



City of Homer Agenda

City Council COW

Monday, June 24, 2019 at 5:00 PM
City Hall Cowles Council Chambers

CALL TO ORDER, 5:00 P.M.

AGENDA APPROVAL (Only those matters on the noticed agenda may be considered, pursuant to City Council's Operating Manual, pg. 6)

CONSENT AGENDA

REGULAR MEETING AGENDA

DISCUSSION TOPIC(S)

- [a.](#) Resolution 19-044, A Resolution of the City Council of Homer, Alaska, Approving a Request for Proposals (RFP) for General Counsel Services. Mayor/Council.
- b. Army Corps Planning Assistance to States Large Vessel Expansion Project Report from Port Director/Harbormaster Hawkins (10 minutes)

COMMENTS OF THE AUDIENCE

ADJOURNMENT

Next Regular Meeting is Monday, July 22, 2019 at 6:00 p.m., Committee of the Whole at 5:00 p.m. All meetings scheduled to be held in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska

CITY OF HOMER
HOMER, ALASKA

Mayor/Council

RESOLUTION 19-044

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA,
APPROVING A REQUEST FOR PROPOSALS (RFP) FOR
GENERAL COUNSEL SERVICES.

WHEREAS, HCC 2.16.010 authorizes the City Attorney to act as legal advisor to and be attorney and counsel for the City Council and shall be solely responsible to the City Council; and

WHEREAS, The last solicitation for General Council services was in 2008; and

WHEREAS, It is in the best interest of the City to occasionally issue a request for proposals for professional services to ensure the City is receiving the highest quality and most cost effective legal representation and advice.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska, hereby approves the attached Request for Proposals for general counsel services.

PASSED AND ADOPTED by the Homer City Council this 24th day of June, 2019.

CITY OF HOMER

KEN CASTNER, MAYOR

ATTEST:

MELISSA JACOBSEN, MMC, CITY CLERK

Fiscal note: Advertising costs

**Request for Proposals
General Counsel
City of Homer, Alaska**

Note: the terms “General Counsel”, “Municipal Attorney”, “City Attorney”, and “Legal Service” are used interchangeably within this solicitation for professional service.

I. OVERVIEW OF REQUESTED SERVICES

The City of Homer is a first class municipality located within the Kenai Peninsula Borough with a population of approximately 5,500. The greater Homer area contains approximately 10,000 residents. It is bounded by Lower Cook Inlet to the south and west, Kachemak City (a second class city) to its east, and lands governed by the Kenai Peninsula Borough to its north.

The City is soliciting proposals for a General Counsel. The duties of the General Counsel are generally described in AS 29.2.370 and Homer City Code (HCC) 2.16.010 and more specifically delineated within this solicitation.

While AS. 29.20.360 generally assigns the responsibility of hiring a municipal attorney to the chief administrator, which in Homer’s case is the City Manager, the Homer City Council has reserved that duty for itself. [See HCC 2.04.020(g).]

The City reserves the right to enter into contracts with attorneys other than the general counsel for specialized legal services should the Council so choose. Proposals are invited from any qualified State of Alaska licensed attorney at law or law firm. Attorney/Firms must be qualified to represent the City in all State of Alaska Courts and the U.S. District Court for the District of Alaska.

II. SCOPE OF SERVICES, TERM, AND QUALIFICATIONS

The City prefers to enter into an agreement for an equally fixed monthly fee. The fixed fee shall include all general counsel work and attendance at least one Council meeting per month. The anticipated workload (excluding Council meetings) is approximately 65 hours per month, with an annual aggregate of 780 hours. Court cases and legal proceedings shall be billed at hourly rate(s) as described in your proposal and are separate from the monthly fixed fee.

A. **SCOPE OF SERVICES.** The Proposer is expected to provide the City with general counsel legal services, which may include any of the following:

1. Serve as the legal advisor of and be responsible to the City Council and City Manager; advise the City Manager and City Clerk concerning

matters affecting the City Administration and perform other legal duties prescribed by the City Council and City Manager.

2. Prepare or review legal documents including, but not limited to ordinances, resolutions, contracts, conveyances, leases, easements, and legal opinions as needed.
3. Be readily available for consultation by the City Council, City Manager, or City Clerk.
4. Provide representation to the Courts of jurisdiction and/or manage the activities of other attorneys who may represent the City in those Courts.
5. Assist the City Manager in negotiations on the City's behalf.
6. At the request of the City Manager, or by resolution of the City Council, draft opinion letters regarding, among other things, the interpretation of the City Code, state and federal laws, and policies.
7. Perform other such duties as may be prescribed for the City Attorney by ordinance or by direction of the City Council and/or City manager
8. Work effectively with the City Council, City Manager, City Clerk and with all other public agencies and other entities with which the City has a legal relationship.
9. Attend at least one City Council meeting per month in person, and ~~others~~ be available telephonically, as requested.

B. TERM. The General Counsel is hired directly by the Homer City Council which is subject to the vicissitudes of annual elections. As such, the agreement may be terminated at the convenience of the City at any time with or without cause. The Homer City Council has not, however, ever exercised that method of change and has looked to the secondary agreement. The term of this professional services agreement shall initially be one year. A longer term may be negotiated by the parties prior to the first anniversary of the agreement.

C. QUALIFICATIONS.

1. The proposer (or primary/lead attorney for the City in a firm) must be a member in good standing of the State of Alaska Bar Association and be qualified to represent the City on all State of Alaska Courts and the U.S. District Court for the District of Alaska.
2. The proposer (or primary attorney) should be experienced and proficient in legal matters affecting the City, to include without limitation, Alaska municipal law including Title 29, the Homer Municipal Code, the Kenai Peninsula Borough Code, and other applicable State of Alaska and Federal laws

D. SKILLS AND COMPETENCIES.

1. The proposer (or firm) must be able to give advice on a wide range of topics and include in their proposal how they would address specialized fields outside the area of expertise of the primary or lead attorney.
2. Research Skills. The proposer (or primary/ lead attorney) must be skilled in legal research.
3. Communication skills. The proposer must be able to clearly present and explain complex information both verbally and in writing.
4. Problem-solving skills. The proposer (or primary/lead attorney) will need complex problem solving skills to help resolve issues that impact the municipality.

III. RESPONSE TO RFP

To achieve a uniform review process and obtain a reasonable degree of comparability, a proposer should submit a response to the request for proposals that is consistent with and follows the format presented below. The proposal should not exceed fifteen (15) pages in length, double spaced, including page 1 of this RFP and the Letter of Transmittal. In page 1 of this RFP, provide the name, address, phone number, fax number, e-mail address, together with the name of the person who the City Manager may contact in regard to the proposal. Provide detail in the proposal for each of the following points:

A. Letter of Transmittal (limited to one page)

1. Briefly state the proposer's understanding of the services to be performed and make a positive commitment to provide the services as specified.
2. State the long term availability of the proposer to the City of Homer
3. Give the name(s) of the person(s) who are authorized to make representations for the proposer, their titles and telephone numbers.
4. The letter must be signed by an individual who has the authority to bind the proposer.

B. Statement of Qualifications

1. Provide a statement of qualifications of the attorney who will be the primary or lead attorney providing general counsel and who will attend Council meetings.
2. Provide a statement of qualifications of other attorneys, if any, who will support the primary attorney. These attorneys may be in the same firm or available under some other arrangement approved by the City Council.

3. Provide a statement of qualifications of other attorneys (if any) in the firm who may have specialized experience and expertise that may be of value to the City.
 4. Describe the municipal experience, other applicable legal experience, and education of the attorney's listed in B1 through B3 above.
 5. List municipal or other relevant cases handled by the primary attorney and supporting attorneys whether the attorney's clients were the prevailing party or not.
 6. Identify and describe the experience over the past five years and the level of expertise in the following areas:
 - a. Attendance at Council/Assembly meetings
 - b. Ordinance and resolution drafting
 - c. Ordinance enforcement
 - d. Zoning and land use regulation
 - e. Public employee labor law
 - f. Municipal sales and property tax law
 - g. Municipal Procurement and contract law.
 - h. Laws related to Police, Fire, Emergency Medical operations
 - i. Acquisition and disposition of public property, land management
 - j. Other municipal issues
- C. Conflicts. List all matters and/or cases where the proposer currently represents an individual or entity with interests potentially adverse to the City. Describe the scope of the representation and the nature of the conflict.
- D. Availability. Specify how available the primary attorney will be to the City. State whether the City will be the primary attorney's main client or one of several or many. State the current workload of the primary attorney and how that attorney intends to accommodate the City's legal work requirements. State the location of the office from which the primary attorney will serve the City.
- E. Disclosure. Disclose any alleged significant prior or ongoing contract failures, contract breaches, any civil or criminal litigation or Bar association investigation which involve the proposer as a party or in which the proposer has been judged guilty or liable or sanctioned. This is a mandatory disclosure.
- F. Cost. Proposals must state the following cost information:
1. A fixed monthly fee to provide 65 hours of general counsel per month plus travel to Homer for 12 Council meetings per year.

2. The hourly rate for the lead attorney, supporting attorneys, and other attorneys for hours worked above and beyond 50 hours per month or for specialized services (ie. litigation) outside the contract for general services.
3. Cost per hour of travel (above the contracted 12 trips).

G. Municipal Experience. List any municipalities for which the proposer has performed legal services in the past five years. Provide a short description of the services, the date performed, and a person employed by the municipality or government organization that is familiar with the work.

H. References. Provide a minimum of five (5) references from similar clients, to include local government, state, and/or private clients, for whom the proposer has performed legal services within the last three years. The City may contact any and all references for validation of information submitted and other information relative to the proposal.

I. A Suggested Legal Services Agreement drafted by the proposed.

IV. PROPOSAL EVALUATION AND AWARD PROCESS

A. Proposals will be evaluated and scored by the Homer City Council on a 100/125 point scale based on the following criteria:

Quality of primary attorney	35 points
Qualifications of other attorneys	10 points
Conflicts (may exclude proposer)	10 points
Availability	10 points
Disclosure (may exclude proposer)	10 points
Cost/Proposed contract	25 points

Subtotal for initial selection 100 points

Council Interview	25 points In person presentation of qualifications and services
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Total 125 points

Proposals will be kept confidential until a contract is awarded, subject to law.

B. The City may contact the references provided by the proposer, contact any proposer to clarify a response; contact current and/or prior clients; solicit

information from any available source concerning any aspect of a proposal; and see and review any other information deemed pertinent to the evaluation process.

- C. After the proposals are received, the full City Council will evaluate and score the proposals. The Council may ask the City Manager, current City Attorney, and City Clerk to participate and/or provide support as needed. The Council will, after initial scoring, invite selected attorney's/firms to interview, telephonically and/or in person at the sole expense of the proposing firm.
- D. At the conclusion of the interview process, the City Council will determine its choice of the highest rated proposer. Any award is contingent upon the successful negotiation of final contract terms and upon approval of the contract by the Council. Negotiations shall be confidential and not subject to disclosure to competing proposers unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City upon written notice to all selected proposers may negotiate a contract with the next highest scoring proposer or proposers of withdraw the RFP.

V. SUBMITTAL INSTRUCTIONS

A. PROJECTED RFP TIMELINE

<u>TASK</u>	<u>DATE/TIME</u>
Deadline for submission of proposals	July 19, 2019
Initial evaluation period	July 19 – July 26, 2019
Selection/Invitation for interviews	July 26, 2019
Selection of highest scoring attorney (by Resolution)	August 12, 2019
Contract Approval by Council	Next available meeting

NOTE: These dates represent a tentative schedule of events. The City reserves the right to modify these dates at any time, with appropriate notice to applicable proposers on the Plan Holders List.

- B. All interest proposers who obtain a copy of the RFP must be listed on the Plan Holders list maintained by the Homer City Clerk's Office.

- C. Proposers shall submit one (1) original proposal marked "MASTER" and ten (10) identical copies to: Melissa Jacobsen, City Clerk, City of Homer, 491 E. Pioneer Ave., Homer Alaska, 99603.
- D. Proposals shall be clearly labeled in a sealed envelope or box as follows: REQUEST FOR PROPOSALS: Legal Counsel Services
- E. Proposals must be received at the above referenced address no later than 4:00 p.m. on July 20, 2019. Proposals that do not arrive by that time and date WILL NOT BE ACCEPTED. Proposers may submit their proposal at any time prior to the above stated deadline. Facsimile, e-mail, or telephone proposals will NOT be accepted.
- F. For ease of evaluation, the proposal should be presented in a format that corresponds to and references sections outlined in this RFP, and should be presented in the same order. Responses to each section and subsection should be labeled so as to indicate such term is being addressed.
- G. Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are not necessary or desired. Emphasis should concentrate on conformance to the RFP instructions, responsiveness to the RFP requirements, and on complete and clear content.
- H. The proposal must be signed by the individual legally authorized to bind the proposer.

VII. GENERAL TERMS, CONDITIONS AND EXCEPTIONS

- A. Performance of the proposer may be rated by the City Council semi-annually for the first year following contract award and then annually for the term of the contract.
- B. The City reserves the right to alter, amend, or modify any provisions of this RFP, or to withdraw this RFP, at any time prior to the award of a contract pursuant hereto, if it is in the best interest of the City to do so.
- C. The City reserves the right to waive informalities and minor irregularities in proposals received.
- D. The City reserves the right to reject any or all proposals received prior to contract award.

- E. The City shall not be obligated to accept the lowest priced proposal, but may make an award in the overall best interest of the City after all factors have been evaluated.
- F. Alterations, modification or variations to a proposal may not be considered unless authorized by the RFP or by addendum or amendment.
- G. Proposals may be withdrawn by written or facsimile notice received prior to the deadline for proposal submittal. Withdrawals received after the proposal submittal deadline will not be considered. Proposers who transmit withdrawals by fax do so at their own risk. The City will not be responsible for any error or failure in fax transmission or receipt.
- H. Prices offered by proposers in their proposals are an irrevocable offer for the term of the contract. The awarded proposer agrees to provide the services at the costs, rates, and fees as set forth in the proposal. No other costs, rates, or fees shall be payable to the awarded proposer for the implementation of their proposal.
- I. The City will not be liable for any costs incurred by a proposer to prepare its proposal. Costs to develop the proposals and any other such expenses incurred by the proposer in responding to the RFP are entirely the responsibility of the proposer and shall not be reimbursed in any manner by the City.
- J. All proposals submitted become the property of the City and will be returned only at the City's option and at the proposer's request and expense. The master copy of each proposal shall be retained for official files and will become public record after the award of the contract.
- K. The City will not be liable for federal, state, or local excise taxes.
- L. Proposer's response to the RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, except such terms and conditions that the proposer expressly excludes, which must be written in bold, italicized and underscored font. Exceptions will be taken into consideration as part of the evaluation process.
- M. The City reserves the right to negotiate final contract terms with the proposer selected. The RFP and the awarded proposer's proposal shall be incorporated therein.
- N. Proposer understands and acknowledges that the representations above are material and important, and will be relied on by the City in evaluation of the proposal. Any

proposer misrepresentation may be treated as fraudulent concealment from the City of the true facts relating to the proposal.

- O. The City reserves the right to conduct a background inquiry of each proposer that may include collection of appropriate criminal history information, contractual and business associations and practices, Bar sanctions and reprimands, employment histories, and reputation in the legal and business communities. By submitting a proposal to the City, the proposer consents to such an inquiry.
- P. The City is an equal opportunity employer and complies with Title I of the American with Disabilities Act. Proposers who need accommodation to respond to the RFP may call the City Clerk at 907-235-8121.

END OF RFP

