

Request for Statement of Qualifications

For provision of Legal Services supporting the development and operations of the Salinas Valley Basin Groundwater Sustainability Agency.



Response Submittals Due by Noon on July 14, 2017

Office of the City Clerk, 200 Lincoln, Salinas CA 93901

**Request for Statements of Qualifications to provide Legal Services
supporting the development and operations of the Salinas Valley Basin
Groundwater Sustainability Agency.**

SECTION 1. NOTICE OF REQUEST FOR QUALIFICATIONS.

The interim Board of Directors for the Salinas Valley Basin Groundwater Sustainability Agency (SVBGSA or “Agency”) is requesting Statements of Qualifications from law firms or individuals qualified to provide legal services to support the Agency in development and implementation of a Salinas Groundwater Basin Sustainability Plan for the Salinas Valley Groundwater Basin within Monterey County. It is expected that the qualified firm or individual will serve as the Agency’s General Counsel and provide services that support the newly constituted Agency in complying with California Senate Bills 1168 and 1319, and California Assembly Bill 1739 (collectively, the “Sustainable Groundwater Management Act” or “SGMA”), and the regulations promulgated thereunder.

SECTION 2. BACKGROUND AND SCOPE

Governor Brown’s signing of the Sustainable Groundwater Management Act (SGMA) in September 2014 put in effect legislation that has resulted in the formation of the SVBGSA. The Agency was formed in order to comply with the three bills that make up SGMA (Assembly Bill 1739 by Assembly Member Roger Dickinson, and Senate Bill 1319 and Senate Bill 1168 by Senator Fran Pavley).

The following provides a summary of the Sustainable Groundwater Management Act:

1. Provides for sustainable management of groundwater basins;
2. Enhances local management of groundwater consistent with rights to use or store groundwater;
3. Establishes minimum standards for effective, continuous management of groundwater;
4. Provides local groundwater sustainability agencies “GSAs” with the authority and technical, and financial assistance needed to maintain groundwater supplies;

5. Requires the avoidance or minimization of impacts resulting in land subsidence;
6. Improves data collection and understanding of groundwater resources and management;
7. Requires the avoidance or minimization of the depletion of groundwater storage and removes impediments to recharge; and
8. Empowers local agencies to manage groundwater basins, while minimizing state intervention.

In order to meet the requirements a group of stakeholders met multiple times to establish a governance structure, known as the Salinas Valley Basin Groundwater Sustainability Agency which has been created as a Joint Powers Authority representing a broad base of Salinas Valley stakeholder interests. The legislation requires that one or more GSAs for a basin be formed by the end June of 2017 prior to developing groundwater sustainability plans for groundwater basins or sub-basins that are designated as medium or high priority, or in critical condition of overdraft. The GSA is required to have authority over the basin or sub-basins it will manage. The SGMA goes on to say that GSAs must adopt a Groundwater Sustainability Plan (“GSP”) by 2020 that will demonstrate sustainability by the 20th year after adoption, with measurable objectives and milestones in 5-year increments. If at any point, the GSA fails to form, or to function as a GSA or fails to timely deliver a GSP, the State Department of Water Resources can usurp local authority and take responsibility for implementation of the legislation.

The SVBGSA was formed effective as of December 22, 2016, and voted to send to the Department of Water Resources a Notice of Intent to be the GSA for the Salinas Valley Groundwater Basin on April 20, 2017.

SCOPE OF WORK

- Provide legal expertise (including counseling and litigation) in the following practice areas as they relate to special districts, joint powers authorities, and municipal governments in California:

- Laws and regulations governing California special districts, joint powers authorities, and municipalities and governance of public entities, e.g. 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 operating procedures relative to the conduct of special districts, joint powers authorities, and municipalities.
- Water rights matters in state courts and federal courts and before the State Water Resources Control Board and a clear understanding of the Sustainable Groundwater Management Act.
- 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.
- Public employment labor laws, policies and litigation.
- Preparation, review and adoption of legal opinions, contracts, memoranda of understanding (including risk transfer and avoidance provisions), resolutions, and policies.
- 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.
- Real estate law, easements, rights-of-way, encroachment permits, and other related agreements and negotiations.
- Legislative and administrative (regulatory) law, both California and federal, including proposed and enacted legislation.
- Other relevant areas pertaining to special districts, joint powers authorities and municipalities, including liability claims, legal compliance, ethics, and risk avoidance.
- Supervision of special counsel in litigation matters.

- Lead Counsel shall typically attend all Board of Directors and Board Committee meetings, and the firm must be accessible to provide legal assistance to the Agency and on an as-needed basis.
- Provide legal counsel as required for the development and implementation of a Ground Water Sustainability Plan, that will be successful in achieving long-term ground water sustainability and achieving the goals outlined in SGMA.

SECTION 3. MINIMUM QUALIFICATIONS AND CRITERIA FOR EVALUATION

The firm or individual selected is expected to hold the following minimum qualifications:

- a. All attorneys performing services for the Agency 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.
- b. The firm member with primary responsibility for the services provided to the Agency (“Lead Counsel”), must have at least 10 years of experience providing general counsel legal services for special districts, joint powers authorities, municipalities or other local public agencies.
- c. Experience and expertise in permitting from or otherwise working through regulatory issues with state and federal agencies such as the United States Bureau of Reclamation; United State 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; and Central Coast Regional Water Quality Control Board.
- d. Solid track record of representing special districts, joint powers authorities and municipalities, including bylaws and amendments thereto.
- e. Strong understanding of the Sustainable Groundwater Management Act related to the requirements of creating a Groundwater Sustainability Agency and Groundwater Sustainability Plan with the ability to acquire and manage services that can produce a viable groundwater management plan.

- f. A clear understanding of the Salinas Groundwater Basin, Monterey County Water Resources Agency projects, agricultural community in Monterey County, and municipal and other water interests in Monterey County.

A selection committee comprised of members of the Agency and the interim Agency staff will review the Statements of Qualifications submitted in response to this RFQ and may request interviews with some firms. The selection committee will rank the top firms based on Statements of Qualifications and conduct interviews (if deemed necessary).

SECTION 4. STATEMENT OF QUALIFICATIONS: RESPONSE FORMAT

Statements of Qualifications should include the following information in the following order and format describing the prospective firms or individual's availability, interests, qualifications, and current relevant experience. The response to this RFQ will identify a qualified firm or individual that has substantial experience in preparing the requested deliverables.

1. Firm or individual's information.
2. Cover letter indicating the RFQ due date and title, the firm or individual's name, address, telephone number, fax number, and email contract address(es).
3. Firm profile.
4. Identify relevant firm members and provide resumes and identify the attorneys that the firm anticipates assigning in conjunction with this project. Include a discussion of the expertise of the attorneys who will be assigned to the project team, along with a description of their individual roles.
5. Describe why the firm is the best qualified to perform the scope of services in a timely and responsive manner.
6. Current billing rate schedule and the proposed total cost for the services to be completed to meet the expectations outlined in this RFQ. The billing rate will be applicable throughout the term of the agreement for the work on this project. The schedule should include the rates for all personnel who would potentially work on the project. The billing rate schedule and the proposed total cost shall be submitted in a separate sealed envelope.

The envelope should be clearly marked as the price proposal, with firm name, and project name (GSA Development). Submit only one sealed envelope with one copy of the billing rate schedule and proposed total cost.

7. Describe those conditions, constraints or problems that are unique to the proposed scope of services that may adversely affect either the cost of the project or the efficient progress and completion of the project.
8. Provide at least three (3) public entity references (with contact name, address, and telephone number) for which the firm and proposed key personnel have performed (or are performing) that represents work of a similar type, scope, and complexity.
9. Identify any legal proceedings, arbitrations, complaints or court actions filed against the firm within the last three (3) years for any project in which the firm participated.
10. Conflict of Interest: Provide a statement that discloses any past, on-going, or potential conflicts of interest that the firm may have as a result of performing work in response to this RFQ.

SECTION 5. SUBMITTAL REQUIREMENTS.

A complete response to this RFQ must include ten (10) copies of a bound written Statement of Qualifications and electronic copies of documents containing a PDF version of the Statement of Qualifications. Statements of Qualification will be received until Noon on _____, at the Salinas City Clerk's Office located at 200 Lincoln Avenue, Salinas, California 93901. Faxed or emailed responses are not acceptable and will be returned to the sender without review. The submittal deadline is absolute. Late submittals will not be considered. Statements of Qualification received after the due date and time will not be accepted or considered and will be returned to the sender without review. Prospective firms or individuals must select a method of delivery that ensures the Statement of Qualifications will be delivered to the correct location by the due date and time. The ten copies of bound written Statement of Qualifications, and one CD shall be submitted in one package with the words "GSA Development Project". The sealed and marked price proposal envelope shall be included in the package. In case of any conflict between

the PDF version sent by email, and the submitted bound copies, the submitted bound copies will control.

This RFQ may be downloaded from City of Salinas Home Web Page (put in the URL) or The Salinas Valley Groundwater Basin Management Web Page (put in the URL). The RFQ may also be obtained from the City Clerk. Note that failure to notify the City Clerk that you have downloaded an RFQ will preclude you from receiving updates or amendments, if issued. Questions regarding this RFQ may be directed to the Agency at garyp@ci.salinas.ca.us.

Interested firms and individuals are required to identify any potential or perceived conflict of interest (personal and/or property interest in the subject scope of work). All interested firms or individuals responding to this RFQ are required to comply with all applicable provisions of federal, state, and local law.

The Agency reserves the right to (1) reject any or all responses, (2) waive informalities in a response, (3) select a firm that has submitted fully responsive Statement of Qualifications and who is determined by the Agency to be a professional, qualified firm, or (4) take whatever action or make whatever decision it determines to be appropriate including allowing the selected firm or individual to continue on to final design and construction without re-advertising the RFQ. The Agency assumes no obligation in this general solicitation of Statements of Qualifications and all costs and expenses of responding to this RFQ shall be borne by the interested firms.

SECTION 6. RECORDS AND FINANCIAL DATA

All correspondence with the Agency, including responses to this RFQ, will become the exclusive property of the Agency upon receipt and will become public records under the California Public Records Act. Financial data, rates for services, and cost sheets are not considered confidential or proprietary. All documents submitted in response to this RFQ will be subject to disclosure if requested by a member of the public. There are a very limited number of exceptions to this disclosure requirement. During this selection process, until a firm is selected, the Agency will not disclose submittals (or any parts thereof), except as required under applicable law. This means that, depending on the nature or timing of the request, or future court decisions, that information may not remain private or confidential and may be publically disclosed.

SECTION 7. GENERAL PROVISIONS

Each prospective firm or individual submitting a Statement of Qualifications in response to this RFQ agrees that the preparation of all materials for submittal to the Agency and all presentations are at the firm or individual's sole cost and expense, and the Agency will not, under any circumstance, be responsible for any costs or expenses incurred by a prospective firm or individual.

Release of this RFQ does not commit the Agency to the selection of a firm or individual and does not commit the Agency to enter into any agreement with a firm identified by the Agency through this process and the most qualified to provide the services described in this RFQ.

Prospective firms are responsible for making necessary investigations and examination of records. Failure to do so will not act to relieve any condition of a potential professional services agreement or the requirements set out in this RFQ. It is mutually understood and agreed that the submission of a Statement of Qualifications shall be considered evidence that the prospective firm has made such examinations and investigations. No request for modification of a Statement of Qualifications shall be considered after its submission on the grounds that the prospective firm was not fully informed as to any fact or condition.

A prospective firm may withdraw their submittal at any time prior to the date and the time which is set forth herein as the deadline or submittal of Statements of Qualifications.

The Agency reserves the right to request additional information at any time from any and all prospective firms as deemed necessary by the Agency to evaluate the submittals. This process may not be used, however, as an opportunity to submit missing documentation or to make substantive revisions to the original Statement of Qualifications.

If a prospective firm or individual has a question or requests clarification pertaining to this RFQ, such question or request for clarification must be put in writing and submitted to the Agency in the manner identified below. The Agency will provide all prospective firms that have provided their contact information with a list of all questions and requests for clarification, as well as the answers to the questions and responses to the requests for clarification.

All Statements of Qualifications will remain in effect and legally binding for at least one hundred twenty (120) days from the date of submission.

This Request for Qualifications shall be governed in accordance with the laws of the State of California and the jurisdiction of any disputes hereunder shall be Monterey County, or in the appropriate federal court with jurisdiction over the matter.

Unless otherwise directed, all communications regarding this RFQ, including all questions, should be submitted to the Agency at garyp@ci.salinas.ca.us.

SECTION 8. SCHEDULE

The following is the tentative schedule for selection of a consultant:

6/1/2017	RFQ Release Date
7/7/2017	Deadline for Submittal of Questions or Requests for Clarification
7/14/2017	RFQ Response Submittals Due to the Agency
Jul/ Aug 2017	Agency Review