

REQUEST FOR PROPOSALS
RFP No. 2021-07

ATTORNEY SERVICES FOR WATER LAW AND WATER RIGHTS
FOR THE CITY OF ALAMOGORDO, NEW MEXICO

I. Introduction

A. Purpose of this Request for Proposal

The City of Alamogordo is soliciting sealed proposals from qualified firms to provide professional services based on the scope of work described below. All potential Offerors are to read, understand and accept the requirements of this Request for Proposal.

B. Project Description/Scope of Work

Scope of work is to provide legal services related to water law and water rights in accordance with "Attachment No. 1".

C. Chief Procurement Officer

1. Chief Procurement Officer is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Barbara Pyeatt, Chief Procurement Officer
Address: Purchasing Department
2600 N. Florida Ave.
Alamogordo, NM 88310
Telephone: (575) 439-4116
Fax: (575) 439-4117
Email: bpyeatt@ci.alamogordo.nm.us

2. All deliveries of responses via express carrier must be addressed as follows:

Name: Purchasing Department
Attn: Barbara Pyeatt, CPO
Reference: RFP 2021-07 Attorney Services for Water Law and Water Rights
Address: 2600 N Florida Ave.
Alamogordo, New Mexico 85310

3. Any inquiries or requests regarding this procurement should be submitted, in writing, to the Chief Procurement Officer. Offerors may contact ONLY the Chief Procurement Officer regarding this procurement.

NOTE: DIRECT CONTACT WITH CITY ELECTED OFFICIALS OR CITY STAFF OTHER THAN PURCHASING STAFF REGARDING THIS RFP WILL RENDER THE PROPOSAL NON-COMPLIANT.

II. Conditions Governing the Procurement

This section of the RFP contains the schedule, description and conditions governing the procurement

A. SEQUENCE OF EVENTS

The Chief Procurement Officer will make every effort to adhere to the following schedule. However, if the Selection Committee makes a selection at the proposal Short Listing, oral presentation will not apply.

Action	Responsible Party	Due Dates
Issue RFP	City of Alamogordo	October 3, 2021
Deadline to submit Written Questions	Potential Offerors	October 19 th , 2021
Addenda if necessary	City of Alamogordo	October 20 th 2021
Submission Proposals	Potential Offerors	October 27 nd 2021
Proposal Evaluation	Evaluation Committee	November 5 th 2021
Oral Presentation if requested	City of Alamogordo	TBA
Authorization of Award	City Commission	November 30 th 2021

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A, above.

1. Issuance of RFP

This RFP is being issued on behalf of the Public Works Department, City of Alamogordo.

2. Distribution List Response Due

Potential Offerors can hand deliver, return by facsimile, email or registered or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, ATTACHMENT 4, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Chief Procurement Officer.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential organization name shall not appear on the distribution list.

3. **Pre-Proposal Conference**

A pre-proposal conference will not be held for this project.

4. **Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the Chief Procurement Officer as to the intent or clarity of this RFP until 3:00 PM Mountain Standard Time/Daylight Time as indicated in the sequence of events. All written questions must be addressed to the Chief Procurement Officer as declared in Section II, Paragraph C.

5. **Response to Written Questions**

An Addendum will be issued in response to all written questions and will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list and on the City's website. An e-mail copy will be sent to all Offerors that provide Acknowledgement of Receipt Forms described in II.B.2.

All offerors will be required to acknowledge receipt of RFP amendment(s) in writing as part of their proposal transmittal. A failure to acknowledge receipt of RFP amendment(s) may be cause for rejection of the proposal.

6. **Submission of Proposal**

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CHIEF PROCUREMENT OFFICER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON see Section II A. Sequence of Events. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Chief Procurement Officer at the address listed in Section I, Paragraph C2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the RFP 2021-07 ATTORNEY SERVICES FOR WATER LAW AND WATER RIGHTS. Proposals submitted by facsimile, or other electronic means, will not be accepted.

At all times, it shall be the responsibility of the offeror to ensure its proposal is delivered to the City of Alamogordo by the proposal due date and time. If the mail or delivery of said proposal is delayed beyond the deadline set for the proposal opening, proposals thus delayed will not be considered.

A public log will be kept of the names of all Offer organizations that submitted proposals. The contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposal has been awarded.

Proposals accepted by the City shall be valid for a period of ninety (90) days following the deadline for the proposal submittal.

7. Proposal Evaluation

A Selection Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Chief Procurement Officer may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Oral Presentations

Finalist Offerors may be required to conduct an oral presentation at a location to be determined as per schedule Section II, A Sequence of Events or as soon as possible. Whether or not oral presentations will be held is at the discretion of the Issuing Department and Chief Procurement Officer.

9. Contract Awards

The Contract will be finalized with the most advantageous Offeror. In the event that mutually agreeable terms cannot be reached within the time specified, the City of Alamogordo reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process or reserves the right to cancel the award.

10. Protest Deadline

Any protest by an Offeror must be in conformance with Section 2-13-300 and applicable procurement regulations. The fifteen (15) day protest period for responsive Offerors shall begin on the day following the commission's approval to negotiate and will end at 5:00 pm

MDT on the fifteenth (15) calendar day following that approval. Protests must be written and must include the name and address of the Protester and the solicitation number(s). It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Purchasing Manager. The protest must be delivered to the following address:

Name: Barbara Pyeatt
Title: Chief Procurement Officer
Address 2600 N. Florida Ave.
Alamogordo, NM 88310
Fax Number: 575-439-4117
E-mail: bpyeatt@ci.alamogordo.nm.us

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

This procurement will be conducted in accordance with the City of Alamogordo's procurement regulations.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Subcontractors

The selected firm shall not assign, sublet, or transfer their interest in this agreement without prior written consent from the City. If such an assignment is allowed, the firm entering into this contract shall be ultimately responsible to ensure that the work is performed satisfactorily.

4. Offerers

Since the award is made on a quality-based evaluation process, replacement of Offerers after award of and prior to the contract execution may cause the Offeror to be disqualified.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and

must be clearly identified as such in the transmittal letter. The Agency personnel will not merge, collate, or assemble proposal materials.

6. Offerors Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Chief Procurement Officer and signed by the Offerors duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Disclosure of Proposal Contents

The proposals will be kept confidential until negotiations are completed by City of Alamogordo. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Chief Procurement Officer will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offerors organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, Sections 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, City of Alamogordo shall examine the Offerors request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

8. No Obligation

This procurement in no manner obligates the City of Alamogordo or any of its Departments to the use of Offeror services until a valid written contract is awarded and approved by appropriate authorities.

9. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when Procurement Department determines such action to be in the best interest of the City of Alamogordo.

10. Sufficient Appropriation

Any agreement or contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the offeror. The City's decision as to whether sufficient appropriations and authorizations are available will be accepted by the offeror as final.

11. Legal Review

The City requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought in writing to the attention of the Chief Procurement Officer.

12. Governing Law

This procurement and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

13. Basis for Proposal

Only information supplied, in writing, by the City of Alamogordo through the Chief Procurement Officer or in this RFP should be used as the basis for the preparation of Offeror proposals.

14. Contract Terms and Conditions

The City of Alamogordo reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this solicitation. The contents of this solicitation, as revised and/or supplemented, and the successful Offerors proposal will be incorporated into and become part of the contract.

Should an Offeror object to any of the City of Alamogordo's terms and conditions, as contained in this Section, that Offeror must propose specific alternative language. The City of Alamogordo may or may not accept the alternative language. General references to the Offerors terms and conditions or attempts at complete substitutions are not acceptable to the City of Alamogordo and will result in disqualification of the Offerors proposal.

15. Offerors Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the City of Alamogordo. Not to be included in page count.

16. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the City of Alamogordo and the Offeror and shall not be deemed an opportunity to amend the Offerors proposal.

17. Offeror Qualifications

The Selection Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Selection Committee will reject the proposal of any potential Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Section 2-13-110 of the City of Alamogordo Procurement Ordinance.

18. Right to Waive Minor Irregularities

The Chief Procurement Officer reserves the right to waive minor irregularities. The Chief Procurement Officer also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Chief Procurement Officer.

19. Change in Representatives

The City of Alamogordo reserve the right to require a change in offeror representatives if the assigned representatives is not, in the opinion of the City of Alamogordo, meeting its needs adequately.

20. Notice - Bribery and Kickbacks

New Mexico criminal statues imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. City of Alamogordo Rights

The City of Alamogordo in agreement with the Chief Procurement Officer reserves the right to accept all or a portion of a potential Offerors proposal.

This procurement in no manner obligates the City of Alamogordo or any of its agencies to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

22. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors must secure from the Chief Procurement Officer and the Owner written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offerors proposal.

23. Ownership of Proposals

All documents submitted in response to the RFP shall become property of the City of Alamogordo.

24. Confidentiality

Any confidential information provided to, or developed by, the firm in the performance of services under this contract shall be kept confidential and shall not be made available to any individual or organization by the firm without the prior written approval of the City Commission. The Offeror agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the City Commission's written permission. By confidential information, we mean the software and related materials, including enhancements, which are designated as proprietary and confidential trade secrets of the licensor and licensee of the software. Firm(s) will not remove any copyright, trademark, and other proprietary rights notice from the licensed software or related materials.

25. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

26. Use of Electronic Versions of this RFP

This solicitation is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the solicitation. In the event of conflict between a version of the solicitation in the Offerors possession and the version maintained by the City of Alamogordo, the version maintained by the City of Alamogordo shall govern.

27. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (See Attachment 3) as a part of their proposal. This requirement applies regardless of whether a covered contribution was made or not made. **Failure to complete and return the signed unaltered form will result in disqualification.**

28. Conflict of Interest; Governmental Conduct Act.

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

29. Utilization of Proposal

City of Alamogordo may enter into cooperative purchasing agreements with other political subdivisions or other governmental entities of the State of New Mexico in order to conserve resources, reduce procurement costs, and improve the timely acquisition of supplies, equipment and services. The Respondent to whom a contract is awarded under this solicitation may be requested by other parties to such a cooperative purchasing agreement to extend to those parties the right to purchase supplies, equipment and services provided by the Respondent(s) under its contract with the City of Alamogordo, pursuant to terms and conditions stated therein

30. Award of Contract

The award shall be made to the responsible Offeror whose proposal is most advantageous to the City of Alamogordo taking into consideration the evaluation factors set forth in this solicitation. After initial ranking of the proposals, at the City's sole option, the City may decide to interview the top three ranked firms to develop final rankings or may consider the rankings based on the proposals as final.

The contents of any proposal shall not be disclosed so as to be available to competing offerors during the negotiation process.

31. Fees

Firms desiring to be considered for proposed Attorney services shall indicate the hourly rate for Attorney and other attorneys and support staff that may be working on required projects.

Firms shall indicate all other costs and reimbursables including meeting attendance, travel (per mile), telephone, printing, photocopying, etc.

Firms shall indicate the minimum increment of time billed for each service including phone calls, correspondence, and personal conferences.

The City of Alamogordo's standard agreement for Services is attached for reference (Attachment No. 5)

32. Registration

All work shall be under the direction of a Licensed Professional registered by the State of New Mexico.

33. INSURANCE REQUIREMENTS –

The Contractor shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved. The contractor shall not allow any subcontractor to commence work on this subcontract until all similar insurance required of the subcontractor has been obtained. Insurance specifications and monetary requirements will be finalized at contract development.

Standard Insurance	Limits Not Less Than
Commercial and General Liability	\$1,000,000/\$3,000,000
Automobile Liability	\$1,000,000/\$1,000,000
Worker’s Compensation as required by State Law	As required by Law
Other legally required of the employer or for the contractor’s occupation / profession.	As required by Law
Specialized Insurance	
Professional Liability	\$1,000,000
Malpractice/liability Insurance	\$1,000,000

III RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. PROPOSAL FORMAT

Proposal Organization

Offerors shall submit **SIX (6) hard copies and ONE (1) electronic copy** of their proposal to the location specified in this RFP, on or before the closing date and time for receipt of proposals. Proposals shall follow the format as described below:

- A maximum of **FIFTEEN (15)** pages of 8.5“ by 11” paper, including title, index, and other required information, not including front and back covers, transmittal letter, Veteran’s Preference Certification Form, Resident Business Certificate, or Campaign Contribution Disclosure Form.
- Bound on left-hand margin.
- Minimum font size 10.
- Front cover with RFP number, project title, date, and firm’s name (not included in page limit).
- Back cover without any text (not included in page limit).
- The proposal must be organized and indexed in the following format and order and must contain, as a minimum, all listed items in the sequence indicated:
 1. Letter of transmittal, not to exceed one page (not included in page limit). If applicable, will include **written acknowledgment of receipt of RFP amendment(s)**;
 2. Responses to the six (6) Selection Criteria items, addressing all requested information, in the order presented in this RFP above. Provide the Selection Criteria title at the beginning of each response so that it is clear what proposal text is addressing each Selection Criteria item.
- If applicable, Offerors shall provide Resident Business Certificate and submit with each copy of the proposal (not included in page count).
- Offerors shall complete Attachment 3 – Campaign Contribution Disclosure Form and submit with each copy of the proposal (not included in page count).
- To preclude possible errors and/or misinterpretations, the proposal must be affixed legibly in ink or typewritten. Corrections or changes must be signed or initialed by Offeror prior to scheduled proposal submittal deadline. Failure to do so may be just cause for rejection of proposal.
- Proposals shall be delivered in sealed envelopes which shall be clearly marked “**RFP 2021-06 Water & Wastewater Analytical Testing Services**” on the outside of the envelope. Proposals shall be signed by a representative authorized to bind the company.

IV. EVALUATION

A. CRITERIA

Proposals must address each of the following criteria. Each proposal may be awarded points up to the amount listed.

1. Technical Competence (25 points)

Firm and personnel's experience in providing similar information and services relative to the requirements described in Attachment No. 1.

2. Capacity and Capability (20 points)

Firm's capacity and capability to provide the information and services in a timely manner.

3. Past Record of Performance (10 points)

Firm's past performance on similar project assignments. As part of their response, firms **must** provide a list of four references with names and phone numbers.

4. Approach to Providing the Services (10 points)

Firm should describe their approach to providing and managing the anticipated services.

5. Personnel Qualifications (10 points)

The key personnel who will be assigned to the project should be identified and summaries of their experience given.

6. Pricing (25 points)

Provide Cost Schedule in accordance with Section II, C Paragraph 31 also included per Attachment No. 2

The evaluation of each Offeror's Cost Proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive All-In Cost}}{\text{This Offeror's All-In Cost}} \times 25 = \text{Awarded Points}$$

TOTAL AVAILABLE POINTS = 100

Additional Preference Award Points Available

An Offeror must specify which preference below they would claim if qualifying for more than one. The preference values are not cumulative.

Resident Veterans Preference Certification, (Certificate Required)

Available Points = 10 Percent of total Points

Points will be awarded based upon offerors ability to provide a copy of a current Certificate

New Mexico Business Preference, (Certificate Required)

Available Points = 5 Percent of total Points

Points will be awarded based upon offerors ability to provide a copy of a current Resident Business Certificate.

Local Business Preference, (Certificate Required)

Available Points = 10 Percent of total Points

Points will be awarded based upon offerors ability to provide proof of Local Business Residence.

B. EVALUATION PROCESS:

1. All offeror proposals will be reviewed for compliance with the mandatory requirements as stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Chief Procurement Officer may contact the offeror for clarification of the response.
3. The Evaluation Committee may use other sources of information to perform the evaluation.
4. Responsive proposals will be evaluated on the factors in Section IV that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors may be asked to present oral presentation. Points awarded from oral presentations will be added to the previously assigned points to attain final scores.
5. The responsible Offeror (s) whose proposals is most advantageous to the City, taking into consideration the evaluation factors in Section IV, will be recommended for Contract award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

BID EVALUATION CRITERION FOR AREA BUSINESSES – LOCAL BUSINESS PREFERENCE

Effective March 20, 2015, the Alamogordo City Commission adopted Ordinance No. 1490 establishing Bid evaluation criterion for area businesses. Any business licensed in New Mexico, with a current business registration from the City of Alamogordo, with fixed offices or distribution points within fifteen (15) miles of the city limits of Alamogordo and able to furnish evidence of payment of New Mexico Gross Receipts tax shall qualify. If a non-Area Business is the highest-ranking Prequalified Candidate, the evaluation score of the proposal submitted by an Areas Business shall be multiplied by a Local Preference Factor of 1.10. If the resulting score of the Area Business receiving the Local Preference is higher than or equal to the highest score of all proposals received, the contract shall be recommended to be awarded the Area Business receiving the preference. If no proposals are received from an Area Business, or if the proposal received from an Area Business does not qualify for an award after multiplication by the Local Preference Factor, the contract shall be recommended to be awarded the highest-ranking proposer.

View the following link for the complete Ordinance No. 1490 Local Preference:

<http://ci.alamogordo.nm.us/AssetsOrdinance+1490.pdf>

This procurement will be conducted in accordance with the City of Alamogordo Purchasing Ordinance No. 1304.

RESIDENT VETERANS PREFERENCE CERTIFICATION

In accordance with Sections 13- 1-21 and 13-1- 22 NMSA 1978 resident veteran business that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year shall be awarded ten percent (10%) additional evaluation points of the total possible points, which computes to 10 additional points (100 X 10%). This preference is separate from the current instate preference and is not cumulative with that preference. If a vendor will be utilizing this preference, they must include a copy in their proposal of the Resident Veteran Business Certificate issued by the State of New Mexico Taxation and Revenue Department. This preference will not apply when the expenditure includes federal funds for a specific purchase. More information can be obtain from the NM TRD website at <http://www.tax.newmexico.gov/Default.aspx>

Proposals received without copy of this certificate do not qualify for this preference.

IN-STATE PREFERENCE (RESIDENT BUSINESS)

To receive a resident business preference pursuant to Section 13-4-2 NMSA 1978, an offeror shall submit with its proposal a copy of a valid resident business certificate issued by the taxation and revenue department. For a proposal submitted by a resident business with the required Resident Business Certificate, in addition to the total points on an RFP, 5% must be added for preference points.

For information on obtaining a resident business certificate, the offeror should contact the State of New Mexico Taxation and Revenue Department, P.O. Box 5373, Santa Fe, New Mexico 87502-5374, telephone (505) 827-0951 or on the web at <http://www.tax.newmexico.gov/forms-and-publications/pages/recently-updated.aspx>

Proposals received without copy of this certificate do not qualify for this preference.

An offeror must specify which preference they would claim if qualifying for more than one. The preference values are not cumulative.

ATTACHMENT 1

Scope of Work

ATTORNEY SERVICES FOR WATER LAW AND WATER RIGHTS

The City of Alamogordo is seeking proposals to select Attorney Firm(s) to provide legal advice and legal assistance to the City of Alamogordo, addressing any water law and water rights legal matters that come before the City including, but not limited to, representation of the City in cases before the New Mexico Office of the State Engineer, Courts, Boards and Commissions dealing with all aspects of water rights law, acquisition or transfer of water rights, consumption, crediting, preparation of contracts, reviewing contracts, plans, and agreements, assistance with ordinance and resolutions, drafting of documents related to water issues and other aspects of water usage, and other legal and administrative matters involving the City's interests in water rights.

ATTACHMENT 2

FEE SCHEDULE

Fee Schedule per Section II, C Paragraph 31

Firms desiring to be considered for proposed Attorney services shall indicate the hourly rate for Attorney and other attorneys and support staff that may be working on required projects.

Firms shall indicate all other costs and reimbursables including meeting attendance, travel (per mile), telephone, printing, photocopying, etc.

Firms shall indicate the minimum increment of time billed for each service including phone calls, correspondence, and personal conferences.

The City of Alamogordo's standard agreement for Services is attached for reference (Attachment No. 5)

ATTACHMENT 3

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a Contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or local public body during the two (2) years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two (2) years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two (2) year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable Public Official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or un-reimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Contract” means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

“Family Member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the Procurement Process” means the time period commencing with the public notice of the Request for Proposals and ending with the award of the Contract or the cancellation of the Request for Proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective Contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Codes or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract. **“Representative of a Prospective Contractor”** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____
Relation to Prospective Contractor: _____
Name of Applicable Public Official: _____
Date Contribution(s) Made: _____
Amount(s) of Contribution(s): _____
Nature of Contribution(s): _____
Purpose of Contributions(s): _____

Signature Date

Title

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date

ATTACHMENT 4

RFP 2021-07 Attorney Services for Water Law and Water Rights

ACKNOWLEDGMENT OF RECEIPT FORM

REQUEST FOR PROPOSALS

Proposal Based

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy of acknowledged RFP.

The acknowledgement of receipt should be signed and returned to the Chief Procurement Officer. Only potential Offerors who elect to return this form completed with the intention of submitting a proposal will receive copies of all Offeror written questions and the City's written responses to those questions in the form of an addenda.

COMPANY: _____

REPRESENTED BY: _____

TITLE: _____ **PHONE NO.:** _____

E-MAIL: _____ **FAX NO.:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP CODE:** _____

SIGNATURE: _____ **DATE:** _____

This name and address will be used for all correspondence related to the Request for Proposals.

Company does/does not (circle one) intend to respond to this Request for Proposals.

Acknowledgements must be delivered to the Chief Procurement Officer at the following address:

Barbara Pyeatt
Chief Procurement Officer
Purchasing Department
2600 N Florida Ave
Alamogordo, New Mexico 88310
bpyeatt@ci.alamogordo.nm.us
Fax Number: (575) 439-4117

ATTACHMENT 5

“Draft Legal Service Agreement”

PROFESSIONAL SERVICES AGREEMENT LEGAL SERVICES

THIS AGREEMENT is made and entered into on this the ____ day of _____, 2021 by and between The City of Alamogordo (hereinafter “City”) and _____, (hereinafter “Contractor”) to provide as follows:

WHEREAS, City desires to obtain the services of Contractor for the purpose of providing legal services for water law and water rights, including transactional tasks, to the City pursuant to the terms and conditions in this Agreement; and

WHEREAS, Contractor desires to provide Services pursuant to this Agreement for and in consideration of the compensation covenants and provisions contained in this Agreement.

NOW THEREFORE, in consideration of the covenants, promises and agreements contained herein, City and Contractor agree:

1. **SCOPE OF SERVICES.** Contractor shall provide providing legal counseling, advice and services to the City as requested by the City Attorney as specified in the Scope of Work attached as Exhibit “A”, in the City Attorney’s capacity as a representative of the City Commission;
2. **CONFLICT OF INTEREST:** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.
3. **INDEPENDENT CONTRACTOR.** The parties agree that Contractor shall be an independent contractor and shall not be an employee of City. Contractor is an independent contractor, is not entitled to accrued leave, retirement benefits, workers' compensation benefits and unemployment insurance benefits and other benefits accorded to employees of the City, and Contractor is obligated to pay federal and state income tax on any monies earned pursuant to this Agreement.
4. **TIME OF PERFORMANCE.** The term of this Agreement shall be for a one year period beginning on _____, 2021 and expire on _____, 2022. This Agreement shall automatically renew for three (3) additional one-year periods.
5. **COMPENSATION.** City agrees to compensate Contractor for its services according to the attached fee schedule, Exhibit “B”, which may be modified from time to time upon written approval of the City Attorney, together with reimbursement pursuant to the City’s mileage and per diem program for travel expenses or actual expenses incurred in the course of performance of this Agreement. This Agreement shall not exceed \$60,000 as limited by the professional services section of the New Mexico Procurement Code.

Compensation for services rendered shall be payable upon presentation by Contractor of detailed invoices describing the services rendered herein and the hourly utilization for each such service on an interval of not more than ¼ hour, for services rendered herein not more frequently than once per month and shall be paid within thirty (30) days of the date of such statement. The time records provided for herein shall be available for inspection by City. City shall have the right to audit billings both before and after payment. The parties agree and acknowledge that this Agreement does not constitute a multiple-fiscal year debt or financial obligation of City pursuant to Article IX Section 10 of the New Mexico Constitution, based upon City's ability to terminate this Agreement as set forth herein.

Contractor shall be responsible for all New Mexico Gross Receipts taxes due pursuant to the compensation paid herein, and for any and all other individual income taxes or other taxes due as a result of Contractor's performance of services herein.

6. **RIGHT TO MONITOR PERFORMANCE.** City Attorney reserves the right to monitor and evaluate the progress of performance of Contractor to ensure that the terms of this Agreement are being satisfactorily met in the opinion of the City Attorney.
7. **OWNERSHIP OF DOCUMENTS.** City shall have the right to review and receive copies of any documents prepared, developed, or created by the Contractor, on behalf of the City. Reproduction costs for extensive requests will be borne by the City at the applicable rates under this Agreement. Contractor shall notify the City if any request is deemed extensive and allow City to make a decision as to whether or not they wish to incur the cost. City shall have the right to take such actions relating to the documents as it deems appropriate, in its sole discretion, including but not limited to the following: 1) reproduce the documents, or any portion thereof; 2) prepare derivative works; 3) distribute copies to the public; and 4) present or display the documents to the public.
8. **CONFIDENTIALITY.** Any information provided to or developed by the Contractor in the performance of this Agreement, shall be kept confidential by Contractor, unless otherwise provided by law or otherwise directed in writing by the City Attorney.
9. **INSURANCE.** Contractor agrees to maintain, during the initial term of this Agreement and any extension thereof, lawyer's professional liability insurance in the minimum amount of \$1,000,000 (One Million Dollars) each claim and \$1,000,000 (One Million Dollars) aggregate.
10. **CITY RESPONSIBILITIES.** In addition to such responsibilities as may be set forth in this Agreement, City shall have the following specific responsibilities:

Provide Contractor with access to all non-privileged City records, documents, books, manuals, regulations, ordinances, resolutions or other resources requested by Contractor during regular business hours at the offices of the custodian of those records. Provide Contractor with access to all City staff and officials for consultation purposes, as may be necessary to provide the services Contractor is requested to perform.
11. **AMENDMENTS.** This Agreement may not be modified or amended, and no waiver of any terms, conditions, rights or remedies hereunder, shall be binding upon any party hereto without the prior written consent of both parties hereto. A waiver of any term or provision shall not be

construed to be a waiver of any other term or provision. Specifically, but not by way of limitation, any subcontractors, the individual staff members of the Contractor, and their respective responsibilities, all as set forth in the Scope of Services, shall not be changed without the prior written consent of City. Any written amendments to this Agreement shall become part of this Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

- 12. **TERMINATION.** This Agreement may be terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. In the event of termination by City, other than for reason of default by Contractor under this Agreement, City shall be liable to pay Contractor all compensation earned up to the date of termination in accordance with the Scope of Services. Notwithstanding the above, Contractor shall not be relieved of liability to City for damages sustained by City by virtue of any default by Contractor under this Agreement.
- 13. **ASSIGNMENT.** Neither party may assign this Agreement without the express written consent of both parties.
- 14. **SUBCONTRACTING.** The Contractor shall not subcontract any portion of the services provided under this Agreement without the prior written approval of the City Attorney.
- 15. **NOTICES.** All notices, consents and communications required under this Agreement shall be in writing and shall be deemed effective when hand delivered, when sent by certified mail, return receipt requested, or when sent by electronic communication (facsimile), or when sent by electronic mail, and correctly addressed as follows:

If to City: Petria Bengoechea, City Attorney
 1376 E. Ninth Street
 Alamogordo, NM 88310
 (575) 439-4288

If to Contractor: _____

- 16. **BENEFIT.** This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto, their successors and assigns.
- 17. **GOVERNING LAW.** This Agreement shall be governed and construed in all respects and the rights of the parties hereto shall be determined in accordance with the laws of the State of New Mexico. Any suits or claims arising out of this Agreement shall be filed in Otero City, New Mexico.
- 18. **COMPLIANCE WITH LAWS.** In performing the services hereunder, Contractor shall ensure that its employees and subcontractors comply with all applicable laws and regulations.
- 19. **SEVERABILITY.** If any provision of this Agreement is declared by any court of competent jurisdiction to be invalid for any reason, such invalidity shall not affect the remaining

provisions. On the contrary, such remaining provisions shall be fully severable, and this Agreement shall be construed and enforced as if such invalid provisions never had been inserted in this Agreement.

20. **NOTICE**: This Agreement shall be governed by the laws of the State of New Mexico. The Procurement Code, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kick-backs and receiving a bribe by a public officer or public employee (Section 30-24-2, NMSA 1978) it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978; it is a fourth-degree felony to commit offense of offering or paying illegal kickbacks (Section 30-41-2), NMSA, 1978).

21. **SIGNING AGREEMENT**: In signing this Agreement the parties certify that each is aware of the proscriptions and requirements contained in the State of New Mexico Governmental Conduct Act (NMSA 1978 10-16-1 through 10-16-18) and that the Act is applicable to this Agreement and the conduct of the parties pursuant to the terms of this Agreement. In signing this Agreement, the Contractor certifies that this Agreement is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under New Mexico or United States.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

CONTRACTOR

Date: _____

By: _____

CITY OF ALAMOGORDO, NEW MEXICO
A New Mexico municipal corporation

Date: _____

By: _____
Brian Cesar, City Manager

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Bengoechea, City Attorney