



BOROUGH OF ATLANTIC HIGHLANDS

REQUEST FOR PROPOSAL

BOROUGH LABOR ATTORNEY

The Borough of Atlantic Highlands, a municipal corporation with its Borough Hall at 100 First Avenue, Atlantic Highlands, New Jersey, 07716 through a fair and open process in accordance with N.J.S.A. 19:44A-20.5 is soliciting proposals from qualified attorneys for the appointment and position of Borough Labor Attorney for the calendar year 2022. The Borough will be appointing one attorney for the positions/appointment.

POSITIONS/APPOINTMENTS

The position of Borough Labor Attorney generally includes providing legal work and representation of the Borough in contract negotiations with the local PBA, MEA and MSA who contracts end in 2020. The position of Borough Labor Attorney provides for an hourly fee and the attorney shall perform the following:

- (a) Attendance at meetings as required.
- (b) Conferences with the Borough Administrator and other personnel in the Borough.
- (c) Preparation of contracts / resolution.
- (e) Preparation of routine reports regarding the status of negotiations.
- (f) Routine review of correspondence, contracts and files in relation to contract miscellaneous questions.

The position of Borough Labor Attorney shall be a one-year appointment for the calendar year 2022 or until the successor is appointed. The quotation is sought for an hourly fee, for which the above general labor legal services will be provided. The labor attorney shall be compensated at hourly rate plus out-of-pocket expenses for the litigation and specialized legal services generally outlined generally as follows.

EVALUATION

Proposals will be evaluated by the Governing Body on the basis of the most advantageous, with due consideration to the qualifications, experience and quotations submitted and the other factors and criteria. The hourly compensation proposal will be considered but will not be the controlling factor. The evaluation will generally consider the following criteria:

- (a) Experience and reputation in the general field of Municipal Labor Law, and in the representation of public entities, municipalities, and/or public employers in administrative proceedings and litigation in labor law relevant to municipal government. As a minimum qualification, the attorney should have eight (8) years' experience as an attorney actively and representing municipalities or public entities in the State of New Jersey, in the labor law area

including representing municipalities of comparable size as Atlantic Highlands. The Borough will evaluate the attorney's experience in various areas of municipal labor law, collective bargaining, litigation experience representing public entities/municipalities, including but not limited to labor, administrative proceedings, administrative law concerns, PERC, grievance proceedings, arbitration, labor litigation and other state administrative agencies involved in municipal matters.

(b) Knowledge of the Borough legal matters and the collective bargaining agreements currently in place.

(c) Availability to accommodate the labor legal needs of the Borough. As reasonable accessibility is relevant consideration, the attorney should have an office within reasonable distance to the Borough. The position requires regular contact with Borough officials. The responding attorney should provide details as to its office being staffed and responsive, and reasonably accessible to the Borough, with sufficient support staff to adequately provide services.

(d) Compensation proposal. As noted, the responding attorney should provide a proposal providing a per hour fee quotation for all legal services.

(e) Ethics Issues. As integrity and ethics are considerations, the responding attorney must certify that the attorney has never been reprimanded, censured, or suspended by the Supreme Court for ethics infractions. An attorney who has been reprimanded, censured, or suspended is disqualified.

(f) Confidential Position. As the position of attorney is a confidential position, the Borough Governing Body to the extent permitted by law may consider such factors as potential conflicts arising with the attorney/law firm and/or clients that are represented by the attorney/law firm.

(g) Other factors in the best interest of the Borough of Atlantic Highlands.

PROPOSALS

Proposals must be in writing and should include the following:

(a) The name of the attorney seeking the position and the law firm the attorney is affiliated. The resume and/or a detailed summary of the attorney's experience and qualifications relevant to the positions, including a detailed statement of the attorney current and past professional experience, appointment/positions, important or relevant cases and case citations, and work relative to the positions and the periods during which such positions or cases were performed.

(b) A description of the location and facilities that the attorney will be available at and providing services from, and the staff regularly at that office/facility.

(c) The names of other attorneys in the attorney's law firm.

(d) A statement certifying that the responding attorney has never been reprimanded, censured, or suspended for ethics violations.

(e) Compensation proposal: being an hourly rate quotation for labor legal services.

(f) Statement setting forth Malpractice Coverage.

(g) A copy of the attorney's business registration certificate and certificate of employee information report issued by the State.

PROPOSAL SUBMISSION

The Proposal (1 in print hard copy original and an electronic transmission to rfarragina@ahnj.com AND clerk@ahnj.com) must be received by the Atlantic Highlands Borough Clerk's office, 100 First Avenue, Atlantic Highlands, New Jersey 07716, in a sealed envelope marked "Borough Attorney" on or before Tuesday, January 7, 2022 at 11:00 a.m. Proposals submitted by facsimile or without a hard copy original will not be accepted. Late proposals will be rejected. Proposals will be publicly opened in the Court Room at Atlantic Highlands Borough Hall on Tuesday, January 7, 2022 at 11:00 a.m.

After receipt, the Borough of Atlantic Highlands will review and evaluate the proposals and qualifications. In the absence of unusual circumstances, the Borough Council anticipates adopting a resolution appointing the Municipal Labor Attorney on January 13, 2022 at its Regular Meeting.

The Borough reserves the right to reject any and all proposals and waive any informality or non-conformity in any submission to the extent that it is lawful and in the best interest of the Borough. To the extent permitted by law, the Borough reserves the right to negotiate with qualified attorneys after the submission of proposals.

TRUTH IN CONTRACTING

Each vendor should be aware of the following statutes that represent "truth in contracting" laws:

- N.J.S.A. 2C:21-34, et seq. governs false claims and representations by vendors. It is a serious crime for the vendor to knowingly submit a false claim and/or knowingly make material misrepresentations.
- N.J.S.A. 2V:27-10 provides that a person commits a crime if said person offers a benefit to a public servant which is a violation of official duty.
- N.J.S.A. 2C:27-11 provides that a vendor commits a crime if said person directly or indirectly confers or agrees to confer any benefit not allowed by law to a public servant
- Vendor should consult statutes or independent legal counsel for further information

INTERPRETATION AND ADDENDA

The Vendor understands and agrees that its proposal is submitted on the basis of the RFP's prepared by the Borough of Atlantic Highlands. The Vendor accepts the obligation to become familiar with the Scope of Services.

No oral interpretation and / or clarification of the meaning of the Scope of Services will be made to any Vendor. Such request shall be in writing, addressed to the Borough Administrator, Borough of Atlantic Highlands, 100 First Avenue, Atlantic Highlands, NJ 07716.

In order to be given consideration, a written request must be received at least seven (7) business days prior to the date fixed for the opening of the proposal for goods and services.

All interpretations, clarifications and any supplemental instructions will be in the form of written addenda to the RFP's and will be distributed to all prospective vendors via the Borough of Atlantic Highlands's website (www.ahnj.com). All addenda so issued shall become part of the RFP and proposal documents and shall be acknowledged by the Vendor in the proposal. The Borough of Atlantic Highlands interpretations or corrections thereof shall be final.

When issuing addenda, the Borough of Atlantic Highlands shall provide required notice prior to the official receipt of proposals to any person who has submitted a proposal or who has received a proposal package pursuant to N.J.S.A. 40A:11-23c.1.

INSURANCE AND INDEMNIFICATION

The Vendor shall be required to have the following insurance coverage. Said coverage shall be applicable to this proposal and be made a part of the proposal documents:

INSURANCE REQUIREMENTS

X Worker's Compensation Insurance

Workers Compensation insurance shall be maintained in full force during the life of the contract, covering all employees engaged in performance of the contract pursuant to N.J.S.A. 34:15-12(a) and N.J.A.C. 12:235-1.6.

X General Liability Insurance

The Vendor shall furnish evidence to the Borough of Atlantic Highlands prior to the work he/she or any of his/her subcontractors perform and will provide Standard Vendor's Liability for any operations to be performed by vendor or subcontractors as follows:

General liability insurance shall be provided with limits of not less than \$1,000,000 for any occurrence and \$1,000,000 aggregate for bodily injury and property damage, coverage shall be maintained in full force during the life of the contract.

X Professional Liability Insurance

Professional liability insurance covering Vendor for claims arising from its representation of the municipality with limits of not less than \$1,000,000 for any one occurrence, which shall be claim based, and coverage shall be maintained in full force during the life of the contract.

CERTIFICATES OF THE REQUIRED INSURANCE

Certificates of Insurance for those policies required shall be with an insurance company authorized to do business in the State of New Jersey and shall name the Borough of Atlantic Highlands as an additional insured.

Self-insured Vendors shall submit an affidavit attesting to their self-insured coverage and shall name the Borough of Atlantic Highlands as an additional insured.

STATUTORY AND OTHER REQUIREMENTS

MANDATORY AFFIRMATIVE ACTION CERTIFICATION

No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A.10:5-31 et seq. and N.J.A.C. 17:27-1 et seq. The following information summarizes the full, required regulatory text, which is included as Appendix A of this proposal Scope of Services.

- Goods and Services (including professional services) Contracts

AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Vendors are required to read Americans with Disabilities language that is included as Appendix B of this Scope of Services and agree that the provisions of Title II of the Act are made a part of the contract. The Vendor is obligated to comply with the Act and to hold the Borough of Atlantic Highlands harmless.

STOCKHOLDER DISCLOSURE

N.J.S.A. 52:25-24.2 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any goods and services, unless, prior to the receipt of the proposal or accompanying the proposal of said corporation or partnership, Vendors shall submit a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock of any class, or of all individual partners in the partnership who own a ten percent or greater interest therein. The included Statement of Ownership (P-2) shall be completed and attached to the proposal. This requirement applies to all forms of corporations and partnerships, including, but not limited to, limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. Failure to submit a stockholder disclosure document shall result in rejection of the proposal.

PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires that each Vendor (Vendor) submit proof of business registration with the proposal. Proof of registration shall be a copy of the Vendor's Business Registration Certificate (BRC). A BRC is obtained from the New Jersey Division of Revenue. Information on obtaining a BRC is available on the internet at www.nj.gov/njbgs or by phone at (609) 292-1730. N.J.S.A. 52:32-44 imposes the following requirements on Vendors and all subcontractors that **knowingly** provide goods or perform services for a Vendor fulfilling this contract:

Failure to submit proof of registration within three (3) days of award for this proposal requires mandatory rejection of a proposal as a non-waivable defect.

PAY TO PLAY

Starting in January 2007, business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

Businesses are further required to comply with all local ordinances regarding contribution limits for publicly contracted entities. Business entities are obligated to become familiar with their obligations under the local ordinances prior to submitting proposals for public contracts to the Borough of Atlantic Highlands.

MACBRIDE PRINCIPLES

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

TERMINATION OF CONTRACT

If, through any cause, the Vendor shall fail to fulfill in a timely and proper manner obligations under the contract or if the Vendor shall violate any of the requirements of the contract, the

Borough of Atlantic Highlands shall there upon have the right to terminate the contract by giving written notice to the Vendor of such termination and specifying the effective date of termination. Such termination shall relieve the Borough of Atlantic Highlands of any obligation for balances to the Vendor of any sum or sums set forth in the contract. The Borough of Atlantic Highlands will pay only for goods and services accepted prior to termination.

Notwithstanding the above, the vendor shall not be relieved of liability to the Borough of Atlantic Highlands for damages sustained by the Borough of Atlantic Highlands by virtue of any breach of the contract by the Vendor and the Borough of Atlantic Highlands may withhold any payments to the Vendor for the purpose of compensation until such time as the exact amount of the damage due the Borough of Atlantic Highlands from the Vendor is determined.

The Vendor agrees to indemnify and hold the Borough of Atlantic Highlands harmless from any liability to Subcontractors/suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the Borough of Atlantic Highlands under this provision.

In case of default by the Vendor, the Borough of Atlantic Highlands may procure the services from other sources and hold the Vendor responsible for any excess cost.

Continuation of the terms of the contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Borough of Atlantic Highlands reserves the right to cancel the contract.

ACQUISITION, MERGER, SALE AND/OR TRANSFER OF BUSINESS, ETC.

It is understood by all parties that if, during the life of the contract, the Vendor disposes of his/her business concern by acquisition, merger, sale and or/transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new owner(s) will be required to submit all documentation/legal instruments that were required in the original proposal/contract. Any change must be approved by the Borough of Atlantic Highlands.

The Vendor will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of the Borough of Atlantic Highlands.

The Borough of Atlantic Highlands may terminate the contract for convenience by providing 30 calendar days advance written notice to the Vendor.

If the successful Vendor and/or any of its employees and/or agents are required to be

licensed and/or registered in order to perform the services which are the subject of this or any agreement thereof, then the agreement shall be terminated in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the vendor's license and/or registration suspended or revoked, or in the event that such entity has revoked or suspended said license or denied such registration. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

Any questions regarding this proposal/process should be submitted in writing to Robert Ferragina, Borough Administrator, 100 First Avenue, Atlantic Highlands, NJ 732-291-1444 x 3101.

ROBERT FERRAGINA
Borough Administrator