

EWEB Board Consent Calendar Request

For Contract Awards, Renewals, and Increases

The Board is being asked to approve a contract with **Foster Pepper PLLC** for Bond Counsel Services.

Board Meeting Date: June 6, 2017

Project Name/Contract#: Bond Counsel Services / RFP 006-2017

Primary Contact: Sue Fahey Ext. 7688

Purchasing Contact: Ramie Alkire Ext. 7413

Contract Amount:

Original Contract Amount: \$ 500,000 (Over 5 years)

Additional \$ Previously Approved: \$ N/A

Invoices over last approval: \$ N/A

Percentage over last approval: N/A %

Amount this Request: \$ 500,000

Resulting Cumulative Total: \$ 500,000

Contracting Method:

Method of Solicitation: Formal RFP

If applicable, basis for exemption: N/A

Term of Agreement: June 7, 2017 – June 6, 2022

Option to Renew? Annually up to 5 years

Approval for purchases "*as needed*" for the life of the contract Yes

Proposals/Bids Received (Range): 6 (\$62,500 to \$122,500, Pricing evaluated for a single bond issuance of \$50 Million)

Selection Basis: Highest Ranked Proposer

The Board is being asked to approve a new contract with **Foster Pepper PLLC** of Seattle, WA for bond counsel services on an as needed basis.

EWEB requires the services of bond and disclosure counsel for the issuance, refunding or defeasance on bonds, and for ongoing consultation regarding compliance with regulations, legislation, and tax matters. Bond counsel will also provide ongoing legal advice and consultation relating to the Eugene Water & Electric Board Retirement Benefits Trust. The majority of bond counsel fees are incurred during bond issuances and are paid from bond proceeds along with other costs of issuance. For comparative purposes, bond and disclosure counsel fees were \$95,000 for the \$39 million 2016 Water Utility bond issuance and \$180,000 for the \$115 million 2016 Electric Utility bond issuance.

In April 2017, EWEB issued a Formal Request for Proposal (RFP). EWEB received proposals from six (6) firms; Foster Pepper of Seattle, WA; Hawkins Delafield & Wood LLP of Portland, OR; Kutak Rock LLP of Spokane, WA; Mesereau Shannon LLP of Portland, OR; Nixon Peabody of San Francisco, CA; and Orrick of Portland, OR. The responses were evaluated on criteria including firm experience working with electric and water utilities, experience of staff, references from similar clients, and fees charged for services.

Foster Pepper was found to be responsive and received the highest score in the evaluation of proposals with particularly high scores in the firm utility experience and staff experience categories. Staff have successfully negotiated a scope of work and fee schedule, and has issued a Notice of Intent to Award to Foster Pepper, pending Board approval.

If approved, Foster Pepper PLLC will be retained and used on an “as needed” basis to provide specialized legal services related to bond financing. Anticipated bond issuances and consulting services, along with the negotiated fee schedule, suggest that the contract amount will be approximately \$500,000 over the total five-year period. The actual total dollar amount, however, is unknown and may be more or less than the estimated volume.

ACTION REQUESTED:

Management requests the Board approve a new price agreement with **Foster Pepper PLLC** of Seattle, WA for bond counsel services on an as needed basis. Funds for these services were budgeted for 2017 and will be budgeted annually. Bond issuance work will be paid from the bond proceeds.

SIGNATURES:

Project Coordinator: _____

Manager: _____

Purchasing Supervisor: _____

Executive Officer: _____

Board Approval Date: _____