

**CITY OF MCCALL  
REQUEST FOR PROPOSAL  
CITY ATTORNEY SERVICES**

Release Date: June 14, 2019  
Due Date: July 12, 2019  
Contract Effective Date: October 1, 2019

The City of McCall, Idaho, (“City”) hereby solicits proposals from law firms (“Applicants”) to represent the City as its counsel. The Applicant selected by the City would serve as legal counsel to the City Manager, Mayor, and City Council and will serve all City departments and various boards, committees, agencies, and commissions as set forth in Idaho Code 50-204 and 50-206.

The City of McCall’s selection will be based on its evaluation of the written proposal, the Applicant’s qualifications and experience, client references, the areas of legal services which the Applicant is willing to provide, an oral presentation (if requested) and the overall fee structure. The City may engage more than one Applicant for services should that be in its best interest.

**Submittal of Proposals**

Proposals in whole or in part, must be received by the City Clerk located at 216 East Park, McCall, Idaho 83638, on or before 3:00 p.m. on Friday July 12, 2019. Proposals must be sealed and clearly marked, “Proposal for Legal Services for the City of McCall.” Applicants must submit an original proposal and six (6) copies. Proposals received after 3:00 p.m. on Friday July 12, 2019 **will not be considered.**

The City will not be responsible for any expenses incurred by an Applicant in preparing, submitting or presenting a proposal. All proposals shall provide a straightforward, concise delineation of the Applicant’s capabilities to satisfy the requirements of the request. Emphasis should be on completeness and clarity of content.

The City reserves the right to waive any informalities in proposals, to accept or reject any or all proposals for any reason, to negotiate with any attorney, law firm, or business and to select one or more of the law firms deemed to have submitted a proposal which in the judgment of the City is in the best interest of the City. The City specifically reserves the right to accept more than one proposal and may select more than one law firm to serve as a legal counsel to the City.

Proposals may be held by the City for a period not to exceed sixty (60) days from the date of the opening of proposals for the purpose of reviewing proposals and investigating the qualifications of the Applicant prior to the award of a contract.

**INSTRUCTIONS TO APPLICANTS**

1. Please read all documents contained in the proposal specifications.

2. Applicants are responsible for submitting their proposals to the appropriate location at or prior to the time indicated in the specifications. **No proposal will be accepted after the designated time or date indicated in the proposed specifications. No exceptions.**
3. Applicants are responsible for reporting, in writing, any errors in the proposal specifications to the City Clerk.
4. Questions or clarifications to the technical specifications must be sent in writing to the City Clerk prior to the submission of the proposal at [bwagner@mccall.id.us](mailto:bwagner@mccall.id.us)
5. All proposals must be typewritten.
6. Should an Applicant find discrepancies or omissions in the specifications, it shall notify the City Clerk, at once, and she will send written instructions to all law firms. The City will not assume responsibility for any oral instructions, or interpretations of meaning of the specifications or other contract documents to any law firm by any person or persons.
7. Whether a proposal is sent by mail or by personal delivery, the Applicant assumes all responsibility for having its proposal deposited on time in the office of the City Clerk.
8. In determining the qualifications of an Applicant, the City will consider the law firms record in the performance of existing contracts for similar services in which it has entered with other public bodies; and the City specifically and expressly reserves the right to reject the proposal of such Applicant if the record discloses that such law firm, in the opinion of the City has not properly performed such contracts or has otherwise disregarded its obligations to its employees or the public clientele it serves. The City may make such investigation as it deems necessary to determine the ability of the Applicant to perform the terms of the contract and the Applicant shall furnish to the City all information for this purpose as the City may request. To assist in this regard the Applicant shall initially provide no less than five references of similar clients. The City reserves the right to reject any proposal if its investigation of the Applicant reveals that, in the opinion of the City, the law firm is not properly qualified to carry out obligations of the contract and complete it as outlined herein.
9. The City is an equal opportunity employer and expects the Applicants to comply with Federal and State Anti-Discrimination Laws.

## INTRODUCTION

The City has a Council/Manager form of government with the City Manager operating as the Chief Executive Officer. The population of the City is approximately 3,000 year-round with visitor peaks of 20,000. The annual general fund budget is approximately \$3,600,000. The City is responsible for the following services: Police, Public Works including Water Utility, Community Development including the Impact Area, General Aviation Airport, Golf Course, Parks & Recreation, Library and the McCall Urban Renewal Agency. Fire/EMS and Wastewater services

are provided by independent special service districts. The City currently retains separate bond counsel for the purpose of issuing municipal bonds as well as separate counsel for certain activities such as Urban Renewal Agency administration and criminal prosecution.

Pursuant to Section 50-204 of the Idaho Code, the City is required to have an appointed City Attorney.

The City is a municipal corporation and operates under extensive City policies and ordinances. Like most municipalities, the City is involved in a variety of activities which require a diversity of legal services including but not limited to land use planning, zoning, law enforcement, human resource matters, and public works contracting.

The City of McCall's City Attorney is responsible for providing a wide array of legal services including but not limited to: 1) providing legal advice and support to the City Manager, Mayor, City Council, and the City's department heads and staff; 2) drafting and reviewing contracts, resolutions, ordinances, easements, agreements, bid documents, and other legal proposals; 3) drafting and reviewing memoranda on a wide range of legal issues; 4) providing Citywide risk management services; 5) upon request of the City Manager provide representation at the McCall Area Planning and Zoning Commission meetings on land use issues; and 6) providing legal advice and support to all other City committees, boards, and advisory groups.

The City often conducts business using e-mail and other electronic media, when reasonable within the confines of confidentiality, public records requirements and other business constraints. To that end, it is frequently important for the City to be able to receive electronic copies of ordinances, policies, contracts and other documentation that are readable by the City's official software.

## **THE PROPOSAL / SELECTION CRITERIA**

### **Scope of Legal Services Required**

The City is seeking proposals from Applicants having at least ten (10) years' experience and qualifications in representing public sector entities, preferably municipalities. Any potential provider of legal services should identify lead counsel and any additional counsel who may aid lead counsel. This attorney must appear at all regular City Council meetings on an ongoing basis and have prior work experience in Civil law. The Council meets twice monthly at regular session or as adopted in their official meetings calendar. The contractor must provide continuity of representation while at the same time ensuring effective back-up coverage so as not to delay the City's ability to conduct the public's business in a timely manner.

Any lawyer who may be called on as a back-up attorney must have current awareness of the City of McCall ordinances, policies/procedures, and ongoing City issues so that he/she is fully prepared to provide Civil services in the event of an unanticipated absence by the designated attorney. The Contractor must ensure the availability of attorneys and support staff is consistent with efficient delivery of Civil services, including coverage for regular vacations. The contractor needs to be able to involve more than one attorney in the delivery of services if efficient management so requires.

It is the intention of these specifications that the Applicant could be engaged to provide a variety of services, including but not limited to the following:

- Municipal Corporation Law - matters pertaining to municipal corporation law specifically the laws affecting elections, finance, boards and commissions;
- Employment Law – matters pertaining to non-collective bargaining agreement claims and human resources law and policy including employee benefits issues;
- Collection Law – matters related to the collection of accounts receivables and other related collection issues;
- Litigation – litigation related to planning and zoning issues and governance matters pursuant to applicable law; and
- Real Estate and Development Law – matters involving land development, real estate, leasing, land use, and cell towers, including naming rights for facilities and the relation of all these issues to governmental bodies.
- Federal Title VI Law – matters involving ADA compliance issues.
- Environmental Law – matters involving water quality and drinking water sources.

Unless the Applicant indicates that the Proposal may only be accepted if the Applicant is selected to represent the City in every area designated by the Applicant, the City reserves the right, at its discretion, to appoint the Applicant to represent the City in one or more or all of the areas designated by the applicant.

In addition, even if an Applicant is selected to represent the City with regard to one or more or all of the areas of legal work designated by the applicant, the City reserves the right, at its discretion, to appoint another attorney and/or law firm to represent the City with regard to such designated area of legal work from time to time if the City deems such action to be in the best interest of the City.

### **PROPOSAL ELEMENTS TO BE SCORED PER IDAHO CODE 67-2806A**

**Qualifications and Experience of Legal Counsel:** The proposal must identify the principle attorneys within the Applicant law firm who will be providing legal services to the City. The proposal should demonstrate the qualifications, competence and capacity of the attorneys to represent the City in each of the municipal legal service areas identified above. Resumes shall be submitted for each lead attorney specifically assigned to provide services to the City. The Applicant making a proposal must describe the firm's expertise in providing municipal legal services, specifically identifying its expertise in dealing with State and Federal regulatory processes, zoning, land use, code enforcement, finance, taxation, environmental, economic development, real estate, labor and employment, legislation, law enforcement, government relations and litigation.

**Compensation:** Each Applicant must state the compensation that will be required for the services of the Applicant. The City will entertain proposals for payment on an hourly basis, on a flat or fee capped basis, or any combination thereof. Itemized bills including the attorney providing the service, date, time and description of service and department requesting service will be required

to be submitted before each payment will be made by the City. Such bills shall be submitted on a basis no more frequently than monthly.

Billing for services shall be explained in detail including all support services and costs such as: paralegal, clerical, supplies, mileage, electronic research and other expenses.

Applicants shall also list any services that will be provided free of charge such as attendance at annual, special City meetings and/or educational forums on various topics or any non-charged, in-house expenses. Each Applicant should provide an explanation of how the City will be billed for consultations between two attorneys who are both members of the Firm. Each Applicant should provide information about how Applicants bill for informational correspondence, i.e. courtesy copies and e-mails, other billing practices, etc.

**Method of Service Delivery:** Your response to the proposal should address, at a minimum, your capacity to provide services in each of the areas of legal work described in the Scope of Legal Services above, including prior experience. Describe method of service delivery, philosophy, and approach, and what makes you or your firm unique with respect to providing Civil services.

**Access and Availability:** Each Applicant must identify an address of the offices of the attorneys who would provide services to the City and their proximity in miles and driving time to the McCall City Hall. The Applicant must provide the processes they will undergo to assure the handling of McCall's legal services are dealt with in a timely manner. The Applicant shall state whether the mileage associated with traveling to and from City Hall will be billed to the City. The Applicant must indicate their availability to provide services in the evening hours between approximately 5:00 p.m. and 11:00 p.m. However, in rare circumstances (emergency situations) there may be times that legal representation is needed at other times including weekends and holidays. The City reserves the right to request the services from the attorney and/or firm in such situations. The Applicant must also provide advance notification to the City Manager or his/her designee of times when counsel will be unavailable (e.g. - vacations, professional conferences, etc.), and the name(s) of legal counsel who will handle City legal affairs in his/her absence.

**Casework-Management:** The City expects each Applicant to demonstrate how it will manage casework for the City. Each Applicant shall identify their standard response time to questions and assistance (e.g. — verbal response within 1-day, written response within 5-days). Applicants shall also explain availability in emergency situations when an immediate response is needed.

**Proactive Practices:** The City is interested in developing and implementing practices that promote litigation prevention through proactive and educational methods. Each Applicant shall identify their thoughts and proposed approach toward providing proactive legal services, which will minimize claims and expensive litigation.

**Client references:** Identify five (5) references who can attest to your experience and capabilities as they relate to services requested. The references must include contact name, address, and telephone number.

## **OTHER REQUIREMENTS**

**Good Standing and License:** The Applicant submitting a proposal must be in good standing and licensed to practice law before all courts and administrative agencies of the State of Idaho.

**Contract for Services:** The Applicant that is selected by the City will be required to sign a contract and additional terms and provisions may be included in the contract.

**Communication:** Communication between the City and the City Attorney shall be through the City Manager or his/her designee. It is specifically noted that answering inquiries from the general public and the press is outside the purview of the position of the City Attorney and that he/she shall courteously refer such inquiries to the City Manager or his/her designee, unless otherwise instructed by the City Manager or his/her designee. The City Attorney may communicate directly with employees or board members of the City as necessary to handle legal matters or as authorized by the City Manager or his/her designee.

Except as otherwise requested by the City Council, all communications regarding legal services by the City Attorney shall be transmitted to the City Manager or his/her designee. The City Manager or his/her designee shall forward copies of such communications dealing with significant issues to all Council members.

There shall be no limits to the matters referred to the City Attorney. City officials agree to avoid asking for assistance and review of non-legal matters.

**Representation:** The Applicant selected to provide legal services for the City would not be allowed to represent any person, corporate entity or City employee in any action against the City or before any City board or committee in the regulatory process.

**Termination:** This contract arrangement is an agreement made pursuant Idaho Code 50-204 and 50-206.

**Assignment:** The selected Applicant will be prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this agreement or its rights, title or interest therein or its power to execute such agreement to any other person, company or corporation without the previous consent and approval in writing of the City Manager.

**Indemnification:** The Applicant shall indemnify the City from all suits, actions or claims of any kind brought on account of any injuries or damages sustained by any person in consequence of any negligence in performing contract work, or on account of any act or omission by the attorney or the firm or its employees, or from any claims or amounts arising or uncovered under any law, bylaw, ordinance, regulation, or decree, violated by such attorney or firm.

**Insurance:** The Applicant shall be required to carry Professional Liability Insurance. Proposals must specify the carrier and coverage limits of no less than \$1,000,000 per occurrence. The successful Applicant shall provide to the City a certificate of proof of insurance and shall maintain required insurance coverage.

**Specialized Counsel:** The City shall not be restricted from appointing other counsel when, in the judgment of the City, the need arises. The City Attorney agrees that he/she will assist the City Manager, the City Clerk and other department heads in any way possible.

**Sealed Fee Statement:** Each Applicant must submit, in a separate sealed envelope, the compensation, which will be required for the services of the Applicant. The City will entertain proposals for payment on an hourly basis, on a flat fee or capped basis, or any combination thereof. Any variations in the hourly rate should be disclosed, along with a rate schedule for the members of the firm. Any additional billable costs for paralegal or other services should be noted in the proposal. Itemized bills including the date, time and description of service, attorney providing service and that attorney's hourly rate will be required to be submitted prior to payment. Such bills shall be submitted on a monthly basis.

**Selection Process:** The City Attorney is a direct appointment of the Mayor and City Council. Proposals shall be first reviewed by the City Manager and designated management staff for responsiveness. The City Manager shall make a recommendation to the City Council of Applicants for further review and possible in-person interviews by Council. Council shall make a final selection based on the Council's judgment as to the best match between the City's needs and the background and proposal of the Respondent.

**Scoring Methodology:**

Qualifications and Experience of Legal Counsel	50%
Compensation	25%
Method of Service Delivery, Access & Availability, Casework-Management	20%
Proactive Practices	5%

**END OF REQUEST FOR PROPOSAL**