



INSTRUCTIONS TO PROPOSERS

REQUEST FOR QUALIFICATIONS AND PROPOSAL (RFP) THE BOROUGH OF BAY HEAD, COUNTY OF OCEAN, NEW JERSEY

2019 CALENDAR YEAR

BOROUGH ATTORNEY

The Borough of Bay Head is a coastal municipality of 0.74 square miles, with approximately 0.65 square miles of land, located in northern Ocean County, New Jersey. The Borough has Bay frontage to the west on Bay Head Harbor (head of Barnegat Bay) and Ocean frontage to the east on the Atlantic Ocean. Bay Head was incorporated as a separate municipality from Brick Township in 1886.

The entirety of Bay Head rests on a barrier island, being disconnected from the mainland by the Point Pleasant Canal and Bay Head Harbor/Barnegat Bay to the west. A small canal, Scow Ditch, which connects Twilight Lake and Bay Head Harbor/Barnegat Bay, physically bisects most of the Borough. The Borough is further divided east and west by its main corridor, New Jersey Route 35/Main Avenue, traversing the Barrier Island between the municipal border with Borough of Point Pleasant Beach to the north and the Mantoloking Borough municipal border to the south, creating the “bayfront” and the “oceanfront” of the Barrier Island. County Road 632, known locally as Bridge Avenue, runs through the center of the Borough, connecting to Point Pleasant Borough and Brick Township to the west and Route 35 to the east.

The Borough is requesting a statement of qualifications and a proposal from individuals or law firms qualified to provide municipal attorney services. The Borough is seeking an individual or law firm that can perform all the duties of the Borough Attorney, as described throughout this Request for Qualifications and Proposal (RFP) for the 2019 Calendar Year. Sealed qualifications and proposal must be received by the Borough of Bay Head on or before **November 8, 2008, at 10:00 a.m.** by the Municipal Clerk. **Proposals that are hand delivered can be delivered to the Bay Head Municipal Building, Municipal Clerk’s Office, located at 83 Bridge Avenue, Bay Head, NJ 08742. Proposals can be mailed to the Bay Head Municipal Clerk, 83 Bridge Avenue, Bay Head, New Jersey 08742. Bid Opening will take place at the Bay Head Municipal**

Building, Council Chambers, located at 83 Bridge Avenue, Bay Head, NJ 08742 at the time prescribed above. The award of the contract shall be made after evaluation, by resolution of the governing body at the Bay Head Reorganization Meeting in January.

NOTICE TO PROPOSERS:

- Proposers are cautioned to read these specifications carefully and to execute all required documents and sign their proposals. All prices must be written in ink or typewritten and signatures must be in ink. Failure to comply with the provisions of this notice will result in rejection of the qualifications and proposal.
- Qualifications and proposal shall be enclosed in a sealed envelope addressed to the Borough of Bay Head with the front of the envelope plainly marked with the name and address of the proposer and name of item being bid on. Eight (8) copies (one unbound) of bid forms properly signed and executed and eight (8) copies (one unbound) of all other documents are required. The required forms are enclosed for your convenience and **MUST BE USED** when submitting proposal.
- No proposals shall be accepted after the hour specified. Additional bid forms and instructions may be procured from the Municipal Clerk of the Borough of Bay Head. The Borough may appoint a second firm as Special Counsel to assist the Borough Attorney based on need and special qualifications.
- The proposals are being solicited through a fair and open process in accordance with N.J.S.A. 19:44A-20.5 et seq. The purpose of this Request for Qualifications is to solicit interest from qualified firms and/or individual to provide professional services for the Borough of Bay Head. A qualified firm and/or individual will be selected through a competitive, quality-based, fair and open process at the sole discretion of the Borough. If awarded a contract, your company/firm shall be required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27.
- Any prospective proposer who wishes to challenge the RFP shall file such challenge in writing with the Municipal Clerk no later than three (3) business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the Borough or the award of the contract.

DISCLAIMER:

“The contents and information provided in this RFP is meant to provide general information to interested parties. The successful Proposers shall be required to execute an Agreement with the Borough that will govern the rights, duties and obligations between the Borough and the successful Proposer. Accordingly, the terms set forth within this request for proposal shall not

constitute any Contract between the Borough and the successful proposer. Moreover, the Borough accepts no responsibility for any omissions or deletions relating to this request for proposal. However, the successful proposal will become part of the Agreement.” All documents/information submitted in response to this solicitation shall be available to the general public as required by the New Jersey Open Public Records Act N.J.S.A. 47:1A-1 et seq. The Borough will not be responsible for any costs associated with the oral or written and/or presentation of the proposal. The Borough reserves the right to reject any and all proposals, with or without cause, and waive any irregularities or informalities in the proposal. The Borough further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all vendors submitting proposals. In the event that all proposals are rejected, the Borough reserves the right to re-solicit proposals.

DUTIES:

The duties of the Municipal Attorney shall be prescribed by the laws of the State of New Jersey, as well as, those advisory, research, contractual, litigation and special services requested by the governing body or its designees. Responsibilities may include, but are not limited to, the following:

- Attendance at regular and special meetings of the governing body. Attendance at sub committee and other meetings and conferences as requested.
- Preparation of contracts, correspondence, ordinances and resolutions upon request.
- Coordination with other public entities and private individuals and organizations as requested.
- Consultation as necessary or requested with Borough personnel, including but not limited to governing body members, the Borough Administrator, the Borough Clerk, the Chief Financial Officer, department heads, the Borough Engineer and other professionals retained by the Borough.
- Municipal litigation services including representation of the Borough and all actions and proceedings in which the Borough is a party or is legally interested, including but not limited to those matters as assigned by the Borough’s insurance carrier.
- Legal work pertaining to property acquisitions, property disposal, public improvements, condemnations, public rights-of-way, and easements and matters relating to various Borough departments and utilities.
- Preparation of bid specifications, requests for proposals and review of bids received in association with the Borough Administrator, Borough Engineer and Borough staff.

- Participation as issuer's counsel should the Borough issue bonds or notes in accordance with the Local Bond Law.
- Legal work pertaining to tort claim laws, COAH law, NJ employment and personnel issues and familiarity with titles 40 & 40A of N.J.S.A. and New Jersey of Department of Environmental Protection rules and regulations.

QUALIFICATIONS AND REQUIREMENTS:

The following should meet the minimum qualifications and requirements deemed necessary for the Borough Attorney for the Borough of Bay Head. Each item must be addressed in the qualified law firm's response to the request for qualifications and proposals:

- The supervising attorney, and any staff attorneys providing legal services to the Borough, must be licensed to practice law in the State of New Jersey. In addition, the supervising attorney must have a minimum of five (5) years experience in providing legal services to municipal clients with a preference for such experience with the Borough form of government. A Diplomat in municipal law as issued by the New Jersey Institute of Municipal Attorneys and Rutgers University's Center for Government Services is preferred, but is not a requirement for bid submission. A supervising attorney or other staff attorney must be designated by the State of New Jersey Supreme Court as a Certified Civil Trial Attorney.
- The qualified law firm staff must be familiar with laws, rules, regulations and procedures applicable to municipalities of the State of New Jersey. Familiarity with the Borough form of government should be noted.
- Qualified law firms will have attorneys available with experience and knowledge of the Municipal Land Use Law, Local Public Contracts Law, and the Local Bond Law of the State of New Jersey.

PROPOSALS SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION. ALL PROPOSALS MUST BE SUBMITTED IN THE FOLLOWING MANNER AND ORDER:

A response to this Request for Qualifications and Proposal must be complete, timely, and be submitted in conformance with the specifications, including addressing of all items listed below:

- Section 1. Proposal Sheet – Cover sheets provided. (pages 8 & 9)

- Section 2. Background and History - Description of the firm's background and history, including number of years in business and the scope of services currently provided to municipal clients. This description shall include the firm's experience in current practice in providing attorney services to governmental entities, including the names of current governmental clients. Please describe the firm's experience in providing legal advice and services to governmental clients.
- Section 3. Legal Training and Experience - Describe the legal training and experience of the persons who would be providing Borough Attorney services. Specifically include details of experience in providing municipal legal services. Identify, by name, the attorneys, including a supervising attorney, who hold a Diplomate in Municipal Law as issued by the New Jersey Institute of Municipal Attorneys and Rutgers University's Center for Government Services or are designated by the State of New Jersey Supreme Court as a Certified Civil Trial Attorney.
- Section 4. Hourly Rates - Provide a cost proposal including an hourly rate schedule for all positions including attorney, paralegal and legal secretary hours. Identify in the proposal any set costs for particular kinds of work, such as secretarial, photocopying, telephone, facsimile, messenger and other necessary expenses. Provide a proposed hourly rate for any special projects including municipal litigation. Any travel to any matter in Bay Head, including Borough Hall will not include a charge for travel (portal to portal) time. Any travel outside of Bay Head for legal matters (Toms River, Trenton, etc.) shall also not be charged a travel (portal to portal) fee. Thus, all travel time shall be without charge.
- Section 5. References - Provide a minimum of two (2) references from current governmental clients.
- Section 6: Office Location - Provide information regarding the location of the office.
- Section 7: Pending Litigation or Judgments – Provide disclosure of any pending litigation or judgments rendered against the law firm or private attorney in any matter relating to professional activities of the firm, including any pending complaints to the New Jersey State Bar Association.
- Section 8: Ethics Violations or Complaints. Provide disclosure of any ethics violation complaints, either pending or judgment rendered against the law firm or any individual currently employed by the firm, by the Local Finance Board and/or a Municipal Ethics Board.
- Section 9: Provide a copy of your proposed **CONTRACT**.

- Section 10: Mandatory Affirmative Action / Americans with Disabilities - All professional service agreements must, in addition to any other statutory requirements, include or have attached thereto:
 - Mandatory Affirmative Action Language for Goods and Services Contracts. The Affirmative Action Agreement is included in the bid packet and must be executed and submitted with the qualifications and proposal. (pages 10 & 11)
 - Mandatory Americans with Disabilities Act Language. The Mandatory Americans with Disabilities Act Language Certification is included in the bid packet and must be executed and submitted with the qualifications and proposal. (pages 12 & 13)
 - Mandatory Disclosure of Contributions to New Jersey Election Law Enforcement Commission (ELEC). The Disclosure to Contributions to New Jersey Election Law Enforcement Commission Certification is included in the bid packet and must be executed and submitted with the qualifications and proposal. (page 14)

- Section 11: New Jersey Business Registration Requirements – Business organizations or individuals doing business in New Jersey are required to register with the Department of the Treasury, Division of Revenue. Each proposer shall submit a copy of its Business Registration Certificate with its bid. **FAILURE TO SUBMIT A COPY OF THE REQUIRED BUSINESS REGISTRATION CERTIFICATE PRIOR TO THE AWARD OF CONTRACT SHALL RESULT IN BID REJECTION.**
 - For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with the Borough of Bay Head.
 - A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L. 2001,c.134(N.J.S.A. 52:32-44et al.) or subsection e. or f. of section 92 of P.L.1997,c.110(N.J.S.A.5:12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with the Borough of Bay Head.

- Section 12: Other information – Provide any additional information believed pertinent to the award of a contract for the position of municipal attorney.

TERM OF CONTRACT:

January 1st, 2019 through December 31st, 2019

QUESTIONS / ADDITIONAL INFORMATION

Any requests for additional information desired regarding the furnishing of said qualifications and proposal must be obtained in writing from the Municipal Clerk, 83 Bridge Avenue, Bay Head, New Jersey 08742. Telephone number is (732) 892-0636. All questions or requests for additional information must be submitted no later than (Insert Date).

EVALUATION OF THE REQUEST FOR QUALIFICATION AND SELECTION

The Borough reserves the right to accept the submission deemed most advantageous, price and other factors considered, by the governing body of the Borough of Bay Head.

The following information will be taken into consideration during the evaluation process:

- Whether the applicant meets all qualifications and requirements identified in this Request for Qualifications and Proposal.
- The level of experience of the proposed firm in providing legal services to governmental entities.
- The professional reputation and familiarity with laws and regulations governing New Jersey local governments as demonstrated by applicant's proposal.
- The adequacy of the applicant firm's facilities and the proximity and accessibility of such firm to the Borough of Bay Head.
- The cost of providing basic hourly services. It should be noted that cost of services is important to the governing body, but it is not necessarily the most critical factor in evaluating the firm's suitability to serve as Borough Attorney for the Borough of Bay Head.

In accordance with the Instructions to Proposers and request for qualifications and proposal, the undersigned hereby certifies that they have read and understand the same and propose to furnish the services as specified. The undersigned hereby certifies that this proposal is genuine and is made without collusion with any person, firm or corporation making a proposal for the same service.

Company _____

Address _____

Telephone _____

Signature _____

Title _____

AFFIRMATIVE ACTION AGREEMENT

The Contractor here agrees that during the performance of an agreement with the Borough of Bay Head, it will in all respects comply with Chapter 127 of the Public Law of 1975 and further states agreement as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of his age, race, creed, color, national origin, ancestry, marital status or sex. The Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

B. The Contractor in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex.

C. The Contractor will send to each labor union or representative of workers with which he has a Collective Bargaining Agreement or other agreement or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Company _____

Signature _____

Title _____

AFFIDAVIT FOR AFFIRMATIVE ACTION

STATE OF _____)

: SS.:

COUNTY OF _____)

_____ being duly sworn, deposes and says that he/she resides at:

_____ and that he/she is the _____ of
(Title)

_____, who signed the above Proposal or Bid, that
(Partnership / Corporation)

during the course of this contract, he will agree to the Plan for Affirmative Action as outlined in the NOTICE TO PROPOSERSS, and more particularly detailed in the contract documents.

(Signature of Affiant)

Subscribed and sworn to before me this _____
day of _____, 2018

(Notary Public)

AMERICANS WITH DISABILITIES ACT

Equal Opportunity For Individuals with Disabilities

The CONTRACTOR and the BOROUGH OF BAY HEAD do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. 12101 et. seq.) which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the BOROUGH OF BAY HEAD pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the CONTRACTOR, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the BOROUGH OF BAY HEAD in any action or administrative proceeding commenced pursuant to this Act. The CONTRACTOR shall indemnify, protect and save harmless the BOROUGH OF BAY HEAD, its agents, servants and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend and pay and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith.

The BOROUGH OF BAY HEAD shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the BOROUGH OF BAY HEAD or any of its agents, servants and employees, the COUNTY shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the BOROUGH OF BAY HEAD or its representatives.

It is expressly agreed and understood that any approval by the BOROUGH OF BAY HEAD of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect and save harmless the BOROUGH OF BAY HEAD pursuant to this paragraph

It is further agreed and understood that the BOROUGH OF BAY HEAD assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provision of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the BOROUGH OF BAY HEAD from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.

The BOROUGH OF BAY HEAD does not discriminate on the basis of handicapped status in the

admission or access to, or treatment, or employment in its programs or activities.

The BOROUGH OF BAY HEAD shall allow access to any books, documents, papers and records of the contractor, which are directly pertinent to that specific contract.

Compliance is required with all applicable standards, orders, or requirements issued under 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738 and Environmental Protection Agency Regulations (40 CFR, Part 15) which prohibits the use under non-exempt federal contracts, grants or loans of facilities included on the EPA list of violating facilities.

“The BOROUGH OF BAY HEAD considers it to be a substantial conflict of interest for any company desiring to do business with the BOROUGH OF BAY HEAD to be owned, operated or managed by any BOROUGH OF BAY HEAD employee, nor shall any BOROUGH OF BAY HEAD personnel be employed by the vendor in conjunction with any work to be performed for or on behalf of the BOROUGH OF BAY HEAD”.

I HEREBY CERTIFY COMPLIANCE WITH THE FOREGOING.

Partnership
The undersigned is a Corporation under the law of the State
Individual
of _____, having principal offices
at _____.

NAME OF COMPANY, CORPORATION OR INDIVIDUAL
-Please Print-

SIGNED BY: _____

-Print Name and Official Title-

ADDRESS: _____

-Include Zip Code-

TELEPHONE: _____ E-MAIL ADDRESS _____

FEDERAL IDENTIFICATION NO. _____

**DISCLOSURE OF CONTRIBUTIONS TO NEW JERSEY ELECTION LAW
ENFORCEMENT COMMISSION (ELEC)**

N.J.S.A. 19:44A-20.27 establishes a new disclosure requirement for business entities. It requires that, when a business entity has received in any calendar year \$50,000 or more in public contracts with public entities, it must file an annual report with the Election Law Enforcement Commission (ELEC). The report shall disclose any contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind:

- To a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or,
- To a political party committee, legislative leadership committee, political committee or continuing political committee.

The report will include all reportable contributions made by the business entity during the 12 months prior to the reporting deadline. ELEC will be promulgating a form and procedures for filing commencing in January 2007. ELEC can also impose fines for failure to comply with this requirement.

While the local unit has no role in this process, it is recommended that all bid or proposal specifications and contracts should include language notifying business entities of their potential obligation under the law. Such language could read as follows:

Starting in January 2007, all business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

PLEASE SUBMIT A COPY OF YOUR ELEC REPORT IF YOU RECEIVED \$50,000 OR MORE IN PUBLIC CONTRACTS AS DESCRIBED ABOVE. IF YOU HAVE NOT RECEIVED MORE THAN \$50,000 OR MORE IN PUBLIC CONTRACTS PLEASE INDICATE HERE: _____ I/WE/THE FIRM HAS NOT RECEIVED MORE THAN \$50,000 IN PUBLIC CONTRACTS AS DESCRIBED ABOVE.