



|                    |   |        |
|--------------------|---|--------|
|                    | Approved  | Denied |
| Date Action Taken: | 4/13/09   |        |
| Other:             | Selected Option #2; Deputy Admin<br>HR Generalist + Council Member Woodruff |        |
| Verified by:       | on committee; Cancel 4/28/09<br>interviews. <i>Himits</i>                   |        |

**WASILLA CITY COUNCIL ACTION MEMORANDUM**

**AM No. 09-11**

**TITLE: Deciding on an In-house City Attorney or General Counsel Legal Services**

Agenda of: March 23, 2009  
Originator: Kristie Smithers, City Clerk

Date: March 5, 2009

| Route to: | Department                         | Signature/Date         |
|-----------|------------------------------------|------------------------|
| X         | Human Resource Generalist          | <i>Cuen Brew</i>       |
| X         | Purchasing and Contracting Officer |                        |
| X         | Chief Financial Officer            | <i>Chel Dr. Alanis</i> |
| X         | Deputy Administrator               | <i>Mary F. Lede</i>    |
| X         | City Clerk                         | <i>Kristie</i>         |

REVIEWED BY VERNE E. RUPRIGHT: *Verne E. Rupright*

FISCAL IMPACT:  yes \$ \_\_\_\_\_ or  no Funds Available  yes  no

Account name/number:

Attachments: Proposed FY-10 Operating Budget for Office of the City Attorney  
Proposed Job Description for City Attorney  
Proposed RFP for General Counsel Legal Services (to be handed out under separate cover)

**SUMMARY STATEMENT:**

At the February 23, 2009, City Council meeting, through the action of AM No. 09-10, the Council requested more information in regard to the possibility of hiring an in-house City Attorney and also wanted the final draft of the RFP for General Counsel Legal Services to be presented at the March 23, 2009, Regular City Council Meeting.

**OPTION NO. 1 - IN-HOUSE CITY ATTORNEY**

Over the past few weeks the Human Resources Office has prepared the attached job description for the City Attorney. The salary range for the City Attorney will be a Range 15 - \$72,430 (minimum) to \$123,131 (maximum).

A proposed FY-10 operating budget has been prepared by the Mayor, Deputy Administrator and City Clerk using budget estimates from the Mayor in his prior employment. The proposed budget includes a starting salary of \$75,000. This assumes that the office would only hold one employee, the City Attorney.

The table below shows actual costs for attorney services for the past four years and the year-to-date costs. Please note the *general services* column includes all city services that an in-house City Attorney would administer to include sales tax collection, human resource issues, planning issues and general matters. The Litigation column includes the Lundgren and Luper cases. The costs associated with union negotiations and the attorney appeal costs are not included in this table, with the assumption that these services will be completed with out-of-house attorney services.

**GENERAL LEGAL SERVICES**

| <b>Fiscal Year</b>            | <b>Total Cost</b> | <b>General Services</b> | <b>Litigation</b> |
|-------------------------------|-------------------|-------------------------|-------------------|
| Current FY-09<br>thru 1/31/09 | \$106,068.31      | \$46,701.19             | \$59,367.12       |
| FY-08                         | \$191,054.04      | \$81,328.01             | \$109,726.03      |
| FY-07                         | \$309,544.49      | \$98,042.73             | \$211,501.76      |
| FY-06                         | \$161,543.60      | \$93,830.69             | \$67,712.91       |
| FY-05                         | \$99,949.39       | \$75,815.40             | \$24,133.99       |

If Council wishes to include an in-house Office of the City Attorney in the upcoming FY-10 budget deliberations, a motion will be needed to take action on Option No. 1 shown on page four of this memorandum.

**OPTION NO. 2 – RFP FOR GENERAL COUNSEL LEGAL SERVICES**

If Council wishes go out for RFP for General Council Legal Services, the following items listed below will need to be discussed by the Council, and a motion outlining the items in Option 2, shown on page four of this memorandum, will need to be made.

**RFP Prepared by Purchasing and Contracting Officer**

The final draft RFP, prepared by Mr. Brad Young, purchasing and contracting officer, will be handed out under separate cover as it is considered confidential until it is released for advertisement. If there are changes to the document, please make a motion to amend during the meeting.

## **Appointment of an RFP Evaluation Committee**

The Council will need to decide who will serve on the RFP Evaluation Committee. In 2006, the RFP Evaluation Committee consisted of seven members: the deputy mayor, three Council Members, the public works director, the city planner, and the purchasing and contracting officer. The Committee scored all of the responsive firms using the scoring criteria outlined in the RFP. Based on the total scores of the RFP Evaluation Committee, the top three firms were interviewed by the Council.

After talking with Mr. Young, he suggests that a RFP Evaluation Committee of no more than three to five members be appointed. He also suggests that he not be part of the Committee. If the Council appoints only one member of the Council to the RFP Evaluation Committee, advertising the Committee meetings will not be required. This will allow maximum flexibility for the Committee to hold meetings each day if needed or at any other given time. If two or more Council Members are appointed, the Committee meetings will need to be advertised to be in compliance with the Open Meetings Act.

## **Interviews**

A Special City Council Meeting to hold attorney interviews needs to be set due to the RFP timeline being moved back. Based on three firms being interviewed, the format for the special meeting will be as follows:

|                          |   |
|--------------------------|---|
| 8:30 a.m.                | Council to Organize Interview Process                 |
| 9:15 a.m. to 9:45 a.m.   | Firm Interview  |
| 9:45 a.m. to 10 a.m.     | Council Review/Break                                  |
| 10 a.m. to 10:30 a.m.    | Firm Interview  |
| 10:30 a.m. to 10:45 a.m. | Council Review/Break                                  |
| 10:45 a.m. to 11:15 p.m. | Firm Interview  |
| 11:15 p.m. to 11:30 p.m. | Council Review/Break                                  |
| 11:30 p.m. to ?          | Executive Session to Select Attorney (lunch provided) |

(Last time the meeting adjourned at approximately 1 p.m.)

During the interview, each Council Member will ask at least one specific question to each of the firms interviewed. A sample of the interview process is shown below:

### **Sample Interview**

- Firm to give a brief introduction, approximately three to five minutes.
- Each Council Member is to ask at least one question to each firm (each Council Member asks the same question to each firm) and the time limit to the response is set depending on the question asked. Previously the question and answer period lasted about 20 minutes.
- Firm gives closing remarks. Previously we gave them each five minutes to do this.
- Council will score each firm using a score sheet provided by the purchasing and contracting officer.

After all interviews are complete, the Council will then enter into executive session to discuss the firms and make their selection. A motion will be made after the Council exits Executive Session to make the final selection.

### **ACTION NEEDED BY COUNCIL:**

**Option 1:** If the City Council wishes to consider the position of an *in-house* City Attorney during the FY-10 budget deliberations, the following direction is needed:

To request the Mayor to coordinate with the:

- Finance Department to include in the FY-10 budget, the costs associated with an in-house Office of the City Attorney.
- Purchasing and Contracting Officer to negotiate with Birch, Horton, Bittner and Cherot to extend their existing contract until July 31, 2009, and to bring back for Council approval; and
- Direct the City Clerk to cancel the Special City Council Meeting of April 28, 2009, scheduled for attorney interviews. If during the FY-10 budget deliberations the Council does not fund the position of an *in-house* City Attorney, the RFP process and interview procedure for a contract City Attorney will then be discussed.

**Option 2:** To request the Mayor to coordinate with the Purchasing and Contracting Officer to submit the RFP for General Counsel Legal Services to the public for proposals and prepare any other related materials needed for this process. With this option the Council will need to determine the following:

- **Preparation of RFP by Purchasing and Contracting Officer**
  - Does Council have changes to the proposed RFP as prepared by the Purchasing and Contracting Officer as presented?
- **Appointment of an RFP Evaluation Committee**
  - How many will serve?
  - Who does the Council wish to appoint to this Committee?
- **Interviews**
  - Based on the combined scores of the members of the RFP Evaluation Committee, the Council will interview the top three firms as determined by the Committee. The top three firms will be submitted to the Council in an Information Memorandum (IM) prior to the interviews.
  - Interviews will be held during a Special Council Meeting determined by Council.
  - Are there changes to the interview schedule outlined above?

| FY-2010 Draft Budget - Office of the City Attorney |   |         |  |
|--|---|---------|--|
| Account  | Description                                 | Amount  |  |
| 1-4110-411.10-10                                   | Personnel Services / Regular                | 75,000  |  |
| 1-4110-411.10-20                                   | Personnel Services / Temporary              | 0       |  |
| 1-4110-411.10-30                                   | Personnel Services / Overtime               | 0       |  |
| 1-4110-411.20-10                                   | Personnel Svcs-Benefit / Group Insu         | 18,751  |  |
| 1-4110-411.20-15                                   | Personnel Svcs-Benefit / Med. Reimb         | 1,500   |  |
| 1-4110-411.20-20                                   | Personnel Svcs-Benefit / Fica               | 1,088   |  |
| 1-4110-411.20-30                                   | Personnel Svcs-Benefit / PERS               | 16,500  |  |
| 1-4110-411.20-40                                   | Personnel Svcs-Benefit / SBS                | 4,598   |  |
| 1-4110-411.20-50                                   | Personnel Svcs-Benefit / Unemploye          | 334     |  |
| 1-4110-411.20-60                                   | Personnel Svcs-Benefit / Workers' C         | 665     |  |
| 1-4110-411.30-31                                   | Professional Services / Accounting          | 0       |  |
| 1-4110-411.30-32                                   | Professional Services / Legal               | 0       |  |
| 1-4110-411.30-34                                   | Professional Services / Other               | 1,500   | title searches, process services, court and recording fees                             |
| 1-4110-411.30-37                                   | Professional Services / Appeal Hear         | 0       |  |
| 1-4110-411.40-30                                   | Purchased-Property / Repair & Maint         | 500     | equipment repairs  |
| 1-4110-411.40-40                                   | Purchased-Property / Rentals                | 0       | printer lease  |
| 1-4110-411.50-10                                   | Other Purchased Services / Election         | 0       |  |
| 1-4110-411.50-30                                   | Other Purchased Services / Communic         | 1,200   | postage \$200; cell phone \$700; courier \$300   |
| 1-4110-411.50-40                                   | Other Purchased Services / Advertis         | 0       |  |
| 1-4110-411.50-50                                   | Other Purchased Services / Printing         | 500     | business cards and other printing  |
| 1-4110-411.50-81                                   | Other Purchased Services / Travel           | 2,200   | AML & AMAA \$1,500; mileage \$700  |
| 1-4110-411.50-82                                   | Other Purchased Services / Staff De         | 2,400   | AML \$400; Bar Association \$500; and other training \$1,500                           |
| 1-4110-411.50-85                                   | Clerk / Dues and Subscriptions              | 1,050   | AMAA \$50; AK Bar Assoc \$500;   |
| 1-4110-411.50-90                                   | Other Purchased Services / Oth Purc         | 1,500   | Alaska Statutes and Administrative Code updates \$1,500; Westgroup/Lexis Nexis \$2,400 |
| 1-4110-411.50-99                                   | Other Purchased Services / Continge         | 0       |  |
| 1-4110-411.60-10                                   | Supplies / General Supplies                 | 2,500   | operating supplies and books   |
| 1-4110-411.60-15                                   | Supplies / Small Tools & Equipment          | 4,000   | office furniture and set-up  |
| 1-4110-411.60-95                                   | Supplies / Computer Software                | 1,000   | misc. software purchase  |
| 1-4110-411.70-40                                   | Capital Purchases / Machinery & Equ         | 2,500   | *purchase of initial computers from technology replacement fund                        |
| 1-4110-411.70-44                                   | Capital Purchases / Software                | 0       |  |
| 1-4110-411.99-26                                   | Interfund Transfers / Technology Re         | 1,000   | computer and laptop  |
|  |   | 140,286 |  |
| Memberships:                                       | IMLA - International Municipal Lawyer Assoc |         |  |
|  | AMAA - Alaska Municipal Attorney Assoc      |         |  |
|  | American Bar Association                    |         |  |
|  | Alaska Bar Association                      |         |  |
| 3/17/2009  |   |         |  |



# City of Wasilla

## Job Description

|                            |  |                       |                |
|----------------------------|--|-----------------------|----------------|
| <b>Job Title</b>           | City Attorney  | <b>Department</b>     | Administration |
| <b>Reports To</b>          | Mayor  | <b>Salary Grade</b>   | 15             |
| <b>FLSA Classification</b> | Exempt   | <b>Effective Date</b> | March 1, 2009  |
| <b>City Classification</b> | <input type="checkbox"/> Classified <input checked="" type="checkbox"/> Confidential and/or Managerial |                       |                |

**Mission Statement:**

It is the mission of the City of Wasilla to provide optimum service levels to the public as cost effectively as possible to ensure a stable and thriving economy, promote a healthy community, provide a safe environment and a quality lifestyle, and promote maximum citizen participation in government.

**Summary:**

Plan, direct, manage and oversee the activities and operations of the City Attorney's office. Coordinates legal activities with other City departments. Provides highly responsible and complex administrative support to the Mayor, City Council and other City Managers.

**Essential Functions (greater than or equal to 10% of time):**

The responsibilities listed below are illustrative of the various types of duties that may be performed with or without reasonable accommodation.

- Serve as a representative of the City of Wasilla, demonstrating a positive attitude and progressive actions through the display of professionalism, courtesy, and appropriate tact and discretion in all interactions with other employees and with the public.
- Represent the City in all matters civil, administrative and criminal in which the city is a party or involved, before all courts and tribunals.
- Prepare ordinances, resolutions, deeds, pleadings, contract and other legal documents as requested by the Mayor or City Council.
- Prosecute for civil and criminal remedies to enforce City ordinances, abate public nuisances, recover for damages to City property, and condemn property for public purpose and other matters.
- Review proposed contracts, bond and financing papers, insurance policies and other documents affecting the City.
- Monitor and control liability claims and lawsuits
- Prepare drafts and assist in the negotiation of proposed union agreements.
- Represent the City Attorney's Office to other City departments, elected officials and outside agencies; coordinate City Attorney's Office activities with those of other departments and outside agencies and organizations.
- Manage the development and implementation of City Attorney's Office goals, objectives, policies, and priorities for each assigned service area.
- Assist with the development and administration of the City Attorney's Office budget; approve the forecast of funds needed for staffing, equipment, materials, and supplies; approve expenditures and implement budgetary adjustments as appropriate and necessary.

**Secondary Functions (less than 10% of time):**

- Performs special projects and other related work duties as needed.
- May participate on a variety of boards, commissions and committees and prepare and present staff reports and other correspondence, if necessary.

**Scope and Accountability/Supervisory Responsibility:**

Frequent contact with the general public, elected officials, department heads, and city employees. Occasional contacts with foreign visitors and dignitaries.

**Knowledge, Skills, and Abilities:**

- Familiarity with the organization, duties, powers, limitations and authority of City government and the City Attorney's office.
- Familiarity with the operations, services and activities of a comprehensive City Attorney's Office program.



- Knowledge of policies and procedures of civil litigation, criminal prosecution and working knowledge of the State of Alaska rules of court, as well as Federal practices.
- Ability to analyze programs, policies and operational needs.
- Knowledge of principles and practices of program development and administration and management practices
- Ability to develop and enforce legal documents and contracts
- Ability to utilize the legal system to support City goals and objectives.
- Ability to identify and respond to community and City Council issues, concerns and needs
- Ability to analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.
- Ability to research, interpret and apply Federal, State and local policies, laws and regulations.
- Ability to communicate clearly and concisely, both orally and in writing.
- Ability to establish and maintain effective working relationships with those contacted in the course of work.

**Experience and/or Education:**

- A Juris Doctorate from an accredited law school.
- Five years of increasingly responsible legal experience, with at least three of those years in municipal or other government law.

**Certificates, Licenses, Registrations:**

- Membership in good standing with the Alaska State Bar Association.
- A valid State of Alaska driver license.

**Physical Demands:**

Duties require sufficient mobility to work in a typical office setting an use standard office equipment, including a computer; sitting for prolonged periods of time; occasional stooping, twisting, bending, kneeling, and reaching; vision to read printed materials and a computer screen and hearing and speech to communicate in person or over the telephone. Ability to climb stairs and effectively lift and move up to 25 pounds of materials.

**Work Environment:**

This is an extremely busy office setting with frequent interruptions and high noise level due to employees and members of the public and office equipment. This position requires attendance at regular and special meetings of the Wasilla City Council and other meetings as required by the Mayor. Employee may risk physical hazard from angry, unstable, violent and highly volatile citizens and the risk of civil litigation due to performance of duties.

**Reasonable Accommodations:**

To perform this job successfully, an individual must be able to perform each essential duty and physical demands satisfactorily. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The City of Wasilla believes that each employee makes a significant contribution to our overall success. That contribution should not be limited by the assigned responsibilities. Therefore, this position description is designed to outline primary duties, qualifications and job scope, but not limit the incumbent nor the City of Wasilla to just the work identified. It is our expectation that each employee will offer his/her services wherever and whenever necessary to ensure the success of our endeavors.

**APPROVED:**

Department Head: \_\_\_\_\_ Date: \_\_\_\_\_

Human Resources: \_\_\_\_\_ Date: \_\_\_\_\_

Mayor: \_\_\_\_\_ Date: \_\_\_\_\_