

EL PASO DOWNTOWN MANAGEMENT DISTRICT

Request for Proposals:

Legal Services for the

El Paso Downtown Management District

Issued: June 20, 2022

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## **Section A. Introduction**

The El Paso Downtown Management District (DMD) is a municipal management district directed by a volunteer Board of Directors comprised of Downtown property owners, business representatives, tenants, and community leaders. The DMD's mission is to promote economic development by providing services that champion a vibrant Downtown El Paso. The DMD's mission further includes supporting a downtown with many activities and amenities to serve its citizens and visitors to El Paso from all walks of life. The organization administers a variety of programs and provides services that incentivize redevelopment and spur downtown growth. Our activities are governed by state and municipal laws and the DMD conducts an annual audit to ensure and verify their strict observance as well as the continued implementation of best practices in financial policies and records-keeping. The DMD is a unit of local government and subject to Texas laws applicable to public sector, governmental entities.

## **Section B. Scope of Work**

The DMD is seeking a qualified legal firm to provide a full range of legal services. The selected legal firm shall provide timely and professional written opinions and responses to DMD requests as well as timely and professional billing documents in accordance with the agreed upon contract. It is the intent of this RFP that a consistent quality of services is provided for all DMD legal requirements. The services to be provided by the legal firm, if selected, may include all of the following duties:

- General legal representation on Municipal Management District (Chapter 375, Sub-Chapter A) management and operational matters
- Presiding over monthly meeting votes of the Board of Directors and providing guidance and legal advice on the Texas Open Meetings Act, Robert's Rules of Order, and Board Administrative Rules, Policies and Procedures. The Board typically meets on the Fourth Thursday of each month at 11:30am.
- Representation on Texas Public Information Act matters (Section 552.001 of the Government Code)
- Human Resources issues including policies, terminations and unemployment compensation
- Legal advice regarding district governance and board obligations including maintenance of ethical standards, avoidance of potential conflicts of interest, bylaw revisions and incorporation issues
- Drafting, review, and negotiations of contracts
- Advice and/or representation regarding legislative matters
- Legal advice regarding financial matters
- Legal advice regarding TABC and protesting liquor license applications or renewals
- Legal advice relating to other Economic Development vehicles such as tax increment financing districts, public-private partnerships and tax credits
- Other legal matters as may be necessary or required

In the DMD's FY2020-2021, the DMD was billed for a total of 57.4 hours for legal services and incurred \$12,667 in legal expenses. The amount of hours per month varies.

## **Section C. Eligibility**

Open to all qualified legal firms with prior experience providing legal services to municipal management districts, special districts, public entities, or units of government.

Local Firms, Firms with a Downtown Office, Disadvantaged Business Enterprises (DBEs) and Historically Underutilized Businesses (HUBs) are encouraged to apply.

No contract may be awarded to a respondent that is currently, or has been within the past three years, suspended or debarred from doing business with any of the following: (1) the federal government or any branch, department, or administrative organization thereof; (2) the State of Texas, or (3) the City of El Paso, Texas.

No contract may be awarded to a respondent whose owners or management have been convicted of a felony.

## **Section D. Schedule of Events**

Dates are tentative except for the deadline for Bid Submissions.

Monday, June 20, 2022	Release of RFP materials
Friday, June 24, 2022 (4pm MST)	Question Submission Deadline
Wednesday, June 29, 2022 (1pm MST)	Virtual Pre-Bid Proposal Meeting <a href="https://us02web.zoom.us/j/89479922232">https://us02web.zoom.us/j/89479922232</a> Zoom Meeting ID: 894 7992 2232 Call In: 1-346-248-7799
<b>Monday, July 18, 2022 (10am MST)</b>	<b>Submission Deadline</b>
Monday, July 18, 2022, (11am MST)	Virtual Bid Opening <a href="https://us02web.zoom.us/j/86148957407">https://us02web.zoom.us/j/86148957407</a> Zoom Meeting ID: 861 4895 7407 Call In: 1-346-248-7799
July 18 – August 17, 2022	Evaluation of Bid Quotations & Interviews if Necessary
Thursday, August 25, 2022	Award Date

The DMD reserves the right, at its sole discretion, to adjust this Schedule of Events as it deems necessary. If necessary, the DMD will communicate adjustments to any event in the Schedule of Events in the form of an amendment. Amendment to this RFP will be issued in writing to the list of respondents.

## **Section E. RFP Release and Contact Info**

### **Availability of RFP**

The RFP will be made available on Monday, June 20, 2022, on the DMD's website – [www.downtownelpaso.com](http://www.downtownelpaso.com) and may be picked up from the DMD's offices at:

El Paso Downtown Management District  
201 E. Main, Ste. 107  
El Paso, Texas 79901

The RFP may also be obtained by email, upon request made to the Authorized Contact person as designated below.

Previously identified potential Firms will be emailed an RFP once these are made available to the general public on the release date above.

### **Authorized Contact**

The sole authorized contact (Authorized Contact) for this RFP is Joe Gudenrath. The Authorized Contact may be contacted at the following address or email address:

El Paso Downtown Management District  
201 E. Main, Ste. 107  
El Paso, Texas 79901  
Attn: Joe Gudenrath  
[jgudenrath@elpasodmd.org](mailto:jgudenrath@elpasodmd.org)  
915-400-2293

Any material questions about the RFP or procurement process must be submitted in writing to the Authorized Contact. Email questions are preferred, although questions submitted by mail or hand-delivery will also be accepted. Verbal questions will not be accepted. Written questions about the RFP or procurement process must be submitted to the Authorized Contact prior to 4:00 p.m. MST on Friday, June 24, 2022. Any information provided in response to a question about the RFP or procurement from a source other than the Authorized Contact is unofficial, non-binding, and invalid.

### **Section F. Question Submissions and Amendments**

#### **Questions / Requests for Clarification**

Questions and requests for clarification or additional information (including requests for changes in RFP specifications) must be submitted **in writing only** via hand-delivery, postal mail or email to the Authorized Contact designated above.

Firms submitting questions shall clearly address each question by reference to a specific section, page and item of this solicitation.

It is the Firm's responsibility to verify that the DMD received its Questions and/or Request for Clarification. During the RFP process, Firms shall not contact any DMD staff except those designated in the text of this solicitation or in subsequent documentation. Nor shall bidders contact

any DMD Board members about the procurement. Non-compliance with this provision may result in rejection of the proposal involved.

**Questions/requests for clarification must be submitted in writing no later than 4:00 p.m. MST on Friday, June 24, 2022. Any questions or requests for clarification submitted after this time will not elicit or prompt a response.**

### **Answers / Complete Q&A**

Answers to all questions submitted by the above deadline will be answered during the Pre-Bid Meeting and be available in a written Q&A format to all identified Firms on Friday, July 1, 2022. All requests for complete Q&A must be directed to the Authorized Contact as designated in Section E above.

### **Changes, Amendments, Withdrawal or Re-Issuance of RFP**

A Firm may withdraw its proposal to the RFP by written request at any time prior to acceptance of a contract.

The DMD may, at any time prior to execution of a contract: (a) amend the RFP materials or requirements; (b) extend deadlines contained in the RFP; (c) reject any application that does not meet the qualifications and requirements set forth in the RFP; (d) reject all applications; (e) cancel the RFP entirely; or (f) re-issue the RFP at a later date.

### **Availability of Funds**

The RFP and/or the contract issued pursuant hereto may be cancelled if the funds for the contract are not, for any reason, made available to the DMD. In other words, the DMD reserves the right to cancel this RFP or an executed contract if adequate funds for the goods/services to be provided are not received by or available to the DMD.

### **Section G. Proposal Packet and Submission**

Firms should use Attachment A to formulate their proposal. Responses should be clear, concise, and complete. They should include all components identified in Attachment A and thoroughly comply with all required specifications as described above.

### **Assurances and Certifications**

Firm certifies by submitting its proposal that it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with its proposal or any contract it might receive.

Firm certifies by submitting a proposal that, to the best of its knowledge and belief, there are no lawsuits and no proceedings pending or threatened against or affecting it, which if determined

adversely to the Firm will have a material adverse effect on the ability to fulfill its obligations under any contract received by the Firm.

## **Submissions**

Firms interested in submitting a proposal must submit their completed proposal **no later than:**

**Monday, July 18, 2022, by 10:00 a.m. MST.**

Submissions will be accepted via hand-delivery or postal mail\* at:

**El Paso Downtown Management District**  
201 E. Main, Ste. 107  
El Paso, Texas 79901

\*please place the completed proposal in a sealed envelope designated “DMD Legal Services Submission – TIME SENSITIVE”

### **Or via email\* to:**

**Joe Gudenrath – DMD’s Authorized Contact for this RFP**  
El Paso Downtown Management District | [jgudenrath@elpasodmd.org](mailto:jgudenrath@elpasodmd.org)

\*please include the wording “DMD Legal Services Submission – TIME SENSITIVE” in the subject line of the email.

The DMD will document date and time of receipt of all proposals and signed receipts will be provided upon request. However, the burden remains on the Firm to a) verify that the DMD received its proposal by the 10:00 a.m. MST deadline on Monday, July 18, 2022, and b) ensure that all electronic submissions (including email uploads, flash drives, and CDs/DVDs, etc.) are able to be downloaded/opened/accessed.

**Proposals received after the deadline of 10:00 a.m. on Monday, July 18, 2022 will not be accepted and will not be considered for a possible contract. The DMD reserves the right to reject any or all proposals, to advertise for new proposals, or to accept any proposals deemed to be in the best interest of the community.**

## **Section H. Procurement Standards and Violations**

### **Costs of Proposal Are Not Recoverable**

The DMD is not responsible for, and will not pay or be obligated to pay, for any costs or expenses incurred by a Firm in drafting and submitting a proposal in response to this RFP. The DMD is not responsible for, and will not pay or be obligated to pay, any costs incurred by a Firm prior to the execution of a contract with the DMD.

## **Bid Information is an Official DMD Record and Becomes Public Information**

The information provided by a Firm in response to this RFP is considered “public information” and may be subject to disclosure to third parties under the Texas Public Information Act (referred to as the Texas Open Records Act), Texas Government Code Chapter 552. Firms are therefore on notice that any materials, including bidding information, company information, and cost information, submitted to the DMD will be: (a) reviewed, assessed and evaluated by the DMD, its Board Members, employees, and representatives, including individuals who may be used to assist in the proposal scoring and evaluation process; (b) kept as a business record of the DMD for a period of time after the proposal is submitted; (c) subject to audit and/or review by governmental entities or agencies that have the right to audit or inspect the DMD’s records; and (d) potentially released to third parties who make requests for records pursuant to applicable law. The DMD is not responsible for the release of any information submitted by a Firm. The DMD will, however, attempt to inform the Firm if its proposal materials are requested by a third party pursuant to the Texas Public Information Act so that the Firm may take appropriate action to ensure the confidentiality and non-disclosure of any documents subject to withholding under applicable law.

A Firm may mark any portion of a response as “confidential” if the Firm believes that portion of the response contains confidential or proprietary information that should not be released to third parties requesting copies of the Respondent’s response. If a Firm believes that any information contained in its proposal qualifies for an exception to the Texas Public Information Act, it must indicate which information in the proposal should be exempted from the Act and clearly state the grounds for the exception.

## **Authorization to Contact References and Others About the Firm and Proposal**

As part of its review, assessment and evaluation of a proposal, the DMD reserves the right to contact any individual, agency, or organization listed as a “reference” or past contracting partner, or any other individual, agency, or organization that may have pertinent knowledge about a Firm’s experience, qualifications, and past similar performance. By submitting a proposal in response to this RFP, the Firm authorizes the DMD to contact references and others as set forth herein, and releases the DMD from liability for obtaining information about the Firm in connection with the proposal or RFP.

## **Impermissible Contacts/Lobbying/Payment of Gratuities**

General Impermissible Contacts: In order to preserve the integrity of the procurement process, Firms are, with the exception of communications with the Authorized Contact, strictly prohibited from directly or indirectly contacting, conversing with, emailing, or communicating about the subject matter of this RFP or the procurement with (a) any Board members of the DMD or (b) any employee/representative of the DMD. If a Firm contacts a Board member of the DMD or employee/representative of the DMD about the subject matter of the RFP while the procurement process is ongoing, the Firm may be disqualified from consideration for a contract.



Payment of Gratuities/Favors/Bribes is Prohibited: Firms shall not, under penalty of federal or state law, offer or provide any gratuities, favors or anything of monetary value to any Board member, employee or agent/representative of the DMD, for the purpose of having the effect of influencing favorable disposition toward their own proposal or any other proposal submitted in response to this RFP.

Lobbying: Firms shall not attempt in any manner to advocate for, lobby or otherwise attempt to influence any Board member, employee, agent/representative of the DMD, or any evaluator assigned to assist in the evaluation and assessment of the proposals for purposes of having an influencing effect on this procurement.

Anti-Competitive Conduct: Firms shall not engage in any activity that will restrict or eliminate competition. Violation of this provision may cause a Firm's proposal to be disqualified and rejected. This does not preclude joint ventures or subcontracts.

## **Section I: Selection Process and Criteria**

The DMD will award the contract to the Firm that submits a proposal which represents the "best value" to the DMD. Firm's identified rates should remain binding for at least one year from the date presented. Submissions will be reviewed by the Downtown Management District Executive Committee, but may include other Board members, staff, or external evaluators in the discretion of the DMD. Ranking will take into account the following criteria:

Selection Criteria:

- The Firm's familiarity and previous experience with municipal law and economic development. Experience with Municipal Management Districts, Public Improvement Districts, Tax Increment Financing districts, public-private partnerships, tax credits and other economic development vehicles.
- Professional qualifications of the individual(s) (including subcontracted personnel) who will perform the work.
- The firm's record and experience (including subcontractors) with Federal and State Funding agencies and philanthropic foundations.
- The legal firm's performance record and experience (including subcontractors) with similar type clients.
- The firm's experience with the Texas Public Information Act.
- The firm's experience with public finance.
- The legal firm's office locations and familiarity with Downtown El Paso.
- The legal firm's insurability and status of current work related to litigation or arbitration.
- The legal firm's anticipated workload during the period of engagement and availability of personnel.
- The legal firm's hourly rate schedule.

Based on the above criteria, DMD staff will identify the proposal which offers the "best value" to undertake the project and provide its recommendation to the DMD Board of Directors for

consideration. If the DMD Board of Directors approves the recommended Firm, DMD staff will work with the selected Firm to finalize the scope of work and contract.

## **Section J. Grievance Procedures**

### **Post-Selection Inquiries and Protests**

This section applies to inquiries or protests submitted after the procurement process has been concluded, meaning after a selection of a contractor(s) has been made and a contract(s) have been executed.

(a) Requests for Debriefing: Respondents who desire a debriefing must submit a written request within ten (10) business days of the receipt of the DMD's notification of the procurement decision. In the debriefing, the respondent will obtain information on the procurement process and how their quotation or offer was received and ranked. The DMD will acknowledge receipt of the request for debriefing in writing within five (5) business days of receipt, along with the date and time of the scheduled debriefing. The debriefing shall be scheduled, as soon as possible, and no later than 15 business days from the written receipt of request for debriefing.

(b) Debriefing: The purpose of the debriefing is to promote the exchange of information, explain the DMD's quotation evaluation system, and help unsuccessful respondents understand why they were not selected. Debriefings serve as an important educational function for new respondents, which hopefully, will help them to improve the quality of any future proposals. DMD staff and/or independent evaluators will meet with the unsuccessful party and briefly review: (a) the proposal evaluation process and (b) how the unsuccessful party's proposal was scored or ranked. Respondents can gain a better understanding of the procurement process and how to improve their proposals, while DMD staff obtain direct feedback to help improve future procurements. The debriefing process, however, is not an open-ended invitation for a bidder to obtain information and documentation on an evaluation. Although the DMD will endeavor to provide as much information or documentation as possible in a debriefing, the DMD must observe relevant legal restrictions on the timing and extent certain proposal-related information and documentation can be disclosed. By way of example, the DMD may not release confidential or proprietary information belonging to other respondents during any stage of the debriefing or appeals process.

(c) Written Notice of Appeal: If after the debriefing, the appealing party wishes to continue with the appeal process, the appealing party must submit a written Notice of Appeal to the DMD. The Notice of Appeal is a formal protest. The Notice of Appeal must be submitted within ten (10) business days of the date of the appealing party's debriefing, but it cannot be more than 30 days after the award of the contract being appealed. This written notice must clearly state that it is an appeal (protest) and identify the following:

- The solicitation being appealed (i.e. RFP name and date).
- The name, address, phone and email address of the appealing party.

- The specific grounds of the appeal.
- Any relevant documents in the Respondent's possession or control and which are material to the consideration of the appeal

The Notice of Appeal must be sent by registered mail or hand delivered (please request a receipt), clearly identified externally as "Dated Material" and addressed to the Authorized Contact. Written acknowledgement of receipt of the Notice of Appeal will be provided to the appealing party within five (5) business days of receipt of the notice. Such document will also include specific instructions for completing the appeal process and the date, time and place of the Informal Hearing.

(d) Hearing: A Hearing will be held at the DMD's offices within 15 business days of receipt by the DMD of the timely Notice of Appeal. The DMD Executive Director (ED) shall act as the Hearing Officer for the Hearing (although a third party can be contracted to serve as the Hearing Officer, in the discretion of the DMD), and will meet with the appealing party to discuss the specific concerns and grounds for the appeal that were identified in the Notice of Appeal. The Hearing Officer will consider the facts presented and grounds for appeal. The Hearing Officer may request additional information from the appealing party. The Hearing Officer will conduct the hearing in an informal matter. The Hearing Officer may recommend any appropriate actions allowable under applicable law and consistent with DMD procurement policies to resolve issues.

(e) Final Decision: After a review of the Hearing Officer's recommendation and any information/facts submitted by the appealing party, the DMD's Board President will make a final decision on the outcome of the appeal. The DMD's Board President will render his/her final decision no later than 60 days from the date of the written Notice of Appeal. The DMD Board President's decision shall be the final decision and end the appeal process.

(f) Miscellaneous. The process set forth in this "Post-Selection Inquiries and Protests" section of the RFP materials serves as any administrative grievance process or bid protest/appeal process required by applicable law.

# Attachment A

## Proposal Requirements

### Firm's Contact Information

- Name of Company
- Name of Contact Person for this engagement
- Address, email, phone (office and cell)
  - Please identify the location of all offices, especially if located in Downtown El Paso.

### Proposal Components

- Background on the Firm's organization
- Identify the key person(s) that will be designated to work with the DMD. The information for each individual must include the following: name, area(s) of expertise, years of experience, and professional licenses(s).
- Billing rate schedule for key personnel designated to work with the DMD. If your organization is selected for consideration of a contract, your billing rate schedule will be used as the basis for the fee structure for the engagement, subject to reasonable best and final negotiations.
- Present examples of the firm's experience and expertise in providing counsel on the list of expected services detailed in Section B.
- Statement concerning insurance coverages and liability amounts. Confirmation that the legal firm has in place general liability insurance, worker's compensation, and professional liability insurance.
- Statement concerning conflict of interest. Those interests of the legal firm that would impede with or interfere in the carrying out the duties and responsibilities of the position of a privileged attorney are deemed conflicting.

### Demonstrated Similar Experience / References

The Firm must provide a minimum of three references on work/projects/clients engaged in the last five years. The DMD is authorized and may contact these references regarding qualifications and past performance. All references must describe scope of services.

The following must be included for each reference:

- Name of Organization and Contact
- Year and duration of services provided
- Type of service provided
- Address
- Contact information [telephone number(s) and email(s)]

### Familiarity with Downtown El Paso

The business of the DMD is focused on obtaining funds from taxpayers located in the DMD's jurisdictional area in Downtown El Paso and then investing those funds in activities

predominately occurring in the same area. Thus, the vast majority of the DMD's revenues and expenses involve sources and uses (contractors, etc.) in the Downtown area. For that reason, Firms who have access to and understanding of the Downtown El Paso area may have greater insight and ability to provide the services sought by this RFP. Accordingly, as part of your response, please provide a description of the Firm's history and familiarity with Downtown El Paso, and its involvement in the Downtown El Paso Community.