



## Legislation Text

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**File #:** 23-492, **Version:** 1

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**STRATEGIC PRIORITY:** Government Performance & Financial Management  
**AGENDA DATE:** April 12, 2023  
**COUNCIL DISTRICT(S):** N/A  
**DEPARTMENT:** Office of Procurement Services  
**EXECUTIVE:** Jack Ireland

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### **SUBJECT**

Authorize Supplemental Agreement No. 1 to the City's contract for disclosure counsel legal services with Norton Rose Fulbright US LLP and Kintop Smith, PLLC, to replace Co-Disclosure Counsel, Kintop Smith, PLLC, with Hardwick Law Firm, LLC - Financing: Disclosure Counsel fees to be paid from bond proceeds, General Fund, Aviation Funds, Convention Center Funds, and/or Water Utilities Funds, contingent upon completion of each bond sale, in accordance with the hourly rates and opinion fees as set forth in Attachment A (see Fiscal Information)

### **BACKGROUND**

The scope of services for this contract includes assisting City staff, together with the financial advisor and bond counsel, with meeting its disclosure obligations under federal securities laws in connection with the issuance, sale and delivery of City obligations. As an issuer of municipal bonds, the City is obligated to ensure that any offering documents used in the offering of its bonds meet the requirements of federal securities laws, as well as to annually file certain financial information and provide notice of certain events that may affect the City's ability to repay the bonds. The City must make such disclosure filings with the Municipal Securities Rulemaking Board (MSRB) through its Electronic Municipal Market Access (EMMA). Substantially all of the responsibilities under this contract will be performed by attorneys.

On August 26, 2020, the City Council authorized (1) a contingency fee contract for disclosure counsel legal services with Norton Rose Fulbright US LLP and co-disclosure counsel Kintop Smith, PLLC; and (2) a contingency fee contract with McCall, Parkhurst & Horton, L.L.P. and Escamilla & Poneck, LLP and a contingency fee contract with Bracewell LLP and West & Associates, LLP for bond counsel and co-bond counsel services by Resolution No. 20-1251 which will expire on August 31, 2025.

On October 7, 2022, Kintop Smith, PLLC submitted a formal Notice of Termination of the Contract to the City informing the City that, effective November 6, 2022, Kintop Smith, PLLC was discontinuing its status as a legal entity and would be unable to continue to represent the City as Co-Disclosure

Counsel. The City now desires to amend the Contract with Norton Rose Fulbright US LLP to replace Kintop Smith, PLLC with Hardwick Law Firm, LLC as Co-Disclosure Counsel. Hardwick Law Firm, LLC is a qualified local minority law firm and has agreed to contract with Norton Rose Fulbright US LLP and the City on a basis acceptable to the City.

Pursuant to House Bill 2826, effective September 1, 2019, a special public notice needs to be added to the council agenda that contains City Council consideration of a contingency fee contract for legal services.

### **PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)**

On August 26, 2020, the City Council authorized (1) a contingency fee contract for disclosure counsel legal services with Norton Rose Fulbright US LLP and Kintop Smith, PLLC; and (2) a contingency fee bond contract with McCall, Parkhurst & Horton, L.L.P. and Escamilla & Poneck, LLP and a contingency fee contract with Bracewell LLP and West & Associates, LLP for bond counsel and co-bond counsel services by Resolution No. 20-1251.

The Government Performance and Financial Management Committee was briefed regarding this item on March 21, 2023.

### **FISCAL INFORMATION**

The fees for legal services provided by the disclosure counsel and co-disclosure counsel firms in connection with the issuance, sale and delivery of the City's bonds are contingent upon the sale and delivery of the bonds and are payable from bond proceeds, General Fund, Aviation Funds, Convention Center Funds, and/or Water Utilities Funds, as applicable as follows:

#### **FIRM**

#### **FEE**

Norton Rose Fulbright US LLP  
Disclosure Counsel

Hourly rate fee for services rendered, plus an opinion fee of \$0.21 per \$1,000.00 of increment of bonds issued. See Attachment A to council resolution.

Hardwick Law Firm, LLC

Co-Disclosure Counsel Hourly rate fee for services rendered, plus an opinion fee of \$0.14 per \$1,000.00 of increment of bonds issued. See Attachment A to council resolution.

### **OWNERS**

#### **Norton Rose Fulbright US LLP**

Paul A. Braden, Partner, Head of Public Finance, United States

**Hardwick Law Firm, LLC**

Herbert E. Hardwick, Partner