



Pamela Bryant, Capital Finance Manager

pc: Lee Holloway, County Executive
Renee Booker, Director, Department of Administrative Services
Terrence Cooley, Chief of Staff, County Board
Stephen Cady, County Board Fiscal and Management Analyst
Mark Grady, Principal Assistant Corporation Counsel
Chuck Jarik, Chapman and Cutler LLP
Emile Banks, Emile Banks and Associates

EXHIBIT 1

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The Director, Department of Administrative Services requests authorization to extend the Bond Counsel Contract Service between Milwaukee County and Chapman and Cutler LLP and Emile Banks and Associates LLC as the Disadvantage Business Enterprise (DBE) participant through December 31, 2011:

A RESOLUTION

WHEREAS, in 2007, Milwaukee County, through the Department of Administrative Services – Fiscal Affairs Division, entered into a contract with Chapman and Cutler LLP (Chapman) and Laster & Garcia LLC to serve as bond counsel and DBE participant, respectively.

WHEREAS, the 2007 contract provided the County the right to extend the terms of the contract for additional one-year contracts beyond December 31, 2009, up to a maximum of three additional years. The contract may be extended further upon mutual agreement of both parties; and

WHEREAS, in 2009 the County Board approved a contract extension through December 31, 2010 and approved a change in the DBE participant on the contract from Laster & Garcia LLC to Emile Banks and Associates; and

WHEREAS, in accordance with Milwaukee County Ordinance 56.30 and DFR 49 part 26, Chapman shall ensure that DBEs have the maximum opportunity to participate in this project. The specific minimum goal for this project is 17 percent; and

WHEREAS, no change in the fees charged to the County is proposed; and,

WHEREAS, Emile Banks and Associates is a certified DBE with Milwaukee County; therefore,

BE IT RESOLVED, The Director, Department of Administrative Services is authorized to extend the Bond Counsel Services Contract between Milwaukee County and Chapman and Cutler LLP and Emile Banks and Associates LLC as the DBE participant through December 31, 2011.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 1/13/11

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: Extension of Bond Counsel Services with Chapman and Cutler LLP

FISCAL EFFECT:

- | | |
|---|--|
| <input type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input checked="" type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input checked="" type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

- A. The Director, Department of Administrative Services requests authorization to renew the Bond counsel Services contract between Milwaukee County and Chapman and Cutler LLP (Chapman) for an additional one-year term.
- B. The cost for bond counsel services relating to a particular bond issue will be financed from the bond proceeds. There are no changes in costs for bond counsel services. The original costs are as follow:

The proposed cost from Chapman and Cutler for a general obligation bond issue (Public or Public-Private Partnership) is \$340 per hour for the Public Finance Partner, \$325 per hour for the Tax Partner and \$140 per hour for a Public Finance Associate. The proposed costs for an Airport Revenue Bond Issue includes an additional Public Finance Partner for \$340 per hour. The proposed costs for a pension obligation bond issue is \$340 for the Public Finance Partner, \$350 per hour for a Litigation Partner, \$325 per hour for a Tax Partner and \$160 per hour for a Public Finance Associate.

- C. Consistent with prior bond issues the Department of Administrative Services will submit an appropriation transfer for the cost of the issuance that will include bond counsel services. Any costs incurred by the County for bond counsel services not associated with a bond financing will be paid with another revenue source.
- D. Not applicable.

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

Department/Prepared By Pamela Bryant, Capital Finance Manager

Authorized Signature *Pamela Bryant*

Did DAS-Fiscal Staff Review? Yes No

EXHIBIT 2

AGREEMENT FOR BOND COUNSEL SERVICES

This Agreement, by and among Milwaukee County, a Wisconsin municipal body corporate (hereinafter called "County"), represented by Renee Booker, Director of the Department of Administrative Services, Chapman and Cutler LLP and Emile Banks and Associates (hereinafter "Contractors"), as follows:

1. SCOPE OF SERVICES

Contractors shall specifically perform all of the tasks and achieve the objectives set forth in the proposal, dated January 3, 2007, which is attached hereto as Exhibit 1 and incorporated herein by reference, and the County Request for Proposal, dated December 15, 2006, which is attached hereto as Exhibit 2 and also incorporated herein by reference. If there is a variance between the Contractor's proposal and the County's request for proposal, the latter shall be controlling, unless otherwise provided for in writing.

2. STAFFING

Contractor's employees listed below are to be assigned to the project:

<u>Name</u>	<u>Position</u>
Charles Jarik	Attorney/Partner, Chapman and Cutler LLP
Emile Banks	Emile Banks and Associates LLC

Contractor shall not replace Charles Jarik without the prior approval of the County. If the successor to Charles Jarik cannot be mutually agreed upon, the County shall have the right to terminate this Contract upon thirty (30) days' notice. Any replacement of other listed personnel shall be by persons of equal qualifications, which shall be attested to by Contractor.

Contractors shall provide, at their own expense, all personnel required in performing the services under this Contract. Such personnel shall not be the employees of, or have any other contractual relationship with, the County

3. TERM

The term of this Agreement shall commence upon execution of this contract and, unless this contract is terminated earlier in accordance with the provisions hereof, will continue until the latest of (a) December 31, 2011, or (b) such time as the work on financings in progress on December 31, 2011 is completed or (c) such time as the County Board takes further action designating bond counsel. At its sole option, the County may extend the contract for additional one-year periods beyond December 31, 2011, up to a maximum of two additional years. The contract may be extended further upon mutual agreement of the parties.

4. COMPENSATION

Contractors shall be compensated for work performed on an hourly basis at the billing rates listed below:

General Obligation and Airport Revenue Financings

Chapman and Cutler shall be paid \$340 per hour for a Public Finance Partner, \$325 per hour for a Tax Partner, and \$160 per hour for a Public Finance Associate. Emile Banks and Associates shall be paid \$175 per hour for Emile Banks and \$150 for L. Nicole Kintop's services.

Pension Obligation Bond Financings

Chapman and Cutler shall be paid \$350 per hour for a Litigation Partner, \$340 per hour for a Public Finance Partner, \$325 per hour for a Tax Partner, and \$140 per hour for a Public Finance Associate. Emile Banks and Associates shall be paid \$175 per hour for Emile Banks and \$150 for L. Nicole Kintop's services.

The Contractors will be reimbursed by the County for significant out-of-pocket expenses and disbursements for such things as reproduction of documents, publication of notices, express deliveries and travel.

5. BILLING

Contractors shall provide County with monthly billings, which shall include, but not be limited to, the following:

- A. Name of employee
- B. Dates and hours worked
- C. General task performed
- D. Detail of out-of-pocket expenses, indicating their purpose such as telephone, travel, hotel, graphic reproduction, postage, etc., for these expenditures provided for in the Contract.

6. OWNERSHIP OF DATA

Upon completion of the work or upon termination of the Contract, it is understood that all completed or partially completed data, drawings, records, computations, survey information, and all other material that Contractors have collected or prepared in carrying out this Contract shall be provided to and become the exclusive property of the County, except as hereinafter provided. Therefore, any reports, information and data, given to or prepared or assembled by Contractors under this Contract shall not be made available to any individual or organization by Contractors without the prior written approval of County; provided that any ideas or documents prepared by Contractors may otherwise be used by Contractors, subject to the Rules of Professional Conduct applicable to counsel.

No reports or documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractors, other than documents prepared by Contractors and copyrighted by Contractors prior to the commencement of this Contract.

7. AUDIT AND INSPECTION OF RECORDS

Contractors shall permit the authorized representatives of County, after reasonable notice, to inspect and audit all data and records of Contractors related to carrying out this Contract for a period up to three years after completion of the Contract.

8. AFFIRMATIVE ACTION

The contractors assure that they will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14

CFR Part 152, Subpart E. The Contractors assure that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Contractors assure that they will require that their covered suborganizations provide assurances to the Contractors that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as recreated by 14 CFR Part 152, Subpart E, to the same effect.

9. DISADVANTAGED BUSINESS ENTERPRISE

The Contractors shall comply with Milwaukee County Ordinance 56.30 and CFR 49 Part 26, which have an overall minimum goal of seventeen percent (17%) participation of disadvantaged business enterprises on professional service contracts. In accordance with this, Contractors shall use good faith efforts to achieve the amount of DBE participation in this proposal. A 25 percent goal for General Obligation Financings and a 20% goal for Airport Revenue Financings have been established for applicable sections of this contract as described.

10. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS

In the performance of work under this Contract, Contractors shall not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex, or handicap, which shall include, but not be limited to, the following:

Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Contractors will post in conspicuous places, available for employees and applicants for employment, notices to be provided by County, setting forth the provisions of the non-discriminatory clause.

Contractors agree to strive to implement the principles of equal employment opportunity through an effective Affirmative Action program, and has so indicated on the certificate attached hereto as Exhibit 3 and made a part of this Contract. The program shall have as its objective to increase the utilization of women, minorities and persons with disabilities, and other protected groups, at all levels of employment, in all divisions of Contractor's work force, where these groups may have been previously under-utilized and under-represented. Contractors also agree that in the event of any dispute as to compliance with the aforesaid requirements, it shall be their responsibility to show that they have met all such requirements.

When a violation of the non-discrimination, equal opportunity or Affirmative Action provisions of this section has been determined by County, Contractors shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations.

If, after notice of a violation to Contractors, further violations of this section are committed during the term of the Contract, County may terminate the Contract without liability for the uncompleted portion or any materials or services purchased or paid for by the Contractors for use in completing the Contract, or it may permit Contractors to complete the Contract, but, in either event, Contractors shall be ineligible to bid on any future contracts let by County.

11. INDEMNITY

Each Contractor agrees to indemnify, defend and hold harmless, the COUNTY from and against all loss or expense by reason of liability for damages, including suits at law or in equity, caused by any intentional or negligent act or omission of that same Contractor, or its (their) agents which may arise out of or are connected with the activities covered by this agreement, but only to the extent that any obligation of the Contractor arising under the foregoing indemnification does not impair the effectiveness of the Contractor's professional liability insurance or impair any subrogation rights of the Contractor's professional liability insurer.

The County acknowledges that it has an obligation to owners of its bonds to respond at its own cost and expense in good faith, using reputable and experienced counsel, to any investigation with respect to the Bonds into the compliance of the Bonds, or the actions of the County with respect to the Bonds, with legal requirements made by any governmental agency, including without limitation, the Internal Revenue Service, the Securities and Exchange Commission or any securities enforcement agency of any state, The County agrees that the Contractors have no liability to pay or reimburse the County for any such costs and expenses incurred or paid by the County except to the extent that such costs or expenses are covered by the provisions of the preceding paragraph.

12. INSURANCE

Contractors agree to evidence and maintain proof of financial responsibility to cover costs as may arise from claims of tort, statutes, and benefits under Workers' Compensation laws, and/or vicarious liability arising from employees. Such evidence shall include insurance coverage for Workers Compensation claims as required, including Employers Liability and insurance covering General Liability, Professional Liability and Automobile coverage in the following minimum amounts.

Type of Coverage	Minimum Limits
Wisconsin Workers' Compensation	Statutory
Employer's Liability	\$100,000/\$500,000/\$100,000
Commercial Or Comprehensive General Liability	
Bodily Injury & Property Damage (Incl. Personal Injury, Contractual, Fire, Legal & Products/Completed Operations)	\$1,000,000 per occurrence \$1,000,000 general aggregate
Professional Liability	\$10,000,000 Per Claim \$10,000,000 aggregate
Automobile Liability	
Bodily Injury & Property Damage All Autos-Owned, non-owned and/or hired Uninsured Motorists	\$1,000,000 Per Accident Per Wisconsin Requirements

Milwaukee County, as its interests may appear, shall be named as an additional insured for General, and Automobile and Liability, and be afforded a thirty (30) day written notice of cancellation or non-renewal. Disclosures must be made of any non-standard or restrictive additional insured endorsement, and any use of non-standard or restrictive additional insured endorsement will not be acceptable. A certificate indicating the above coverages shall be submitted for review and approval by the County for the duration of this Agreement.

13. TERMINATION BY CONTRACTORS

Contractors may, at their individual option, terminate this Contract upon the failure of the County to pay any amount which may become due hereunder for a period of forty-five (45) days following submission of appropriate billing and supporting documentation, Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination.

14. TERMINATION BY COUNTY FOR VIOLATIONS BY CONTRACTORS

If either Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, County shall thereupon have the right to terminate the Contract with respect to that Contractor by giving thirty (30) days' written notice of termination of contract, specifying the alleged violations and effective date of termination. It shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation prior to the end of the thirty (30) day period. In the event of termination, the County will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

15. UNRESTRICTED RIGHT OF TERMINATION BY COUNTY

County further reserves the right to terminate this Contract at any time for any reason by giving Contractor(s) thirty (30) days' written notice by Certified Mail of such termination. In the event of said termination, Contractor(s) shall reduce its/their activities hereunder as mutually agreed to, upon receipt of said notice. Upon said termination, Contractor(s) shall be paid for all services rendered through the date of termination. This section also applies should the Milwaukee County Board of Supervisors fail to appropriate additional monies required for the completion of the Contract.

16. INDEPENDENT CONTRACTOR

Nothing contained in this Contract shall constitute or be construed to create a partnership or joint venture between County or its successors or assigns and Contractor or its successors or assigns or between the Contractors. In entering into this Contract, and in acting in compliance herewith, Contractors are at all times acting and performing as independent contractors, duly authorized to perform the acts required of it hereunder.

17. SUBCONTRACTS

Assignment of any portion of the work by subcontract must have the prior written approval of County.

18. ASSIGNMENT LIMITATION

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that no party shall assign its obligations hereunder without the prior written consent of the other.

19. PROHIBITED PRACTICES

A. Contractors, during the period of this Agreement, shall not hire, retain or utilize for compensation any member, officer, or employee of County, or any person who, to the knowledge of Contractors, has a conflict of interest.

B. Contractors hereby attest that they are familiar with Milwaukee County's Code of Ethics which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer, or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby."

20. NOTICES

Notices to County provided for in this Contract shall be sufficient if sent by Certified or Registered mail, postage prepaid, addressed to Ms. Pamela Bryant, Milwaukee County Courthouse, 901 N. 9th St., Room 308, Milwaukee, WI. 53233, and notices to Contractors shall be sufficient if sent by Certified or Registered mail, postage prepaid, to Mr. Charles Jarik, Chapman and Cutler LLP, III W. Monroe St., Chicago, IL., 60603 and to Mr. Emile Banks, Emile Banks and Associates LLC, 1200 North Mayfair Road, Milwaukee, WI 53226, or to such other respective addresses as the parties may designate to each other in writing from time to time.

21. MISCELLANEOUS

This Agreement shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin. This Agreement constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties hereto. Contractors acknowledge and agree that they will perform their obligations hereunder in compliance with all applicable state, local or federal laws, rules, regulations and orders.

22. AUTHORIZATION.

The County has executed this Contract pursuant to action taken by its Board of Supervisors on March 1, 2007, Resolution File No. 07-104.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day, month and year first above written.

WITNESS: MILWAUKEE COUNTY

By _____ Date _____

WITNESS: CHAPMAN AND CUTLER LLP

By _____ Date _____
WITNESS EMILE BANKS AND ASSOCIATES

By _____ Date _____

Approved as to appropriate use
of a professional service contract,
form and independent contractor
status by Corporation Counsel.

Reviewed by County's Risk Manager:

By Corporation Counsel _____ Date _____

By Risk Manager _____ Date _____

Approved with regards to County Ordinance
Chapter 42

By Community Business Development Partners _____

Date _____