CITY OF BRISBANE

REQUEST FOR PROPOSALS

FOR

CITY ATTORNEY SERVICES

SECTION 1

GENERAL

1.1 INTRODUCTION:

The City Council of the City of Brisbane invites qualified firms or individuals to submit responses to this Request For Proposals (RFP) for contract part-time City Attorney Services as described in the scope of work set forth in Section 4 of this request.

The City of Brisbane is open to different models of compensation.

1.2 BACKGROUND:

For the last twenty years, the City has contracted out for City Attorney services through a private practice that has provided one primary attorney, with backup counsel as necessary. The City Attorney has provided office hours at City Hall on Wednesdays, has attended staff meetings on that day, attends City Council meetings at least twice a month in the evenings, attends planning commission meetings as needed, and is generally available to Council and staff on an as-needed basis by e-mail, telephone, and personal meetings. The approximate legal budget for FY 2012/2013 was $209,495 which included $40,000 for other specialized legal counsel that is sometimes utilized, such as labor negotiations and bond counsel.

The City of Brisbane was incorporated in 1961 and is a community with a population of 4,292 residents (2010 census). Brisbane is a General Law City with five City Council members elected at large operating under a council/manager form of government. The City Council selects the Mayor, Mayor Pro Tem, appoints the City Manager, City Attorney, and members of the City boards, commissions and committees. The City Attorney reports to the City Council. The City Council meets on the first and third Mondays of the month at 7:30 p.m. and the Planning Commission meets on the second and fourth Thursdays of the month at 7:30 p.m.

Brisbane borders the cities of San Francisco, Daly City and South San Francisco. Services provided by the City include administration, planning and building inspection, police, fire protection, recreation services, street maintenance, storm drains, and water and sanitary sewer service. The City has approximately 80 FTE employees. The FY 2012-2013 General Fund budget for the City of Brisbane is approximately $13 million. The City is a member of three insurance pools – ERMA (Employment Risk Management Authority) for pooled Employment Practice Liability Insurance; Bay Cities Insurance JPA for Workers' Compensation and safety; and the Bay Cities Joint Powers Insurance Authority for General Liability and Property Insurance, and Risk and Claims Management.

Brisbane's legal history includes land-use issues dealing with major development proposals such as the Northeast Ridge Development, sales tax disputes with the State Board of Equalization, tax increment issues with the former Redevelopment Agency and the Community College District. Other issues include; the San Bruno Mountain Habitat Conservation Plan issue, and the possibility of eminent domain and other issues relating to development on the Baylands, a 600+ acre property largely undeveloped in a landfill area.

More information about the City can be found on the City of Brisbane's website: www.brisbaneca.org.

1.3 HIGH PRIORITY ISSUES:

The City of Brisbane has similar issues of concern as other municipalities. However, the City has particular concern about the following issues:

- Environmental Sustainability
- Land Use planning
- New Updated General Plan
- Major Development Agreement for the Baylands
- Building on landfill, especially as it relates to contaminants and earthquakes
- Impacts of sea level rise
- Wetlands
- Endangered species issues, especially as it relates to the Habitat Conservation Plan on San Bruno Mountain
- Negotiating Water Supply and Solid Waste Franchise Agreements
- Remaining planning issues relating to the Sierra Point area
- Consideration of increased business license tax for the tank farm and legal work to place measure on the ballot for voter approval.
- Municipal Marina Issues
- Green Building Ordinances –updating and enforcement
- Green Business promotion
- Creating successful revenue measures
- Developing appropriate fee structures

SECTION 2

SCOPE OF WORK

2.1 SERVICES TO BE PROVIDED:

The City Attorney is appointed by and reports to the City Council. The City Attorney is the chief legal counsel for the City of Brisbane and, as such, is responsible for advising on all legal matters. The following are the primary responsibilities for the legal services the City will require in a City Attorney:

- Advise the Council, City Boards and Commissions, and all City officials on municipal government legal matters including the Brown Act, election law, Political Reform Act and parliamentary procedures for running meetings.
- Attend all City Council meetings (typically 2-3 times a month), attend Planning Commission as needed (typically 2-3 times a year, but subject to an increase when reviewing large development projects.) and attend other meetings as assigned by the City Council or City Manager.
- Manage all litigation against the City or initiated by the City and coordinate and manage the services and costs of all outside legal counsel. In the past the City has retained outside counsel for labor issues and Redevelopment/Successor Agency law.

- Provide legal advice to staff on general municipal matters, including, but not limited to, Public Records Act, Mitigation fee act, Prop 218, and public contracting and procurement.
- Promptly prepare and/or review all ordinances, resolutions, municipal contracts, joint powers agreements, and other agreements and contracts entered into by the City
- Research and submit legal opinions on municipal or other legal matters as requested by the City Council or City Manager.
- Perform legal work pertaining to land use issues including but not limited to the Subdivision Map Act, California Environmental Quality Act, Endangered Species Act, wetlands, inverse condemnation, Water Quality Control Act, takings, planning approvals, land use procedures, conditions and exactions, annexations, intergovernmental immunity, building and housing regulations, zoning and general plan regulations.
- Perform legal work pertaining to real property matters including but not limited to property acquisitions, property disposals, public improvements, easements, leases, exclusive right to negotiate agreements, development agreements, dedications and right of-way vacations.
- Perform legal work for the City in its capacity as Successor Agency to the former Redevelopment Agency.
- Represent the City, as needed, before federal, state and other entities including but not limited to the Army Corps of Engineers, the State Water Quality Control Board, U.S. Fish and Wildlife, Department of Fish and Game, OSHA, EEOC, San Mateo County, and the City and County of San Francisco
- Keep familiar with and provide information as requested on new State or Federal legislation or judicial decisions impacting the City and suggested action or changes in operations or procedures to assure compliance.
- Provide guidance on personnel matters, including employee disciplinary and grievance matters and labor negotiations.
- Provide advice and support to enforce City codes, zoning regulations, and building standards through administrative and judicial actions.
- Provide legal advice regarding the preparation of Environmental Impact Reports, Mitigated Negative Declarations and Mitigation and Monitoring Programs and other environmental documentation and review same for legal adequacy.
- Attend staff meetings currently held on Wednesday mornings and hold office hours at City Hall on those days to work with staff members and attend meetings.
- Communicate with the press, when authorized to do so by the City Council regarding City legal matters.
- Promptly return all calls and e-mails from the City Council and staff.

2.2 EXCLUDED SERVICES:

The City has customarily retained outside bond counsel for legal services related to the issuance of its municipal bonds.

SECTION 3

RESPONSE FORM AND CONTENT

3.1 PROPOSAL SUBMITTAL:

All pages of the response must be numbered consecutively. The response shall not exceed fifteen (15) pages in length. Resumes, writing examples, and licenses shall not count against this page limit. The response must be organized in accordance with the list of response contents.

All responses must be submitted in a sealed envelope bearing on the outside the name and address of the individual/firm and indicating the words "City Attorney Recruitment Proposal". Responses to this RFP shall become the exclusive property of the City and subject to the California Public Records Act.

The respondent shall be solely and fully responsible for all costs associated with the development, preparation, transmittal, and submission of any material in response to this RFP.

Applicants shall submit ten (10) copies of their proposal to the attention of Sheri Spediacci, City Clerk, who is listed as the Primary Contact in Section 3.4 of this RFP.

3.2 RESPONSE FORM AND CONTENT:

Respondents must include the following items in their responses addressing the scope of work in Section 2.1 and high priority issues in Section 1.3. All items must fall within the maximum page count. Responses and cost schedule shall be considered informational only and shall not bind the respondents to a specific fee amount. However, the costs specified must be based on actual anticipated expenses that would be charged in a legal services contract with the City if one were to be negotiated.

A. Letter of Transmittal

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

B. Table of Contents

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

C. Executive Summary

Introduce the response and summarize the key provisions of the response. Provide a statement describing why the respondent is qualified to perform this work, and the name of the individual who would serve as City Attorney.

D. Statement of Understanding

Include a detailed statement of understanding of the City Attorney services to be provided. If there are services listed in this RFP that the respondent will not be able to provide, describe those services in this section.

E. Background and Capacity

1. Describe your or your firm's background and history; include number of years with municipal legal experience.
2. Provide examples of the type of legal work product that would be provided to the City Council or staff, such as staff reports, agreements, or resolutions.

3. Provide professional references.
4. Describe your or your firm's expertise in the areas of law described in Section 2 (Scope of Work)
5. Please name the primary attorney that would be assigned to the City of Brisbane. Provide detailed information on the qualifications of that individual and copy of his or her resume.
6. Provide the location of the office that would serve the City of Brisbane.
7. Indicate the staff services available (clerical support, paralegals, other non-attorney staff).
8. Indicate if you have "backup" attorney(s) available to assist the primary attorney or to cover meetings or appointments if the primary attorney is not available. Provide information on that (or those) individual(s) as well.

F. Current Clients/Conflict of Interest

1. Please list all current or former clients residing in, having an interest in, having an interest in a business or owning an interest in property within the City of Brisbane within the past 10 years. Please disclose any foreseeable or potential conflicts of interest, which would result from such representation and the manner in which you would propose to resolve such conflicts.

2. Please list all cities and other public clients for which you or your firm currently provides services under a fee for services basis or on a retainer basis. Please disclose any foreseeable or potential conflicts of interest, which would result from such representation and the manner in which you would propose to resolve such conflicts.

3. For the person to be designated as City Attorney, please list all city clients as well as other public clients that person presently represents as City Attorney or general counsel. Please list the meeting dates and times for the city council or governing body of these clients.

The City of Brisbane or Peckham & McKenney will not contact any current or former clients of the firm/individual without written consent.

G. **Fee Schedule**

The City of Brisbane is open to different models of compensation. It is currently using an hourly rate model.

Please describe how the individual/firm intends to provide legal services, either on a flat-rate monthly retainer (state the amount of the requested retainer), or on a time and materials basis. Basic services, for the purpose of this proposal, shall include those legal services generally understood within the field of municipal law to fall within the category of "general counsel" work, as described in Section 2 (Scope of Work).

If a flat-rate monthly retainer is proposed for basic services, please define what type of work you would consider to be extra or specialized work which would be billed in addition to basic services.

If hourly rate billing is preferred, please state the hourly rates for the designated City Attorney and associates for general work and for special services such as litigation or personnel, if such services will be billed at a different hourly rate.

Please define the type and unit rates for expenses that would be charged to the City, such as mileage, reproduction of documents, postage or faxed documents, word processing charges, and on-line legal research service charges (such as LexisNexis).

H. **Additional Information**

Any other information that the respondent feels applicable to the evaluation of the response or of his or her qualification for accomplishing the legal services should be included in this section. You may use this section to address those aspects of your services that distinguish your firm from other firms.

3.3 SCHEDULE:

The schedule for the process is provided below.

Date	Activity
December 27, 2012	City issues the RFP
February 14th, 2013, 5:00 p.m.	Deadline for submission of responses
June 1, 2013	Projected date for start of services

3.4 PRIMARY CONTACT:

The name, address, and contact information for the City's Primary Contact for this RFP are as follows:

Sheri Spediacci, City Clerk
City of Brisbane
50 Park Place
Brisbane, CA 94005
415-508-2113
cityhall@ci.brisbane.ca.us

No oral response by any employee, consultant or agent of the City shall be binding on the City, or shall in any way constitute a commitment by the City. If a Respondent finds any inconsistency or ambiguity in the RFP, the Respondent is requested to notify the City.

SECTION 4

4.1 PROPOSAL REVIEW:

The City of Brisbane has retained the professional services of Peckham & McKenney, an executive search and consulting firm to assist in the process. The process includes the following:

Review of Proposals – A Council Subcommittee and a representative from Peckham & McKenney will review the proposal responses and determine the leading candidates/firms for

further consideration. A report will be given to Council on the selection of the leading candidates for further consideration. The full Council will have access to all proposal responses.

Preliminary Interviews – Peckham & McKenney will schedule face-to-face preliminary interviews with those individuals selected by the Subcommittee.

Recommendation of Finalists - Peckham & McKenney will review with the Council Subcommittee the results of the preliminary interviews, and the Subcommittee will provide a recommendation to the full Council of the leading candidates to attend finalist interviews with the full City Council.

Screening/Background/References – Initial civil, criminal, and education background checks will be conducted on the leading candidates. A more in-depth background check will be conducted on the finalists, and a full reference check will be conducted on the selected candidate.

Finalist Interviews – Based on the results of the background checks top finalist interviews will be conducted with the City Council.

Offer of Employment – The City will negotiate the offer of employment or contract, as applicable, with the selected finalist/firm.