

REQUEST FOR PROPOSAL: BOND COUNSEL SERVICES

I. INTRODUCTION

Laramie County, Wyoming (COUNTY) by and through Laramie County Commissioners is seeking proposals from qualified firms to serve as bond counsel for the COUNTY in connection with the acquisition of bond or loan services related to the recent passage of a 6th Penny sales tax ballot proposition intended to fund several projects-part of Proposition 1 and Proposition 2. The total amount authorized by the ballot proposition for County projects is approximately \$25,176,680.00.

II. INSTRUCTIONS

Responses are to be delivered via delivery or regular mail by **4:30 p.m.** (Mountain Standard Time) on **June 26, 2017**, to the following individual:

Valerie Miller, Executive Assistant to the Laramie County Board of Commissioners, 310 W. 19th St., Suite 300, Cheyenne, Wyoming 82001. Phone: (307) 633-4260.

A public opening of the proposals will be performed on June 29, 2017 at 2:00 p.m. No decision as to a successful respondent will be made at that time. Only the names of the firms submitting proposals will be read aloud at the RFP opening. The proposals will be available for inspection during normal business hours in the Laramie County Clerk's within three (3) working days of the closing date.

The proposal must be signed by an individual or individuals authorized to execute legal documents on behalf of the proposer.

Each respondent shall submit SIX (6) complete sets of the proposal form, one marked "ORIGINAL" and FIVE (5) marked "COPY".

It is the Proposer's sole responsibility to ensure that their proposal is received prior to the scheduled closing time for receipt of proposals. No corrected or resubmitted proposals will be accepted after the deadline.

This Request for Proposal does not commit Laramie County to award a contract or pay any costs incurred in the preparation of a proposal responsive to this request. The County reserves the right to accept all or part of any proposal or to cancel in part or in its entirety this Request for Proposal.

All proposals submitted in response to this request become property of the County and public records, so they may be subject to public review. The laws of Wyoming require that the contents of all proposals shall be placed in the public domain and be open to inspection by interested parties. Trade secrets or proprietary information that are recognized as such and are protected by law may be withheld if **clearly identified as such in the proposal**. The respondent must mark in bold red letters the term "CONFIDENTIAL" on that part of the response, which the respondent believes to be confidential. The respondent may be required to submit in writing specific detailed reasons, including any relevant legal authority, stating why the respondent believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. Laramie County will be the sole judge as to whether a claim is general and/or vague in nature. The entire proposal cannot be designated as proprietary or a trade secret. If a request is received to examine portions designated as proprietary or a trade secret, Laramie County will notify the respondent to permit the respondent to defend the proprietary nature of the information.

The County reserves the right to request additional information, or request clarification, or reject in its sole discretion any and all proposals. Firms may submit a joint proposal.

FAILURE TO COMPLY WITH ANY OF THE REQUIREMENTS OF THIS RFP, INCLUDING FAILURE OF A PROPOSAL IN RESPONSE TO THIS RFP TO BE RECEIVED BY THE DEADLINE NOTED ABOVE, MAY RESULT IN DISQUALIFICATION OR REJECTION OF THE PROPOSAL.

III. REQUESTS FOR INFORMATION

Questions related to this RFP must be in submitted in writing to Mark Voss at the Laramie County Attorney's Office, emails must be entitled in the subject Line: "Question Regarding Bond Counsel RFP" and sent to herringj@laramiecounty.com or by letter with the same subject header to Laramie County Attorney's Office, 310 W. 19th St., Suite 320, Cheyenne,

WY 82001. Questions must be submitted no later than **4:00 p.m.** (Mountain Time), on **June 21, 2017**.

Firms interested in submitting a proposal are directed not to make personal contact with members of the Board of Commissioners or their agency or division heads, with the exception of the individuals listed above. **FAILURE TO ADHERE TO THIS REQUIREMENT MAY RESULT IN DISQUALIFICATION.**

IV. SCOPE OF SERVICES

- 1) Provide legal advice and consultation relating to tax and other legal matters associated with the financing from the ballot initiative and its projects.
- 2) Provide a legal opinion(s) with respect to the authorization and issuance of the debt obligations, questions relating to tax matters and adherence to legal requirements under federal and/or state laws and regulations.
- 3) Draft and review legal documentation including all required resolutions, financing documents, closing documents and transcripts and coordinate the authorization and execution of those documents.
- 4) Provide ongoing legal services in matters relating to interpretation of applicable regulations, applicable statutes or pending litigation.
- 5) Participate in conference calls or meetings, as requested, relating to the issuance of bonds or notes.
- 6) Provide ongoing information to County staff regarding the activity and legal status of the financing.
- 7) Perform due diligence regarding the County and the financing.

V. PROPOSAL REQUIREMENTS

In order for a proposal to be considered, said proposal must be clear, concise, complete, well organized and demonstrate both respondent's qualifications, and its ability to follow instructions. The quality of answers, not length of responses or visual exhibits is important in the proposal.

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All proposals will be delivered or mailed to, the Laramie County Commissioners, 310 W. 19th St., Suite 300, Cheyenne, Wyoming 82001. (fax and email are not permitted for proposals)

It is recommended that the proposal be organized in the format listed below.

- 1) Briefly describe the firm's practice in public finance and related areas of law, particularly with regards to Wyoming governmental financing, and give a brief history of the firm.
- 2) Describe your firm's capabilities and experience with governmental bond or borrowing related tax matters. If your firm does not have in-house municipal bond related tax expertise, describe how you would help the County receive related tax advice.
- 3) Describe your firm's experience with and approach to applicable federal securities laws and regulations.
- 4) Describe your firm's practice areas other than governmental finance, if any.
- 5) Describe the knowledge and experience of the attorneys that would be assigned to the County's transaction(s), particularly the individual(s) who would be the District's primary contacts.
- 6) Based on the amount of financing anticipated from the ballot initiative at issue, provide a non-binding estimate of the total approximate fees for service in this matter.
- 7) Describe your firm's and assigned personnel's ability to evaluate legal issues, prepare documents, and complete other tasks of a bond transaction in a timely manner.
- 8) Identify and briefly describe comparable financings in which the firm has served as bond counsel or other counsel during the past five years. If you have noted unique, complex, or challenging issues in connection with the proposed financing, indicate how the experience and expertise of your firm will be utilized to complete the necessary legal work.

9) Name five issuers represented by the firm, describe the nature of the representation, and for each issuer list the e-mail address, telephone number, and title of an official who may be contacted as a reference.

10) Provide a case study that demonstrates your firm's ability to problem-solve on behalf of an issuer.

11) Describe your firm's proposed compensation. All fees will be contingent upon the completion of a financing.

12) Describe any existing or potential conflict of interest arising from your relationships with or representation of other parties that should be considered as a factor in determining your objectivity, and provide to the Issuer sufficient facts, legal implications, and possible effects in order for the Issuer to appreciate the significance of each potential conflict and grant an appropriate waiver, if necessary.

13) Describe the level of malpractice insurance carried by your firm, including the deductible.

14) Provide your firm's proposed bond counsel contract or retention agreement.

VI. EVALUATION CRITERIA

Firms submitting a proposal are advised that all proposals will be evaluated to determine the firm deemed most qualified to meet the needs of the County. The evaluation criteria will include, but not be limited to, the items listed below:

A. Demonstrated understanding and responsiveness to the Request for Proposal,

B. Experience and expertise of firm and personnel named in the proposal,

C. Past experience with providing bond counsel services to Wyoming governmental entities,

D. Satisfaction of previous clients,

E. Fees.

VII. GENERAL PROVISIONS

1) The successful respondent will be expected to enter into a contract, including insurance requirements, with Laramie County upon terms acceptable to the County. The contents of this RFP and all provisions of the successful proposal deemed pertinent by the County may be incorporated into a contract and become legally binding.

2) The County reserves the right to award the contract to the respondent(s) that the County deems to offer the best overall proposal(s). The County is therefore not bound to accept a proposal on the basis of lowest price. In addition, the County at its sole discretion, reserves the right to cancel this RFP, to modify the services sought, to reject any and all proposals, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in the best interest of the County to do so. The County also reserves the right to make multiple awards, based on experience and qualifications if it is deemed to be in the County's best interest.

3) Laramie County does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 et seq., by issuing this Request and/or entering into any agreement with any successful Respondent. Further, Laramie County fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

4) Any errors or omissions discovered in this request for proposal, or any additional information needed to clarify any issues in the request, will be communicated to all firms who have expressed an interest in the engagement. The communication will amend the requests accordingly

5) If a respondent discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in this document, the respondent shall immediately notify the issuing office. If a respondent fails to notify the issuing office of any error, ambiguity, conflict, discrepancy, exclusionary specifications, or omission, the respondent shall submit a response at its own risk and under such conditions. If the respondent is

awarded a contract, then such respondent will not be entitled to additional compensation, relief, or time by reason of the error or its later correction.

VIII. CONTRACT TERMS

The contract to be entered into by a successful RESPONDENT may include, but not be limited to, the following terms and conditions as well as insurance requirements.

- 1) **Acceptance Not Waiver:** COUNTY approval of the reports, work or services furnished hereunder shall not in any way relieve RESPONDENT of responsibility for the technical accuracy of the work. COUNTY approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- 2) **Independent Contractor:** The services to be performed by RESPONDENT are those of an independent contractor and not as an employee of COUNTY. RESPONDENT is not eligible for Laramie County employee benefits and will be treated as an independent Respondent for federal tax filing purposes. RESPONDENT assumes responsibility for its personnel who provide services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. RESPONDENT is free to perform the same or similar services for others.
- 3) **Entire Agreement:** This Agreement (XX pages, inclusive of attachments and appendices) represent the entire and integrated agreement and understanding between the parties and supersede all prior negotiations, statements, representations and agreements, whether written or oral.
- 4) **Modification:** This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.
- 5) **Invalidity:** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or inability to enforce, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

6) **Applicable Law and Venue:** The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to RESPONDENT and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

7) **Assignment:** Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

8) **Contingencies:** RESPONDENT certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

9) **Discrimination:** All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

10) **ADA Compliance:** All parties agree they will not discriminate against a qualified individual with disability, pursuant to law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, et seq., and/or any properly promulgated rules and regulations relating thereto.

11) **Governmental/Sovereign Immunity:** COUNTY does not waive its Governmental/ Sovereign Immunity, as provided by any applicable law including Wyo. Stat. §§ 1-39-101 through 121, as amended, by entering into this Agreement. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

12) **Indemnification:** To the fullest extent permitted by law, RESPONDENT agrees to indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf

of RESPONDENT for COUNTY except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees. RESPONDENT shall carry liability insurance sufficient to cover its obligations under this provision and provide COUNTY with proof of such insurance.

13) Insurance: The RESPONDENT shall obtain insurance, and provide certificates and policies, to the COUNTY's satisfaction and subject to requirements substantially similar to those set out in Exhibit 1--Insurance Requirements for Professional Services, which is attached and incorporated here by reference. (Insurance requirements can be discussed and negotiated after selection.)

14) Conflict of Interest: COUNTY and RESPONDENT affirm, to their knowledge, no RESPONDENT'S employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of RESPONDENT, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

15) Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services provided by RESPONDENT, the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify RESPONDENT at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY, in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit COUNTY to terminate this Agreement in order to acquire similar services from another party.

16) Compliance with Law: RESPONDENT shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

Exhibit 1:
Insurance Requirements

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and Code 9 (non-owned autos), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

3. **Workers’ Compensation** insurance as required by the State of Wyoming with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. *(Not required if Contractor provides written verification it has no employees)*

4. **Professional Liability (Errors and Omissions):** Insurance appropriate to the Contractor’s profession with limit no less than **\$1,000,000** per occurrence or claim, \$2,000,000 aggregate. *(If applicable – see footnote next page)*

If the Contractor maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The County, its officers, officials, employees and volunteers are to be covered as additional insured’s on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form

of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 if a later edition is used.

Primary Coverage

For any claims related to this contract, the **Contractor's insurance coverage shall be primary** insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance of self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that **coverage shall not be cancelled, except with notice of County.**

Waiver of Subrogation

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract work.***
3. If coverage is cancelled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to the contract effective date,*** the Contractor must

purchase “extended reporting” coverage for a minimum of *five (5)* years after completion of work.

Verification of Coverage

Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Acceptance of the insurance by the County shall not relieve, limit, or decrease the liability of the Contractor. The Contractor shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The County does not represent that the insurance requirements are sufficient to protect the Contractor’s interest or provide adequate coverage.