

CITY OF SEBASTOPOL CITY COUNCIL

AGENDA ITEM REPORT FOR MEETING OF: May 7, 2024

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To: Honorable Mayor and City Councilmembers
From: City Manager
 Assistant City Manager/City Clerk
 HR Consultant
Subject: Process for Evaluation of City Attorney Proposals

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RECOMMENDATION: This item is to request Approval of Process for Evaluation and Interviews for appointment for City Attorney Services.

EXECUTIVE SUMMARY:

The current City Attorney Larry McLaughlin will be retiring from the City of Sebastopol after many years of service to the City. Based upon his retirement, the City issued Request for Proposals (RFPs) for City Attorney Services. The deadline to submit proposals is May 1st 2024. As this report was written prior the deadline, the City does not have a list of proposals but will provide the number of submittals at the May 7, 2024 Council Meeting. Tonight’s item is to obtain Council feedback and approval for the next steps which is the evaluation and interview process.

BACKGROUND:

The role of the City Attorney is listed below.

- Providing clear and concise legal advice and consultation as requested, to the governing body and staff. Response is required within a mutually agreed upon timeframe.
- Attend City Council meetings and be prepared to advise the Council and Staff on matters on the agenda as well as parliamentary procedure and substantive issues that arise during the meeting.
- Attendance at City Council Commission, Board, Committees and other meetings as assigned such as Ad Hoc and Standing committee meetings or joint meetings with outside agencies may be requested from time to time.
- Prepare occasional reports and present information at public meetings as needed
- Providing guidance and training with regard to the Brown Act, Conflict of Interest, CEQA, Political Reform Act, Public Records Act, Law, Ethical law advice and analysis, Election, tort liability and risk, due process and other legal requirements imposed by statute and common law, as well as a working knowledge of municipal employment practice and public administration to public officials, elected, appointed officials and City staff.
- Providing designated office hours or times of availability, as agreed to with the City Council.
- Prepare, review, and revise Staff documents, including, but not limited to, initiation of memoranda concerning legal issues, contracts, agreements, ordinances, resolutions, land use decisions including appeals, public improvements, easements, dedications, rights-of-way, and City Council Staff reports.
- Represent, coordinate and/or advise the City in litigation not covered by REMIF, CIRA or LWP or otherwise handled by outside counsel.
- Representing the city in litigation and oversee coordination with special legal counsel on all City litigation including oversight of the City’s risk management program
- Providing legal advice and assistance to operating departments.
- Review compliance with public records for public records requests, records destruction and assist with contract development. Provide and maintain templates for contracts, agreements and other documents so that staff can prepare these items with minimal or no need for legal review.
- Providing legal advice and assistance to various City Commissions and Boards.
- Performing legal work related to land use issues.

- Researching municipal or other legal matters as requested by the City Council and at times City Manager or City Manager designee.
- Prepare an estimated legal budget for inclusion into the City's annual adopted budget.
- 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.

As of the writing of this report, the deadline had not passed. City staff will inform the City Council at the May 7th Council meeting the number of applicants/firms to be interviewed.

Per the Request for Proposal, the City Council will determine the process by which the statements are reviewed, although it is anticipated that the material provided in the Statements of Qualifications, interviews with the firms, and/or interviews with references, will be the determinative factors in selecting counsel. The fee arrangements proposed by firms are important, as well as experience, service delivery, communications, and other qualifications of the firm. Following the interviews, thorough background and reference interviews may be conducted. The City Council anticipates making a selection of a firm or firms following a careful evaluation of all relevant information.

ANALYSIS:

As each City is unique, so too is each city's need for legal counsel. The decision to hire a contract attorney versus an in-house attorney, or use a combination of the two, is one that each city needs to decide for itself. Currently Sebastopol has an in house attorney. As the deadline has not passed as of the writing of this report, it is unclear if any individual applicants have submitted a RFP. However, whether it is an individual or firm, it is imperative that the City conduct its due diligence in the selection of an applicant/firm for City Attorney services. Interviews were tentatively scheduled for the week of May 13th, 2024. However, it would be recommended that interviews be conducted the week of May 20th, 2024 based upon the decision of the process tonight.

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

There is no fiscal impact with approval of the process tonight.

OPTIONS:

It is recommended that the Council consider options for evaluation of the proposals as well as interview process. For consideration, staff has presented some options for consideration; however understanding the Council may discuss and consider options not listed.

1. City staff review of proposals to determine if the RFPs met the scope of work listed in the proposal and forward those meeting the scope of work for City Council interviews at an open City Council Meeting; or
2. City staff review of proposals to determine if the RFPs met the scope of work listed in the proposal, conduct first interviews, and then City Council conduct second interviews at an open City Council Meeting; or
3. City Council review all proposals and interview all proposals at an open City Council meeting

ATTACHMENTS:

City Request for Proposal

APPROVALS:

Department Head Approval: Approval Date: 4-30-2024

CEQA Determination (Planning): Approval Date: 4-30-2024

The proposed action is not a project under the California Environmental Quality Act (CEQA)

Administrative Services (Financial) Approval Date: 4-30-2024

Costs authorized in City Approved Budget: Yes No N/A

Account Code (f applicable) _____

City Attorney Approval: Approval Date: 4-30-2024

City Manager Approval: Approval Date: 4-30-2024

City of Sebastopol

REQUEST FOR QUALIFICATIONS TO PROVIDE
LEGAL SERVICES
FOR
THE CITY OF SEBASTOPOL

The City Council of the City of Sebastopol is requesting interested full-service law firms to submit Statements of Qualifications to provide legal services, including City Attorney services, for the City of Sebastopol (City).

BACKGROUND

The City of Sebastopol (City) is Sonoma County's cultural gem with a rich history that dates back to the 1850's. The City is 56 miles north of San Francisco in California, on Gravenstein Highway (CA-116) and Luther Burbank Memorial Highway (CA-12), 7 miles west of Santa Rosa and the Sonoma County Administration Center. It lies 13 miles east of Bodega Bay and the Pacific coastline, 10 miles from the Russian River recreation region. It is 102 miles from the State Capitol of Sacramento and 405 miles north of Los Angeles.

Sebastopol is a General Law city with a Council/ Manager form of government and provides a range of municipal services including police, fire, utility billing, parks, street maintenance, library, community development, water distribution, and wastewater collection. Other services such as wastewater treatment are provided by various other agencies. The all-funds budget is \$25,438,445 and supports an overall staffing level of 79 full-time, part time and volunteer positions.

The City is looking to either hire a City Attorney or contract with a full-service legal firm for all legal assistance.

City Attorney Responsibilities

The City Attorney is expected to assist the City by:

- Providing clear and concise legal advice and consultation as requested, to the governing body and staff. Response is required within a mutually agreed upon timeframe.
- Attend City Council meetings and be prepared to advise the Council and Staff on matters on the agenda as well as parliamentary procedure and substantive issues that arise during the meeting.
- Attendance at City Council Commission, Board, Committees and other meetings as assigned such as Ad Hoc and Standing committee meetings or joint meetings with outside agencies may be requested from time to time.
- Prepare occasional reports and present information at public meetings as needed
- Providing guidance and training with regard to the Brown Act, Conflict of Interest, CEQA, Political Reform Act, Public Records Act, Law, Ethical law advice and analysis, Election, tort liability and risk, due process and other legal requirements imposed by

statute and common law, as well as a working knowledge of municipal employment practice and public administration to public officials, elected, appointed officials and City staff.

- Providing designated office hours or times of availability, as agreed to with the City Council.
- Prepare, review, and revise Staff documents, including, but not limited to, initiation of memoranda concerning legal issues, contracts, agreements, ordinances, resolutions, land use decisions including appeals, public improvements, easements, dedications, rights-of-way, and City Council Staff reports. **Clear, concise, well-organized writing in plain English is a pre-requisite**
- Represent, coordinate and/ or advise the City in litigation not covered by REMIF, CIRA or LWP or otherwise handled by outside counsel.
- Representing the city in litigation and oversee coordination with special legal counsel on all City litigation including oversight of the City's risk management program
- Providing legal advice and assistance to operating departments.
- Review compliance with public records for public records requests, records destruction and assist with contract development. Provide and maintain templates for contracts, agreements and other documents so that staff can prepare these items with minimal or no need for legal review.
- Providing legal advice and assistance to various City Commissions and Boards.
- Performing legal work related to land use issues.
- Researching municipal or other legal matters as requested by the City Council and at times City Manager or City Manager designee.
- Prepare an estimated legal budget for inclusion into the City's annual adopted budget.
- 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.
- The City may propose additional tasks as deemed necessary to complete the assignment. Any additional work shall be compensated, as agreed upon between the successful applicant and the City.

REQUEST FOR STATEMENTS OF QUALIFICATIONS

(1) INTRODUCTION – AREAS OF LAW TO BE COVERED IN RFQ

The City of Sebastopol requests interested full-service law firms to submit a Statement of Qualifications to provide legal services for the City. The City's has not issued a request for proposals for legal services for many years. The City decision to issue this Request for Qualifications is the result of a policy decision to periodically evaluate the legal services it receives. It does not reflect dissatisfaction with the services currently being provided.

Please provide the information requested in this RFQ for each of the specialized practices area. These practice areas include:

General Municipal Specialty, including but not limited to:

- General municipal law advisory
- Labor/ employment, training and personnel investigations
- Tax (federal, state, local)
- Workers' compensation (public entity employer)
- Elections Procedures and Law (to include ballot measures/ Council candidates)
- Urban Run-off/ solid waste/ recycling
- Telecommunications (advisory and administrative proceedings)
- Code enforcement (local agency)
- Disability issues/ FEHA/ ADA
- Bidding and Procurement
- California Public Records Act
- Business Improvement Districts

Litigation Defense, including but not limited to:

- Public entity tort claims
- Labor and employment
- Public safety defense
- Construction law/ public works/ prevailing wage matters
- General writ litigation

Real Property, including but not limited to:

- Condemnation/ eminent domain
- Unlawful detainer/ eviction (commercial)
- Development/ redevelopment
- CEQA/ land use/ environmental/ hazardous materials/ Brownfields
- Real estate transaction/ commercial document preparation
- Foreclosure
- Prop 218 Issues
- Water Use, including laws, regulations and local issues

(2) REQUIREMENTS FOR STATEMENTS OF QUALIFICATIONS

Letter of Transmittal: Include a brief introduction and history of your firm. Also include your understanding and proven work history of the work to be performed. In addition, state why you believe that your firm is the best qualified to perform the services requested.

Identification of Attorneys. The response to this Request for Qualifications should include descriptions of the attorney or attorneys who would have primary responsibility for providing regular services under the proposal. For each attorney, the Statement of Qualifications should identify the qualifications, areas of expertise, and prior experience. References from

comparable and representative public agency clients and the public agency's teams should be included, with names and telephone numbers and emails of public agency clients which the firm has worked with in the last three years.

Support Staff The Statement of Qualifications should include information about the types of support staff, such as other attorneys, paralegals, interns and others in the firm who would be assigned to perform work for the City and whose time would be billed for such work. The response should include information about how the firm plans to utilize support staff within the city's budget constraints.

Description of Services The Statement of Qualifications should describe the services the firm proposes to provide, the firm's overall experience with municipal law, any areas of specialty listed above, and any special qualifications that are believed to distinguish it from other law firms.

Rates and Charges The proposed means of compensation, including hourly rates or fees to be charged for each individual named in the Statement of Qualifications, should be listed. A schedule of the rates or amounts for all fees, charges, and expenses to be billed by each attorney or staff member should also be included. Must demonstrate billing process that allows City staff to easily review bills by City department.

Additional Information for Rates/ Charges:

- Please give your definition of "general" legal services. Would all general services be included in your monthly retainer?
- Please give your definition of "special" legal services? How are they differentiated from general legal services? Would any special services be included in your retainer? If so, please identify them.
- How would your firm aid the City to remain within its adopted budget for its legal services?
- Describe your firm's preference for method of payment, payment terms, and your procedure for billing of retention, hours, and expenses and any other accounting requirements.
- Define the type and unit rates for reimbursement of expenses; for example, rate for mileage, reproduction of documents or word processing charges, unit costs for telephone costs, etc.
- Please provide the costs of any in-service trainings
- Do you expect to have a cost-of-living adjustment incorporated into the agreement with the City? If so, please explain how you propose it be computed and implemented.
- Would your firm be willing to operate under a maximum annual expenditure cap with the City? If so, please explain how it might be structured

Availability and Commitment to Provide Services The Statement of Qualifications should include an indication of the commitment to provide the services by the attorney or attorneys with principal responsibility for providing services to the City. In this context, the words availability

and commitment should be taken in their broadest meanings, incorporating time, flexibility in scheduling, office location of the attorney or attorneys, and firm or personal policies and practices with regard to returning calls and meeting deadlines.

Commitment of Proposed Attorneys

Specify the individual that you propose for appointment as City Attorney.
Specify the individual(s), if any, that you would propose as Assistant or Deputy City Attorney and/ or who would be designated as competent, substitute/ backup legal representation for the City, in the event of the absence or unavailability of the City Attorney.

Communications:

Describe how you would structure the working relationship between the City Attorney and the City Council, City Manager, Department Heads, City Commissions, and other members of staff.

Describe systems/mechanisms that would be established to ensure timely responses to City Council and City staff.

Describe the response time we can expect from the City Attorney to inquiries made by the City Council/City Manager/Assistant City Manager.

Describe systems/mechanisms that would be established for monthly reporting of status of projects, requests, and litigation.

Identify the types of reports your firm would provide to the City Council and City Manager.

Describe your firm's suggested process for transmittal of requests and other material to City Attorney

Actual or Perceived Conflicts. The proposal for a minimum of three years should disclose the names, nature of assignment, and relevant dates for any of the firm's clients who may have actual or perceived conflicts of interest with the City. Reasonable diligence to identify and disclose potential conflicts is expected of all firms submitting a response to this Request for Qualifications. The proposal should also provide a statement or description of firm policy to address how conflicts of interest between two or more clients are avoided.

Additional Information. Statements submitted in response to the Request for Qualifications may, but are not required to, provide additional information to assist a proper evaluation of the proposal. Any discussions relating to suggested strategies to reduce costs for outside legal services are appropriate in this section.

Submission Requirements. Proposals are due no later than 3:00 pm on Wednesday, May 1, 2024. Respondents should submit an electronic copy by email of its Statement of Qualifications to:

Mary Gourley
Assistant City Manager
7120 Bodega Avenue

Sebastopol, CA 95472
(707) 823-1153
mgourley@cityofsebastopol.gov

(3) EVALUATION CRITERIA

The criteria used to evaluate the Statement of Qualifications will concern the experience and qualifications of the firm’s attorneys who would be assigned to the City.

(4) PROCESS FOR SELECTING LEGAL COUNSEL:

The City Council will determine the process by which the statements are reviewed, although it is anticipated that the material provided in the Statements of Qualifications, interviews with the firms, and/ or interviews with references, will be the determinative factors in selecting counsel. The fee arrangements proposed by firms are important, as well as experience, service delivery, communications, and other qualifications of the firm. Calls to submitting firms or attorneys and their references may be made to clarify material in the submittals. Based upon this review, the best qualified firms may be invited to a personal interview. Following the interviews, thorough background and reference interviews may be conducted. The City Council anticipates making a selection of a firm or firms following a careful evaluation of all relevant information.

(5) SPECIAL PROVISIONS

Cost of Preparing and Submitting Statements. All costs incurred in preparing and submitting the Statements of Qualifications are to be borne by the submitter and not the City. In no event shall the City be liable for any cost whatsoever for the preparation or submittal of a response to this Request for Qualifications.

Reservations and Options. The City Council reserves the rights and options to:

- Reject any or all of the submittals
- Waive any of the provisions of the Request for Qualifications
- Issue subsequent Requests for Qualifications
- Cancel the Request for Qualifications process
- Waive technical error in the responses it receives
- Negotiate with any, all, or none of the respondents to this Request for Qualifications

(6) INQUIRIES Any questions, interpretations, or clarifications, either administrative or technical, from prospective proposers regarding this RFP must be requested in writing, no later than Wednesday, April 10, 2024. All inquiries must be submitted to Mary Gourley, Assistant City Manager/ City Clerk, via email only to the following email address:
mgourley@cityofsebastopol.gov.

The City will respond to all pertinent inquiries in mail response through an addendum to the RFP. The addendum will be distributed to all prospective proposers on the City’s list of RFP holders by Monday, April 17, 2024. Oral statements, explanations, or instructions given by any person during this solicitation are unauthorized and will not be binding.

Any change to or interpretation of this solicitation by the City will be sent to each party to which the Request for Proposals has been sent and any such changes or interpretations shall become part of the solicitation for incorporation into any agreement awarded pursuant to this RFP.

(7) SCHEDULE

RFP Release Date:	Monday	March 26, 2024
Deadline to Submit Questions:	Wednesday	April 10, 2024
City’s Response to Submitted Questions:	Wednesday	April 17, 2024
Proposal Submission Deadline:	Wednesday	May 1, 2024 No later than: 4:00 pm
Evaluation of Proposals:		May 6 th – 10 th , 2024
City Council Interviews and Selection:		May 13 th – 15 th , 2024
Develop, Negotiate, & Finalize Contract:		May 20 th – 24 th , 2024
City Council Contract Award:		June 4, 2024
Anticipated Start of Services:		July 1, 2024 (or sooner if needed)

These dates are subject to change.

(8) CONTRACT:

Award of contract will be to the proposer whose proposal best complies with all the requirements of the RFP documents and which provides the best solution for the needs of the City of Sebastopol. The successful firm will be required to enter into a Legal Services Agreement with the City of Sebastopol, which will include the requirements of this RFP, as well as other requirements to be determined. The City reserves the right to negotiate the price, terms, and scope of services with the proposer, prior to entering into an Agreement. The agreement will contain provisions requiring the selected law firm to indemnify the City and provide that the City Attorney is an independent contractor serving at the will of the City Council. Provisions will also be included in the contract allowing the City Council to terminate the agreement, at its sole and entire discretion, upon the provision of notice.

(9) INSURANCE FOR PROFESSIONAL SERVICES: ATTACHMENT 1



City of Sebastopol

Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers’ Compensation insurance, as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
(Not required if consultant provides written verification that it has no employees)
4. Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work. A copy of the claims reporting requirements must be submitted to the City of Sebastopol for review.
If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City of Sebastopol requires, and shall be entitled to, the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Sebastopol.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

The City of Sebastopol, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations.

General liability coverage can be provided in the form of an endorsement to the Consultant’s insurance at least as broad as one of the following ISO ongoing operations Forms: CG 20 10 or CG 20 26 or CG 20 33 (not allowed from subcontractors), or CG 20 38; **and** one of the following ISO completed operations Forms: CG 20 37, 2039 (not allowed from subcontractors), or CG 20 40.

Primary Coverage

For any claims related to this contract, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City of Sebastopol, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Sebastopol, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance.

Waiver of Subrogation

Consultant hereby grants to the City of Sebastopol a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City of Sebastopol by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Sebastopol has received a waiver of subrogation endorsement from the insurer. However, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sebastopol for all work performed by the Contractor, its employees, agents, and subcontractors.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City of Sebastopol. The City of Sebastopol may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the City of Sebastopol.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Sebastopol.

Verification of Coverage

Consultant shall furnish the City of Sebastopol with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the City of Sebastopol before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City of Sebastopol reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance, meeting all the requirements stated herein, and Contractor shall ensure that the City of Sebastopol is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

The City of Sebastopol reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.