

SAN MATEO COUNTY HARBOR DISTRICT

REQUEST FOR PROPOSALS (RFP) 2019-09

GENERAL COUNSEL LEGAL SERVICES

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# Request for Proposals

RFP 2019-09

for

**GENERAL COUNSEL LEGAL SERVICES**



**SAN MATEO COUNTY HARBOR DISTRICT  
REQUEST FOR PROPOSALS (RFP) 2019-09  
GENERAL COUNSEL LEGAL SERVICES**

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- Attachment A – Cost Proposal Form
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**NOTICE INVITING PROPOSALS**

**NOTICE IS HEREBY GIVEN** that sealed proposals will be received in the Administration Offices of the San Mateo County Harbor District (District) either by U.S. Postal Service addressed to its mailing address, P.O. Box 1449, El Granada, CA 94018; or by courier or personal delivery to the San Mateo County Harbor District, 504 Avenue Alhambra, 2<sup>nd</sup> Floor, El Granada, CA, by **September 23 , 2019 at 4:00 p.m., Pacific Time**, for the following:

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***PROPOSAL FOR: GENERAL COUNSEL LEGAL SERVICES***

The San Mateo County Harbor District ("District") is requesting proposals from law firms with a minimum of five (5) years' experience representing public agencies in general governmental procedures, compliance, contracts and transactions, and civil litigation.

The District hereby notifies all Proposers that it is the policy of the District to ensure nondiscrimination on the basis of race, color, national origin, sex or any other protected status in the award and administration of contracts.

Requests for modifications or clarifications of any requirement must be submitted in writing by email to: [jvanhoff@smharbor.com](mailto:jvanhoff@smharbor.com), or by U.S. Mail to U.S. Postal Service address above. All such requests must be received in District's office by: **September 9, 2019, at 4:00 p.m., Pacific Time**.

Proposals will be examined by District Staff and reported to the San Mateo County Harbor District Board of Harbor Commissioners within one hundred twenty (120) calendar days after the proposals have been opened. The District reserves the right to reject any and all proposals; or to waive any irregularities or informalities in any proposal or in the proposal procedure; or to postpone the proposal opening for good cause. No Proposer may withdraw its proposal for a period of one hundred twenty (120) calendar days after the date of opening of the proposals. Each Proposer will be notified of award of contract, if an award is made.

The RFP Documents are available for download on the District's website. To download the documents, go to the District's website home page at <http://www.smharbor.com>, click on Bids/RFPs, scroll down to RFP 2019-09.

Downloading RFP documents from the District's website does not imply your firm is a potential proposer nor will your name automatically appear on the District's "List of Potential Proposers." In order to be included on the "List of Potential Proposers", the District requests that all potential Proposers complete the "Bids/RFPs Form" posted with the RFP Documents at [smharbor.com/bids-rfps](http://smharbor.com/bids-rfps).

**Ultimately, it is the responsibility of the Proposer to check the District's website for any Addenda that may be issued relative to this RFP.**

If you have any issues downloading the RFP documents from the website or would like hard copies mailed to you, please contact the District's Office by e-mail at [jvanhoff@smharbor.com](mailto:jvanhoff@smharbor.com) or by telephone at (650) 583-4400.

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**1. PROPOSAL REQUEST**

The San Mateo County Harbor District (District) requests Proposals from qualified law firms to provide legal services and serve as District Counsel and is advisory to the Harbor Commission Board. The attorney of the firm that is proposed to serve as District Counsel shall have at least five (5) years of experience in civil law administration and has represented public agencies in general governmental contracting, ethics, dispute resolution, environmental & natural resources, and land use. The District further desires specialized knowledge and experience in real estate law and maritime law.

The relationship with District Counsel is integral to the success of the District. The relationship should be amicable and, and Counsel should have intimate knowledge of the challenging and evolving public policy issues and how these issues may impact the District. District Counsel acts as the Chief Legal Officer and proactively represents the District in legal matters pertaining to District Business. Counsel provides clear, open and complete reporting, particularly in advance of significant activity.

**2. PROPOSAL TIME-LINE**

Listed below is the Proposal Time Line that outlines pertinent dates of which Proposers should make themselves aware:

September 9, 2019 at 4:00 p.m.	Written Questions and Requests for Modifications or Clarifications are due
September 12, 2019 at 4:00 p.m.	Response to Questions and Requests for Modifications or Clarifications posted to District website
September 23, 2019 at 4:00 p.m.	Proposals Due
October 7, 2019	Proposer Interviews by Harbor Commission Committee Members
October 16, 2019 at 6:30 p.m.	Committee to Present Recommendation to Harbor Commission Board

These dates are subject to revision at the District's discretion.

**3. SUBMITTAL OF PROPOSALS**

**A. Requests for Modifications or Clarifications of the Proposal Specifications**

Any requests for modifications or clarifications of the Request for Proposal shall be submitted in writing to the District Office at [jvanhoff@smharbor.com](mailto:jvanhoff@smharbor.com) by September 9, 2019 at 4:00 p.m. Any interpretation, change, or correction of said Request for Proposal will be made by Addenda only, duly issued by the District Office no later than September 12, 2019 at 4:00 p.m. Proposers should

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check the District's website at <http://www.smharbor.com> and click on Bids/RFPs for any Addenda that may be issued relative to this RFP.

The District intends on notifying Potential Bidder's/Proposer's of Addenda if the District has been notified by the Bidder/Proposer of such intent. All oral modifications of RFP requirements and conditions are void and ineffective. The District reserves the right to reject any Proposal that contains unauthorized conditions or exceptions.

**B. Proposal Due Date**

Proposers are requested to submit one (1) original, five (5) hard copies, and one (1) flash drive or thumb drive containing an electronic searchable PDF and Word.doc copy of the Proposal to the District. In case of any discrepancies, the original will be considered by the District in evaluating the Proposal. The electronic version is provided for the District's administrative convenience only.

Proposals shall be submitted in a sealed envelope marked, "**REQUEST FOR PROPOSALS (RFP) 2019-09 -General Counsel Legal Services**" and plainly endorsed with Proposer's name and address.

Proposals shall be sent or delivered to the following address:

**Mail To:**

San Mateo County Harbor District  
P.O. Box 1449  
El Granada, CA 94018  
Attention: Deputy Secretary

**Hand Deliver To:**

San Mateo County Harbor District  
504 Avenue Alhambra, 2<sup>nd</sup> Floor  
El Granada, CA 94018  
Attention: Deputy Secretary

Proposals must be received no later than **September 23, 2019 at 4:00 p.m. Pacific Time**. Proposals received after the time and date specified will not be considered. The District is not responsible for deliveries delayed for any reason. The time received by the Deputy Secretary of the District shall determine the official time received. Submission of a Proposal shall constitute a firm offer to the District for one hundred twenty (120) calendar days from the submission deadline for Proposals.

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Each Cost Proposal Form must be signed by one or more individuals with authority to bind the Proposer to the Proposal, as specified on the Cost Proposal Form. All Proposals without the appropriate signature(s) may be deemed non-responsive and may result in the rejection of the Proposal.

District staff will review all Proposals received and several finalists may be selected. These finalists may be invited to an oral interview. Please reserve **October 7, 2019** as the tentative day planned for finalist interviews. It is requested that the attendees be restricted to those individuals who will have direct involvement with the proposed services.

#### **C. Proposal Forms and Sample Documents**

The following documents are included in this Request for Proposals (RFP). Attachments A and C must be completed and submitted with the Proposal.

Attachment A	Cost Proposal Form
Attachment B	Sample Professional Services Agreement
Attachment C	Acknowledgement of Addenda
Attachment D	Scope of Services

#### **4. DESCRIPTION OF DISTRICT**

The San Mateo County Harbor District was established, in 1933, by a Resolution of the Board of Supervisors, who established the entire area of the County of San Mateo as the District's boundaries.

Pillar Point Harbor (PPH) is a well-protected working harbor known for its active commercial, recreational, and fishing opportunities. One of the hallmarks of the harbor is its direct fishermen-to-public fish sales that not only provides stable prices for fishermen but also a fantastic market and tourism experience for visitors. In 2013, PPH was the sixth highest-earning port and seventh by landings in weight in California. PPH enjoys both an inner and outer breakwater, making it one of the safest harbors in the United States, and hosts 369 berths. Additionally, the District permits the annual Mavericks surf competition, which regularly features the world's best surfers taking on waves up to 50 feet high.

The District took over operation of Oyster Point Marina and Park from the City of South San Francisco in 1977. It then completed construction of docks and 589 berths, a new breakwater, and onshore facilities during the 1980's. The District diversified this recreational marina bringing in ferryboat service (134 of 589 berths were removed to accommodate ferry service, resulting in 455 berths) to the East Bay, dining cruises, marine educational programs, and cooperation with the City on area redevelopment. The District does not operate the ferry service.

The District is governed by a five-member Board of Harbor Commissioners who are elected for staggered four-year terms. District revenues are approximately \$12.0 million including operating

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revenue of \$4.4 million (land and sea/bay rents and fees) and non-operating revenue of \$7.6 million which is primarily from property tax. The District employs 41 full-time staff members. Additional information can be found on the District's website at [www.smharbor.com](http://www.smharbor.com).

#### 5. BACKGROUND

The San Mateo County Harbor District Board of Harbor Commissioners is requesting proposals from highly qualified legal firms with the intent to appoint an attorney in good standing with the California Bar Association as District Counsel.

District Counsel will serve at the pleasure of the Board of Harbor Commissioners and support all Commissioners in a respectful and unbiased manner. District Counsel will assist the Harbor Commission in legal matters.

The District Board meetings are regularly scheduled to meet on the third Wednesday of each month in El Granada. District Counsel, or approved alternate, must be available to attend such meetings when requested to do so by the Harbor Commission or General Manager.

#### 6. SCOPE OF SERVICES

See Attachment D, Scope of Services.

#### 7. PROPOSAL CONTENT

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that Proposals follow the basic format as presented below. The successful Proposer is expected to provide services as outlined in this RFP, and Proposer shall prepare its response to fully address its ability to satisfy these components. Although the District is not specifying a page limit, **clarity and conciseness are** essential and will be considered during Proposal evaluation. All proposals have two components, the Technical Proposal and the Cost Proposal. All pricing information shall be submitted separately on the Cost Proposal Form provided. The Technical Proposal will consist of items 7A-F below. The Cost Proposal will consist of item 7G below.

##### A. Cover Letter

The signed cover letter should be on company letterhead clearly stating the firm name of the Proposer, business address, telephone and e-mail address.

The following information should be provided:

- Introduce the firm and summarize its qualifications.
- Name(s) of authorized principals with authority to negotiate and contractually bind the firm.

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- A statement that binds the Proposer to the proposed Scope of Services and Cost Proposal for **one hundred and twenty (120) calendar days**.
- Confirm acceptance of or indicate exceptions to the Sample Agreement. See Subsection 11.B.
- Indicate whether there are any conflicts of interest that would limit the Proposer's ability to provide the requested services. See Section 13.

#### **B. Approach to Scope of Services**

A demonstration of the Proposer's understanding of the proposed Scope of Services (Attachment D) is required as part of the Proposal. With respect to each task described in the Scope of Services, discuss your approach and methodology for performing the services. Describe how you would staff each task, the level of effort required for each task, and how your staff would coordinate with and respond to District staff.

#### **C. Proposer's Qualifications and Experience**

- 1) All attorneys performing services for the District 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 District, must have at least five (5) years' experience providing general counsel legal services for special districts, municipalities or other local public agencies.
- 3) Demonstrated legal expertise in the following practice areas as they relate to special districts and municipal governments in California:
  - a) Laws and regulations pertaining to Elected Official Boards including but not limited to Ralph M. Brown Act; Public Records Act; Political Reform Act; conflicts of interest; ethics; elections; and relevant portions of the California Government Code.
  - b) Environmental law and regulations including but not limited to the following areas: California Environmental Quality Act (CEQA); federal National Environmental Policy Act (NEPA); California and federal Endangered Species Acts; California Coastal Commission; and California climate change and sustainability initiatives.
  - c) Real Estate and government contract and procurement laws and regulations including but not limited to real estate negotiations, bond financing and public bid requirements.
  - d) Claim process for a public agency.
  - e) Maritime law knowledge is desired.



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The following information should be included in the Proposal:

- 1) A brief description of the Proposer's qualifications for the Scope of Services and previous experience on similar or related work performed for local governmental agencies, including special districts, specifically port and harbor districts, if any. This description must include a summary of work performed, the period over which the work was completed, for whom it was performed, the location where it was performed, and the size of the Proposer's effort (i.e., cost and period of time).
- 2) The names of the proposed lead District Counsel and all key personnel who would be directly engaged in the performance of the Scope of Services. For each of these individuals, please submit:
  - a) A description of their qualifications and background, and number of years of experience in performing general counsel legal services;
  - b) A list of references, including a brief description of the nature of the work performed by the individual for each reference; and
  - c) A description of their experience with public agency clients and with special districts, specifically harbor and port district agencies, if any.
- 3) Provide contact information for three references for which the Proposer has provided similar services to those described in these solicitation documents within the past three years. For each client submitted as a reference, Proposer shall supply a brief description of the work performed if not already detailed under Section 7.C(2) above.

**D. State the Size, Structure, and Location(s) of Firm**

Provide an organization chart that identifies the proposed client management and legal team. Also provide information concerning the Proposer's and Subcontractor's law firms size, structure, areas of practice, and locations.

**E. Financial Stability**

Provide pertinent information to allow the District to reasonably formulate a determination about the financial stability and strength of the Proposer such as financial references, financial statements, or other relevant documentation. Describe any administrative proceedings, claims lawsuits, settlements, or other exposures pending against the Proposer.

**F. Acknowledgement of Addenda (Attachment C), if applicable**

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**G. Cost Proposal**

The Proposer shall submit a cost proposal, attached herewith as Attachment A, based on an hourly payment by a set rate inclusive of all expenses and corresponding information regarding unburdened hourly rate. Additionally, the Proposer shall submit an estimate of hours based on a comparable government entity and any anticipated reimbursable expenses. The District will not reimburse any travel expenses or time spent traveling to or from District meetings held in San Mateo County.

**8. WITHDRAWAL OF PROPOSAL**

Submission of a Proposal shall constitute a firm offer to the District for one hundred twenty (120) calendar days from the submission deadline for Proposals.

A Proposer may withdraw its Proposal anytime before the date and time when Proposals are due, without prejudice, by submitting a written request for its withdrawal to the District Office at [jvanhoff@smharbor.com](mailto:jvanhoff@smharbor.com). Making the request by telephone is not acceptable.

**9. SELECTION CRITERIA**

The District intends to award a Contract to the most qualified, responsible firm submitting a responsive Proposal. Ranking will be based on a maximum of 100 points, weighted as indicated below. In determining the number of points a Proposal will receive in each category, the District will consider the Proposal material submitted, oral interviews (if applicable), additional information requested by the District, client references and any other relevant information about a given Proposer. The following criteria will be used by the District's Evaluation Committee in the evaluation of the Proposals:

**A. Proposal Understanding and Approach to the Scope of Services                      0 - 15 Points**

Proposals will be evaluated to ensure that the Proposer has demonstrated an understanding of each of the following elements:

- 1) Knowledge of the services required as it relates to the District's needs; and
- 2) Approach to the Scope of Services.

The Proposer's overall approach to providing services will be assessed for its effectiveness, feasibility, responsiveness to the Scope of Services, and thoroughness.

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**B. Proposer's Qualifications and Experience**

**0 - 50 Points**

The capabilities of each responding Proposer will be evaluated in these specific areas:

- 1) The Proposer's experience and performance on comparable government engagements;
- 2) Experience and qualifications of attorneys and staff assigned to the District (identified by name), the quality of such staff, and the proper balance of relevant skills;
- 3) Work performed for recent clients and references; and
- 4) Financial stability of the firm.

**C. Cost Proposal**

**0 - 35 Points**

The cost proposal will be evaluated based on hourly rates of attorneys and staff proposed, reimbursable costs identified, and adequacy of estimated hours to provide legal services.

**10. SELECTION PROCESS**

The District may reject any Proposal in which the approach, qualifications, or costs are not deemed to be within an acceptable or competitive range. The District may seek clarifications or additional information from any or all Proposers regarding their Proposals and may request modified Proposals or best and final offers.

Following the initial review and screening of the written Proposals, using the Selection Criteria described above, one or more companies *may* be invited to participate in the final selection process, which may include:

- A. Participation in an oral interview.
- B. Submission of any additional information as requested by the District
- C. Checking references of firm and key personnel.
- D. Checking the firm's financial stability.

Upon completion of the final selection process, the District will rank each firm in accordance with the Selection Criteria above. The District may accept the Proposal or negotiate the terms and conditions of the Contract with the highest-ranked firm. If negotiations are unsuccessful, the District will terminate the negotiations with that firm and may open negotiations with the next-highest-ranked firm. If negotiations with this firm are also not successful, the District may repeat the negotiations process with the next-highest-ranked firm, or, at its sole discretion, the District may reject all remaining proposals.

The District reserves the right to conduct pre-award negotiations with any or all Proposers, and the right to award the Contract without negotiations. The District reserves the right to award the Contract without conducting interviews.

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This RFP does not commit the District to awarding a Contract. Proposers shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal process. The District reserves the right, in its sole discretion, to accept the Proposal it considers most favorable to the District's interest and the right to waive minor irregularities. The District further reserves the right to reject all Proposals and seek new Proposals when such procedure is reasonable and in the best interest of the District.

**11. CONTRACT AWARD**

**A. Recommendation for Contract Award**

The Harbor Commission Ad-Hoc Committee shall make a recommendation to the Board of Harbor Commissioners. If an award of Contract is made, the District Board of Harbor Commissioners reserves the right to award the Contract to the responsive and responsible Proposer that it deems offers the most advantageous Proposal to the District and best meets the requirements of the District, including technical approach, qualifications, and cost.

**B. Form of Professional Services Agreement**

The firm selected by the District to perform the services outlined in this RFP will be required to execute a Professional Services Agreement, a sample of which is provided as Attachment B.

If a Proposer desires any modifications to the agreement, they must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement without modification.

Attention is directed in particular to the Indemnification and Insurance requirements set forth in Section 11 of the Agreement, Attachment B.

**C. Time for Execution of Contract**

The Proposer to whom award is made shall execute the Professional Services Agreement with the District within ten (10) calendar days after receiving it for execution. If the Proposer to whom award is made fails to enter into the Contract as provided, the award may be annulled and an award may, at the discretion of the District Board of Commissioners, be made to the Proposer whose Proposal is the next most acceptable in the opinion of the District Board of Commissioners. Such Proposer shall fulfill every stipulation of the RFP as if it were the party to whom the first award was made.

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**D. Manner of Execution of Contract**

If the Proposer is an individual, the Contract shall be executed by the individual personally. If the Proposer is a co-partnership, it is desirable that the Contract be executed by all of the partners, but it may be executed by one (1) of them.

If the Proposer is a corporation, this Agreement must be executed by two corporate officers, consisting of: (1) the president, vice president or chair of the board; and (2) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Agreement may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the District is provided demonstrating that such individual is authorized to bind the corporation (e.g. a copy of a certified resolution from the corporation's board or a copy of the corporation's bylaws).

If the Proposer is a joint venture, the Agreement must be executed on behalf of each participating firm by officers or other authorized individuals. If the Proposer is an LLC, the Agreement must be executed by an officer or member who is authorized to bind the LLC.

**E. Documents Deemed Part of Contract**

The RFP, including all attachments, RFP Addenda, if any, the Consultant's Proposal as accepted by the District, and approved Contract amendments, will be deemed a part of the Contract and will constitute the Contract Documents. The Contract Documents shall include the documents listed below, in the following order of precedence:

- 1) Contract Amendments
- 2) Professional Services Agreement
- 3) Addenda (if any) to RFP
- 4) RFP
- 5) Consultant's Proposal, as accepted by the District

**12. PROTEST PROCEDURES**

Protests based upon restrictive requirements or alleged improprieties in the RFP procedure must be filed in writing with the Director of Administrative Services of the District at [jvanhoff@smharbor.com](mailto:jvanhoff@smharbor.com) at least five (5) calendar days prior to Proposal opening. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon the Harbor Commission Ad-Hoc Committee recommendation for award of the Contract shall be submitted in writing to the Director of Administrative Services of the District within forty-eight (48) hours of receipt of notice of Ad-Hoc Committee recommendation of award. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

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Failure to comply with any of the requirements set forth in the District's written Proposal Protest Procedures may result in rejection of the protest.

**13. CONFLICT OF INTEREST**

By submitting a Proposal, the Proposer represents and warrants that no Commissioner, officer, or employee of the District is in any manner interested directly or indirectly in the Proposal or in the Contract which may be made under it or in any expected profits to arise there from, as set forth in Article 4, Division 4, Title I (commencing with Sec. 1090) of the Government Code of the State of California.

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code Sections 1090 *et seq.* or Sections 87100 *et seq.* during the performance of services under this Agreement. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, the Proposer may be required to publicly disclose financial interests under the District's Conflict of Interest Code. The Proposer agrees to promptly submit a Statement of Economic Interest on the form provided by the District upon receipt. No person previously in the position of Harbor Commissioner, officer, employee or agent of the District may act as an agent or attorney for, or otherwise represent, the Proposer by making any formal or informal appearance, or any oral or written communication, before the District, or any Commissioner, officer or employee of the District, for a period of twelve (12) months after leaving office or employment with the District if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, awards or revocation of a permit, license, grant or Contract.

The Proposer warrants that it has no organizational conflicts of interest at this time. Alternatively, the Proposer must disclose all known organizational conflicts of interest. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to the District; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other agreement.

See Sample Professional Services Agreement- Attachment B for additional conflict of interest provisions that will be in effect during the Contract term.

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**14. CONFIDENTIALITY**

The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to these specifications, protest or any other written communication between the District and the Proposer shall be available to the public.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the District withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire Proposal as confidential. Additionally, Proposer may not designate Proposal Forms as confidential.

If the Proposer requests that the District withhold from disclosure information identified as confidential, and the District complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the District from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all costs and expenses related to the withholding of the proposer information. The Proposer shall not make a claim, sue or maintain any legal action against the District or its Commissioners, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If the Proposer does not request that the District withhold from disclosure information identified as confidential, the District shall have no obligation to withhold the information from disclosure and may release the information sought without liability to the District.

**15. EX PARTE COMMUNICATION**

Proposers and Proposers' representatives may not communicate orally with a Commissioner, officer, employee, or agent of the District, with the exception of the Directors of the District and, Deputy Secretary of the District regarding this RFP until after a Notice to Proceed has been issued by the District. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the District during a public meeting.

In the context of this RFP, an "ex parte communication" is any communication regarding this RFP between a Proposer (or the Proposer's representative) and the District's General Manager, Commissioner, officer, employee or agent, regardless of who initiates the communication, other than as part of the procurement process specified herein, before the District issues a Notice to Proceed, unless it is in writing and available for disclosure to the general public.

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**16. WAIVER**

By submitting a Proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of the work or the furnishing of the labor, supplies, material, or equipment called for in this RFP including attachments and addenda; that Proposer has checked its Proposal for errors and omissions; that the prices stated in its Proposal are correct and as intended by it and are a complete and correct statement of its prices for performing the work or furnishing the labor, supplies, materials, or equipment required by this RFP including attachments and addenda.

The Proposer waives any claim against the District for costs incurred in preparing a Proposal and responding to this RFP.



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**ATTACHMENT A  
COST PROPOSAL FORM**

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**COST PROPOSAL FORMS**

Pursuant to the Notice Inviting Proposals, the undersigned Proposer herewith submits a Proposal on the Proposal Form or Forms attached hereto and made a part hereof and binds itself on award by the San Mateo County Harbor District under this Proposal to execute a Contract in accordance with its Proposal, the Proposal Documents, and the award. The attached Notice Inviting Proposals and Addenda, if any, are made a part of this Proposal and all provisions thereof are accepted, and all representations and warranties required thereby are hereby affirmed.

**THE PROPOSAL BELOW INCLUDES ANY AND ALL LABOR, MATERIALS, APPLICABLE TAXES, INSURANCE, SUBCONTRACTOR COSTS, TRAVEL EXPENSES, TELEPHONE COSTS, COPYING COSTS, PROFIT, ADMINISTRATIVE AND OVERHEAD FEES, AND ALL OTHER COSTS NECESSARY FOR THE PERFORMANCE OF ALL THE SERVICES CALLED FOR UNDER THE FOLLOWING CONTRACT. ANY PROPOSED REIMBURSABLE COSTS SHALL BE SEPERATELY IDENTIFIED (E.G. OVERNIGHT DELIVERY, UPCHARGE ON 3RD PARTY INVOICES).**

Position	Unburdened Hourly Rate	All inclusive Hourly Rate*	Estimated Hours per Month**	Example of Duties
District Counsel				
Alternate District Counsel				
(add positions as necessary)				

\*Hourly Rate should include overhead costs as listed above. Time spent traveling to and from District meetings held within San Mateo County and any travel costs associated with such travel is not reimbursable.

\*\*Estimated Hours should be based on comparable size and complexity of similar governmental entity.

**The Cost Proposal Form must be signed on the next pages (page 2 or 3 of Attachment A). Proposals submitted in any other form will be considered non-responsive and may be rejected. Signatures herein bind Proposer to the entirety of its Proposal, including all documents submitted with these Cost Proposal Forms.**

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**DOCUMENTS TO ACCOMPANY COST PROPOSAL:**

*Items 7 A-F of the Proposal Content must accompany the Cost Proposal for a Proposal to be deemed responsive.*

**NAME UNDER WHICH BUSINESS IS CONDUCTED**

**CONTACT INFORMATION OF PERSON AUTHORIZED TO EXECUTE CONTRACT**

Name:

Business Address:

City/State/Zip:

Telephone Number:

Facsimile Number:

E-Mail Address:

**MANDATORY SIGNATURE(S)**

**SOLE OWNER, sign here:** I sign as sole owner of the business named above.

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**PARTNERSHIP, one or more partners sign here:** The undersigned certify that we are partners in the business named above and that we sign this Proposal with full authority to do so.

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**CORPORATION OR LLC, sign here\***: The undersigned certify that they sign this Proposal with full and proper authorization to do so.

Entity Name:

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

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

Incorporated under the laws of the State

*\* If the Proposer is a corporation, this Cost Proposal Form must be executed by two corporate officers, consisting of: (1) the president, vice president or chair of the board; and (2) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Cost Proposal Form may be executed by a single officer or a person other than an officer provided that evidence satisfactory to the District is provided demonstrating that such individual is authorized to bind the corporation or LLC (e.g. a copy of a certified resolution from the corporation's board or LLC's board or a copy of the corporation's bylaws or LLC's operating agreement.)*

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**IF JOINT VENTURE, officers of each participating firm sign here:** The undersigned certify that they sign this Proposal with full and proper authorization to do so.

Joint Venture Name: \_\_\_\_\_

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

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

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**ATTACHMENT B  
SAMPLE PROFESSIONAL SERVICES AGREEMENT**

**PROFESSIONAL SERVICES  
AGREEMENT**

**DISTRICT LEGAL COUNSEL**

THIS AGREEMENT is made this XX day of Month 2019 by and between the San Mateo County Harbor District ("District") and Name of Firm ("Contractor" or "District Legal Counsel").

WHEREAS, the firm of Name of Firm wishes to provide legal services to the San Mateo County Harbor District; and

WHEREAS, Contractor wishes to serve as the District's Legal Counsel; and

WHEREAS, Contractor has represented that it is experienced and qualified to perform such services. It has submitted a written proposal in response to a request for proposals, copies of which are attached and incorporated as Exhibit A and Exhibit B;

WHEREAS, the District's Board of Harbor Commissioners, at its meeting on Month XX, 2019, authorized the Interim General Manager to enter into this Agreement; and

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **DESIGNATION OF DISTRICT LEGAL COUNSEL**

Name of Firm shall provide legal services to the District from Month XX, 2019 to Month XX, 2020 with name of attorney serving as District Legal Counsel.

2. **MEETING ATTENDANCE**

Attendance at the Board meetings by the District Legal Counsel is discretionary at the direction of the District General Manager or the Board. The District Legal Counsel's duties in this connection shall be to render advice and opinions with respect to all legal matters that may arise during any meetings, excepting, however, legal matters which may pertain to legal services that are to be provided by Special Counsel.

3. **PREPARATION OF DOCUMENTS**

When requested to do so by the District, the District Legal Counsel, or representative, shall prepare staff reports, resolutions, notices, contracts, ordinances, opinions and other documents and papers necessary, or appropriate, in matters pertaining to the District, and shall examine for legal sufficiency all documents submitted to him/her by the District.

4. **LEGAL ASSISTANCE, ENFORCEMENT AND ADVICE**

The District Legal Counsel shall cooperate with and assist the District, its officers, agents and employees on all general legal matters pertaining to the District, including the enforcement of state and local laws and codes. When requested by

the District, the District Legal Counsel shall also research and interpret laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the District Board, District General Manager and staff on legal matters pertaining to District operations. The District Legal Counsel shall provide the necessary legal services required in connection with acquisition of lands or easements, which shall constitute an administrative duty up to the point the attorney is directed to commence eminent domain proceeding, unless the Board authorizes the hiring of outside counsel as needed. Administrative duty shall not include direct negotiations with land owners.

5. RELATED LEGAL SERVICES

The District Legal Counsel also shall perform such other related legal services for the District as may be requested by the District Board or District General Manager. Nothing in this section limits the District Legal Counsel, when appropriate or necessary, from engaging in direct communication with individual Commissioners.

6. OUTSIDE LAW PRACTICE

The District Legal Counsel will be allowed to conduct an outside law practice.

7. LITIGATION DUTIES

A. The District Legal Counsel shall represent the District in all legal proceedings, whether civil or criminal, required in the enforcement of the District's ordinances.

B. As authorized by the District Board, the District Legal Counsel, or representative, shall represent the District in legal proceedings and other litigation to which the District may be a party except where a conflict of interest exists, where the requirement of specialized legal expertise makes representation inappropriate or where, because of case load issues, additional assistance is required. In such situations, the District Board may request that the District Legal Counsel spend time as necessary to brief and/or coordinate the activities of specialized counsel as their work relates to the District's interests.

8. DEPUTY DISTRICT LEGAL COUNSEL

The District Legal Counsel may allow another attorney from the firm to act as Deputy District Legal Counsel to represent the District in cases where the District Legal Counsel is unable to act due to illness, vacation or other reason, or when the District Legal Counsel requires assistance.

9. COMPENSATION

All services provided by this Agreement shall be billed at the rates of \$xxx per hour for partners; \$xxx per hour for senior associates; \$xxx per hour for associates and \$xxx per hour for clerical. [Insert rates from proposal]

10. COSTS

[Insert reimbursable costs from proposal]

Expenses are itemized and included in the next regular billing invoice after being incurred.

11. OVERHEAD

Except as expressly provided, the District Legal Counsel shall pay all overhead incurred in providing District Legal Counsel services to the District including, but not limited to rent of the law firm's office, telephone, secretarial, bookkeeping, reception, postage, stationery, office supplies, library, taxes, charges, fees, licenses, insurance, benefits, and contributions. Furthermore, telephone calls in which there is no substantive conversation between the District Legal Counsel, or a member of his firm and a District Board member or District staff shall be considered part of the overhead costs.

12. INSURANCE

District Legal Counsel will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by District Legal Counsel or District Legal Counsel's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-V."

A. COVERAGES AND LIMITS. District Legal Counsel will maintain the types of coverages and minimum limits indicated below, unless District Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on District Legal Counsel's indemnification obligations under this Agreement. District, its officers, agents, volunteers and employees make no representation that the limits of the insurance specified to be carried by District Legal Counsel pursuant to this Agreement are adequate to protect District Legal Counsel. If District Legal Counsel believes that any required insurance coverage is inadequate, District Legal Counsel will obtain such additional insurance coverage, as District Legal Counsel deems adequate, at District Legal Counsel's sole expense.

- COMMERCIAL GENERAL LIABILITY INSURANCE. \$1,000,000 combined single-limit per occurrence for bodily injury, personal injury and property damage. If the submitted policies contain aggregate limits, general aggregate limits will apply separately to the work under this Agreement or the general aggregate will be twice the required per occurrence limit.
- AUTOMOBILE LIABILITY. \$1,000,000 combined single-limit per accident for bodily injury and property damage.



- WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY. Workers' Compensation coverage in the minimum statutorily required coverage amounts.
  - PROFESSIONAL LIABILITY. Errors and Omissions liability appropriate to District Legal Counsel's profession with limits of not less than \$1,000,000 per claim.
- B. ADDITIONAL PROVISIONS. District Legal Counsel will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:
- For Commercial General Liability Insurance and Automobile Liability Insurance, District, its officers, agents, volunteers and employees will be named as additional insureds.
  - District Legal Counsel will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.
  - This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to District.
- C. PROVIDING CERTIFICATES OF INSURANCE AND ENDORSEMENTS. Prior to District's execution of this Agreement, District Legal Counsel will furnish certificates of insurance and endorsements to District.
- D. FAILURE TO MAINTAIN COVERAGE. If District Legal Counsel fails to maintain any of these insurance coverages, then District will have the option to declare District Legal Counsel in breach or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. District Legal Counsel is responsible for any payments made by District to obtain or maintain insurance and District may collect these payments from District Legal Counsel or deduct the amount paid from any sums due District Legal Counsel under this Agreement.
- E. SUBMISSION OF INSURANCE POLICIES. District reserves the right to require, at any time, complete and certified copies of any or all required insurance policies and endorsements.
- F. PRIMARY COVERAGE. For any claims related to the services and this Agreement, the District Legal Counsel's insurance coverage will be primary insurance with respect to District, its officers, agents, volunteers and employees. Any insurance or self-insurance maintained by District for itself, its officers, agents, volunteers and employees, will be in excess of District Legal Counsel's insurance and not contributory with it.

G. REDUCTION IN COVERAGE/MATERIAL CHANGES. District Legal Counsel will notify District thirty (30) days prior to any reduction in any of the insurance coverage required pursuant to this Agreement or any material changes to the respective insurance policies.

13. RECORDS, MONTHLY STATEMENTS AND AUDIT

The District Legal Counsel shall maintain careful and accurate records of all time spent by the District Legal Counsel to the closest 1/10 of an hour, and all reimbursable costs advanced by the District Legal Counsel's office in conjunction with District business. The District Legal Counsel shall render monthly statements to the District for the performance of all administrative and litigation services showing the services performed, the hours spent, the costs advanced and the amount the District Legal Counsel is entitled to receive from the District for the month. If approved, the sum shown to be due by such statement shall be paid to the District Legal Counsel by the District within thirty (30) days after said approval. Books of account and the time records of the District Legal Counsel pertaining to business transacted for the District shall be open to audit by the District Board, District Manager or their designee.

14. CONTRACTOR'S STATUS

Neither the Contractor nor any party contracting with the Contractor shall be deemed to be an agent or employee of the District. The Contractor is and shall be an independent Contractor, and the legal relationship of any person performing services for the Contractor shall be one solely between that person and the Contractor.

15. TERMINATION

This Agreement may be terminated upon either party giving the other sixty (60) days written notice. Upon the termination of this Agreement, the District Legal Counsel shall return to the District any District Code books received, active litigation files, and any files maintained on District matters by the District Legal Counsel.

16. AMENDMENTS AND NONASSIGNABILITY

This Agreement may be amended only in writing and only with the written consent of both parties. This Agreement may not be transferred or assigned.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the XX day of Month, 2019.

SAN MATEO COUNTY HARBOR DISTRICT

By: \_\_\_\_\_

NAME OF FIRM

By: \_\_\_\_\_

**EXHIBIT A**

**Insert Proposal**

**EXHIBIT B**

**Insert Request for Proposals and Addenda if applicable**

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**ATTACHMENT C  
ACKNOWLEDGEMENT OF ADDENDA**

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**SAN MATEO COUNTY HARBOR DISTRICT**

**ACKNOWLEDGEMENT OF ADDENDA**

The undersigned Proposer acknowledges receipt of the following addenda, if issued, to the RFP Documents. If none received, write "None Received."

Addendum No. \_\_\_\_\_, dated \_\_\_\_\_

Addendum No. \_\_\_\_\_, dated \_\_\_\_\_

Addendum No. \_\_\_\_\_, dated \_\_\_\_\_

Date: \_\_\_\_\_

Firm: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

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

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**ATTACHMENT D  
SCOPE OF SERVICES**

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**ATTRIBUTES OF DISTRICT COUNSEL**

- a) Experience in broad range of municipal law.
- b) Stays current and is well versed in the “art of the possible” and is not risk adverse in terms of problem solving or approaches to best meet the District’s needs.
- c) Is an advisor, sounding board, confidant, and a resource; recognizes the importance or retaining trust and confidence and is accessible.
- d) Provides his/her best professional advice on legal issues; is politically astute, but not political.
- e) Recognizes what the Harbor Commission is trying to achieve and helps them reach their objective.
- f) Knows when to argue and when to settle without unnecessarily giving away District resources.
- g) Seeks justice and develops a full and fair record and does not use the economic power of the District to harass parties or to bring about unjust settlements or results (American Bar Associate Model Code of Professional Responsibility, Ethical Consideration 7-14)
- h) Excellent communicator, critical thinker, analytical and creative.
- i) Expertise in Ralph M. Brown Act, California Public Records Act, Conflict of Interest Law and Political Reform Act, Tort Claims Act, Environmental laws, Public Works Construction regulations and laws.
- j) Experience in real estate law and maritime law is desirable.

**DISTRICT COUNSEL DUTIES**

- a) District Counsel shall attend Board of Commissioners regular meetings, and special meetings as determined by the District Board President or the District General Manager and the firm must be accessible to provide legal assistance to the District on an emergency basis. District Counsel shall render advice and opinions with respect to all legal matters which may arise during such meetings.
- b) Attend meetings of other committees or bodies, and of staff, of the District, when requested to do so by the District’s General Manager with the Board President’s prior consent, for the purpose of rendering legal advice and opinions.
- c) Prepare or review resolutions, notices, agendas, contracts, lease agreements, development agreements, ordinances, and other legal documents necessary for the conduct of the District’s business, when requested to do so by the District; and examine all documents submitted to Counsel by the District for legal sufficiency.
- d) Respond to and remain in reasonable contact with the District. Keep the Harbor Commission properly informed and fully explain matters that are crucial to significant activities.
- e) Resolve as soon as practicable, claims or disputes where liability is reasonably clear (including informal settlement negotiations).
- f) Collect necessary information about a matter as quickly as possible and prepare an evaluation of the matter with an appropriate case handling plan to the Harbor Commission. The plan should include a description of the matter, an estimated

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- timeline for disposition, a discussion of early disposition potential, and estimated costs.
- g) Explain proposed legal tactics and strategies and receive direction from the Harbor Commission prior to proceeding.
  - h) Reevaluate case posture to ensure best possible outcome and communicates with the Harbor Commission when new facts, legal issues, or other matters are discovered.
  - i) If informal settlement negotiations fail but other alternatives become at all encouraging, Counsel, in consultation with the Harbor Commission, shall seek the use of programs such as mediation or stipulated arbitration.
  - j) Settlements/offers/demands shall be discussed in advance with the Harbor Commission before being communicated to others. Final settlement requires approval of the Harbor Commission.
  - k) Provide necessary legal services for acquisition of lands or easements, which services are to be considered administrative until Counsel is directed to commence eminent domain proceedings, unless the Board hires outside counsel as may be needed. Administrative duties shall not include direct negotiations with landowners.
  - l) Assist and cooperate with the District, its officers, agents and employees on all general legal matters pertaining to the District including enforcement of State and local laws and codes.
  - m) Respond annually, in a timely manner, to the District's outside auditor regarding legal confirmation letters.
  - n) Provide necessary legal services in various areas of law as identified in Section 7.C. of the RFP.
  - o) Perform other related legal services as may be requested and provide recommendations and advice when requested by the Harbor Commission pertaining to the retention of an employment of outside law specialists.
  - p) Make written or oral reports to the Board as necessary regarding status of any legal actions in which the District may be involved.
  - q) Provide analysis of proposed and enacted legislation, published legal opinions and other matters that may have an impact on the operations of the District upon request of Commissioner(s) or General Manager.
  - r) Provide written status report every 60 days or sooner if its is warranted by significant developments.

**LITIGATION DUTIES**

- a) Render legal services required in connection with claims against the District.
- b) Represent the District in all legal proceedings required in the enforcement of District ordinances.