

MINUTES

Edmonds Public Facilities District Board of Directors Special Meeting January 10, 2018

The Edmonds Public Facilities District Board meeting convened at 7:31 a.m. in the Edmonds Center for the Arts Green Room, 410 4th Avenue North, Edmonds.

EPFD Board Members Present

Mike Popke, President
Larry Ehl, Vice President
Marla Miller
Kevin McKay

EPFD Board Members Absent

Patrick Mulva

ECA Staff Present

Joseph McIalwain, Executive Director
Matt Keller, Director of Operations

City Staff Present

Scott James, Finance Director (Ex-Officio)

Other Guests Present

Tom Mesaros, City Council Liaison

1. Call to Order

Board President Popke called the meeting to order.

2. Board President's Comments

3. Approval of Minutes – N/A

4. Approval of Disbursements – N/A

5. PFD Board Business

- **Approve Selection of Bond Counsel**

Mr. Keller briefly revisited the bid response matrix for the benefit of absent board members and explained at the last meeting, the board was not prepared to make a selection due to two question, 1) conflict of interest regarding Foster Pepper and the City of Edmonds, and 2) fee structures.

With regard to conflict of interest, Mr. Keller relayed Foster Pepper was happy to work with both parties but if any objection was raised on either side, the EPFD would have the option to retain outside counsel to negotiate the Contingent Loan Agreement. Board member Miller pointed out if outside counsel was retained, that fee would be paid out of operations rather than being included in the refunding of the bond.

With regard to fee structure:

- Foster Pepper: Confirmed to have a flat fee rate of \$20,000 but would include any additional outside counsel
- Pacifica: Most complex fee structure where EPFD would pay 115% of the \$20,000 flat fee plus an additional \$15,000 Disclosure fee should the underwriter require a legal opinion.

- Kutak Rock: While the most expensive upfront (\$30,000), their representative explained Kutak would insert language into the agreement that they would charge at an hourly rate or the flat \$30,000, whichever is less. Regardless of the process fees would not exceed the flat \$30,000

Mr. Keller's recommendation, considering additional outlying charges of Foster Pepper and Pacifica and concerns with conflict of interest, was to select Kutak Rock as bond counsel.

The Board discussed the merits of the all of three firms' fee structures and concerns regarding the Foster Pepper conflict of interest and agreed that the proposal from Kutak Rock LLC would be the most advantageous as it had the most transparent fee structure.

BOARD VICE PRESIDENT EHL MOVED TO APPROVE THE SELECTION OF KUTAK ROCK. BOARD MEMBER MCKAY SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

(Bid Comparison Sheet attached.)

6. Executive Session Per RCW 42.30.110(g) to Review the Performance of a Public Employee

- **Performance Appraisal of Executive Director for FY 2017**

At 7:45 a.m., Board President Popke recessed the Board to an executive session to review the performance of a public employee. No action was expected to be taken following the conclusion of the executive session. Board Members Popke, Ehl, McKay and Miller were present at the executive session.

The meeting was reconvened at 8:27 a.m.

7. Adjourn

The meeting was adjourned at 8:28 a.m.

Next EPFD Board Meeting: Thursday, January 25, 2018 - 7:30 AM

ACTION ITEMS: None

Bid Comparison Sheet 12/28/2017 EPFD Bond Counsel Services
 Opened By Joe McIlwain & Matt Keller @ 10:30am

BASE BID	Foster Pepper	Pacifica	Kutak Rock LLP
POC	Marc Greenough	Stacey Crashaw-Lewis	Roy Koegen
Revenue Bonds Fees	\$ 20,000.00	\$ 24,000.00	\$ 35,000.00
GO Bonds Fees	\$ 20,000.00	\$ 20,000.00	\$ 30,000.00
LID Bonds Fees	\$ 25,000.00	\$ 24,000.00	N/A
Fees			
Fee Basis	Fixed Basis	Fixed Fee/Floating	
Hourly 1	N/A	For litigation/IRS Audit	See Other Fees
Overhead Fees	Included	Included	Out of state travel
Other Fees	Add'l Counsel due to Conflict of interest	See Below	Non-Routine Advice? Hrly
Disclosure Counsel Fee (optional)		\$ 15,000.00	
Private Placement %		70%	
Refunding Issues % Fee		115%	
Total Max Cost	? Add'l Counsel cost Conflict of Interest CLA	\$ 38,000.00	≤ \$30,000
Qualifying Criteria			
Cover Letter	Y	Y	Y
Description of Experience	Y	Y	Y
Resumes of Key Personnel	Y	Y	Y
Statement of Professionals Assigned	Y	Y	Y
Tax Exempt Municipal Bond Issues	Y (500 in 5 yrs)	Y (400nissues)	Y (3300 GO bonds)
List of Investigations/Litigations	None	(Investigations)/Read litigations section	None
Description of Fees	Y	Y	Y
References Provided	Y(x4)	Y (x3)	Y (x4)
list of Transactions	Y(100+)	Y (100+)	Yes (45+)
PFD Experience	Y	Y	Y
SIGNED PACKET COMPLETE	Y	Y (3 copies not bound)	Y