

**REQUEST FOR QUALIFICATIONS & PROPOSALS  
SPECIAL COUNSEL TO CITY COUNCIL  
ISSUED JULY 22, 2019**

**I. Purpose.**

The Council of the City of New Orleans (“Council”), pursuant to the authority conferred by Section 4-403 of the Home Rule Charter, seeks the services of a qualified individual attorney or law firm to act as special counsel for the limited purpose of representing the Council in the litigation captioned *The Southern Center for Environmental Justice, Inc., et al. v. The Council of the City of New Orleans, et al.*, C.D.C. Case No. 18-3843 (“NOPS Litigation”), which is currently on appeal from Civil District Court for the Parish of Orleans.

Interested individuals and firms should submit a response in accordance with the requirements outlined in this Request for Qualifications and Proposals (“RFQ/P”).

**II. Background.**

The NOPS Litigation arises out of a claim that the City Council violated the law when it approved – in its capacity as the utility regulator for the City of New Orleans – an application by Entergy New Orleans to construct a power station in New Orleans East. On July 2, 2019, Judge Piper Griffin rendered a written Judgment adverse to Council (Attachment 1). On July 18, 2019, the Council also adopted Motion M-19-273 (Attachment 2) directing the Council Chief of Staff to procure the services of an attorney to handle the appeal of the Judgment.

**III. Scope of Services.**

Special counsel will represent the Council in connection with the NOPS Litigation and the appeal of the July 2, 2019 Judgment therein, at the direction of the Council Chief of Staff or his designee. It is anticipated that this representation shall include:

- Developing strategy and rendering legal advice regarding the NOPS Litigation and any factual or legal matters reasonably arising out of, or related to, the NOPS Litigation, as directed by the Council Chief of Staff or his designee;
- Drafting and filing any necessary or desirable legal memoranda and pleadings, as directed by the Council Chief of Staff or his designee;
- Participating in oral argument, as directed by the Council Chief of Staff or his designee; and
- Coordinating and communicating with the members of the City Council and their staff; the Council Utility Regulatory Office and its advisors, and the City Attorney’s Office, as directed by the Council Chief of Staff or his designee.

## **VI. Evaluation Criteria.**

Upon receipt by the due date of responses to this RFQ/P by qualified individuals or firms, the Council's Selection Review Committee will evaluate all responses received based upon the following criteria:

1. The primary attorney must be a Louisiana-licensed attorney licensed to practice in this State for at least 10 years.
2. Experience and reputation obtaining successful litigation outcomes in Louisiana state court, with an particular emphasis on appellate advocacy at the Louisiana Fourth Circuit Court of Appeal and the Louisiana Supreme Court.
3. Capability of the respondent to provide adequate staffing and support.
4. Experience representing public entities – both in litigation and non-litigation matters.
5. Experience in dealing with utility regulation and the Louisiana Open Meetings Law.
6. Demonstrated reputation for honesty, integrity, and fairness in dealing with high-profile matters.
7. Demonstrated clear understanding by the applicant of work to be performed.
8. Involvement of New Orleans domiciliaries and/or involvement of certified disadvantaged business enterprises, as evidenced by government issued certification thereof.
9. The billing rate/cost of services to be provided.

## **V. Conflicts of Interest.**

Any RFQ/P respondent shall provide a clear and unambiguous disclosure of any actual or potential conflicts of interest with respect to performing the services described herein. In such disclosure the respondent shall indicate the scope of the conflicting or potentially conflicting engagement(s), the time frame, the amount of compensation received and why the respondent deems such work to be or not to be in conflict with the interests of the Council in conducting the Investigation.

The Council shall make the final decision as to whether any potential or real conflict of interest exists.

## **VI. Proposal Process**

- *Proposal Submission*

Each respondent will submit a written document setting forth its ability to perform the Scope of Services and enabling the Council and the Selection Review Committee to determine whether the

respondent meets the Evaluation Criteria. Submissions should include references and representative examples of relevant work product.

Submissions must be received by 2 p.m. on Monday, August 5, 2019 in the Chief of Staff Office, Room 1E06, City Hall, 1300 Perdido St., New Orleans, La. 70112, or by email submission to: [dsgavlinski@nola.gov](mailto:dsgavlinski@nola.gov). **Late proposals will not be considered.**

- *Blackout Period*

Except for pre-submission questions, which are addressed below, no potential respondent to this RFQ/P shall communicate regarding this RFQ/P or its subject-matter with any Councilmember or any other City employee during the “RFQ Blackout Period.” The RFQ Black Period begins on the date when this RFQ/P is publicly released and ends when the special counsel is selected by motion of the Council. The prohibition is intended to apply broadly to written, electronic, and oral communications, as well as those made directly or through a representative.

- *Pre-Submission Questions*

Because of the expedited nature of this process, there will be no pre-proposal conference.

Any questions for requests for additional information must be submitted by email to Chief of Staff David Gavliniski ([dsgavlinski@nola.gov](mailto:dsgavlinski@nola.gov)) not less than three working days before submissions are due. Any questions received and responses provided will be made publicly available on the RFQ/RFP Section of the City Council website.

- *Selection Process*

An evaluation committee composed of the Council Chief of Staff, the Council’s Executive Counsel, the City Attorney (or her designee), and the Council Utility Regulatory Office Chief of Staff will review and evaluate the submissions based upon the Evaluation Criteria, selecting up to three respondents for referral to the Council. In cases where proposals are selected for referral, the Council staff will contact one or more of the references.

## **VII. Miscellaneous Provisions**

- *Inspector General*

Section 9-1120, Chapter 2 of the Code of the City of New Orleans, relative to the Office of Inspector General, provides in part as follows:

Every city contract and every budget, proposal, application, or solicitation for a city contract, and every application for certification of eligibility for a city contract or program shall contain a statement that the corporation, partnership, or person understands and will abide by all provisions of this chapter.

The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee relating to the procurement of goods or services by the city, including meetings

involving third party transactions. The notice required shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting. The Inspector General may attend all city meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority, and powers of the Inspector General. An audio recorder or court stenographer may be utilized to record all selection or negotiation committee meetings attended by the Office of the Inspector General.

- *Additional Information*

The City of New Orleans is not liable for any costs incurred prior to entering into a formal written contract. Any costs incurred in the preparation of the statement of qualifications, interview, or other pre-contract activity are the responsibility of the respondent. All submissions become the property of the City and, as such, are public information.

The City Council reserves the right to accept or reject any and all responses submitted and to cancel the RFQ/P, in whole or in part, for any reason, in its sole judgment.

It is anticipated that the contractor will invoice the City monthly. Work shall be detailed in increments of one-tenth/hour.

The contract with the City Council shall contain a provision that any sub-contractor proposed to be retained by the respondent to perform work on the contract with the City Council must be approved in accordance with the provisions of Council Rule 42. The Council may require information on ownership interests of any proposed sub-contractor.

ATTACHMENT 1

Civil District Court for the Parish of Orleans  
STATE OF LOUISIANA

No: 2018 - 03843

Division/Section: I-14

DEEP SOUTH CENTER FOR ENVIRONMENTAL JUSTICE ETAL ET AL  
versus  
THE COUNCIL OF THE CITY OF NEW ORLEANS ETAL ET AL

Date Case Filed: 4/19/2018

NOTICE OF SIGNING OF JUDGMENT

TO:

Alexander H Bollag Esq 34447  
404 S Jefferson Davis Pkwy  
New Orleans, LA 70119

Corwin M St Raymond Esq 31330  
1300 Perdido Street  
City Attorney's Office  
New Orleans, LA 70112

William P Quigley Esq 07769  
Loyola Law School  
7214 Saint Charles Ave  
New Orleans, LA 70118-3538

Monique C Harden Esq 24118  
2332 Dublin St  
New Orleans, LA 70118-1015

In accordance with Article 1913 C.C.P., you are hereby notified that Judgment  
in the above entitled and numbered cause was signed on July 2, 2019

New Orleans, Louisiana  
July 2, 2019

  
MINUTE CLERK

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
STATE OF LOUISIANA

CASE NO. 18-3843

DIVISION "I"

Section 14

THE SOUTHERN CENTER FOR ENVIRONMENTAL JUSTICE, INC. d/b/a DEEP SOUTH  
CENTER FOR ENVIRONMENTAL JUSTICE, VAYLA NEW ORLEANS,  
JUSTICE AND BEYOND, 350 NEW ORLEANS, SIERRA CLUB,  
MR. THEODORE QUANT, AND MS. RENATE HEURICH

VERSUS

THE COUNCIL OF THE CITY OF NEW ORLEANS, THE UTILITY, CABLE,  
TELECOMMUNICATIONS AND TECHNOLOGY COMMITTEE OF THE NEW ORLEANS  
CITY COUNCIL, JASON R. WILLIAMS, HELENA MORENO, JOSEPH I. GIARRUSSO,  
JAY H. BANKS, KRISTIN GISLESON PALMER, JARED C. BROSSETT, AND CYNDI  
NGUYEN

FILED: \_\_\_\_\_

\_\_\_\_\_  
Deputy Clerk

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**JUDGMENT**

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Petitioners' Amended Petition to Enforce the Louisiana Open Meetings Law, for Declaratory Judgment, Injunction, and Attorneys' Fees and Costs came before this Court for hearing on July 19, 2018.

Present at the hearing in court were:

William Quigley, Monique Harden, Alexander Bollag, Susan Stevens Miller, and  
Jill Tauber, for petitioners; and

Corwin St. Raymond, William Goforth, and Cherrell S. Taplin, for defendants.

After considering the pleadings and memoranda filed with this Court, the evidentiary record, and the arguments of counsel, this Court announced its ruling in open court on June 14, 2019. The Court explained this judgment is to make sure that "citizens voices are heard" at City Council meetings. Regarding the February 21, 2018 meeting of the Utilities, Cable, Telecommunications and Technology Committee of the New Orleans City Council ("UCTTC") and the March 8, 2018 meeting of the New Orleans City Council (the "Council"), the Court found that the Council "did nothing wrong." The Court acknowledged the Council's own investigatory findings that, as a result of Entergy New Orleans' actions, "paid citizens were present" at public

meetings held on October 16, 2017 and February 21, 2018. The Court further found that "Entergy's actions undermined" the Open Meetings Laws, La. R.S. 42:11, *et seq.* Finally, the Court found that "the Open Meetings Laws were not adhered to as relates to the meaning and policy behind the Open Meetings Laws."

Regarding the February 21, 2018 meeting of the Utilities, Cable, Telecommunications and Technology Committee of the New Orleans City Council, the Court finds that the Open Meetings Law was violated.


Regarding the March 8, 2018 meeting of the New Orleans City Council, the Court *does not* find that the Open Meetings Law was violated. However, the February 21, 2018 action was a necessary component of the full council's decision to adopt Resolution No. 18-65. As such, the full council's vote to adopt the resolution was void *ab initio*.


IT IS ORDERED, ADJUDGED AND DECREED that, for the reasons stated in open court on June 14, 2019, there be judgment in FAVOR of petitioners, The Southern Center for Environmental Justice, Inc. d/b/a Deep South Center for Environmental Justice, VAYLA New Orleans, Justice and Beyond, 350 New Orleans, Sierra Club, Mr. Theodore Quant and Ms. Renate Heurich, and AGAINST defendants, The Council of the City of New Orleans, the Utility, Cable, Telecommunications, and Technology Committee of the New Orleans City Council, Jason R. Williams, Helena Moreno, Joseph I. Giarrusso, Jay H. Banks, Kristin Gisleson Palmer, Jared C. Brossett, and Cyndi Nguyen; and

IT IS FURTHER ORDERED, ADJUDGED and DECREED that, for the reasons stated in open court on June 14, 2019, the action of the then-sitting members of the UCTTC at its February 21, 2018 meeting is VOID; and

IT IS FURTHER ORDERED, ADJUDGED and DECREED that, for the reasons stated in open court on June 14, 2019, the action of the then-sitting members of the New Orleans City Council adopting Council Resolution No. R-18-65 at a March 8, 2018 meeting is VOID.

New Orleans, Louisiana, this 2<sup>nd</sup> day of July 2019.

  
\_\_\_\_\_  
THE HONORABLE PIPER D. GRIFFIN  
DISTRICT COURT JUDGE, DIVISION "I"

A TRUE COPY  
  
\_\_\_\_\_  
DEPUTY CLERK, CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LA.

MOTION

NO. M-19-273

HMA

CITY HALL: July 11, 2019

BY: COUNCILMEMBERS MORENO AND GIARRUSSO

WHEREAS, the City Council of the City of New Orleans is named as a defendant in litigation captioned *The Southern Center for Environmental Justice, Inc., et al. v. The Council of the City of New Orleans, et al.*, C.D.C. Case No. 18-3843 (the "NOPS Litigation"); and

WHEREAS, on July 3, 2019, Judge Piper Griffin issued a written Judgment adverse to the Council in the NOPS Litigation; and

WHEREAS, the Council believes it in the best interest of the City and the Council, pursuant to Section 4-403(c) of the Home Rule Charter, to employ special counsel to handle the appeal of the foregoing Judgment on an expedited basis; and

WHEREAS, the issuance of the Judgment creates imminent appeal deadlines – some of which will occur in less than 30 days – and in any event will require appeal counsel to take immediate steps to become familiar with the facts of the case; and

WHEREAS, Council Rule 42(9) establishes an exception to the Council's customary competitive selection process for legal actions where an action or response is needed or required in 30 days or less; and

WHEREAS, the Council has determined that the retainer of legal services to appeal the July 3 Judgment in the NOPS Litigation meets the criteria set forth in Council Rule 42(9); NOW THEREFORE

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That pursuant to Rule 42, the Council hereby determines that the Competitive Selection process provided therein is exempted, finding an exception exists with regard to the retainer of legal services to appeal the July 3 Judgment in *The Southern Center for Environmental Justice, Inc., et al. v. The Council of the City of New Orleans, et al.*, C.D.C. Case No. 18-3843.

BE IT FURTHER MOVED, That the procurement of legal services in connection with the foregoing appeal employ the informal process consisting of solicitation of firms/individuals and a shortened review process, as provided in Rule 42(9).

BE IT FURTHER MOVED, That the Council's Chief of Staff is hereby directed to finalize all administrative actions necessary to finalize this motion.

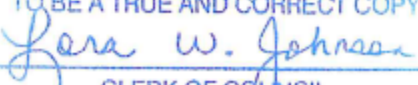
THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESTULTED AS FOLLOWS:

YEAS: Giarrusso, Gisleson Palmer, Moreno, Nguyen, Williams - 5

NAYS: 0

ABSENT: Banks, Brossett - 2

AND THE MOTION WAS ADOPTED.

THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY  
  
CLERK OF COUNCIL