

## **EWEB Board Consent Calendar Request**

*For Contract Awards, Renewals, and Increases*

The Board is being asked to approve additional funds for the personal services agreement with **Cable Huston, LLP** for **Special Counsel Services**.

Board Meeting Date: October 6, 2022  
Project Name/Contract #: Special Counsel Services / 19-128-PSC  
Primary Contact: Frank Lawson Ext. 7621

### **Contract Amount:**

Original Contract Amount: \$3,200,000 (January 7, 2020)  
Additional \$ Previously Approved: \$0  
Spend over last approval: \$0  
Amount this Request: \$7,650,000  
% increase over last approval: 239%  
Resulting Cumulative Total: **\$10,850,000 (Over 5 years)**

### **Contracting Method:**

Method of Solicitation: Formal Request for Proposal  
If applicable, basis for exemption: NA  
Term of Agreement: 1 year  
Option to Renew? Yes, annually up to 5 years total  
Approval for purchases "as needed": Yes  No   
Proposals/Bids Received (Range): 1 / Qualifications based with rate sheet submittal  
Selection Basis: Highest scored proposal based on established evaluation criteria

Narrative:

#### Operational Requirement and Alignment with Strategic Plan

EWEB requires ongoing and as-needed Special Counsel Services for navigating complex contracts that have substantial risk associated with them, as well as litigation services.

#### Contracted Goods or Services

EWEB has negotiated an Agreement for Special Counsel Services for five "Areas of Practice," as defined within the RFP; including, Environmental/Property Management, Water Rights and Wholesale Water Purchase Agreements, Power Supply/Power Trading, Risk Management, and Hydro Licensing. These legal services will be contractually available on an "as-needed" basis for the entire utility. No guarantees were made as to the amount of work expected during the term of the Agreement.

Historical data indicated that the total contract spend would be approximately \$3,200,000 over a five-year period. However, due to extraordinary events, funds were depleted faster than originally anticipated.

At this time Management recommends adding \$7.65 million to the existing contract to procure special counsel legal services at the established fees over the remaining life of the contract. The recommended increase includes the following forecast spend:

Enterprise Risk \$6 million  
 Generation \$1.55 million  
 Environmental \$200,000  
 Energy \$100,000

Below is a short list of some of the critical work that will require these services during the remainder of this contract:

- Holiday Farm Fire related items
- Leaburg/Waltermville Strategic analysis, including water quality study
- Initiating Leaburg regulatory proceedings (could be after Feb 2025 – not sure on timing yet)
- Leaburg property acquisitions

Purchasing Process

In November 2019, staff issued a formal Request for Proposals for the provision of special counsel legal services for five “Areas of Practice”, including Environmental/Property Management, Water Rights and Wholesale Water Purchase Agreements, Power Supply/Power Trading, Risk Management, and Hydro Licensing. All Proposers were invited to submit proposals for one or more Areas of Practice.

One proposal was received from EWEB’s current provider, Cable Huston of Portland, Oregon. Cable Huston met all requirements for all Areas of Practice and met the expectations for performance in all evaluation criteria including Administrative Capacity, Contract Review, Breadth of Experience, Quality of Staff, and Fees.

Proposals Received

Vendor Name	City, State	Offered Price	Ranking (for RFPs)
Cable Huston	Portland, OR	\$3,200,000	1

Competitive Fair Price (If less than 3 responses received)

Cable Huston was the only firm that submitted a proposal. Two other firms indicated interest after viewing the RFP document but did not submit a response. The rates quoted in Cable Huston range from \$325-\$375/hr and are within the market range of \$325-\$550/hr for firms that provide similar services in the region.

Prior Contract Activities

EWEB Contract	Project Name (Description)	Board Approved Date	Project Duration (Start to Close)	Original Amount	Final Amount	Reason Code
012-2014	Special Counsel Services	11/4/2014	11/12/14-2/15/20	\$3,200,000	\$2,436,539	NA
Reason Code: AM = Additional Materials, AW = Additional Work, EW= Emergency Work, SD = Staff Directed, UC = Unforeseen Conditions, Other						

**ACTION REQUESTED:**

Management requests the Board approve an increase to the Contract with Cable Huston, LLP for Special Counsel Services. The planned use for these services in future periods will be budgeted in each of the departments listed above. Variances for 2022 will be managed within the budget process and Board policy.