

City of Fayetteville Item Review Form

2013-0220

Legistar File Number

1/7/2014

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Marsha Hertweck

Submitted By

Finance

Department

Action Required:

Approval of a five year contract with automatic annual renewals with Kutak Rock, LLP to provide legal services for the City during the bond issuance process.

Does this item have a cost? Yes

_____	_____	_____
Cost of this request	Category or Project Budget	Program or Project Name
_____	_____	_____
Account Number	Funds Used to Date	Program or Project Category
_____	\$0.00	_____
_____	_____	_____
Project Number	Remaining Balance	Fund Name
Budgeted Item? <input checked="" type="checkbox"/> No	Budget Adjustment Attached? <input type="checkbox"/>	

V20130812

Previous Ordinance or Resolution # _____

Original Contract Number: _____

12-13-13
dmw

Comments:
The cost of this service is payable from the proceeds of the successful sale of the City's bonds.

Paul A. Becher 12-13-13

ENTERED
12/13/13
P.A.

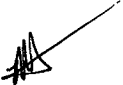
Paul A. Becher 12-13-2013

Don Man 12-13-13

Arnold Jordan 12/14/13

To: Mayor Lioneld Jordan and Fayetteville City Council

Thru: Paul Becker, Finance Director

From: Marsha Hertweck, Accounting Director 

Date: December 10, 2013

Subject: Bond counsel legal services

Recommendation

Approval of a five year contract, with automatic annual renewals, with Kutak Rock. LLP to provide outside legal services for the City during the bond issuance process.

Discussion

The City occasionally issues bonds to provide funding for City Council approved projects and there is a need for outside legal services in connection with the bond issuance process. The City's selection committee reviewed and interviewed several firms and selected Kutak Rock, LLP, with Gordon Wilbourn being the lead attorney for the City's projects.

Budget Impact

The cost of this service is payable from the proceeds of the successful sale of the City's bonds.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A CONTRACT WITH KUTAK ROCK, LLP
TO APPROVE BOND COUNSEL SERVICES AS NEEDED THROUGH
DECEMBER 31, 2018**

WHEREAS, Kutak Rock, LLP has provided excellent bond counsel services for various bonds issued by the City of Fayetteville for the last several years; and

WHEREAS, a City selection committee reviewed applications and interviewed potential bond counsel firms prior to selecting Kutak Rock, LLP as bond counsel subject to City Council approval.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the selection of Kutak Rock, LLP as the City's Bond Counsel and approves the contract with Kutak Rock, LLP to serve as the City's Bond Counsel through December 31, 2018.

PASSED and APPROVED this 7th day of January 2014.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

CONTRACT

The **City of Fayetteville** and **Kutak Rock, LLP** agree as follows:

- (1) The City of Fayetteville desires to hire Kutak Rock, LLP to provide bond counsel legal services as explained in RFQ 13-14 during the term of this agreement. Kutak Rock, LLP was selected by a City of Fayetteville selection committee after a competitive Request for Qualifications (13-14) process. Although Kutak Rock, LLP's entire Bond Legal Department was considered during this selection process, the City's excellent experience working with Gordon Wilbourn was a major component of the City's selection of Kutak Rock, LLP as its Bond Counsel.
- (2) The City of Fayetteville agrees to negotiate with Kutak Rock, LLP to determine the proper and fair Bond Counsel Fee for each proposed bond issue. The Bond Counsel Fee to be paid from bond sale proceeds will be the **only** payments made by the City of Fayetteville for Kutak Rock, LLP's Bond Counsel Fee and related services.
- (3) Kutak Rock, LLP agrees to continue its services to the City of Fayetteville as its Bond Counsel and to negotiate with the City for each bond issuance concerning the fair amount of Bond Counsel Fee for such bond issuance. Kutak Rock, LLP agrees not to charge further fees without prior written agreement of the City of Fayetteville.
- (4) Kutak Rock, LLP agrees that its fees shall only become payable and be paid from proceeds from the successful sale of the proposed bond issuance by the City of Fayetteville. If, for whatever reason the proposed bonds are not issued or sold, Kutak Rock, LLP agrees to make no claim for compensation for its services provided in anticipation of the issuance and sale of Fayetteville's bonds.

TERM OF THIS CONTRACT

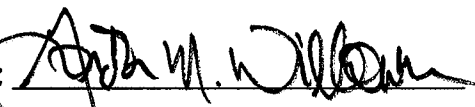
This contract shall be effective from the date of its approval by both parties until December 31, 2018. However, if Gordon Wilbourn no longer is the primary assigned person for Fayetteville's proposed bond issues, the City of Fayetteville may terminate this contract with thirty (30) days written notice to Kutak Rock, LLP and engage in another Request for Qualifications selection process. Furthermore, both parties have a right to terminate this contract upon three months' written notice to the other party.

In agreement with all the terms and conditions above, we sign below:

KUTAK ROCK, LLP

CITY OF FAYETTEVILLE

By: _____


Gordon M. Wilbourn, Partner

Print Name and Title

Date

12/4/13

By: _____

Mayor Lioneld Jordan

ATTEST:

By: _____

Sondra E. Smith
City Clerk/Treasurer

Date

