

EC-20-93



CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

May 27, 2020

TO: Pat Davis, President, City Council

FROM: Timothy M. Keller, Mayor 



SUBJECT: EC- Agreement with hearing officers Judith Durzo, Rita Siegel, William Babington, and Ripley Harwood to provide services as a hearing officer.

For your consideration, please find the attached request for approval of a contractual agreement with Judith Durzo, Rita Siegel, William Babington, and Ripley Harwood. The Office of the City Clerk oversees the Office of Administrative Hearings and the City's Chief Hearing Officer who conducts an array of hearings and administrative appeals under various City Ordinances. In the event that the Chief Hearing Officer is absent for any reason, the Office of the City Clerk does not have a backup hearing officer who can conduct hearings on an as needed basis. These contracts allow the City Clerk to ensure that citizens have access to various hearings at all times by providing for a backup of hearing officers who can cover hearings on an as needed basis.

These contractual agreements are forwarded to you for consideration and approval.

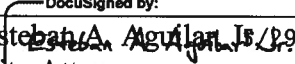
EC- Agreement with hearing officers' Judith Durzo, Rita Siegel, William Babington, and Ripley Harwood to provide services as a general hearing officer.

Approved:

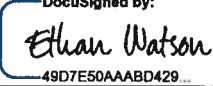
Sarita Nair Date
Chief Administrative Officer

Approved as to Legal Form:



Esteban A. Aguilar Jr. 5/29/2020 Date
City Attorney

Recommended:



Ethan Watson 5/28/2020
City Clerk Date

Cover Analysis

1. What is it?

A professional technical services contract with Judith Durzo, Rita Siegel, William Babington, and Ripley Harwood to provide services as a hearing officer.

2. What will this piece of legislation do?

Pursuant to Section 2-7-8-5 of City Ordinances, the Mayor may “retain contract hearing officers subject to the approval of City Council.” This legislation will approve a contract hearing officer proposed by the Mayor.

3. Why is this project needed?

The Office of the City Clerk conducts numerous hearings each month but currently depends on one hearing officer to conduct those hearings. In the event that this hearing officer is absent or unavailable for any reason, the Clerk must delay or reschedule hearings. This contract will ensure the public has access to administrative hearings at all times.

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

This contract will be funded from existing appropriations and the contractor will be paid on an as needed basis.

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

N/A

FISCAL IMPACT ANALYSIS

TITLE: EC Contract

R:
FUND: 110

O:

DEPT: City Clerk - OAH

- ☒ 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:

	Fiscal Years			
	2019	2020	2021	Total
Base Salary/Wages				-
Fringe Benefits at	-	-	-	-
Subtotal Personnel	-	-	-	-
Operating Expenses		-		-
Property		-	-	-
Indirect Costs	-	-	-	-
Total Expenses	\$ -	\$ -	\$ -	\$ -
<input type="checkbox"/> Estimated revenues not affected				
<input checked="" 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:

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

The City Clerk is looking to retain Judith Durzo, Rita Siegel, William Babington, and Ripley Harwood to act as backup when the classified hearing officer in the Office of the City Clerk is unavailable to conduct hearings. Each hearing officer will conduct hearings on an as needed basis.

PREPARED BY:

DocuSigned by:

Camille Cordova

5/28/2020

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FISCAL ANALYST

APPROVED:

DocuSigned by:

Ethan Watson

5/28/2020

49D7E50AAABD429...

DIRECTOR (date)

REVIEWED BY:

DocuSigned by:

Michael King

5/28/2020

CFBEAD15CB19445...

EXECUTIVE BUDGET ANALYST

DocuSigned by:

Lawrence L. Davis

5/28/2020

BD22ED7BFD9344E...

BUDGET OFFICER (date)

DocuSigned by:

Christine Baerner

5/29/2020

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CITY ECONOMIST

MR. William Robert Babington Jr

105 Paa Ko Dr
Sandia Park, NM 87047-8512 US
Mobile: 406-546-3772
Email: wrbabingtonjr@gmail.com

Work Experience:

Sane Resolutions LLC (05/2017 – Present)

Attorney Mediator

Duties, Accomplishments and Related Skills:

Attorney mediator involved in mediation and settlement facilitation for assigned cases from the state district court and cases agreed upon by counsel; involved in over a hundred mediations/settlement conferences; attended University of New Mexico School of Law 40-hour mediation training program

City of Las Cruces (05/2011 - 05/2017)

City Attorney/ Deputy City Attorney

Duties, Accomplishments and Related Skills:

Selected to be the Deputy City Attorney in May 2011 and served in that position until December 2014 when appointed by the City Manager to become the City Attorney. Served as chief legal advisor to the City Manager and City Council, and Director of the Legal Department which included Legal and City Clerk functions. Provided legal opinions and strategy, minimized risk and liability, managed legal issues, and represented the City in administrative proceedings and legal actions. As the City Attorney, had the following duties and responsibilities:

- Represented the City in a variety of legal proceedings at the state and federal district courts and appellate courts as well as NM Workers Compensation Administration; provided legal advice and assistance to Human Resources department on Union contracts with blue collar workers, fire and police personnel; represented city at Labor Relations board concerning unfair labor practices and contract disputes, represented city at Personnel Board involving disciplinary action based on misconduct or performance; conducted investigations when directed into senior personnel misconduct allegations; evaluated legal position and participates in mediation and settlement conferences as required; prepared for trial; represented the City in trial of cases; represented City in administrative hearings; reviewed all EEOC and recommended action to City Manager; assured that legal issues are resolved within City policy guidelines; reviewed and evaluated pertinent decisions, policies,

regulations and other legal matters; conferred with, and offered advice and counsel to City officials and employees; prepared legal opinions when required on administrative issues and policies; attended City Council meetings to provide legal advice and information, and presented findings and recommendations; managed municipal legal issues.

- As the Deputy City Attorney, was the primary litigator for cases involving the City including Title VII cases in state and federal court, and defense of city and city employees for alleged civil rights violations under 42 USC Sec. 1983; successfully defended city in trials at both federal district court and US Tenth Circuit Court of Appeals; advised City on alleged disability discrimination involving ADA; responded to legislative inquiries
- Consulted and provided legal advice to City officials, departments and agencies; rendered legal opinions; conducted legal review, research, and recommendations on issues arising out of City policies, resolutions, ordinances, state and federal law and related regulations; negotiated agreements with opposing parties and counsel on behalf of the City; assessed and evaluated claims against the City, labor union matters, contracts, leases, personnel matters, financial, personal injury and property matters, criminal prosecutions; anticipates problems and pursues solutions; establishes legal strategies, identifies policy and compliance issues, and proposes solutions; recommended civil action against EPA involving super fund litigation.
- Represented the City in litigation, negotiations, settlements, and other municipal legal proceedings; provided legal assessments and recommendations; prepared legal documents including proposed legislative acts including Minimum Wage legislation;; conducted legal research; gathered and compiled legal instruments and documents; identified and evaluated records and other information; prepared and presented various special and recurring reports, legal documents, analysis, and recommendations as required.

References: David Dollahan, Assistant City Manager (Operations) (575-541-2076)
Barbara DeLeon, Chief of Staff, (575-541-2076)

Office of the Staff Judge Advocate, Fort Bliss, El Paso, TX (01/2010 - 05/2011)
Attorney (General) (Legal Assistance Attorney)
Duties, Accomplishments and Related Skills:

Served as Legal Assistance Attorney while seeking position in Las Cruces. Counseled active duty, dependents and retirees in personal matters and personal financial matters. Researched federal and state statutes, case law, legal opinions and policies, as well as Army Regulations in order to formulate opinions and properly advised and counsel clients. Examined court, agency, state, and military administrative action documents. Prepared legal responses to such documents; advised clients on disposition of their cases and appeal process. Provided legal advice to clients on various issues including EEOC matters involving employment and discrimination. Ensured compliance with the Service Members Civil Relief Act in order to protect service members legal rights. Assisted and prepared responses to financial liability investigations, General Office memorandum of reprimand, Article 138 complaints, referrals to Inspector General, responses to security clearance inquiries for active duty personnel.

Reference: Andy Sedivy (915-568-4616)

Sullivan, Tabaracci, & Rhoades P.C., Missoula, MT (07/2007 - 12/2009)

Senior Associate

Duties, Accomplishments and Related Skills:

Advised and counseled clients in both business and personal affairs. Acted as transactional and litigation attorney for business clients. Prepared contracts and agreements for clients involved in real estate transactions. Examined and reviewed purchase agreements for real and personal property. Prepared promissory notes, real estate contracts and trust indentures for real estate transaction. Prepared and reviewed contractor liens. Reviewed and advised clients on employment agreements. Advised clients on choosing the right legal structure for their business and prepared documentation reflecting legal structure. Represented individual and business in bankruptcy proceedings including adversary complaints. Represented clients in both federal and state district court seeking relief including injunctive relief, protection of minority shareholders, Section 1983 actions against county governments, protection of creditors rights in federal bankruptcy cases. Prepared legal analysis and opinion for clients on the status of the law, the merits of their position, and recommendations on possible courses of action. Evaluated appeal options after judgment of a case. Selected as "Super Lawyer" in Montana for 2008 and 2009 in employment and labor law. Represented clients in federal and state district courts as well as Montana Supreme Court and US Court of Appeals for the 9th Circuit.

Reference: John Tabaracci (406-721-9700)

Holt Babington & Mynatt PC Las Cruces, NM (10/1997 - 06/2007)

Partner/ Shareholder

Duties, Accomplishments and Related Skills:

Proven experienced litigator handling a varied civil law practice. Professional experience is highlighted by 30 years of analysis, research, negotiation, strategic planning, risk management, and legal counsel for corporations, individuals, and governmental agencies. Lead legal counsel regarding general practice law, disposition of bodily injury, property and contract cases, employment issues in federal, state and administrative forums. Prepared legal analysis for all cases. Acted as hearing officer in county personnel cases; prepared findings of fact, conclusions of law and recommendations. Advised clients concerning financial transactions involving both personal and business transactions. Provided limited tax advice when requested. Render legal opinions with respect to compliance with state law in business transactions. Prepared promissory notes and mortgages for real estate transactions. Filed UCC forms with Secretary of State to perfect security interests in personal property. Review liens for compliance with state law. Filed actions with state court to post security bonds and remove liens on real property. Advised clients with respect to federal bankruptcy law and state homestead provisions to protect assets. Filed garnishment proceedings in collection matters. Represented clients in magistrate court concerning small claims matters. Advised clients in pro se representation in magistrate court. Represented clients in both federal and state district court. Filed appeals and represented clients in both the United States Court of Appeals for the 10th Circuit as well as the New Mexico Supreme Court and Court of Appeals. Presented seminar, Employment Law in New Mexico, Lorman Education Services and Protecting the Human Resources Manager, to the Society for Human Resources Management (SRM) for Southern New Mexico.

Reference: Matt Holt (partner) (575-524-8812)

Sager, Curran, Sturges & Tepper PC Las Cruces, NM (11/1992 - 09/1997)

Associate/ Shareholder

Duties, Accomplishments and Related Skills:

Represented clients in both federal and state district court. Prepared motions for summary judgment. Prepared findings of fact and conclusions of law for judge alone trials. Filed appeals and represented clients in both the United States Court of Appeals for the 10th Circuit as well as the New Mexico Supreme Court and Court of Appeals. Lead legal counsel regarding general practice law, disposition of bodily

injury, property and contract cases, employment issues in federal, state and administrative forums including representation of employers in Workers Compensation cases. Represented employees in Merit System Protection cases. Advised individual clients in family law matters including domestic relations, divorce, child custody, and child support matters. Prepared wills and trust documents. Advised clients concerning durable power of attorney and health care directives involving end of life decisions. Visit clients at residences to assist in completion of estate documents. Advise local hospice center concerning relationships of patients and staff and legal responsibilities. Advised clients concerning financial transactions involving both personal and business transactions. Provided limited tax advice when requested. Rendered legal opinions with respect to compliance with state law in business transactions.

Reference: Matt Holt (575-524-8812)

US Navy: Navy-Marine Corps Trial Judiciary Norfolk VA (08/1990 - 10/1992)

General Courts-Martial Judge

Duties, Accomplishments and Related Skills:

Acted as trial judge for military courts-martial involving military accused for violations of Uniform Code of Military Justice (10 USC 825-936); ruled on motions involving criminal procedures including search and seizure, discovery, suppression of evidence; prepare essential written findings of fact and conclusions of law; make determinations of guilt or innocence in military judge alone trials, sentence individuals when found guilty; manage docket of trials, supervise three other judges and two clerical personnel; provide guidance to junior prosecuting and defense counsel at the conclusion of trial; complete over 250 criminal trials during the two years assigned as judge.

Reference: Captain William Vest (Retired) ((804) 445-2632)

Education:

Georgetown University Washington, DC

Master of Labor Law (LLM), June 1990

University of New Mexico Albuquerque

Juris Doctorate (JD), May 1975

University of Colorado Boulder Co

Bachelor of Arts (BA) June 1969

Judith L. Durzo
P.O. Box 95345
Albuquerque, New Mexico 87199
(505) 797-8540
jdurzo@mac.com

Education

University of New Mexico Law School, Albuquerque, New Mexico; Juris Doctor, cum laude, 1985
Honors: Order of the Coif, A.H. McLeod Prize for Outstanding Oral Advocacy
American College of Trial Lawyers' Lewis Powell Medal for Excellence in Advocacy
American Bar Association national semi-finalist in Young Lawyers' National Trial Competition

Denison University, Granville, Ohio; Bachelor of Arts, Psychology and Anthropology, 1973

Employment History

Judith L. Durzo, <i>Attorney at Law</i> : Mediation, Arbitration and Litigation of Non-profit, Business, Employment, Torts, Administrative, Animal & Real Estate Law	1993-present
New Mexico Medical Review Commission: Administrative Hearing officer, conduct medical malpractice evidentiary hearings	1991-present
Pueblo of Isleta: Administrative Hearing Officer for Gaming License Review, Human Resources and Labor Relations Board, conduct evidentiary hearings, render rulings and legal opinions; Advisor to Ethics Board; conduct hearings and render opinions	2010-2016
Alamo Navajo School Board; Administrative Hearing Officer for Employment Disputes, conduct hearings, render rulings, legal opinions	2001-2017
State of New Mexico Public Employees Retirement Association, Administrative Hearing Officer; conduct appeals hearings & render recommendations	2012-present
Albuquerque Bernalillo County Water Utility Authority; Administrative Hearing Officer; conduct personnel hearings & render findings of fact, conclusions of law and recommendation	2014-present
City of Albuquerque; Administrative Hearing Officer for Personnel Board; conduct evidentiary hearings & render recommendation	2015-present & 2008-2010
Lovelace Medical Center Protocol Review Board member	2000-2001
American Arbitration Association Panelist: Mediator and Arbitrator	1995-2002
Special Commissioner, Second Judicial District Court conducting Mental Health and Developmental Disabilities Hearings	1992-1995, 2004
Second Judicial District Court: Staff Attorney, Legislative Liaison and Administrative Assistant to Chief Judge	1991-1992
Campbell & Durzo, J.S. Campbell & Associates: General civil litigation practice	1989-1991
Keleher & McLeod, P.A.: Civil litigation Associate; Federal Court practice	1985-1988
Licensed New Mexico Real Estate Broker since 1982	

Public Service

Animal Law Section of the New Mexico State Bar, Founding Board Member and Chair	2012-present
Grand Circle Field School (Educational partner to NPS & BLM), Founder Board Chair, Executive Director	2003-present
Grand Canyon Association; Board Member, Vice President, 2006-2007	2003-2007
Wildlife Rescue of New Mexico; Board Member	2002-2013
Cause for Paws (nonprofit providing funds for emergency veterinary care) Board Member	2009-2017
New Mexico Zoological Society; Board Member 1988-1990 and 1993-2002 President, 1997-1999	
Pro Bono Legal work for various Environmental and Animal-oriented nonprofits	
Second Judicial District Court Volunteer Mediator & Arbitrator	1990-present
American Arbitration Association Panelist, torts	1993-1999

Avocations and Interests

Animal Rescue, Travel, Environmental Issues, Hiking, Kayaking, Bicycling, Residential design and construction

RIPLEY B. HARWOOD, P.C.
201 Third Street N.W., Suite 1300
Albuquerque, N.M. 87102
(505) 503-2573
(888) 977-3816 (fax)
Ripharwoodrbhpc@gmail.com

Education

University of New Mexico School of Law - J.D. May, 1985
University of Miami - Coral Gables, Florida. B.B.A. – Finance – May 1976.
Escola Americana - Rio de Janeiro, Brazil – Class of '72.

Licensures

United States Supreme Court: February 20, 2001
Federal District of New Mexico: February 12, 1986
Federal District of North Dakota: March 16, 2007
Federal District of Wisconsin: 2012
Tenth Circuit Court of Appeals: November 13, 1989
New Mexico State Bar Licensure: October 7, 1985
Quinault Indian Tribal Court: 2012
Standing Rock Sioux Tribal Court: 2007
Santa Clara Pueblo Tribal Court: 2017

Work Experience

CUDDY & MCCARTHY, LLP	
Of counsel	10/2019 to present

RIPLEY B. HARWOOD, P.C.	ALBUQUERQUE, NM
President/Sole Shareholder	2/04 to present

Principally representing defendants, insurers, and the State of New Mexico in civil litigation including personal injury, insurance law and insurance bad faith, product liability, professional negligence, employment discrimination, Indian law, and environmental law. Substantial state and federal jury trial and appellate experience.

JEFFRIES & RUGGE, P.C.	ALBUQUERQUE, NM
Of Counsel	2/04 to 7/05
Associate Attorney	7/96 TO 2/04

NEW MEXICO ENVIRONMENT DEPARTMENT	SANTA FE, NM
Special Assistant Attorney General	1/88 TO 7/96

RIPLEY B. HARWOOD: *Resume*

Page 2

CARPENTER & CHAVEZ, P.A.
Associate Attorney

ALBUQUERQUE, NM
1/85 to 6/87

G.A.B. BUSINESS SERVICES, INC.
Insurance Adjuster

ARLINGTON, TX
ALBUQUERQUE, NM
1978 TO 1982

MEMBERSHIPS, AFFILIATIONS, SPECIAL ACCOMPLISHMENTS

Thirty-four years in legal practice including more than thirty jury and bench trials, administrative law and administrative hearing officer practice, numerous appeals.

Member: American Bar Association, State Bar of New Mexico, Federal District of New Mexico Bar Association, Medical/Legal Review Panel member (over twenty years), New Mexico Defense Lawyers Association, Defense Research Institute.

Publications: *Stirring The Air -- New Mexico's Court Of Appeals Raises Dust Under The Air Quality Control Act*, a case note on JUDITH M. ESPINOSA, *et al.* v. ROSWELL TOWERS, INC. *et al.*,

Watts, Atkinson, Hennessy, *Low Speed Automobile Accidents*, 3rd Ed. 2003; contributing author Chapter 23: "A Defense Viewpoint: Surviving *Daubert/Kumho* Challenges – Getting Beyond the *Iipse Dixit*"

"Between Scylla and Charybdis: Supreme Court Eliminates Another Safe Passage Through the Bad Faith Narrows" *New Mexico DLA News*, 7:2 (1998): 7-9.

"The Seatbelt Non-Use Defense: Buckling Down to the New Millennium: *New Mexico DLA News*, 8:3 (1999): 5, 8-9.

Past presenter at numerous state and national seminars on tort law and insurance-related legal issues.

-- *References available on request* --

Rita G. Siegel
Attorney/Arbitrator/Mediator
202 Girard Blvd. SE
Albuquerque, NM 87106

Phone (505) 232-0099

Email: rita@ritasiegel.com

Professional Background

Over 35 years' experience in private and public sector labor and employment law, administrative law and dispute resolution.

- Arbitrator/Mediator/Hearing Officer in labor/management, employment and commercial disputes for private corporations, municipalities and government entities
- Civil law practice primarily in private and public sector employment and labor law
- Labor relations executive (private and public sector): responsible for labor relations in a highly unionized environment; developed policy, collective bargaining, arbitration
- Consultant to private corporations, public agencies and educational institutions in labor relations, employment matters and dispute resolution
- Lecturer: labor/management, employment issues and dispute resolution
- Adjunct Faculty: UNM School of Law; UNM School of Public Administration

Administrative Law Experience and Dispute Resolution Experience

- Arbitrator/Mediator: American Arbitration Association
- Arbitrator: Federal Mediation and Conciliation Service
- Arbitrator: TSA/AFGE Panel; Coal Arbitration Service
- Arbitrator: FINRA
- Hearing Officer/Arbitrator: City of Albuquerque; Bernalillo County; ABCWUA; Sandoval County; Valencia County
- Member: NM Judicial Branch Personnel Grievance Board
- General Counsel: University of New Mexico Labor Relations Board; New Mexico State University Labor Relations Board; CNM College Labor Relations Board

Work History

- Attorney/Arbitrator/Mediator, Rita G. Siegel, LLC, June 2005 to present
- Director, Labor Relations, Albuquerque Public Schools, 2002-2005
- Attorney/Arbitrator/Mediator, Rita G. Siegel, PC, 1992-2002
- Attorney, Sutin, Thayer & Browne, 1997-1998
- Attorney, Poole, Kelly & Ramo, PC, 1989-1992
- Consultant/President, Robert Douglas Associates, Inc., 1983-1986
- Director, Labor Relations, National Broadcasting Company, Inc., 1973-1982

Education

- *Cornell University*, Ithaca, NY, BS, Industrial and Labor Relations
- *University of New Mexico School of Law*, Albuquerque, NM, JD

Certification/Honors

- Board Recognized Legal Specialist in Employment and Labor Law
- AV Rated, Martindale-Hubbell Law Directory