

General Counsel Legal Services Request for Proposals



RFP Closes October 14, 2020 @ Noon

www.diablowater.org

Overview

Diablo Water District (District) invites interested law firms and individuals with a minimum of 10 years' experience representing California public agencies in general governmental procedures, compliance, contracts, and transactions to submit proposals to provide general counsel legal services for the District.

A firm or individual selected as General Counsel will serve at the pleasure of the Board of Directors.

District Background

The District, with a staff of 16 ½ employees (2 additional employees to be added FY 20/21), obtains, treats and supplies water for approximately 42,000 people and the parks, schools and businesses throughout a 21-square-mile area consisting of Oakley, Cypress Corridor and Hotchkis Tract, as well as Summer Lakes, and portions of Bethel Island and Knightsen. In addition to potable water service, the District is the Groundwater Sustainability Agency for the land within its service area.

Diablo Water District is an independent self-governing local public agency created on May 7, 1953, under the County Water District Law of California. The District is governed by an elected five-member Board of Directors. The Board switched to Division elections starting in November 2020, with three seats up for election. The remaining two seats transition to by Division in 2022.

Regular Board Meetings are the 4th Wednesday at 7:30pm
(November & December are typically special meetings on the 3rd Wednesday).

[Division map available here.](#)

[District's current budget and strategic plan.](#)

[District's organizational chart.](#)

Desired Qualifications

The District seeks a firm or individual with knowledge and experience in the following areas, or ability to retain special council with knowledge of:

- a) The Ralph M. Brown Act (California Government Code section 54952 et seq.); and
- b) The California Public Records Act (Govt. Code section 6200 et seq.); and
- c) California Proposition 218 & 26; and
- d) California conflict of interest law (Govt. Code section 1090); and
- e) The Political Reform Act of 1974 (Govt. Code section 81000 et seq.); and
- f) The California Tort Claims Act (Govt. Code section 815 et seq.); and
- g) The California Environmental Quality Act (California Public Resources Code section 21000 et seq.); and
- h) California and Federal water law; and
- i) Sustainable Groundwater Management (Water Code section 10720 et seq.); and
- j) Senate Bill 998 implementation; and
- k) Public works construction contracts.

RFP Contents

1. Proposals: Please submit one (1) original unbound copy clearly marked as “original” on the outside cover and contain an original signature, and seven (7) bound copies in a sealed envelope marked: **Proposal for General Counsel Legal Services**, and one (1) digital copy in PDF format on a USB drive.
2. All Proposals shall be submitted on standard 8.5 x 11 inch paper.
3. Attachment 2 “Supplemental Questions” shall be completed and submitted with proposal.
4. Information in proposals shall become public property and subject to disclosure laws. All Proposals shall become the property of the District.
5. By submitting a proposal, the Proposer represents that it has thoroughly examined and become familiar with the “Scope of Work” in Attachment 1, and that it is capable of providing and performing quality work to achieve the District’s objectives.
6. The District shall not, in any event, be liable for any pre-contractual expenses incurred by Proposers in the preparation of their Proposal.
7. The District reserves the right to negotiate modifications with any Proposer as necessary to serve the best interest of the District. Any Proposal may be rejected if it is conditional, incomplete or deviates from specifications in this request. The District reserves the right to waive, at its discretion, any procedural irregularity, immaterial defects or other improprieties, which the District deems reasonably correctable or otherwise not warranting rejection of the Proposal. Any waiver will not excuse a proponent from full compliance.
8. The District reserves the right to:
 - a. Negotiate the final Agreement with any Proposer(s) as necessary to serve the best interest of the District; or
 - b. Withdraw this RFP at any time without prior notice and, furthermore, makes no representations that any contract will be awarded to any Proposer responding to this RFP.

Scope of Work

Described in Attachment 1 “Scope of Work.”

Tentative Timing

Milestones	Dates
Issue RFP	September 16, 2020
Last Day for Clarification Questions	October 12, 2020
RFP Closes at Noon	October 14, 2020
Board Ad Hoc Sub-Committee Screening	October 19 – 23, 2020
Select Firms to be Interviewed (via MS Teams)	November 9 – 13, 2020
Contract Award	November 18, 2020 (special meeting)
Serve at General Counsel	December 17, 2020 (special meeting)

Contact Information

Dan Muelrath, General Manager
dmuelrath@diablowater.org

Deadline for Submission

Hardcopy proposals must be received (not postmarked) by **October 14, 2020 at Noon.**

Parcel Delivery: Diablo Water District, 87 Carol Lane, Oakley, CA 94561

Attachment 1 - Scope of Work

The anticipated services will include, but are not limited to, the following:

1. Represent and advise the Board of Directors as the governing body and all District Officers in all matters of law pertaining to their offices.
2. Attend regular meetings of the Board of Directors and special meetings when called and provide legal advice and opinions as requested by the Board of Directors or General Manager.
3. Provide up to 8 hours of annual training to the Board on matters including, but not limited to: Brown Act, Board Policies and Procedures, Elected Board Best Practices, etc.
4. Be promptly available for telephone consultation and to render written opinions on given issues related to District business in a timely manner.
5. Approve the form and content of District contracts, performance bonds, certificates of insurance and like documents tendered to the District on a requested basis.
6. Provide a template agreement for professional services.
7. Prepare or review all Ordinances, Resolutions, Contracts, Deeds, Leases, and all other legal documents as requested by the General Manager.
8. Provide recommendation and advice when requested by the Board of Directors pertaining to the retention of and employment of outside law specialists in complex and important matters in which the District may be involved.
9. Investigate all claims and complaints by or against the District and make recommendations to the Board of Directors and District Manager.
10. Review citations for violations of District Ordinances in accordance with criminal/civil law and procedures; prepare and try infractions, misdemeanors, and ordinance violations as required and requested by the Board or General Manager.
11. Prepare extended legal opinions of a complex nature as requested by the Board of Directors or General Manager.
12. Oversee and manage the legal affairs of the District and ensure that the policies, programs, and activities of the District and its employees and agents are carried out in compliance with all applicable law and that the best interests of the District are otherwise protected to the fullest extent possible.

Attachment 2 – Supplemental Questions

Section I. Firm or Individual Background Information:

1. Official name and address and specify the type of entity (partnership, LLC, corporation, etc.).
2. Describe the firm's background and history, including the number of years in practice. Describe in detail the firm's water and public agency legal services expertise.
3. List the location of office(s) that would serve the District.
4. Provide an organization chart and staffing plan identifying key personnel, related lines of authority and responsibility of those team members who will provide the services described in this RFP.
5. Name the person who is proposed to be designated as the General Counsel and Assistant General Counsel (for the occasional times that General Counsel is not available).

Section II. Approach to Legal Services

1. Describe your view of the role of the General Counsel, your interaction with the Board of Directors (both collectively and individually), the General Manager and staff.
2. Provide your best example of a written communication to a governing body about a legal issue, prepared within the past five 5 years and not to exceed four pages, in which options are explained and a recommendation is given. (Redaction of privileged information is expected.)
3. Describe how you track and manage legal fees and costs.
4. Describe how you would proactively advise the District about legal developments or issues of concern, without being asked. If you use newsletters or other published communications, please describe the general content and frequency of publication.
5. Please identify the most significant water policy, program or legal matter that the firm has handled within the past five years, explain in detail why the matter was significant, and indicate the outcome of the legal matter.
6. Discuss the firm's knowledge of the Sustainable Groundwater Management Act and current involvement for other clients.
7. Describe specific experience the firm has in reviewing engineering and rate studies for legal compliance with Proposition 218 and 26.
8. Please identify whether the firm has had an agreement with a public agency terminated within the past five years and provide contact information for persons knowledgeable regarding the contract's termination.

Section III. References and Potential Conflicts of Interest

1. Provide contact information for three public agency clients for which services have been provided by the proposed General Counsel in the last five years, so reference checks can be conducted. Please include the contact person's name, agency, phone and email address.
2. List all public clients within Contra Costa County for whom your firm currently provides services under a fee for services basis or on a retainer basis and indicate the services provided. Identify any foreseeable or potential conflicts of interest that could result from such representation and the manner in which you would propose to resolve such conflicts.
3. For the person proposed as General Counsel, list all public clients that person presently represents as General Counsel, Deputy General Counsel, or Assistant General Counsel, along with the meeting dates and times for each governing body.
4. List all private clients of your firm such as construction contractors, land developers, or other contractors that could potentially pose a conflict of interest while representing the District.
5. If, within the past five years the firm, or any of the attorneys employed by the firm has been sued by a public agency for legal malpractice, been the subject of a legal malpractice claim, been the subject of a complaint filed with the State Bar, or received discipline imposed by the State Bar, please describe in detail the circumstances of said suit, claim, complaint or discipline.

Section IV. Compensation and Reimbursement

Please provide either a monthly retainer fee or hourly billing rate and specific expenses (i.e. rate for mileage, reproduction of documents, travel) proposed for compensation and/or reimbursement for the legal services outlined in Attachment 1 "Scope of Work." If an hourly billing rate is proposed, please provide an estimated annual total number of hours to facilitate the work described in Attachment 1 "Scope of Work."

The District may accept and incorporate the proposed retainer or fee schedule as part of the award/agreement process without further negotiations or, alternatively, may use it as the basis for negotiations. Consequently, firms are encouraged to provide their best pricing.