

REQUEST FOR PROPOSALS ("RFP")

FOR THE APPOINTMENT  
OF LEGAL COUNSEL FOR

THE PORT ARTHUR  
SECTION 4A ECONOMIC  
DEVELOPMENT CORPORATION



**PORT**★**ARTHUR**  
ECONOMIC DEVELOPMENT CORPORATION

Issued: March 22, 2022

Due: June 2, 2022

The Port Arthur Economic Development Corporation (PAEDC) was established by the City of Port Arthur pursuant to the Development Corporation Act. The PAEDC is a separate legal entity from the City of Port Arthur and is managed by the Port Arthur Economic Development Corporation Board of Directors. PAEDC is seeking responses to this Request for Proposals to appoint a PAEDC Attorney for an initial term of three (3) years. The position of PAEDC Attorney is an administrative officer of the PAEDC and is appointed by and serves at the pleasure of the Port Arthur Economic Development Corporation Board of Directors.

The PAEDC is seeking individual attorneys or firms to respond to this RFP (Respondents) who have the requisite experience to perform the basic services described in this RFP themselves or in conjunction with members of their firm. Interested Respondents must adhere to the General Instructions and the Proposal Stipulations and Requirements as outlined in this Request for Proposals (RFP).

The Legal Counsel Services contract is anticipated to be awarded by the PAEDC Board of Directors and approved by the City of Port Arthur City Council in July, 2022. The PAEDC reserves the right to reject any and all proposals. The PAEDC also reserves the right to waive any irregularity, informality, or technicality in the statements of qualifications in the PAEDC's best interest.

We appreciate your efforts and look forward to reviewing your submission.

## A. Submission

Responses to this RFP shall be received by the PAEDC Chief Executive Office on or before **Friday June 2, 2022, at 3:00 PM** local time. Submissions should be clearly marked 'PAEDC Legal Services RFP' so that no error in identifying the materials may occur. **Proposals received after this time will not be accepted and returned unopened.**

FAXED PROPOSALS **WILL NOT** BE ACCEPTED.

EMAILED PROPOSALS **WILL NOT** BE ACCEPTED.

Responses, subject to all specifications and conditions contained in this RFP, must include Certification and Signature Page signed by the Respondent and, if the Respondent is a member of a firm, someone authorized to enter into contractual obligations and agreements on behalf of the Respondent's firm. *Proposals received unsigned will be deemed non-responsive and will not be accepted or considered.*

The original proposal, signed in ink, five (5) additional photocopies of the proposal, and an electronic copy of the proposal on flash drive should be submitted in a sealed envelope and delivered to the attention of:

PAEDC Chief Executive Officer  
501 Procter Street, Suite 100  
Port Arthur, Texas 77640

Respondents may deliver their proposals by mail or in person at the above address. Submissions by facsimile or email will not be accepted or considered. PAEDC will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed proposals to the PAEDC Office by the given deadline above.

PAEDC reserves the right to reject any or all proposals and to waive irregularities contained therein and to accept any proposals deemed most advantageous to PAEDC. PAEDC reserves the right to contact any Respondent for clarification after responses are opened and/or to further negotiate with any Respondent if such clarification is deemed desirable by PAEDC. PAEDC reserves the right to evaluate the responses submitted, or to reject any or all submittals should it be deemed in PAEDC's best interest. PAEDC reserves the right to negotiate with any, all or none of the Respondents.

Any Proposal may be withdrawn prior to the above-scheduled time for the opening of Proposals or authorized postponement thereof. All timely proposals become the property of the PAEDC upon receipt and shall not be returned. Any information deemed to be confidential by respondent should be clearly noted on the page(s) where the confidential information is contained. PAEDC, however, cannot guarantee that it will not be compelled

to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by the respondent may not be considered confidential under Texas law, or pursuant to a Court Order.

Any questions regarding this RFP should be directed by e mail to the PAEDC Contract Compliance Manager, Ms. Krystle Muller at [kvillarreal-muller@paedc.org](mailto:kvillarreal-muller@paedc.org) with the subject line "PAEDC Legal Services".

## B. Scope of Services

The PAEDC Attorney shall:

- Serve as the legal advisor to the Port Arthur Economic Development Corporation Board of Directors, PAEDC CEO and staff;
- Represent the PAEDC in litigation and legal proceedings as directed by the PAEDC Board President and Board of Directors; and
- Review and provide opinions as requested by the PAEDC Board President, Board of Directors or PAEDC CEO on contracts, legal instruments, ordinances of the City and other City business.

The Port Arthur Economic Development Corporation seeks legal services to assist the PAEDC in actively accomplishing its mission, including, but not limited to, representation in various aspects of law, such as advising, counseling, and rendering legal opinions to the PAEDC Board of Directors and assigned city staff concerning laws related to economic development. The PAEDC Attorney shall provide legal advice, counsel, consultation, and opinions to the Board of Directors and assigned staff on a variety of legal issues pertinent to the PAEDC including, but not limited to economic development, development services, zoning, creation/retention of primary jobs for economic development projects, community development initiatives, drafting and negotiation of incentive and real property contracts, drafting and negotiation of development agreements, assistance with applications for grants and loans, providing counsel regarding authorized use/oversight concerning application of Type A & B sales and use tax, public disclosure issues/notices, public hearings, open meetings, public information laws, formation of special districts and financing for same, and other legal matters associated with representation of a Type A & B economic development corporation.

### **PAEDC LEGAL COUNSEL MUST MEET THE FOLLOWING REQUIREMENTS:**

- The Attorney assigned to PAEDC must have a minimum of three (3) years working directly with Economic Development Corporations established under the Texas Local Government Code.

- The Attorney assigned to PAEDC must be available to attend in person all regular scheduled Board meetings and any special Board meetings, City Council meetings, or PAEDC staff meetings when requested by the Board of Directors or PAEDC staff.
- If not required to attend meeting(s) in person, Attorney assigned to PAEDC must be available to attend virtually or by phone.

**PAEDC LEGAL COUNSEL SHALL BE ABLE TO PROVIDE THE FOLLOWING SERVICES:**

- Provide legal representation and advice, to the PAEDC Board of Directors and assigned staff to provide assistance to effectively minimizing the threat of civil litigation.
- Assist and advise staff on agenda preparation for legal compliance with the Texas Open Meetings Act.
- Prepare and review legal memorandums, orders, resolutions, contracts, and other documents for legal correctness, when requested by PAEDC Board of Directors or assigned staff.
- Appear before courts and administrative agencies to represent the PAEDC's interest, as necessary.
- Work cooperatively with any special counsel retained by the PAEDC or TML Risk Pool for special projects or claims.
- Work cooperatively with the City of Port Arthurs City Manager, City Attorney, City staff and any special legal counsel retained by the City of Port Arthur for special municipal projects or joint PAEDC/City projects.
- Coordinate with other special counsel, as needed, to ensure proper management of legal issues on behalf of the PAEDC, and to ensure proper coordination and transition of legal issues.

The Port Arthur Economic Development Corporation shall have the right to retain special counsel at any time that it may deem necessary and appropriate. The PAEDC Attorney, with approval of the PAEDC Board of Directors, may select additional attorneys to act for him/her and the PAEDC in its representation and/or litigation.

The PAEDC Attorney or Firm will be required to enter into a Legal Services Agreement with PAEDC outlining terms and conditions and with provision that Legal Counsel may be removed, with or without cause, by the affirmative vote of a majority of the Port Arthur Economic Development Corporation Board of Directors.

The PAEDC may supplement or further elaborate on the scope of services as necessary to carry out the business of the Board of Directors. The PAEDC Attorney will be responsible to manage all legal counsel services provided to the PAEDC, absent action by the PAEDC Board of Directors.

## C. Proposal Stipulations & Requirements

### **A. *Modification or Withdrawal of Proposal***

Any proposal may be modified or withdrawn prior to the deadline for submission of proposals, provided such modification or withdrawal is submitted in writing and received by the City Secretary prior to the deadline. Any modification or withdrawal received after the deadline for submission of proposals will not be considered.

### **B. *Deviations***

*From this RFP and the Engagement Agreement Proposed Herein* Respondents must explicitly identify and list any and all exceptions or proposed modifications to, or deviations from, the requirements of this RFP.

### **C. *Irregularities in Proposals***

Except as otherwise stated in this RFP, evaluation of all proposals will be based solely on information contained in the written proposal. The Port Arthur Economic Development Corporation shall not be held responsible for any errors, omissions, or oversights in any submitted proposal.

The Port Arthur Economic Development Corporation may reject any proposal containing a statement, representation, warranty, or certification which the City of Port Arthur determines to be materially incorrect, false, misleading, or incomplete. Additionally, any errors, omissions, or oversights in any proposal may constitute grounds for rejection of the proposal by the PAEDC.

### **D. *References***

Proposals must be accompanied by a comprehensive list of references. Respondents are required to provide a minimum of five (5) references to whom the Respondent has provided legal services similar or relevant to those set forth in this request for proposals within the last five (5) years. The references must include the name, address, contact person, telephone numbers, email address, the legal services provided by the Respondent, and the dates those services were performed.

### **E. *Disclosure of Proposals***

The PAEDC is subject to the Texas Public Information Act, Tex. Govt. Code Ch. 552(TPIA). Once proposals are opened and the contract is awarded, all or part of the proposals may be subject to disclosure to the public upon request. The TPIA, however, does not require disclosure of trade secrets or confidential commercial or financial information obtained from a Respondent. If the PAEDC receives a request for disclosure of a proposal under the TPIA, the PAEDC will send a notice to the Respondent submitting the proposal within ten days after receipt of the request. The notice will inform the Respondent of his or her rights under the TPIA. If a proposal includes proprietary data or information that the Respondent does not want disclosed to the public, such data or information should be specifically identified as such on every page on which it is found.

***F. Retention of Proposals***

All proposals submitted to the Port Arthur Economic Development Corporation shall become the property of the PAEDC and will not be returned to the Respondent submitting the proposal.

***G. Expenses***

The Port Arthur Economic Development Corporation shall not be responsible for expenses incurred by the Respondent in preparing and submitting a proposal.

***H. Term of Engagement***

The initial term of engagement is three (3) years. The PAEDC Attorney serves at the pleasure of the Port Arthur Economic Development Corporation Board of Directors. Either party can terminate the representation at any time for any or no cause, subject to the restrictions and requirements imposed by the Texas Disciplinary Rules of Professional Conduct.

It is important to note that in order to be considered for the role of PAEDC, Respondents or members of the firm cannot represent any other municipality or economic development corporation adjacent to the City of Port Arthur, Texas.

The PAEDC reserves the right to grant a Respondent or member of his or her Firm the ability to represent a municipality within another city adjacent to Port Arthur on a case by case basis.

***I. Engagement of an Individual; Use of Other Attorneys***

The Port Arthur Economic Development Corporation is intending to engage a specific individual, in distinction to a firm, to serve as PAEDC Attorney. Nevertheless, the PAEDC Attorney is permitted to delegate work to other attorneys and paralegals (i) within the PAEDC Attorney's firm or (ii) if the PAEDC Attorney is not in a firm, to such other Texas lawyers as PAEDC Attorney selects, on a limited basis and only when he or she reasonably believes those individuals will support his or her performance and enhance its value to the Port Arthur Economic Development Corporation. The Respondent must remain fully involved and responsible for all work performed on his or her behalf. If the Respondent is in a firm, the dissolution of that firm will not terminate this engagement; if the Respondent joins a firm, it will promptly agree to the terms of the Engagement Agreement.

***J. Standards of Professional Conduct***

In performing services, the PAEDC Attorney and any other attorneys assisting the PAEDC City Attorney will provide competent legal services to the PAEDC in a professional and skilled manner consistent with the Texas Disciplinary Rules of Professional Conduct and in compliance with the Texas Lawyers Creed.

***K. Other Restrictions and Requirements***

The PAEDC Attorney must be a member in good standing of the State Bar of Texas. The PAEDC Attorney is subject to Tex. Govt. Code Ch. 572 Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest. Neither the PAEDC Attorney, nor his or her spouse if any, may be an officer, employee, or paid consultant of the City of Port Arthur or the PAEDC.

***L. Non-Discrimination Policy Statement***

The Port Arthur Economic Development Corporation does not discriminate against any individual or Respondent with respect to compensation, terms, conditions, or award of contract because of race, color, religion, sex, national origin, age, disability, political affiliation, or limit, segregate, or classify candidates for award of contract in any way which would deprive or tend to deprive any individual or firm of business opportunities or otherwise adversely affect status as a Respondent because of race, color, religion, sex, national origin, age, disability, or political affiliation.

***M. Non-Interference/Lobbying***

Respondents shall not lobby, discuss, inquire, or otherwise communicate with a member of the Port Arthur City Council or Port Arthur Economic Development Corporation Board of Directors including the Mayor and the Board President, regarding your submission or any other submission. Any such communication shall be considered immediate grounds for rejection of the submission.



## D. Proposal Contents and Format

### Each proposal shall contain the following:

- Title Page with the Respondent's Information Name of the Respondent
- Name of the Respondent's law firm, if any Mailing Address
- Name and contact information of lead Attorney assigned to PAEDC
- Website Address Telephone Number
- Email Address

### Table of Contents

- At least five references, including: Name
- Address Contact person
- Telephone number Email address
- Services provided by the Respondent and dates such services were provided

### Proposals and Background

- Brief history of the Respondent's Firm and experience, including areas of expertise to meet minimum requirements.
- A resume/curriculum vitae including years of experience, licensure, education, professional affiliations, etc. for the lead attorney to be assigned.
- Relevant prior experience, specifically including work for Economic Development Corporations and other governmental agencies.
- Relevant experience working on or knowledge of Texas Local Government Code Chapters 501-505 relating to economic development, open records, open meetings, and other applicable state law pertaining to state and local agencies, as well as parliamentary procedure and other legal issues relevant to this engagement.
- A description of the Respondent's law firm (if applicable) and indicate the location of the responsible office.
- A description of backup attorney(s) within your firm or, if the Respondent is not in a firm, otherwise available to the Respondent who would be available on a limited basis in your absence and other support staff, both professional and administrative, who would provide resources to this engagement. Resumes of key staff, particularly backup attorney(s) in your firm or otherwise available to you, should be included.
- A statement of whether the Respondent has ever been successfully sued for malpractice, been the subject of complaints filed with the State Bar Chief Disciplinary Counsel's Office or had any sanction imposed under the Texas Disciplinary Rules of Professional Conduct or the corresponding rules of another jurisdiction. Please provide information on the incident(s) if applicable.

## **Disclosures**

- Disclosures of actual and potential conflicts of interests, if any, including but not limited to identifying each and every matter in which the Respondent or the Respondent's firm (if any) has, within the past calendar year, represented any entity or individual with an interest adverse to the Port Arthur Economic Development Corporation or assigned staff.
- Provide a statement concerning other potential areas for conflicts of interest that may arise because of the Respondent's work or the work of others in your firm (if any). Conflicts of interest may be waived or consented to only in writing by the PAEDC Board President.

## **Fees and Expenses**

- Cost-effectiveness is a critical criterion in the assessment and award of the contract for legal services. The rate(s) agreed upon shall remain in effect for the entire initial contract period of three years and may be subject to adjustment upon renewal and approval by the PAEDC Board of Directors. If proposing work be done/billed to the PAEDC on an hourly basis, the Respondent should identify the rates associated with each individual involved in representing the PAEDC. The PAEDC will only pay for the time of one attorney involved in a task, unless work by multiple attorneys is approved in advance. If a Respondent is proposing to bill on an hourly basis, all billing must be in increments not greater than one-tenth of an hour (.10). All Expenses will be reimbursed only at Respondent's actual costs, with no inflationary factor allowed. The contract will enumerate non-compensable fees, such as, but not limited to, routine clerical tasks including conducting "conflicts checks", opening files, and file organization. No work may be "attorney initiated" and fees generated for such work will not be paid by PAEDC. Invoicing shall be done by the attorney by means of a detailed invoice, submitted on a monthly basis, and will be paid by PAEDC in the regular course of its operation, e.g., within 30 days of receipt of the invoice.
- Fees: A full description of proposed fees for the PAEDC Attorney and for all support attorneys and personnel anticipated to participate in this engagement, including whether the Respondent charges for travel time and, if so, whether the Respondent provides reduced rates for travel time; note that (i) if later requested by the PAEDC Attorney, the Port Arthur Economic Development Corporation will consider the use of a retainer once it has sufficient experience with this engagement to reliably size the retainer and (ii) travel to the Port Arthur Economic Development Corporation will not be compensable and no expenses will be reimbursable.
- Expenses: Define the types and rates for reimbursement of expenses. Identify and describe the types of out-of-pocket expenses or other items for which the Respondent would seek reimbursement and the expected annual range for these expenses. For example, describe the rate for mileage, reproduction of documents

or word processing charges, facsimile or telephone charges, and any other matters that would be billed to the Port Arthur Economic Development Corporation.

- Other: Identify and describe any other fees or administration rates that may apply for the use of outside counsel, litigation expenses, or any other circumstances.
- Description of experience addressing professionalism, contract performance, experience and quality of personnel, responsiveness and flexibility, and any other information addressing the Respondent's capability to achieve client confidence and satisfaction.
- Proof of insurance meeting the conditions provided in this RFP.
- Completed Form W-9.
- Any additional descriptive literature which might be of assistance in the proposal consideration process.
- Statement of Deviation from this RFP, if any.
- The Respondent's Certification and Signature Page

## E. Requirements

**\*\*Note:** A current Certificate of Insurance must accompany all proposals

### A. Policies, Coverage, and Endorsements

- The PAEDC Attorney must maintain, for the PAEDC Attorney and for all other attorneys, paralegals, and others providing services under the Engagement Agreement to maintain, at the PAEDC Attorney's sole cost and expense, the following insurance policies, with the specified coverage and limits, to protect and insure the PAEDC Attorney against any claim for damages arising in connection with the PAEDC Attorney's and his/her colleagues responsibilities and provision of services under the awarded contract and all extensions and amendments thereto.
  - Workers' Compensation Statutory requirements
  - Employer's Liability \$500,000.00 Comprehensive General Liability
  - \$1,000,000.00 aggregate; \$1,000,000.00 each occurrence
  - Comprehensive Automobile Liability (any automobile, hired automobile, non-owned automobile)
  - Bodily injury: \$1,000,000.00 each person; \$1,000,000.00 each occurrence  
Property damage: \$1,000,000.00 each occurrence
  - Professional Liability
    - Minimum \$1,000,000.00 with terms and carrier acceptable to the Port Arthur Economic Development Corporation

**B. Insured Parties**

All policies must contain a provision naming the Port Arthur Economic Development Corporation, its officers, directors, agents, and employees, as Additional Insured parties on the original policy and all renewals and replacement policies during the term, including extensions, of the engagement.

**C. Subrogation**

All policies must contain a Waiver of Subrogation endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against the Port Arthur Economic Development Corporation, its officers, directors, agents, or employees.

**D. Proof of Insurance**

The policies, coverage, and endorsements required by this RFP shall be shown on a Certificate of Insurance on which the "Port Arthur Economic Development Corporation" must be listed as the Certificate Holder and which should be furnished to the PAEDC prior to the commencement of the engagement. All such insurance shall be secured and maintained with an insurance company, or companies, licensed to do business in the State of Texas. The PAEDC may withhold payments under the terms of the Engagement Agreement until the PAEDC Attorney furnishes the Port Arthur Economic Development Corporation copies of all Certificates of Insurance from the insurance carrier, or carriers, showing that such insurance is in full force and effect.

**E. Renewal and Cancellation**

New Certificates of Insurance shall be furnished to the Port Arthur Economic Development Corporation at the renewal date of all policies named on these Certificates. The PAEDC Attorney shall give the Port Arthur Economic Development Corporation thirty (30) days prior written notice of any proposed cancellation of any of the above described insurance policies.

## F. Deviation

All proposed exceptions, modifications, or other deviations by the Respondent to the specifications, terms, and conditions of this RFP and proposed provisions of the Engagement Agreement must be noted. In the absence of any entry, the Respondent assures the Port Arthur Economic Development Corporation of its full agreement and compliance with all specifications and terms and conditions of this RFP and the Engagement Agreement.

## G. Certification and Signature Page

Each submission must contain the following language:

This submission of proposal in Response to the Port Arthur Economic Development Corporation's RFP for Legal Services is guaranteed as an irrevocable offer commencing on the deadline date for submission of proposals and continuing for a period of one hundred twenty (120) days.

By signing the submission, the Respondent agrees to provide the items and services described in its proposal and certifies as follows:

1. That all terms and conditions listed in or made a part of this RFP will be met.
2. That the Respondent has not given, offered to give, nor intends to give at any time any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, service, or other inducement to a public servant in connection with the submission.
3. That no employee of the City of Port Arthur nor member of the Port Arthur Economic Development Corporation Board of Directors has a direct interest in the proceeds from the proposed Engagement Agreement awarded as a result of this RFP, and that no employee of the City of Port Arthur nor member of the Port Arthur Economic Development Corporation Board of Directors is related within the second degree of consanguinity or affinity to anyone who has a direct interest in the proceeds of the Engagement Agreement awarded as a result of this RFP.
4. That the Respondent has disclosed to the Port Arthur Economic Development Corporation any existing or potential conflicts of interest relative to the performance of the Engagement Agreement, and that failure to make such disclosure will be grounds for termination of any contract awarded pursuant to this RFP.

## H. The PAEDC Selection Process

The PAEDC provides the anticipated schedule for completion of the selection process. This schedule is for information purposes only and may be adjusted as needed by the PAEDC.

<u>March 22, 2022</u>	RFP released
<u>June 2, 2022</u>	RFP submission deadline at 3:00 p.m. local time
<u>June 13, 2022</u>	Anticipated interviews with selected respondents
<u>July 5, 2022</u>	Anticipated award date

Written Qualification Statements and Proposals will be evaluated by the PAEDC Selection Committee on the following weighted criteria:

- Applicable experience and responsiveness to mandatory requirements of the designated attorney (35%)
- Applicable experience and responsiveness of law firm and any assisting attorneys (20%)
- Cost-effectiveness (20%)
- References (15%)
- Completeness and professionalism of submission (10%)