



REQUEST FOR QUALIFICATIONS & PROPOSAL (RFQ/P)

PROFESSIONAL SERVICES

LEGAL COUNSEL

RFQ/P Submission Deadline:

February 26, 2024 3:00 PM PST

RFQ/P Submission Address:

**Attn: Executive Director
Monterey Regional Airport
200 Fred Kane Dr., Suite 200
Monterey, CA 93940**

RETURN THIS SHEET WITH YOUR RESPONSE

I HAVE READ, UNDERSTAND AND AGREE TO ALL STATEMENTS IN THIS REQUEST FOR QUALIFICATIONS, AND TO THE TERMS, CONDITIONS AND ATTACHMENTS REFERENCED HEREIN.

Date: _____ Company Legal Name: _____

Authorized Signature

Name

Title

REQUEST FOR QUALIFICATIONS

- A. All information regarding this RFQ/P may be viewed or downloaded from the District's website, <https://montereyairport.specialdistrict.org/legal-notices>
- B. Completed proposals must be submitted to the Airport by US Mail or hand delivered no later than February 26, 2024 at 3:00 PM PST.
- C. Proposals must provide the requested information as described in this RFQ/P. The wet signatures of all persons signing shall be written in longhand. Proposals not submitted in the manner prescribed herein will not be considered.
- D. Mistake corrections must be initialed in ink by the person signing the proposal.
- E. Alternate proposals will not be considered.
- F. The District reserves the right to reject any or all proposals or to waive any informalities or minor irregularities in connection with proposals received.
- G. The District assumes no obligation in the solicitation of this general statement of interest and qualifications and all costs shall be borne by the interested party.

Monterey Peninsula Airport District (the "District") is seeking responses from qualified attorneys with demonstrated technical expertise and experience in providing legal counsel services. The successful firm/jurisdiction (the "Firm") must provide a designated individual to serve as District Counsel and should have the capability to provide expertise in the area of general public sector law, land use, H.R./personnel, Brown Act, conflict of interest, real property (including leasing), construction law (public works) and contracts and litigation. Aviation and Federal Contract experience is desired. The designated individual must have graduated from an ABA accredited law school, have a minimum of eight years legal experience, have a minimum of five years of experience representing a public agency, have a proven track record in litigation, and be a member of the California Bar Association, in good standing.

ABOUT THE DISTRICT

The District encompasses the Cities of Pacific Grove, Carmel by the Sea, Monterey, Del Rey Oaks, Seaside, and Sand City; as well as unincorporated communities, including Pebble Beach, the west end of Carmel Valley, Aguajito and Josselyn Canyons, Hidden Hills, Laguna Seca and Monterey-Salinas Highway to the Laureles grade. The District residents elect a five-member Board of Directors to govern the Airport District, each member serving a four-year term. The Directors then entrust responsibility for the efficient execution of airport policies to the Executive Director.

Currently the Monterey Regional Airport (MRY) encompasses over 498 acres and is the only airport in Monterey County providing commercial air service. It also provides services to general aviation, including corporate aircraft.

The District has two pending cases of litigation; no others are anticipated.

SUBMITTAL REQUIREMENTS

The District seeks to retain professional legal and general counsel services of a qualified Firm for a five-year period, to provide public agency law and general counsel services. Legal Services include, but are not limited to, the following areas: provide legal advice and counsel to the District's Board of Directors and Executive Director; preparation of ordinances, resolutions,

orders, and other writing memoranda; oral and written presentations to the Board; procurement of services, goods and construction; RFP and RFQ preparation and processing for airport projects; litigation; risk management analysis; knowledge of criminal law and criminal procedure; knowledge of California Codes and regulations and applicable federal codes and regulations including but not limited to California Penal Code and California Vehicle Code, public agency law, land use, zoning, labor and personnel, Brown Act, conflict of interest (FPPC), real property (including easements, leasing, and purchase and sale agreements), public entity funding, construction law (public works) and public contracts, disabled access, CEQA/NEPA, and environmental and hazardous materials. Familiarity with and proximity to Monterey Regional Airport as well as aviation law and federal contract experience desired, but not required. Knowledge of FAA airport regulations, policies and procedures is required.

A statement of your Firm's interest/qualifications and proposal regarding the legal services is herein solicited.

The Statement of Interest and Qualifications should include detailed information regarding the following areas:

1. Employment history (past eight years) for the individual to be designated District Counsel as well as any individual who may provide attorney services. Include:
 - a. Name of individual;
 - b. Name of firm/city/agency/address;
 - c. Length of employment;
 - d. Specialization.
2. Qualifications for the individual to be designated District Counsel and any additional or backup individuals that will also be providing District legal services. This should include:
 - a. Legal training and years of practice (including date of admittance to California Bar, graduation from an ABA accredited law school);
 - b. Years of municipal or other local public sector law practice as a full-time local government attorney and/or private law office specialization in local government, and the airports and public agencies represented;
 - c. A description of specific knowledge of, and experience with, California public sector law, as well as experience with aviation, real property and construction law (public works);
 - d. Years and statement of other types of clientele represented;
 - e. Litigation experience (types of cases);
 - f. Intended office location and accessibility to the District;
 - g. List three professional and three personal references with contact information; and

- h. Scholastic honors and professional affiliations.
3. Define what would be considered to be additional service to be provided over and beyond the “basic” services covered by the retainer.
 4. Describe how you would structure the working relationship between the District Counsel and the Board of Directors and Executive Director.
 5. Define the standard time frames for responses by the District Counsel to direction and/or inquiry from the Board of Directors and Executive Director.
 6. Indicate how you would provide for professional errors and omissions liability insurance, indemnity, renewal, amendment, extension and/or termination of insurance coverage.
 7. Provide a list of public entities the Firm represents or has represented.
 8. Provide proposed fixed monthly fee or retainer for 45 hours of “basic” services per month.
 9. Provide proposed hourly rate for additional services.
 10. Indicate type and unit rate for reimbursement of any additional services expenses; for example, rate of mileage, reproduction of documents, computer or word processing charges.
 11. Provide an executed *Statement of Acknowledgement* (see Attachment No. 1). Since District contracts are subject to Government or Public Contract Codes, there are provisions which must be included in District contracts which may not be subject to negotiations, as solely determined by the District. A draft *Retainer Agreement for District Counsel*, which provides the basic provisions intended to be included in the final agreement is attached to this RFQ/P (Attachment No. 2). Respondents are required to review the District's draft *Retainer Agreement for District Counsel* and note in their submittal any concerns or comments with the basic provisions.

The District reserves the right to negotiate the final terms and conditions of the *Retainer Agreement for District Counsel* with any Firm that submits a response.

RESPONSE FORMAT

The Firm(s) must be certain to provide detailed information within the general categories identified above.

COMPENSATION

The District anticipates that an individual or firm will provide basic services under a fixed monthly fee or retainer (see Attachment No. 2, Exhibit B), with additional services billed at an hourly rate (as differentiated between paralegal and attorney). It is expected that the services provided under a retainer would include those legal services generally understood within the field of municipal law to fall within the category of “general counsel,” including the following (estimated at an average of 45 hours per month; the amount paid monthly for the retainer will remain the same, even though some months legal counsel will provide more than 45 hours, some months less than 45 hours):

1. Attendance at all meetings of the Board of Directors (regularly the 3rd Wednesday of the month) and other meetings as deemed necessary, including presentations when necessary.
2. Review and/or preparation of Board Meeting agenda packets, ordinances, resolutions, orders, agreements, contracts, forms, notices, declarations, certificates, deeds, leases, and other documents required by the District.
3. Consultation with Board Members and/or Executive Director as needed.
4. A presence at District's administrative office of at least 4 hours per week, every Wednesday, unless an alternate day is otherwise mutually agreed upon by the Executive Director and Counsel, to allow for direct interaction with the Executive Director and Staff.
5. Coordination of the work of outside legal counsel, as needed and directed by the Board or the Executive Director.
6. Legal work pertaining to planning, property acquisition, property disposal, public improvements, public rights of way and easements, and matters relating to public utilities.
7. Routine legal advice, consultation and opinions to the District and Staff on areas such as: general public agency and general counsel law, contracts, aviation law and federal contracts, Federal Aviation Administration (FAA) airport regulations/policies/procedures; public agency law; land use, zoning, labor and personnel laws, Brown Act and conflict of interest rules and regulations (FPPC); real property law (including easements, leasing, and purchase and sale agreements); public entity funding, construction law (including public works and Public Contracts Code); disabled access requirements; CEQA/NEPA, environmental and hazardous material laws; litigation; risk management analysis; public entity claim process, criminal law and criminal procedure; knowledge of California Codes and regulations and applicable federal codes and regulations including but not limited to California Penal Code and California Vehicle Code; procurement of services, goods and construction; and Request for Proposal (RFP), Request for Qualifications (RFQ) preparation and processing for airport projects.

EVALUATION AND SELECTION PROCESS

A statement of your Firm's interest/qualifications and proposal are due by 3:00 p.m., PST, on February 26, 2024. One original and four copies are requested. The District will not accept fax, telephone, electronic or telegraphic information. Late submittals or postmarks will not be accepted. All submittals, whether selected or not, shall become the property of the District. Submittals shall contain no more than 30 pages of material.

Submit one (1) original and four (4) copies to:

ATTN: Michael La Pier, Executive Director
Monterey Peninsula Airport District
200 Fred Kane Drive, Suite 200
Monterey, CA 93940

All submittals will be reviewed by the District's screening committee.

The following is a tentative schedule for the selection and award of an agreement for these services:

Advertise Notice	January 29, 2024
Receive Submittals (due date)	February 26, 2024
Screening Committee Interviews	March 4 -11, 2024
Board Interviews of Short List	March 20, 2024
Authorization of Agreement/MPAD Board Meeting	April 27, 2024

Services are limited to 5 years beginning July 1, 2024. However, the District retains the right to limit or otherwise adjust the services required during this time period as it deems appropriate, in its sole discretion. In addition, the District reserves the right to initiate additional procurement action for any of the services included in its initial procurement.

RIGHTS/RESPONSIBILITIES:

The District reserves the right to accept or reject any or all proposals received in response to this request, to negotiate with any Firm, or cancel in whole or in part this RFQ/P if it is in the best interest of the District to do so. Any contract pursuant to the RFQ/P is dependent upon the final approval of the District's Board of Directors.

The District reserves the right to waive any proposal irregularity and to reject any or all proposals at its sole discretion. The District retains the right to award a contract for these services, in part or in total to the Firm of its choice, should it decide to finalize the agreement, or to terminate the proposed services at any time prior to approval of a formal contract.

Attached to this RFQ/P, as a mechanism to expedite the contract negotiation process, is a draft *Retainer Agreement for District Counsel* containing the basic contract provisions proposed by the District (see Attachment No. 2). The District reserves the right to further clarify the terms and conditions. The intent of the District is to enter into an agreement with the selected Firm beginning on July 1, 2024 and after the District Board of Directors has approved the selection. In the event of delay in reaching a contract agreement, the offer of key personnel identified in the RFQ/P shall be valid for 120 days after submittal of the Proposal.

All questions pertaining to this RFQ/P should be addressed to Michael La Pier by email (info@montereyairport.com). Questions will be received between February 2, 2024 through February 16, 2024, at 5:00 pm. Answers/clarifications, if appropriate, will be posted at <https://montereyairport.specialdistrict.org/legal-notices>.

Once this RFQ/P has been issued, Firms are specifically directed not to contact District personnel for meetings, conferences, or technical discussions related to the RFQ/P. Failure to adhere to this policy may result in the disqualification of the Firm.

RFQ FAA Requirements. Federal law requires that the Monterey Regional Airport, as a recipient of federal assistance, comply with the following Federal Regulations which are herein incorporated by reference:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION 49 CFR PART 29 (VERSION 1, 1/5/90)
THE CONSULTING FIRM CERTIFIES, BY SUBMISSION OF THIS STATEMENT OF QUALIFICATIONS OR ACCEPTANCE OF A CONTRACT, THAT NEITHER IT NOR ITS PRINCIPALS IS PRESENTLY DEBARRED, SUSPENDED, PROPOSED FOR DEBARMENT, OR DECLARED INELIGIBLE, OR VOLUNTARILY EXCLUDED FROM PARTICIPATION IN THIS TRANSACTION BY ANY FEDERAL DEPARTMENT OR AGENCY. IT FURTHER AGREES BY SUBMITTING THIS STATEMENT OF QUALIFICATIONS THAT IT WILL INCLUDE THIS CLAUSE WITHOUT MODIFICATION IN ALL LOWER TIER TRANSACTIONS, SOLICITATIONS, PROPOSALS, CONTRACTS, AND SUBCONTRACTS. WHERE THE CONSULTANT OR ANY LOWER TIER PARTICIPANT IS UNABLE TO CERTIFY TO THIS STATEMENT, IT SHALL ATTACH AN EXPLANATION TO THIS SOLICITATION/PROPOSAL.

Disadvantaged Business Enterprises

The Monterey Regional Airport encourages qualified Disadvantaged Business Enterprises to respond to this solicitation and to participate in this proposal response.

- a. ACCESS TO RECORDS AND REPORTS. (Reference: 49 CFR part 18.36(i), 49 CFR part 18.42)
- b. BUY AMERICAN PREFERENCE. (Reference: 49 USC § 50101)
- c. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982, SECTION 520 (Reference: 49 U.S.C. 47123)
- d. CIVIL RIGHTS – GENERAL. (Reference: 49 USC § 47123)
- e. CIVIL RIGHTS – TITLE VI ASSURANCES.
- f. DISADVANTAGED BUSINESS ENTERPRISE. (Reference: 49 CFR part 26)
- g. ENERGY CONSERVATION REQUIREMENTS. Source: 49 CFR part 18.36(i)(13)
- h. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (Reference: 29 USC § 201, et seq.)
- i. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (Reference 20 CFR part 1910)
- j. RIGHT TO INVENTIONS (Reference 49 CFR part 18.36(i)(8))
- k. TRADE RESTRICTION (Reference: 49 CFR part 30)
- l. VETERAN’S PREFERENCE (Reference: 49 USC § 47112(c))
- M. SEISMIC SAFETY
- n. COPELAND “ANTI-KICKBACK” ACT (Reference: 49 CFR § 18.36(i)(4), 29 CFR parts 3 & 5)
- o. CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT
- p. DAVIS BACON REQUIREMENTS. (Reference: 49 CFR § 18.36(i)(5))
- q. TEXTING WHILE DRIVING. (Reference: Executive Order 13513)
- r. AFFIRMATIVE ACTION REQUIREMENT. (Reference: 41 CFR part 60-4, Executive Order 11246)
- s. EQUAL OPPORTUNITY CLAUSE AND SPECIFICATIONS. (Reference 41 CFR § 60-1.4, Executive Order 11246)
- t. NONSEGREGATED FACILITIES REQUIREMENT. (Reference: 41 CFR § 60-1.8)
- u. RECOVERED MATERIAL. (Reference: 40 CFR part 247)
- v. TERMINATION OF CONTRACT. (Reference: 49 CFR § 18.36(i)(2))
- w. DEBARMENT AND SUSPENSION (NON-PROCUREMENT). (Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, DOT Order 4200.5 DOT Suspension & Debarment Procedures & Ineligibility)
- x. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS. (Reference: 49 CFR § 18.36(i)(6))
- y. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES. . (Reference: 49 CFR part 20, Appendix A)
- z. BREACH OF CONTRACT TERMS. (Reference 49 CFR part 18.36(i)(1))
- aa. CLEAN AIR AND WATER POLLUTION CONTROL. (Reference: 49 CFR § 18.36(i)(12))
- bb. DRUG FREE WORKPLACE

ATTACHMENT NO. 1

**STATEMENT OF ACKNOWLEDGEMENT
CONTRACT MODIFICATIONS**

I hereby certify that Monterey Peninsula Airport District's *Retainer Agreement for District Counsel* attached to this RFQ/P has been reviewed.

Any proposed modification, revision or amendment to the basic provisions should be submitted. The actual scope of work for the Agreement will be developed during the negotiation process. If no modifications to the Agreement are noted, then the District will assume that the individual, firm, or entity is capable of performing all normal tasks and services without reservation or qualification to the Agreement.

(Date)

(Name of Attorney)

Attorney at Law
State Bar No. _____

ATTACHMENT NO. 2

PROPOSED
MONTEREY PENINSULA AIRPORT DISTRICT
RETAINER AGREEMENT FOR DISTRICT COUNSEL

This Agreement is entered into this ___ day of _____, 2024 between MONTEREY PENINSULA AIRPORT DISTRICT (herein called "District") and _____ name of law firm _____ (herein called "Counsel").

Whereas, District seeks to employ Counsel to provide legal services for District as its District Counsel, as described in Ordinance 909, and more specifically described in Exhibit "A" and Exhibit "B," subject to the following terms, conditions and provisions.

Now therefore, in consideration of the above referenced recitals which are incorporated herein by reference and the mutual promises, covenants and terms set forth herein, District and Counsel agree as follows:

1. Duties of Counsel.

The District retains Counsel to advise, counsel, and represent the District as its Counsel and to provide routine legal advice, consultation, and opinions to the Board of Directors and District Staff, to assist in the preparation and review of ordinances, agreements, contracts and related documents; to attend regular Board meetings and other meetings as may be considered necessary; to maintain regularly scheduled office hours in the District's administration offices or at an agreed upon location, per week; to monitor existing and pending legislation and case law that may affect the District; to monitor existing and pending litigation in which the District is a party or otherwise interested; to periodically report on the status of such litigation; to maintain a knowledge of current criminal law and criminal procedure as well as California Codes and regulations and applicable federal codes and regulations; and to represent the District in litigation and appeals in which the District is a party. The duties and responsibilities of Counsel are specifically set forth in Exhibits A and B; while Counsel can use paralegals to assist in its work, both District and Counsel understand and agree that the duties identified herein, and the compensation paid hereunder, will be provided by, and are intended for, individuals licensed to practice law in the State of California.

2. Counsel Independent Contractor.

The parties agree that Counsel shall be an independent contractor in performing the services provided by this agreement. District is interested only in the results to be achieved, and the conduct and control of his/her work will lie solely with Counsel. Except to the extent specifically authorized by District pursuant to its Ordinance 909/Governance Manual, and any updates thereto, Counsel is not to be considered an agent of District for any other purpose. Counsel, his/her agents, officers, and employees, if any, are not considered employees of the District and are not entitled to any of the benefits that District provides for its employees, including worker's compensation insurance.

3. Time of Performance.

Performance of the services hereunder by Counsel will be for a period not to exceed five (5) years, commencing on July 1, 2024, and ending on June 30, 2029. The retainer and rates for services shall be fixed until the end of this five (5) year period. District may exercise one (1) three-year extension to this agreement if notice of the intent to do so is received in writing by Counsel no earlier than 90 days prior to the expiration of the first five (5) year period. The retainer and rates for services shall be subject to modification for the second 3-year period, at the sole discretion of District, but thereafter shall be fixed until the end of the second three (3) year period. No modification to the retainer and rates for services shall be approved retroactively.

4. Compensation.

District shall compensate Counsel for all general counsel legal services to be provided by Counsel under this agreement according to a fixed monthly fee or retainer in the amount of \$_____ (based on an estimated average of 45 hours per month; the amount paid monthly for the retainer will remain the same, even though some months Counsel will provide more than 45 hours, some months less than 45 hours).

Additional services shall be billed at an hourly rate. All compensation shall be in accordance with the terms and conditions of Exhibit "B" attached hereto and made a part hereof.

5. Materials and Documents.

Except as otherwise specified in this agreement, Counsel will bear the cost and expense of all facilities, materials, supplies, and publications used or needed by Counsel in the performance of his/her services and development of the work products to be delivered to District. District shall be the owner of all documents produced by Counsel on District's behalf. Ownership shall commence upon submission of any document in final draft form for consideration by District's Board of Directors at any regular, adjourned regular or special meeting, whether in open or closed session. Letters and other writings produced by Counsel on behalf of District not requiring Board action shall become the property of District when Counsel affixes his signature thereto. Counsel may retain copies of the original documents for his files. Preliminary drafts and other work papers are the property of Counsel.

6. Assignment.

This agreement or any interest herein shall not be assigned by either party hereto.

7. Termination.

This agreement may be terminated by either party upon receipt of written notice not less than 60 days in advance of such termination. The parties specifically agree that nothing contained herein constitutes or implies the conferring or expectation of a property interest and that no cause need be shown for termination of this agreement by District.

8. **Insurance.**

- a. Automobile Liability.....maintain state limits on auto coverage for autos used during District services.

Workers Compensation.....maintain as required by State statutes.

Professional Errors and Omissions..... \$3 million per occurrence (no more than \$25,000 deductible).

Counsel shall not disclaim responsibility or avoid liability for the acts or omissions of its assignees, subcontractors, or other professional consultants. The retroactive date of the policy must be shown and must be before the date of the agreement.)

- b. All insurance companies, with the exception of worker's compensation and professional errors and omissions, affording coverage to Counsel shall be required to add the Monterey Peninsula Airport District, its officers, employees, agents, and volunteers as additional "insureds" by endorsement under the insurance policy and shall stipulate that this insurance policy will operate as primary insured for the work performed and that no other insurance affected by the District or other named insured will be called upon to contribute to a loss covered thereunder. The policy shall contain no special limitations on the scope of protections afforded to District, its officers, employees, agents, or volunteers.
- c. All insurance companies affording coverage to Counsel shall be insurance organizations authorized by the Insurance Commissioner to transact the business of insurance in the State of California.
- d. All insurance companies affording coverage shall provide thirty (30) days written notice by certified or registered mail to the Monterey Peninsula Airport District should the policy be canceled or reduced in coverage before the expiration date. For the purposes of this notice requirement, any material change prior to expiration shall be considered cancellation.
- e. Counsel shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the Executive Director, concurrently with the submittal of this agreement. A statement on the insurance certificate which states that the insurance company will endeavor to notify the certificate holder, "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" does not satisfy the requirements of subsection (e) herein. Counsel shall ensure that the above-quoted language is stricken from the certificate by the authorized representative of the insurance company. The insurance certificate shall also state the unpaid limits of the policy.
- f. Counsel shall provide a substitute certificate of insurance no later than thirty (30) days prior to the policy expiration date, and at annual renewal.

Failure by Counsel to provide such a substitution and extend the policy expiration date shall be considered a default by Counsel.

- g. Maintenance of insurance by Counsel as specified in the agreement shall in no way be interpreted as relieving Counsel of any responsibility whatever and Counsel may carry, at its own expense, such additional insurance as it deems necessary.

10. District's Designated Representative.

District designates the Executive Director as its "designated representative." The designated representative is authorized to review the services of Counsel and to authorize all services required of Counsel pursuant to this Agreement.

11. Certificate of Counsel.

Counsel agrees to complete, execute, and deliver to District upon execution of this agreement a certificate in the form and content of Exhibit "C" attached hereto and incorporated herein. Counsel agrees to comply with the conditions and provisions of the certificate.

12. Notices.

Notices pursuant to this agreement shall be given by United States mail, postage prepaid, addressed to the parties hereto as follows:

- a. District: Executive Director
 Monterey Peninsula Airport District
 200 Fred Kane Dr.; Suite 200
 Monterey, CA 93940

- b. Counsel: _____
- _____
- _____
- _____

13. Nondiscrimination.

During the performance of this agreement, Counsel shall not discriminate against any employee or applicant because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years), or disability. Counsel shall take affirmative action to ensure that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability, veteran status, gender identity, genetic information and any other class protected by state and federal law.

14. Conflict of Interest.

Notwithstanding Paragraph 13, above, Counsel warrants and declares that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or

otherwise, in any manner or degree which will render the services required under the provisions of this agreement a violation of any applicable state, local, or federal law. Counsel further declares that, in the performance of this agreement, no subcontractor or person having such an interest shall be employed. In the event that any conflict of interest should nevertheless hereafter arise, Counsel shall promptly notify the District of the existence of such conflict of interest so that District may determine whether to terminate this agreement. Counsel further warrants its compliance with the Political Reform Act (Government Code section 81000 *et seq.*) and performance of the work or services pursuant to the terms of this agreement.

In addition to the proscriptions regarding conflict of interest imposed on _____ (name of law firm _____), by the Business and Professions Code and by the California Rules of Professional Conduct, particularly California Rule 3.310(d), _____ (name of law firm _____), represents that no attorney of _____ (name of law firm _____), shall, after the termination of _____ (name of law firm _____)'s service or employment with District, appear before any board, committee, or agency of District in relation to any case, proceeding, or application, or contract in which it participated during the period of its service or employment, or which was under its active consideration, for a period of six (6) months from the date of termination of _____ (name of law firm _____)'s engagement as District Counsel. Both parties note there are pending State Bar Ethical Rules that may go into effect, that may impact the last portion of this paragraph, and agree to abide by any changes to the State Bar Ethical Rules.

15. Headings.

The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this agreement.

16. Extent of Agreement.

This agreement represents the entire integrated agreement between District and Counsel and supersedes all prior negotiations, representations, understanding, or agreements between the parties either written or oral.

17. Integration and Amendment.

This agreement represents the entire understanding of District and Counsel as to those matters contained herein. No prior oral or written understanding shall be of any force or affect with respect to those matters contained herein. No prior oral or written understanding shall be of any force or affect with respect to those matters covered in it. This agreement may not be modified or altered except by amendment in writing signed by both parties.

18. Jurisdiction.

This agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this agreement shall be in the State of California in the County of Monterey.

19. Severability.

If any part of this agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void in so far as it is in conflict with said laws, but the remainder of the agreement shall continue to be in full force and effect.

20. Exhibits Incorporated.

All exhibits referred to in this agreement and attached to it are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of the agreement and of any of the terms of any exhibit to the agreement, the terms of the agreement shall control the respective duties and liabilities of the parties.

21. Compliance with Laws, Rules, and Regulations.

Services performed by Counsel pursuant to this agreement shall be performed in accordance and full compliance with all applicable federal, state, and District laws and any rules or regulations promulgated thereunder.

22. Acceptance of Work Not a Release.

Acceptance by the District of the work performed under this agreement does not operate as a release of Counsel from professional responsibility for the work performed.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be fully executed.

Dated: _____

Counsel:

District:

By _____ By _____
(name of law firm) Chair

By _____ By _____
Attorney at Law Secretary

Please Note: All attorneys will need to also attach their General Practice Description, as required by the State Bar Ethics Rules.

EXHIBIT "A"

DUTIES OF THE DISTRICT COUNSEL

1. General.

Counsel shall be the chief legal officer of the District. Counsel shall be appointed by the Board of Directors, shall serve at its pleasure and shall be directly responsible to the Board. Counsel must be an active member of the State Bar of the State of California and be well qualified by reason of education and experience to perform legal functions for the District.

2. Preparation of Resolutions, Ordinances, Contracts, etc.

Counsel shall prepare all resolutions, ordinances, contracts, leases, and other documents of legal nature required for the conduct of the affairs of the District, as from time to time directed so to do by District Staff and/or the Board of Directors. When particular contracts and leases have been prepared by him/her, he/she shall approve them as to form in writing and submit them to District Staff for its consideration.

3. Attendance at Meetings.

Unless excused by the Chairman or a majority of the Board of Directors sitting in a duly noticed public meeting, Counsel shall attend all regular, adjourned regular and special meetings of District's Board of Directors. Counsel or the Assistant District Counsel will also attend other meetings, as the Executive Director determines are necessary (see Exhibit B).

4. Legal Assistance to the Board of Directors and District Staff.

Counsel shall render legal assistance to District's Board of Directors, its Chairperson, Executive Director, Deputy Executive Directors, and other employees authorized by the Executive Director and/or Deputy Executive Directors, as is required in the performance of said employees' duties. In addition, Counsel shall maintain a presence at District's administrative office of at least 4 hours per week, every Wednesday, unless an alternate day is otherwise mutually agreed upon by the Executive Director and Counsel, to facilitate interaction with Directors and Staff.

5. Bonds.

All labor and material, faithful performance and other bonds running in favor of the District shall be approved as to form by Counsel.

6. Litigation.

Except to the extent of participation prohibited by law in small claims court actions, Counsel shall conduct all litigation in which the District is from time to time engaged. Counsel shall make recommendations to the Board of Directors concerning the advisability of commencing litigation and the compromise or settlement of potential or existing litigation. Court actions commenced by District must be authorized by the Board

of Directors, except the Executive Director may, with the concurrent written notification to the members of the Board of Directors of the filing of the action, without the prior approval of the Board of Directors, authorize and direct actions be brought for recovery of rent owed to the District by tenants and former tenants of the District, including an unlawful detainer action for forfeiture of a lease of a tenant who is in default in the payment of rent and for recovery of possession of the leased premises after noncompliance by the tenant with a notice to pay rent or quit the premises. Such actions authorized by the Executive Director, if appropriate, may be filed and prosecuted in the small claims court.

7. Other.

Other legal services shall be provided, including, but not limited to the following areas: writing memoranda; oral and written presentations to the Board; preparation of opinions/documents related to procurement of services, goods and construction; RFP and RFQ preparation and process for airport projects; preparation of risk management analysis; preparation of opinions/documents concerning criminal law and criminal procedures, California Codes and regulations and applicable federal codes and regulations, land use, zoning, labor and personnel, Brown Act, conflict of interest (FPPC), real property (including easements, leasing, and purchase and sale agreements), public entity funding, construction law (public works) and public contracts, federal contracts, disabled access, CEQA/NEPA, and environmental and hazardous materials.

8. Additional Counsel.

Whenever, in Counsel's opinion, the Board of Directors should consider the employment of outside counsel as to a particular matter, pursuant to Section 22554 of the California Public Utilities Code, Counsel shall promptly advise the Board of Directors of this fact.

9. Legislation.

Counsel shall advise the Board of Directors of any legislation the District might consider sponsoring to aid it in conducting its affairs. Counsel shall further advise the Board of Directors of prospective legislation sponsored by others and as to how it would affect the District.

10. Administrative Bodies.

Whenever required by the Board of Directors or Executive Director to do so, Counsel shall appear before various administrative divisions and agencies of the state and administrative and legislative bodies of the United States Government concerning affairs of the District.

11. Additional Duties.

Counsel shall perform such additional duties as are required by the Executive Director and/or the Board of Directors or applicable law.

EXHIBIT "B"

COMPENSATION OF COUNSEL

1. Basic Services.

The services provided under the retainer include those legal services generally understood within the field of municipal law to fall within the category of "general counsel" including the following:

- Attendance at all meetings of the Board of Directors (regularly on the third Wednesday of the month; occasionally a second meeting during a calendar month is held) and other meetings as needed.
- Review and/or preparation of ordinances, resolutions, orders, agreements, contracts, forms, notices, declarations, certificates, deeds, leases, letters, memorandums, emails, or other forms of electronic transmittal of information, and other documents required by the District.
- Consultation with Board Members, Executive Director, Deputy Executive Directors, and Staff as needed.
- Weekly availability for consultation at MPAD administration offices located at the Monterey Peninsula Airport Terminal, 200 Fred Kane Drive, Suite 200, Monterey, California, every Wednesday, unless an alternate day is otherwise mutually agreed upon by the Executive Director and Counsel, to allow for a minimum of four (4) hours per week of direct interaction with the Executive Director and Deputy Executive Directors, or other Staff as directed by the Executive Director and/or Deputy Executive Directors.
- Coordination of the work of outside legal counsel as needed and directed by the Board of Directors or the Executive Director.
- Legal work pertaining to planning, property acquisition, property disposal, public improvements, public rights of way and easements, and matters relating to public utilities.
- Preparation of opinions/documents related to: aviation law; criminal law and criminal procedure; FAA airport rules/regulations; federal contracts; procurement of services, goods and construction; California Codes and regulations and applicable federal codes and regulations; land use; zoning; labor and personnel; Brown Act; conflict of interest (FPPC); real property (including easements, leasing, and purchase and sale agreements); public entity funding and construction law (public works), public contracts; disabled access; and CEQA/NEPA, environmental and hazardous materials.
- Preparation of RFPs and RFQs and assisting in conducting process for airport projects.
- Perform risk management analysis.

The retainer for provision of basic services includes all expenses associated with the provision of said services (e.g., mileage, reproduction of documents, travel expenses, conference registrations, if any, etc.). Counsel shall invoice District for retainer services. Such invoices shall include: a brief description of services performed; the date the services were performed; and the number of hours spent and by whom.

2. Additional Services

Counsel shall be compensated for the services rendered in accordance with this agreement as set forth below. All such assignments for additional services must be in writing. Counsel will not charge for travel time to and from Counsel's principal office.

a. Hourly Fees:

_____	, District Counsel	\$___ per hour
_____	, Assistant District Counsel	\$___ per hour
_____	, Associate Attorney	\$___ per hour
_____	, Paralegal	\$___per hour

b. Reimbursable Expenses:

1. Mileage will be paid at the IRS rate currently in existence at the time incurred, round trip, based upon official road mileages of the Automobile Club of Southern California. Counsel will only charge for mileage to and from the District offices from Counsel's principal office, and will not charge for travel time as part of Counsel's hourly fees set forth above.
2. Lodging: Reimbursed at actual cost, subject to District's normal per diem reimbursement policies, in the same manner as such expenses are paid for Board Members.
3. Meals: Reimbursed at actual cost, subject to District's normal per diem reimbursement policies, in the same manner as such expenses are paid for Board Members.
4. Court fees, filing fees, deposition transcript fees, expert witness fees, process servers, etc.: Reimbursed at actual cost.
5. Computerized Legal Research (Lexis-Nexis): Counsel will not charge for computerized legal research (Lexis-Nexis) unless extraordinary computerized legal research is necessary for District projects involving access to legal research data bases that are not part of Counsel's law library or available on the firm's legal research data base. Any such extraordinary computerized research shall be subject to the prior approval and authorization of the Executive Director.
6. Commercial Carrier Air Travel: Reimbursed at actual cost. Counsel will use best efforts to obtain economy rates.
7. Other out-of-pocket expenses: Reimbursed at actual cost.

c. Invoices for Additional Services:

1. For additional services, Counsel shall submit to District an itemized invoice, prepared in a form satisfactory to District, describing its services and costs for the period covered by the invoice. Except as specifically authorized by District, Counsel shall not bill District for duplicate services performed by more than one person. Counsel's bills shall include the following information to which such services or costs pertain:
 - a brief description of services performed;
 - MPAD representative specifically authorizing the services;
 - the date the services were performed;
 - the number of hours spent and by whom;
 - a brief description of any costs incurred;
 - Counsel's signature; and
 - Copy of written authorization for the additional services given by MPAD representative authorizing the services. No invoice shall be paid by District, unless accompanied by a copy of said authorization.
2. All such invoices shall be in full accord with any and all applicable provisions of this Agreement.
3. District shall make payment on each such invoice within forty-five (45) days of receipt; provided, however, that if Counsel submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this agreement, District shall not be obligated to process any payment to Counsel until forty-five (45) days after a correct and complying invoice has been submitted by Counsel.

d. Counsel's Records:

Full and complete records of Counsel's time and reimbursable travel expenses will be maintained by Counsel and submitted to District for reimbursement on a monthly basis in accordance with the billing practices of name of law firm following the month for which the claim is made. Documents and receipts submitted in support of claims for reimbursement or additional compensation shall be retained by District until completion and acceptance by District for its annual audit. Any claims paid and subsequently disallowed shall be promptly refunded to District upon demand.

e. Audit and Examination of Accounts.

1. Counsel shall keep and will cause any assignee or subcontractor under this agreement to keep accurate books of record in account, in accordance with sound accounting principles, which records pertain to services to be performed under his agreement.

2. Any audit conducted of books and records and accounts shall be in accordance with generally accepted professional standards and guidelines for auditing.
3. Counsel hereby agrees to disclose and make available any and all accounting information, reports, or books of records or accounts pertaining to this agreement to District and any State or Federal government entity which provides support funding for District projects.
4. Counsel hereby agrees to include the requirements of subsection (b) above in any and all contracts with assignees, subcontractors, or consultants under his agreement.
5. All records provided for in this section are to be maintained and made available throughout the performance of this agreement and for a period of not less than five (5) years after full completion of services hereunder, except that any and all such records which pertain to actual disputes, litigation, appeals, or claims shall be maintained and made available for a period of not less than five (5) years after final resolution of such disputes, litigation, appeals, or claims.

EXHIBIT "C"

CERTIFICATE OF COUNSEL

I hereby certify that I am an active member of the State Bar of the State of California and that I am the holder of a Juris Doctorate degree in Law, or equivalent, issued by a college or university duly accredited by the American Bar Association to issue such a degree at the time I received it.

I am authorized to practice before all courts in the State of California, and the Federal Courts that serve Monterey County.

(Date)

(name of attorney)

Attorney at Law
State Bar No. _____