

# **REQUEST FOR PROPOSALS FOR General Counsel Legal Services**

RFP Issued: October 6, 2017

RFP Submission Deadline: **November 1, 2017**

**Issued by:**

**Colusa Groundwater Authority**

100 Sunrise Blvd., Suite A

Colusa, CA 95932

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## **SECTION 1 - INTRODUCTION**

The Colusa Groundwater Authority (CGA) invites interested law firms with a minimum of 10 years' experience representing public agencies and mutual water companies in water issues, general governmental procedures, compliance, contracts and transactions, and civil litigation, to submit proposals to provide general counsel legal services for the CGA. Experience with the Sustainable Groundwater Management Act, as well as Joint Powers Authority formation and operations is also required. A firm selected as General Counsel will serve at the pleasure of the Board of Directors of the CGA.

## **SECTION 2 - BACKGROUND INFORMATION**

On September 14, 2014, the Governor of California signed into law three bills collectively referred to as the Sustainable Groundwater Management Act (SGMA). In accordance with SGMA, the Colusa Groundwater Authority, a Joint Powers Authority, was formed to act as the Groundwater Sustainability Agency (GSA) for the Colusa County portions of the subbasins subject to SGMA, and to sustainably manage groundwater resources in coordination with other local GSAs in the most efficient manner possible.

The CGA is a Joint Powers Authority comprised of the following Members: County of Colusa, City of Colusa, City of Williams, Glenn Colusa Irrigation District, Colusa County Water District, Princeton-Codora-Glenn Irrigation District, Provident Irrigation District, Maxwell Irrigation District, Westside Water District, Reclamation District 108, Reclamation District 479, and Colusa Drain Mutual Water Company. The JPA Board also consists of two private pumper representatives from the Colusa County Groundwater Commission appointed by the Colusa County Board of Supervisors, and serving as Directors on the Board of the Authority.

## **SECTION 3 - MINIMUM QUALIFICATIONS**

1. All attorneys performing services for the CGA on behalf of the firm must be admitted to practice in the State of California and be members in good standing with the State Bar of California.
2. The firm member with primary responsibility for the services provided to the CGA ("Lead Counsel") must have at least 10 years' experience providing general counsel legal services for joint powers authorities, special districts (includes irrigation districts, water districts, reclamation districts, county water districts), municipalities or other local public agencies, and mutual water companies.

3. Demonstrated legal expertise in the following practice areas as they relate to joint powers authorities, special districts, municipal governments, and mutual water companies, in California:
  - a) Laws and regulations that pertain to the governance of public entities including, but not limited to, California joint powers authorities, special districts, water districts, irrigation districts and municipalities. The relevant laws and regulations include, but are not limited to, the Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest laws; general public entity and municipal law; the California Government Code and California Water Code; and operating procedures and rules of order relative to the conduct of joint powers authorities, special districts, and municipalities, and laws and regulations that pertain to mutual water companies.
  - b) The Sustainable Groundwater Management Act (SGMA) including formation of Groundwater Sustainability Agencies (GSA) and preparation and filing of Groundwater Sustainability Plans (GSP).
  - c) Water rights matters in state courts and before the State Water Resources Control Board, including matters pertaining to groundwater and the Sustainable Groundwater Management Act.
  - d) Federal reclamation law, such as the Central Valley Project Improvement Act, the Central Valley Project System, the State Water Project system, and matters related to water supply contracts with the United States government and California State government.
  - e) Environmental law, including: California Environmental Quality Act (CEQA); federal National Environmental Policy Act (NEPA); California and federal Endangered Species Acts; federal Clean Water Act and the California Porter-Cologne Water Quality Act.
  - f) Experience and expertise in permitting from, or otherwise working through, regulatory issues with state and federal agencies including, but not limited to, the United States Bureau of Reclamation; United States Fish & Wildlife Service; National Marine Fisheries Service; United States Environmental Protection Agency; United States Army Corps of Engineers; California Department of Water Resources; State Water Resources Control Board; California Department of Fish & Wildlife; Central Valley Regional Water Quality Control Board; and Central Valley Flood Protection Board.

- g) Knowledge and experience working on legal, regulatory, environmental, and similar matters related to groundwater, the Sacramento River and Northern Sacramento Valley.
- h) Public employment labor laws, policies and litigation.
- i) Laws pertaining to funding the operations of a Joint Powers Authority and funding special projects related to SGMA implementation, including Proposition 218, Proposition 26, and regulatory fees.
- j) Preparation, review and adoption of legal opinions, contracts, memoranda of understanding (including risk transfer and avoidance provisions), resolutions, and policies.
- k) Governance in joint powers authorities, including amendments and bylaws, and experience in interfacing with counsel for joint powers member agencies.
- l) California statutory provisions which may be applicable to the public works procurement, bidding, award and construction process, including the California Public Contract Code and Labor Code.
- m) Real estate law, easements, rights-of-way, encroachment permits, and other related agreements and negotiations.
- n) Interpretation and enforcement of settlement agreements, its implementing legislation, and consent judgments.
- o) Legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation.
- p) Other relevant areas pertaining to joint powers authority, special district, municipal, and mutual water company, law, including liability claims, legal compliance, ethics, and risk avoidance.
- q) Knowledge of California water institutional structure.
- r) Supervision of special counsel in litigation matters.

4. Lead Counsel shall typically attend all Board of Directors meetings, and the firm must be accessible to provide legal assistance to the CGA on an emergency basis.

## **SECTION 4 - PROPOSAL REQUIREMENTS**

All Proposals must include and will be evaluated based on the following criteria:

1. A detailed scope of services that reflects the firm's understanding of the CGA's requirements.
2. Written responses to all the subject areas set forth in the "Minimum Firm Qualifications" section, demonstrating the firm's experience and expertise in: (a) counseling; (b) transactional; and (c) litigation matters for each subject area.
3. Personnel Qualifications: The Proposal shall identify the Lead Counsel who will be primarily responsible for providing legal services to the CGA, and other attorneys and staff to be assigned to CGA legal matters. Please include the qualifications, training, and certifications of Lead Counsel, and all other attorneys and staff who will perform the services outlined herein. Please include the name(s) of a backup attorney for the Lead Counsel (such backup attorney should also have prior, specific qualifying experience acting as general counsel for public agencies).
4. List of Clients: A list of major public agency clients represented by the firm during the last five (5) years, with contact information (i.e., name of the clients, addresses, phone numbers, and contact person). The CGA reserves the right to contact any of the references.
5. Additional Firm Information: The Proposal shall include the following: (a) Its scope of practice (national, regional, statewide, or local), and founding date; (b) Number of firm partners, "of counsel," associates, paralegals and other employees; (c) Location of primary office; (d) Number of firm clients.
6. Questions: Please respond in the Proposal to the following questions:
  - a) If the Firm were selected to represent the CGA, do you anticipate that it would have to obtain conflict waivers from any currently existing firm client?
  - b) Are you aware of any other ethical conflicts or other related issues which would preclude the firm from providing legal services to the CGA?
  - c) Do your designated litigation attorneys try cases by themselves or is responsibility shared with transactional attorneys who specialize in the practice area at issue, e.g. water and environmental?

- d) Briefly describe your firm's experience and expertise in advising public agencies on questions of law involving: (a) the Brown Act; and (b) conflict of interest laws; (c) water rights; (d) property rights; (e) groundwater and SGMA related issues.
- e) A description of legal services performed for public agencies located in the Sacramento Valley region.
- f) How many partners and associates have left your firm in the last three (3) years?
- g) What is the firm's approach to supervising and training associates?
- h) What type of tasks does your firm assign to paralegals or law clerks?
- i) Within the last five (5) years, has the firm been subject to any civil litigation for malpractice arising out of its performance of legal services for any firm client? If so, please provide the: (a) name and court case identification number for each case; (b) the jurisdiction in which it was filed; and (c) the outcome of the litigation, i.e. whether the case is pending, a judgment was entered, a settlement was reached, or the case was dismissed.

Fee Schedule: Please answer the following:

- a) Please state the hourly rate(s), together with costs reimbursement(s), you propose for rendering legal services to the CGA, including rates for Lead Counsel, all other attorneys and staff (including law clerks and paralegals), and travel time to CGA meetings in Colusa County.
- b) Does the firm offer discounted rates to public agencies such as the CGA? Do you discount your rates for any other reasons? If so, do the quoted hourly rates reflect those discounts?
- c) Is the Firm open to discussing fee arrangements other than fees for service on an hourly basis? If so, please state in detail what the Firm proposes.

Sample Contract: Provide a sample contract that the Firm proposes to use for this engagement with the insurance requirements listed herein.

## **SECTION 5 - TERMS AND CONDITIONS**

### **1. Acknowledgement of CGA Contract Provisions.**

Interested firms should review and acknowledge in the Proposal that the following provisions will be included in the proposed contract:

The Firm shall procure and maintain the insurance required, for the duration of the contract, to insure against claims for injuries to persons or damages to property arising from or in connection with the performance of legal services performed.

### **2. Insurance Requirements:**

a. **Commercial General Liability:** Coverage should include \$1,000,000 per occurrence, \$2,000,000 aggregate, as applicable. Prior to the start of work, the selected firm shall provide to the CGA evidence of insurance from an insurer(s) certifying the coverage. The CGA and its Directors, officers, employees, agents and volunteers are added as insureds. Additional insured endorsements shall be provided on Commercial General Liability form ISO 20 10 11 85 (or form ISO 20 10 10 01 accompanied by form ISO 20 3710 01).

b. **Business Automobile Liability:** Business Automobile Liability insurance insuring all owned, non-owned and hired automobiles - coverage code 1 “any auto” (Insurance Service Office policy form CA 0001 or insurer’s equivalent) in the amount of \$1,000,000 combined single limit per accident for bodily injury and property damage.

c. **Workers’ Compensation and Employer’s Liability Insurance:** Shall be furnished in accordance with statutory requirements of the State of California and shall include Employer’s Liability coverage of \$1,000,000 per accident for bodily injury or disease.

d. **Professional Liability Insurance:** For the full term of the contract, the firm shall procure and maintain errors and omissions liability insurance appropriate to the legal profession. Such coverage shall have minimum limits of no less than one million dollars (\$1,000,000.00) per claim.

e. **Commercial General Liability and Workers’ Compensation and Employer’s Liability Insurance:** Policies shall contain a waiver of transfer of rights of recovery (“waiver of subrogation”) against the CGA, its Directors, officers, employees, agents and volunteers for any claims arising out of the work of the firm.

f. Additional Insured Requirements: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CGA, its Directors, officers, employees, agents and volunteers as additional insureds.

### **SECTION 6 - REQUESTS FOR CLARIFICATION**

A firm requesting clarification pertaining to this RFP shall submit all requests through written correspondence via email or U.S. Postal Service **by 5:00 p.m. on November 18, 2017 to:**

**Colusa Groundwater Authority**

Attention: Mary Fahey

CGA Program Manager

100 Sunrise Blvd., Suite A, Colusa, CA 95932

Email: [mfahey@countyofcolusa.org](mailto:mfahey@countyofcolusa.org)

All questions and responses related to the RFP will be distributed via email to all firms that have requested a copy of the RFP.

Proposers are advised that they are limited to communicating with Ms. Fahey exclusively during the conduct of this RFP process, and are prohibited from communicating with any representatives of the CGA member agencies regarding the RFP. This communication restriction applies from the time the Public Notice is published for this RFP until the CGA Board of Directors approves the final agreement for services with the firm, decides to reject all proposals, or cancels this RFP process.

Violation of this provision by any Proposer and/or their agent may lead to disqualification of the Proposer's Proposal from consideration.

### **SECTION 7 - SUBMISSION OF PROPOSALS**

To be considered, an original and twelve (12) copies of the Proposal must be received by the CGA, no later than **5:00 p.m. on November 1, 2017**. Facsimile and email submissions will not be accepted.

The following information shall be included within the Proposal:

- 1) Title Page and Table of Contents.

- 2) Letter of Introduction signed by a partner of the firm and a summary highlighting the key points of the Proposal.
- 3) Detailed Proposal.
- 4) Signed Acknowledgement Form - refer to Exhibit "A" attached hereto.
- 5) Signed Conflict of Interest Form - refer to Exhibit "B" attached hereto.

**Please submit your Proposal to:**

**Colusa Groundwater Authority**

Attention: Mary Fahey

CGA Program Manager

100 Sunrise Blvd., Suite A, Colusa, CA 95932

Facsimile and email submissions will not be accepted.

No late proposals will be accepted for any reason. No exceptions will be allowed.

**SECTION 8 – SELECTION PROCESS AND EVALUATION CRITERIA**

Proposals will be examined for compliance with all of the requirements in this RFP. The CGA, in its discretion, may waive any omission which it deems to be non-essential or inconsequential.

CGA Directors and staff will evaluate each proposal submitted for completeness, including all of the information requested in this RFP. Proposing firms should note that its fee proposal and pricing, while important, will not be the only deciding factor in final selection, but rather the ability of the firm to provide and perform the required duties on behalf of the CGA as outlined herein.

Oral presentations and written questions for further clarifications may be required of some or all firms. Final selection will be based on evaluation of the Proposal and interview. The Proposals will be initially screened by the CGA's Legal Review Ad Hoc Committee and an invitation to interview with the Committee and/or the CGA Board will be extended to selected firms. The Legal Review Committee will recommend one or more firms to the Board of Directors for possible further review and interview(s).

The CGA reserves the right to modify the process.

Firms shall bear the cost of any interviews or meetings with the Legal Review Committee and Board of Directors.

It is anticipated that the CGA Board of Directors will select a qualified firm at its December, 2017 Board of Directors meeting.

## **SECTION 9 - PUBLIC RECORDS ACT**

All Proposals submitted in response to this RFP will become the property of the CGA upon submission and a matter of public record pursuant to applicable law. The CGA reserves the right to make copies of all Proposals available for inspection and copying by interested members of the public as records of the CGA and the CGA shall be under no obligation to the firm to withhold such records.

The CGA is subject to the Public Records Act under California Government Code section 6250 et. seq. As such, all required submitted information is subject to disclosure to the general public. Firms are further advised that all the terms and conditions, including fees and fee structures, forming part of any agreement entered into shall, upon such agreement being executed, become a public record of the CGA and subject to full disclosure, and each firm submitting a Proposal waives any right to object to any such disclosure.

## **SECTION 10 - PROPOSAL ACCURACY**

A Proposal which is incomplete, irregular, or conditional may be rejected. By submitting a Proposal, the submitting firm agrees that any significant inaccuracy in information given by the firm to the CGA will constitute good and sufficient cause for rejection of the Proposal.

## **SECTION 11 - DISCLAIMER**

The CGA reserves the right:

- 1) To enter into agreements for legal services at any time (for general counsel or special counsel legal services) with persons or firms who do not respond to this RFP;
- 2) To waive any irregularities, and to accept or reject any or all Proposals regardless of qualifications either in whole or part with or without cause;
- 3) To withdraw this solicitation at any time without prior notice;
- 4) To award its total requirements to one respondent or to apportion those requirements among two or more respondents as the CGA may deem to be in its best interests;
- 5) To negotiate a final contract with any respondents as necessary to serve the best interest of the CGA; and
- 6) To amend this RFP.

The CGA does not make any representations that any contract will be awarded to any firm responding to this RFP, and the CGA may, in its discretion, hire an employee to serve as General Counsel.

### **SECTION 12 - CONFLICTS OF INTEREST**

The CGA is subject to the Political Reform Act and to conflicts of interest provisions under California Government Code section 1090, et seq. To protect the CGA, all potential contracting parties with the CGA shall be required to complete a Conflict of Interest Questionnaire prior to the award, if any, of a contract. Refer to Exhibit “B” attached hereto.

### **SECTION 13 - DISCRIMINATION**

The firm and all subcontractors must not discriminate, nor permit discrimination, against any person on the grounds of race, national origin, sex, handicap, sexual orientation, veteran status, or any other protected class in their employment practices, in any of their contractual arrangements, in all services and accommodations they offer the public or in their business operations.

**EXHIBIT "A" ACKNOWLEDGMENT FORM**

Request for Proposals for General Counsel Legal Services  
For the Colusa Groundwater Authority

**PART A**

The proposing firm warrants the following:

1. That it will not delegate or subcontract its responsibilities under contract without the express, prior written permission from the CGA Board of Directors.
2. That all information provided in connection with this Proposal is true and correct.
3. That it will acknowledge and agree with all terms and conditions stated in this Request for Proposal.

Firm Name (Respondent to RFP): \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone No: \_\_\_\_\_

Email: \_\_\_\_\_

Signature: \_\_\_\_\_

**PART B**

The above listed firm is responding to a Request for Proposals for a qualified and experienced firm to provide general legal counsel services.

THIS COMPLETED FORM MUST BE INCLUDED WITHIN THE PROPOSAL SUBMITTED TO THE CGA BOARD OF DIRECTORS BY THE RESPONDING FIRM.

**SUBMIT PRIOR TO 5:00 P.M. November 1, 2017**

**Colusa Groundwater Authority**

Attention: Mary Fahey

CGA Program Manager

100 Sunrise Blvd., Suite A, Colusa, CA 95932

**EXHIBIT “B” CONFLICT OF INTEREST FORM**

Request for Proposals for General Counsel Legal Services  
For the Colusa Groundwater Authority

The CGA and California state law prohibit its Directors and staff from making a decision in which they may have certain financial or personal relationships with a contracting party. The questions that follow are intended to alert CGA to potential code of conduct conflicts. If conflicts of only a remote interest exist, a contract may nonetheless be awarded as disclosure allows CGA to choose processes for negotiation, award, and administration of contracts to avoid such conflicts. However, CGA reserves the right to review and make a final determination regarding whether any actual or potential conflicts would violate CGA’ policies or California law and thus preclude a contracting party’s participation in this award. All contracting parties and proposed sub-consultants must respond to each of the following questions. For responses answered “yes,” CGA may require additional information to evaluate potential conflicts prior to award. Failure to fully disclose conflicts will result in rejection of the proposal or immediate termination of any contract awarded therefrom.

1. To the best of your knowledge, do any current CGA Directors or employees have any of the following financial relationships with your Firm or with proposed sub-consultants?

Owner [Yes] [No]

Member [Yes] [No]

Partner [Yes] [No]

Officer [Yes] [No]

Employee [Yes] [No]

Contractor; Consultant [Yes] [No]

Broker [Yes] [No]

Major Stockholder [Yes] [No]

*(Major stockholder means ownership of 3% or more of firm stock.)*

If “Yes” to any of the above, did this Board member or employee participate in formulating your submittal?

[Yes] [No]

2. Are you or, to the best of your knowledge, are any officers or key employees of your firm or proposed sub-consultants an immediate family member of any current CGA Director or employee?

[Yes] [No]

3. To the best of your knowledge, is a CGA Director or employee seeking or being considered for employment by your firm or by proposed sub-consultants?

[Yes] [No]

4. To the best of your knowledge, have you or any officers or key employees of your firm or any proposed sub-consultants provided contributions directly or indirectly to a CGA Director while this potential new contract is pending before CGA?

[Yes] [No]

5. To the best of your knowledge, have you or any officers or key employees of your firm or any proposed sub-consultants ever served on CGA' Board?

[Yes] [No]

6. Have any of your current employees been employed by CGA in the past five (5) years?

[Yes] [No]

7. On a separate sheet, identify and disclose any business relationship(s), direct or indirect, past, present, or pending, with any associated entity in the CGA' service area, or any such entity which has engaged in past or present litigation against CGA.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Firm Name

THIS COMPLETED FORM MUST INCLUDED WITHIN THE PROPOSAL SUBMITTED TO CGA BOARD OF DIRECTORS BY THE RESPONDING FIRM

**SUBMIT PRIOR TO 5:00 P.M. November 1, 2017:**

**Colusa Groundwater Authority**

Attention: Mary Fahey  
CGA Program Manager

100 Sunrise Blvd., Suite A, Colusa, CA 95932