

City of Albuquerque

Request for Proposals

Solicitation Number: RFP2008-019-KD

“Financial Advisory Services – Bonds & Swaps/Derivatives”



PROPOSAL DUE DATE:
Tuesday, February 19, 2008:
NLT 4:00 p.m. (Local Time)

The time and date proposals are due shall be strictly observed.

City of Albuquerque
Department of Finance and Administrative Services
Purchasing Division
01/09/2008

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ADDITIONAL INFORMATION:

- 1) "Annual Information Statement" - Dated 25 January 2007: is available for your review at the following address:

<http://www.cabq.gov/investor/pdf/2007AIS.pdf>

- 2) "Debt Management Policies and Guidelines" - Dated 16 April 2001: is available for your review at the following address:

<http://www.cabq.gov/investor/bondspolicy.html>

- 3) For additional investment information visit the City of Albuquerque Treasury Division "Investor Information" site at the following address:

<http://www.cabq.gov/investor/>

INTRODUCTION

The City of Albuquerque (the "City") is requesting proposals to include statements of interest, qualifications, and fees, from firms interested in serving as Financial Advisor for several bond credits of the City. The City seeks assistance and advice in the planning, analysis, structuring, issuance and management of debt, and assistance with other City financings. The City is also looking for guidance in developing new strategies for capital programs including transportation and infrastructure projects. The City may engage in selecting a firm capable of recommending ways to minimize the cost of financing projects, strengthen the City's overall financial condition, and enhance the perception of the credit worthiness of the City in the Municipal Market.

It is expected that the services of the Financial Advisor will require a close positive working relationship with the City and that the personnel identified would not be changed without the prior written approval of the City. The City will reserve the right to terminate the contract if key personnel are changed or if working relationships are not satisfactory.

PART 1 - INSTRUCTIONS TO OFFERORS

1.1 RFP Number and Title: RFP2008-019-KD, "Financial Advisory Services"

1.2 Proposal Due Date: Tuesday, February 19, 2008- NLT 4:00 PM (Local Time)
The time and date proposals are due shall be strictly observed.

1.3 Purchasing Office: This RFP is issued on behalf of the City of Albuquerque by the Purchasing Office, which is the sole point of contact during the entire procurement process.

1.4 Authority: Chapter 5, Article 5 of the Revised Ordinances of the City of Albuquerque, 1994, (the "Public Purchases Ordinance"). The City Council, pursuant to Article 1 of the Charter of the City of Albuquerque and Article X, Section 6 of the Constitution of New Mexico, has enacted this ordinance as authorized by such provisions and for the purpose of providing maximum local self-government. To that end, it is intended that this ordinance shall govern all purchasing transactions of the City and shall serve to exempt the City from all provisions of the New Mexico Procurement Code, as provided in Section 13-1-98K, NMSA 1978.

1.5 Acceptance of Offer: Acceptance of Offer is contingent upon Offeror's certification and agreement by submittal of its offer, to comply and act in accordance with all provisions of the following:

1.5.1 City Public Purchases Ordinance

1.5.2 City Purchasing Rules and Regulations: City of Albuquerque Purchasing Rules and Regulations: These Rules and Regulations (hereinafter "Regulations") are written to clarify and implement the provisions of the Public Purchases Ordinance. These Regulations establish policies, procedures, and guidelines relating to the procurement, management, control, and disposal of goods, services, and construction, as applicable, under the authority of the Ordinance.

1.5.3 Civil Rights Compliance: Acceptance of offer is contingent upon the Offeror's certification and agreement by submittal of its offer, to comply and act in accordance with all provisions of the Albuquerque Human Rights Ordinance, the New Mexico Human Rights Act, Title VII of the U.S. Civil Rights Act of 1964, as amended, and all federal statutes and executive orders, New Mexico statutes and City of Albuquerque ordinances and resolutions relating to the enforcement of civil rights and affirmative action. Questions regarding civil rights or affirmative action compliance requirements should be directed to the City of Albuquerque Human Rights Division, Community Services Department.

1.5.4 Americans with Disabilities Act Compliance: Offeror certifies and

agrees, by submittal of its offer, to comply and act in accordance with all applicable provisions of the Americans with Disabilities Act of 1990 and Federal regulations promulgated there under.

1.5.5 Insurance and Bonding Compliance: Acceptance of offer is contingent upon Offeror's ability to comply with the insurance requirements as stated herein. Please include a copy(s) of such certification or statement of compliance in your proposal.

1.5.6 Ethics:

1.5.6.1 Fair Dealing. The Offeror warrants that its proposal is submitted and entered into without collusion on the part of the Offeror with any person or firm, without fraud and in good faith. Offeror also warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or will be offered or given by the Offeror, or any agent or representative of the Offeror to any officer or employee of the City with a view toward securing a recommendation of award or subsequent contract or for securing more favorable treatment with respect to making a recommendation of award.

1.5.6.2 Conflict of Interest. The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under the contract resulting from this RFP. The Offeror also warrants that, to the best of its knowledge, no officer, agent or employee of the City who shall participate in any decision relating to this RFP and the resulting contract, currently has, or will have in the future, a personal or pecuniary interest in the Offeror's business.

1.5.7 Participation/Offeror Preparation: Offeror may not use the consultation or assistance of any person, firm company who has participated in whole or in part in the writing of these specifications or the Scope of Services, for the preparation of its offer or in the management of its business if awarded the contract resulting from this RFP.

1.5.8 Debarment or Ineligibility Compliance: By submitting its offer in response to this RFP, the Offeror certifies that (i) it has not been debarred or otherwise found ineligible to receive funds by any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States; and (ii) should any notice of debarment, suspension, ineligibility or exclusion be received by the Offeror, the Offeror will notify the City immediately.

1.5.9 Goods Produced Under Decent Working Conditions. It is the policy of the City not to purchase, lease, or rent goods for use or for resale at City owned enterprises that were produced under sweatshop conditions. The Offeror

certifies, by submittal of its offer in response to this solicitation, that the goods offered to the City were produced under decent working conditions. The City defines "under decent working conditions" as production in a factory in which child labor and forced labor are not employed; in which adequate wages and benefits are paid to workers; in which workers are not required to work more than 48 hours per week (or less if a shorter workweek applies); in which employees are free from physical, sexual or verbal harassment; and in which employees can speak freely about working conditions and can participate in and form unions. [Council Bill No. M-8, Enactment No. 9-1998]

1.5.10 Graffiti Free. When required the Contractor will be required to furnish equipment, facilities, or other items required to complete these services that are "graffiti free". Failure of Contractor to comply with this requirement may result in cancellation of the contract resulting from this RFP.

1.6 City Contact: The sole point of contact for this Request for Proposals is the City of Albuquerque Purchasing Division. Contact the following individual(s) regarding this RFP:

- Kelli De Angelis, Senior Buyer, Department of Finance and Administrative Services, Purchasing Division,
- Phone: (505) 768-3333 or E-Mail: kdeangelis@cabq.gov
- Post Office Box 1293, Albuquerque, New Mexico 87103

1.7 Contract Management: The contract resulting from this RFP will be managed by the Department of Finance and Administrative Services, Treasury Division.

1.8 Clarification: Any explanation desired by an Offeror regarding the meaning or interpretation of this Request For Proposals must be requested in writing not less than ten (10) working days prior to the hour and date specified for the receipt of offers to allow sufficient time for a reply to reach Offerors before the submission of their offers. All inquiries must be directed to the Purchasing Office as stated herein. Oral explanations or instructions given before the award of the contract or at any time will not be binding. Any information given to a prospective Offeror concerning this Request For Proposals, will be furnished to all prospective Offerors as an amendment to this Request for Proposals, if such information is necessary to Offerors in submitting offers on this Request For Proposals or if the lack of such information would be prejudicial to uninformed Offerors.

1.9 Submission of Offers: The Offeror's sealed proposal must be in the format outlined in Part 2 of this Request for Proposals and mailed or delivered pursuant to the following requirements:

1.9.1 Envelope preparation. Offers and modifications thereof shall be enclosed in sealed envelopes and have the following identifying information on the outside:

- Name and address of Offeror
- Closing Date and Time
- Request for Proposals Number
- RFP Title

1.9.2 Ship, Deliver or Hand Carry Sealed Offers to: The Office of the City Clerk, City /County Government Center, Basement Level, One Civic Plaza, N.W., Albuquerque, New Mexico 87102. Mark all packages as stated above.

1.9.3 Mail Sealed Responses to: Office of the City Clerk, Post Office Box 1293, Albuquerque, New Mexico 87103. (Certified Mail is recommended). The City shall not be responsible for the failure of mailed offers to actually be received by the Office of the City Clerk by 4:00 of the day of closing.

Note: The City picks up mail at the post office **once** every morning at 7:00 AM (Local Time). **Note: ALL SEALED PROPOSALS MUST BE RECEIVED BY THE OFFICE OF THE CITY CLERK NO LATER THAN 4:00 PM, LOCAL TIME AS RECORDED IN THE CITY CLERK'S OFFICE.**

1.9.4 No other methods of offer delivery: Neither telephone, facsimile, electronic, nor telegraphic offers shall be accepted.

1.9.5 Submit Hard & Soft copies of the Proposal as follows:

- **Hard Copy – 1 original and 7 copies of your Technical Proposal. Submit 1 original and 1 copy of your Cost Proposal.**
- **Soft Copy – Submit 1 Original Technical and Cost Proposal on a CD or diskette.**

1.9.6 Modification: Offers may be modified or withdrawn by written notice provided such notice is received prior to the hour and date specified for receipt of offers.

1.10 Receipt of Proposals: The only acceptable evidence to establish the time of receipt of proposals at the City Clerk's Office is the time-date stamp of such office on the proposal wrapper or other documentary evidence of receipt maintained by the office.

1.11 Acknowledgment of Amendments To the Request For Proposals: Receipt of an amendment to the Request For Proposals by an Offeror must be acknowledged (a) by signing and returning the amendment, or (b) by letter. Such acknowledgment may be submitted with your offer. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

1.12 Modifications to Scope of Services: In the event that sufficient funds do not

become available to complete each task in the Scope of Services, the Scope of Services may be amended, based upon the cost breakdown required in the Cost Proposal.

1.13 Draft Agreement: A copy of the Draft Agreement to be entered into is attached (See Part 6) Please note that you must affirmatively accept the term and conditions of the Contract. Any additional terms and conditions proposed to be included within the terms of the contract must be submitted at the time you submit your response to this RFP, must be specifically drafted for the City and not contain any duplicate material or an material deemed "boiler plate". The City reserves the right to reject any additional terms and conditions which are outside the scope of the proposed Contract.

1.14 Evaluation period: The City reserves the right to analyze, examine and interpret any offer for a period of ninety (90) days after the hour and date specified for the receipt of offers.

1.15 Evaluation Assistance: The City of Albuquerque, in evaluating proposals, reserves the right to use any assistance deemed advisable, including City contractors and consultants.

1.16 Rejection and Waiver: The City reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

1.17 Debarment of Offeror: Any proposal received from an Offeror that is, at the time of submitting its proposal or prior to receipt of award of a contract, debarred by or otherwise ineligible to receive funds from any agency of the State of New Mexico, any local public body of the State, or any state of the United States, shall be rejected.

1.18 Award of Contract:

1.18.1 When Award Occurs: Award of contract occurs when a Purchase Order is issued or other evidence of acceptance by the City is provided to the Offeror. A Recommendation of Award does not constitute award of contract.

1.18.2 Award: If a contract is awarded, it shall be awarded to the responsive and responsible Offeror(s) whose offer conforming to the Request for Proposals will be most advantageous to the City as set forth in the Evaluation Criteria.

1.18.3 Contract Term: The contract term shall be for a period of 4 years from the effective date of execution of the contract and/or final execution by the City.

1.18.4 Type of Contract: Firm fixed price.

1.18.5 Debarment/Cancellation of Contract: Upon receipt of notice of debarment of an Offeror awarded a contract as a result of this RFP (the "Contractor"), or other ineligibility of the Contractor to receive funds from any agency of the federal government, the State of New Mexico, any local public

body of the State, or any state of the United States, the City shall have the right to cancel the contract with the Contractor resulting from this RFP for cause as provided in accordance with the terms of said contract.

1.19 Cancellation: This Request for Proposals may be canceled and any and all proposals may be rejected in whole or in part when it is in the best interest of the City.

1.20 Negotiations: Negotiations may be conducted with the Offer or(s) recommended for award of contract.

1.21 City-Furnished Property: No material, labor, or facilities will be furnished by the City unless otherwise provided for in the Request for Proposals.

1.22 Proprietary Data: This Request for Proposals shall be open to public inspection after the recommendation of award of a contract has been signed by the Mayor, except to the extent the Offeror designates trade secrets or other proprietary data to be confidential. Material so designated must be separated from the Offeror's main proposal and each page shall be clearly marked in order to consider confidential and to facilitate public inspection of the non-confidential portion of the proposal. Prices and makes and models or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available regardless of any designation to the contrary. The City of Albuquerque will endeavor to restrict distribution of the material designated as confidential or proprietary to only those individuals involved in the review and analysis of the proposals. Offerors are cautioned that materials designated as confidential may nevertheless be subject to disclosure under the New Mexico Inspection of Public Records Act (Sections 14-2-1 et seq, NMSA 1978).

1.23 Preferences: Preferences for local, small and resident businesses may be available under the City of Albuquerque Public Purchases Ordinance, for this procurement. See Part 5 of this Request for Proposals for additional information.

1.24 REQUEST FOR PROPOSALS (RFP) PROTEST PROCESS:

1.24.1 When: If the protest concerns the specifications for a competitive solicitation or other matters pertaining to the solicitation documents, it must be received by the Purchasing Officer no later than ten working days prior to the deadline for the receipt of offers.

1.24.2 Recommendation of Award: If the protest concerns other matters relating to this solicitation, the protest must be filed within ten working days after the receipt of notice of the Recommendation of Award.

1.24.3 Timely Protests: Protests must be received by the Purchasing Officer prior to the appropriate deadline as set out herein, or they will not be considered valid. The Purchasing Officer may waive the deadline for good cause, including a delay caused by the fault of the City. Late delivery by the U.S. Postal Service

or other carrier shall not be considered good cause.

1.24.4 How to File: The protest shall be addressed to the Purchasing Officer, must be submitted in written form and must be legible. Protests may be hand-delivered or mailed. Facsimile, telephonic, telegraphic or electronic protests will not be accepted.

1.24.5 Required Information: The protest shall contain at a minimum the following;

- The name and address of the protesting party;
- The number of the competitive solicitation;
- A clear statement of the reason(s) for the protest;
- Details concerning the facts, which support the protest;
- Attachments of any written evidence available to substantiate the claims of the protest; and
- A statement specifying the ruling requested.

1.24.6 Address Letters and Envelopes as Follows:

- City of Albuquerque RFP Number
- Purchasing Division PROTEST
- PO Box 1293
- Albuquerque, New Mexico 87103

1.24.7 Protest Response by Purchasing Officer: All protests will be responded to by the Purchasing Officer upon evaluation. The Purchasing Officer will, after evaluation of a protest, issue a response. Only the issues outlined in the written protest will be considered by the Purchasing Officer.

1.24.8 Protest Hearing: If a hearing is requested, the request must be included in the protest and received within the time limit to be allowed. The filing fee of twenty dollars (\$20.00) must accompany the request for hearing. Only the issues outlined in the protest will be considered by the Purchasing Officer, or may be raised at a protest hearing. The granting of a hearing shall be at the discretion of the Purchasing Officer following review of the request.

1.25 BONDS and INSURANCE:

1.25.1 General Conditions: The City will require that the successful Offeror, referred to as the Contractor, procure and maintain at its expense during the term of the contract resulting from the RFP, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the

State of New Mexico, covering all operations of the Contractor under the contract. Upon execution of the contract and on the renewal of all coverage, the Contractor shall furnish to the City a certificate or certificates in form satisfactory to the City showing that it has complied with these insurance requirements. All certificates of insurance shall provide that thirty (30) days written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico, 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. The City shall be named an additional insured for all coverages and the coverages afforded shall be primary with respect to operations provided.

1.25.2 Approval of Insurance: Even though the Contractor may have been given notice to proceed, it shall not begin any work under the contract resulting from this RFP until the required insurance has been obtained and the proper certificates (or policies) filed with the City. Neither approval nor failure to disapprove certificates, policies, or the insurance by the City shall relieve the Contractor of full responsibility to maintain the required insurance in full force and effect. If part of the contract is sublet, the Contractor shall include any or all subcontractors in its insurance policies, or require the subcontractor to secure insurance to protect itself against all hazards enumerated herein, which are not covered by the Contractor's insurance policies.

1.25.3 Coverage Required: The kinds and amounts of insurance required are as follows:

1.25.3.1 Commercial General Liability Insurance. A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000	Per Occurrence
\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$ 50,000	Fire Legal
\$ 5,000	Medical Payments

Said policy of insurance must include coverage for all operations performed for the City by the Contractor and contractual liability coverage shall specifically insure the hold harmless provisions of the contract resulting from this RFP.

1.25.3.2 Automobile Liability Insurance. A comprehensive automobile liability insurance policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. The policy must

include coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work.

1.25.3.3 Workers' Compensation Insurance. Workers' compensation insurance policy for the Contractor's employees, in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico, (the "Act"). If the Contractor employs fewer than three employees and has determined that it is not subject to the Act, it will certify, in a signed statement, that it is not subject to the Act. The Contractor will notify the City and comply with the Act should it employ three or more persons during the term of the contract resulting from this RFP.

1.25.4 Increased Limits: During the life of the contract the City may require the Contractor to increase the maximum limits of any insurance required herein. In the event that the Contractor is so required to increase the limits of such insurance, an appropriate adjustment in the contract amount will be made.

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PART 2 - PROPOSAL FORMAT

2.1 Required Information: The following questions should be answered in detail by each offeror in order to be considered as a financial advisor for the City.

2.1.1 Qualifications – Professional qualifications of the firm and the personnel in the firm who would be assigned to the City.

2.1.1.1 List the name of the firm, address, telephone and fax number of the local office and national headquarters, Public Finance manager, and number of public finance professionals in each office.

2.1.1.2 Provide a list the specific officers who are authorized to execute agreements on behalf of the company.

2.1.1.3 Provide a brief history of your firm and its affiliations, including the date the firm was founded and how many years your firm has provided public financial advisory services.

2.1.1.4 Identify the specific individuals who will be assigned to handle the day-to-day responsibilities of this contract. Include a resume for each individual mentioned. Indicate the individual's relevant experience, relevant licenses they hold and how their particular area of expertise would benefit the City.

2.1.1.5 Describe in detail the financial advisory experience of the key individuals your firm proposes to be assigned to this contract. Specifically include experience with long-term strategic financial planning, State of New Mexico public finance laws, tax-exempt new money, advance and current refundings, swap & derivative products, taxable financings, recreational & sports facilities, capital leases, federal & state funding, marketing and pricing of issues, technical analysis, arbitrage strategies, and rating agencies.

2.1.1.6 If your firm has a broker//dealer operation, indicate how long it has been operating and explain your activity in the municipal bond market and its significance to the services you provide.

2.1.1.7 Describe in detail your firm's experience working with an issuer that issues bonds and swaps comparable to all the City's credits stated in Section 3.1.1 of this RFP.

2.1.1.8 Describe in detail your firm's experience working with a public entity on an equipment lease, asset sale, or long term asset lease.

2.1.1.9 Indicate how long your firm has been operating and explain your activity in the municipal swap market and its significance to the services you provide.

2.1.1.10 Describe how your firm is organized including any material developments in your firm (changes in the management, ownership, public finance or municipal staff etc.) over the past three years.

2.1.1.11 Disclose all contractual or informal business arrangements/agreements, including fee arrangement and consulting agreements between your firm and others as they may relate to Rule G-38 requirements.

2.1.2 Firms Knowledge and History – Knowledge and history of the general financial character and environment of the City.

2.1.2.1 Indicate similar engagements your firm services in the past three (3) years. List name of municipal client, population, length of contact with company, date of financial transactions, type of financial transactions or service provided, par amount of transaction, lead representative(s), primary client contact and telephone number.

2.1.2.2 Describe two case study bond transactions that involved members of your firm's FA team. Indicate how your firm's key personnel contributed to the financing either by lowering interest costs or by utilizing innovative structure or techniques.

2.1.2.3 Describe your views on the state of the credit markets as it relates to both municipal taxable and tax-exempt securities and what structuring techniques would be required to provide the lowest possible yield on the one hand and flexibility for refinance or early retirement of debt on the other hand.

2.1.2.4 Describe your firm's participation in the municipal market and acting as a FA in swap transactions.

2.1.2.5 Describe your firm's knowledge and experience with redevelopment projects such as recreational and sport facilities (i.e. Stadiums, Arenas, Sport Complexes).

2.1.2.6 Describe your view on the importance of the interaction between the business agreement between the [developer/owner/tenant] and the City, the construction arrangements for the project, and the financing arrangements for the project.

2.1.2.7 Describe any public/private partnerships and the financing arrangements involved.

- 2.1.2.8 Describe your firm's participation in Federal, State or Local Government equipment leases, asset sales and/or long term leases.
- 2.1.2.9 Describe your firm's knowledge of the City's debt programs and the problems and issues affecting the City. Include opinions on the City's credit status and any suggestions related to rating agencies strategies, arbitrage, primary and secondary market disclosure rules and requirements and New Mexico law governing general and special limited obligations.
- 2.1.2.10 Identify and state any potential or perceived conflicts of interest that would occur if you firm served as a Financial Advisor for the City.
- 2.1.3 **References** – A list of references that can be contracted to ascertain an evaluation of past service to other clients.
- 2.1.3.1 Provide a list of five current or recent governmental clients that have utilized the services being proposed to the City. Include the following information:
- Name:
Address:
Contact:
Telephone Number:
Scope of Work Performed:
Date of Contract & Services
- The Offeror should advise the reference that he/she will be contacted by the City. The City's inability to contact the reference could negatively impact the scoring of the proposal.
- 2.1.4 **Approach & Work Plan** – Innovative ideas for the financing of infrastructure of all the City's credits, including capital leasing, asset sales, long term leasing, swaps & derivatives etc.
- 2.1.4.1 Summarize the firm's plan and approach for providing services as Financial Advisor. This section should summarize the key points of your submittal and why your firm should be selected as the City's Advisor. Include specific examples of advice and services provided to other similar issuers, a statement of how work will be organized, managed and implemented.

- 2.1.4.2 Summarize the firm's support service capability (e.g. computer, printing, word processing, graphics, etc). In-house or contracted services? Demonstrate your preference and provide a detailed discussion of the firm's approach to providing the required scope of services, including a statement of how the work would be organized, managed and implemented, including who would do the work and their background.
 - 2.1.4.3 Provide an affirmative statement that during the term of this agreement your firm, either in a firm or individual capacity, will not perform financial advisory, investment banking, or other similar services for any entity other than the City in transactions involving a City financial commitment (debt or otherwise).
 - 2.1.4.4 Each firm providing or involved with a submittal shall submit a list of and describe any lawsuits filed against the firm during the preceding five (5) years, or currently pending or threatened in conjunction with the types of services described herein.
 - 2.1.4.5 Describe in detail, any arrangement or understandings between the firm and any underwriters, investment product providers or other parties which may provide services, products or advice to the City with future bond financings.
 - 2.1.4.6 Provide any additional information regarding your firm's experience and capabilities that you feel would be important to the success of the City's credits.
 - 2.1.4.7 Provide an affirmative statement that during the term of this agreement your firm will not request the City's written consent to participate as a member of the syndicate which submits a bid to purchase municipal general obligation or special limited obligation bonds under a competitive sale.
 - 2.1.4.8 Provide an affirmative statement that during the term of this agreement your firm will not request the City's written consent to participate as either lead underwriter or a member of the syndicate for negotiated special limited bond sales.
- 2.1.5 **Fees** – Fees for services performed.
- 2.1.5.1 Debt Issue Development and Sales Service Fees. For the performance of services in Section 3.2, the financial advisor shall

be compensated on the basis of the fee schedule shown in Appendix A.

2.1.5.1.1 Printing Costs. The fee schedule in Appendix A does not include printing of the Official Statements and bond certificates, which will be paid out of bonds proceeds.

2.1.5.1.2 Out of Pocket Expenses. The fee schedule in Appendix A does cover miscellaneous issuance costs and financial advisor out of pocket expenses related to bond issues.

2.1.5.1.3 Payment Due. The financial advisor's fees and any allowable reimbursement for out of pocket costs shall be due and payable upon receipt of proceeds of the issue.

2.1.5.1.3.1 Fees for other services performed, special projects or any other services. Fees for the performance of services will be negotiated by the City and the financial advisor and cannot exceed the hourly rates shown in Appendix A.

2.2 No Joint Proposals Will Be Accepted. Each proposal submitted shall represent only one financial advisory firm. Joint proposals will not be considered.

2.2 **Length Twenty (20) Pages.** Proposals are limited to 20 single sided pages with one (1) inch margins. Minimum font size shall be 12 points. Be succinct and avoid using "off-the-shelf" fill. Résumés should be attached as exhibits and will not be counted against this page limitation which otherwise will be strictly enforced.

Any additional Cost Proposal information to the provided format in Appendix A – Fee Schedule, is to be provided under separate cover and attached as Exhibits and will not be counted against this page limitation.

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PART 3 - OBJECTIVE, SCOPE OF WORK, PROJECTED FINANCINGS & COMPENSATION

3.1 Objective. The City of Albuquerque (the "City") is requesting proposals to include statements of interest qualifications and fees from firms interested in serving as Financial Advisor for several bond credits of the City. The City seeks assistance and advice in the planning, analysis, structuring, issuance and management of debt, and assistance with other City financings. The City may engage in one firm capable of recommending ways to minimize the cost of financing projects, strengthen the City's overall financial condition, and enhance the perception of the credit worthiness of the City in the Municipal Market.

It is expected that the services of the Financial Advisor will require a close positive working relationship with the City and that the personnel identified would not be changed without the prior written approval of the City. The City will reserve the right to terminate the contract if key personnel are changed or if working relationships are not satisfactory.

3.1.1 This RFP requests financial advisory proposals for the following types of credits include but are not limited to:

- Airport
- Limited-Tax supported programs, including Golf, Parking, Convention Center and Hotel Projects
- Special Assessment Districts and Affordable Housing
- Refuse Collection & Disposal System
- Surface Transportation (ex. Buses, light rail system, etc.)
- Recreational & Sports Facilities (ex. Stadium, Arena, Sports Complex)
- Also, the City will be looking for a financial advisor/s to assist the City in evaluating select alternative financings, such as interest rate swaps and other types of derivative products that may improve the management of the City's debt position.

3.1.2 General Conditions:

3.1.2.1 Only proposals from individual firms will be accepted.

3.1.2.2 Recommendations for assignment as Financial Advisor will be based upon the evaluation and ordinal ranking of proposals by the City's Ad Hoc Advisory Committee (See Part 4 Evaluation of Offerors for more detail). Multiple recommendations of awards may result from this RFP.

3.1.2.3 This RFP does not commit the City of Albuquerque to award a contract, issue a purchase order, or to pay any costs incurred in the preparation of a proposal in response to this RFP.

3.1.2.4 The financial advisor chosen will be precluded by the term of the agreement from participating as an underwriter or any manner other than as the Financial Advisor for the City.

3.2 **Scope of Work** – The City will be reviewing proposals for the purpose of selection a firm to provide financial advisory services to the City. The financial advisor will be expected to perform services as required by the City in a professional and timely manner. Services will include, but are not limited to the following tasks:

3.2.1 **Debt Management** – the financial advisor will assist the City in managing the debt issuance program. These services will include, but are not limited to:

3.2.1.1 Assisting and advising on the implementation of debt management policies, including total debt, debt targets, debt ratios, pay-back provisions, etc.

3.2.1.2 Monitoring markets for opportunities to refinance existing bonds and advising the City of any new government programs or investments instruments that will help maximize present value savings and minimize negative arbitrage.

3.2.1.3 Advising and assisting the City in determining the scope of any new debt financing.

3.2.1.4 Providing expertise in a variety of security types (e.g. fixed, floating, synthetic fixed, etc.).

3.2.1.5 Providing expertise in swaps and derivative products.

3.2.1.6 Assisting in communication with the financial community to promote the City's bond issuance and improve underlying credit ratings.

3.2.1.7 Assisting the City in meeting its primary and secondary market disclosure requirements.

3.2.1.8 Assisting the City in developing bond-related information for disclosure over its website.

3.2.2 **Debt Issue Development & Oversight** – the financial advisor will be responsible for the oversight of the issuance of all competitive and negotiated bond transactions. This task will include: (1) Planning and Development; (2) Capital Strategic Planning; (3) Marketing; (4) Bond Sale; (5) Bond Closing; and (6) Work Products.

3.2.2.1 **Planning & Development**

3.2.2.1.1 Research and advice on aspects of tax exemption and

- arbitrage in cooperation with bond counsel, tax counsel and city attorney.
- 3.2.2.1.2 Review preliminary economic development feasibility studies in cooperation with the City, its officials and administrative staff, attorneys, bond, tax and disclosure counsel. The proposals may include project funding requests, projected cash flows, debt coverage assumptions, etc.
 - 3.2.2.1.3 Analyze proposed financings including funding alternatives to determine methods of strengthening marketability and recommend the best method of marketing the City's bonds consistent with current economic and market conditions and rating agency criteria.
 - 3.2.2.1.4 Analyze proposed financings as compared to alternatives, including but not limited to the use of swaps, leases, commercial paper program, NM Finance Authority financing, asset sales and recreational and sports facilities.
 - 3.2.2.1.5 Develop the most efficient refunding escrow security structure possible for current or advance refunding bond issues.
 - 3.2.2.1.6 Assist the City in preparing and reviewing bond ordinances and other bond documents.
 - 3.2.2.1.7 Review potential for local market "pre-sale" of bonds with an analysis of economic impact of the same.
 - 3.2.2.1.8 Review the marketing and sale of any bonds prior to, during, and after the pricing of the bonds.
 - Negotiated sale vs. Competitive bid vs. Private Placement.
 - Underwriting vs. selling groups
 - Comparison of proposed interest rate scales, takedown, management fees, etc.
 - 3.2.2.1.9 Assist in the preparation and evaluation of third party vendors such as fiscal agent, liquidity provider, remarketing agent, senior managing underwriter (negotiated sale – subject to changes in state law and city charter), and bond insurer.
 - 3.2.2.1.10 Consult and coordinate with established credit rating agencies with regard to proposed financings and assist the City in obtaining the most favorable credit ratings possible by directing the preparation of appropriate information and by accompanying City representatives in meeting with rating agencies. This task includes analysis of City credit rating with reference to standards, national trends, etc. and advising on measures to be taken to improve ratings.
 - 3.2.2.1.11 Act as liaison with bond counsel and staff to coordinate the work of other professionals providing similar services.

3.2.2.1.12 Negotiate on behalf of the City with other parties seeking a successful bond sale but whose own financial interest may differ from the City's.

3.2.2.2 **Capital Strategic Planning** – the financial advisor will assist the City of Albuquerque in developing a capital financing strategic plan which includes General Obligation bonds, revenue bonds, swaps, asset sales, capital leases, recreational and sports facilities, borrowing from the NM Finance Authority, etc., such services will include but are not limited to:

3.2.2.2.1 Develop a long range strategic plan for financing capital improvements for the City including the various enterprise operations.

3.2.2.2.2 Develop innovative financing strategies for complex capital projects, including but not limited to transportation and high density mixed use infrastructure projects.

3.2.2.2.3 Review revenue positions and rate structures of enterprise funds or systems and integrate the revenue projections with operating fund demands and capital improvement plans.

3.2.2.2.4 Develop finance plan options that shall include determination of adequacy of rate or tax revenues to meet capital needs in the near and long term on a timely basis.

3.2.2.2.5 Develop a means of evaluating the benefit and cost of using NM Finance Authority financing.

3.2.2.2.6 Assist the City in identifying opportunities and developing proposals for possible asset sales and leases.

3.2.2.3 **Marketing** – the financial advisor will assist the City in the marketing of bond issues. Such services will include, but are not limited to:

3.2.2.3.1 Advise on the appropriate terms and conditions of the sale, such as maturity schedule and other requirements including discount, par, premium, net interest cost, and true interest cost. The financial advisor will consult with the City and bond counsel concerning the bond covenants, and advise on advantageous features such as parity provisions, reserve requirements, sinking fund payments, redemption provisions and credit enhancement and assist the City in preparation of call provisions and notices.

3.2.2.3.2 Advise on the timing of the bond sale, taking into consideration such factors as changing economic conditions, tax law changes, volume of new issues coming to market, investor demand, interest rate movements, other

- current and projected market trends.
- 3.2.2.3.3 Advise on credit enhancement options of attractiveness for various bond sales.
 - 3.2.2.3.4 Coordinate the submission of electronic files and hardcopy documents to the printer and on-line bidding provider. Review the information provided on-line.
 - 3.2.2.3.5 Assist the City's bond and/or disclosure counsel in preparing an official statement for each bond issue. Advise the City on primary and secondary market disclosure requirements applicable to each offering and conformance to suggested guidelines. Coordinate review and revision with the City, bond counsel and underwriter.
 - 3.2.2.3.6 Assist in publicizing the issue with an official statement, notice of sale, bid forms and such other means necessary and advisable to develop regional public and institutional interest.
 - 3.2.2.3.7 Advertise the bond sale in prominent financial publications as may be appropriate to the sale in addition to coordinating local publication requirements with bond counsel.
 - 3.2.2.3.8 Provide the City with a list of underwriters with whom notice of sale and POS will be sent, including names, addresses, e-mail addresses and phone numbers.
 - 3.2.2.3.9 Prepare request for proposals for bond insurer, liquidity provider, letter of credit, fiscal agent, and senior managing underwriter (negotiated sale, subject to change in state law and city charter) when applicable. Evaluate request for proposal responses by preparing cost benefit analyses.
 - 3.2.2.3.10 Evaluate the reasonableness of the underwriting fees proposed by the underwriter(s).
 - 3.2.2.3.11 Evaluate the initial offering scale proposed by the underwriter during the pre-pricing of the bonds, comment on the re-pricing of the bonds relative to market conditions and analyze the final structure.
 - 3.2.2.3.12 Suggest the best priority of orders on the bonds and ensure the agreed upon priority is complied with the senior underwriter.

3.2.2.4 **Bond Sale**– The financial advisor shall perform the following additional functions on the bond sale date:

- 3.2.2.4.1 Evaluate the bids and confirm the lowest and best bid.
- 3.2.2.4.2 Verify the true interest costs (TIC) of the winning and cover bids.
- 3.2.2.4.3 Confirm that the bids are in compliance with the requirements of the notice of sale (if competitive).
- 3.2.2.4.4 Provide a comparison of the results of the sale with a least

three of the most recent comparable financings.

3.2.2.4.5 Prepare a summary of bids and any other reports requested to accompany the Mayor's recommendation letter to the City Council.

3.2.2.4.6 Contact the winning bidder and cover bid (if competitive).

3.2.2.5 **Bond Closing**– The financial advisor will assist the City in directing, coordinating and supervising bond closing transactions. Such services will include:

3.2.2.5.1 Coordinating the compilation of transcript materials.

3.2.2.5.2 Overseeing all bond pricing and registration procedures.

3.2.2.5.3 Soliciting bids for investment of funds, if requested by the City.

3.2.2.5.4 Assisting in bond closing arrangements including acting as the City's agent for registering bonds.

3.2.2.6 **Work Products**– The financial advisor will be expected to provide the following work products for each debt offering unless specific arrangements are made for one or more of these products to be supplied by others:

3.2.2.6.1 Pre-sale analysis and recommendations.

3.2.2.6.2 Post sale analysis.

3.2.2.6.3 Final pricing book.

3.2.2.6.4 Such other studies, including analyses of funding alternatives, credit enhancements analysis, cash flow projections, debt service schedules, bond summary reports, etc. and any materials which were prepared for financial planning and/or bond sale purposes.

3.2.2.6.5 Prepare and distribute a closing memorandum, with the following information:

- Closing date, time and place.
- Detailed sources and uses of bond proceeds.
- Wire transfer instructions.
- Instructions for payment of issuance costs.

3.2.2.6.6 Construct a means of evaluating the value of the Financial Advisor's contribution to the cost of financing to the City of Albuquerque and present a report to the Director of Finance and Administration

3.2.3 **Investment Program/Arbitrage Rebate Management** – the financial advisor may be asked to assist the City and its arbitrage/rebate consultant with its bond-related investment program as well as arbitrage/rebate management. These services will include, but are not limited to::

3.2.3.1 Assisting with cash flow projections based on construction

- draws schedules and/or fund activity.
- 3.2.3.2 Advising on arbitrage and/or rebate provisions.
- 3.2.3.3 Assisting with purchase of escrow securities for refunding bond issues.
- 3.2.3.4 Reviewing arbitrage certificates, arbitrage letters of instructions and 8038-Gs as prepared by bond counsel.
- 3.2.3.5 Assisting with an investment strategy for bond proceeds until the funds are needed for draw down.

3.2.4 **Debt Administration Support Services** – the financial advisor will assist the City in its debt administration efforts. These services will include, but are not limited to;

- 3.2.4.1 Provide advice regarding the financial performance of the City's capital improvement plan(s), economic development, etc.
- 3.2.4.2 Respond to day-to-day questions from City administrators and staff, which may require research and analysis.
- 3.2.4.3 Disseminate important information to the City such as credit rating agency reports and studies, new items, etc.
- 3.2.4.4 Assist in preparing request for proposals or request for qualifications for finance –related professional services.
- 3.2.4.5 Assist in preparing reports to the Debt Committee, Finance Committee.
- 3.2.4.6 Assist in preparing cash flows and rate analysis for various enterprise funds of the City.
- 3.2.4.7 Assist in the production of continuing disclosure reports.
- 3.2.4.8 Maintain a debt schedule manual for the City.
- 3.2.4.9 Monitor swaps and derivative valuations.
- 3.2.4.10 Monitor refunding opportunities in a monthly basis.
- 3.2.4.11 Develop an investor relations program for the City.

3.3.5 Compensation

3.3.5.1 General. The selected Financial Advisor will only be compensated through proposed fees from the actual sale of bonds. No other compensation is proposed. **In the event a bond transaction, lease or sale does not close for whatever reason, the City will not compensate the financial advisor(s) on any fees or expenses incurred.**

However, for work done on special projects approved by the City in advance, a separate fee may be approved prior to commencement of the work.

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PART 4 EVALUATION OF OFFERS

4.1 Selection Process. The Mayor of Albuquerque shall name, for the purpose of evaluating the proposals, an Ad Hoc Advisory Committee. On the basis of the evaluation criteria established in this RFP, the committee shall submit to the Mayor a list of qualified firms in the order in which they are recommended. Proposal documentation requirements set forth in this RFP are designed to provide guidance to the Offeror concerning the type of documentation that will be used by the Ad Hoc Advisory Committee. Offerors should be prepared to respond to requests by the Purchasing Office on behalf of the Ad Hoc Advisory Committee for oral presentations, facility surveys, demonstrations or other areas deemed necessary to assist in the detailed evaluation process. Offerors are advised that the City, at its option, may award this request on the basis of the initial offers.

4.2 Evaluation Criteria. The following general criteria, not listed in order or significance, will be used by the Ad Hoc Advisory Committee in recommending contract award to the Mayor. The proposal factors will be rated on a scale of **0-1000** with weight relationships as stated below.

4.2.1 Evaluation Factors:

Maximum Points	Evaluation Criteria
300	Qualifications: Professional qualifications of the firm and the personnel in the firm who would be assigned to the City.
300	Firm's Knowledge and History: Knowledge and history of the general financial character and environment of the City.
25	References: A list of references that can be contacted to ascertain in evaluation of past service to other clients.
300	Approach: Innovative ideas for the financing and re-financing of infrastructure, capital leases, NMFA loans, commercial paper, sports and recreational projects, derivative products (i.e. swaps) and surface transportation.
75	Fees: (See Appendix A - Fee Schedule)

4.2.2 Cost/Price Factors: The evaluation of cost factors in the selection will be determined by a cost/price analysis using your proposed figures. Please note that the lowest cost is not the sole criterion for recommending contract award.

4.2.3 Cost Evaluation. The cost/price evaluation will be performed by the City Purchasing Division or designee. A preliminary cost review will ensure that each

Offeror has complied with all cost instructions and requirements. In addition, proposals will be examined to ensure that all proposed elements are priced and clearly presented. Cost proposals that are incomplete or reflect significant inconsistencies or inaccuracies will be scored accordingly or may be rejected by the Ad Hoc Advisory Committee if lacking in information to determine the value/price/cost relative to the services proposed.

4.3 Preferences. Preferences for local, small and resident (state) businesses may be available under the City of Albuquerque Public Purchases Ordinance, for this procurement. See Part 5 of this Request for Proposals for additional information. For those Offerors qualifying for a preference, a 1.05 or 1.10 multiplier, whichever applies, will be applied to the total raw score assigned to its proposal by the ad hoc evaluation committee.

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**PART 5 - Instructions for PREFERENCE CERTIFICATION FORM
For Local, Small or Resident Business Preferences
(Goods & Services)**

1. ALL INFORMATION MUST BE PROVIDED. A 5% small business preference and a 5% local preference or resident business preference are available for this procurement. To qualify, an Offeror **MUST** complete and submit this Form **WITH ITS OFFER**. If an offer is received without the Form attached, completed, signed and certified, or if the Form is received without the required information, the preference will not be applied. **THE FORM OR A CORRECTED FORM WILL NOT BE ACCEPTED AFTER THE DEADLINE FOR RECEIPT OF BIDS OR PROPOSALS.**

2. PHYSICAL LOCATION MUST BE STATED. To qualify for the small business or local preference, a business must have its principal office and place of business in the Greater Albuquerque Metropolitan Area. The business location inserted on the Form must be a physical location, street address or such. **DO NOT** use a post office box or other postal address.

3. FORM MUST BE COMPLETED BY PRINCIPAL OFFEROR. This Form must be completed for the Principal Offeror, or one of the Principal Offerors if the Offeror is a joint venture or partnership, by an individual authorized to sign for the Offeror. Subcontractors of the Offeror may not qualify an offer for a preference and should not complete or submit the Form.

4. APPLICATION OF PREFERENCES. The small business preference and the local business preference will be applied to all offers submitted by eligible small businesses. The local preference only will be applied to all offers submitted by eligible local businesses which are not small businesses. If there are no offers submitted in response to a solicitation that are eligible for the local preference, then the Resident Business Preference will be applied to any offers submitted which have provided a valid, State of New Mexico-issued, Resident Business or Resident Manufacturer Certification Number.

5. DEFINITIONS. The following definitions apply:

- The Greater Albuquerque Metropolitan Area includes all locations within the City of Albuquerque and Bernalillo County.
- A local business is a business with its principal office and place of business in the Greater Albuquerque Metropolitan Area.
- A small business is a local business which employs an average of fewer than 20 full-time employees in a calendar year. The calendar year immediately prior to the request for the preference should be used.
- A principal office is the main or home office of the business as identified in tax returns, business licenses and other official business documents.
- A place of business is a location where the business conducts its daily operations, for the general public, if applicable.
- A full-time employee is an employee of the business who is hired to work at least forty (40) hours per week, whether in a permanent, temporary or seasonal status. If all full-time employees of the business are hired to work a shorter work week, the City's Purchasing Officer may reduce this requirement, upon receipt of adequate documentation.

6. ADDITIONAL DOCUMENTATION. If requested, a business will be required to provide, within three working days of receipt of the request, documentation to substantiate the information provided on the Form. The City's Purchasing Officer shall determine the sufficiency of such documentation.

PREFERENCE CERTIFICATION FORM
For Local, Small or Resident Business Preferences
(Goods & Services)

RFP/RFB NO: _____

Business Name:

Principal Office:

Street Address

State

Zipcode

Place of Business:

Street Address

State

Zipcode



If your Principal Office and Place of Business are in the Greater Albuquerque Metropolitan Area (see definitions in Instructions attached), please provide the following information:

Average Number of Full-time Employees over the Prior Calendar Year:

SELECT ONE

- 0 – 19 employees.
 20 employees or more.



If applicable, insert State of New Mexico Resident Business or Resident Manufacturer Certification Number: _____

CERTIFICATION

I hereby certify that the business set out above is the principal Offeror submitting this offer or is one of the principal Offerors jointly submitting this offer (e.g. as a partnership, joint venture). I hereby certify that the information which I have provided on this Form is true and correct, that I am authorized to sign on behalf of the business set out above and, if requested by the City, will provide, within 3 working days of receipt of notice, the necessary documents to substantiate the information provided on this Form.

Signature of Authorized Individual: _____

Printed Name: _____

Title: _____

Date: _____

YOU MUST RETURN THIS FORM WITH YOUR OFFER

PART 6
FINANCIAL ADVISOR AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2008, by and between the City of Albuquerque, New Mexico, a municipal corporation (hereinafter referred to as the "City"), and _____ (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the City issued a Request for Proposals for its Department of Finance and Administrative Services, Treasury Division, Procurement No. RFP2008-019-KD, titled Financial Advisory Services, dated February 19, 2008; which is attached hereto as Exhibit A, and by this reference made a part of this Agreement; and

WHEREAS, the Contractor submitted its proposal dated February 19, 2008, in response to RFP No. 2008-019-KD, which proposal is attached hereto as Exhibit B and by this reference made a part of this Agreement; and

WHEREAS, the City desires to engage the Contractor to render certain services in connection therewith and the Contractor is willing to provide such services.

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

1. **Scope of Services.** The Contractor shall perform the following services (hereinafter referred to as the "Services") in a satisfactory and proper manner, as determined by the City:

Provide Financial Advisory Services in accordance with Exhibit A as supplemented by Exhibit B.

2. **Time of Performance.** Services of the Contractor shall commence on _____, 20____, and shall continue for four (4) years. Services shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement; provided, however, that in any event, all of the Services required hereunder shall be completed by _____, 20 ____.

3. **Compensation and Method of Payment.**

A. **Compensation.** For performing the Services specified in Section 1 hereof, the City agrees to pay the Contractor the transaction fees identified in Contractor's cost proposal attached hereto and incorporated herein as Exhibit C, which fees include any applicable gross receipts taxes. Contractor understands that if a bond transaction does not close, for any

reason, it will not be compensated on any work in connection with the bond transaction. However, for work done on special projects approved by the City in advance, a separate fee may be approved prior to commencement of the work at the rates set out in Exhibit B.

B. **Method of Payment and Disbursements.** In addition to the compensation set forth in Section 3, entitled Compensation, Contractor shall be reimbursed, so long as the bond transaction closes, for its reasonable costs incurred in connection with this Agreement. Such expenses must be approved in advance and include: traveling expenses, out of state long distance telephone call charges, reproduction costs, printing charges and like expenditures. Payments shall be made to the Contractor upon receipt by the City of properly documented requisitions for payment as determined by the budgetary and fiscal guidelines of the City and on the condition that the Contractor has accomplished the Services to the satisfaction of the City.

C. **Appropriations.** Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the City Council of the City of Albuquerque making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement may be terminated at the end of the City's then current fiscal year upon written notice given by the City to the Contractor. Such event shall not constitute an event of default. All payment obligations of the City and all of its interest in this Agreement will cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

4. **Independent Contractor.** Neither the Contractor nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the City under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the City under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

5. **Personnel.**

A. _____ and _____ are assigned to the performance of duties under this Agreement. They may consult with or use other employees as they deem necessary, but they shall remain committed to this Agreement unless the City consents to a substitution, which consent shall be in the City's sole discretion. The personnel assigned shall not be employees of or have any contractual relationships with the City.

B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

C. None of the work or the Services covered by this Agreement shall be

subcontracted without the prior written approval of the City. Any work or Services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. **Indemnity.** The Contractor agrees to defend, indemnify and hold harmless the City and its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties because of any injury or damage received or sustained by any person, persons or property arising out of or resulting from the Services performed by the Contractor under this Agreement or by reason of any asserted act or omission, neglect or misconduct of the Contractor or Contractor's agents or employees or any subcontractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

7. **Insurance.** The Contractor shall procure and maintain at its expense until final payment by the City for Services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by it or its agents. Before commencing the Services and on the renewal of all coverages, the Contractor shall furnish to the City a certificate or certificates in form satisfactory to the City showing that it has complied with this Section. All certificates of insurance shall provide that thirty (30) days written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico 87103, before a policy is cancelled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than professional liability or workers' compensation, the City shall be named an additional insured. All coverages afforded shall be primary with respect to operations provided. Kinds and amounts of insurance required are as follows:

A. **Commercial General Liability Insurance.** A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000	Per Occurrence
\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$ 50,000	Fire - Legal
\$ 5,000	Medical Payments

Said policy of insurance must include coverage for all operations performed for the City by the Contractor and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

B. **Automobile Liability Insurance.** An automobile liability policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policy of insurance must include coverage for the use of all owned, non-owned, hired automobiles, vehicles and

other equipment both on and off work.

C. **Workers' Compensation Insurance.** Workers' Compensation Insurance for its employees in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico.

D. **Increased Limits.** If, during the term of this Agreement, the City requires the Contractor to increase the maximum limits of any insurance required herein, an appropriate adjustment in the Contractor's compensation will be made.

8. **Discrimination Prohibited.** In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, physical handicap, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended.

9. **ADA Compliance.** In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the Americans With Disabilities Act of 1990, and all applicable rules and regulations (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the City as a public entity. The Contractor agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of the Contractor or its agents in violation of the ADA.

10. **Reports and Information.** At such times and in such forms as the City may require, there shall be furnished to the City such statements, records, reports, data and information, as the City may request pertaining to matters covered by this Agreement. Unless authorized by the City, the Contractor will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to the City.

11. **Open Meetings Requirements.** Any nonprofit organization in the City which receives funds appropriated by the City, or which has as a member of its governing body an elected official, or appointed administrative official, as a representative of the City, is subject to the requirements of §2-5-1 *et seq.* R.O.A. 1994, Public Interest Organizations. The Contractor agrees to comply with all such requirements, if applicable.

12. **Establishment and Maintenance of Records.** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the City with respect to all matters covered by this Agreement. Except as otherwise authorized by the City, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.

13. **Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of

the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. The Contractor understands and will comply with the City's Accountability in Government Ordinance, §2-10-1 et seq. R.O.A. 1994, and also agrees to provide requested information and records and appear as a witness in hearings for the City's Board of Ethics and Campaign Practices pursuant to Article XII, Section 8 of the Albuquerque City Charter.

14. **Publication, Reproduction and Use of Material.** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

15. **Compliance With Laws.** In performing the Services required hereunder, the Contractor shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments.

16. **Changes.** The City may, from time to time, request changes in the Services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the City and the Contractor, shall be incorporated in written amendments to this Agreement.

17. **Assignability.** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the City thereto.

18. **Termination for Cause.** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs and reports prepared by the Contractor under this Agreement shall, at the option of the City, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the City from the Contractor is determined.

19. **Termination for Convenience of City.** The City may terminate this Agreement at any time by giving at least fifteen (15) days' notice in writing to the Contractor. If the

Contractor is terminated by the City as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the Services actually performed bear to the total Services of the Contractor covered by this Agreement, less payments of compensation previously made. If this Agreement is terminated due to the fault of the Contractor, the preceding Section hereof relative to termination shall apply.

20. **Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

21. **Enforcement.** The Contractor agrees to pay to the City all costs and expenses including reasonable attorney's fees incurred by the City in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

22. **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

23. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque.

24. **Approval Required.** This Agreement shall not become effective or binding until approved by the Chief Administrative Officer.

IN WITNESS WHEREOF, the City and the Contractor have executed this Agreement as of the date first above written.

CITY OF ALBUQUERQUE

CONTRACTOR:

Approved By:

By: _____

Tanda Meadors
Director, DFAS

Title: _____

State Taxation and Revenue Department
Taxpayer Identification Number

Date: _____

Federal Taxpayer Identification Number

Bruce J. Perlman, Ph.D
Chief Administrative Officer

Date: _____

APPENDIX A – FEE SCHEDULE

- A. **Financial Advisory (FA) Fee (Dollars per \$1,000 bond):** \$ _____
- B. **Minimum FA Fee per transaction:** \$ _____
- C. **Maximum FA Fee per transaction:** \$ _____
- D. **Out of pocket expenses for travel, lodging, communications, computer and copying would be billed at cost; however, these expenses will not exceed \$ _____ in any fiscal year.**
- E. **For any special projects authorized by the City, which are not intended to result in the issuance of bonds, the City would propose to be compensated upon the following hourly rates.**
- **President** \$ _____
 - **Vice President** \$ _____
 - **Professional** \$ _____
 - **Clerical** \$ _____
- F. **Minimum fee per special project (non-bond):** \$ _____
- G. **Maximum fee per special project (non-bond)** \$ _____