

**CITY OF ALBANY  
REQUEST FOR QUALIFICATIONS AND PROPOSALS**

**CITY ATTORNEY**

July 25, 2011

**A. Introduction**

The City of Albany is seeking proposals from qualified individual practitioners or firms to provide City Attorney services. The City will consider proposals for either an employment or a contract arrangement.

**B. Background**

The City of Albany is a charter city with a population of 18,500 located in Alameda County. The City is governed by a five-member City Council who annually elects a member to serve as Mayor. Council members serve four year staggered terms.

A City Manager is appointed by the City Council to carry out the policies and ordinances of the Council and to supervise the daily activities of approximately 100 City employees. Departments of the City include Police, Fire/Emergency Medical Services, Community Development, Finance & Administrative Services, and Recreation & Community Services. The City Treasurer is an elected position.

The City Attorney has been an elected position in Albany since the City was incorporated in 1908. In November, 2010, the voters of Albany approved a charter amendment that authorizes the City Council to appoint the City Attorney, effective December, 2011. The current incumbent, Robert Zweben, has served as City Attorney since 1978, and is retiring from the position in December 2011.

**C. Albany Community.**

The City's Mission Statement is: "The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of a diverse community, and providing a safe, healthy, and sustainable environment. In 2010, the City Council adopted the Vision Statement: "The City of Albany is environmentally and fiscally strong, champions a healthy local economy, fosters safe, diverse and engaged neighborhoods, and treasures its unique waterfront." The City Council recently adopted "Urban Village by the Bay" as the City motto.

**D. The Position**

Under the general policy direction of the Albany City Council, the City Attorney advises and renders legal services to the Albany City Council, the City Manager, and City departments, agencies, boards, commissions, and committees as to legal opinions that guide city policies, decisions, and activities. The City Attorney represents the City, its officers and employees in administrative hearings and civil litigation involving the City, prosecutes violations of ordinances, laws and statutes in District, Superior or other Court levels, and performs related responsibilities as required. The City Attorney drafts and interprets City ordinances and resolutions, negotiates real property acquisition, and provides legal advice and counsel to protect the City's interests.

The City is a member of the Bay Cities Joint Powers Insurance Authority, a risk sharing pool for property, liability, workers compensation, employment practices, and associated insurance coverage. The City Attorney does not defend the City on such litigation, unless litigation involves non-covered issues. The City Attorney may be involved in litigation for non-covered

claims, such as land use. Assignment of defense counsel is guided by BCJPIA's defense panel. The role of the City Attorney is to monitor covered litigation rather than to actively defend the City on such matters.

The number of hours per week required for City Attorney services fluctuates depending on the volume and complexity of issues; for planning purposes, the City estimates approximately 15 hours per week on average.

**E. Qualifications**

- Licensed by the California State Bar to practice law in the State of California
- Has at least five years of California Municipal law experience as well as current knowledge of public agency law.
- In good standing and licensed to practice law before all courts and administrative agencies of the State of California and before the U.S. District Court

**F. Desired Skills, Knowledge, Abilities, and Experience**

- Excellent communication skills orally and in writing, and the ability to express ideas concisely and effectively, and promptly answer questions posed by City Council, City Manager and City staff
- Working knowledge and experience in areas of land use and planning, environmental regulations including CEQA, and other matters related to municipal law.
- Experience in contracts, franchises, Brown Act, Elections Code, Public Records Act, and Pitchess Motions
- Ability to analyze and draw intelligent conclusions from statutes, court decisions, and legal documents
- Ability to research and prepare complex ordinances, resolutions, contracts, agreements, and other legal documents
- An understanding of case management practices
- Computer skills in e-mail, internet, MS word processing and Excel, and legal services software programs; other computer skills, such as social media, may be required as information technology evolves
- Ability to assist and work cooperatively and collaboratively with the City Council, City Manager, and staff

**G. Examples of Responsibilities**

- Attend all meetings of the City Council, unless excused, and meetings of commissions, committees, boards, and agencies as needed
- Provide oral and written legal advice to the City Council, advisory bodies, agencies, and staff
- Represent the City in Superior Court and Municipal Court, arbitration matters and administrative hearings on code violations, Pitchess motions, and any other matters in which the City has a legal interest, unless special counsel is hired.
- Prepare and enter pleadings, prepares and presents evidence for trials and hearings; unless special counsel is hired in which case the City Attorney will review these documents

- Review and prepare resolutions, ordinances, contracts, letters, and related legal opinions when requested by the City Council or City Manager, or when required and in the best interest of the City
- Negotiate leases, purchase agreements, memorandums of understanding, joint powers agreements, contracts, and other agreements, as well as settlement of disputes
- Call to the attention of the City Council and City Manager all matters of law affecting the City
- Prepare impartial City Attorney analyses for ballot measures
- Provide multiple options or courses of action to the City Council in response to legal issues facing the City, and describes the possible consequence of each course of action or option

#### **D. Other Selection Criteria**

In addition to the qualifications and desired knowledge/skills, the City Council is seeking a City Attorney that meets the following criteria:

- Is able to determine when specialized legal counsel is needed, identify and secure services of special outside counsel most qualified and appropriate for the matter at hand, and oversee their services to ensure time/costs are controlled and on point
- Has a style conducive to providing City Council with a range of options along with advice on pros and cons, while also prepared to provide recommendations
- Is open and able to craft innovative legal approaches to local issues
- Is willing to express a contrary view to City staff and Council, but support implementation once decisions are made
- Agrees to a payment structure as primarily flat fee/salary rather than by the hour
- Is accessible to advise appointed and elected officials of the City
- Would be available to members of the public for brief consultation or referral on City regulations or other City-related legal matters

#### **E. Compensation**

The City Council is seeking an individual or firm with a strong commitment to the City of Albany. The current incumbent is a part-time salaried employee of the City with health and pension benefits. The City Council is open to either an employment or contract arrangement. In either case, the City Council prefers an arrangement for a fixed monthly cost for general services. The Council is willing to entertain an arrangement whereby the City Attorney is reimbursed for special services such as litigation, and for legal services for which the City receives outside reimbursement.

For background purposes, below is a chart of the City's legal services expenses for the past three fiscal years. The non-base salary in-house fees are for litigation and reimbursed services at the rate of \$175 per hour in direct costs.

Period Ended	Base Salary	Benefits	Reimbursements		Fees	In-House Total	Outside Counsel	Total Expense
			Secretary	Expenses				
01/31/11	41,720	15,007	7,908	665	1,383	66,683	2,740	69,423
06/31/10	79,970	29,996	17,134	2,882	5,506	135,488	25,412	160,900
06/31/09	79,554	33,027	15,816	3,496	1,068	132,961	18,315	151,276

*(Note: Will update for fiscal year end 2010-11 prior to issuance)*

## F. Proposals

Respondents to this Request for Proposals should provide the following:

- Description of your capacity to meet the qualifications, desired knowledge, skills, abilities, experience, and criteria for the position, and ability to perform the duties and responsibilities
- Resume or c.v. that includes length of employment with firm if applicable; specialization, if any; legal training; scholastic honors and professional affiliations; years of practice in law; municipal or other local public sector experience
- At least three (3) public agency references
- Whether you or any attorneys employed by your firm have ever been successfully sued for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar; please provide information on the nature of the incident, the dates on which the matter began and was concluded, and the results.
- Conflicts of Interest:
  - Please list any political contributions of money, in-kind services, or loans made to any member of the Albany City Council, the City Attorney, or City Treasurer within the last five years by you or your law firm or any attorney in your firm being proposed to do work for the City
  - Please list all public clients for which you or your firm currently provide legal services, or are under retainer
  - Please list all public clients for which you or your firm have provided services over the last five years.
  - Prior to final selection, you will be asked whether you or your firm are or have been engaged by a client for which there may be a possible conflict of interest with the City of Albany
- Current or known future professional commitments in order that the City may evaluate your continuing availability for providing legal services to the City.
- Whether you are an individual practitioner or firm; if a firm, which employees would conduct work for the City of Albany, and their resumes or c.v.'s.
- Whether you are proposing an employment or contract arrangement.
- Your proposed rate(s) of compensation. Specify any services which are not included in any fixed retainer or hourly rate. Specify any expenses for which you will request reimbursement.

### **G. Selection Process**

The City Council has established a subcommittee of two of its members to work with the City Manager on the recruitment and selection process. All of the proposals will be presented to the full City Council, who will make the final decision. As a part of its evaluation, the City may request additional information or data from Respondents. It is likely that a select field of applicants will be selected for interview.

The City will evaluate proposals based upon responsiveness to the request for proposals, and experience and demonstrated ability to meet the duties, responsibilities and selection criteria of the position. Proposed rate structure and costs will be considered as part of the overall analysis.

We anticipate, but cannot guarantee, a final selection by December 1, 2011.

### **H. To Submit a Proposal:**

Deadline: September 8, 2011  
Submit to: Beth Pollard, City Manager  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706  
E-mail: [bpollard@albanyca.org](mailto:bpollard@albanyca.org)  
Phone: (510) 528-5710

Please submit seven (7) hard copies and one electronic copy.

### **I. General Conditions:**

The City reserves the right to:

- Waive minor irregularities.
- Modify or cancel the selection process or schedule at any time.
- Negotiate with the second choice Respondent if it is unable to negotiate an acceptable contract with the first choice Respondent within a reasonable period of time.
- Reject any and all proposals, and to seek new qualifications when it is in the best interest of the City to do so.
- Seek any clarification or additional information from Respondents as is deemed necessary to the evaluation of a response.
- Judge the veracity, substance, and relevance of the Respondents' written or oral representations, including seeking and evaluating independent information on any of the Respondents' work cited as relevant experience.

All expenses related to any Respondent's response or other expenses incurred during the period of time the selection process is underway, are the sole obligation and responsibility of that Respondent. The City will not, directly or indirectly, assume responsibility for such costs except as otherwise provided by written agreement.

The City Attorney will serve at the pleasure of the City Council.

### **J. Information**

For more information, contact Beth Pollard, City Manager, at (510) 528-5710 or Robert Zweben, City Attorney, at (510) 528-5858. Please do not contact members of the City Council.