

REQUEST FOR PROPOSALS
PROPOSAL NUMBER: 2019-10

THE EMERALD COAST UTILITIES AUTHORITY INVITES YOUR COMPANY TO SUBMIT A PROPOSAL ON ITEM (S) AS LISTED IN THIS PROPOSAL REQUEST. IT IS THE INTENT OF THE EMERALD COAST UTILITIES AUTHORITY TO RECEIVE PROPOSALS THAT WILL BE PUBLICLY OPENED AT 2:00 P.M., MARCH 5, 2019, FOR THE FOLLOWING:

ITEM A – LEGAL SERVICES (SPECIAL COUNSEL)

SEALED PROPOSALS WILL BE RECEIVED UNTIL 2:00 P.M., MARCH 5, 2019, BY THE PURCHASING AND STORES MANAGER, EMERALD COAST UTILITIES AUTHORITY, 9255 STURDEVANT STREET, ELLYSON INDUSTRIAL PARK, PENSACOLA, FLORIDA 32514. ONE ORIGINAL AND SIX COPIES OF THE PROPOSAL ARE REQUIRED. THE PROPOSALS RECEIVED WILL THEN BE PUBLICLY OPENED AND READ. THE EMERALD COAST UTILITIES AUTHORITY RESERVES THE RIGHT TO WAIVE INFORMALITIES IN ANY PROPOSAL; REJECT ANY OR ALL PROPOSALS IN WHOLE OR IN PART; REPROPOSAL A PROJECT IN WHOLE OR IN PART; AND TO ACCEPT THE PROPOSAL THAT IN ITS JUDGEMENT IS THE LOWEST AND BEST PROPOSAL OF A RESPONSIBLE RESPONDER. ECUA FURTHER RESERVES THE RIGHT TO ACCEPT ANY PROPOSAL OR PROPOSAL IN WHOLE OR IN PART AND TO INCREASE OR DECREASE QUANTITIES AS MAY BE REQUIRED TO MEET THE NEEDS OF ECUA.

LEGAL ADVERTISEMENT

SEALED PROPOSALS FOR RFP NUMBER 2019-10, LEGAL SERVICES (SPECIAL COUNSEL), WILL BE RECEIVED BY THE EMERALD COAST UTILITIES AUTHORITY PURCHASING AND STORES MANAGER, 9255 STURDEVANT STREET, ELLYSON INDUSTRIAL PARK, PENSACOLA, FL 32514, UNTIL 2:00 P.M. (LOCAL TIME), MARCH 5, 2019, AT WHICH TIME BIDS SUBMITTED WILL BE PUBLICLY OPENED AND READ. SPECIFICATIONS AND INFORMATION MAY BE OBTAINED FREE OF CHARGE FROM ECUA, PURCHASING AND STORES MANAGER (850-969-3350), OR VIA EMAIL AT amy.williamson@ecua.fl.gov, OR ON THE WEB AT www.ecua.fl.gov. PROPOSALS RECEIVED AFTER 2:00 P.M. (LOCAL TIME), MARCH 5, 2019, WILL BE RETURNED UNOPENED. ECUA RESERVES THE RIGHT TO REJECT ANY AND ALL PROPOSALS AND RE-ADVERTISE.

PROPOSED ADVERTISING DATE: JANUARY 28, 2019

**Emerald Coast Utilities Authority
Purchasing Division
9255 Sturdevant Street
Pensacola, Florida 32514-7038
850-969-3350**

STATEMENT OF NO PROPOSAL

If you **do not** intend to make a proposal for this service, please return this form to the above address immediately. If this statement is not completed and returned, your company may be deleted from the Emerald Coast Utilities Authority Vendors' list for this commodity/service.

We the undersigned have declined to make a proposal on requested service **RFP No. 2019-10, Legal Services (Special Counsel)**, for the following reasons:

- Specifications too "tight," i.e. geared toward one brand or manufacturer only (explain below).
- Insufficient time to respond to the Request for Proposals.
- We do not offer this service.
- Our schedule would not permit us to perform.
- Unable to meet bond/insurance requirements.
- Specifications are unclear (explain below).
- Remove us from your vendors' list for this commodity/service.
- Other (specify below).

Remarks:

Company Name: _____

Signature: _____

Telephone: _____ Date: _____

NOTE: Statement of No Proposal may be faxed into the Purchasing Division (850-969-3384), or emailed to amy.williamson@ecua.fl.gov

INSTRUCTIONS TO PROPOSERS

ALL THESE TERMS AND CONDITIONS ARE A PART OF THIS BID REQUEST.

1. SCHEDULE:

PROPOSALS ARE PRESENTLY SCHEDULED TO BE RECEIVED BY 2:00 P.M., MARCH 5, 2019, IN THE ECUA PURCHASING SECTION, 2ND FLOOR, EMERGENCY OPERATIONS SUPPORT ADDITION, 9255 STURDEVANT STREET, ELLYSON INDUSTRIAL PARK.

2. SUBMISSION:

ONE ORIGINAL AND SIX COPIES OF ALL PROPOSALS TO BE CONSIDERED MUST BE IN THE POSSESSION OF THE EMERALD COAST UTILITIES AUTHORITY PURCHASING AND STORES MANAGER. PROPOSALS MAY BE MAILED OR DELIVERED TO HIS OFFICE AT 9255 STURDEVANT STREET, ELLYSON INDUSTRIAL PARK, PENSACOLA, FLORIDA, 32514, IN A SEALED ENVELOPE CLEARLY MARKED WITH THE PROPOSAL NAME. REGARDLESS OF THE METHOD OF DELIVERY, EACH PROPOSER SHALL BE RESPONSIBLE FOR HIS PROPOSAL(S) BEING DELIVERED ON TIME, AS THE EMERALD COAST UTILITIES AUTHORITY ASSUMES NO RESPONSIBILITY FOR SAME. PROPOSALS OFFERED OR RECEIVED AFTER THE TIME SET FOR THE OPENING WILL BE REJECTED AND RETURNED UNOPENED TO THE PROPOSER.

3. CONVICTION OF PUBLIC ENTITY CRIME

A PERSON OR AFFILIATE WHO HAS BEEN PLACED ON THE CONVICTED VENDOR LIST FOLLOWING A CONVICTION FOR A PUBLIC ENTITY CRIME MAY NOT SUBMIT A BID ON A CONTRACT TO PROVIDE ANY GOODS OR SERVICES TO A PUBLIC ENTITY, MAY NOT SUBMIT A BID ON A CONTRACT WITH A PUBLIC ENTITY FOR THE CONSTRUCTION OR REPAIR OF A PUBLIC BUILDING OR PUBLIC WORK, MAY NOT SUBMIT BIDS ON LEASES OF REAL PROPERTY TO A PUBLIC ENTITY, MAY NOT BE AWARDED OR PERFORM WORK AS A CONTRACTOR, SUPPLIER, SUBCONTRACTOR, OR CONSULTANT UNDER A CONTRACT WITH ANY PUBLIC ENTITY, AND MAY NOT TRANSACT BUSINESS WITH ANY PUBLIC ENTITY IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FOR CATEGORY TWO (\$35,000) FOR A PERIOD OF 36 MONTHS FROM THE DATE OF BEING PLACED ON THE CONVICTED VENDOR LIST.

4. BID WITHDRAWAL:

NO BID MAY BE WITHDRAWN FOR A PERIOD OF NINETY (90) DAYS FROM THE BID OPENING. PRICES MAY NOT BE MODIFIED DURING THIS PERIOD. PROPOSALS MAY BE WITHDRAWN AT ANY TIME PRIOR TO THE BID OPENING TIME.

5. BID AUTHORIZATION:

ALL BIDS MUST BE SUBMITTED ON THE FORM PROVIDED BY THE EMERALD COAST UTILITIES AUTHORITY AND MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY PLACING THE BID. ONE COMPLETE SET OF BID FORMS WILL BE FURNISHED EACH COMPANY INTERESTED IN BIDDING.

6. BID ERRORS:

A BIDDER MAY NOT MODIFY ITS BID AFTER BID OPENING. ERRORS IN THE EXTENSION OF UNIT PRICES STATED IN A BID OR IN MULTIPLICATION, DIVISION, ADDITION, OR SUBTRACTION IN A BID MAY BE CORRECTED BY THE PURCHASING AND STORES MANAGER PRIOR TO AWARD. IN SUCH CASES, UNIT PRICES SHALL NOT BE CHANGED.

7. AWARD OF BID:

ECUA RESERVES THE RIGHT TO ESTABLISH PRIORITIES AND TO AWARD THE CONTRACT TO A SINGLE BIDDER BASED UPON THE TOTAL BID OR TO MULTIPLE VENDORS BASED UPON THE ITEMS INDIVIDUALLY BID. ECUA ALSO RESERVES THE RIGHT TO SELECTIVELY PURCHASE ANY SINGLE OR ANY MULTIPLE ITEMS FROM THIS BID.

8. TAXES:

DO NOT INCLUDE ANY TAX WITH YOUR BID. THE EMERALD COAST UTILITIES AUTHORITY IS EXEMPT FROM FEDERAL, STATE AND LOCAL TAXES. TAX EXEMPT NUMBER 85-8012640152C-4 APPLIES.

9. TERMS:

MINIMUM TERMS WILL BE NET 30 (30 DAYS AFTER RECEIPT OF MATERIAL/SERVICE) UNLESS A DISCOUNT IS INVOLVED. TERMS OFFERING A DISCOUNT FOR PROMPT PAYMENT WILL ONLY BE CONSIDERED IN DETERMINING THE LOW BID IF THE DISCOUNT PERIOD IS 15 DAYS OR GREATER (15 DAYS AFTER RECEIPT OF MATERIAL/SERVICE OR INVOICE, WHICHEVER IS GREATER).

10. BID TABULATIONS:

BID TABULATIONS WILL BE POSTED FOR REVIEW IN THE PURCHASE SECTION, 9255 STURDEVANT STREET, ELLYSON INDUSTRIAL PARK ON OR ABOUT MARCH 5, 2019, AND WILL REMAIN POSTED FOR 72 HOURS EXCLUDING WEEKENDS AND HOLIDAYS.

11. BID QUESTIONS:

ALL QUESTIONS ABOUT THE MEANING OR INTENT OF THE BIDDING DOCUMENTS ARE TO BE SUBMITTED TO AMY WILLIAMSON., IN WRITING VIA EMAIL AT amy.williamson@ecua.fl.gov UP TO SEVEN DAYS PRIOR TO THE BID OPENING. INTERPRETATIONS AND CLARIFICATION CONSIDERED NECESSARY IN RESPONSE TO SUCH QUESTIONS WILL BE ISSUED BY ADDENDA TO THE ECUA WEBSITE. QUESTIONS RECEIVED LESS THAN SEVEN (7) DAYS PRIOR TO THE DATE FOR THE OPENING OF BIDS WILL NOT BE ANSWERED. ONLY QUESTIONS ANSWERED BY ADDENDA WILL BE BINDING. ORAL AND OTHER INTERPRETATIONS OR CLASSIFICATIONS WILL BE WITHOUT LEGAL EFFECT.

12. COMPLIANCE WITH SPECIFICATIONS:

IN ORDER TO DETERMINE THAT YOUR BID COMPLIES WITH BID SPECIFICATIONS, PRODUCT LITERATURE AND/OR DATA/INFORMATION MUST BE INCLUDED WITH THE BID PROPOSAL AS INDICATED IN THE SPECIFICATIONS. ANY DEVIATIONS FROM THE BID SPECIFICATIONS SHOULD BE IDENTIFIED SEPARATELY. FAILURE TO INCLUDE SUCH PRODUCT LITERATURE AND/OR DATA/INFORMATION SHALL BE GROUNDS FOR REJECTION OF ANY BID.

13. UNIFORM COMMERCIAL CODE:

THE UNIFORM COMMERCIAL CODE (FLORIDA STATUTES, CHAPTER 672) SHALL PREVAIL AS THE BASIS FOR CONTRACTUAL OBLIGATIONS BETWEEN THE AWARDED VENDOR/CONTRACTOR AND EMERALD COAST UTILITIES AUTHORITY FOR ANY TERMS AND CONDITIONS NOT SPECIFICALLY STATED IN THIS INVITATION FOR BID.

14. EXECUTION OF CONTRACT:

ANY ACTION OF ECUA IN AWARDING THE PURCHASE OF ANY MATERIAL OR PERFORMANCE OF A SERVICE IS SUBJECT TO AND CONDITIONED UPON THE EXECUTION OF A WRITTEN PURCHASE CONTRACT AND/OR A PURCHASE ORDER BETWEEN ECUA AND THE VENDOR.

15. CONTRACTUAL AGREEMENT:

THIS INVITATION FOR BID SHALL BE INCLUDED AND INCORPORATED IN THE FINAL CONTRACT OR PURCHASE ORDER. THE ORDER OF CONTRACT PRECEDENCE WILL BE THE CONTRACT (PURCHASE ORDER), BID DOCUMENT AND RESPONSE. ANY AND ALL LEGAL ACTION NECESSARY TO ENFORCE THE CONTRACT WILL BE HELD IN ESCAMBIA COUNTY AND THE CONTRACT WILL BE INTERPRETED ACCORDING TO THE LAWS OF FLORIDA.

16. PROTESTS:

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE DIRECTLY AND ADVERSELY AFFECTED BY THE AWARD OR INTENDED AWARD OF A PURCHASE ORDER OR CONTRACT OR BY PLANS OR SPECIFICATIONS CONTAINED IN AN INVITATION TO BID OR REQUEST FOR PROPOSALS MAY FILE A PROTEST IN ACCORDANCE WITH THE FOLLOWING RULES AND SECTION 12 OF THE ECUA ACT (CHAPTER 2001-324, LAWS OF FLORIDA AS AMENDED).

NOTICE OF PROTEST OF PLANS, SPECIFICATIONS OR OTHER REQUIREMENTS CONTAINED IN AN INVITATION TO BID OR IN A REQUEST FOR PROPOSALS SHALL BE FILED NOT LATER THAN 5:00 P.M. OF THE THIRD BUSINESS DAY FOLLOWING RECEIPT OF THE PLANS OR SPECIFICATIONS. NOTICE OF PROTEST OF THE REJECTION OF A BID OR PROPOSAL AS NON-RESPONSIVE SHALL BE FILED NOT LATER THAN 5:00 P.M. OF THE THIRD BUSINESS DAY FOLLOWING NOTICE TO THE BIDDER OF THE REJECTION. NOTICE OF PROTEST OF THE AWARD OR INTENDED AWARD OF A PURCHASE ORDER OR CONTRACT TO THE LOWEST BIDDER SHOWN ON A POSTED BID TABULATION SHALL BE FILED NOT LATER THAN 5:00 P.M. OF THE THIRD BUSINESS DAY FOLLOWING THE POSTING OF THE BID TABULATION. NOTICE OF PROTEST OF THE AWARD OR INTENDED AWARD OF A PURCHASE ORDER OR CONTRACT TO A BIDDER OTHER THAN THE LOWEST BIDDER SHOWN ON A POSTED BID TABULATION SHALL BE FILED NOT LATER THAN 5:00 P.M. OF THE THIRD BUSINESS DAY FOLLOWING NOTICE OF THE AWARD OF A PURCHASE ORDER OR CONTRACT.

A NOTICE OF PROTEST SHALL BE IN WRITING AND SHALL STATE THE SUBJECT MATTER OF THE PROTEST.

A FORMAL WRITTEN PROTEST SHALL BE FILED WITHIN SEVEN (7) BUSINESS DAYS AFTER THE FILING OF NOTICE OF PROTEST. A FORMAL WRITTEN PROTEST SHALL STATE WITH PARTICULARITY THE FACTS AND THE LAW ON WHICH THE PROTEST IS BASED.

NOTICE OF PROTEST AND FORMAL WRITTEN PROTEST OF PLANS OR SPECIFICATIONS FOR OR THE AWARD OR INTENDED AWARD OF A CONTRACT SHALL BE FILED WITH THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE.

FAILURE TO FILE A NOTICE OF PROTEST OR FAILURE TO FILE A FORMAL WRITTEN PROTEST WITHIN THE TIMES PERMITTED SHALL CONSTITUTE A WAIVER OF PROCEEDINGS UNDER THESE RULES AND UNDER SECTION 12 OF CHAPTER 2001-324, LAWS OF FLORIDA, AS AMENDED.

UPON RECEIPT OF A NOTICE OF PROTEST WHICH HAS BEEN TIMELY FILED, THE EXECUTIVE DIRECTOR SHALL STOP THE BID SOLICITATION OR PURCHASE ORDER OR CONTRACT AWARD PROCESS UNTIL THE PROTEST HAS BEEN RESOLVED. HOWEVER, THE BID SOLICITATION OR PURCHASE ORDER OR CONTRACT AWARD PROCESS MAY PROCEED WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT DELAY WOULD BE DETRIMENTAL TO THE INTERESTS OF ECUA. ANY AWARD OF A PURCHASE ORDER OR CONTRACT UNDER SUCH CONDITIONS SHALL BE SUBJECT TO THE OUTCOME OF THE PROTEST. AFTER THE AWARD OF A CONTRACT OR PURCHASE ORDER RESULTING FROM A BID IN WHICH A TIMELY PROTEST WAS RECEIVED AND IN WHICH ECUA DID NOT PREVAIL, ECUA MAY TAKE SUCH ACTION AS IT CONSIDERS APPROPRIATE, WHICH MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, AWARD OF THE CONTRACT OR PURCHASE ORDER TO THE PREVAILING PARTY, CANCELLATION OF THE CONTRACT OR PURCHASE ORDER, OR REBIDDING.

THE EXECUTIVE DIRECTOR SHALL PROVIDE REASONABLE OPPORTUNITY TO RESOLVE A PROTEST BY AGREEMENT. IF AGREEMENT IS NOT REACHED WITHIN SUCH TIME AS THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE CONSIDERS REASONABLE UNDER THE CIRCUMSTANCES, THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE SHALL REVIEW THE FACTS AND THE LAW ON WHICH THE PROTEST IS BASED, AND SHALL RENDER A DECISION WHICH SHALL BE IN WRITING AND SHALL BE PROMPTLY TRANSMITTED TO THE PROTESTOR.

IF THE PROTESTOR WISHES TO CONTINUE THE PROTEST BEYOND THE DECISION OF THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE, THE PROTESTOR SHALL BE REQUIRED TO FILE A PETITION FOR REVIEW BY THE ECUA BOARD. THIS PETITION SHALL BE MADE IN WRITING AND PRESENTED TO THE EXECUTIVE DIRECTOR WITHIN TEN (10) DAYS AFTER NOTICE OF THE DECISION OF THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE; OTHERWISE, THE DECISION OF THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE SHALL BE FINAL AND BINDING. SUCH PETITION SHALL STATE THE PARTICULAR GROUNDS ON WHICH IT IS BASED AND MAY INCLUDE PERTINENT DOCUMENTS AND EVIDENCE RELATING THERETO. ANY GROUNDS NOT STATED SHALL BE DEEMED TO HAVE BEEN WAIVED BY THE PROTESTOR. THIS PETITION MUST ALSO BE ACCOMPANIED BY A PROTEST BOND OF AN AMOUNT EQUAL TO 1.0 PERCENT (1%) OF THE VALUE OF THE SOLICITATION, BUT IN NO CASE LESS THAN \$1,000 NOR GREATER THAN \$10,000.00. THIS BOND SHALL BE IN THE FORM OF A MONEY ORDER, CERTIFIED CASHIER'S CHECK, OR CERTIFIED BANK CHECK MADE PAYABLE TO THE EMERALD COAST UTILITIES AUTHORITY. FAILURE TO POST SUCH BOND WITHIN TEN (10) BUSINESS DAYS AFTER THE DECISION OF THE

EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE SHALL RESULT IN THE PROTEST BEING DISMISSED BY THE EXECUTIVE DIRECTOR.

THE BOND REQUIRED BY THE ABOVE PARAGRAPH SHALL BE CONDITIONED UPON THE PAYMENT OF ALL COSTS AND CHARGES WHICH MAY BE ADJUDGED AGAINST THE PERSON FILING THE PETITION FOR REVIEW. IF THE PROTESTOR PREVAILS, THE BOND SHALL BE RETURNED TO THE PROTESTOR. IF HOWEVER, ECUA PREVAILS, THE BOND SHALL BE FORFEITED, AND ECUA SHALL BE ENTITLED TO RECOVER THE COSTS AND CHARGES, EXCLUDING ATTORNEY'S FEES, OF SUCH HEARING. THE ENTIRE AMOUNT OF THE BOND ALSO SHALL BE FORFEITED IF IT IS DETERMINED THAT A PROTEST WAS FILED FOR A FRIVOLOUS OR IMPROPER PURPOSE, INCLUDING, BUT NOT LIMITED TO, THE PURPOSE OF HARASSING, CAUSING UNNECESSARY DELAY, OR CAUSING NEEDLESS COST FOR ECUA OR ANOTHER INTERESTED PARTY/PARTIES.

ANY NOTICE REQUIRED OR PERMITTED UNDER THIS BID PROTEST PROCEDURE SHALL BE EFFECTIVE WHEN DELIVERED PERSONALLY OR BY FACSIMILE, OR WHEN DEPOSITED IN THE U.S. MAIL. IF NOTICE IS GIVEN ONLY BY MAIL, THREE (3) DAYS SHALL BE ADDED TO THE TIME WITHIN WHICH A PROTESTOR MAY FILE A NOTICE OF PROTEST OR PETITION FOR REVIEW.

17. CONTRACTS EXCEEDING ONE YEAR:

WHEN APPLICABLE, A CONTRACT MAY BE RENEWED CONTINGENT UPON COST FACTORS, MUTUAL AGREEMENT, SATISFACTORY PERFORMANCE EVALUATIONS, AVAILABILITY OF FUNDS AND ECUA BOARD APPROVAL. ECUA'S PERFORMANCE AND OBLIGATION TO PAY FOR THE PURCHASE OF SERVICES OR TANGIBLE PERSONAL PROPERTY OF A PERIOD IN EXCESS OF ONE (1) FISCAL YEAR UNDER ANY CONTRACTUAL RELATIONSHIP IS CONTINGENT UPON AN ANNUAL BUDGET APPROVAL BY THE ECUA BOARD.

18. CONDUCT OF PARTICIPANTS:

AFTER THE ISSUANCE OF ANY SOLICITATION, ALL BIDDERS/PROPOSERS/PROTESTORS OR INDIVIDUALS ACTING ON THEIR BEHALF ARE HEREBY PROHIBITED FROM LOBBYING AS DEFINED HEREIN OR OTHERWISE ATTEMPTING TO PERSUADE OR INFLUENCE ANY ELECTED ECUA OFFICIALS, THEIR AGENTS OR EMPLOYEES OR ANY MEMBER OF THE RELEVANT SELECTION COMMITTEE AT ANY TIME DURING THE BLACKOUT PERIOD AS DEFINED HEREIN; PROVIDED, HOWEVER, NOTHING HEREIN SHALL PROHIBIT BIDDERS/PROPOSERS/PROTESTORS OR INDIVIDUALS ACTING ON THEIR BEHALF FROM COMMUNICATING WITH THE PURCHASING STAFF CONCERNING A PENDING SOLICITATION UNLESS OTHERWISE PROVIDED IN THE SOLICITATION OR UNLESS OTHERWISE DIRECTED BY THE PURCHASING MANAGER.

LOBBYING MEANS THE ATTEMPT TO INFLUENCE THE THINKING OF ELECTED ECUA OFFICIALS, THEIR AGENTS OR EMPLOYEES OR ANY MEMBER OF THE RELEVANT SELECTION COMMITTEE FOR OR AGAINST A SPECIFIC CAUSE RELATED TO A PENDING SOLICITATION FOR GOODS OR SERVICES, IN PERSON, BY MAIL, BY FACSIMILIE, BY TELEPHONE, BY ELECTRIC MAIL, OR BY ANY OTHER MEANS OF COMMUNICATION.

19. BLACKOUT PERIOD:

BLACKOUT PERIOD MEANS THE PERIOD BETWEEN THE TIME THE BIDS/PROPOSALS FOR INVITATION TO BID OR THE REQUEST FOR PROPOSAL, OR QUALIFICATIONS, OR INFORMATION, OR REQUESTS FOR LETTERS OF INTEREST, OR THE INVITATION TO NEGOTIATE, AS APPLICABLE, ARE ADVERTISED AND THE TIME THE ECUA BOARD AWARDS THE CONTRACT AND ANY RESULTING BID PROTEST IS RESOLVED OR THE SOLICITATION IS OTHERWISE CANCELLED. CONDUCT INCONSISTENT WITH THIS SECTION MAY BE GROUNDS FOR DISQUALIFYING THE OFFENDING PROPOSER FROM CONSIDERATION OR ANY FUTURE PROPOSAL.

OTHER PROVISIONS

Contractor is required to comply with public records laws codified in Chapter 119, Florida Statutes, and is specifically required to:

- a. Keep and maintain public records required by ECUA to perform the service.
- b. Upon request from ECUA's custodian of public records, provide ECUA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to ECUA.
- d. Upon completion of the contract, transfer, at no cost, to ECUA all public records in possession of the Contractor or keep and maintain public records required by ECUA to perform the service. If the Contractor transfers all public records to ECUA upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to ECUA, upon request from ECUA's custodian of public records, in a format that is compatible with the information technology systems of ECUA.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT ECUA'S CUSTODIAN OF PUBLIC RECORDS AT [850-969-3300](tel:850-969-3300), SHARON.HARRELL@ECUA.FL.GOV, AND SHARON HARRELL, 9255 STURDEVANT STREET, PENSACOLA, FLORIDA 32514.

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REQUEST FOR PROPOSALS TO
SERVE AS SPECIAL COUNSEL TO THE
EMERALD COAST UTILITIES AUTHORITY

I. Introduction

The Emerald Coast Utilities Authority (“ECUA” or “Authority”) seeks Requests for Proposals (“RFP”) from an attorney or a law firm to serve as special counsel for the Authority to evaluate and potentially initiate a professional malpractice action arising from the alleged action or inaction by the attorney that represented the Authority in Emerald Coast Utilities Authority v. Bear Marcus Pointe, LLC, Case Number 2007 CA 002948.

The Authority intends to retain special counsel through either a contingency, hourly, or flat rate fee arrangement in compliance with all relevant Florida Bar rules. Any proposal must specifically identify the attorney or firm’s proposed fee schedule as well as address any specific payments required for the payment of court costs and other litigation expenses. Any expert witness fees, or other costs aside from court costs at the trial level, must be specifically approved by the Authority prior to being incurred.

Special counsel must conduct an appropriate conflict check based on the potential parties to the Authority’s potential claim and attest that it has no actual or apparent conflict of interest that would prevent or hinder representation of the Authority’s interests.

All responses received by the response submittal deadline will be evaluated by the Authority using the criteria contained herein. Notwithstanding the foregoing, the Authority may, in its sole discretion, waive criteria or requirements if doing so is in the best interest of the Authority.

The Authority reserves the right to request additional information from responders to this RFP and clarification of any information submitted, including any omission from the original proposal submitted. All responding parties will be treated equally.

The Authority intends to evaluate all timely submitted proposals in response to this RFP based on the criteria and review process set forth below. The ECUA Board will consider the most responsive party submitting the proposal most consistent with the criteria set forth herein for consideration of approval at their March 26, 2019 public meeting. The ECUA Board intends to authorize the negotiation and execution of any agreement resulting from this solicitation consistent with this RFP and any consistent with and further direction from the Authority Board when a selection is made.

II. Public Records

In accordance with Chapter 119 of the Florida Statutes, and, except as may be provided by other applicable State and Federal Laws, including but not limited to Section 119.07(1)(b), Florida

Statutes, this solicitation and all responses thereto will eventually be in the public domain and are available for public inspection. All attorneys/firms are requested, however, to identify with specificity any information contained in their responses which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, specifically citing the applicable exemption under Florida law. The designation of an item as exempt from public disclosure may be challenged in court by any person or entity. By designation of material in its response as exempt from public disclosure, the submitting attorney/firm agrees to defend the Authority (and its employees, agents and elected and appointed officials) against all claims and actions (whether or not a lawsuit is commenced) related to attorney's/firm's designation of material as exempt from public disclosure and to hold the Authority (and its employees, agents and elected officials) harmless from any award to a plaintiff for damages, costs and attorneys' fees incurred by the Authority by reason of any claim or action related to the responding attorney's/firm's designation of material as exempt from public disclosure. Any submittal where the entire submittal is labeled as exempt from public disclosure will be rejected without review and all pages not reviewed will be returned to the submitting party. All submittals accepted in response to this solicitation will become the property of the Authority and will not be returned.

III. Minimum Qualifications and Requirements

1. The responding attorney/firm must include a list of the attorney(s) that will be assigned to this matter, and specifically identify the attorney that will serve as the lead attorney for this case. At a minimum, the lead attorney must be a registered member of the Florida Bar and have a minimum of five years of litigation experience.
2. The responding attorney/firm must carry professional liability insurance, and retain such insurance during the entire course of the malpractice suit.
3. The responding attorney/firm must demonstrate significant experience in litigation. Preference will be given to attorneys who demonstrate experience in legal malpractice suits, possess relevant bar certifications, and who have represented government agencies in the past.
4. The responding attorney/firm must propose a reasonable fee structure and provide an estimate of the costs of litigation with their proposal.

IV. Scope of Work

The Authority seeks to retain the services of one or more highly qualified attorneys or a firm to represent the Authority in a potential professional malpractice action against arising out of Emerald Coast Utilities Authority v. Bear Marcus Point, LLC. In that matter a judgment of approximately \$400,000 in legal fees was entered against the Authority after the Authority's

counsel failed to respond to the Court's Order Assessing Attorney's fees. Furthermore, the failure of the Authority's counsel to respond resulted in the assessment of additional attorney's fees against the Authority estimated at \$600,000.

The successful attorney/firm must have the ability to provide high quality legal representation of the Authority in this litigation and be able to provide competent representation to the Authority as a local government entity. The successful attorney/firm will handle all phases of litigation of this matter, and be the attorney(s) of record, including, but not limited to, the evaluation of the claim, preparation of the complaint, filing of the complaint, serving summons, responding to motions, drafting motions, drafting and responding to discovery requests, analyzing and evaluating responses to discovery requests, taking and defending depositions, preparing witnesses for depositions, identifying experts, retaining and consulting with experts, handling discovery dispute, preparing expert witnesses, conducting legal research, preparing legal arguments, representing the Authority at all stages of litigation, including at trial and during any settlement negotiations or mediation, representing Authority during any appeal and remand from appeal, and any other activity required to advance the Authority in prosecuting its claim. The attorney/firm shall also be expected to provide regular status updates to the Authority regarding this case and coordinate with the Authority regarding any public statements or positions taken in relation to the litigation.

V. Evaluation Process

Qualified and responsive submittals will be initially evaluated by ECUA staff and/or contracted legal counsel. The ECUA Board will evaluate the proposals based on the objective and subjective review of the proposal and based on the following criteria:

- Qualifications and experience of the attorney/firm and of the lead attorney including experience in representing local governmental entities such as the Authority in similar matters;
- Fee structure and estimated costs proposed;
- Evidence of professional liability insurance; and
- Adherence to requirements of this solicitation.

Proposals will be submitted to the ECUA Board for review and consideration. The Authority Board reserves the right to select any proposal based on its own determination of the best interests of the Authority. The Authority may choose to reject all proposals at any time.

Attorney/firms are not entitled to compensation or costs related to the preparation or submittal of their proposal in response to this solicitation or for any part of their participation in this solicitation. The Authority reserves the right to reject all proposals for any reason it determines to be in the best interest of the Authority.

VI. Submittal Requirements and Instructions (See also Instruction to Proposers, Page 4, Item 2)

Interested attorneys/firms will provide the following information in a format not exceeding 10 pages, exclusive of required attachments, as enumerated below:

1. The information necessary to demonstrate satisfaction of the minimum qualifications/requirements as set forth above, including:
 - a. A detailed summary of the responding attorney’s/firm’s experience in providing the required services;
 - b. The curriculum vitae of the lead attorney;
 - c. The Florida Bar numbers for all listed attorneys;
2. Evidence of professional liability insurance for all listed attorneys.
3. A proposed fee structure in accordance with the Rules Regulating the Florida Bar and Florida Law.
4. An estimate of the cost of litigating this matter through each stage of litigation including the following milestones:
 - a. Filing the Complaint
 - b. Performing Discovery
 - c. Pursuing a Motion for Summary Judgement
 - d. Completion of the trial

The Authority understands that the actual cost of litigation may be different from the estimate, and is requesting that each attorney/firm supply this information based on their experience in litigating legal malpractice cases.

5. A list of prior litigation, not to exceed 20 cases, which demonstrates the attorney/firm’s experience in litigating legal malpractice cases.
6. A sworn statement that the responding attorney/firm have not engaged in any Public Entity Crimes.

Proposals shall be made in accordance with the following schedule:

Activity	Date
Distribution of Request for Proposal	JANUARY 28, 2019
Final Date for Questions	FEBRUARY 26, 2019
Response to Any Questions Received	FEBRUARY 27, 2019
Proposals Due	MARCH 5, 2019
ECUA Board Selection	MARCH 26, 2019

Please note that the schedule listed above is tentative and subject to change at the sole discretion of the ECUA. Any changes to the schedule will be publicly posted on ECUA's website, www.ecua.fl.gov, and emailed to all individuals who provided email addresses for such notifications.

The Authority reserves the right to waive minor, nonmaterial irregularities in any or all proposals and to accept or reject, in full or in part, any or all proposals submitted.

VII. Prohibited Communications

Attorneys/Firms, including their agents and representatives, are hereby instructed not to communicate with any member of the Authority or its employees regarding this Request for Proposals or their responses except as described in the Instructions to Proposers, pages 6, 9, and 10 (items 18 and 19), of this RFP. Such communication may be cause for rejection of the communicating attorneys/firms' proposal. All communication regarding this solicitation shall be directed to the person identified in this solicitation or such person's designee.

**RISK MANAGEMENT POLICY AND STANDARDS
FOR
AGREEMENTS, CONTRACTS AND LEASES**

DEFINITIONS

The following definitions apply to these Risk Management Provisions:

Contract - The contract or agreement of which these Risk Management Provisions are a part for the construction, alteration, repair, or demolition of a structure or facility.

Organization - The Emerald Coast Utilities Authority, a local governmental body of the State of Florida, its Board, officers, employees, volunteers, representatives, and agents.

Other Party - The other party to the Contract of which these Risk Management Provisions are a part, any subsidiaries or affiliates, officers, employees, volunteers, representatives, agents, contractors, and subcontractors.

HOLD HARMLESS

The Organization shall be held harmless against all claims for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom arising out of performance of the agreement or contract, unless such claims are a result of the Organization's sole negligence.

The Organization shall also be held harmless against all claims for financial loss with respect to the provision of or failure to provide professional or other services resulting in professional, malpractice, or errors or omissions liability arising out of performance of the agreement or contract, unless such claims are a result of the Organization's sole negligence.

PAYMENT ON BEHALF OF ORGANIZATION

The Other Party agrees to pay on behalf of the Organization all claims described in the above "Hold Harmless" paragraph, and to pay the reasonable costs and fees of the attorneys selected by the Organization, at trial and on appeal, to defend the Organization and its officers and employees against such claims. Provided, however, that the total liability of the Other Party to the Organization under the above "Hold Harmless" paragraph and this "Payment on Behalf of Organization" paragraph shall not exceed the sum of One Million Dollars (\$1,000,000) per claim or occurrence.

Such payment on behalf of the Organization shall be in addition to any and all other legal remedies available to the Organization and shall not be considered to the exclusive remedy of the Organization.

LOSS CONTROLS/SAFETY

Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees, and property. The Other Party shall comply with all laws, regulations, or ordinances relating to safety and health, and shall make special effort to detect hazardous conditions and shall take prompt action where loss control/safety measures should reasonably be expected.

The Organization may order work to be stopped if conditions exist that present immediate danger to persons or property. The Other party acknowledges that such stoppage will not shift responsibility for any loss or damages from the Other Party to the Organization.

SEVERABILITY

The provisions of these Risk Management Provisions are severable. In the event a court of competent jurisdiction should declare any provision of these Risk Management Provisions to be void or contrary to public policy such provision shall be stricken from these Risk Management Provisions, and the remaining provisions shall be enforced as though the provision determined to be void or contrary to public policy had not been included herein.

INSURANCE - BASIC COVERAGES REQUIRED

The Other Party shall procure and maintain the following described insurance, except for coverages specifically waived by the Organization, on policies and with insurers acceptable to the Organization. These insurers shall have A.M. Best (or equivalent) rating of no less than A:VII unless otherwise agreed to by the Organization.

These insurance requirements shall not limit the liability of the Other Party. The Organization does not represent these types or amounts of insurance to be sufficient or adequate to protect the Other Party's interests or liabilities, but are merely minimums.

Except for workers compensation, the Other Party waives its right of recovery against the Organization, to the extent permitted by its insurance policies.

The Other Party's deductibles/self-insured retentions shall be disclosed to the Organization and may be disapproved by the Organization. They shall be reduced or eliminated at the option of the Organization. The Other Party is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the Organization, if any, shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of Organization, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

Additional Insured

Except for workers compensation and professional liability, the Other Party's insurance policies shall be endorsed to name the Organization as an additional insured for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by the Other Party's acts or omissions; or the acts or omissions of those acting on the Other Party's behalf; in the performance of the Other Party's ongoing operations for the Organization. The preferred Commercial General Liability coverage endorsement is ISO Form CG 20 10.

Workers Compensation Coverage

The Other Party shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and employer's liability limits of at least \$100,000 each accident and \$100,000 each employee/\$500,000 policy limit for disease.

The Other Party shall also purchase any other coverages required by law for the benefit of employees.

General, Automobile and Excess or Umbrella Liability Coverage

The Other Party shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies of the Insurance Services Office.

Minimum limits of \$1,000,000 per occurrence for all liability must be provided, with excess or umbrella insurance making up the difference, if any, between the policy limits of underlying policies (including employers liability required in the Workers Compensation Coverage section) and the total amount of coverage required.

Commercial General Liability Coverage - Occurrence Form Required

Coverage A shall include bodily injury and property damage liability for premises, operations, products and completed operations, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage, and property damage resulting from explosion, collapse or underground (x,c,u) exposures.

Coverage B shall include personal injury.

Coverage C, medical payments, is not required.

The Other Party is required to continue to purchase products and completed operations coverage, at least to satisfy this agreement, contract or lease, for a minimum of three years beyond the Organization's acceptance of renovation or construction projects.

Business Auto Liability Coverage

Business Auto Liability coverage is to include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, nonowned and hired automobiles and employee nonownership use.

Excess or Umbrella Liability Coverage

Umbrella Liability insurance is preferred, but an Excess Liability equivalent may be allowed. Whichever type of coverage is provided, it should be at least “following form” and shall not be more restrictive than the underlying insurance policy coverages.

EVIDENCE/CERTIFICATES OF INSURANCE

Required insurance shall be documented in Certificates of Insurance, including indication that the policy(s) is endorsed to provide the Organization at least 30 days in advance notice of cancellation, nonrenewal or adverse change.

New Certificates of Insurance are to be provided to the Organization at least 15 days prior to coverage renewals.

If requested by the Organization, the Other Party shall furnish complete copies of the Other Party’s insurance policies, forms and endorsements.

For Commercial General Liability coverage the Other Party shall, at the option of the Organization, provide an indication of the amount of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the Organization, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party’s obligation to fulfill the insurance requirements herein.

ADDITIONAL INSURANCE

If checked below, the Organization requires the following additional types of insurance.

PROFESSIONAL LIABILITY, MALPRACTICE AND/OR ERRORS OR OMISSIONS

If checked below, the Organization requires the following terms and types of insurance for professional, malpractice, and errors or omissions liability.

Professional Liability/Malpractice/Errors or Omissions Insurance

The Other Party shall purchase and maintain professional liability or malpractice or errors or omissions insurance with minimum limits of \$1,000,000 per occurrence.

If a claims made form of coverage is provided, the retroactive date of coverage shall be no later than the inception date of claims made coverage, unless the prior policy was extended indefinitely to cover prior acts.

Coverage shall be extended beyond the policy year either by a supplemental extended reporting period (ERP) of as great duration as available, and with no less coverage and with reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made coverage.

EQUAL OPPORTUNITY CLAUSE

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. 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 contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor 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 race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further contracts with the Emerald Coast Utilities Authority. Provided, however, that no such action shall be taken without prior notice to the contractor and an opportunity for a hearing before the governing Board of the Emerald Coast Utilities Authority or its designee.

(5) The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order for an amount exceeding ten thousand dollars (\$10,000) in any twelve (12) month period, so that such provisions will be binding upon each subcontractor or vendor.

Signature

Date

Name & Title of Signer

CERTIFICATION OF NONSEGREGATED FACILITIES

By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts or purchase orders exceeding \$10,000; that he will retain such certifications in his files and make them available to the Emerald Coast Utilities Authority upon request.

Provided, however, that such certifications shall not be required in the case of purchase orders or contracts which, in case of a Federal Government contract or subcontract, would be exempt from compliance with the Equal Opportunity Clause by 41 CFR S60-1.5. This section provides for the exemption of transactions not exceeding \$10,000, contracts and subcontracts for indefinite quantities established not to exceed \$10,000 in any contract year, contracts with certain educational institutions, work on or near Indian reservations, facilities (including, but not limited to, agencies, instrumentalities or subdivision of state or local government) which are separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, and emergencies involving national security.

Signature Date

Name & Title of Signer

DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that _____ does:

(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business’s policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee’s community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Bidder’s Signature

Date

Company: _____ RFP: 2019 10 _____

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