

Staff Report



TO: Board of Directors

FROM: Barbara Buikema, General Manager

DATE: December 19, 2024

SUBJECT: Legal Counsel Request for Proposals (RFP)

RECOMMENDATION

It is recommended that the Board of Directors adopt a resolution to consider the recommendation of the Legal Ad Hoc committee to authorize a contract with Fenton & Keller for services as District Legal Counsel in an amount of \$325/per hour.

DISCUSSION

The District's legal counsel, Robert Wellington, submitted a letter of resignation effective January 10, 2025. At the District's regular October board meeting the Board approved the release of a Request for Proposal (RFP) for legal services. The RFP was sent to 18 legal firms and posted to two purchasing boards: Public Pay and the California Special District Association (CSDA). The District received eight responses.

The committee to review the RFP was comprised of Board President, Ken White and Suzanne Cole (asked by President White to participate because of her legal background). Mr. Wellington was asked by the board and was able to participate in three of the four interviews. The General Manager, Barbara Buikema also participated in the interviews. Interviews were held on December 12th (three) and December 16th (one). After all interviews were complete the committee ranked their preferences. The Cost Proposals were opened after the first round of ranking the candidates. There was additional discussion and then a second round of ranking occurred.

All written submissions were reviewed and it was decided that interviews should be granted to all local firms – three, plus one firm from Sacramento that had an excellent response, and we know from our own prior experience.

The three local firms were Delay & Laredo, Fenton & Keller, and Kennedy, Archer & Giffen. The fourth firm granted an interview was Best, Best & Krieger from their Sacramento office via ZOOM.

The initial ranking resulted in Fenton & Keller and Best, Best & Krieger being top ranked.

There was a strong consensus that the District should go with a local firm, which was the tipping point argument for Fenton & Keller over Best, Best & Krieger.

Cost proposal break down:

Delay & Laredo	Est. \$20,400 per month with \$255/hr for general services and \$295 for senior attorney
Fenton & Keller	\$325/hr for shareholder attorney
Best, Best & Krieger	\$335/hr for attorney plus ½ that rate for time spent traveling from Walnut Creek to Carmel plus IRS mileage rate. We estimated that to be an additional \$1K per month
Kennedy, Archer & Giffen	\$435/hr plus flat monthly fee of \$20K based on expectation of 50 hours time

The primary reasons for the selection of Fenton & Keller were:

- The primary attorney assigned to CAWD, Alex Lorca, was quite personable and we felt he would be a good fit with all board members and staff.
- Mr. Lorca has a fairly solid base of public agency experience as City Attorney for Del Rey Oaks and was formerly Deputy General Counsel for Sunnyslope County Water District, Deputy City Attorney for Pacific Grove, Deputy General Counsel for Monterey Peninsula Water Management District, Deputy General Counsel for Monterey Salinas Transit District and General Counsel to the Monterey County Regional Taxi Authority.
- Fenton & Keller has 23 attorneys spanning a variety of practice areas, including municipal law, public agency law, employment law, and litigation. This may be beneficial should CAWD need specific expertise.
- Mr. Lorca has indicated that Fenton & Keller has no prohibition against utilizing attorneys outside their firm and is willing to work with them on our behalf. CAWD is currently utilizing outside attorneys for multiple ongoing matters.
- Fenton & Keller has deep roots in the community which may be helpful to the District in the future.
- Mr. Lorca is willing to take on both CAWD and the Reclamation Project. Although it was explained that we would need the approval of the Reclamation stakeholders.

The Ad Hoc committee recommends the firm Fenton & Keller for the board's consideration. The committee can answer questions about the other candidates during the meeting if desired.

FINANCIAL:

\$325/hr for an estimated 40 hrs/month = \$13,000 or \$156,000 annually

Additional potential costs:

Associate Attorneys \$300/hr

Paralegals \$100/hr

Historical legal expenditures:

2023-24 \$122,161

2022-23 \$ 65,060

2021-22 \$ 50,748

2020-21 \$ 65,068

2019-20 \$138,130