

BOARD MEETING DATE: August 7, 2020

AGENDA NO. 9

PROPOSAL: Establish a List of Prequalified Counsel to Represent and Advise South Coast AQMD Hearing Board

SYNOPSIS: On April 3, 2020 the Board approved issuance of an RFP to pre-qualify outside counsel having expertise in the California Environmental Quality Act, South Coast AQMD rulemaking and planning procedures, administrative law and related issues for both South Coast AQMD and South Coast AQMD Hearing Board. The RFP was issued jointly to limit costs. The evaluation of responding firms has been completed. This action is to establish a list of prequalified counsel to represent South Coast AQMD Hearing Board.

COMMITTEE: Administrative, June 12, 2020; Recommended for Approval

RECOMMENDED ACTIONS:

1. Approve the firm Strumwasser & Woocher as a prequalified law firm having expertise in the above-referenced areas to provide representation and advice as required by the South Coast AQMD Hearing Board.
2. Authorize the Executive Officer to execute contracts with Strumwasser & Woocher to provide representation to the Hearing Board as the need arises for a total not to exceed \$15,000 annually for up to three years.

Wayne Natri
Executive Officer

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Background

On April 3, 2020, the Board approved issuance of an RFP for an amount up to \$250,000 for the South Coast AQMD General Counsel and \$15,000 for the South Coast AQMD Hearing Board to solicit proposals from outside litigation counsel having particular

expertise and experience in the California Environmental Quality Act, South Coast AQMD rulemaking and planning procedures, issues relating to statute and rule interpretation, air quality laws, administrative law, representation of government agencies, constitutional issues, the Brown Act, and complex environmental litigation. The RFP was issued jointly to limit costs. General Counsel and the South Coast AQMD Hearing Board will utilize different firms to avoid conflicts of interest. In the past, the South Coast AQMD and the South Coast AQMD Hearing Board have faced, and likely will face in the future, litigation and other matters requiring such specialized expertise. A rapid response is needed in such situations, and it is not possible to go through the RFP process as new cases arise. Establishing prequalified lists ensures that South Coast AQMD and South Coast AQMD Hearing Board can quickly select counsel for representation as needed.

Outreach

In accordance with South Coast AQMD's Procurement Policy and Procedure, a public notice advertising the RFP and inviting bids was published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and Riverside County's Press Enterprise newspapers to leverage the most cost-effective method of outreach to the South Coast Basin. Also, potential bidders were notified by sending notification to various individual law firms and bar associations.

Additionally, potential bidders may have been notified utilizing South Coast AQMD's own electronic listing of certified minority vendors. Notice of the RFP has been e-mailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at South Coast AQMD's website (<http://www.aqmd.gov>).

Evaluation

Bid responses for the Environmental Law RFP were received from nine (9) law firms. Of the nine bid responses, only one qualified bid response addressed the needs of the Hearing Board. A summary of the responses is provided in Attachment A. An evaluation panel was convened to evaluate proposals for the General Counsel and one to evaluate the proposals for the Hearing Board. The Hearing Board requires different counsel than the firms hired by South Coast AQMD because its interest may not coincide with South Coast AQMD's interest. The South Coast AQMD panel consisted of three South Coast AQMD employees: three General Counsel attorneys; one male, two females; one African American, one Caucasian, and one Asian. The Hearing Board panel consisted of one Hearing Board member - a Caucasian female.

Proposal

Establish one list, for the South Coast AQMD Hearing Board, valid from June 5, 2020, through July 31, 2023, of prequalified outside counsel for advice and representation.

For the South Coast AQMD Hearing Board:

Strumwasser & Woocher

Resource Impacts

The recommended total annual budget for fiscal year 2020 is \$15,000 for the South Coast AQMD Hearing Board, all of which may be allocated to one or more selected contractors as the need arises based on future litigation, the availability of counsel, and the needs of the South Coast AQMD Hearing Board. Selection may also be made for occasional assignments in subject areas of the firms' expertise that do not involve litigation.

Attachment

A – Summary of Responses to RFP #2020-10

ATTACHMENT A

RFP #2020-10
(CEQA / Environmental Law)

BIDDER	LOCAL FIRM	BID AMOUNT (per hour)	TOTAL POINTS
Shute Mihaly & Weinberger LLP	Y	\$405	106
Woodruff Spradlin & Smart	Y	\$425	97
Halpern May Ybarra Gelberg LLP	Y	\$600	96
Best Best & Krieger LLP	Y	\$350	94
Kaufman Legal Group	Y	\$455	92
Duncan, Weinberg, Genzer, & Pembroke, P.C.	N	\$420	80
Hahn & Hahn	Y	\$595	76
KTBS Law LLP	Y	\$1445	59

* Includes an additional 10 points for Small Business Certification submitted with Bid Proposal, pursuant to SCAQMD Procurement Policy & Procedure, Section VIII.D.2.b.

RFP #2020-10
(Hearing Board)

BIDDER	LOCAL FIRM	BID AMOUNT per hour	TOTAL POINTS
Strumwasser & Woocher	Yes	\$510	90

* Includes an additional 10 points for Small Business Certification submitted with Bid Proposal, pursuant to SCAQMD Procurement Policy & Procedure, Section VIII.D.2.b.