

REQUEST FOR PROPOSAL

Legal Services for the Long Creek Watershed Management District

The Long Creek Watershed Management District (LCWMD) hereby solicits proposals from qualified individual attorneys and/or law firms to serve as the LCWMD's Corporation Counsel on a contractual basis under direction of the LCWMD Governing Board. The individual or firm selected would serve as chief legal advisor to the LCWMD on an at-will basis.

The Corporation Counsel will provide legal advice to the LCWMD Board and its contractors working on behalf of the LCWMD, as well as its boards and committees, and will represent them in court as may be required. The Corporation Counsel will also prepare and review contracts, easements, etc., and provide opinions for the LCWMD on a variety of subjects. The Corporation Counsel will attend LCWMD Board meetings and may be asked to attend other meetings and hearings and will be expected to provide legal assistance in a prompt and efficient manner.

The successful individual/firm will be licensed to practice law in the State of Maine and will demonstrate substantial training and experience in all areas of municipal law including but not limited to land use, environmental law, real estate, labor and employment, finance, civil law enforcement, Freedom of Access Act, risk management, and records retention. These services shall not include Worker's Compensation or liability matters where insurance coverage exists.

Interested parties may request a Request for Proposals (RFP) from LCWMD c/o Cumberland County Soil and Water Conservation District ("CCSWCD") at 35 Main Street, Suite 3, Windham, ME; at the website: www.restorelongcreek.org; or by e-mail from tamara@cumberlandsxcd.org.

Proposals must be received by the LCWMD **no later than 2:00 p.m. on June 17, 2010**. Proposals must be sealed and clearly marked, "Legal Services for the Long Creek Watershed Management District". Respondents must submit **an original proposal and two (2) copies**.

Any late proposals will not be accepted and will be returned to the proposer. Proposal forms and specifications may be obtained at CCSWCD from 8:30 – 5:00 p.m., Monday through Friday. The LCWMD reserves the right to accept or reject any or all proposals. Proposals will be opened publicly at the time of the RFP deadline. Proposers may be present at RFP opening if so desired.

The LCWMD's selection will be based on its evaluation of the written proposal, the attorney and/or firm's qualifications and experience, client references, the areas of legal services that the attorney and/or firm are willing to provide, an oral presentation (if requested) and the overall fee structure. The LCWMD may engage more than one individual or firm for services should that be in its best interest.

Miscellaneous Requirements: The LCWMD will not be responsible for any expenses incurred by an attorney or firm in preparing, submitting or presenting a proposal. All proposals shall provide a straightforward, concise delineation of the attorney's or firm's capabilities to satisfy the requirements of the request. Emphasis should be on completeness and clarity of content.

The LCWMD reserves the right to waive any informalities in proposals, to accept or reject any or all proposals for any reason, to negotiate with any attorney, law firm, or business and to select one or more of the attorneys and/or law firms deemed to have submitted a proposal that in the judgment of the LCWMD Board is in the best interest of the LCWMD. The LCWMD specifically reserves the right to accept more than one proposal and may select more than one attorney and/or law firm to serve as a legal counsel to the LCWMD.

Proposals may be held by the LCWMD for a period not to exceed sixty (60) days from the date of the opening of proposals for the purpose of reviewing proposals and investigating the qualifications of the proposers prior to the award of a contract.

INTRODUCTION

Long Creek is a freshwater stream that flows into Clarks Pond, eventually draining into the Fore River and Casco Bay. The Long Creek Watershed is approximately 3.45 square miles and is located in Portland, South Portland, Westbrook and Scarborough. Long Creek does not meet state water quality standards. Through a preliminary determination in December, 2008 and final determination dated November 9, 2009, EPA has designated stormwater discharges from impervious areas equal to or greater than one acre in the Long Creek Watershed as requiring discharge permits.

Owners of property within the watershed that meet the permitting threshold have two permitting options for discharging stormwater into Long Creek. They can either obtain a general permit and participate in the collaborative implementation of the Long Creek Watershed Management Plan, or they can obtain an individual permit and independently retrofit their property within the watershed to meet DEP's Chapter 521 and Chapter 500 regulations.

The general permit is the result of a collaborative process among the four affected municipalities and other property owners in the watershed that ultimately resulted in the Long Creek Watershed Management Plan. The Plan focuses on priority projects in the watershed with the goal of reaching water quality compliance in a manner that is faster and less expensive for the affected property owners. Implementation of the Plan includes but is not limited to construction, installation, operation and maintenance, and monitoring of public and private storm water management structures, facilities and improvements to and along Long Creek and in the Long Creek Watershed; monitoring the effectiveness of the Plan and the condition of the Long Creek and the Long Creek Watershed; making any changes to that Plan; identifying, applying for, accepting and spending State, federal and other available funding sources from year-to-year; and assessing fees upon Participating Landowners for implementation, construction, installation, debt service repayment, operation and maintenance, monitoring and administrative costs.

Portland, South Portland, Scarborough and Westbrook entered into an interlocal agreement to establish the LCWMD in the summer of 2009. LCWMD is a quasi-municipal, special purpose district established as a separate legal entity and instrumentality and as a body corporate and politic under the laws of the State of Maine. It was established to provide the formal structure through which the Plan will be implemented. The general permit requires permittees to join the District and

participate in the implementation of the Plan. Please see attached list of designated landowners who could potentially join LCWMD.

Please refer to <http://restorelongcreek.org/> for further information on this effort.

THE PROPOSAL

Scope of Legal Services Required per RFP

Attached to this request for Proposal is Appendix A, which describes various areas of legal work, which should be provided to the Long Creek Watershed Management District. Each applicant must place an “X” on the line next to each of those areas of legal work in which the applicant is willing and able to provide legal counsel to the Long Creek Watershed Management District. After Appendix A has been so completed, it must be returned with the Proposal of the applicant.

Unless the applicant indicates that the Proposal may only be accepted if the applicant is selected to represent the LCWMD in every area designated by the applicant, the LCWMD reserves the right, at its discretion, to appoint the applicant to represent the LCWMD in one or more or all of the areas designated by the applicant.

In addition, even if an applicant is selected to represent the LCWMD with regard to one or more or all of the areas of legal work designated by the applicant, the LCWMD reserves the right, at its discretion, to appoint another attorney and/or law firm to represent the LCWMD with regard to such designated area of legal work from time to time if the LCWMD Board deems such action to be in the best interest of the LCWMD.

Qualifications and Experience of Legal Counsel

The proposal must identify the principle attorneys within the firm who will be providing legal services to the LCWMD. The proposal should demonstrate the qualifications, competence and capacity of the attorneys to represent the LCWMD in each of the legal service areas. Resumes shall be submitted for each lead attorney specifically assigned to the providing of services to the LCWMD. The law firm making a proposal must describe the law firm’s expertise in providing municipal legal services, specifically identifying its expertise in dealing with State and Federal regulatory processes, finance, environmental, real estate, labor and employment, legislation, government relations, nonprofit corporations, and litigation.

Client references

List clients and references with addresses and phone numbers who may be contacted by the Long Creek Watershed Management LCWMD in connection with the proposal.

Other Required Narrative Topics

Good Standing and License: The Attorney and/or law firm submitting a proposal must be in good standing and licensed to practice law before all courts and administrative agencies of the State of Maine.

Casework-Management: The LCWMD expects each applicant to demonstrate how it will manage casework for the Long Creek Watershed Management District. Each applicant shall identify their standard response time to questions and assistance (e.g. – verbal response within 1 day, written response within 5 days). Applicants shall also explain availability in emergency situations when an immediate response is needed.

Proactive Practices: The LCWMD is interested in developing and implementing practices that promote litigation prevention through proactive and educational methods. Each applicant shall identify their thoughts and proposed approach toward providing proactive legal services, which will minimize claims and expensive litigation.

Contract for Services:

The attorney or firm that is selected by the Long Creek Watershed Management District will be required to sign a contract and additional terms and provisions may be included in the contract. The contents of the proposal submitted by the applicant and this Request for Proposal, will be part of any such contract awarded.

In addition, the LCWMD anticipates that the following provisions will become a part of that contract.

Compensation: Each applicant must state the compensation that will be required for the services of the applicant. The Long Creek Watershed Management District will entertain proposals for payment on an hourly basis,. Itemized bills including the date, time and description of service and cost category will be required to be submitted before each payment will be made by the LCWMD. Such bills shall be submitted on a basis no more frequently than monthly.

Billing for services shall be explained in detail including all support services and costs such as: paralegal, clerical, supplies, mileage, electronic research and other expenses.

Applicants shall also list any services that will be provided free of charge such as attendance at annual, special LCWMD meetings and/or educational forums on various topics or any non-charged, in-house expenses. Each applicant should provide an explanation of how the LCWMD will be billed for consultations between two attorneys who are both members of your legal firm.

The LCWMD wants information about how applicants bill for informational correspondence, i.e. courtesy copies and e-mails, other billing practices, etc.

Communication: Communication between the LCWMD and the LCWMD's Corporation Counsel shall be through of the LCWMD Executive Director or his/her designee or through the Board Chair. It is specifically noted that answering inquiries from the general public and the press is outside the purview of the position of the Corporation Counsel and that he/she shall courteously refer such

inquiries to the LCWMD Executive Director or his/her designee, unless otherwise instructed by the LCWMD Executive Director or his/her designee. Since individual committee and LCWMD Board members have no legal authority to incur expenses on behalf of the LCWMD, the Corporation Counsel is not authorized to provide legal counsel to them individually. The Corporation Counsel may communicate directly with LCWMD board members as necessary to handle legal matters or as authorized by the LCWMD Executive Director or his/her designee.

Except as otherwise requested by the LCWMD Board, through the Board Chair all communications regarding legal services by the Corporation Counsel shall be transmitted to the LCWMD Executive Director or his/her designee. The LCWMD Executive Director or his/her designee shall forward copies of such communications dealing with significant issues to all Board members.

There shall be no limits to the matters referred to the Corporation Counsel. LCWMD officials agree to avoid asking for assistance and review of non-legal matters.

The LCWMD often conducts business using e-mail and other electronic media, when reasonable within the confines of confidentiality, public records requirements and other business constraints. To that end, it is frequently important for the LCWMD to be able to receive digital copies of policies, contracts and other documentation that are readable by the LCWMD's official software (Microsoft Office suite). Should the applicant not generate original documentation using this software, the applicant shall explain how the transmission of documents will not lose their formatting (e.g. – bold, *italic*, ~~strikethrough~~, underline, fonts).

Representation

Individuals or firms selected to provide legal services for the LCWMD would not be allowed to represent any person, corporate entity, participating landowner, or LCWMD board member in any action against the LCWMD or before any LCWMD board or committee in the regulatory process.

Termination: This contract arrangement is an at-will agreement.

Assignment: The selected attorney or firm will be prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this agreement or its rights, title or interest therein or its power to execute such agreement to any other person, company or corporation without the previous consent and approval in writing of the LCWMD Board/LCWMD Executive Director or his/her designee.

Hold Harmless Clause: The attorney or legal firm shall indemnify the LCWMD from all suits, actions or claims of any kind brought on account of any injuries or damages sustained by any person in consequence of any negligence in performing contract work, or on account of any act or omission by the attorney or the firm or its employees, or from any claims or amounts arising or uncovered under any law, bylaw, ordinance, regulation, or decree, violated by such attorney or firm.

Insurance: The attorney or legal firm shall be required to carry Professional Liability Insurance. Proposals must specify the carrier and coverage limits of no less than \$1,000,000 per occurrence. The successful applicant or applicants shall provide to the LCWMD a certificate of proof of insurance and shall maintain required insurance coverage.

Unavailability: The attorney or firm must also provide advance notification to the LCWMD Board/LCWMD Executive Director or his/her designee of times when counsel will be unavailable (e.g. - vacations, professional conferences, etc.), and the name(s) of legal counsel who will handle LCWMD legal affairs in his/her absence.

Specialized Counsel: The LCWMD shall not be restricted from appointing other counsel when, in the judgment of the LCWMD, the need arises. The Corporation Counsel agrees that he/she will assist the LCWMD Board, the LCWMD Executive Director or his/her designee and other counsel in any way possible.

Martindale-Hubbell Rating: Each firm must include their firm's Martindale-Hubbard rating with their proposal, if they have one.

Sealed Fee Statement: Each firm must submit, in a separate sealed envelope, the compensation, which will be required for the services of the firm.

The Long Creek Watershed Management District will entertain proposals for payment on an hourly basis. Any variations in the hourly rate should be disclosed, along with a rate schedule for the members of the firm. Any additional billable costs for paralegal or other services should be noted in the proposal. Itemized bills including the date, time and description of service, attorney providing service and that attorney's hourly rate will be required to be submitted prior to payment. Such bills shall be submitted on a monthly basis.

Selection Process: The Corporation Counsel is a direct hire of the LCWMD Board. Proposals shall be reviewed by the LCWMD Executive Director and select members of the LCWMD Board. The Executive Director shall make a recommendation to the LCWMD Board, who shall make a final selection.

LONG CREEK WATERSHED MANAGEMENT LCWMD
Request for Proposal
Legal Services

APPENDIX A

The duties of Corporation Counsel shall be to:

- (1) Furnish the LCWMD with legal representation and counsel;
- (2) Defend the LCWMD in all actions and suits against the LCWMD;
- (3) Prosecute any suit on account of any claims or demands of the LCWMD.
- (4) Furnish the board or Executive Director of the LCWMD with opinions on legal subjects which may be requested by them;
- (5) Prepare all legal documents necessary to carry out the duties of the position.

Check list of possible areas of legal expertise

The areas of legal work to be provided by the LCWMD Corporation Counsel shall include, but not be limited to, the following items. While this list is representative of the areas of work required, it is not exhaustive, and applicant acknowledges and agrees to perform work in other areas as may be requested by LCWMD unless contrary to the Code of Professional Responsibility. Please place an "X" next to each item, which the applicant agrees to perform any required legal services.)

Illustrative examples of the anticipated services include:

1. **Advise the LCWMD Board and LCWMD Executive Director:** Advise the LCWMD Board, LCWMD Executive Director, LCWMD committees upon legal questions arising in the conduct of LCWMD business. _____
2. **Give Opinions:** Give opinion upon any municipal or nonprofit corporation legal matter or question submitted to him/her by the LCWMD Board, LCWMD Executive Director, or LCWMD committees. _____
3. **Attend LCWMD Board Meetings:** Attend all regular and special LCWMD Meetings. As requested, attend other related LCWMD meetings. _____
4. **Prepare Legal Instruments:** Prepare for execution all contracts, easements and other instruments to which the LCWMD is party when so requested by the LCWMD Board or LCWMD Executive Director. _____

5. **Enforce Legal Contracts and Defend LCWMD:** When authorized by the Board, prepare all complaints against, and appear in the appropriate court to enforce LCWMD contracts and to recover damages incurred by the LCWMD. Under the direction of the LCWMD Board, defend LCWMD in any action or claim against it. In those claims where the LCWMD's insurance company has appointed legal counsel, the Corporation Counsel shall provide only those services requested by the LCWMD Board or the LCWMD Executive Director or his/her designee.

6. **Make Reports:** Immediately report to the LCWMD Executive Director (or designee) and Board the filing of any litigation against the LCWMD, update the LCWMD Board and LCWMD Executive Director on pending litigation on a regular basis, and inform the LCWMD Board and LCWMD Executive Director of the final outcome of any such claims. _____
7. **Real Estate:** Prepare easements and contracts as pertaining to real estate and on property being acquired or sold by the LCWMD. _____
8. **Keep Records:** Keep records as required for attorneys generally and in compliance with rules for retention of local government and nonprofit corporation records. _____
9. **Freedom of Access Act:** Handle Freedom of Access Act requests and records. _____
10. **Proactive Practices:** The LCWMD is interested in developing and implementing practices that promote litigation prevention through proactive and educational methods. Each applicant shall identify their thoughts and proposed approach toward providing proactive legal services, which will minimize claims and expensive litigation.

Proposal Form

In order to facilitate comparison of competing proposals, the LCWMD respectfully requests applicants to complete the following form. Please feel free to attach additional sheets where the information requested is more extensive than the space provided.

Contact Information

Name of firm: _____

Mailing address:

Physical address:

Telephone: _____

Fax: _____

E-mail address:

Web site address:

Name of lawyer proposed as LCWMD Attorney: _____

Estimated percentage of time he/she spends on municipal legal affairs: _____%

Electronic Business

Can your firm provide ordinances and documents in Microsoft Office application formats?

If no, explain compatibility:

Can your firm transmit documents over the Internet using e-mail? _____

Does your firm use e-mail in the regular conduct of your business? _____

Professional Liability Insurance

Insurance Carrier: _____

Limits: _____

Financial Consideration

Attorney cost/hour (indicate discount from regular rates if applicable): _____

Associate attorney cost/hour (indicate discount from regular rates if applicable): _____

Paralegal cost/hour (indicate discount from regular rates if applicable): _____

Clerical cost/hour (indicate discount from regular rates if applicable): _____

Other staff cost/hour (indicate discount from regular rates if applicable): _____

Will billable rates for travel include both ways, one way or no charge?: _____

Mileage expense rate: _____

Research services cost/hour (e.g. West Law): _____

Other costs (photocopying, fax, telephone expense) _____

Billing practices for services such as informational correspondence, i.e. courtesy copies and e-mails, etc. _____

Attachments: Please attach the following to the original proposal and two (2) copies.

- Outline of the size and experience of the law firm.
 - Good Standing and License:
 - Access and Availability:
 - Casework-Management:
- Resumes of legal staff with whom the LCWMD would be working.
- Fee Structure
- Proposal that includes a narrative on the following:
 - List of Services (Appendix A)
- Listing of municipal clients and other references (with addresses and phone numbers)

Long Creek Watershed Designated Landowners

Property Operator	Map Lot
119 Gannet Drive Associates, LLC	085*0000*019A
244 Wstern AV Associates Limited Liabil	067*0000*020*
50 Maine Mall Road LLC(previously Langlois, Francis X.)	048*0000*010*
90 Maine Mall Road LLC(previously Langlois, Francis X.)	048*0000*021A
ABR Realty Trust	049*0000*208*
Anthem Health Plans	084*0000*007*
ASGREC Two, Inc.	074B0000*004*
Bendetson, Norris	048*0000*002B
Berman, LLC	067*0000*018*
Best Company, LLC	002*000*049*
Blues Brothers, LLC	075A0000*108A
Brawn-Acker, LLC	002*000*024A
Brookwood Sable Oaks Drive, LLC	069*0000*013*
Capital Automotive Inc.	068*0000*005D
Capital Automotive Inc.	068*0000*005A
City of Portland	234 A001
City of Portland	233 A002
City of Portland	047*0000*005*
City of Portland	044*0000*016*
Coca Cola Bottling Co. of Northern New England	048*0000*001*
Colby Marvin Trust	068*0000*006J
Colonel Westbrook Associates	003*000*101A
Colonel Westbrook Associates	003*000*101*
Colonel Westbrook Associates	003*000*125*
Cook Management Trust	048*0000*017*
Cook, Donald E. Trust B	048*0000*018*
Cornerbrook, LLC	067*0000*005C
CPSP, LLC	066*0000*012*
CPSP, LLC	066*0000*011*
CPSP, LLC	066*0000*010A
Dead River 82 Running Hill Road LLC	073*0000*011A
Dead River Atlantic Place, LLC	067*0000*009*
Dead River Running Hill, LLC	073*0000*007A
DOT	
ecomaine	R036001A
ecomaine	R017009
ecomaine	086*0000*003A
ecomaine	002*000*041*
ecomaine	002*000*013*
Fairchild Semiconductor Corp.	048*0000*002F
First States Investors 5200, LLC	085*0000*023A
Foden Corner, LLC	049*0000*092A
Foden, E. G. Co.	067*0000*006*
FPV A Limited Liability Company	002*000*050*
GGP - Maine Mall Land, LLC	074*0000*009*
GGP - Maine Mall, LLC	068*0000*005C

Long Creek Watershed Designated Landowners

Property Operator	Map Lot
GGP - Maine Mall, LLC	075*0000*007*
GGP - Maine Mall, LLC	074B0000*003*
GGP - Maine Mall, LLC	074B0000*001*
GGP - Maine Mall, LLC	067*0000*026*
GGP - Maine Mall, LLC	067*0000*002A
GMG Family Limited Partnership	068*0000*001*
Hannaford Bros. Co.	067*0000*002C
INS Realty, LLC	085*0000*008A
J. B. Brown & Sons	002*000*019D
J. O. Padari Real Estate, LLC	049*0000*205*
Jefferson Mill, LLC	085*0000*005*
Jetport Plaza, LLC	048*0000*002E
Jordan Family Holdings	085*0000*018*
Jordan Family Holdings	085*0000*011*
Kimco Mallside Plaza 1381, Inc	068*0000*006B
Lanco Properties, LLC	003*000*107*
Lanco Properties, LLC	003*000*106*
Longcreek Properties, LLC	067*0000*007*
LZ Associates	003*000*119*
M W B, LLC	002*000*052*
Maine Today Media (previously Blethen Maine Newspapers)	085*0000*016*
Mcdonald's Corporation (39-18)	068*0000*003*
Millenium Development LLC	003*000*102*
MTA	HQ
MTA	Crosby
MTA	Turnpike
My Darling, LLC	048*0000*015A
National Semiconductor Corp.	049*0000*090C
National Semiconductor Corp.	049*0000*090B
New Gen Hospitality, LLC	074*0000*008*
Nine Sixtynine Spring Street LLC	002*000*012*
North Avenue Realty Trust	085*0000*017*
Op Rock Portland 303 FEE LLC (previously Ameriport LLC)	069*0000*011*
OpRock Portland 200 FEE LLC (previously Sable Oaks, LTD)	069*0000*007*
PETER F HOLMES	003*000*103*
Phillbrook Avenue Associates, LLC	067*0000*002B
R A CUMMINGS, INC	002*000*040*
R. A. CUMMINGS, INC.	071*0000*003*
Raphael Limited Partnership	067*0000*001C
REJ I, LLC	049*0000*207*
Roberts Road Associates	075A0000*005*
Running Hill Shopping Plaza, LLC	073*0000*004*
S & J Properties, LLC	067*0000*019*
S & J Properties, LLC	049*0000*093*
S & S Realty Group LTD	002*000*019*
Sable Oaks Office Park Association	n/a - entrance road

Long Creek Watershed Designated Landowners

Property Operator	Map Lot
Sablegolf, LLC	069*0000*008*
Saunders Properties, LLC	085*0000*010*
Sears, Roebuck and Company	074B0000*002*
Second Portland Limited Partnership	069*0000*009*
Seven Thomas Drive, LLC	003*000*124*
Silvex, Inc.	003*000*118*
Sleepy Hollow Development	002*000*068*
South Portland	roads in watershed
Spectrum Realty LLC	085*0000*015*
Storage Realty Corp	068*0000*005B
Sysco Food SVCS Of No New England, Inc.	003*000*120*
Target Corp.	084*0000*004*
Target Corp.	073*0000*003A
Terra Firma Realty Trust	049*0000*209*
Transport Leasing Corp	214A A004
Transport Leasing Corp	214A A002
Transport Leasing Corp	214A A001
Transport Leasing Corp	214A A006
Transport Leasing Corp	214A A005
Transport Leasing Corp.	046*0000*002C
TRU 2005 REI, LLC	074*0000*015A
TRU Realty Corporation	074*0000*015B
UNUM Life Insurance Co.	048*0000*014*
UNUM Life Insurance Co.	048*0000*013A
UPS Worldwide Forwarding, Inc.	049*0000*091A
V & E Enterprises, Inc.	050*0000*203*
V & E Enterprises, Inc.	050*0000*202*
V & E Enterprises, Inc.	050*0000*201*
V & E Enterprises, Inc.	049*0000*206*
Vaneastland LLC	074*0000*012*
Westbrook	roads in watershed
Westport Realty, LLC	003*000*104*