



City of Madera

Request for Proposals

Interim Legal Services

City of Madera
City of Madera Purchasing-Central Supply
1030 South Gateway Drive,
Madera, California 93637
(559) 661-5463

RFP # 201819-02
Issue Date: April 12, 2019
Submission Deadline: Thursday, May 2, 2019 by 12:00 pm

PART ONE: GENERAL INFORMATION

1. Background and Objective

The City of Madera (City) has a need for City Attorney services. With the recent departure of the City's in-house City Attorney, the City finds itself in need of legal services. At the direction of the City Council, the City is conducting a three-tiered approach to filling the City's legal service needs. The following is a synopsis of said approach:

1. *Immediate*: The first step was to procure immediate legal services under the City's purchase order process. This step has been completed.
2. *Near-term*: Operating under the presumption that the purchase order will likely be exhausted prior to a determination on permanent services, the City is issuing this Request for Proposals (RFP) for Interim Legal Services.
3. *Long-term*: For meeting the City's long-term needs, the City Council (Council) has directed staff to conduct both a recruitment for a full-time in-house attorney, as well as an RFP for legal services to contract out the services. Based on both activities, the Council will make a final decision on whether to contract out services going forward or continue to staff an in-house attorney.

The City invites interested legal firms and/or individuals to submit proposals for interim legal services. Historically, the City and the Housing Authority of the City of Madera (Authority) have shared legal services. The Authority is a separate entity from the City and is included in the proposed scope of services outlined in Exhibit 1 as an optional add on service. Based on proposals received, the Authority will make its own decision on whether to engage any proposed services. If such services are engaged, the Authority will enter into its own arrangements with the proposer to secure services and pay for said services.

Responding firms/individuals must be qualified to provide legal expertise in the areas of general municipal law, land use, zoning law, building code compliance law, contract and agreement law, real estate law, environmental law, public works law, fee and tax law, open meeting and conflict of interest law, and other related areas.

While the City ideally will obtain most services from a single legal source, the City reserves the right to apportion services between more than one provider, or obtain specialty services from the provider of its choosing.

2. Submission of Proposal

One (1) original and eight (8) copies of the proposal shall be submitted. The original must be unbound and fastened with a removable clip. Copies may be in color or black and white, and should be fastened with a single staple. A complete proposal should also be provided on CD or USB memory stick that contains the entire proposal in one pdf document. All proposals must be sealed and will not be opened until after the closing date for receipt of proposals. Proposals will

remain confidential until the City has reviewed all of the proposals submitted and a notice of intent to award agreement has been released.

All proposals must be delivered to Rosa Hernandez, Interim Procurement Services Manager, City of Madera, Purchasing-Central Supply, 1030 South Gateway Drive, Madera, California 93637. Proposals must be received by 12:00 pm Thursday, May 2, 2019. Proposals received after the filing deadline will be returned to the proposer unopened. The opening of any proposal shall **NOT** be considered as acceptance of the proposal as a responsive proposal.

The entire proposal (1 unbound original, 8 copies and 1 digital copy) must be submitted in one sealed envelope. Each sealed envelope containing a bid proposal must have, on the outside, the name of the bidder, bidder's address and the statement "DO NOT OPEN UNTIL THE TIME OF BID OPENING" and in addition, must be plainly marked on the outside as follows:

Bid: Interim Legal Services

RFP No. 201819-02

Filing Deadline: Thursday, May 2, 2019 by 12:00 pm

Proposals shall be prepared and submitted in accordance with the requirements set forth in this document. All proposals must be complete and must address concisely and clearly all information requested in the RFP.

Any proposal may be withdrawn at any time prior to the hour fixed for the opening, provided that a request in writing executed by the proposer or his/her duly authorized representative for the withdrawal of such proposal is filed with Purchasing-Central Supply. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the time and date set for the opening. After the expiration of the time and date for receipt of proposals, a proposal may not be withdrawn or altered.

Upon award, all documents provided by the successful bidder shall become public record. All documents provided by any bidders, other than the successful bidder, shall become public record in their entirety and subject to disclosure, unless said documents are retrieved by the bidder within ten (10) business days of the award. This shall also include, but is not limited to, documents for projects for which all proposals are rejected and projects for which an award is not made for any reason. In the event that one or more proposals are returned to the bidding parties, it is the intent of the City that such documents shall not become public records of the City unless required by the California Public Records Act or other provisions of law.

The City of Madera is an Equal Opportunity Employer and no proposal shall be rejected on the basis of race, color, religious creed, ancestry, national origin, age, sex (includes sexual harassment), pregnancy (childbirth or related medical conditions), marital status, sexual orientation (heterosexuality, homosexuality and bisexuality), medical condition (cancer and genetic characteristics), mental or physical disability (includes HIV and AIDS), political affiliation/opinion, Veteran's status, or request for family medical leave.

The City reserves the right to make a written or verbal request for additional information from a bidder to assist in understanding or clarifying a proposal.

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request or participating in the consultant selection process.

Key Dates:

Deadline for Questions and Inquiries: Tuesday, April 23, 2019 by 3:00 p.m.

Submission Deadline: Thursday, May 2, 2019 by 12:00 pm

Anticipated Interviews of Firms: TBD

Anticipated Proposed Agreement to City Council for Consideration: May 15, 2019

3. Scope of Services

The City is seeking a qualified attorney or firm to provide legal services for the period that will begin on award of an agreement for said services and conclude once the City completes its recruitment and RFP processes to find long-term legal counsel either through hiring an in-house attorney or contracting for services. The proposed scope of work for interim legal services is contained in Exhibit 1 to this RFP.

4. Contract Award

Issuance of the RFP and receipt of proposals does not commit the City to award an agreement. The City reserves the right to postpone the RFP process for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with other than the selected company should negotiations with the selected company be terminated, or to cancel any section of this RFP. The City also reserves the right to apportion the award among more than one company.

Any agreement resulting from this RFP will be signed only after successful negotiation of contract terms and conditions and all applicable procedural requirements have been met.

An award under this RFP will not be based solely on the lowest price. If an award is made, it will go to the bidder(s) with the best overall proposal. The successful proposal will be competitively priced and provide for adequate service to meet the City's needs.

5. Questions and Inquiries

Questions concerning this RFP may be submitted in writing no later than 3:00 p.m., Tuesday, April 23, 2019 to:

Rosa Hernandez
Interim Procurement Services Manager

City of Madera Purchasing-Central Supply
1030 South Gateway Drive,
Madera, California 93637
Fax 559-661-0760
e-mail: rhernandez@madera.gov

The City reserves the right to modify this RFP at any time. In the event it becomes necessary to modify or revise the RFP, a written amendment or addenda issued by the City's Purchasing-Central Supply Division is the only method which should be relied on. Bidder is responsible to contact City's Purchasing- Central Supply Division prior to submitting a bid to determine if any amendments were made to the RFP. Documents amendments, addenda, etc. will be posted to the Purchasing page of the City's website at www.madera.gov/purchasing under Bid Announcement and Results. All questions and responses will also be posted in this section.

PART TWO: PROPOSAL PREPARATION AND CONTENT

1. Overall Presentation

Proposals must be submitted on 8 ½" by 11" paper with all segments attached in one package. Proposals must be typed and must not include any unnecessary, elaborate, promotional or display materials. Proposals should be clear and concise. Pages must be numbered at the bottom of the page. All content must pertain to the requirements of this RFP. The entire proposal (1 unbound original, 8 copies and 1 digital copy) must be submitted in one sealed envelope clearly marked on the outside as described in Part 1, Section 2 of this RFP.

2. Title Page

The proposal must have a title page which indicates the name of the company, principal business address, name of the proposal, and the date of the proposal.

3. Transmittal Letter

The proposal must include a transmittal letter that states the firm's objective, why the firm should be selected, the firm's proposed commitment to the City of Madera, the unique aspects of the proposal, and must be signed by a person who is duly authorized to bind the firm to an agreement.

4. Company Profile

In this section, please describe your organization; identify key personnel to be assigned to the City, including name, title, telephone number(s), and experience; and describe your firm's experience in providing similar services to other public agencies. Please also confirm that any attorney proposed by your organization to provide services to the City is licensed to practice law in the State of California.

5. Proposed Method of Performance

Describe your firm's availability to provide the requested services identified in Exhibit 1, including the capability to respond to time-sensitive or short notice requests, as well as complex matters. Please clearly identify any services within the proposed scope that your firm will not be able to provide. Additionally, clearly identify whether your proposal includes the add on services for the Authority.

6. Cost Outline

Please provide your proposed fee schedule, payment provisions expected, and estimated expenses if applicable. The fee schedule should provide a cost outline for specific services to be provided as requested in this RFP and any other services your firm provides that you feel may be beneficial to the City of Madera.

7. Equal Opportunity Employer Status

Please provide a statement as to whether your organization meets state and federal standards regarding equal opportunity employment laws and regulations. Also provide information as to

whether there is any current litigation pending alleging a violation of state or federal fair employment provisions.

8. Proof of Insurance

The proposal must include the name of the consultant's insurance carrier, the policy coverages, limits, and expiration dates. Upon agreement award, the successful responder shall comply with the indemnity and insurance requirements as shown in Exhibit 2 to this RFP.

9. City of Madera Business License Status

Prior to beginning any work, the bidder shall secure the appropriate Business License from the City of Madera. Business license information may be obtained by calling (559) 661-5408. Should the bidder already have his/her license, please include a copy with your submittal.

10. References

Please provide the entity name, contact person, and telephone number for at least three recent government sector clients that the City may contact regarding your firm's services.

11. Sample Agreement

A sample agreement is provided with this RFP as Exhibit 3. Please indicate any changes or modifications you would require to the agreement should you be selected to provide services to the City.

Exhibit 1: Anticipated Scope of Work

1. Act as the City of Madera's (City) designated City Attorney.
2. Advise the City Council, Commissions, and City officials and staff on legal matters pertaining to municipal government, including the Ralph M. Brown Act and parliamentary procedures for running meetings.
3. Provide legal advice, written legal opinions, and consultation on matters affecting the City to the City Council, City Manager, boards, commissions, committees, officers, and employees of City in accordance with such policies and procedures as may be established by City.
4. Review agendas and staff reports for:
 - a. City Council
 - b. Redevelopment Agency Successor Agency
 - c. Planning Commission
 - d. Various other City committees/commissions
5. Advise on procedural and substantive issues that arise during meetings.
6. Prepare or review necessary legal documents such as: ordinances and resolutions; various types of agreements; real property instruments of varying nature including purchase agreements and escrows, leases, covenants, deeds, easements and licenses; bond size, amount, and offering terms and conditions; public works construction documents including bid specifications, contracts, bonds, insurance, liens and related documents; memorandums of understanding; franchise agreements; bargaining agreements and bargaining agreement language, employment agreements, independent contractor agreements, investigative reports, as required, public records act responses, and similar documents, as requested by City.
7. Represent and advise City on pending and potential litigation as requested by City.
8. Attend meetings commissioned by the City as needed. Regular meeting dates for the identified bodies are:
 - a. City Council: 1st & 3rd Wednesday of each month, 6:00 pm
 - b. Redevelopment Agency Successor Agency: 2nd Wednesday of each month, 6:00 pm
 - c. Planning Commission: 2nd Tuesday of each month, 6:00 pm
 - d. On an as-needed basis to attend Council workshops or other meetings as specified by the City
9. Analyze proposed and enacted legislation, published legal opinions, and other matters that may have an impact on the operations of the City upon request.
10. Review Requests for Proposals to be published before publication upon request.
11. Upon request, provide oversight of administrative appeal hearings for code enforcement violations and water citations; provide notice of denial of appeal if applicable.
12. Appearances at Court for *Pitchess* Motions.

13. Review of Public Records Act requests as well as documents scheduled for production prior to response/production.
14. Potentially litigate matters not covered by the City's insurance pool, to include land use and planning issues, breach of contract matters, and the like.
15. Upon request, provide litigation coordination and oversight for tort liability claims and litigation. Primary legal coverage is provided through the City's insurance pool; the City Attorney's office provides general legal oversight in partnership with the City's risk management staff.
16. File restraining orders on behalf of City staff, as necessary, when circumstances affect their work.
17. Upon request, review Deeds of Reconveyance, demands for payment, Release of Lien documents and other related documents prepared by the City's Paralegal.
18. Provide legal assistance pertaining to land use issues including, but not limited to, property acquisition, property disposals, public improvements, easements, dedications, CEQA, and public utilities as requested.
19. Provide legal advice and services on personnel matters as requested.
20. Be available for telephone consultation with City staff, as needed, on legal matters which are within their area of operation and maintain office hours at City Hall as requested by the City Manager at times mutually agreed to by the City Manager and designated City Attorney.
21. Promptly respond to calls, emails, and correspondence from City officials and staff.
22. Perform such other legal duties as may be required by the City Council and City Manager that are necessary to complete the performance of City Attorney functions.
23. In addition to the more technical scope of work outlined above, the City Attorney must understand his/her role in local government, avoiding political debates and active participation in the policy and managerial decision-making process entrusted to the City Council and City Manager. The City Attorney is expected to provide technically sound and consistent legal advice to members of the City Council and City staff while maintaining trust and an unwavering ethical standard no matter the situation or individuals involved.

Additional Add-On: Housing Authority of the City of Madera

1. Advise the Housing Authority of the City of Madera (Authority) on legal matters pertaining to public housing entities, including the Ralph M. Brown Act and parliamentary procedures for running meetings.
2. Provide legal advice, written legal opinions, and consultation on matters affecting the Housing Authority of the City of Madera (Authority) to the Authority's Board of Commissioners (Board), Executive Director, and employees of the Authority and as requested by the Board of Commissioners, Executive Director, or his/her designee, in accordance with such policies and procedures as may be established by the Authority.
3. Review agendas and staff reports for Authority meetings. Attend meetings of the Board, regularly scheduled on the 2nd Wednesday of each month at 6:00 pm. Attend special meetings and workshops as requested.
4. Provide legal advice and services pertaining to landlord/tenant relations, including but not limited to complaint resolution, Unlawful Detainer proceedings, and similar matters, as requested.
5. Provide legal advice and services on personnel matters.

Exhibit 2: Insurance and Indemnity Requirements for Consultants

Indemnity Requirements

Consultant shall indemnify, defend, and hold harmless the City, and its officers, employees, and agents (“City indemnitees”), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels’ fees and costs of litigation (“claims”), arising out of the Consultant’s performance of its obligations under this agreement or out of the operations conducted by Consultant, including the City’s active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the City. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant’s performance of this agreement, the Consultant shall provide a defense to the City indemnitees, or at the City’s option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels’ fees, incurred in defense of such claims.

Insurance Requirements

Without limiting Consultant’s indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Consultant shall maintain limits no less than:

- **\$2,000,000 General Liability** (including operations, products and completed operations) per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO form CG 20 10 that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **\$1,000,000 Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **Worker’s Compensation** as required by the State of California and **\$1,000,000 Employer’s Liability** per accident for bodily injury or disease. Consultant shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.
- **\$1,000,000 Professional Liability (Errors & Omissions)** per claim and in the aggregate. Consultant shall maintain professional liability insurance that insures against

professional errors and omission that may be made in performing the Services to be rendered in connection with this Agreement. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement. The cost of such insurance shall be included in Consultant's bid.

Maintenance of Coverage

Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Consultant shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Consultant, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Consultant maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Consultant.

Notice of Cancellation

Consultant agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days notice of cancellation (except for nonpayment for which ten (10) calendar days notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.

CITY OF MADERA

COMPENSATION STUDY CONSULTING SERVICES AGREEMENT

THIS AGREEMENT made and entered into the ___ day of _____, 2019, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called "City" AND _____, hereinafter called "Consultant";

RECITALS:

- A. The City desires to obtain interim City Attorney legal services while a recruitment for an in-house attorney as well as a Request for Proposals of contract services are conducted for long-term legal services; and
- B. Consultant is a firm having the necessary experience and qualifications to provide such legal services to the City and is licensed to practice law in the State of California.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, it is agreed by and between the City and the Consultant as follows:

- 1. Services. The City hereby contracts with Consultant to provide services herein set forth at the compensation and upon the terms and conditions herein expressed, and Consultant hereby agrees to perform such services for said compensation, and upon said terms and conditions. City hereby authorizes Consultant to commence work immediately upon approval of this agreement by the City Council at a scheduled meeting of said governing body.
- 2. Obligations, duties and responsibilities of Consultant. It shall be the duty, obligation and responsibility of the Consultant, in a skilled and professional manner, to perform the consulting services in accordance with the RFP and Consultant's response to the RFP, attached hereto collectively as Exhibit A.
- 3. Consultant's fees and compensation: amount, how and when payable.

[Insert Fee Schedule]

Billings are to be made directly to the following address:

City of Madera
Attn: Wendy Silva
205 W. 4th Street
Madera, CA 93637

4. Term of agreement. This Agreement shall be in effect starting _____, 2019 and terminating upon completion of the requested services. Consultant may be contacted following termination of this agreement for clarification and consultation on matters covered during performance of the scope of services. Any such contact will be billed in accordance with Section 3 of this Agreement.

5. Independent contractor. In the furnishing of the services provided herein, the Consultant is acting as an independent contractor and not as an employee of the City.

6. Indemnification and Insurance. During the term of this Agreement, Consultant shall maintain, keep in force and pay all premiums required to maintain and keep in force the policies and limits of such policies as required in Exhibit 2 to the RFP contained in Exhibit A of this Agreement.

7. Attorney's fees/venue. In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorney's fees to the successful party in an amount to be fixed by the Court. The venue for any claim being brought for breach of this Agreement shall be in Madera County.

8. Governing Law. The laws of the State of California shall govern the rights and obligations of the parties under the Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

9. Termination. This agreement may be terminated by mutual written agreement or it may be terminated by the City upon giving ten (10) days written notice of intent to terminate the agreement.

Notice of termination shall be mailed to the City:

City of Madera
Arnoldo Rodriguez, City Manager
205 W. 4th Street
Madera, CA 93637
arodriguez@madera.gov

To the Consultant:

In the event of such termination, Consultant shall be paid for work completed to date of termination, and any such work shall become the property of the City and the amount of final fee due and payable by City to Consultant will be subject to negotiation but in no event less than the fees for service pursuant to this Agreement.

Exhibit 3

10. Assignment. Neither the City nor the Consultant will assign its interest in this Agreement without the written consent of the other.

11. Notices. All notices and communications from the City shall be to Consultant's designated representative and all notices and communications from the Consultant shall be to the City Manager, as designated in Section 9 of this Agreement.

12. Included herein by reference is the Request for Proposal.

This agreement and the attachments and exhibits incorporated herein by reference, represents the entire agreement and understanding between the parties. Any modifications to this Agreement shall be in writing and signed by authorized representatives of the parties. One or more waivers of any term, condition or covenant by either party shall not be construed as a waiver of any other term, condition or covenant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Madera, California, the day and year first above written.

CITY OF MADERA

BY: _____
Andrew J. Medellin, Mayor

[Company Name]

BY: _____
Printed Name, Title

ATTEST:

Claudia Mendoza, City Clerk

APPROVED AS TO LEGAL FORM:
