

## INSTRUCTIONS TO BIDDERS

### REQUEST FOR QUALIFICATIONS AND PROPOSAL THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, NEW JERSEY

#### 2021 CALENDAR YEAR

#### MUNICIPAL PROSECUTOR

The Borough of Lavallette, located on a barrier island in Ocean County, New Jersey, is a municipality of approximately 2,000 residents, which expands to approximately 30,000 residents during the summer season. The Borough is requesting proposals from individuals or law firms to provide prosecuting services for the Borough of Lavallette Municipal Court for the Calendar Year 2020. Proposals must be submitted based upon a **flat annual charge**, which will be paid in twelve monthly installments. An hourly rate **must** also be included for any additional work that may be necessary and authorized by the Governing Body. **The Borough shall also appoint an Alternate Municipal Prosecutor. The hourly rate provided will be utilized for that purpose as well.**

Services will include attendance at hearings to represent the Borough of Lavallette as Prosecutor in the Lavallette Municipal Court and for the preparation of such hearings, telephone consultation, technical assistance and training, when needed, to law enforcement personnel. Lavallette Municipal Court is normally scheduled for the second and fourth Tuesdays of the month during the months of July and August starting at 4:30pm (2<sup>nd</sup> session added for 7pm, if necessary) and the second Tuesday of the month from January through May at 4:30 pm. Additional court sessions can be scheduled at any time, if necessary. Sealed qualifications and proposal must be received by the Borough of Lavallette on or before **Monday, December 14, 2020 at 11:00 a.m.** by the Municipal Clerk. Proposals can be hand delivered to the Lavallette Municipal Building, Municipal Clerk's Office, located at 1306 Grand Central Avenue, Lavallette, NJ. Proposals that are mailed should be addressed to the Lavallette Municipal Building, Municipal Clerk's Office, 1306 Grand Central Avenue, Lavallette, New Jersey 08735. The opening of proposals will take place at the Lavallette Municipal Building, located at 1306 Grand Central Avenue, Lavallette, NJ at the time prescribed above. Award of the contract shall be made after evaluation, by resolution of the Governing Body at their Reorganization Meeting in January.

#### NOTICE TO BIDDERS

- Bidders are cautioned to read these specifications carefully and to execute all required documents and sign their proposals. All prices must be written in ink or typewritten and signatures must be in ink. Failure to comply with the provisions of this notice will result in rejection of the qualifications and proposal.
- Qualifications and proposal shall be enclosed in a sealed envelope addressed to the Borough of Lavallette with the front of the envelope plainly marked with the name and address of the bidder and name of item being bid on. Eight (8) copies of bid forms properly signed and executed and eight (8) copies of all other documents are required. The required forms are enclosed for your convenience and MUST BE USED when submitting proposal.

**PROPOSALS SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION. All PROPOSALS MUST BE SUBMITTED IN THE FOLLOWING MANNER AND ORDER**

- Section 1: Proposal Sheet and Annual Fee – Cover sheets provided (page 9). Proposals shall clearly set forth the annual fee for serving as Municipal Prosecutor. The proposal **must** also include a schedule of hourly rates and any additional fees the Borough may be charged in the event that the governing body authorizes additional services.
- Section 2: Qualifications - Description of your attorney/law firm practice and services the firm is capable of providing, including an explanation of how these services will best meet the Borough's needs. Five or more years' experience in municipal court matters is preferred.
- Section 3: Experience - A list of all municipalities to which you or the firm currently serves or has served as Municipal Prosecutor.
- Section 4: References - A list of references regarding reputation and qualifications of the law firm/associate/designee assigned to prosecutorial duties.
- Section 5: Resumes - Resumes of any or all attorneys who may provide prosecutorial services under the contract.
- Section 6: Office Location - Provide information regarding the location of the office.
- Section 7. Pending Litigation or Judgments – Provide disclosure of any pending litigation or judgments rendered against the law firm/private attorney in any matter relating to professional activities of the firm, including any pending complaints to the New Jersey State Bar Association.
- Section 8. Ethics Violations or Complaints. Provide disclosure of any ethics violation complaints, either pending or judgment rendered against the law firm or any individual

currently employed by the firm, by the Local Finance Board and/or a Municipal Ethics Board.

- Section 9: Mandatory Affirmative Action / Americans with Disabilities - All professional service agreements must, in addition to any other statutory requirements, include or have attached thereto:
  - Mandatory Affirmative Action Language for Goods and Services Contracts. The Affirmative Action Agreement is included in the bid packet and must be executed and submitted with the qualifications and proposal.
  - Mandatory Americans with Disabilities Act Language. The Mandatory Americans with Disabilities Act Language Certification is included in the bid packet and must be executed and submitted with the qualifications and proposal.
  
- Section 10: New Jersey Business Registration Requirements – Business organizations or individuals doing business in New Jersey are required to register with the Department of the Treasury, Division of Revenue. Each bidder shall submit a copy of its Business Registration Certificate with its bid.
  - The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.
  - Before final payment on the contract is made by the Borough of Lavallette, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.
  - For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with the Borough of Lavallette.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L. 2001,c.134(N.J.S.A. 52:32-44et al.) or subsection e. or f. of section 92 of P.L.1997,c.110(N.J.S.A.5:12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with the Borough of Lavallette.

- Section 11: Compliance with Chapter 20A of the Code of the Borough of Lavallette entitled “Public Contracts”. The Borough of Lavallette adopted Chapter 20A of the Code of the Borough of Lavallette entitled “Public Contracts” on March 20, 2006 and revisions on October 16, 2006. **In order to receive a professional service**

**contract with the Borough full compliance with Chapter 20A is required. A Copy of Chapter 20A is included below. Submission of a sworn statement of compliance with Chapter 20A is required. FAILURE TO SUBMIT A SWORN STATEMENT OF FULL COMPLIANCE WITH CHAPTER 20A WITH THE BID SHALL RESULT IN BID REJECTION (Form Attached).**

- Section 12: Other information - Provide any additional information believed pertinent to the award of a contract for the position of Municipal Prosecutor.

### **TERM OF CONTRACT**

January 1<sup>st</sup>, 2021 through December 31<sup>st</sup>, 2021

### **QUESTIONS / ADDITIONAL INFORMATION**

Any requests for additional information desired regarding the furnishing of said qualifications and proposal must be obtained in writing from the Municipal Clerk, 1306 Grand Central Avenue, Lavallette, New Jersey 08735. Telephone number is (732) 793-7477. All questions or requests for additional information must be submitted no later than Friday, November 30, 2020.

### **CHAPTER 20A OF THE CODE OF THE BOROUGH OF LAVALLETTE ENTITLED "PUBLIC CONTRACTS"**

The Borough of Lavallette has adopted rules and regulations pertaining to contributions made by certain professional business entities to various elected officials, candidates, campaign committees and political action committees. These regulations are commonly referred to as "Pay-to-Play". Below is a copy of the provisions contained in Chapter 20A.

#### **Chapter 20A**

#### **CONTRACTS, PUBLIC**

**[HISTORY: Adopted by the Mayor and Council of the Borough of Lavallette 3-20-2006 by Ord. No. 2006-01 (989). Amendments noted where applicable.]**

#### **§ 20A-1. Prohibition on awarding public contracts to certain contributors.**

- A. Any other provisions of law to the contrary notwithstanding, the Borough of Lavallette shall not enter into an agreement or otherwise procure professional, banking, insurance coverage and/or any other consulting services from any professional business entity if that entity has made any contribution of money, including in-kind contributions, to any Lavallette Borough municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Lavallette Borough party committee, or to any Ocean County party committee or to any candidate seeking the office of Ocean County Freeholder, Surrogate or Sheriff, or to any political action committee (PAC) that regularly engages in

the support of municipal elections and/or municipal parties in excess of the thresholds specified in Subsection D within one calendar year immediately preceding the date of the contract; or

- B. No professional business entity which enters into negotiations for or agrees to any contract or agreement with the Borough of Lavallette for the rendering of professional, banking, insurance coverage or any other consulting services shall make any contribution of money, including in-kind contributions, to any Lavallette Borough municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Lavallette Borough or Ocean County party committee, or to any candidate seeking the office of Ocean County Freeholder, Surrogate or Sheriff, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties. No contribution shall be made in excess of Subsection D below.
- C. For purposes of this chapter, a “professional business entity” seeking a public contract means an individual, including the individual’s spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own any of the equity in the corporation or business or partnership, trust, partners and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.
- D. Anyone meeting the definition of “professional business entity” under this section may annually contribute a maximum of \$300 each for any purpose to each and every candidate for Mayor or Council, or \$300 to the Lavallette Borough party committee, or \$500 to an Ocean County party committee, or \$500 to a single or joint campaign account for Ocean County Freeholder, or \$500 to a candidate for Surrogate, or \$500 to a candidate for Sheriff, or \$500 to a PAC referenced in this chapter, without violating Subsection A or B of this section.
- E. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:
  - (1) The Lavallette Borough Council and the Mayor of the Borough of Lavallette, if the contract requires approval or appropriation from the Council;
  - (2) The Mayor of the Borough of Lavallette, if the contract requires approval of the Mayor or if a public officer who is responsible for the award of a contract is appointed by the Mayor.
- F. (Reserved)
- G. All provisions of § 20A-1 are subject to the provisions of § 20A-2 of this chapter below.

**§ 20A-2. Contributions made prior to the effective date.**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or any candidate for Ocean County Freeholder, Ocean County Sheriff or Ocean County Surrogate, or municipal or County party committee or PAC referenced in this chapter, shall be deemed a violation of this section, nor shall an agreement for property, goods or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this chapter.

**§ 20A-3. Contribution statement by professional business entity.**

- A. Prior to awarding any contract or agreement to procure services, including but not limited to banking or insurance coverage services, with any professional business entity, the Borough shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of § 20A-1 of this chapter.
  
- B. The professional business entity shall have a continuing duty to report any violations of this chapter that may occur during the negotiation or duration of a contract. The certification required under this section shall be made prior to execution of the contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

**§ 20A-4. Return of excess contributions.**

A professional business entity or Borough candidate or officeholder or municipal or county party committee or PAC referenced in this chapter may cure a violation of § 20A-1 of this chapter if, within 30 days, excluding Sundays, after contribution and award of a contract, the professional business entity notifies the Borough Council in writing and seeks and receives reimbursement of a contribution from the Borough candidate or municipal political party or PAC referenced in this chapter.

**§ 20A-5. Penalty.**

- A. It shall be a breach of the terms of the Borough of Lavallette professional service agreement for a business entity to:
  - (1) Make a contribution in violation of this chapter;
  - (2) Knowingly conceal or misrepresent a contribution given or received;
  - (3) Make contributions through intermediaries for the purpose of concealing misrepresenting the sources of the contribution;
  - (4) Make any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public

office of the Borough of Lavallette;

- (5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make any contribution which, if made by the business entity itself, would subject that entity to the restrictions of this chapter;
- (6) Fund contributions to be made by third parties, including consultants, attorneys, family members and employees;
- (7) Engage in any exchange of contributions to circumvent the intent of this chapter; and/or;
- (8) Directly or indirectly, through or by any person or means, do any act which would subject that entity to the restrictions of this chapter.

B. Furthermore, any professional business entity who violates Subsection A (2) through (8) shall be disqualified for eligibility for future Lavallette Borough contacts for a period of two calendar years from the date of the violation.

#### **EVALUATION OF THE REQUEST FOR QUALIFICATION AND SELECTION**

The Borough reserves the right to accept the submission deemed most advantageous, price and other factors considered, by the governing body of the Borough of Lavallette.

The following information will be taken into consideration during the evaluation process:

- Individual or Firm experience (e.g., length of time in business, criminal law experience defender or prosecutor and other matters relating to relevant experience).
- Reputation and qualifications of the specific individual(s) to be assigned to act as the in-court prosecutor.
- The competitiveness of the law firm / private attorney fee structure.
- The adequacy of the applicant firm's facilities and the proximity and accessibility of such firm to the Borough of Lavallette.
- The ability of the law firm/private attorney to perform as prosecutor based upon references relating to work in criminal courts of limited jurisdiction.
- The law firm/attorney's experience and effectiveness in providing thorough and timely legal briefs.
- It should be noted that cost of services is important to the governing body, but it is not necessarily the most critical factor in evaluating the individual or firm's suitability to serve as Municipal Prosecutor for the Borough of Lavallette.

**BOROUGH OF LAVALLETTE PROPOSAL SHEET**

**REQUEST FOR QUALIFICATIONS AND PROPOSAL  
THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, NEW  
JERSEY**

**2021 MUNICIPAL PROSECUTOR**

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Company Name: \_\_\_\_\_ Date: \_\_\_\_\_

Authorized Representative (Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone #: \_\_\_\_\_ Fax #: \_\_\_\_\_

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Annual Fee for Serving as Municipal Prosecutor \$ \_\_\_\_\_

Provide or attach a schedule of hourly rates and any additional fees charged as authorized by the governing body.

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Schedule Attached: Yes \_\_\_\_\_ No \_\_\_\_\_  
(Check One)

In accordance with the Instructions to Bidders and request for qualifications and proposal, the undersigned hereby certify that they have read and understand the same and propose to furnish the services as specified. The undersigned hereby certifies that this proposal is genuine and is made without collusion with any person, firm or corporation making a proposal for the same service.

Company \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Telephone \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

**AFFIRMATIVE ACTION AGREEMENT**

The Contractor here agrees that during the performance of an agreement with the Borough of Lavallette, it will in all respects comply with Chapter 127 of the Public Law of 1975 and further states agreement as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of his age, race, creed, color, national origin, ancestry, marital status or sex. The Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not 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.

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

C. The Contractor will send to each labor union or representative of workers with which he has a Collective Bargaining Agreement or other agreement or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Company \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

**AFFIDAVIT FOR AFFIRMATIVE ACTION**

STATE OF \_\_\_\_\_ )

: SS.:

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ being duly sworn, deposes and says that he/she resides at:

\_\_\_\_\_ and that he/she is the \_\_\_\_\_ of  
(Title)

\_\_\_\_\_  
(Partnership/Corporation)

who signed the above Proposal or Bid, that during the course of this contract, he will agree to the Plan for Affirmative Action as outlined in the NOTICE TO BIDDERS, and more particularly detailed in the contract documents.

\_\_\_\_\_  
(Signature of Affiant)

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(Notary Public)

## AMERICANS WITH DISABILITIES ACT

### Equal Opportunity for Individuals with Disabilities

The CONTRACTOR and the BOROUGH OF LAVALLETTE do hereby agree that the provisions of title II of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. 12101 et. seq.) which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the BOROUGH OF LAVALLETTE pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the CONTRACTOR, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the BOROUGH OF LAVALLETTE in any action or administrative proceeding commenced pursuant to this Act. The CONTRACTOR shall indemnify, protect and save harmless the BOROUGH OF LAVALLETTE, its agents, servants and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend and pay and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith.

The BOROUGH OF LAVALLETTE shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the BOROUGH OF LAVALLETTE or any of its agents, servants and employees, the COUNTY shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the BOROUGH OF LAVALLETTE or its representatives.

It is expressly agreed and understood that any approval by the BOROUGH OF LAVALLETTE of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect and save harmless the BOROUGH OF LAVALLETTE pursuant to this paragraph

It is further agreed and understood that the BOROUGH OF LAVALLETTE assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provision of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the BOROUGH OF LAVALLETTE from taking any other actions available to it under any other provisions of this Agreement or otherwise at law. The BOROUGH OF LAVALLETTE does not discriminate on the basis of handicapped status in the admission or access to, or treatment, or employment in its programs or activities.

The BOROUGH OF LAVALLETTE shall allow access to any books, documents, papers and records of the contractor, which are directly pertinent to that specific contract.

Compliance is required with all applicable standards, orders, or requirements issued under 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency Regulations (40 CRF, Part 15) which prohibits the use under non-exempt federal contracts, grants or loans of facilities included on the EPA list of violating facilities.

“The BOROUGH OF LAVALLETTE considers it to be a substantial conflict of interest for any company desiring to do business with the BOROUGH OF LAVALLETTE to be owned, operated or managed by any BOROUGH OF LAVALLETTE employee, nor shall any BOROUGH OF LAVALLETTE personnel be employed by the vendor in conjunction with any work to be performed for or on behalf of the BOROUGH OF LAVALLETTE”.

I HEREBY CERTIFY COMPLIANCE WITH THE FOREGOING.

Partnership  
The undersigned is a Corporation under the law of the State  
Individual  
of \_\_\_\_\_, having principal offices  
at \_\_\_\_\_.

\_\_\_\_\_  
NAME OF COMPANY, CORPORATION OR INDIVIDUAL  
-Please Print-

SIGNED BY: \_\_\_\_\_

\_\_\_\_\_  
-Print Name and Official Title-

ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
-Include Zip Code-

TELEPHONE: \_\_\_\_\_ E-MAIL ADDRESS \_\_\_\_\_

FEDERAL IDENTIFICATION NO. \_\_\_\_\_

**AFFADAVIT FOR COMPLIANCE WITH CHAPTER 20A OF THE  
CODE OF THE BOROUGH OF LAVALLETTE**

STATE OF \_\_\_\_\_ )

: SS.:

COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, being duly sworn, disposes and says that I am (the  
owner), (partner), (president), \_\_\_\_\_ of/at  
(Other)

\_\_\_\_\_, respondent to the request for proposal for the  
(Corporate / Firm Name)

position of Municipal Prosecutor for the Borough of Lavallette, New Jersey who signed the  
above

Request for Qualifications and Proposal, dated \_\_\_\_\_ and the

\_\_\_\_\_ is in full compliance with **CHAPTER 20A OF**  
(Corporate / Firm Name)

**THE BOROUGH CODE OF THE BOROUGH OF LAVALLETTE** entitled “Public  
Contracts”.

\_\_\_\_\_  
Signature of Official

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(Notary Public)