

RESOLUTION NO. 2014- 261

A RESOLUTION AUTHORIZING AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES WITH BETTS & HOLT LLP, WASHINGTON, DC, IN CONNECTION WITH ENERGY/CAPACITY CONTRACTS AND FERC SUPPORT FOR THE VINELAND MUNICIPAL ELECTRIC UTILITY.

WHEREAS, it is the desire of the Vineland Municipal Electric Utility to enter into a professional services contract for professional advice and counsel involving power supply contracts, including EEs, interconnection and transmission matters, FERC compliance and monitoring, generation development, natural gas supply and interconnection, and such other related matters; and

WHEREAS, the City of Vineland has a need to acquire such professional legal services as a Non-Fair and Open Contract pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS, the purchasing agent has determined and certified in writing that the value of said services will exceed \$17,500.00; and

WHEREAS, Betts & Holt LLP, Washington, DC, has submitted a proposal indicating they will provide the professional services in an amount not to exceed \$84,900.00 for a period of one year beginning July 1 2014; and

WHEREAS, Betts & Holt LLP has completed and submitted a Business Entity Disclosure Certification for Non-Fair and Open Contract which certifies that Betts & Holt LLP has not made any reportable contributions to a political or candidate committee in the City of Vineland in the previous one year and that the contract will prohibit Betts & Holt LLP from making any reportable contributions through the term of the contract to a political or candidate committee in the City of Vineland; and

WHEREAS, the availability of funds for said Professional Services Contract to be awarded herein have been certified by the City Comptroller; and

WHEREAS, the Local Public Contract Law (N.J.S.A. 40A:11-1, et seq) requires that the Resolution authorizing the award of contract for Professional Services without competitive bidding and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vineland as follows:

1. That the Mayor and Clerk are hereby authorized and directed to execute a Non-Fair and Open Agreement with Betts & Holt LLP, Washington, DC, for Professional Legal Services in connection with Energy/Capacity Contract and FERC Support for the Vineland Municipal Electric Utility in an amount not to exceed \$84,900.00.
2. That this Agreement is awarded without competitive bidding as a Professional Service in accordance with N.J.S.A. 40A:11-5 (1) (a) of the Local Public Contracts Law because said services to be rendered or performed require knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction distinguished from general academic instruction or apprenticeship and training.
3. That the Business Disclosure Entity Certification, the Political Contribution Disclosure Form and the Determination of Value be placed on file with this Resolution.
4. That a Notice of this action shall be printed once in the Daily Journal.

BE IT FURTHER RESOLVED, that the Director of Law is authorized to make minor changes to the contract as needed after Council approved.

Adopted:

President of Council

ATTEST:


City Clerk



MEMORANDUM

May 28, 2014

TO: WILLIAM E. LUTZ
BUSINESS ADMINISTRATOR

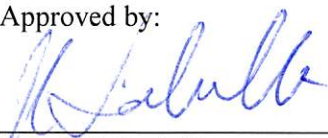
FROM: JOHN T. BOYLE, JR. 
ASSISTANT GENERAL MANAGER, ELECTRIC UTILITY

SUBJECT: REQUEST FOR LEGAL PROFESSIONAL SERVICES AGREEMENT
FOR ENERGY/CAPACITY CONTRACTS AND FERC SUPPORT

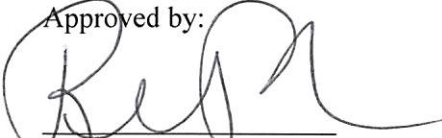
Vineland Municipal Electric Utility requests that a legal professional services contract be awarded again to Betts & Holt LLP, Counsellors at Law, 1100 17th Street, NW, Suite 901, Washington, DC 20036 for an amount not to exceed \$84,900. The purpose of this contract is for Betts & Holt LLP to provide professional advice and counsel involving power supply contracts, including EEIs, interconnection and transmission matters, FERC compliance and monitoring, generation development, natural gas supply and interconnection, and such other related assignments and matters that are requested by Vineland. In connection with such power supply agreements, Betts & Holt services may include reviewing "standard form" EEIs and NAESBs to ensure consistency in terms and obligations, preparing specific terms for natural gas and electric purchases under master agreements, reviewing and drafting power purchase contracts, negotiating a pipeline construction and distribution services agreement with South Jersey Gas, engaging in negotiations to reduce contribution in aid of construction payments with respect to the natural gas pipeline and electric transmission interconnection with Atlantic Electric, reviewing interconnection agreements, and reviewing term sheets for substance and commercial and protective terms applicable to Vineland. Betts & Holt will review, assist in negotiations and, if necessary, file a complaint with the Federal Energy Regulatory Commission involving the Clayville interconnection and efforts by Atlantic Electric to charge Vineland for Unaccounted for Energy, among other possible changes to the existing interconnection agreement. At Vineland's direction, Betts & Holt will also draft terms and conditions, agreements, and provide other professional advice and services within our professional expertise.

This is a non-fair, open award, and professional services request. The Pay-to-Play paperwork should be submitted to Purchaser. Betts & Holt LLP has over 30 years of professional experience in utility, market, and regulatory matters. They have performed and are performing VMEU legal work for power contracts, interconnections, and FERC filings. The legal firm has continued to work for the Public Power Association of New Jersey (PPANJ), of which Vineland is a member. Therefore, the firm can start legal work without delay and with minimum startup costs.

Please prepare a resolution authorizing the Director of Law to make any minor changes to the contract as needed after Council approves it.

Approved by:


Joseph A. Isabella
Director of Municipal Utilities

Approved by:


Richard P. Tonetta, Esq.
Director of Law

JAI:JTB/djb

Attachments

**REQUEST FOR RESOLUTION FOR CONTRACT AWARDS
UNDER 40A:11-5 EXCEPTIONS
(PROFESSIONAL SERVICES, EUS, SOFTWARE MAINTENANCE, ETC)**

May 28, 2014

(DATE)

1. Service (detailed description): Legal Service for FERC activities.
See attached memo for more details.

2. Amount to be Awarded: \$ 84,900 over two budget years.

- Encumber Total Award
 Encumber by Supplemental Release

3. Amount Budgeted: \$ 84,900

4. Budgeted: By Ordinance No. _____
Or Grant: Title & Year _____

5. **Account Number to be Charged: 002-0-54-90-9006-2-7023409 E923

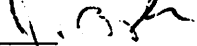
6. Contract Period: For one year starting July 1, 2014.

7. Date To Be Awarded: June 24, 2014

8. Recommended Vendor and Address: Betts & Holt LLP
1100 17th St., NW, Washington, DC 20036

9. Justification for Vendor Recommendation:(attach additional information for Council review)
Betts & Holt LLP has over 30 years of professional experience in utility, market, and regulatory matters. They have performed and are performing VMEU legal work for power contracts, interconnections, and FERC filings. See attached memo for more details.

- Non-Fair & Open (Pay-to-Play documents required)
 Fair & Open: How was RFP advertised? _____

10. Evaluation Performed by: John T. Boyle, Jr. 

11. Approved by: 

12. Attachments:

- Awarding Proposal
 Other: _____

- Send copies to:
Purchasing Division
Business Administration

** If more than one account #, provide break down

BETTS & HOLT LLP

COUNSELLORS AT LAW

1100 17TH STREET, NW • SUITE 901 • WASHINGTON, DC 20036
TELEPHONE 202.530.3380 • FAX 202.530.3389

May 20, 2014

Mr. John Boyle
Vineland Municipal Electric Utility
640 E. Wood Street
P.O. Box 1508
Vineland, NJ 08362-1508

RE: Request for Proposal for Legal Services

Dear Mr. Boyle:

Thank you for inviting Betts & Holt LLP to submit a professional service renewal proposal to the City of Vineland (Vineland).

Scope of Legal Services

Betts & Holt LLP will provide professional advice, counsel, and representation in matters involving Vineland's municipal electric utility.

More specifically, we will represent Vineland with power supply contracts, including EEI's, preparing an agreement that provides for the interconnection of Clayville Unit 1 and potentially a restatement of Vineland's interconnection arrangements with Atlantic Electric. We anticipate further services involving Atlantic Electric's allocation of losses and ensuring that Vineland receives the refunds due from Atlantic Electric for unlawfully collected charges for unaccounted for losses. This will involve monitoring Atlantic Electric and the refund process ordered by the Federal Energy Regulatory Commission. In connection with Vineland's next generation asset, Clayville, we will represent Vineland's interest in South Jersey Gas' proposed filing at the BPU for a special rate for distribution services and prepare testimony in support of the proposed special rate. Other South Jersey Gas matters include resolution of the penalty for exceeding the contract demand for Unit 11.

We anticipate that the proposed merger of PHI and Exelon will present new issues for Vineland.

We will be available to advise on PJM matters, FERC compliance and monitoring, renewable resources, integration of new generation, and transmission matters.

With respect to power supply matters, our services will include reviewing "standard form" EEIs and NAESBs to ensure consistency in terms and obligations, preparing specific terms for natural gas and electric purchases under master agreements, and reviewing and drafting power purchase contracts.

At Vineland's direction, we also will draft terms and conditions, agreements, and provide other advice and services within our professional expertise. We understand that time is of the essence and that Vineland has a number of projects where continuity of professional services will benefit Vineland.

Relevant Experience

Betts & Holt LLP attorneys have been involved with power supply contracting and regulatory matters before the FERC involving generation projects, interconnection studies and agreements, power supply and natural gas supply solicitations and agreements, regional transmission organization tariffs, particularly involving the PJM Interconnection and MISO, and natural gas pipelines (rates, certificates, and regulations). We have represented the Public Power Association of New Jersey, of which Vineland is a member, for 28 years on a variety of matters ranging from the allocation of preference hydroelectricity to PJM matters. We also have represented the individual New Jersey boroughs in power supply matters and have developed considerable knowledge of New Jersey's procurement rules and processes. The Firm has represented Vineland for many years in connection with its electric and natural gas matters.

Provider of Services

Betts & Holt LLP, a partnership located at 1100 17th Street, NW, Suite 901, Washington, DC 20036-4646, will serve as special counsel to Vineland with respect to the matters outlined in the Scope of Legal Services. The Firm is AV rated, which signifies the highest level of legal ability and very high adherence to the professional standards of conduct, ethics, reliability, and diligence. It is listed in The Bar Register of Preeminent Lawyers.

Name of Each Attorney To Be Involved in This Representation:

Kirk Howard Betts, a partner in the Firm, and *Jill Barker* will serve as the co-counsel for this representation. Their email addresses are kbetts@bettsandholt.com and jmb@bettsandholt.com. Mr. Betts is a member of the District of Columbia and Maryland Bars. Although Mr. Betts will be the attorney primarily involved in this matter, he may rely on other attorneys from time to time to assure proper and full representation in this matter.

Jill M. Barker, Of Counsel. Ms. Barker has extensive experience in municipal utility and large industrial customer representations, transmission, particularly regional transmission organizations, rate structures, unbundling, power supply RFP's, EEI's, contract development, and natural gas pipeline and electric rate litigation. She is a member of the District of Columbia Bar.

We have included a firm description and more detailed information about our lawyers with this letter.

Estimated Budget and Fee Schedule

Based upon the broad scope of services described on page 1 and the likelihood of a FERC complaint proceeding, we estimate a budget of \$84,900.

Betts & Holt LLP charges hourly fees for its professional services. With respect to the Scope of Services identified in this letter, we propose to serve Vineland under the preferential fee arrangement that we offer to all members of the Public Power Association of New Jersey, which currently is \$320/hour for partners and \$315/hour for of counsel through December 31, 2014.

Our invoices itemize the services provided by attorney and date, unless another format is preferred. The invoices include reimbursement for expenses specifically incurred for Vineland's benefit, such as transportation, lodging and meals while traveling, telephone charges, photocopying, on-line legal research, postage, courier and overnight services. Invoices are due and payable when rendered.

We pass through only the actual cost incurred to Vineland as a reimbursable expense and do not impose "adders." Photocopying, for example, when done in-house is \$0.10/copy; we send large copying projects to outside copiers when the cost is more reasonable. We do not charge for any office overhead, facsimiles, or other computer equipment charges.

We do not charge for travel time, provided, however, if attendance at a meeting outside of the Washington, DC area is required, we will impose a minimum fee of four billable hours for the travel day. We will make every effort to schedule meetings when it is most economical for Vineland and will use the technological resources at our disposal to manage unnecessary travel.

Representation of Investor Owned Utilities, Potential Conflicts of Interest

Betts & Holt LLP does not, and has not, represented any investor-owned electric utility, natural gas utility or pipeline, or utility affiliate in any capacity (regulatory, tort, contract, etc.). We can affirm that Betts & Holt LLP does not, and will not, represent any of these types of entities and that our review of potential conflicts reveals that there are none.

Insurance and other Matters

Betts & Holt LLP maintains professional liability insurance, casualty and liability insurance, and Workers' Compensation insurance. Our insurance coverages satisfy Vineland's standard terms. We also have included our Certificate of Employee Information Report, Certification No. 21283, which is valid through June 15, 2017, and a copy of our State of New Jersey Business Registration Certificate.

Mr. John Boyle

May 20, 2014

Page 4

Thank you, again, for giving us this opportunity to serve you and the City of Vineland. Assuming this proposal is acceptable, please return an executed duplicate original of this letter and a purchase order. We look forward to representing the City of Vineland Municipal Utility and to providing our insight and experience to help you achieve Vineland's ambitious objectives.

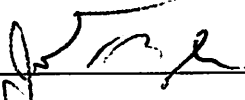
Very truly yours,

BETTS & HOLT LLP



by Kirk Howard Betts

Accepted:

 _____ 6-2-14
By: _____ Date
enclosures