



Title: Authorization to Release RFQ for Legal Services

Resolution number: 20-042

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Reviewed by: Name/Title: **James Wisker**

Recommended action: **Approval at the May 28, 2020 Board Meeting**

Schedule: [Click here to enter a date.](#)
[Click here to enter a date.](#)

Budget considerations: Fund name and code: N/A
 Fund budget: **N/A**
 Expenditures to date: **N/A**
 Requested amount of funding: **N/A**

Past Board action:

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Summary:

Pursuant to Minnesota Statute 103B.227 a watershed District is required to solicit interest proposals for legal services at least every two years. Requests for Qualifications (RFQ) will be submitted to the state register, distributed to qualified companies in the Twin Cities metropolitan area, posted on the District’s website, and published in the District’s official newspaper.

Project timeline:

Week of June 1	RFQ will be issued
July 8	RFQ response deadline
August 13	Staff recommendation to the Board of Managers
Week of August 17	Signed contract in place

Supporting documents (list attachments):

RFQ – legal services



RESOLUTION

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WHEREAS, pursuant to Minnesota Statutes 103B.227 at least every two years watershed districts are required to solicit responses for professional services before retaining the services of a consultant; and

WHEREAS, professional services needed by the MCWD, and subject to 103B.227 include legal services; and

WHEREAS, District staff have prepared, and the MCWD Board has reviewed, the Request for Qualifications and Scope of Services for legal services

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator to issue a request for qualifications for legal services.

Resolution Number 20- **042** was moved by Manager _____, seconded by Manager _____. Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: 5/28/2020

Secretary Date: _____

Request for Qualifications – Legal Services

Overview

Minnehaha Creek Watershed District (MCWD) Counsel shall provide an ongoing process of setting the legal parameters within which the District will operate to avoid litigation or other legal disputes by identifying the legal consequences of choices; discuss alternative solutions; educate the Board about the legal issues involved; and inform the District Administrator or project managers of laws, regulations, and judicial decisions that might affect District rules, policies or practices (e.g. preventative law). In this function, District Counsel shall routinely review and assess District rules and policies as well as organizational practices and procedures to consider, among other things, whether they are 1) consistent with acceptable governmental practice; 2) consistent with federal and state laws and regulations, and case law; and 3) likely to produce fair/equitable outcomes.

District Counsel shall possess considerable experience in 1) watershed/environmental law and policy development, 2) ditch law, 3) municipal/governmental law and land use regulation, 4) real estate law, 5) employment law, 6) public sector contract law, 7) conflict resolution and mediation, and 8) litigation.

Scope of Services

Retainer

1. General Services on Retainer: Attorneys will provide general, ongoing legal counsel to the MCWD Board of Managers through an ongoing process of setting the legal parameters within which the District will operate to avoid litigation or other legal disputes by identifying the legal consequences of choices; discussing alternative solutions; educating the Board about the legal issues involved; and informing the District Administrator or project managers of laws, regulations, and judicial decisions that might affect District rules, policies or practices.

In this function, District Counsel shall routinely review and assess District rules and policies as well as organizational practices and procedures to consider, among other things, whether they are 1) consistent with acceptable governmental practice 2) consistent with federal and state laws and regulations, and case law, and 3) likely to produce fair/equitable outcomes.

2. Retainage shall also provide for:
 - a. The preparation for and attendance at any Board or Committee meeting of the MCWD, including the review of relevant correspondence or agenda materials in connection with said meetings and any advice and opinions rendered therein.
 - b. The preparation of Board meeting minutes in a timely manner.
 - c. Advice or response to routine questions from Board members or staff to assure that watershed activities are carried out in accordance with applicable district rules and policies and within proper legal and ethical requirements and standards.
 - d. The retention of original bond documents and copies of contracts, agreements, and other documents established by Board resolution and the retrieval of said documents that are considered “active” or that have been archived for 5 years or less.

Non-Retainer Work

1. Litigation, Enforcement Actions, and Other Special Matters
Upon Board resolution, Counsel will provide representation for the MCWD in litigation, preparation for litigation, investigation, negotiation, compromise or settlement of claims

made against or on behalf of the MCWD, or enforcement actions initiated by the MCWD in the enforcement of its rules or permit conditions, including legal advice and representation in administrative or judicial proceedings.

2. Legal Services for Management Planning, Capital Improvement Projects, and Interagency Agreements

Upon written request of the District Administrator or his/her designee, Counsel shall provide legal counsel for the MCWD in connection with management planning activities; the development, implementation, and enforcement of rules relating to same; negotiation and drafting of contracts, interagency agreements or resolutions; and legal counsel concerning the initiation, financing, and implementation of capital improvement projects, including any necessary acquisition and/or disposition of property or other interests in real estate.

3. Maintain a duplicate set of all contracts, agreements, and other documents relating to issues of concern to the District.

4. Additional Services: Upon written request of the District Administrator or his/her designee, Counsel shall provide the following additional services.

- a. Preparation of contracts, agreements and supporting documents.
- b. Assistance with matters related to employment law, employee discipline, and employee termination.
- c. All other legal services he/she is qualified to provide and authorized by the District Administrator.

Understanding of State, Regional and Local Government and Watershed Management

Respondent's response should demonstrate that counsel has:

- A current understanding of issues relative to District governance, projects, or programs.
- A current understanding of watershed management.
- An awareness of state and regional plans and priorities related to watershed and natural resource management.

District Policy Relating to Member Communities and Other Governmental Jurisdictions

It is the Policy of the District that District Consultants may not simultaneously represent governmental jurisdictions fully or partially located within the District without prior written approval from the District Administrator.

District Policy Related to Non-Discrimination

In performing the Services, CONSULTANT will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

Submittal Requirements (please limit your response to 5 pages or less)

Proposals shall be submitted electronically to admin@minnehahacreek.org by 4:00 p.m. on July 8, 2020.

Proposals shall include the following:

1. A summary of your firm's experience and expertise to meet the requirements outlined in the Scope of Services.

2. The names and qualifications of attorneys working for the district.
3. A list of other staff, their qualifications, and a description of the type of activities they will do on behalf of the MCWD.
4. A list of sub-consultants, their qualifications, and a description of the type of activities they will do on behalf of the MCWD.
5. The proposed fee structure including those charged by sub-consultants.