

RESOLUTION NO. 2021- 170

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, IN AN AMOUNT NOT TO EXCEED \$40,000.00.

WHEREAS, it is the desire of the Vineland Municipal Electric Utility to enter into a professional services contract for legal support for power supply contracts including Master Power Sales Contract (“EEI’s”), and on PJM matters, Federal Energy Regulatory Commission (“FERC”) compliance and monitoring, renewable resources, integration of new generation, and transmission 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 \$40,000.00 for a period February 1, 2021 through January 31, 2022; 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 Chief Financial Officer; 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 \$40,000.00.
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

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

3-18-2021

(DATE)



1. Service (detailed description): Provide Legal Services for VMEU Energy, Capacity, contracts and contract review and FERC and NERC support.

2. Amount to be Awarded: \$ Not to exceed \$40,000.00 for this (1) year contract

- Encumber Total Award
 Encumber by Supplemental Release

3. Amount Budgeted: \$ 40,000.00

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

5. **Account Number to be Charged: 1-05-55-502-9006-53409-E923

6. Contract Period: 2-1-2021 to 1-31-2022

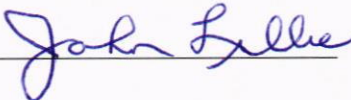
7. Date To Be Awarded: -----TBD-----after approval from Council

8. Recommended Vendor and Address: Betts & Holt LLP 1101 Connecticut Ave NW
Suite 450 Washington DC 20036

9. Justification for Vendor Recommendation:(attach additional information for Council review)
Vast knowledge of existing VMEU history along with review of the firms
qualifications as per the attached proposal.


- Non-Fair & Open (Pay-to-Play documents required)
 Fair & Open: How was RFP advertised? COV RFP # 2020-37

10. Evaluation Performed by: John Lillie

11. Approved by: John Lillie 

12. Attachments:

- Awarding Proposal
 Other: Scope of work and quotation

- Send copies to:
Purchasing Division
Business Administration 

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

Please note, Kirk Howard Betts and Jill Barker are transitioning to retired status at the end of this contract term, January 31, 2022. Accordingly, the scope of professional services under this agreement includes projects and contracts of a continuing nature for which Betts & Holt LLP already provides representation. New matters and issues that may arise affecting the City's supply and distribution of electricity should be assigned to new legal representation wherever feasible.

Scope of Work (Proposal)

Betts & Holt LLP ("the Firm") will provide professional advice, counsel, and representation in matters involving the Vineland Municipal Electric Utility ("VMEU") with respect to Energy/Capacity contracts and FERC Support.

More specifically, we will represent Vineland with power supply contracts, including Master Power Sales Contracts, and on PJM matters, Federal Energy Regulatory Commission ("FERC") compliance and monitoring, renewable resources, integration of new generation, and transmission matters.

With respect to power supply matters, we will monitor and advise the City about PJM proposed changes and FERC rulings that affect Vineland. We also will assist with strategic and legal advice regarding a utility's generation and transmission commitments.

Initial review and analysis of Atlantic Electric Company's transmission rates, applicable to VMEU, are provided under the Firm's Service Agreement with the Public Power Association of New Jersey ("PPANJ"). However, if, after initial review, Vineland directs the Firm to initiate further efforts in this matter such as data requests, challenges, or complaints at FERC, these services would be provided to VMEU pursuant to this agreement.

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 several projects where continuity of professional services will benefit Vineland.

Qualification Statement (Firm and Staff Qualifications)

Betts & Holt LLP, a partnership located at 1101 Connecticut Ave., NW, Suite 450, Washington, DC 20036, 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.

Kirk Howard Betts, a partner in the Firm, and Jill M. Barker, Of Counsel, will serve as the co-counsel for this representation. Each attorney has practiced law continuously under the current firm name and management for almost twenty-five years since the Firm's founding in 1996. Their email addresses are kbetts@bettsandholt.com and jmb@bettsandholt.com. Although

Fee Schedule

Betts & Holt LLP charges hourly fees for its professional services. With respect to the Scope of Services identified in the RFP and 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 \$375/hour for partners and counsel, \$240/hour for associates, and \$90/hour for paralegals through January 31, 2022.

Our detailed invoices itemize the services by each 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" of any type on reimbursable expenses. We do not charge for any office overhead, facsimiles, postage, or telephone.

We also 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 (Zoom or Teams) to manage unnecessary travel.

Satisfaction of Evaluation Criteria

By this submission, Betts & Holt LLP has demonstrated a thorough compliance with the instructions and requests issued in the RFP. Betts & Holt LLP attorneys have demonstrated their knowledge and technical competence by successfully representing New Jersey municipalities and other clients before the FERC and negotiating third-party wholesale purchased power contracts for over three decades. In addition, our attorneys succeeded in attaining an allocation of hydroelectric preference power for New Jersey in the 1980s, and in subsequent decades thereafter preserved it by renegotiating the NYPA power supply contracts and in-state contracts required to manage the allocation.

Betts & Holt LLP pledges to complete any requested services in a timely manner. Betts & Holt LLP demonstrated this commitment to Vineland by our timely and thorough responses to Vineland requests in the past years.

Betts & Holt LLP fees and estimated budget are reasonable. We always strive to maintain a lean representation. We only expend resources on legal services that represent a clear value to Vineland and only after consultation with Vineland.