

**THE CITY OF ELMA  
ELMA, WASHINGTON**

**REQUEST FOR QUALIFICATIONS AND QUOTATIONS**

**PROJECT TITLE: City Attorney**

**PROPOSAL DUE DATE: 8/6/2020**

**EXPECTED TIME PERIOD FOR CONTRACT: 1/1/2021 through 12/31/2021**

**PROPOSER ELIGIBILITY: *This procurement is open to those Proposers that satisfy the minimum qualifications stated herein and that are available for work in Washington State.***

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# 1 INTRODUCTION

## 1.1 BACKGROUND AND PURPOSE

The City of Elma is a community with just over 3,000 people. The City was incorporated on March 22, 1888, and it lies within the Chehalis River Valley in Eastern Grays Harbor County, about 30 miles West of Olympia and 40 miles East of the Pacific coast.

The City operates under the laws applicable to a code city as per the provisions of RCW Title 35A (the Optional Municipal Code) with a five-member Council and an elected Mayor form of government. The City has six central departments (Financial Management, Police, Fire, Municipal Court, Community Development, Public Works/Utilities). The Mayor has the general management duties in relation to the Departments. Each department consults directly with the City Attorney for advice and counsel.

The Mayor manages the legal services for the City. Individual departments or Council members may initiate or request the provision of services, although the Mayor retains the core responsibility for legal functions, coordination of these services, and the legal budget.

The City currently utilizes the services of a professional Hearing Examiner for certain land-use matters. It is anticipated the City Attorney may be required to participate in matters heard by the Examiner.

For information about the City of Elma, visit <https://www.cityofelma.com/>.

The purpose of this procurement is to recruit qualified individuals and/or firm with significant experience in the city and government operations to perform a full range of municipal legal services for or on behalf of The City of Elma.

## 1.2 OBJECTIVE

The objective of this procurement is to contract with qualified individuals and/or firms to provide a full range of municipal legal services serving as The City's legal counsel on an on-call contractual basis.

The City may award one or more contracts as a result of this RFQQ.

## 1.3 SCOPE OF WORK

The City seeks services encompassing the traditional scope of work including legal counsel, opinions, consultation, and coordination with special counsel. These services include, but are not limited to the following:

- Provide on call legal advice, counsel, services, training, consultation, and opinions to the Mayor, City Council, Boards and commissions, and all levels of the City government, on a wide variety of civil assignments, including but not limited to land use planning, laws against discrimination, construction of public works, purchasing and procurement, leasing, purchase and sale of property, employment legal matters to the extent such matters are not handled by special counsel, public disclosure issues, and tort law. The City Attorney's advice includes methods to avoid civil litigation.

- Furnish legal representation at City Council meetings and at other meetings when requested.
- Appear before courts and administrative agencies to represent the City's interests.
- Prepare and review ordinances and resolutions, contracts and other documents for legal correctness and acceptability.
- Coordinate with special counsel, as needed, to assure proper management of legal issues and proper coordination and transition of legal issues among special counsel.
- Assist City officials and employees to maintain awareness of ethical standards and appearance of fairness standards, and to avoid potential conflicts of interest, prohibited transactions and the appearance of prohibited transactions.
- Assist officials and employees to understand the legal roles and duties of their respective offices and interrelationships with others.
- Provide the Mayor and Council with guidance as to Robert's Rules of Order and related procedural matters relating to Council meetings.
- Prepare legal opinions at the request of the Mayor or the Council.
- Provide the Mayor, Council, and administration a legal perspective and advice on various governmental issues.
- Perform other legal services and tasks requested by the Mayor, City Administrator, or Council.
- Provide prosecution services for all matters filed in the Municipal Court and any appeals from a matter heard in that court.

#### **1.4 TIME COMMITMENT AND ACCESSABILITY**

Attendance at a variety of meetings will be required, including staff meetings and Council meetings as specified:

- It is anticipated the appointed City Attorney will attend City Council business meetings. These are scheduled for the first and third Mondays of each month, from 6:00 p.m. until close, which could typically be 7:30 p.m.
- The City Attorney may also be requested to attend some City Council Work Sessions, as well as meetings of the Civil Service Commission or other bodies. Attendance may be for a portion of or for the entire meeting.
- The City Attorney is a member of the risk management team and will work with the City's Clerk-treasurer and Mayor in coordinating services with the City insurance provider.
- The City Attorney must be available by phone, cell phone, fax, and e-mail.
- Timeliness of response and accessibility to the City Attorney is an important aspect of the service. Accessibility and responsiveness for the proposed designated City Attorney is of importance, although these elements will also be considered in relation to assistant attorney(s) as well.

Accessibility includes the ability to be generally available to attend meetings in person on short notice and the ability to be reached promptly by telephone. The City does not offer space for offices in a City location.

## 1.5 MINIMUM QUALIFICATIONS

The Proposer must possess the following minimum qualifications:

- Juris doctorate from a law school accredited by the American Bar Association;
- Be a member in good standing with the Washington State Bar Association;
- Licensed to do business in the state of Washington;
- Comprehensive knowledge of city operations with governance under RCW Title 35A as demonstrated by employment experience; and
- Excellent writing, communication, and presentation skills

The proposal must convey to members of the evaluation team the Proposer's knowledge, skills, and experience in the outlined areas.

Proposers who do not meet the minimum qualifications will be rejected as non-responsive and will not receive further consideration. Any proposal that is rejected as non-responsive will not be evaluated or scored.

## 1.6 DESIRABLE QUALIFICATIONS

An ideal Proposer will also possess the following preferred qualifications:

- A minimum of three years experience in the field of municipal law with particular experience in the following areas:
  - Governance under the provisions of Title 35A.
  - Litigation
  - Prosecution or defense of criminal charges
  - Land Use

## 1.7 PERIOD OF PERFORMANCE

The period of performance of any contract(s) resulting from this RFQQ are tentatively scheduled to begin on or about January 1, 2021 and to end on December 31, 2021. The contract will have automatic renewal unless either party gives the other party written notice of a desire to terminate at least ninety (90) days prior to the end of the year.

Due to the nature of the relationship, the City will retain the right to terminate the contract without cause or explanation at any time during its term by providing written notice of termination at least sixty (60) days prior to the date of termination if other than the end of the annual term.

## 1.8 DEFINITIONS

Definitions for the purposes of this RFQQ include:

**Proposer.** Individual, company, or firm submitting a proposal in order to attain a contract with the City of Elma.

**Contractor.** Individual or company whose proposal has been accepted by the City of Elma and is awarded a fully executed, written contract.

**Proposal.** A formal offer submitted in response to this solicitation.

**Request for Qualifications (RFQQ).** Formal procurement document in which services needed are identified and individuals, companies and firms are invited to provide their qualifications to provide the services and their hourly rates.

**City.** The City of Elma is the agency of the state of Washington that is issuing this RFQQ.

**1.9 ADA**

The City complies with the Americans with Disabilities Act (ADA). Proposers may contact the RFQQ Coordinator to receive reasonable accommodations to have an equal opportunity to respond to this RFQQ.

**2 GENERAL INFORMATION FOR PROPOSERS**

**2.1 RFQQ COORDINATOR**

The RFQQ Coordinator is the sole point of contact at the CITY for this procurement. All communication between the Proposer and the City upon receipt of this RFQQ shall be with the RFQQ Coordinator, as follows:

Name	Diana Easton, The City Clerk/Treasurer
Mailing Address	P.O. Box 3005, Elma, WA 98541
Street Address	202 W. Main St., Elma, WA 98541
Phone Number	360-482-2212
E-Mail Address	<a href="mailto:diana@cityofelma.com">diana@cityofelma.com</a>

Any other communication will be considered unofficial and non-binding on The City. Proposers are to rely on written statements issued by the RFQQ Coordinator. Communication directed to parties other than the RFQQ Coordinator regarding this procurement may result in disqualification of the Proposer.

**2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES**

Issue Request for Qualifications and Quotations	7/3/2020
Preproposal Conference (if applicable)	N/A
Question & answer period	From 7/5/2020 To 7/17/2020
Issue addendum to RFQQ (if applicable)	7/22/2020
Proposals due	8/6/2020
Evaluate proposals	From 8/10/2020 To 8/21/2018
Conduct oral interviews with finalists, if necessary and/or required	From: 8/24/2020 To: 9/4/2020
Announce “Apparent Successful Contractor(s)” and send notification via fax or e-mail to unsuccessful proposers	9/10/2020

Hold debriefing conferences (if requested)	From 9/14/2020 To 9/16/2020
Negotiate contract	From 9/14/2020 To 9/30/2020
Begin contract work	1/1/2021

The City reserves the right to revise the above schedule.

**2.3 SUBMISSION OF PROPOSALS**

Proposers may submit one copy of their proposal electronically or two copies for hard copy proposals. Proposals may be mailed, faxed, emailed to RFQQ Coordinator, or hand-delivered to the City of Elma’s Office of the Clerk-treasurer.

Proposers should allow normal mail delivery time to ensure timely receipt of their proposals by the RFQQ Coordinator. Proposers assume the risk for the method of delivery chosen. The City assumes no responsibility for delays caused by any delivery service.

All proposals and any accompanying documentation become the property of the City and will not be returned.

**2.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE**

Proposals submitted in response to this competitive procurement shall become the property of the City. All proposals received shall remain confidential until the Mayor of the City, or Designee and the apparent successful Contractor sign a contract, if any, resulting from this RFQQ. Thereafter, the proposals shall be deemed public records as defined in Chapter 42.56 of the Revised Code of Washington (RCW).

The Proposer must clearly designate any information in the proposal that the Proposer desires to claim as proprietary and exempt from disclosure under the provisions of Chapter 42.56 RCW, or other state or federal law that provides for the nondisclosure of your document. The Proposer must clearly identify and cite the particular exemption from disclosure the Proposer is claiming. Each page containing the information claimed to be exempt from disclosure must be clearly identified by the words “Proprietary Information” printed on the lower right-hand corner of the page. the City will not honor the Proposer’s marking the entire proposal exempt from disclosure or as Proprietary Information.

If a public records request is made for the information that the Proposer has marked as "Proprietary Information", the City will notify the Proposer of the request and of the date that the records will be released to the requester unless the Proposer obtains a court order enjoining that disclosure. If the Proposer fails to obtain the court order enjoining disclosure, the City will release the requested information on the date specified. If a Proposer obtains a court order from a court of competent jurisdiction enjoining disclosure pursuant to Chapter 42.56 RCW, or other state or federal law that provides for nondisclosure, the City shall maintain the confidentiality of the Proposer's information per the court order.

The City will charge for copying and shipping, as outlined in RCW 42.56, but will not charge a fee for inspection of contract files. Inspection of contract files requires twenty-four (24) hours' notice to the RFQQ Coordinator. All requests for information should be directed to the RFQQ Coordinator.

## **2.5 REVISIONS TO THE RFQQ**

In the event it becomes necessary to revise any part of this RFQQ, addenda will be provided to all who receive the RFQQ.

the City also reserves the right to cancel or to reissue the RFQQ in whole or in part, prior to execution of a contract.

## **2.6 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION**

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of OMWBE participation shall be required as a condition for receiving an award and proposals will not be rejected or considered non-responsive on that basis.

## **2.7 ACCEPTANCE PERIOD**

Proposals must provide 60 days for acceptance by the City from the due date for receipt of proposals.

## **2.8 RESPONSIVENESS**

The RFQQ Coordinator will review all proposals to determine compliance with administrative requirements and instructions specified in this RFQQ. The Proposer is specifically notified that failure to comply with any part of the RFQQ may result in rejection of the proposal as non-responsive.

The City reserves the right to reject any or all proposals or waive technicalities or irregularities, and to accept any proposal if such action is believed to be in the best interest of the City. The City also reserves the right, however, at its sole discretion to waive minor administrative irregularities.

## **2.9 MOST FAVORABLE TERMS**

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Proposer can propose. The City reserves the right to contact a Proposer for clarification of its proposal.

The Proposer should be prepared to accept this RFQQ for incorporation into a contract resulting from this RFQQ. Contract negotiations may incorporate some or the Proposer's entire proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to the City.

Because the City proposes a flat fee structure, the most favorable terms will be determined by qualifications of the Proposer.

## **2.10 SAMPLE CONTRACT**

The apparent successful contractor will be expected to enter into a contract, which is substantially the same as the sample contract attached as Exhibit B and incorporated by reference in the sample contract. In no event is a Proposer to submit its own standard contract terms and conditions in response to this solicitation. The Proposer may submit exceptions as allowed in the Certifications and Assurances section, Exhibit A to this solicitation. The City will review requested exceptions and accept or reject the same at its sole discretion.

## **2.11 COSTS TO PROPOSE**

The City will not be liable for any costs incurred by the Proposer in preparation of a proposal submitted in response to this RFQQ, in conduct of a presentation, or any other activities related to responding to this RFQQ.

## **2.12 NO OBLIGATION TO CONTRACT**

This RFQQ does not obligate the City to contract for services specified herein.

## **2.13 REJECTION OF PROPOSALS**

The City reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFQQ.

## **2.14 COMMITMENT OF FUNDS**

Any contracts resulting from this RFQQ are subject to the availability of funds. The Mayor of the City or the Mayor's designee are the only individuals who may legally commit the City to the expenditures of funds. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

## **2.15 REGISTRATION, LICENSING, AND INSURANCE**

Registration, licensing, and insurance coverage shall be as required by State of Washington Laws, as applicable to the professional services being provided.

### **3 PROPOSAL CONTENTS**

Proposals should be prepared simply, providing a straightforward, concise description of provider capabilities to satisfy the requirements of the request. Emphasis should be on completeness and clarity of content. Items such as special bindings, color displays, glossy finishes, photographs, and promotional materials are not desired.

Proposals may be submitted electronically or on eight and one-half by eleven-inch (8 ½" x 11") paper with clear separation between the major sections of the proposal. The Proposer will submit the proposal with the three major sections ordered as follows:

1. Letter of Submittal, including business information and signed Certifications and Assurances (Exhibit A to this RFQQ)
2. Qualifications and
3. Quotation

Proposals must provide information in the same order as presented in this document with the same headings. This will help the evaluators of the proposal and should assist the Proposer in preparing a thorough response.

Items in this section marked "mandatory" must be included as part of the proposal for the proposal to be considered responsive, however, these items are not scored. Items marked "scored" are those that are awarded points as part of the evaluation conducted by the evaluation team.

Proposers are strongly encouraged, but not required, to provide writing samples or their written communications. The proposal as a whole will be used to evaluate writing and communications skills.

#### **3.1 LETTER OF SUBMITTAL (MANDATORY)**

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit A to this RFQQ) must be signed and dated by a person legally authorized to bind the Proposer to a contractual relationship, e.g., the president or executive director of a corporation, the managing partner of a partnership, or the proprietor of a sole proprietorship. Attach the Certifications and Assurances form to the Letter of Submittal.

#### **3.2 BUSINESS INFORMATION (MANDATORY)**

- A. State the name of the company, address, phone number, fax number (if applicable), e-mail address, legal status of entity (ownership) and year entity was established as it now substantially exists.
- B. Provide the firm's Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue.
- C. Indicate how many employees are with the firm. Name the firm principles and their roles.

- D. If the Proposer has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Proposer's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer or (b) litigated and such litigation determined that the Proposer was in default.
- E. Submit full details of the terms for default, including the other party's name, address, and phone number. Present the Proposer's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Proposer in the past five years, so indicate.

### **3.3 QUALIFICATIONS SECTION (MANDATORY)**

The qualifications section of the proposal must contain information that will demonstrate to the evaluation committee the Proposer's understanding of the types of services proposed, the Proposer's ability to accomplish them, and the ability to meet reasonable timeframes.

#### **3.3.1 EXPERIENCE (SCORED)**

- A. Provide a narrative description of the firm. This is to include a summary of the general experience of the firm with an emphasis on municipal law experience. Identify other municipal clients, provide examples of experience with municipal issues including land use, zoning, environmental law, ordinance and resolution analysis and preparation, preparation of agreements including inter-local agreements, public works, personnel, labor relations, and other municipal specialties.
- B. Provide no less than three references for the lead City Attorney. The City prefers references that include municipal government experience. Inclusion of the reference in your proposal constitutes an agreement that the City may contact the named reference. The City may contact any companies or individuals, whether offered as references or otherwise, to obtain information that will assist the City in evaluating the qualifications of the individuals who may be involved in the provision of services. The City retains the right to use such information as part of its selection process. Submittal of a proposal is agreement that the City may contact and utilize such information.

#### **3.3.2 STAFFING (SCORED)**

- A. Designate the lead contact for this project and provide the name and a resume of that person. Provide names and resumes for other staff who will work on this project. Include pertinent information on the individuals' particular skills, education, experience, and significant accomplishments. Each attorney submitting a proposal or associated with a firm submitting a proposal must possess a Juris Doctorate degree, have graduated from a law school accredited by the American Bar Association and a member in good standing of the Washington State Bar Association.
- B. List any sub-Proposers you may want to include to complete your roster of services. Describe what services each would provide. Provide the information in Section 3.2. about each.

### **3.3.3 OMWBE CERTIFICATION (OPTIONAL AND NOT SCORED)**

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-owned firm and/or women-owned firm(s) will be participating on this project.

## **3.4 QUOTATION (MANDATORY, SCORED)**

### **3.4.1 IDENTIFICATION OF COSTS**

The Quotations section must list all rates for services anticipated under the proposed contract. The hourly rates are to represent fully weighted costs. This includes the hourly rates of staff who would be assigned to the project, administrative costs, local travel costs, or any other applicable fees that would be charged under this contract.

The City anticipates an established monthly amount for most services, an hourly rate for prosecution services, and an hourly rate for services provided outside of the retainer.

Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Washington State Office of Minority and Women's Business Enterprises.

Proposers are required to collect and pay Washington state taxes as applicable.

The evaluation process is designed to award this procurement not necessarily to the Proposer of least cost, but rather to the Proposer whose proposal best meets the requirements of this RFQQ. Proposers are encouraged, however, to submit proposals that are consistent with the City's efforts to conserve public resources.

The City reserves the right to negotiate terms as needed to improve elements of this document or any proposal submitted to best meet the needs of the City, including cost.

## **4 EVALUATION AND CONTRACT AWARD**

### **4.1 EVALUATION PROCEDURE**

An evaluation team designated by the City will evaluate responsive proposals. The evaluation team will determine the ranking of the proposals in strict accordance with the requirements stated in this solicitation and any addenda issued. The City, at its sole discretion, may elect the top-scoring proposals as finalists for an oral presentation and interview. The combined scores will determine the apparent successful contractor.

### **4.2 CLARIFICATION OF PROPOSAL**

The RFQQ Coordinator may contact the Proposer for clarification of any portion of the Proposer's proposal.

### 4.3 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

<b>RFQQ Contents</b>	<b>Possible Points</b>	<b>Percentage of Total Points</b>
Letter of Submittal	Unscored	Mandatory
Qualifications 1. Experience & Staffing	60 points	75% of Total
2. Writing and Communication, Which Includes Writing Samples	15 Points	
Quotation	25 points	25% of Total
<b>GRAND TOTAL POSSIBLE (for top scoring firms)</b>	<b>100 points</b>	<b>100%</b>

### 4.4 ORAL PRESENTATION AND INTERVIEWS (If deemed necessary)

The City will contact the top scoring Proposers to schedule a date, time, and location for the interview and presentation. If selected for an interview, the Proposer will receive instructions on what the process will entail.

### 4.5 NOTIFICATION TO PROPOSERS

Firms whose proposals have not been selected for further negotiation or award will be notified by e-mail.

### 4.6 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Upon the Proposer's request, the City will schedule a debriefing conference with an unsuccessful Proposer. The RFQQ Coordinator must receive the debriefing request within three (3) business days after the Proposer received notification of unsuccessful selection.

The debriefing will be limited to a critique of the requesting Proposer's proposal. Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

### 4.7 PROTEST PROCEDURE

Proposers who submitted a response to this RFQQ and who participated in a debriefing conference may protest their unsuccessful selection as described in these procedures. The City will not consider protests that do not follow these procedures. This protest procedure constitutes the sole administrative remedy available to Proposers under this procurement.

A Proposer who wishes to protest must file the protest within three (3) business days of completing the debriefing conference with the RFQQ Coordinator. The Proposer may submit a protest by facsimile but should promptly provide the original document.

All protests must be in writing and signed by the protesting party or an authorized Agent. Protests must identify an issue of fact concerning:

- A matter of bias, discrimination, or conflict of interest on the part of the evaluator
- Errors in computing the score
- Non-compliance with procedures described in the procurement document or City policy
- The protest must state which of the above grounds the Proposer is contesting and include specific facts and complete statements of the action(s) protested. The protest must also include a description of the relief or corrective action requested.

The City will not reject as without merit protests that address issues such as: 1) An evaluator's professional judgment on the quality of a proposal, or 2) The City's assessment of its own and/or other agencies' needs or requirements.

Upon receipt of a protest, The City will hold a protest review. The City's Mayor or delegate who was not involved in the procurement, will consider the record, with all available facts, and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the City will notify the protesting party of the delay.

In the event a protest may affect the interest of another Proposer that submitted a proposal, the City will give such Proposer an opportunity to submit its views and any relevant information on the protest to the RFQQ Coordinator.

The final determination of the protest shall either:

- Find the protest lacking in merit and uphold the City's action;
- Find only technical or harmless errors in the City's acquisition process and determine the City to be in substantial compliance and reject the protest;
- Find merit in the protest and provide the City options, which may include:
  - Correcting the errors and re-evaluating all proposals
  - Reissuing the solicitation document and beginning a new process
  - Making other findings and determining other courses of action as appropriate

If the City determines that the protest is without merit, the City will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, the City will take one of the alternatives noted in the preceding paragraph.

### **RFQQ EXHIBITS**

Exhibit A: Certifications and Assurances

Exhibit B: Sample Personal Service Contract

**CERTIFICATIONS AND ASSURANCES**

1. I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract(s):
2. I/we declare that all answers and statements made in the proposal are true and correct.
3. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
4. The attached proposal is a firm offer for a period of 60 days following receipt, and the City may accept it without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
5. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
6. I/we understand that the City will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the City, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
7. Unless otherwise required by law, the prices and/or cost data that have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly to any other Proposer or to any competitor.
8. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
9. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
10. I/we grant the City the right to contact references and others, who may have pertinent information regarding the Proposer's prior experience and ability to perform the services contemplated in this procurement.

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Signature of Proposer

---

Title

---

Date

CONTRACT FOR LEGAL SERVICES

1. Date and Parties. This Agreement is executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020, and is to become effective as of the 1st day of January, 2021, by and between the City of Elma, herein referred to as the "City," and \_\_\_\_\_ herein referred to as the "Firm" or "Law Firm."

2. General Recitals.

A. The City desires to continue the retainer system for legal services and for matters of a routine nature which has been in place for many years in order to continue to encourage Council members, the Mayor, and department heads to utilize the services of the City Attorney as an effective means of assisting with risk management.

B. The Firm, \_\_\_\_\_, by and through its principal \_\_\_\_\_ has been appointed to serve as the City Attorney for the City.

C. The parties hereto desire to define the services to be provided and the costs associated therewith.

3. Term.

A. The initial term of this Agreement shall be from \_\_\_\_\_ until \_\_\_\_\_ unless sooner terminated by either party as provided for in the following paragraphs. After the initial term, the Agreement shall be automatically extended for additional one-year terms subject to termination as set forth below.

B.B. Termination:

1. Either party may give the other party written notice of the intent to terminate the contract during the initial one-year term or annual extension thereof so long as such notice is given no less than ninety (90) days prior to the end of the then existing term.

2. Earlier termination:

A. The Firm: The firm shall have the right to give notice during the annual term of its desire to terminate the contract prior to that annual renewal date. Such notice shall be given in writing to the Mayor with a copy to the Clerk-treasurer no less than ninety (90) calendar days prior to the desired date of termination of the contract.

B. The City: In recognition of the special nature of the relationship of the City Attorney to the City, the City shall

have the right to terminate this Agreement or any extension by the giving of written notice to the Firm no less than thirty (30) calendar days prior to the desired date of termination.

3. Compensation: Upon either party exercising its right to termination under sub-paragraph B, the Firm shall be entitled to receive compensation for the services rendered prior to the date of termination so long as it provides the services required of it during the period following notice of termination: PROVIDED THAT, no services not included within the retainer shall be provided without the prior approval of the Mayor.

4. Cooperation: Upon giving of notice of termination, the Firm shall cooperate with the City and any successor firm designated by the City in effectuating the transition. Such cooperation shall include but is not limited to making available to the City all written files and electronic data or records generated by the Firm or relating to the City developed or received by the Firm during its period of representation of the City: PROVIDED THAT, it shall be the City's responsibility to transport any written records or material from the Firm's office to such location as the City deems appropriate.

#### 4. Duties.

A. The City Attorney shall be principally responsible for supervising or performing all legal work for the City, except as set forth in the following paragraphs of this Agreement. The City Attorney may have other attorneys employed by the Law Firm assist in the performance of her duties. The City Attorney may also utilize outside counsel, if approved by the Mayor and City Council.

B. The following list of duties is illustrative of the services to be performed by the City Attorney and Law Firm within the coverage of the retainer, but is not necessarily inclusive of all duties:

1) Review or draft City ordinances, contracts, resolutions, interlocal agreements and other legal documents, including legal memos to the Mayor and Council, as requested by the City;

2) Approve legal documents as to proper form and content;

3) Advise the Mayor, Council members, staff members, committee members, commission members, and board members with regard to legal matters relating to their respective duties being performed for the City;

4) Consult with and advise the Mayor, Council members, department directors, and staff, if requested by a department

head or the Mayor, by telephone, in person and/or by written memo, on routine City business;

5) Be reasonably available on an as-needed basis to discuss with citizens legal matters affecting the City and respond to citizen inquiries, in person, writing, or by telephone, involving City business;

6) Attend all council meetings, unless excused from attendance by the Mayor;

7) Upon request attend board meetings, commission meetings, committee meetings, or any other type of meeting on an as-needed basis, including meetings with other governmental agencies, as is necessary on matters involving the City; and

8) Perform such other duties as are necessary and appropriate in order to provide the City with legal representation.

9) Provide written reports prior to each regular Council Meeting for distribution to the Mayor and Council a written report summarizing the status of existing matters and issues as well as matters and issues potentially of interest to or affecting the City.

C. The following shall be included within the duties of the City Attorney but are not within the services within the retainer and shall be charged at the approved hourly rate: PROVIDED THAT, if, in its discretion the City designates another counsel to represent the City in any matter within the provisions of subsections 1 and 2, the right to compensation shall not be applicable.

1) Represent the City in all lawsuits and other contested proceedings commenced by the City;

2) Represent the City in all lawsuits and other contested proceedings in which the City is a party, whether as the plaintiff or named as a defendant; and

3) Prosecute criminal violations of City ordinances in the City 's Municipal Court and/or Grays Harbor County District Court;

D. The City Attorney's duties shall not include the following:

1) Legal services normally provided by the City' s bond counsel; provided, the City Attorney shall consult with bond counsel on behalf of the City and advise the City with regards thereto;

2) Representation of the City in any legal matter where the City Attorney is prohibited from doing so as a result of a conflict of interest under the Rules for Professional Conduct or other applicable law or regulation;

3) Representation of or advice to City employees where the interest of the City employee may conflict with that of the City; and

4) Legal services where the City has insurance coverage that provides for legal services and the City 's tender of defense has been accepted by the insurance carrier and it has not requested that the City Attorney continue to be involved in the representation, whether as a result of a reservation of rights by the Insurer or otherwise; provided, however, the City Attorney shall monitor the lawsuit on behalf of the City.

#### 5. Compensation.

A. Retainer. The City shall pay the Law Firm a monthly retainer of \$ \_\_\_\_\_, for legal services which are not excluded from coverage under Section 4 commencing with the month of January, 2021. The services to be provided shall include the services set forth in paragraph 4.A unless, in a particular case, said services would be billable under the terms of Paragraph 5(B) or [C]. The Law Firm's hourly rates for 2021 are reflected on Exhibit A. The monthly retainer for 2021 shall be subject to adjustment through the adoption of the annual budgets of the City. The Law Firm's hourly rates shall be adjusted upon approval of the Council. Except as to legal services provided pursuant to Section 4.C, the Firm shall not receive any compensation beyond that set forth in the Monthly Retainer for legal services provided to the City unless the provision of such services is specifically approved in advance by a written authorization executed by the Mayor.

B. Reimbursable Proposals. On all projects for which the City actually receives compensation from a proponent for the City 's legal costs, the City Attorney and the Law Firm shall charge their rates as set forth on Exhibit A. Examples of the types of projects in this category include work associated with LIDs, ULIDs, and all other projects for which the City actually receives reimbursement for legal costs from another source.

C. Special Projects. Certain services are needed from the City Attorney and Law Firm that are not of a routine nature and are not included in the monthly retainer. The charge for the services included in special projects shall be at the Law Firm's then approved hourly rates and/or a flat rate per project, as the case may be. The projects

included in this category include such other matters of a non-routine nature as specifically approved by the Mayor.

D. Reimbursable Costs. The Law Firm shall be reimbursed for costs and advances for such items as legal messenger services, deposition fees, court filing fees, and similar items.

E. Other.

1) Attorney's current rates expressly account for any taxes, business license fees, or related charges ("charges") imposed on professional service providers by the City and State of Washington. In the event that any such additional charges are imposed during the term of this agreement, the Firm shall be entitled to recover any such additional charges as a reimbursable cost item on the Firm's monthly billing statements.

2) In the event of appointment of conflict counsel by a district or municipal court judge for prosecution or related services identified in Section 4 of this Contract, the City shall be responsible for payment of all such services, including costs, to the designated conflict counsel.

3) The City shall not be billed for travel time from the Firm's offices to the City.

4) In the event of any dispute between the City and the Firm, the parties shall attempt to resolve the dispute through agreed upon processes, such as mediation or arbitration. If such an approach is not selected or successful, any litigation shall be filed in the Superior Court of the State of Washington in Grays Harbor County.

In addition to any relief granted to the substantially prevailing party, they shall be entitled to receive an award of their costs and reasonable legal fees incurred in the litigation.

F. Except as to legal services provided pursuant to Section 4.C, the Firm shall not receive any compensation beyond that set forth in the Monthly Retainer for legal services provided to the City unless the provision of such services is specifically approved in advance by a written authorization executed by the Mayor.

6. Entire Agreement. This Agreement incorporates the entire agreement between the parties with regards to legal work to be performed on behalf of the City, and the rates to be charged therefor.

CITY OF Elma:

\_\_\_\_\_  
JAMES SORENSEN, Mayor

ATTEST:

\_\_\_\_\_  
DIANA EASTON, Clerk-Treasurer

Dated: \_\_\_\_\_

Law Firm.:  
  
\_\_\_\_\_

### **Exhibit A**

The law firm's hourly rate for services not covered under the monthly retainer shall be \$225.00 per hour. The law firm's hourly rate shall be adjusted upon approval of the counsel.