



CITY OF ELIZABETH, COUNTY OF UNION, NEW JERSEY

REQUEST FOR PROPOSALS COUNSEL
FOR THE ZONING BOARD OF ADJUSTMENT
AND
CONFLICT/SUBSTITUTE COUNSEL

Contract Term

January 1, 2023 through December 31, 2023

SUBMISSION DEADLINE

4:00 P.M.
November 29, 2022

ADDRESS ALL PROPOSALS STATEMENT PROPOSALS IN THE FORM REQUIRED IN
THE SPECIFICATIONS AND ONE (1) ORIGINAL AND (2) COPIES MUST BE
DELIVERED TO:

EDUARDO J. RODRIGUEZ
DIRECTOR, PLANNING AND COMMUNITY DEVELOPMENT
CITY OF ELIZABETH
50 WINFIELD SCOTT PLAZA
Room 114
ELIZABETH, NJ 07201

GENERAL INFORMATION & SUMMARY

ORGANIZATION REQUESTING PROPOSAL STATEMENTS

CITY OF ELIZABETH ZONING BOARD
50 WINFIELD SCOTT PLAZA
ELIZABETH, NJ 07201

CONTACT PERSON

MONAE WHITEHEAD
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AND

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PURPOSE OF REQUEST

This document, entitled a Request for Proposals for Counsel for The Zoning Board of Adjustment and Substitute/Conflict Counsel for Zoning Board, is issued by the Zoning Board and assisted by the Law Department of the City of Elizabeth. This Request for Proposal (RFP) is for the sole purpose of pre-qualifying prospective firms for Zoning Board Counsel on Qualification Statements and experience achieved for the above category of legal services.

This RFP does not constitute a bid and is intended solely to obtain qualifications from which the Zoning Board may choose counsel that best meets its needs. It is the Zoning Board's intent that no statutory, regulatory, or common law bidding requirement apply to this RFP. The Zoning Board intends to award contracts for these services pursuant to N.J.S.A. 40A:11-5 (a)(i) and Chapter 19, P.L. 2004-N.J.S.A. 19:44A-20.5 et seq. One or more individuals/firms may be selected to provide services. Accordingly, this Request For Proposals is being solicited under a fair and open process.

PERIOD OF CONTRACT

January 1, 2023 through December 31, 2023.

CONTRACT FORM

The successful Firm shall be required to execute the Zoning Board's contract, which includes the indemnification, insurance, termination and licensing provisions.

It is also agreed and understood that the acceptance of the final payment by Contractor shall be considered a release in full of all claims against the Zoning Board arising out of, or by reason of, the work done and materials furnished under this Contract.

**DETAILED REQUIREMENTS OF THE
REQUEST FOR PROPOSALS FOR ZONING BOARD COUNSEL AND
SUBSTITUTE/CONFLICT COUNSEL**

1. CITY OF ELIZABETH-FACTS AND FIGURES - The City of Elizabeth is a legal, governmental entity. The City was incorporated in 1855 and operates under N.J.S.A 40:69A-1 et seq., "the Optional Municipal Charter Law-Mayor-Council Plan." The legislative authority and responsibilities of the City of Elizabeth is vested in the elected nine-member City Council. The executive power of the City is exercised by the Mayor who is responsible for enforcing the ordinances and general laws of the City. The Zoning Board is established pursuant to N.J.S.A. 40:55D-1, et seq., "The Municipal Land Use Law" and Chapter 17.12 of the *Code of the City of Elizabeth*.

The City of Elizabeth is the fourth largest city in New Jersey. The City's population is in excess of 120,000 and it consists of approximately 11.7 square miles of area. The City employs approximately 1,200 people. A regional center of labor, retail, manufacturing, and transportation, the City is also the County seat of Union County, attracting the corresponding concentration of government, legal and related professional services. The largest employment sectors in the City include commercial, health, transportation, construction, retail and light industry.

The City's operating budget is approximately \$170 million. It provides a variety of services consisting of police and fire protection, maintenance of City streets, water and sewer systems, health and human services, park and recreational facilities, cultural activities, and refuse collection.

2. NATURE/ SCOPE OF SERVICES - The Zoning Board of Adjustment of the City of Elizabeth is requesting proposals from qualified individuals and firms to provide legal services as Counsel and Substitute/Conflict Counsel for the Zoning Board.

The Proposer(s) will be required to attend all meetings of the Zoning Board in order to advise the membership

as a whole and to prepare and defend all litigation affecting the Zoning Board or any member of it, which may result from decisions made on applications or in the normal performance of the members' official duties pursuant to N.J.S.A. 40:55D-1, et seq., the Municipal Land Use Law.

The Proposer(s) shall also provide legal advice, research and assistance on any other special matter to the Zoning Board that may be required to be addressed.

The Proposer(s) shall be required to provide additional services to the Zoning Board which shall include, but not be limited to, preparation of legal documents, opinions, special meetings attendance, telephone conferences and correspondence.

3. STANDARD REQUIREMENTS OF TECHNICAL PROPOSAL - Proposers should submit a technical proposal which contains the following:

A. The name of the proposer, the principal place of business and, if different, the place where the services will be provided;

B. The proposing attorney, who must be the lead attorney for the firm, must have a minimum of five (5) years experience as an attorney with experience servicing the City of Elizabeth or other governmental entities, with a particular emphasis and/or expertise in the field of Land Use Law;

C. The education, qualifications, experience, and training of all persons who would be assigned to provide services along with their names and titles;

The lead attorney must be admitted to practice in the State of New Jersey and the Federal District Court of New Jersey;

D. A listing of all other engagements where services of the types being proposed were provided in the past five (5) years. This should include other municipal governments and other levels of government. Contact information for the recipients of the similar services must be provided. The City may obtain references from any of the parties listed;

A description of all other areas of legal services of the proposer, with emphasis on a description of those services of interest to a City government client;

E. A Statement that neither the firm nor any individuals assigned to this engagement are suspended, or otherwise prohibited from professional practice by any federal, state, or local agency;

4. **COST PROPOSAL** - Any services will be billed through hourly rates listed in the proposal. The City does not provide payment for or reimbursement for travel expenses. The proposer may propose a per meeting charge.

5. **PROPOSAL EVALUATION** - The Zoning Board will select the most advantageous proposals based on all of the evaluation factors set forth at the end of this RFP. The Zoning Board will make the award(s) that is in the best interest of the Zoning Board.

Each proposal must satisfy the objectives and requirements detailed in this RFP. The successful proposer shall be determined by an evaluation of the total content of the proposal submitted. The Zoning Board reserves the right to:

- a. Not select any of the proposals;
- b. Select only portions of a particular proposer's proposal for further consideration; (However, proposers may specify portions of the proposal that they consider "bundled".)

Evaluations are based on evaluation criteria listed in this proposal and a weighting system established for this criteria. The Evaluation Committee's decision is final.

The Zoning Board may require proposers to demonstrate any services described in their proposal prior to award.

6. **PROPOSAL LIMITATIONS** - This RFP is not intended to be an offer, order or contract and should not be regarded as such, nor shall any obligation or liability be imposed on the Zoning Board by issuance of this RFP. The Zoning Board reserves the right at the Zoning Board's sole discretion to refuse any proposal submitted.

7. **USE OF INFORMATION** - Any specifications, drawings, sketches, models, samples, data, computer programs, documentation, technical or business information and the like ("Information") furnished or disclosed by the Zoning Board or City of Elizabeth to the proposer in connection with this RFP shall remain the property of the Zoning Board or City of Elizabeth. When in tangible form, all copies of such information shall be returned to the Zoning Board or City of Elizabeth upon request. Unless such information was previously known to the proposer, free of any obligation to keep it confidential, or has been or is subsequently made public by the Zoning Board or a third party, it shall be held in confidence by the proposer, shall be used only for the purposes of this RFP, and may not be used for other purposes except upon such terms and conditions as may be mutually agreed upon in writing.

8. **GENERAL TERMS AND CONDITIONS -**

- A. The City Council reserves the right to reject any or all proposals, if necessary, or to waive any informalities in the proposals, and, unless otherwise specified by the proposer, to accept any item, items or services in the proposals should it be deemed in the best interest of the Zoning Board to do so.
- B. The proposer shall maintain sufficient insurance to protect against all claims under Workmen's Compensation, General, Professional and Automobile Liability.
- C. Each proposal must be signed by the person authorized to do so.
- D. The contract shall be in effect from January 1, 2023 through December 31, 2023, unless otherwise stated.
- E. Proposals may be hand delivered or mailed consistent with the provisions of the legal notice to proposers. In the case of mailed proposals, the Zoning Board assumes no responsibility for proposals received after the designated date and time and will return late proposals unopened. Proposals will not be accepted by facsimile or e-mail.
- F. In accordance with Affirmative Action Law, P.L. 1975, c.127 (N.J.A.C. 17:27) with implementation of July 10, 1978, successful proposers must agree to submit individual employer certifications and number or complete Affirmative Action employee information report (form AA-302). Also, during the performance of this contract, the contractor agrees as follows: (a) the contractor or subcontractor where applicable, will not discriminate against any employee because of age, race, creed, color, national origin, ancestry, marital status or affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex or handicap. Such action 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 section for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by the Public Agency Compliance Officer setting forth provisions

of this non-discrimination clause: (b) the contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex or handicap; (c) the contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or worker's representative of the contractor's commitments under this act and shall post copies of the notice; (d) the contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the treasurer pursuant to the P.L. 1975, c.127, as amended and supplemented from time to time.

- G.** By submission of the proposal, the proposer certifies that the service to be furnished will not infringe upon any valid patent, trademark or copyright and the successful proposer shall, at its expense, defend any and all actions or suits charging such infringement, and will save the Planning Board harmless in any case of any such infringement.
- H.** No proposer shall influence, or attempt to influence, or cause to be influenced, any Planning Board member, City officer or employee to use his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- I.** No proposer shall cause or influence, or attempt to cause or influence, any Planning Board member, City officer or employee to use his/her official capacity to secure unwarranted privileges or advantages for the proposer or any other person.
- J.** Should any difference arise between the contracting parties as to the meaning or intent of these instructions or specifications, the City Council's decision shall be final and conclusive.
- K.** The Planning Board shall not be responsible for any expenditure of monies or other expenses incurred by the proposer in making its proposal.

- L. The checklist presented at the end of this Request for Proposals is a part of this Request for Proposals and shall be completed and submitted as part of this proposal.

END OF GENERAL INSTRUCTIONS

BASIS OF AWARD

(To be completed by the Zoning Board)

EVALUATION FACTORS

- A.** Relevance and Extent of Qualifications, Experience, Reputation and Training of Personnel to be assigned

- B.** Knowledge of the Planning Board of the City of Elizabeth and the subject matter to be addressed under this engagement

- C.** Relevance and Extent of Similar Engagements performed

- D.** Technical Proposal contains all required information

- E.** Reasonableness of Cost Proposal

- F.** Any other consideration(s) and/or qualification(s) which, upon determination by the Zoning, is/are beneficial to the Zoning Board of the City of Elizabeth.

REQUEST FOR PROPOSALS CHECKLIST

DOCUMENTS THAT WILL BE REQUIRED PRIOR TO A CONTRACT EXECUTION:

- A. An original and two (2) signed copies of your complete proposal
_____ (to be submitted with RFP)
- B. Non-Collusion Affidavit properly notarized

- C. Owners Disclosure Statement, properly notarized, listing the names of all persons owning ten (10) percent or more of the proposing entity. _____
- D. Authorized signatures on all forms.

- E. Business Registration Certificate(s)

- F. Partnership Disclosure Statement or Business Entity Disclosure Statement (if applicable)

- G. Affirmative Action Statement

Note: N.J.S.A 52:32-44 provides that the City shall not enter into a contract for goods or services unless the other party to the contract provides a copy of its business registration certificate and the business registration certificate of any subcontractors at the time that it submits its proposal. The contracting party must also collect the state use tax where applicable.

**THE UNDERSIGNED HEREBY ACKNOWLEDGES AND WILL SUBMIT
THE ABOVE LISTED REQUIREMENTS PRIOR TO EXECUTION OF CONTRACT.**

NAME OF PROPOSER:

Person, Firm or Corporation
Date

BY: (PRINT NAME)
(TITLE)

BY: (SIGNATURE)
(TITLE)

EXHIBIT A
N.J.S.A. 10:5-31 and N.J.A.C. 17:27

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY
LANGUAGE**
**Goods, Professional Services and General Service
Contracts (Mandatory Affirmative Action Language)**

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action 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 apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable City employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable City employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies,

placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

NON-COLLUSION AFFIDAVIT

STATE OF NEW JERSEY
COUNTY OF UNION
CITY OF ELIZABETH
ZONING BOARD

SS:

I AM _____

OF THE FIRM OF _____

UPON MY OATH, I DEPOSE AND SAY:

1. THAT I EXECUTED THE SAID PROPOSAL WITH FULL AUTHORITY SO TO DO;
2. THAT THIS PROPOSER HAS NOT, DIRECTLY OR INDIRECTLY ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FAIR AND OPEN COMPETITION IN CONNECTION WITH THIS ENGAGEMENT;
3. THAT ALL STATEMENTS CONTAINED IN SAID PROPOSAL AND IN THIS AFFIDAVIT ARE TRUE AND CORRECT, AND MADE WITH FULL KNOWLEDGE THAT THE PLANNING BOARD OF THE CITY OF ELIZABETH RELIES UPON THE TRUTH OF THE STATEMENTS CONTAINED IN SAID PROPOSAL AND IN THE STATEMENTS CONTAINED IN THIS AFFIDAVIT IN AWARDING THE CONTRACT FOR THE SAID ENGAGEMENT; AND
4. THAT NO PERSON OR SELLING AGENCY HAS BEEN EMPLOYED TO SOLICIT OR SECURE THIS ENGAGEMENT AGREEMENT OR UNDERSTANDING FOR A COMMISSION, PERCENTAGE, BROKERAGE OR CONTINGENT FEE, EXCEPT BONA FIDE EMPLOYEES OR BONA FIDE ESTABLISHED COMMERCIAL SELLING AGENCIES OF THE PROPOSER. (N.J.S.A.52: 34-25)

SUBSCRIBED AND SWORN TO

BEFORE ME THIS _____ DAY

OF _____ 20_____.

(TYPE OR PRINT NAME OF
AFFIANT UNDER SIGNATURE)

NOTARY PUBLIC OF

MY COMMISSION EXPIRES: _____, 20_____.

OWNER DISCLOSURE INFORMATION

Set forth below are the names and addresses of all owners of 10% or more of the proposing business entity.

Name: _____
Name: _____

Address: _____
Address: _____

Name: _____
Name: _____

Address: _____
Address: _____

Name: _____
Name: _____

Address: _____
Address: _____

Name: _____
Name: _____

Address: _____
Address: _____

NAME OF BUSINESS ENTITY

SIGNATURE
TITLE

Notary Public of
My Commission Expires: _____, 20____.

BUSINESS ENTITY DISCLOSURE STATEMENT

(To be submitted with proposal)

- (a) Is or was anyone in your firm or company a member of the Zoning Board of the City of Elizabeth or City Council of the City of Elizabeth within the last calendar year or a member of his/her immediate family? If yes, then provide the name of the individual below and his/her relationship.

Yes _____ No _____

Name Position Relationship

- (b) Has any principal/partner of your firm been convicted of a indictable offense? If yes, then please provide further explanation and copies of any relative documents.

Yes _____ No _____

Name Date

- (c) Has any individual who would provide service under this contract ever been sanctioned by the appropriate licensing board?

Yes _____ No _____

Name Position Term
Reason for censure:

- (d) Has the firm been found liable for professional malpractice in the last 5 years?

Yes _____ No _____

Reason for Action:

- (e) Has any member of your firm ever been barred from doing business with any state, county or municipal government? If yes, then please provide further written explanation including date and copies of relevant documentation.

Yes _____ No _____

Name State, County or Municipality Date
Government

(f) Has your firm sued the Planning Board or the City of Elizabeth in the past five (5) years? If yes, then please identify the matter/case and provide further written explanation including date and copies of relevant documents.

Yes _____

No _____

Name

Date