

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

SPECIAL MEETING

TUESDAY, NOVEMBER 19, 2013; 5:30 P.M.

VETERAN'S HALL - 209 SURF STREET, MORRO BAY, CA

- I. ESTABLISH QUORUM AND CALL TO ORDER**
- II. MOMENT OF SILENCE**
- III. PLEDGE OF ALLEGIANCE**
- IV. PUBLIC COMMENT** - Members of the audience wishing to address the Council on City business matters not on the agenda may do so at this time. For those desiring to speak on items on the agenda, but unable to stay for the item, may also address the Council at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

- V. REVIEW, DISCUSSION AND DIRECTION OF DRAFT REQUEST FOR PROPOSAL FOR INTERIM CITY ATTORNEY**
- VI. APPROVAL OF SUBLEASE OF 307 MORRO BAY BLVD TO GRANDMA'S FROZEN YOGURT AND WAFFLE SHOP (LENNY DURRER AND BEVERLY FORD-DURRER)**
- VII. ADJOURNMENT**

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6205 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

DATED: November 15, 2013

Jamie Boucher, City Clerk



AGENDA NO: V.
MEETING DATE: 11/19/2013

Staff Report

TO: Honorable Mayor and City Council Members **DATE:** November 6, 2013
FROM: Susan Slayton, Administrative Services Director
SUBJECT: Review, Discussion and Direction of Draft Request for Proposal for Interim City Attorney

RECOMMENDATION

City Council to review the draft Request for Proposal (RFP) for Interim City Attorney, suggest/recommend changes, consider alternatives and direct staff accordingly.

ALTERNATIVES

1. Direct staff to implement suggested or recommended changes to the RFP, and issue it as soon as possible.
2. Table the RFP, and negotiate gap coverage for the estimated duration of time it would take for the recruitment of a City Attorney (contract or employee).

FISCAL IMPACT

There is no fiscal impact at this time.

SUMMARY

As directed at the October 25th City Council meeting, staff is presenting a draft RFP for Interim City Attorney services. Any changes made at this meeting will be incorporated into the final document, and issued as soon as possible. Additionally, staff is providing an alternative to the RFP process, in the form of recruitment for a City Attorney.

CONCLUSION

Staff has included a draft of the RFP for Interim City Attorney services for City Council's review. All changes made will be incorporated into this document, and depending on the number and significance of the changes and the decision made at this meeting, the RFP will be released at its earliest convenience or tabled for alternatives.

Prepared By: _____ **Dept Review:** _____
City Manager Review: _____
City Attorney Review: _____



City of Morro Bay

Request for Proposal

Interim City Attorney

Issue date: November 13, 2013

Deadline for submittal: Tuesday, December 3, 2013

Contact person: Andrea Lueker, City Manager
(805) 772-6205
alueker@morro-bay.ca.us

I. GENERAL INFORMATION

A. Introduction

The City of Morro Bay invites qualified municipal law firms and attorneys (Proposer) to submit written proposals to provide Interim City Attorney services for the City as identified in this Request for Proposal (RFP). As Interim City Attorney, the selected firm or individual(s) will be expected to provide a wide range of legal services to the City. The Interim City Attorney will be selected by, and serves at the pleasure of, the City Council, and will work closely with the City Council, City Manager and other City staff. The initial term of the Interim City Attorney is anticipated to be six (6) months.

B. Proposed Time Schedule

Release of RFP	November 13/14, 2013
Deadline for written questions	November 21, 2013
Responses to questions posted on the website	November 25, 2013
Deadline for proposals	December 3, 2013, 5pm
Evaluation completion	December 4-9, 2013
City Council selection for interviews	December 10, 2013
Interviews	December 16-20, 2013
Contract award	December 2013/January 2014

C. Submittal Guidelines

Proposers, who are interested in submitting an RFP for Interim City Attorney, shall submit one (1) original unbound RFP, marked "ORIGINAL," one electronic version, in pdf format, on a CD or "thumb-drive," and seven (7) bound copies, marked "COPY," on or before the deadline for proposals date indicated above. The envelope shall be addressed as follows:

Andrea Lueker, City Manager
City of Morro Bay Interim City Attorney RFP
595 Harbor St.
Morro Bay, CA 93442

Proposals may be submitted by US Mail, other delivery services, or delivered in person to the address above, but must be received by 5:00 pm on Tuesday, December 3, 2013. Only proposals delivered to City Hall in the format as stated in this RFP will be considered; facsimile or electronic proposals will not be accepted. Please note that City Hall is closed from Thursday, November 28 through Sunday, December 1, 2013. During this time, should there be any inquiries, please email City Manager Andrea Lueker at alueker@morro-bay.ca.us.

D. Reservation of Rights

This RFP does not commit the City to enter into an agreement. Further, it does not obligate the City of Morro Bay to accept or execute an agreement for any expressed or implied services. The City reserves the right to:

1. Reject any and all proposals received, and to accept or reject any item(s) herein.
2. To waive irregularities if such would serve the best interests of the City as determined by the City Council.
3. To request additional information for purposes of clarification.
4. To accept or negotiate any modification to any proposal following the deadline for receipt of all proposals.
5. Terminate this RFP process at any time.
6. Modify, clarify, or interpret the RFP by sending an addendum to Proposers that originally received or requested an RFP, along with posting that addendum on the website. Any such addendum shall become part of the RFP and of any contract awarded.
7. Allow Proposer(s) to make modifications to the proposal already submitted to the City by submitting a written request to withdraw the proposal in order to make the modifications. It is the responsibility of each Proposer to ensure that modified proposals are resubmitted in accordance with the RFP submittal deadline.
8. Allow Proposer(s) to withdraw the proposal by submitting an email or written request to Andrea Lueker, City Manager, requesting to withdraw. Withdrawal requests must be made prior to 4:00 pm on Tuesday, December 3, 2013, in which event the proposal will be returned to the Proposer.

E. Acceptance of Conditions

The firm or attorney selected to provide City Attorney services shall be an independent contractor. All persons employed by a firm, in accordance with a contract resulting from the RFP, will be employees of the firm, and not employees of the City.

The City is not liable for any costs incurred by Proposers before entering into a formal contract. Costs for developing the proposal or any other such expenses incurred by Proposers in responding to the RFP are entirely the responsibility of the Proposers, and shall not be reimbursed in any manner by the City.

The City requires all Proposers to comply with all applicable federal and state laws. All Proposers are required to comply with equal opportunity policies. The City of Morro Bay's programs, services, employment opportunities, and volunteer positions and contracts are open to all person regardless of race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, physical or mental ability, veteran status, military obligations, marital status or any other basis prohibited by state and/or federal law relating to discrimination in employment.

The successful contractor will be required to obtain a City of Morro Bay Business License prior to commencing work, and maintain active status of that license throughout the relationship with the City. Information regarding the application and fees for a business license may be obtained by calling (805) 772-6261.

Any questions regarding the RFP should be directed to Andrea Lueker, City Manager, by email (alueker@morro-bay.ca.us) or by phone (805-772-6205).

F. City of Morro Bay

Incorporated in 1964, Morro Bay is a general law City located on California's Central Coast, halfway between San Francisco and Los Angeles on Scenic Highway 1. With a population just over 10,000, the City has the City Council/Manager form of government. Morro Bay enjoys a temperate year-round climate, which makes it an ideal location for a variety of recreational activities. The atmosphere offers residents the peaceful tranquility of a coastal fishing village within close proximity to metropolitan areas.

Morro Bay is a full-service City, including police and fire protection, a vast array of recreation programs, local transportation, planning and permit processing, water utility, public works, sewer and storm drain maintenance, street maintenance, park maintenance, harbor, and other general and administrative governmental services. Our Harbor Department manages tidelands that were granted to the City upon its incorporation, and leases out these lands to private businesses.

The City Council is comprised of five (5) members elected at large. The Mayor is elected for a two (2) year term and the other four members serve four (4) year terms. The City Council meets on the second and fourth Tuesdays of the month at 6:00pm.

Additional information can be found on the City of Morro Bay website: www.morro-bay.ca.us.

G. Submittal Deadline

Tuesday, December 3, 2013 at 5:00 p.m.

II. SCOPE OF SERVICES

The anticipated Scope of Services will include, but are not limited to the following (see Attachment A for additional information about the office of the City Attorney):

General Legal Services

1. Attend all closed, regular and special City Council meetings, all appeals held before the Planning Commission, and such meetings of other Boards, Committees and Commissions of the City as may be specified by the City Council majority and as needed.

2. Provide general legal services, routine legal assistance, advice and consultation to the City Council and City staff relating to the Meyers-Milias-Brown Act, general municipal and public law issues, potential tort liability and risk management.
3. Except where conflict of interest rules require otherwise, supervise and coordinate the activities of all other counsel retained by the City or working on behalf of the City.
4. Provide legal advice, telephone, email and personal consultations with members of the City Council and City staff.
5. Review and/or prepare legal opinions, staff reports, Ordinances, Resolutions, agreements, contracts, forms, notices, certificates, deeds, leases, and other documents required by the City.
6. Perform legal work pertaining to land use issues, including, but not limited to, property transactions (e.g., acquisitions, disposals), public improvements, easements, dedications and right-of-way vacations.
7. Monitor pending and current state and federal legislation and court decisions, as appropriate, and provide written updates on those that have the potential to affect the City. Provide suggested action or changes in operations or procedures to assure compliance.
8. Consult with the City Council and City staff as needed, render legal advice and opinions (both oral and written), and perform such other or additional general legal services as may be requested by the City, acting by and through the City Council or the City Manager.
9. Enforce City codes, zoning regulations and building standards through administrative and judicial actions.
10. Provide training and guidance with regard to the requirements of the Meyers-Milias-Brown Act, Open Meeting Law (Brown Act -Government Code 54550 et seq, Conflict of Interest (AB1234), CEQA, the Public Elections Code, the Public Records Act and other legal requirements imposed by statute and common law.
11. Advise the Council on municipal government legal matters, including the Meyers-Milias-Brown Act and parliamentary procedures for running meetings.
12. Provide attorney(s) on-site office hours, 25 per week as scheduled by the City Council, and attend weekly Department Head staff meetings as well as post City Council Department Head staff meetings.
13. Have experience with Coastal issues, including working with the California Coastal Commission as well as other regulatory agencies.
14. Perform all duties of the office of City Attorney as provided in the Morro Bay Municipal Code (see Attachment A).
15. Promptly return all calls and e-mails from the City Council and City staff.
16. Communicate with the press.

Litigation Services

1. Represent the City in civil litigation brought on behalf of or against the City, as directed by the City Council.
2. Provide litigation services to the City in any and all matters assigned by the City.
3. Prosecute misdemeanor and infraction violations of the City Municipal Code

Other Specialized Legal Services as Requested

1. Provide legal services pertaining to labor, employment, pension law (the City is a member of CaIPERS), public retirement systems, and personnel matters.
2. Advice regarding taxes, assessments, fees, Proposition 218, and other financial advice.
3. Environmental Legal Services other than routine review of negative declarations, environmental impact reports and other project-level environmental documentation.
4. Real Estate services, other than routine review of escrow documents, title reports and contracts of sale.
5. Advice regarding insurance coverage matters, such as advice and representation regarding coverage disputes.
6. Advice regarding water law and regulations.
7. Other specialized services as requested by the City.

It is expected that the Proposer will have in-house capabilities to advise, and if necessary, initiate and defend litigation pertaining to the Public Records Act, Meyers-Milias-Brown Act, election law, general liability, risk management, environmental law, including CEQA and NPDES, contracts and franchises, real estate, land use, human resources/labor relations, construction defects and code compliance.

The Interim City Attorney is required to attend two Council meetings per month held on the 2nd and 4th Tuesdays of each month and all appeals held before the Planning Commission; in addition, the Interim City Attorney is expected to be available to attend other closed, regular and special meetings, as needed.

III. PROPOSAL FORM AND CONTENT

A. Proposal Submittal

All pages of the proposal must be numbered consecutively. The proposal must be organized in accordance with the list of proposal contents. The proposal must provide specific and succinct responses to all questions and requests for information.

Proposers must address the Scope of Services in Section II. Proposals and the fee schedule must be valid and binding for ninety (90) days following the proposal due date, and may become part of the agreement with the City.

B. Letter of Transmittal

Include a cover letter signed by the attorney or a duly authorized representative of the firm. The cover letter must include name, address, telephone number and e-mail address of the Proposer submitting the proposal. In addition, the name, title, address, telephone number, fax number and e-mail address of the person or persons who are authorized to represent the Proposer, and to whom any and all correspondence should be directed, shall be included.

C. Table of Contents

Include clear identification of the submitted material by section and by page number.

D. Summary

Summarize key provisions of the proposal. Provide a statement describing why the Proposer is qualified to perform this work, the name(s) of individual(s) who would serve as the Interim City Attorney.

E. Statement of Understanding

Include a detailed statement of understanding of the legal services to be provided to Morro Bay. If there are services listed in the RPF that the Proposer will not be able to provide, please address such in your response.

F. Background and Experience (see Attachment A)

1. Official name and address, and specify the type of entity (sole proprietorship, partnership, LLC, corporation, etc.)
2. Describe background and history; include number of years in business. Describe the expertise that is able to be provided to the City; if a recognized area of expertise exists, please describe that expertise (i.e., Land Use, Personnel, Public Pension law, Code Enforcement, Public Finance, Bonds, etc.)
3. Describe experience advising municipalities with voter-approved initiatives.
4. Describe experience advising municipalities, regarding bond covenants and complying with bond covenants.
5. List the location of the office that would serve the City of Morro Bay.
6. Identify support staff services available (clerical support, paralegals, other non-attorney staff.)

G. Approach to Legal Services

1. Describe your view of the role of the Interim City Attorney.
2. Describe how you track and manage legal costs.
3. Describe how, as Interim City Attorney, you would work with the City Council and participate in City Council and other meetings.
4. Describe your or your firm's practices regarding professional development, training, and keeping current with the law and legal matters affecting clients.
5. If Proposer is a firm, describe the methodology used to determine the delegation of City assignments within the firm; for example, is the individual identified as the "Interim City Attorney" responsible for personally handling, drafting, and preparing all City matters, or will work be delegated to less senior staff.
6. List specialty services you do not provide. For any specialty services you do not directly provide, describe how you propose the City receive such services. If you propose to use a subcontractor, please name the firm, if possible, and the principal attorney(s) from the firm who would provide service to the City.

H. Proposed Attorney(s)

Name the person who will be designated as the Interim City Attorney, and provide the following:

1. Certificates or licenses, including the date of admission to the State Bar of California.
2. Description of education, including names of educational institutions, degrees conferred, and year of each degree.
3. Professional background and professional associations.
4. Experience with, and knowledge of, the law relating to general law cities, including, but not limited to, Meyers-Milias-Brown Act, land use and planning, environmental law, including the California Environmental Quality Act, General Plans, code enforcement, labor relations/personnel law, and other areas of municipal law.
5. Specific areas of expertise and training.
6. If Proposer is a firm, provide names and qualifications, including years of experience, of other attorneys in the firm who would be able to provide legal series in support of the primary attorney.

I. References and Potential Conflicts of Interest

1. Provide contact information for five municipal clients for which services have been provided by the designated attorney in the last three years; please include the contact person's name, agency, phone and e-mail address for the purpose of conducting reference checks.

2. List all public clients for whom you or your firm currently provides, or has provided, services for the past five (5) years. Indicate the services provided. For those past clients who are no longer represented by you or your firm, provide an explanation regarding the reason why they are no longer represented by you or your firm. Identify any foreseeable or potential conflicts of interest that could result from representation with any current clients, and the manner in which you or your firm would propose to resolve such conflicts.
3. For the person designated as Interim City Attorney, list all public clients that this individual presently represent, along with the meeting dates and times for each governing body.
4. List all private clients of you or your firm, and identify any foreseeable or potential conflicts of interest that could result from such representation and the manner in which you or your firm would propose to resolve such conflicts.
5. If the firm or individual, or any of the attorneys employed by the firm, have been sued by cities and/or other clients for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, please provide information on the nature of the incident, the date the matter was resolved, and the results.

J. Compensation and Reimbursement

Describe your or your firm's general billing approach

1. Is work that is applicable to a number of clients billed 100% to each client, or is the cost shared between clients?
2. If the costs are shared between clients, what is the method used to divide the costs?
3. In what time increment is work billed?
4. If a work product was completed for another client, and the City of Morro Bay requests similar work product, how is Morro Bay billed for the work product?

Describe how you or your firm intends to charge for legal services for the three categories of legal services described in Section II (General Legal Services, Litigation Services and Other Specialized Legal Services). Please include, in a table format, hourly rates for all personnel that could be utilized in your performance as Interim City Attorney, and ensure that these rates will be binding for the term of the contract and costs that you would expect to be reimbursed for, as well as any markup

Describe how you or your firm would provide services on a monthly retainer basis. Include information regarding:

1. The number of hours of General Legal Services per month that would be included in the retainer.
2. Describe what occurs when the City requires fewer or more hours of General Legal Service in a given month.

3. Identify whether the retainer includes all of the services in Section II, "General Legal Services"; and whether there are additional services you or your firm would include in the retainer.
4. Identify which services would not be included in your proposed retainer, and which you consider to be Specialized Legal Services, which would be billed in addition to retainer services. Identify the rate for these non-retainer services. If an hourly rate basis is used for Litigation Services and Other Specialized Legal Services, please state the hourly rates for the Interim City Attorney and any other attorneys or paralegals assisting such person in providing services. Provide this information in a table format.

If a separate individual or firm is proposed as a subcontractor to Proposer, specify the hourly rates for each type of service to be provided as well as the rates for any items which would be billed separately. Also provide information regarding the principal attorney(s) and firms that would provide such service(s).

Specify which items, if any, are billed separately and at what rate. Such items might include postage, duplicating/printing, etc. Specify if any overhead or administrative charge is added to billings for these items.

K. Agreement

As the successful Proposer is expected to enter into an agreement with the City, please provide a proposed form of agreement for the services.

In addition to indemnification and hold harmless language, the agreement should include a requirement for professional errors and omissions insurance in an amount of not less than \$1,000,000 per occurrence, and \$2,000,000 aggregate, general liability insurance in an amount of not less than \$1,000,000 per occurrence, and \$2,000,000 in aggregate, automobile liability insurance in an amount of not less than \$1,000,000 per accident, and workers' compensation insurance as required by State law.

The Proposer chosen will name the City as a Certificate Holder for all of the above named insurance policies.

The City shall be named as Additional Insured for the general liability as well as the automobile liability (including Non-owned Auto) insurance coverage.

All coverage must be provided by an insurance company authorized to do business in the State of California, with a rating of at least AVII in the latest edition of Best's Insurance Guide.

L. Additional Information

In this section, provide any other information the Proposer believes is applicable to the evaluation of the proposal or your qualifications for providing the proposed legal

services. You may use this section to address those aspects of your services that distinguish you and your firm from others.

IV. REVIEW AND SELECTION PROCESS

A. Process

- The City Council will appoint a 3-member subcommittee (two City Council members and the City Manager or her Department Head designee to provide an initial review and ranking of the proposals.
- The results of the sub-committee review and ranking will be presented for discussion at the December 10, 2013 City Council meeting and the City Council will determine those firms/individuals to interview.
- During the week of December 16-20, 2013, the City Council will hold interviews in a Special City Council meeting for the top candidates. The top firms/individuals may be asked to provide a brief presentation as part of their interview.
- Following the interviews, and at a subsequent City Council meeting, the City Council will choose a firm/individual and award the contract.

B. Evaluation Criteria

The following information will be considered during the evaluation process:

1. Experience and qualifications identified in the Proposal.
2. Complete and clear response to requested matters in the Proposal.
3. Adequate local availability, support to the Council and staff, and range of services offered.
4. Demonstration of workload capacity and level of experience of the designated Interim City Attorney.
5. Professional reputation for providing high-quality services and ability to work cooperatively with the City Council and staff.
6. Service orientation and creativeness in finding solutions to legal issues.
7. Demonstrates an understanding of Morro Bay.
8. Communication skills.
9. Depth and breadth of experience and expertise in the practice of law, most specifically in municipal law.
10. Demonstrated expertise in land use and zoning law as it relates to municipalities with voter approved slow growth initiatives.
11. Demonstrates sound judgment, integrity, and reliability as determined by the references provided.
12. Capability to perform legal services promptly and in a manner that permits the City Council and staff to meet established deadlines and to operate in an effective and efficient manner.
13. Degree of availability for quick response to inquiries that arise out of day-to-day operations, questions, or problems.
14. Cost of providing services. Note that while cost is important, it is not necessarily the most critical factor in evaluating a Proposal.

15. Other qualifications/criteria as deemed appropriate by the City Council.

V. CONCLUSION

While the City of Morro Bay expects that the proposing individual or firm shall have the breadth of experience to serve a full-service municipality and/or the ability to retain the necessary staff in each of the legal disciplines as outlined in the above proposal, it is not the intention of the City of Morro Bay to limit prospective respondents to large size law firms. Smaller entities, with the acumen to select outside special counsel to fulfill the needs of the City and also be cognizant of managing costs, are encouraged to respond to this request for proposal.

DRAFT



AGENDA NO.: VI

Meeting Date: 11/19/13

THIS STAFF REPORT

VI. "APPROVAL OF SUBLEASE OF 307 MORRO BAY BLVD TO GRANDMA'S FROZEN YOGURT AND WAFFLE SHOP (LENNY DURRER AND BEVERLY FORD-DURRER)"

NEGOTIATIONS ARE ONGOING; IF WE ARE ABLE TO MOVE FORWARD AND PRESENT THE ITEM, THE REPORT WILL BE MADE AVAILABLE AT THAT TIME.

We will have copies available at the meeting for the public.