

# **Request for Qualifications (RFQ): Special Counsel for Electrification Policy**

## **Silicon Valley Clean Energy Overview**

Silicon Valley Clean Energy (SVCE), a Community Choice Energy agency, provides our residents and businesses with renewable and carbon-free electricity at competitive rates. SVCE was formed as a Joint Powers Authority in 2016 and now serves approximately 270,000 residential and commercial electricity customers across a service area comprised of the following thirteen communities: Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale, and Unincorporated Santa Clara County. 97% of electricity customers in SVCE's service area receive their electricity from SVCE.

## **Electrification Policy and Special Counsel Needs**

As SVCE was formed to support our customers and communities in reducing greenhouse gas emissions, SVCE implements a broad set of programs supporting decarbonization that includes both customer-focused efforts (e.g., rebates, progressive rates, and information) and model policy development (e.g., model ordinances, policy experimentation, and administrative streamlining) for our member agencies to consider. As these programs and policy activities are often new and innovative, *SVCE is planning to enter into an agreement with a California law firm for special counsel services to provide a set of concrete legal opinions and ongoing ad-hoc support to SVCE staff on evaluating the legal pathways local governments can take to require or incentivize electrification and assess risks related to these activities.*

## **Background on Desired Legal Services**

SVCE is seeking the services of a firm to provide high-quality, efficient legal services in areas of law related to building electrification, electric vehicle integration, and other actions taken by government agencies to address climate change. Legal services are likely to touch State and federal law in all of the following areas:

- Energy Regulation
- Public Agency Ordinances, Policies, and Operations

- Climate Action
- Land-Use
- Housing Development and Regulation
- Pollution Control Law and Regulation
- Grant Management
- CEQA and NEPA
- Fee Development and Assessment
- Risk Avoidance

Examples of work that might be addressed include questions like:

1. Can local agencies require existing multifamily dwelling owners to install electric vehicle charging infrastructure? If so, what would be the best mechanisms to do so?
2. Given the recent 9<sup>th</sup> Circuit opinion on the Berkeley gas ban, are more traditional “reach codes” also preempted?
3. Can landlords legally raise rents under California law after converting broken gas appliances with electric replacements?

## **How the Selected Firm Will Be Utilized**

SVCE anticipates engaging in legal support with the selected firm on an ad-hoc project-centered basis. While some projects are expected to be ongoing for weeks or months at a time, many will be highly-focused questions on a specific proposed idea or solution with a relatively-quick turnaround time desired. Most importantly, SVCE desires a collaborator in this work to assist us in achieving a proposed goal or interest. If a specific idea is deemed legally problematic, the firm will be asked for alternative ideas that reach the same or similar end with eliminated or reduced legal concerns.

Detailed invoicing shall be provided to SVCE which itemizes services provided by task and hours of services provided.

All services shall be directed by the SVCE Chief Executive Officer or their designated representative.

All services provided will be performed to the highest legal, ethical, and professional standards.

A standard SVCE agreement is attached to this RFQ as Attachment A. Should a respondent to this RFQ require any special terms and conditions included in a contract for legal services, such terms must be clearly identified with the submission. See additional information below. SVCE will consider any

requested special terms and conditions in our evaluation. A three-year term and \$100,000 maximum budget are anticipated.

## **RFQ Timeline**

The schedule for the RFQ is provided below for the convenience of the Respondents. Please note the timeline may be subject to change at any time by SVCE. Any such changes will be stated in an addendum.

<b>Description</b>	<b>Date</b>
RFQ issued	May 25, 2023
Pre-response teleconference	June 21, 2023 at 3:00 PM PDT
Deadline for questions, clarifications	June 27, 2023 at 5:00 PM PDT
Question responses posted online	June 29, 2023 at 5:00 PM PDT
Deadline for proposals	July 11, 2023 at 4:00 PM PDT

Questions and requests for clarifications may be submitted to Anthony Eulo prior to the above deadline at [anthony.eulo@svcleanenergy.org](mailto:anthony.eulo@svcleanenergy.org).

## **Statement of Qualifications Submittal**

Proposals must be received on or before 4:00 PM PDT on July 11, 2023 by email to [anthony.eulo@svcleanenergy.org](mailto:anthony.eulo@svcleanenergy.org) . Only electronic submittals in PDF format will be accepted. Proposals must include the following sections (to be submitted in this order only):

1. The submittal should emphasize responding to the requirements set forth herein. Firms must demonstrate their capabilities, background, expertise, and experience to allow an effective evaluation of the firm(s) that will provide the best value to SVCE. The submittal of qualifications should include, at a minimum, the following information:
  - a. Cover letter including a certification that the submittal complies with all requirements of the RFQ.

- b. Executive Summary including a brief summary of the firm's origin, ownership, size, areas of expertise, and home office locations for key staff with proximity to SVCE offices and operations.
- c. Statement of Qualifications (Firm qualifications, with a focus on assigned personnel) including a discussion of the key personnel's recent experience directly related to providing the legal services requested and the number of years of such experience.
- d. Description of Typical Workflow and Operation describing the firm's approach to responding to requests for legal opinions and the typical turnaround time for developing opinions.

2. Additional required information. (Tabular format is preferred wherever appropriate)

- a. References. Provide a minimum of three public agency, JPA, or special district clients for which comparable services have been performed. Provide the name, mailing address, email address, and telephone number for each client's principal representative with the closest knowledge of the firm's performance. Include the dates of the engagement and indicate if it is ongoing. Provide a brief, summary overview of the types of services provided to each reference.
- b. List any subconsultants proposed, if any, including a description of the business relationship between the prime proposer and subconsultant, and a list of the types of legal services each would provide.
- c. Provide a list of current clients that may directly or indirectly affect the performance of work or create the appearance of a conflict of interest with the anticipated assignment as special counsel to SVCE. Describe the nature of the conflict/potential conflict. For any identified potential conflicts, describe the firm's internal controls and procedures, as well as a specific plan to mitigate each potential conflict. This disclosure must include relationships that subconsultants have as well.
- d. Fee Schedule. Provide a listing of hourly rates for all staff categories that may engage. Specifically, identify by name the proposed hourly rate for all key staff. Rates for any subconsultants must be included together with disclosure of any markup of subconsultant fees or reimbursable expenses incurred, including travel. The fee schedule proposed should be valid for the first 18 months of the contract, assuming 120 days from qualifications submission to contract execution.
- e. Provide the following business information:
  - i. Length of time the firm has been in business

- ii. Length of time at the local business address
- iii. Names and titles of all officers or the firm
- iv. Any other names under which the firm has conducted business
- v. If a sole proprietorship, the name of the sole proprietor
- vi. If the firm is incorporated, the type of corporation and the jurisdiction where incorporated
- vii. Provide the appropriate federal tax ID number
- viii. Provide the name and remittance address for any invoices
- ix. Provide the location of the offices from which key staff are assigned

## **Evaluation Process**

**Qualification review:** SVCE will review and evaluate each submittal to determine how well it meets the requirements for the services defined herein. SVCE reserves the right to select firm(s) which, in SVCE's sole discretion, will best meet the needs of the organization. This qualification review will emphasize the firm's specific experience and knowledge in the issues identified in this RFP. SVCE may elect to reject any or all submittals.

**Selection process:** Based on SVCE's evaluation of qualifications received, a short list of firms deemed most suitable will be prepared. Formal interviews may be conducted of the top-ranked firms at SVCE's discretion. Following the results of reference checking and formal interviews (if needed), a ranking of firms will be prepared in advance of contract negotiations. If negotiations are unsuccessful with the highest ranked firm(s), the next ranked firm(s) will be invited to negotiate. Formal approval of the final selection will be made by a majority vote of the SVCE Board of Directors, which will make an award as it deems necessary regardless of assigned ranking.