Barbara J. Parker, City Attorney

CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

REQUEST FOR QUALIFICATIONS

FOR THE LEGAL SERVICES / Outside Counsel

PLEASE PROVIDE RESPONSES BY:

Open, Continuously Accepting Proposals

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INTRODUCTION

The Office of the Oakland City Attorney is responsible for providing all legal services for the City of Oakland and Oakland Redevelopment Agency, as well as all City boards and commissions and certain joint powers authorities. The City Attorney retains outside counsel for three types of matters/cases: (1) cases that require specialized expertise that our Office does not have in-house; (2) cases that present conflict of interest issues; and, (3) cases that we cannot handle due to lack of capacity due to reductions to the City Attorney's budget. The City of Oakland engages outside counsel only through the Office of the City Attorney.

The City Attorney requests detailed information regarding the qualifications of attorneys or law firms interested in providing legal services to the City of Oakland to establish a list of qualified attorneys or law firms from which outside counsel may be selected.

The City Attorney has established and maintains a list of qualified firms and individuals in a variety of practice areas for work that we may need. We are interested in hiring a diverse group of firms/individuals that will provide high-quality services and that are dedicated to containing legal costs. We seek to build ongoing relationships with firms that share our commitment to quality and to cost containment, as well as expand and strengthen our relationships with Oakland-based firms, small firms and firms that are committed to diversity.

Selection of outside counsel for all matters -- large and small-- is based on the quality of their work, commitment to controlling costs, adherence to budgets and commitment to providing equal opportunities for minorities and women, persons with disabilities and regardless of sexual orientation. We encourage innovative approaches to billing, fixed rate per project, blended hourly rate per project, discounted rates, etc.

When we select a firm to represent the City of Oakland we decide which attorneys will be working on our matters, and we require advance approval of any changes in assignments.

All firms that we retain must enter into the Oakland's standard Professional Services Agreement (PSA), and complete and provide the following schedules and documentation.

- Combined Schedules: C-1: Declaration of Compliance with the American Disabilities Act, Schedule P: Nuclear Free Zone Disclosure, Schedule U: Compliance Commitment Agreement, Schedule V: Affidavit of Non-Disciplinary or Investigatory Action, Schedule;
- Schedule B-2: Arizona Resolution
- Schedule D: Ownership Ethnicity and Gender Questionnaire;
- Schedule E: Project Consultant Team;
- Schedule N: Declaration of Compliance for the City's Living Wage Ordinance;
- Schedule N-1: Equal Benefits Declaration of Nondiscrimination,;
- Schedule O: Contractor Acknowledgment of City of Oakland Campaign Contribution Limits;
- Proof of Insurance on the ACORD form showing the types and amounts of and insurance coverage required in Schedule Q, Insurance Requirements; and
- Current Oakland Business Tax certificate or application in progress.

In addition to the PSA, selected firms will be required to enter into a Scope of Service/Retention Agreement for each specific matter. Each Scope of Service / Retention Agreement includes a written work plan or case handling plan, a

capped "not to exceed" amount and the names of the individuals in the law firm assigned to work on the matter and their hourly rates. The Scope of Service / Retention Agreement becomes a part of the overall agreement and cannot be modified without the advance written approval of the City Attorney or one of the two Chief Assistant City Attorneys. The Office of the City Attorney will not approve bills/invoices that are in excess of budget, absent prior approval. All invoices must set forth the billing amount, the cap, and the amount remaining on the contract.
The documents listed above are included as an attachment.

Selected firms are required to be current on the payment of Oakland business taxes. This tax is based on income from work the firm performs in Oakland. Selected firms must have or obtain an Oakland Business Tax Certificate regardless of where the firm is located.

See attached Outside Counsel Policy Guide for more information.

SCOPE OF SERVICE / SCOPE OF REPRESENTATION

Placement on a list of qualified firms does not guarantee that the firm or attorney will be retained to provide services. Outside legal services will be used on an as-needed, case-by-case, or matter-by-matter basis. Specific assignments may include investigating, advising, negotiating, reviewing and/or drafting documents (transactional and litigation), and representation in court, administrative hearings and alternative dispute resolution proceedings involving one or more of the following areas:

- Administrative Law
- Appellate Proceedings
- Affordable Housing Development and Workforce Development in connection with public and private development projects
- Banking law - Expertise on stored value and credit cards and customer protection in connection with Municipal Identification Card Program; Fair lending practices
- Bankruptcy
- Citizen's Police Review Board Advice and Conflict Counsel
- Civil Rights, §1983
- Conflict Counsel in the following areas – Ethics, Conflict of Interest, Ballot Measures, Elections, Police
- Constitutional Law
- Criminal and Civil Subpoenas in state and federal courts including Pitchess motions, traffic enforcement and vehicle tows;
- Eminent Domain and Inverse Condemnation
- Employment Issues and Litigation - Labor and Employment, Pension and Benefits Programs
- Engineering, Design Professional and Construction Contracting Issues and Litigation
- Environmental Issues and Litigation, Federal and State Regulatory Issues, Endangered Species, Clear Air and Clean Water Acts
- Finance Services - Bond and Debt Management, Bond Counsel, Bond Disclosure Counsel, Infrastructure Financing (Community Facility Districts, Assessment Districts, etc.)
- Gang Injunctions
- General Civil Litigation
- Insurance Coverage Issues in Litigation
- Intellectual Property (Contracts for Purchase of Computerized Systems, Software and Equipment)

- Land Use Issues and Litigation, including California Environmental Quality Act and litigation and wireless communications land use regulatory issues, including federal preemption and telecom siting
- Maritime Law, Tidelands Trust, Wetlands,
- Medical cannabis advice on grow operations and Attorney General guidelines and federal law
- Municipal Fire Litigation, Firefighters' Procedural Bill of Rights
- Municipal Police Litigation and Federal Consent Decrees; Public Safety Officers' Procedural Bill of Rights; Fourth Amendment Search and Seizure Issues; Animal Control Administrative Appeal Hearings
- Municipal Procurement and Contracting
- Planning related enforcement/revocation proceedings; Representing/Advising City Staff or Decision-makers in Administrative, Planning Commission and City Council Hearings
- Professional Sports Stadium
- Public nuisance actions and Property/Building/Housing/Fire Code Enforcement
- Real Property
- Redevelopment Agency Law
- Rent Control and Evictions
- Taxation
- Tort and Personal Injury Defense;

REQUESTED INFORMATION (FIRM DATA & INFORMATION)

Respondents should provide general background information about the law firm and attorneys, with special focus on the area(s) of activity in which representation is sought, and as to the size and experience of the firm in these specific areas.

Please provide 2 of copies of the response. A firm brochure should also be provided. In addition, the Respondents should include the following information:

1. Number of attorneys in the firm with relevant experience, including the diversity of the firm in terms of women, minorities, persons with disabilities, sexual orientation (LGBT), etc.;
2. The name of each attorney along with the number of years of relevant experience in the specified areas of practice;
3. A statement of the percentage of practice of each qualified attorney devoted to the practice of the issues listed above;
4. Completion of Schedule D, "Ownership, Ethnicity and Gender Questionnaire (attached)
5. The partner/senior shareholder in charge of the areas(s) for which representation is sought;
6. The names of the responsible individuals who will be assigned to each area as senior attorneys;
7. The names of other government clients for whom each qualified attorney has been retained to provide legal services in the relevant substantive area(s);
8. A description of the nature and scope of specific projects handled by each qualified attorney, or significant matters that may be relevant to representation of the City of Oakland in such disputes;
9. An agreement not to engage in litigation against the City of Oakland or represent clients that have interests that are directly adverse to the City of Oakland without first informing the Office of the City Attorney and obtaining written permission from City to do so.
10. Identify each of the practice areas listed in the Scope of Service / Scope of Representation section that the firm desires to be considered for in this RFQ process.

FEE STRUCTURE

Respondents should provide the following information:

Hourly rates:
Senior Partner / Shareholder / Senior Associate
Junior Associate
Paralegal
Other

The hourly rate quoted should include all salary and compensation, and all overhead expenses, profits and other employee costs, including but not limited to clerical and word processing expenses. Respondents should list all expenses they propose to bill in addition to legal fees and the basis for such expenses.

The contract will provide for usual and customary reimbursement of third party costs based on the actual expense. The City does not reimburse for additional overhead on third party costs.

If rates are to be adjusted during the course of representation, the method for such adjustment should be described.

Respondents should include alternatives to hourly billing, including fixed price representation.

The City Attorney will establish with selected firms legal fees and expense budgets for each assigned matter.

See attached Outside Counsel Policy Guide for more information.

REVIEW OF SUBMISSIONS

The City Attorney's Office will develop a list of firms based upon the responses to this Request for Qualifications. Responses will be evaluated by the City Attorney's Office. Price will not be the controlling factor in selecting firms for the list, but price will be a factor in making work assignments. A firm is not entitled to be placed on the list or entitled to work solely on the basis of submission of a low price quotation. The City Attorney will evaluate the responses in the areas of Scope of Service / Scope of Representation, Firm Data and Information and Fee Structure.

Once the list is established, specific firms and individual attorneys may be selected from the list for execution of the PSA, required schedules and Scope of Service / Retention Agreement as the need for legal services occurs or in anticipation of the need for such services. Execution of the PSA and related documents will not guarantee that any case or matter or the number of cases or matters will be assigned to outside counsel. The decision to retain outside counsel will be that of the City Attorney on a case-by-case or matter-by-matter basis. Contracts will remain in effect for a period of not less than one year from the date of execution thereof unless they are terminated before expiration by providing written notice, or unless they are renewed or extended. Fee structures should take this time period into account.

RESPONDENT'S PERSONNEL

The City Attorney intends to reserve the right to designate a specific attorney(s) in a contracting law firm to work on a specific case or matter as lead counsel or as associate lead counsel for the services rendered pursuant to any contract, and further intends to reserve the right to terminate the contract if the lead counsel leaves employment of the firm.

CONFIDENTIALITY OF PROPOSAL INFORMATION WAIVER

Respondents specifically and categorically agree that, as a condition for the opening and review of their responsive submittals, the information relating to fees and fee structure submitted by every other respondent is confidential and proprietary information insofar as such Respondent is concerned.

Respondents are further advised that all the terms and conditions, including fees and fee structures, forming part of any agreement entered into shall, upon such agreement being executed, become a public record of the City and subject to full disclosure, and each Respondent waives any right to object to any such disclosure.

CITY'S RESERVATION OF RIGHTS

This Request for Qualifications does not constitute a commitment by the Office of the City Attorney or by the City Attorney to enter into any agreement or contract, or to pay any costs associated with the preparation of responses, submittals or other documents or any related-work by any Respondent. The City Attorney reserves the right to enter into agreements for legal services with persons or firms who do not respond. The City Attorney further reserves the right to waive responses to any part of this request if, in its sole judgment, it determines that it is in the best interests of the City to do so. The City Attorney may require any Respondent to participate in negotiations and to submit such other information or documentation as it may deem necessary as conditions of awarding a contract. The City Attorney reserves the right to vary or waive requirements for different Respondents as shall fit the City's needs.

STATEMENT OF INTEREST AND QUALIFICATIONS (SOQ) GENERAL INFORMATION

Submit Proposal to:
City of Oakland, Office of the City Attorney
One Frank H Ogawa Plaza, 6th Floor
Oakland, CA 94612

2 copies of the SOQ must be enclosed in a sealed package and marked as follows:
Confidential Documents / Attn: Mark Forte

For questions concerning this SOQ contact mforte@oaklandcityattorney.org