



Agenda Report Form

Open Session Item

SUBJECT: Contract Award (PUR-1363) - Bond Counsel Services

PRESENTATION DATE: October 24, 2017

PRESENTATION BY: Rick Curry, CPPO – Purchasing Director and Sara Greaves – Deputy Director of Budget and Finance

RECOMMENDED MOTION: Move to award the contract for Bond Counsel Services to the responsive, responsible firm of **Funk & Bolton, P.A.**, Attorneys at Law, of Baltimore, Maryland, for the total proposal value of **\$107,100.00** plus out-of-pocket expenses related to bond issues and for all other work.

REPORT-IN-BRIEF: Attached is an excerpt from the Request for Proposal (RFP) document of the “Scope of Services” to be rendered under this contract. The RFP was advertised locally in the newspaper and on the County’s web site, as well as on the State’s “eMaryland Marketplace” web site. Fifteen (15) persons/companies registered/downloaded the bid document on-line. The following persons served as members on the Coordinating Committee: County Administrator (Chairperson), Deputy Director of Budget & Finance, Senior Accountant, County Attorney, and Director of Purchasing.

Four (4) firms were represented at the pre-proposal conference. Three (3) proposals were received for the subject services. The Qualifications & Experience/Technical Proposals of the three (3) firms were considered to be responsive by the Committee and their Price Proposal was opened for evaluation as shown on the attached Fee Schedule.

The initial term of this contract is anticipated to be for a one (1) year period tentatively commencing November 1, 2017 and ending October 31, 2018, with an option by the County to renew for up to four (4) consecutive one (1) year periods thereafter, based on the annual lump sum fees proposed by the successful firm. For your easy reference, the pricing under the present contract with Funk & Bolton, P.A. is shown on the attached Fee Schedule.

DISCUSSION: N/A

FISCAL IMPACT: Capital Improvement Plan (CIP) – Bond Issuance Cost, Account No. 30-10500-ADM001 and other operating accounts will be utilized to cover costs if needed.

CONCURRENCES: As recommended by the Coordinating Committee that included the County Administrator

ALTERNATIVES: N/A

ATTACHMENTS: (1) Fee Schedule and (2) Scope of Services from the RFP document.

AUDIO/VISUAL NEEDS: N/A

**PUR-1363
Bond Counsel**

Fees for Annual Bond Issue and Supplemental Services (if required)

	Funk & Bolton, P.A.		McKennon Shelton & Henn LLP		McGuireWoods LLP		<i>Prior Contract (Funk & Bolton, P.A.)</i>	
Bond Counsel Fees for FY'18	\$17,800.00		\$19,000.00*		\$22,500.00		<i>FY'13</i>	<i>\$18,000.00</i>
Bond Counsel Fees for FY'19	\$17,800.00		\$19,500.00*		\$22,500.00		<i>FY'14</i>	<i>\$18,000.00</i>
Bond Counsel Fees for FY'20	\$17,800.00		\$20,000.00*		\$25,000.00		<i>FY'15</i>	<i>\$18,000.00</i>
Bond Counsel Fees for FY'21	\$17,800.00		\$21,000.00*		\$25,000.00		<i>FY'16</i>	<i>\$18,000.00</i>
Bond Counsel Fees for FY'22	\$17,800.00		\$22,000.00*		\$27,500.00		<i>FY'17</i>	<i>\$18,000.00</i>
Attorney – 100 Hours (annual estimated quantity)	\$175.00/hour	\$17,500.00	\$190.00/hour	\$19,000.00	\$395.00/hour	\$39,500.00	<i>\$175.00/hour</i>	<i>\$17,500.00</i>
Paraprofessional - 10 Hours (annual estimated quantity)	\$60.00/hour	\$600.00	\$85.00/hour	\$850.00	\$175.00/hour	\$1,750.00	<i>\$70.00/hour</i>	<i>\$700.00</i>
Total Price Proposal	\$107,100.00		\$121,350.00		\$163,750.00		\$108,200.00	

Schedule of Professional Hourly Rates for Supplemental Services, if required by Washington County

	Funk & Bolton, P.A.	McKennon Shelton & Henn LLP	McGuireWoods LLP	<i>Prior Contract (Funk & Bolton, P.A.)</i>
Attorneys	\$175.00	\$190.00	\$395.00	<i>\$175.00</i>
Paraprofessional	\$60.00	\$85.00	\$175.00	<i>\$70.00</i>
Other (Specify)	N/A	Standard Rates**		<i>N/A</i>

Exceptions

Funk & Bolton, P.A.	McKennon Shelton & Henn LLP	McGuireWoods LLP	<i>Prior Contract (Funk & Bolton, P.A.)</i>
<p>For a conduit revenue transaction, tax increment financing and/or special taxing district issue, or other financing structure in which the County is not directly responsible for payment of bond counsel's fees, Funk & Bolton reserves the right to negotiate higher hourly rates with the County's consent (which may be granted or withheld in the County's sole discretion), including scenarios where a party other than the County agrees to pay bond counsel whether or not the issue closes.</p>	<p>*Bond Counsel Fees for FY 2018 - 2022: Assuming one new money general obligation bond issue each year as stated in County's Addendum No. 1</p> <p>**Standard Rates: Standard rates would be charged in transactions where third parties generate revenues sufficient to pay counsel fees such as conduit bond issues and Tax Increment and Special Taxing District Financings.</p>	<p align="center">None</p>	<p>For a developer-driven TIF and/or STD issue, or a conduit revenue bond issue, with the consent of the County, Funk & Bolton reserves the right to negotiate higher hourly rates provided that the developer or the borrower, as applicable, and not the County, is responsible for paying the same (whether from the bond issue or, particularly in the event an issue does not close, from the developer's or the borrower's own funds).</p>

PUR-1363 BOND COUNSEL

II. SCOPE OF SERVICES:

All firms responding to this proposal shall demonstrate the capabilities and experience to conduct the following scope of services if requested:

- A. Assist in the planning of the financing and structuring of the debt issue.
- B. Review the transcripts of proceedings taken to date to authorize the debt and determine whether there is legal authority to issue debt.
- C. Assist with the bond sale proceedings, including preparation of documents necessary or appropriate for the authorization, issuance, sale, and delivery of the bonds or other debt.
- D. Prepare the appropriate resolutions authorizing the issuance of the debt and determine if the debt was legally sold or placed.
- E. Assist in various aspects of preparing the official statements or other disclosure documents to be disseminated in connection with the issuance of debt.
- F. Obtain from governmental authorities such approvals, rulings, permissions, and exemptions as bond counsel determines are necessary or appropriate with respect to the issue.
- G. Render legal opinions approving the validity of the debt. In this capacity, bond counsel shall inform the County through the approving opinion of the nature of the security for the debt; the legality, validity and tax-exempt status of the securities; and the legality and validity of the requisite documentation and procedures.
- H. Render legal opinions on such related matters as:
 - 1. the applicability of particular provisions of federal and state securities laws;
 - 2. the applicability of tax law provisions governing estate and gift taxation;
 - 3. the eligibility of the debt for investment by various fiduciaries and other regulated investors;
 - 4. the status of the debt and related obligations under laws relating to creditors' rights; and
 - 5. the validity and enforceability of security agreements, indentures, and other documents related to the debt and its security.

- I. Assist in preparing information for submission to rating agencies and bond insurers.
- J. Assist in other specified activities related to debt such as special taxing districts and tax increment financing.
- K. Advise the County on legal considerations relating to financing alternatives within the context of statutory and constitutional constraints.
- L. Answer questions about the debt by prospective purchaser in the secondary market or by public officials.
- M. Answer questions about the application of “arbitrage” and other federal tax regulations, the County’s obligations contained in covenants securing outstanding debt, the investment and expenditure of proceeds, and the collection, investment and application of funds used to pay debt.
- N. Attend various conferences and meetings, including public hearings and meetings of the Board of County Commissioners for the reception of bids and adoption of awarding resolutions.
- O. Perform all other requested legal services necessary and appropriate to the completion of County transactions concerning debt and reviewing related responsibilities.