
3. List of Counterparties

Respectfully submitted:
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