

RESOLUTION NO 13-009

A RESOLUTION OF THE CITY OF ROSLYN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH K & L GATES FOR BOND COUNSEL

WHEREAS, the City of Roslyn has received a loan from USDA to complete certain sewer improvements; and

WHEREAS, the City sent a request for proposals to all entities listed on our small work roster for consultants under bond counsel; and

WHEREAS, the City received two responsive proposals, one from K & L Gates, LLP, and one from Foster Pepper, PLLC; and

WHEREAS, both proposals were reviewed by the Budget, Finance, & Administration Committee and the Committee recommended the City enter into a contract with K & L Gates;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROSLYN, WASHINGTON, AS FOLLOWS:

Section 1. The Mayor is hereby authorized to execute a contract for bond counsel services with K & L Gates, LLP, in the form attached as Exhibit A.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF THE 23RD DAY OF APRIL, 2013.


Neal R. Lockett, Mayor

ATTEST:


Amber Shallow, Clerk-Treasurer

Approved as to form:


Ann Marie Soto, City Attorney

PROFESSIONAL SERVICES AGREEMENT
City of Roslyn and K & L Gates LLP

This Agreement is entered into by and between the City of Roslyn, Washington, a municipal corporation of the State of Washington, hereinafter referred to as "the City," and K & L Gates, LLP, hereinafter referred to as "the Contractor," whose principal office is located at 925 Fourth Avenue, Suite 2900, Seattle, WA 98104.

WHEREAS, the City has determined the need to have certain services performed for its citizens; and

WHEREAS, the City desires to have the Contractor perform such services pursuant to certain terms and conditions; NOW, THEREFORE,

IN CONSIDERATION OF the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. Scope of Services to be Performed by Contractor. The Contractor shall perform those services described on Exhibit "A" attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith.

2. Compensation and Method of Payment. The City shall pay the Contractor for services rendered within fifteen (15) days after City Council voucher approval in the form set forth on Exhibit "B" attached hereto and incorporated herein by this reference. The City shall pay Contractor for services provided pursuant to this Agreement the, not to exceed, sum of up to \$3,000, which sum shall include all costs expended by Contractor in performing such services. The Contractor shall complete and return Exhibit "C," Taxpayer Identification Number, to the City prior to or along with the first billing voucher submittal.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing April 24, 2013, and ending April 23, 2014, unless sooner terminated under the provisions hereinafter specified.

4. Ownership and Use of Documents. All documents, drawings, specifications, and other materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not.

5. Independent Contractor. The Contractor and the City agree that the Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of

employer and employee between the parties hereto. Neither the Contractor nor any employee of the Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers compensation, or otherwise assuming the duties of an employer with respect to the Contractor or any employee of the Contractor.

6. Indemnification. The Contractor shall indemnify, defend, and hold harmless the City, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the Contractor, its agents, servants, officers, or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the City, its agents, or employees caused or contributed thereto. In the event that the City shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the Contractor shall, in addition to indemnifying and holding the City harmless from any liability, indemnify the City for any and all expenses incurred by the City in defending such claim or suit, including reasonable attorneys' fees.

7. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the performance of this Agreement. The City shall have the right to conduct an audit of the Contractor's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of the Contractor.

8. Termination. This Agreement may at any time be terminated by the City upon giving to the Contractor thirty (30) days written notice of the City's intention to terminate the same.

9. Discrimination Prohibited. The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

10. Assignment and Subcontract. The Contractor shall not subcontract any services contemplated by this Agreement without the prior written consent of the City.

11. Entire Agreement. This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Either party may request changes to the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

12. Notices. Notices to the City of Roslyn shall be sent to the following address:

City Clerk-Treasurer
City of Roslyn
P.O. Box 451
Roslyn, Washington 98941
Phone: (509) 649-3105

Notices to the Contractor shall be sent to the following address:

Attn: Cynthia Weed
K & L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Phone: (206) 370-7801

13. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in Kittitas County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees, expert witness fees, and costs of suit.

CITY OF ROSLYN, WASHINGTON

K & L Gates, LLP

By: _____
Neal R. Lockett, Mayor

By: _____

Date: _____

Date: _____

Attest/Authenticated:

Amber Shallow, City Clerk-Treasurer

Approved As To Form:

Ann Marie Soto, City Attorney

EXHIBIT "A"

The following services will be provided:

- 1.) Advise the City concerning the legal requirements – under state and federal law-applicable to the issuance and sale of a general obligation bond and any interim financing obligation.
- 2.) Provide representation of Bond Counsel at all meetings held by the City during the period of issuance and sale of the proposed bond and/or the interim financing note when appropriate and when so directed.
- 3.) Prepare the necessary proceedings, notices and other documents necessary for the authorization, issuance and sale of an interim financing note to a bank, if necessary.
- 4.) Prepare the necessary proceedings, notices and other documents necessary for the authorization, issuance and sale of such bond. The bond transcript shall be prepared in advance of the bond issue as is required by USDA.
- 5.) Provide such other legal guidance and assistance, supervision and consultation, conduct such proceedings and provide such opinions as may be appropriate.
- 6.) Coordinate delivery and closing of an interim financing note and bond to the purchaser.
- 7.) Coordinate delivery and closing of the bond to USDA.
- 8.) Upon completion of all proceedings and upon our determination that all such proceedings and the interim financing note are valid, provide to the purchaser our legal opinion approving the legality of all proceedings had for the authorization and issuance thereof and stating that interest on the note and the bond is exempt from federal income tax.
- 9.) Assemble and prepare transcripts of all proceedings and documentation, in either bond paper form and/or in CD format, taken in connection with the issuance and sale of an interim financing note and the permanent financing bond to USDA.

EXHIBIT B

City of Roslyn
Billing Voucher

To: City of Roslyn
100 E Pennsylvania Ave
P.O. Box 451
Roslyn, WA 98941
Phone number: 509-649-3105
Fax number: 509-649-3174

Contractor: K & L Gates LLP
Mailing Address: 925 Fourth Avenue, Suite 2900, Seattle WA 98104

Specific Program: _____

Contract Period: _____ Reporting Period: _____

Amount requested this invoice: \$ _____

Invoice Number: _____ Date of Invoice: _____

Authorized Signature

BUDGET SUMMARY

| | |
|------------------------------------|----------|
| Total contract amount | \$ _____ |
| Previous payments | \$ _____ |
| Current request | \$ _____ |
| <i>Total requested this</i> | |
| Contract to date | \$ _____ |
| Balance remaining | \$ _____ |

Note: If applicable, submit a separate voucher for each program which is funded by your City of Roslyn contract.

For Department Use Only

Approved for Payment:

_____ Date: _____

EXHIBIT C

City of Roslyn
100 E Pennsylvania Ave
P.O. Box 451
Roslyn, WA 98941

TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the City of Roslyn, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of Roslyn before or along with the submittal of the first billing voucher.

Please check the appropriate category:

- | | |
|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Government | |
| <input type="checkbox"/> Individual/Proprietor | <input type="checkbox"/> Other (please explain) |

TIN#: - _____

SS#: - _____

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

Business Phone: _____