



Sites Project Authority

Request for Qualifications Water Rights Legal Services RFQ No. 20-02

July 22, 2020

Qualifications Submittal Deadline

August 20, 2020

Noon Pacific Standard Time (PST)

Form of Submission

Electronic Submittal Only

jtrapasso@sitesproject.org

Contact Person

Joe Trapasso

Program Operations Manager

Sites Reservoir Project

jtrapasso@sitesproject.org

Request for Qualifications Water Rights Legal Services RFQ No. 20-02

1.0 Overview/Background

The Sites Project Authority (Authority) is soliciting Request for Qualifications (RFQs) from firms (each a Respondent) interested in providing Water Rights Legal Services for the implementation of the Sites Reservoir Project (Project).

It is the intent of the Authority to award a contract to the best-qualified firm that demonstrates extensive experience with providing legal support to water rights issues tailored to the Authority's current and future needs, which is primarily focused on the development and operation of a large surface water infrastructure project.

The Authority, Reservoir Committee, and Project

The Authority is a joint exercise of powers authority formed on August 26, 2010 pursuant to Government Code Section 6500 *et seq.*, and its mission is:

- To be a proponent and facilitator to design and potentially acquire, construct, finance, manage, govern and operate Sites Reservoir and related facilities;
- To increase and develop water supplies;
- To improve the operation of the state's water system; and
- To provide a net improvement in ecosystem and water quality conditions in the Sacramento River system and the Delta.

The Authority is currently governed by a 9-voting member Board of Directors that includes several local water agencies and both Colusa and Glenn counties. Further, the Authority is the lead agency for compliance with California Environmental Quality Act (CEQA) and is working with the 21 local water agencies located statewide (Reservoir Committee) who have entered into agreements to advance the Sites Reservoir and related facilities.

Together, the Authority and Reservoir Committee are working in partnership with both the Bureau of Reclamation (Reclamation) and the California Department of Water Resources to improve the operation of the state's interdependent water system for both consumptive and environmental beneficial uses.

Located 10 miles west of the town of Maxwell in rural Glenn and Colusa counties, the Sites Reservoir would be up to a 1.5 million acre-foot off-stream surface water storage facility that conserves stormwater flows in the Sacramento River—after all other water rights and regulatory requirements are met—for subsequent release for environmental use and use by California communities, farms and businesses when it is desperately needed. It would be one of the state's largest reservoirs and would increase surface water storage in the Sacramento Valley in the range of 15%.

When operated in a cooperative manner with other Northern California reservoirs such as Shasta, Oroville and Folsom – which function as the backbone to both the Central Valley Project and the State Water Project – Sites Reservoir will greatly increase flexibility, reliability and resiliency of statewide water supplies in drier periods.

With Sites Reservoir, California has a rare opportunity to enhance statewide water supplies and provide an allocation of water specifically for the environment. It provides federal and state resource agencies with a dedicated and reliable supply of water they can manage to provide environmental benefits, especially during drier years.

In keeping its commitment to move the Project forward on behalf of the region, the Authority has spent the last several years working towards accomplishing its mission by engaging the stakeholders and participants, initiating the required environmental planning process, and conducting feasibility studies, among other efforts. The Authority is working in close coordination with other stakeholders in the region and throughout the State.

Funding for the Project is expected to come from federal and state sources, as well the Project's participants. In July 2018, the Authority was awarded \$816 million of funding from the California Water Commission (CWC) under its Water Storage Investment Program funded by Proposition 1 which was approved by California voters in November 2014, and in November 2018 was awarded a \$449 million loan from the U.S. Department of Agriculture for construction of the Maxwell Water Intertie.

The Authority and Reclamation released both a joint public draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and draft congressionally mandated Feasibility Report in August 2017. Since that time, the Authority has revised key project components as reflected in the *Sites Project Value Planning Alternatives Appraisal Report* adopted by the Authority in April 2020. The Authority and Reclamation are currently preparing a Revised Draft EIR/EIS that reflects the alternatives described in the Value Planning Report.

In addition to needing to complete the CEQA and National Environmental Policy Act processes, several other permits and authorizations will be required prior to the California Water Commission encumbering funds for final design and construction. Many of these permit applications require a sufficient level of engineering design, field surveys (some multiple year), public review, and agency input and review which can, in many cases, take multiple years to complete. As such, multiple activities are underway to maintain the Project's schedule, including continued engineering design to finalize all facility locations, permit application development and required surveys, and review of anticipated impacts and proposed/required impacts minimization and mitigation measures.

2.0 Scope of Work

2.1 The overall goal of the water rights legal support is to assist the Authority in securing all necessary water rights for the Project. The initial stage of work is envisioned to work with the Project's water rights team (currently Authority Agents, MBK Engineers, ICF Jones & Stokes, Inc., and CH2M Hill Engineers/Jacobs) to complete the water rights strategy, ensuring water rights matters are properly analyzed in the revised and recirculated Draft EIR/EIS, and lead the preparation of a water rights application to the State Water Resources Control Board to be

submitted in early 2022. Depending upon performance, future stages of work may involve serving as legal representative for the Authority to the State Water Resources Control Board in their proceedings to issue a water right permit for the Project which is expected no later than Spring 2024.

3.0 General RFQ Requirements

3.1 RFQ Questions and Clarifications Requests

Prospective RFQ respondents may submit written questions pertaining to this RFQ prior to **noon on July 28, 2020** via email to: jtrapasso@sitesproject.org.

The Contact Person (refer to cover page), who is an Authority Agent, will officially respond to any questions and clarifications in an addendum which will be provided to all potential respondents. Questions and responses will also be posted to the Authority's website at: <https://www.sitesproject.org/>.

Once the RFQ has been publicly released, any communications related to the preparation of a qualifications by a prospective respondent, with the exception of necessary communications to identify or address potential or real conflicts, with any of the Authority Board members; Reservoir Committee members; Authority Agents, advisors or staff, other than the Contact Person, may result in any ensuing qualifications that was submitted by the prospective respondent as being deemed not accepted, which will result in the qualifications not being further considered.

3.2 Qualifications Submittal

Receipt of the following material is **required by noon on August 20, 2020**, for a Respondent to be considered:

- An electronic copy of the qualifications and all its appendices in a single bookmarked PDF file must be addressed to:

Joe Trapasso
Sites Project Authority
Program Operations Manager
jtrapasso@sitesproject.org

- The qualifications shall include the following:
- Transmittal Letter listing RFQ No.20-02

Sections: Entire qualifications is limited to no more than 20 pages (page size of 8.5 by 11 and 11-point font minimum, not including transmittal letter, cover page or table of contents, unless otherwise specified)

1. Firm Profile and Qualifications
2. Experience and Qualifications of Project Team
3. Understanding Project Challenges

4. Disclosure of Conflicts and Approach for Addressing
5. Proposed Billing Rates
- Appendices: Will not be counted within the page limit
 - A. Proposed Standard Contract
 - B. Additional Information on Disclosure of Legal Actions and Conflicts
 - C. Other Required Information

3.3 Specific Requirements:

1. Transmittal Letter

The transmittal letter must not exceed two pages and must be signed by a representative of the Respondent who is authorized to negotiate on behalf of, and to contractually bind, the Respondent during the evaluation. The letter should summarize the key points contained in the qualifications, as well as provide the name, title, address, email address and telephone number of the key contact attorney.

2. Firm Profile and Qualifications

- a. Firm Overview

Provide an overview of Respondent, including ownership, staff size, organizational structure, and business strategy. Specify the office and its address that would serve as the “lead office” for this Project and its primary functions.

- b. Firm Experience

Indicate Respondent’s legal water rights experience on any large California water infrastructure projects (especially for California water projects or policy setting governance bodies such as Joint Powers Authority, joint public-private ventures, etc.) and for clients including water and wastewater districts, water irrigation districts, local government agencies (city and county), and state and federal agencies. List up to four relevant projects/clients.

For each listing of experience, list the dates services were provided, client/project name, type, project budget, and size of project, and the name of Respondent’s lead professional on the project.

- c. Client References

For each of the projects/clients listed above, provide the clients’ references for which the Respondent has provided services similar to those sought by the Authority. Provide the name, address, telephone number, email address, contact(s) and title(s) of an appropriate individual with each client. Briefly summarize the main services or initiatives the Respondent provided to the referenced client.

3. Experience and Qualifications of Project Team
 - a. Identify the professional who will be assigned to lead the project and key staff. Provide a brief narrative highlighting their experience providing services similar to those sought by the Authority on large California infrastructure projects (especially for California water projects or policy setting governance bodies). In addition, highlight relevant experience representing a Joint Powers Authority or joint venture.
 - b. Provide a brief resume (no more than 2 pages) for the identified team lead and key staff. The resumes shall be included in Appendix C to the response to these qualifications and will not be counted in the page limit for the submittal.
4. Understanding Project Challenges
 - a. Provide a summary of the services and the work products that Respondent proposes to provide to the Authority. What unique services or approach would Respondent provide? What specific benefits does Respondent believe they will bring to the Project?
 - b. Describe any other directly related or unique services Respondent may be able to provide to the Authority.
5. Disclosure of Conflicts and Approach for Addressing
 - a. Provide a summary of any potential conflicts that Respondent firm may have and an approach for addressing potential conflicts.
6. Proposed Billing Rates
 - a. The Authority intends to contract the initial water rights services scope of services outlined in this RFQ on a negotiated time and materials contract with a not-to-exceed amount of \$200,000. The Respondent shall include its proposed labor hourly billing rates and other direct costs.

Respondents may propose an alternative fee as part of their proposal; however, any alternative fee proposals should include a narrative of the proposed fee and how it will benefit the Authority.
7. Appendices:
 - a. Proposed Standard Contract (refer to Section 4.0)
 - b. Disclosure of Legal Actions, Conflicts of Interest, or other Potential Conflicts

Provide information regarding the following in Appendix B:

 - Any pending investigations of the Respondent, and any enforcement, settlements, or disciplinary actions taken within the past five years by any regulatory body and any litigation challenging the manner in which the Respondent has provided services in the past five years.

- Any actual **or potential** conflicts of interest between the Authority, its Board members, its Reservoir Committee members, Project staff, and any other person or entity represented by Respondent to these qualifications. Identify any Authority members or Reservoir Committee members that the Respondent has represented in the last five years.
- c. Other Required Information (Appendix C)
- Insurance - Evidence of insurance, including amounts and types of insurance carried and deductible amount to cover errors and omission, improper judgments, or negligence.
 - Lead Resumes - Brief resume (no more than 2 pages) for the identified lead attorney and key staff.

4.0 Standard Contract

- 4.1** Provide your standard contract terms and conditions in Appendix A for consideration for this contract.
- 4.2** The Authority is planning to execute a contract with a term expected to commence on or about September 24, 2020. The Authority will determine the term of the contract, in its sole discretion, at the time of the negotiation of the contract with the selected Respondent. The contract shall state the conditions under which the contact can be terminated, including termination for convenience by the Authority upon 30 days' notice.
- 4.3** The Authority reserves the sole right to not execute a task and to terminate the task before its completion pending 30-day written notice.
- 4.4** The Respondent shall defend, indemnify and hold harmless the Authority, Reservoir Committee and their respective directors, members, officers, employees and agents from any claim or liability related to or arising from the services provided for under the contact, except to the extent caused solely by the gross negligence or willful misconduct of the Authority, Reservoir Committee and their respective directors, members, officers, employees and agents.
- 4.5** The Respondent shall identify the nature and extent of insurance policies that it has and will keep in place during the term of the contact, including general liability, workers compensation and professional liability.

5.0 Evaluation and Selection Procedure

An evaluation team comprised of Authority project staff will evaluate each submitted qualifications relative to the completeness of the submitted qualifications and the criteria listed below and provide the information to an Authority selection panel consisting of Authority Board and Reservoir Committee members, Authority Agent(s), and potential technical advisor(s). The firms judged to be best qualified by the selection panel may be invited to participate in an interview and make a presentation to the interview panel.

After the interview(s), the selection panel will make a recommendation to the Reservoir Committee and Authority Board of Directors on a firm for their consideration. Based on the Board's decision, the services contract will be negotiated. If acceptable terms and conditions with the recommended Respondent cannot be reached in a timely manner, the Respondent ranked second will be contacted to begin negotiations. However, the Authority is not bound to accept the recommendation or award the contract to the recommended or second recommended Respondent.

The Authority reserves the right to select the Respondent which in its sole judgement best meets the needs of the Authority.

The Authority will evaluate qualifications submittals based on the below criteria. The order of the listed criteria is not indicative of their priority, weighting, or importance; however, the respondent's proposed personnel and demonstrated ability to provide value are important evaluation criteria.

- Qualifications completeness.
- Relevant and applicable experience and qualifications of the Respondent and its proposed lead attorney and key staff.
- Demonstrated past performance of the Respondent and its lead attorney in effectively working with client water rights teams and delivering services on scope, quality, schedule, and budget to meet the end product of client needs.
- A demonstrated understanding of the Sites Project.
- Other unique services and approaches to meeting the Authority's needs.
- Results of the Respondent's legal issues and comprehensive conflicts of interest check.
- Proposed billing rates.

6.0 Tentative Qualifications Schedule

Qualifications are due on August 20, 2020 at noon, PST. Qualifications received after this time will not be accepted. In addition, after receipt of a respondent's qualifications, no additional version of the Respondent's qualifications will be accepted.

RFQ Contact Person

Joe Trapasso
Program Operations Manager
Sites Reservoir Project
jtrapasso@sitesproject.org

Tentative Solicitation Schedule (subject to change)

Activity	Date (2020)
Release of RFQ	July 22
Submission of written RFQ questions	July 28 Noon
Response to written questions emailed to Respondents	July 31
Qualifications due to Authority	Aug 20 noon
Authority Review of Qualifications/Firms Selected for Interview	Sept 23
Notification of Interviews, if appropriate	Aug 28
Interviews, at Authority's discretion	Sept 3
Reservoir Committee reviews and recommends approval to the Authority Board	Sept 17
Authority Board reviews and approves contract award	Sept 23
Execution of contract completed	Sept 25

7.0 Solicitation Disclaimer

The Authority reserves the right to reject any and/or all responses, negotiate with any Respondent that submits a response or waive any informality or irregularity. All responses to this RFQ become the property of the Authority upon submission. The costs of preparing a qualifications and participating in an interview are at the sole expense of the Respondent.

8.0 Additional Information

For more information on the recent completed Value Planning Report and the Sites JPA, please visit: <https://www.sitesproject.org/>