

Request for Proposal

DRAFT

Marina Coast Water District

*The Marina Coast Water District wishes to contract for
District general legal counsel*



Proposals due

**5:00pm
, 2011**

Proposals should be sent electronically to:
Jean Premutati at
jpremutati@mcwd.org

Proposals sent by mail must be directed to:
Marina Coast Water District
11 Reservation Road
Marina, CA 93933
ATTN: Jean Premutati

Introduction

Marina Coast Water District (District) is seeking to contract with an attorney or legal firm to serve as the General Legal Counsel for the District. The District invites interested law firms or individuals with a minimum of seven (7) years of public law experience representing special districts, water districts or other local governments to submit a written proposal to provide general legal services. (The District has separate legal counsel for personnel and employment law matters.)

As District General Legal Counsel (Legal Counsel), the selected law firm or individual will be expected to provide a broad range of general legal services to the District. The District's Legal Counsel is selected to work as an independent contractor by the Board of Directors and works closely with the General Manager and other staff. The Legal Counsel's primary role is to provide expert legal advice to the District's Board of Directors, General Manager and Department Heads. The selected firm or individual will perform the tasks as specified in the scope of services.

Background

The District is located just north of the Monterey Peninsula and serves approximately 8,000 customers in the diverse communities of Marina and the Ord Community (former Fort Ord). The District provides high quality water, wastewater and recycled water services through management, conservation and development of future resources at reasonable costs.

The District's Board of Directors consists of five members; each elected for four-year overlapping terms. The Board has four standing committees that typically meet monthly.

The General Manager, who is appointed by the Board of Directors, is responsible for day-to-day operations. The District employs thirty-five (35) full-time employees and an operating budget of \$10.176 million.

I. Scope of Services

The District is seeking proposals from qualified legal firms or individuals with a comprehensive understanding of the public sector and applicable laws to assist the District with the following:

- Advice to the Board of Directors and District management staff on special district government legal matters including the Brown Act and parliamentary procedures for running meetings, public official conflict requirements, ethics, risk avoidance, and legal compliance.
- Attend all Board meetings or other meetings as required by the President or the General Manager.
- Coordinate and manage the services and costs of outside legal counsel as assigned.

- Provide legal advice to staff, upon the request of the District General Manager.
- Advice to the Board of Directors and District management staff on commencement or defense of litigation to protect District interests; and litigate such issues as directed.
- Prepare and/or review all ordinances, resolutions, contracts, joint powers agreements, and other agreements and contracts entered into by the District as requested by the General Manager.
- Research and submit legal opinions on special district or other legal matters as requested by the Board of Directors or the General Manager.
- Provide written updates on new State and Federal legislation and judicial decisions impacting the District and suggest action or changes in operations or procedures to assure compliance.
- Perform legal work pertaining to land use issues including but not limited to property acquisitions, easements, public improvements, dedications and rights-of-way.
- Enforce District ordinances and regulations through administrative and judicial actions as requested by the General Manager.
- Promptly return all calls and emails from the Board of Directors and staff.

Firms and individuals are hereby invited to submit a proposal based upon the requirements and conditions set forth in the RFP.

II. Proposal Requirements and Requested Information

The District requires the applicant to submit a concise proposal clearly addressing all of the requirements outlined in this RFP. To be considered responsive, the proposal must provide specific answers to all requests for information.

- Describe the nature of your law firm's practice and your qualifications for providing general legal services for the District. Please provide a professional chronology of the individual who will be designated to serve as primary legal counsel as well as for others who you anticipate will be involved in providing legal services to the District.
- Provide the overall capabilities, qualifications, training and areas of expertise for each of the principals, partners and associates of the law firm, including the length of employment for each person and his/her area of specialization for those involved in the assignment.
- For the person whom you propose to designate as primary legal counsel, and for each person or firm you propose to designate as a deputy, supporting counsel for special services or backup, please provide the following:
 - a. Legal training and years of practice (including date of admission to the California Bar.)
 - b. Years of municipal (general law or charter city) or other local public sector law practice as a full-time local government attorney and/or in a private law office specializing in the representation of special districts or general law cities.

- c. Knowledge of, and experience with, California special district, water law and codes or other public sector experience.
 - d. Types of clientele represented and years representing each.
 - e. Litigation experience and demonstration of a good track record. Cite examples of public agency litigation experience.
- Demonstrated legal expertise in the following areas as it relates to special districts or municipal governments:
 - a. Laws and regulations governing California special districts, and operating procedures relative to the conduct of special district business.
 - b. Experience and knowledge of Public Contracting Code, Labor Code, and other California statutes governing the bidding, awarding, contracting, and construction of public works and improvements.
 - c. Environmental law including: California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA).
 - d. Contracts, joint powers authorities, memorandums of understanding, including risk transfer provisions.
 - e. Preparation and review of ordinances and resolutions.
 - f. Real estate law, easements, rights-of-way, and other related agreements and negotiations.
 - g. California Public Act, the Ralph M. Brown Act, Fair Political Practices Commission regulations and public official conflict statutes, and the California Elections Code.
 - h. Formation of assessment and improvement districts.
 - i. Law pertaining to fees and taxes, including Proposition 218.
 - j. Other relevant areas pertaining to special district/water district or municipal law.
- Intended office location and accessibility to the Marina Coast Water District.
- Scholastic honors and professional affiliations.
- If the firm/individual, or any of the attorneys employed by the firm, have ever been sued by special districts, local governments, 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 dates of which the matter began and was concluded, and the results of the situation.
- Additional services, if any, such as opportunity to attend firm-sponsored or provided training, annual legal update publication, a firm-sponsored client-only webpage, or library of existing opinion letters.

III. Current Clients/Conflict of Interest

Please include all current or former clients (including *pro bono*) with real property ownership, residence, or principal place of business within the boundaries of the Marina Coast Water District within the past three years. Include all public clients for which you or your firm currently provides services under a fee for services basis or on a retainer basis. Identify 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.

IV. Compensation, Reimbursement, Risk Transfer

- a. Please provide your standard fee/rate schedule. The District prefers that legal services be provided at an hourly rate based on the individual attorney billing rates.
- b. Provide the limits of your professional liability insurance coverage. The District will require risk transfer provisions in the contract.

V. Evaluation and Selection Process

All proposals must be received by the District Management Services Administrator by

Proposals will be screened by the Executive Committee and the General Manager. Qualifications for top candidates will be verified and references will be checked. Top candidates will be submitted to the full Board and interviews scheduled.

In reviewing the proposals, the District will consider:

- a. Depth and breadth of experience and expertise in the practice of law, most specifically in those areas most often encountered in special district/water district operations;
- b. Capability to perform legal services promptly and in a manner that permits the District and staff to meet established deadlines and to operate in an effective and efficient manner.
- c. Degree of availability for quick response to inquiries that arise out of day-to-day operating questions or problems;
- d. Degree to which firm and individual attorneys stay current through continued professional development and active communication with practitioners in special districts/water district law;
- e. Communication skills;
- f. Cost of services; and
- g. Other qualifications/criteria as deemed appropriate by the Board of Directors.

The Board of Directors and General Manager will negotiate the final contract and appoint the next legal counsel for the Marina Coast Water District.

The District also reserves the right to:

- a. Request clarification or additional information from any proposing firm at any time;
- b. Waive immaterial defects or minor irregularities in a proposing firm's response to this request for proposals;
- c. Suspend or reopen the request for proposals process;
- d. Reject any or all responses and terminate the process at any time.

A. Acceptance of Proposal

Any consultant submitting a proposal thereby automatically agrees to each and all of the terms and conditions, provisions, and requirements set forth in this RFP.

No fax submittals will be accepted and late submittals will not be considered. Proposals must be received by 5:00pm on , 2012.

B. Additional Information to be Submitted by Selected Legal Firm

All firms submitting a proposal will be expected to have or obtain and if selected, to submit the following additional information and qualifications as a condition of the District accepting and executing an engagement letter. The additional information and qualifications are as follows:

1. The selected firm, at its sole cost and expense, shall procure and maintain for the duration of the engagement, errors and omissions insurance in the minimum amount of \$1,000,000 for the benefit of the District and shall protect the District and its officers, officials, directors, employees, agents and volunteers from claims based on alleged errors or negligent acts or omissions which may arise from the firm's performance of the engagement, whether any such claim is made during or subsequent to the term of the engagement. The required errors and omissions policy shall be continued in full force and effect for a period of five years following the completion of the subject engagement. The selected firm shall provide to the District a certificate of insurance on a form acceptable to the District indicating the deductible or self-retention amounts of the expiration date of the policy, and shall provide renewal certificates within ten (10) days after expiration of each policy term. The insurance is to be placed with insurers licensed to do business by and in good standing with the California Department of Insurance with a current A.M. Best's rating of A:VII or better unless otherwise acceptable to the District.
2. The selected firm, at its sole cost and expense, shall procure and maintain for the duration of the engagement the following types and limits of insurance:
 - a. General liability = \$2,000,000 per occurrence
 - b. Automobile liability = \$2,000,000 per occurrence
 - c. Worker's Compensation = statutory limits

The general and automobile policy(ies) shall be endorsed to name the District, its directors, officers, officials, employees and volunteers as additional insureds regarding liability arising out of the performance of services rendered under the engagement letter. The firm shall provide the District with an ISO CG 2010 endorsement form or equivalent. The coverage shall contain no special limitations on the scope of protection afforded to the District, its directors, officers, official's, employees or volunteers. The firm's coverage shall be primary and shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. The District's insurance, if any, shall be excess and shall not contribute with the firm's insurance. The workers' compensation policy shall be endorsed to include a waiver or subrogation against the District, its directors, officials, officers, and employees.

The insurance is to be placed with insurers licensed to do business by and in good standing with the California Department of Insurance, with a current A.M. Best's rating of A:VII or better unless otherwise acceptable to the District. Prior to commencing the services provided for herein, the firm shall provide to the District original endorsements evidencing this insurance signed by a person authorized to bind coverage on behalf of the insurer(s). The certificates and policies shall provide that thirty (30) days' written notice of any material change, reduction of coverage or cancellation of the insurance policies will be provided to the District. The requirements as to the types, limits, and the District's approval of insurance coverage to be maintained by the firm are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the firm under the engagement letter. In addition, in the event any change is made in the insurance carrier, policies or nature of coverage required under this Agreement, the firm shall notify the District prior to making such changes.

3. The selected firm may not award or engage any outside consultant without the District's prior notification and approval. Any approved subcontractor shall be covered by the firm's insurance in accordance with the insurance requirements described in paragraphs 1 and 2 above.
4. The proposer represents that its key personnel listed in the proposal are licensed by the State of California and that all key personnel hold licenses to practice that are in good standing and that all such licenses will be kept in good standing during the term of the engagement letter.
5. The District will appoint the selected firm subject to renewal upon review by the District of the firm's previous year's service. The District may in its sole discretion terminate an engagement at any time and for any reason upon fifteen

(15) days' advance written notice to the firm. In the event of such termination, the District will compensate the firm for all work performed to the date of termination as calculated by the District based on the fees described in the applicable engagement letter. Compensation under this provision shall not include costs related to lost profit associated with the expected completion of the work or other such payments relating to the benefit of the bargain.

6. All legal services will be performed in compliance with all applicable federal, state and local laws and regulations. The firm must possess and maintain all licenses, certificates and permits necessary to perform the legal services.

C. Deadline

The deadline for proposals is 5:00pm , 2012 and should be sent electronically to: Jean Premutati, Management Services Administrator at jpremutati@mcwd.org or by mail to:

Marina Coast Water District
11 Reservation Road
Marina, CA 93933
ATTN: Jean Premutati