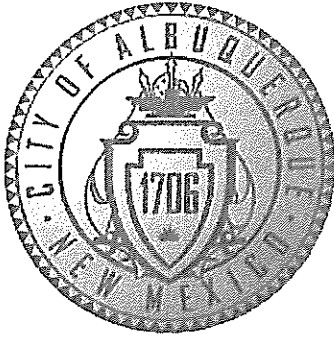


EC-23-378



CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

September 25, 2023

TO: Patrick Davis, President, City Council

FROM: Timothy M. Keller, Mayor *TK*

SUBJECT: Approval of Outside Counsel for Legal Services Agreement with YLAW, P.C.

Transmitted herewith for City Council consideration and approval is outside counsel for legal services agreement between YLAW, P.C. and the City of Albuquerque Department of Finance and Administrative Services, Risk Management Division for representation of the City in various workers' compensation cases as assigned by the Risk Management Division.

The City of Albuquerque Department of Finance and Administrative Services, Risk Management Division, issued a Request for Letters of Interest posted January 1, 2021, to solicit proposal from qualified legal firms wishing to represent the City in various workers' compensation cases as assigned by the Risk Management Division.

This proposed agreement with YLAW, P.C. is for professional legal services up to a contract amount of One Hundred Fifty Thousand Dollars (\$150,000.00) annually, dependent upon the Risk Management Division's need to litigate workers' compensation cases. The term of the initial contract is one (1) year, and may be extended for up to two (2) two (2) year periods at Three Hundred Thousand dollars (\$300,000.00) per supplement, for a total term of five (5) years. The total amount of the contract is Seven Hundred Fifty Thousand Dollars (\$750,000.00).

Immediate action is needed for the approval of this contract in order to ensure on-going legal services being delivered by YLAW, P.C. continues without any disruption.

City Council approval is required pursuant to Section 5-5-19(A)(3)(a), Approval of Purchases, ROA 1994 of the City's Public Purchase Ordinance. I am forwarding this Agreement for your consideration and action.

Staff will be available to respond to questions at the appropriate hearings.

SUBJECT: Approval of Outside Counsel for Legal Services Agreement with YLAW, P.C.

Approved:



Lawrence Rael Date
Chief Administrative Officer

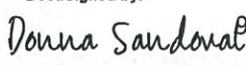
Approved as to Legal Form:

DocuSigned by:
 9/25/2023 | 3:58 PM MDT
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Lauren Keefe Date
City Attorney

Recommended:

DS


DocuSigned by:
 9/25/2023 | 11:05 AM MDT
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Donna Sandoval Date
Acting Director, Department of Finance and
Administrative Services

Cover Analysis

1. What is it?

This is a request for approval for a five (5) year contract between the City of Albuquerque Department of Finance and Administrative Services, Risk Management Division and YLAW, P.C.

2. What will this piece of legislation do?

This piece of legislation with approval allows outside legal defense services to be conducted for Workers' Compensation cases.

3. Why is this project needed?

Risk Management Division requires outside legal defense services for Workers' Compensation claims brought against the City of Albuquerque.

4. How much will it cost and what is the funding sources?

This proposed agreement will cost One Hundred Fifty Thousand Dollars (\$150,000.00) annually, dependent upon the Risk Management Division's need to litigate workers' compensation cases. The term of the initial contract is one (1) year, and may be extended by supplement for up to two (2) two (2) year periods at Three Hundred Thousand Dollars (\$300,000.00) per supplement, for a total term of five (5) years. The total amount of the contract is Seven Hundred Fifty Thousand Dollars (\$750,000.00). The funding source is the Risk Management Fund 705, Account 526321 and Department 2542100.

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

No.

**FIRST SUPPLEMENTAL AGREEMENT
BETWEEN
YLAW, P.C.
AND THE CITY OF ALBUQUERQUE**

THIS FIRST SUPPLEMENTAL AGREEMENT is made and entered into as of the date of the last signature below, by and between the City of Albuquerque, New Mexico, a municipal corporation ("City"), and YLAW, P.C., , whose address is 4908 Alameda Blvd. NE, Albuquerque, NM 87113 (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the City and Contractor entered into an Agreement, dated December 1, 2022, hereinafter referred to as the "Original Agreement", whereby the Contractor agreed to render certain professional services to the City; and

WHEREAS, the City has determined that additional services and additional funding are required; and

WHEREAS, the Contractor is agreeable to providing additional services and revising funding in the Original Agreement as amended herein.

NOW, THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. Section 2 of the Original Agreement is hereby amended to read as follows:

2. **Time of Performance.** Services of the Contractor shall commence December 1, 2022 and continue through November 30, 2025. The Time of Performance may be extended by written supplement for up to one additional 2-year period, for a total term of five (5) years. The services shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement. The Contractor is required to continue to represent the City to the conclusion of all pending issues in all matters assigned to the Contractor during the Time of Performance even if the statutory cap has been reached or exceeded.

The Contractor also agrees to reopen any and all matters assigned during the Time of Performance if future issues arise even if the statutory cap has been reached or exceeded. The Contractor agrees to reopen any and all matters assigned during the Time of Performance even if the Contractor does not have an agreement in effect to provide legal services at the time matter is reopened.

2. Section 3A of the Original Agreement is hereby amended to read as follows:

- 3A. **Compensation.** The City agrees to pay the Contractor up to the amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00), which amount includes any applicable gross receipts taxes and which will constitute full and complete compensation for the

Contractor's services under this Agreement including all expenditures made and expenses incurred by the Contractor in performing such Services. If the Time of Performance is extended by supplement, as specified in Section 2 hereof, the supplemental contract amount shall not exceed Three Hundred Thousand and 00/100 Dollars (\$300,000.00) per supplement, or Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00), total over the term of five (5) years provided for in Section 2 hereof.

3. Except as herein expressly amended, the terms and conditions of the Original Agreement shall remain unchanged and shall continue in full force and effect unless there is a conflict between the terms and conditions of the Original Agreement and this Supplemental Agreement, in which event, the terms and conditions of the Supplemental Agreement shall control.

4. This Agreement shall not become effective or binding until all required signatures have been obtained.

THIS SPACE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the City and the Contractor have executed this Supplemental Agreement as of the date of the last signature below.

FISCAL IMPACT ANALYSIS

TITLE: YLAW, P.C. for Workers Compensation Legal Services

R: O:
FUND: 705

DEPT: 2542100

- ☒ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- ☐ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2019	Fiscal Years 2020	2021	Total
Base Salary/Wages				-
Fringe Benefits at				-
Subtotal Personnel	-	-	-	-
Operating Expenses		-		-
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input checked="" type="checkbox"/> Estimated revenues not affected				
<input type="checkbox"/> Estimated revenue impact				
Revenue from program				0
Amount of Grant		-	-	
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.

* Range if not easily quantifiable.

Number of Positions created

COMMENTS: Please note, the term of the initial contract is for one (1) year at \$150,000, and may be extended by supplement for up to two (2) year periods at \$300,000.00 per supplement. Funds have been appropriated for this contract, and no fiscal impact over the approved budget is expected.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

DocuSigned by:
Alan R. Gotsowski 9/25/2023 | 11:01 AM MDT
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RISK FINANCE MANAGER

APPROVED:

DocuSigned by:
Donna Sandora 9/25/2023 | 11:05 AM MDT
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DIRECTOR (date)

REVIEWED BY:

DocuSigned by:
Kevin E. Abel 9/25/2023 | 1:23 PM MDT
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EXECUTIVE BUDGET ANALYST

DocuSigned by:
Pharmencia L. Davis 9/25/2023 | 2:27 PM MDT
BD22ED76FD9344E...
BUDGET OFFICER (date)

DocuSigned by:
Christine Bernier 9/25/2023 | 2:33 PM MDT
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CITY ECONOMIST