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## **TOWN OF OAK ISLAND, NC REQUEST FOR PROPOSAL**

**MUNICIPAL LEGAL SERVICES**

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**JULY 1, 2024**

## **I. REQUEST FOR PROPOSALS OVERVIEW**

### **1.1 Purpose of Request for Proposal**

The Town of Oak Island, NC (“Town”) is hereby accepting Proposals (Proposal) for the purpose of establishing a Contract for Municipal Legal Services (“Contract”). The Town will select an Attorney or Law Firm (“Agency”) to provide municipal legal services and serve in the capacity as Town Attorney on a contractual basis. The information listed in the Proposal is to establish quality standards, not to limit competition.

### **1.2 Background and Overview**

Oak Island is a coastal paradise situated on the southern end of Brunswick County and the State’s picturesque coastline. Both island and mainland properties comprise the island proper with approximately 20 square miles, both developed and undeveloped, offering nearly 10 miles of beautiful beach. Just under 10,000 full-time residents call Oak Island home. During summer vacation months, our population swells to as many as 60,000.

Over the last few years, Oak Island has experienced unprecedented growth. Originally incorporating in 1999 as a result of the merger of the Towns of Long Beach and Yaupon Beach, in 2024 we are celebrating our 25<sup>th</sup> anniversary.

Oak Island is a Dillon’s Rule Municipality that is self-governed under the State of North Carolina Constitution. With a Council-Manager form of government, an elected Mayor and a five-member Town Council set policies for the operation of the Town. The Town Council appoints a Town Manager and a Town Attorney. The Town Manager is responsible for overseeing all departments in the day-to-day operations of the Town. The Town Attorney is the Chief legal counsel/advisor for the Town and provides expertise on a wide range of legal areas as defined in the scope of work which follows.

A staff of 159 full-time and 54 part-time employees provide a variety of municipal services including police, fire, recreation, public works, and administration-supported functions. The Town’s total fiscal year 2023-24 budget is just under \$50 million. Additional information about the Town’s profile is available from the Town of Oak Island website.

### **1.3 Proposal Publication Information**

Information related to this solicitation, including any addenda, will be posted to the Town’s website at [www.oakislandnc.gov](http://www.oakislandnc.gov).

For questions about this Proposal, contact:

Lisa P. Stites, MMC, Town Clerk  
Town of Oak Island  
Email: [lstites@oakislandnc.gov](mailto:lstites@oakislandnc.gov)  
Phone: (910) 201-8004

## II. PROPOSAL CONTRACT TERM, SCOPE OF WORK, AND QUALIFICATIONS

### **2.1 Contract Award(s) and Term**

The Town of Oak Island desires to enter into a non-exclusive contractual relationship with a professionally licensed, practicing Attorney or Law Firm to provide municipal legal services/counsel. The Town, in its sole discretion, reserves the right to contract with a person or firm, or both for specialized legal tasks and services, as deemed necessary and in the best interest of the Town. The contract with the practicing Attorney or Law Firm can be cancelled at any time through simple majority vote of the Town Council.

The original term for the Contract is one-year (1) and will be subject to annual renewal based upon satisfactory performance and rendition of services.

The Town Attorney should submit a monthly detailed statement with billing, said statement to include the date and length of time of services rendered. These statements shall be subject to review and approval by the Town Manager and/or Finance Director.

### **2.2 Scope of Work**

The Attorney or Law Firm will provide municipal legal services in the capacity of Town Attorney and serve as the Chief legal counsel/advisor to the Town Council and Town Staff, inclusive of Town advisory boards and committees.

The Town Attorney will be primarily responsible for, but not limited to the following responsibilities:

- 1) Advise the Town Council, Town staff, and all appointed boards and committees on municipal government matters related to official duties/capacities.
- 2) Provide advice and consultation, including preparation of oral or written opinions to the Town Council and Town staff on any matters that could affect the Town, including but not limited to federal, state, and local government laws, legislation, and judicial opinions.
- 3) Represent the Town, collectively and on an individual basis who may be named as parties in their official capacities in any legal action regarding Town business provided that such representation does not give rise to a prohibited conflict of interest or the appearance of a conflict.
- 4) Participate in negotiations with both private and public sector organizations.
- 5) Preparation, review and analysis, as needed, for any and all contracts (existing and newly created), ordinances, resolutions, proposed legislation, and any documents (i.e., agreements) that may be considered contractual or obligatory as official Town business.
- 6) Interpretation of existing laws and ordinances.
- 7) Perform all legal work pertaining to property acquisitions, disposals, easement dedications, right-of-way abandonments, code enforcement, and other Town activities of similar nature.
- 8) Address requests and concerns regarding Town business that arise from complaints from the public and various Town issues.

- 9) Serve as a resource for Town administration.
- 10) Represent the Town and its staff, acting in good faith, for Court, Administrative Hearings, and other business matters as deemed appropriate.
- 11) Attend meetings for Town Council, Board of Adjustment, other advisory board and committee meetings (as needed), and other business meetings (as applicable and required).

The Town Attorney will provide legal services for such matters not covered above but which necessitates legal advice as required and determined by the Town Council. The Town Attorney is to maintain files consistent with North Carolina public records and retention laws and Town practices. This includes providing any copies of all pertinent documents related to litigation that the Town Attorney is involved in and/or overseeing. The Town, in its sole discretion, may expand the scope of work to include additional responsibilities and/or requirements.

#### **2.3 Qualifications/Experience**

The Agency firm must possess experience in the practice of North Carolina municipal law with a strong preference in representing North Carolina municipal governments. The primary designated attorney and other attorneys representing in a back-up capacity must be currently licensed to practice law in North Carolina and be in good standing with the North Carolina Bar Association.

The designated attorney and other attorneys representing/intending to serve in a back-up capacity is required to have a Juris Doctor (JD) degree with a minimum of 5 years of increasingly responsible legal experience in the practice of North Carolina municipal law. For a legal firm, a minimum of 5 years' experience in North Carolina and in the practice of North Carolina municipal law is required. The attorney(s) should be able to demonstrate representing North Carolina municipal governments in facets related to daily government operations.

The Agency must disclose and describe (for the primary designated attorney and back-up attorney(s) in the firm) any and all bar grievances, disciplinary actions and investigations, and ethics actions or investigations, as well as results of each of the foregoing. The Town will conduct a background check on selected candidates.

#### **2.4 Insurance Requirements**

The selected attorney or legal firm must have the financial capacity to undertake the work and assume associated liability. The selected attorney or legal firm will be required to provide certificates of insurance evidencing or demonstrating the ability to obtain insurance with the following coverage:

- Worker's Compensation – A minimum coverage of \$1,000,000 aggregate and \$500,000/\$500,000/\$500,000 for the employer's liability under Workers Compensation.
- Commercial General Liability – Comprehensive Broad Form in the amounts of

\$1,000,000 bodily injury each occurrence/aggregate or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate.

- Directors & Officers Liability Insurance – Not less than \$1,000,000 per claim, to protect Subrecipient against negligent acts, errors, or omissions in performing services under this agreement.
- Fidelity Bond Insurance (Employee Dishonesty) – Employee Fidelity Insurance coverage no less than \$50,000.
- Automobile (if applicable) – Covering all owned, hired, and non-owned vehicles, used in connection with the contract. The minimum limits shall be \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limits each occurrence/aggregate.
- The Town must be listed as additional insured.

### **III. PROPOSAL CRITERIA AND SUBMISSION REQUIREMENTS**

#### **3.1 Proposal Criteria**

Proposals should address the following information in a thorough and concise narrative for each specification. The response should provide pertinent information relating to the attorney or legal firm's area of expertise, experience, and qualifications. The availability and capability of a firm to perform all of the professional services in an effective and timely manner must also be shown. Failure to include information for each section may be cause for rejection.

1. **Cover Letter:** Provide a cover letter of transmittal attesting to accuracy of the Proposal, signed by the Agency. As part of the attestation, provide the individual or type of business (e.g., corporation, partnership, other, etc.) and the associated Tax ID Number (FEIN/SSN) along with an authorized signature, title, and date submitted. The cover letter should also include any trade secret issues, proprietary, and/or confidential information needing consideration.
2. **Letter of Interest:** Provide a letter of interest describing the Agency's interest in the response, including a brief overview of the work history and a statement addressing experience working for or with municipal governments.
3. **Identification of Principal and Secondary Representatives:** For the individual attorney, provide a resume. For a legal firm, provide the name of the person who will provide the primary professional legal services to the Town (as "Town Attorney") and the name(s) of a person(s) who will act in a back-up capacity to serve as Town Attorney. Provide a resume for each individual listed. The resume should include accurate and relevant information related to current/prior experience in the areas as outlined in the scope of work and qualifications. In addition to, the resume should reflect the academic training and degrees from accredited organizations, number of years in practice, including that with the firm, and any other areas of responsibilities or background information which may be helpful in evaluating the proposal. Include a certified statement that addresses all qualifications as outlined in Section II: Contract Terms, Scope of Work, and Qualifications section of this proposal.

4. **Approach to Providing Town Requested Legal Services:** Provide a description of the Agency's approach, methodology, or objectives that will be used in providing legal services to the Town, including that of which will minimize claims, litigation, and that considers other legal implications.
5. **Compensation or Fee Proposal:** Identify, in the response, the compensation/fees (i.e., retainer/fixed fee cap, hourly fee, hybrid, etc.) sought and the methodology to be used for charging the Town on a monthly basis.
6. **Litigation:** Provide a list of all judgements or lawsuits against the individual attorney or each legal firm attorney to be assigned to provide services, including the nature of each judgment or lawsuit and its resolution. Provide a list of all lobbyist(s) employed by the firm, and the local agencies, entities, and general areas before which they lobby.
7. **Conflict of Interest/Ethical Considerations:** List any clients currently represented by Agency (including back-up designees) that could cause a conflict of interest with responsibilities to the Town. Describe how the attorney(s) will resolve these and any future conflicts of interest. List any potential conflicts of interest or ethical considerations related to representation or affiliation with any boards, organizations, committees, clients, or any other entities. Provide a list of other municipalities and other governmental entities currently being represented by the Agency. Identify any potential conflicts of interest that the Agency currently has or might incur while rendering services and how they will be resolved. For example, if the firm or attorney has represented a Town Council or Town staff member or their interests in the past, this should be disclosed along with how the representation was resolved.
8. **Location:** Provide the address of the Agency that will be providing legal services to the Town. Provide a list and description of ownership, office location, and principal office (including contacts) where the majority of the Town's work will be performed.
9. **References:** Provide a list of five (5) references. Include contact names, titles, firm, government or company names, telephone numbers, and email addresses.
10. **Work Load:** Provide a certified statement that there will be no scheduling commitments on the part of the Agency (including back-up designees) that will conflict with the meeting schedules for the Town.
11. **Expectations of Town:** Identify any information and tasks expected from the Town to enable you to complete the Scope of Work.
12. **Certificate of Good Standing:** Respondents must be members in good standing with the North Carolina Bar to be eligible to perform the professional services required for this RFP. A "Certificate of Good Standing" will serve as evidence of such registration and must be included with this submission. The "Certificate of Good Standing" is available online at the North Carolina Judicial Branch website <https://www.nccourts.gov/courts/supreme-court/certificate-of-good-standing>.

### **3.2 Proposal Evaluation**

The Mayor, Town Council, and Town Manager will screen the proposals to ensure all RFP requirements have been met. Proposals that meet this threshold will be moved forward for consideration. The Town may conduct interviews with the Agency attorneys as deemed necessary, regarding submitted qualifications, experiences, references, compensation, and methodology.

The information listed in the Proposal is to establish quality standards, not to limit competition.

### **3.3 Schedule and Proposal Submission**

Provided below is the summary of activities with the associated deadline for this Proposal. The Town reserves the right to adjust the schedule and to add/remove specific activities to meet the needs of this Proposal.

Advertisement of Proposal	July 1, 2024
Proposal Pre-Submittal Conference	July 10, 2024
Proposal Submission Deadline	August 12, 2024
Proposal Evaluation & Scoring	August 13 – August 20, 2024
Interviews with Finalists (Anticipated)	Week of August 26, 2024
Town Council Consideration of Contract Approval During Regular Board Meeting (Anticipated)	September 10, 2024

### **3.4 Proposal Pre-Submittal Conference**

The Town will hold a proposal pre-submittal conference to answer any questions on July 10, 2024, at 1:00 p.m. via Zoom. To attend the pre-submittal conference, please email Town Clerk Lisa Stites at [lstites@oakislandnc.gov](mailto:lstites@oakislandnc.gov) for a Zoom link.

### **3.5 Proposal Submittal Deadline and Requirements**

Interested attorneys or legal firms must complete and provide (1) original and (7) printed copies (8 total documents) and (1) electronic copy of the responsive Proposal by 2:00 p.m. on August 12, 2024. Proposals will be publicly opened at 2:00 p.m. on August 12, 2024 at Town Hall. The Proposal should be complete, including the Proposal identifier (Town of Oak Island – Municipal Legal Services) and fully address all information requested.

The Proposal packet shall be delivered, via in-person or via USPS/FedEx/UPS to:

Town Clerk, Lisa P. Stites, MMC  
Town of Oak Island  
4601 E. Oak Island Drive  
Oak Island, NC 28465

Only proposals sent to Town Clerk Lisa P. Stites will be considered as responsive to the request for proposals. Proposals sent to any other person or address may be considered as non-responsive and may not be reviewed.

It is the responsibility of the proposer to ensure that the proposal package was delivered before the date and time stated. The Town of Oak Island bears no responsibility for proposal packages that are not delivered on time and to the correct address.

Failure to provide all required information in completed form may result in the Proposal being found non-responsive and given no consideration.

#### **IV. REPRESENTATIONS, CONDITIONS, AND OTHER REQUIREMENTS**

##### **4.1 Accuracy of Proposal and Related Documents**

Each attorney or legal firm must independently evaluate all information provided by the Town. The Town makes no representations or warranties regarding any information presented in this Proposal and assumes no responsibility for conclusions or interpretations derived from such information. In addition, the Town will not be bound by or be responsible for any explanation or conclusions regarding this Proposal or any related documents other than those provided by an addendum issued by the Town. Agencies may not rely on any oral statement by the Town or its agents, advisors, or consultants.

If an attorney or legal firm identifies potential errors or omissions in this Proposal or any other related documents, they should immediately notify the Town of such potential discrepancy in writing. The Town may issue a written addendum if the Town determines clarification necessary. Each attorney or legal firm requesting an interpretation will be responsible for delivering such requests to the Town's designated representative as directed in the Proposal Section II.

##### **4.2 Town's Rights and Option**

The Town reserves the right, at the Town's sole discretion, to take any action affecting this Proposal, this Proposal process, or the Services or facilities subject to this Proposal that would be in the best interests of the Town, including:

- 1) To supplement, amend, substitute, or otherwise modify this Proposal, including the schedule, or to cancel this Proposal, at any time;
- 2) To require any attorney or legal firm to supplement or clarify its Proposal or provide additional information relating to its Proposals;
- 3) To investigate the qualifications, experience, capabilities, and financial standing of each attorney or legal firm submitting a Proposal;
- 4) To waive any defect or irregularity in any Proposal received;
- 5) To reject any or all Proposals;
- 6) To share the Proposals with Town employees and contractors as deemed

necessary by the Town;

- 7) To award all, none, or any part of the Services and enter into Contracts with one or more of the responding attorneys or legal firms deemed by the Town to be in the best interest of the Town, which may be done with or without re-solicitation;
- 8) To discuss and negotiate with any attorney or legal firm(s) their proposal terms and conditions, including but not limited to financial terms; and
- 9) To terminate discussions and negotiations with any attorney and legal firm(s) at any time and for any reason.

#### **4.3 Expense of Submittal Preparation**

The Town accepts no liability, and attorney or legal firm(s) will have no actionable claims for reimbursement of any costs or expenses incurred in participating in this solicitation process. This includes expenses and costs related to Proposal submission, submission of written questions, attendance at pre-proposal meetings or evaluation interviews, contract negotiations, or activities required for contract execution.

#### **4.4 Proposal Conditions**

The following terms are applicable to this Proposal and the attorney's or legal firm's Proposal.

a. **Proposal Not an Offer.**

This Proposal does not constitute an offer by the Town. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the Town unless the Town and the attorney or legal firm execute a Contract. No recommendations or conclusions from this Proposal process concerning the attorney or legal firm shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

b. **Trade Secrets and Personal Identification Information.**

**Definition.**

Upon receipt by the Town of Oak Island, all materials submitted by an attorney or legal firm (including the Proposal) are considered public records except for

(1) material that qualifies as "trade secret" information under N.C. Gen. Stat. § 66-152 et seq. ("Trade Secrets") or (2) "personally identifiable information" protected by state or federal law, to include, but not be limited to, Social Security numbers, bank account numbers, and driver's license numbers ("Personally Identifiable Information" or "PII").

**Instructions for Marking and Identifying Trade Secrets**

If any Proposal contains Trade Secrets or PII, such Trade Secrets and PII must specifically and clearly be identified by clearly separating them from the rest of the Proposal. For hard copy documents, it must be submitted in a separate, sealed envelope, marked either "Personally Identifiable Information – Confidential" or "Trade Secret—Confidential and Proprietary Information." The confidentiality caption stated above must appear on each page of the Trade Secret or PII materials.

#### Availability of Proposals to Town Staff and Contractors

By submitting a Proposal, each attorney or legal firm agrees that the Town may reveal any Trade Secret materials and PII contained therein to all Town staff and Town officials involved in the selection process, and to any outside consultant or other third parties who serve as reviewers, or selectors, or who are hired or appointed by the Town to assist in the evaluation process.

#### Availability of Proposals via Public Records Requests

Any person or entity (including competitors) may request Proposals submitted in response to a Proposal. Only those portions of Proposals properly designated as Trade Secret or PII are not subject to disclosure. The public disclosure of the contents of a Proposal or other materials submitted by an attorney or legal firm is governed by N.C. Gen. Stat. §§ 132 and 66-152, et seq.

When determining whether to mark materials as Trade Secret, please note the following:

- Entire Proposals may not be marked as Trade Secret
- Pricing may not be marked as Trade Secret

The Town may disqualify any attorney or legal firm that designates its entire Proposal as a trade secret, or any portion thereof that clearly does not qualify under applicable law as a Trade Secret or PII. Each attorney or legal firm agrees to indemnify, defend, and hold harmless the Town and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material that the attorney or legal firm has designated as a Trade Secret or PII. This includes an obligation on the part of the attorney or legal firm to defend any litigation brought by a party that has requested Proposals or other information that the Company has marked Trade Secret or PII.

c. Amendments to Proposal.

If the Town amends this Proposal, addenda will be posted to the Town's website at [www.oakislandnc.gov](http://www.oakislandnc.gov).

d. Proposal Terms Firm and Irreversible.

The signed Proposal shall be considered a firm offer on the part of the attorney or legal firm. The Town reserves the right to negotiate price and other terms. All Proposal elements (including all statements, claims, declarations, prices, and specifications) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the Town. The attorney or legal firm chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the Town's election.

e. Proposal Binding for 180 Days.

The Proposal is a firm offer for one-hundred-eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the attorney or legal firm. All prices quoted shall be firm and fixed for the full Contract period. The Town shall have the option to accept subject to exception by Contract.

f. Subcontracting.

The attorney or legal firm given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the attorney or legal firm shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The Town retains the right to approve all subcontractors.

g. Equal Opportunity.

The Town has an equal opportunity purchasing policy. The Town seeks to ensure that all segments of the business community have access to supplying the goods and services needed by Town programs. The Town provides equal opportunity for all businesses and does not discriminate against any Companies regardless of race, color, religion, age, sex, and national origin or disability.

h. Use of Town's Name.

No advertising, sales promotion, or other materials of the attorney or legal firm or its agents or representatives may identify or reference the Town in any manner absent the prior written consent of the Town.

i. Withdrawal for Modification of Proposal

An attorney or legal firm may change or withdraw a previously-submitted Proposal at any time prior to the Proposal due date. Only formal written requests addressed in the same manner as the Proposal and received by the Town prior to the Proposal due date will be accepted. The request must be in a sealed envelope that is plainly marked "**Modifications to Proposal.**" No oral modifications will be allowed. If the Agency complies with this Section, after the Proposal due date, the Proposal will be withdrawn or corrected in accordance with the written request(s).

j. No Bribery.

In submitting a response to this Proposal, each attorney or legal firm certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the Town in connection with the Contract.

k. Exceptions to the Proposal.

Each Proposal shall be deemed to agree to comply with all terms, conditions,

specifications, and requirements of this Proposal. An “exception” is defined as the Agency’s inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the Proposal. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this Proposal. If the Agency provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Agency’s solution, must be described in detail.

I. Fair Trade Certifications.

By submitting a Proposal, the Proposer certifies that:

- The prices in its Proposal have been arrived at independently, without consultation, communication, or agreement with anyone, as to any matter relating to such prices for the purpose of restricting competition;
- Unless otherwise required by law, the prices quoted in its Proposal have not been knowingly disclosed by the Proposer and will not knowingly be so disclosed prior to the Proposal due date; and
- No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

m. Proposers’ Obligation to Fully Inform Themselves.

Proposers or their authorized representatives must fully inform themselves as to all conditions, requirements, and specifications of this Proposal before submitting Proposals. Failure to do so will be at the attorney’s or legal firm’s own risk.