

COVER PAGE

RFP NUMBER: **2019-224**

RFP NAME: Bond, Disclosure and Special Finance Counsel

DATE:

SUPPLIER NAME:

ADDRESS:

CONTACT NAME:

TELEPHONE NUMBER: _

TELEFAX NUMBER: _

EMAIL ADDRESS:

Name: _____ Telephone No. _____

Name: _____ Telephone No. _____



Community Power. Statewide Strength.®

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Orlando, FL 32819

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www.fmpa.com

REQUEST FOR PROPOSALS
FOR BOND, DISCLOSURE AND SPECIAL FINANCE
COUNSEL

RFP #2019-224

August 28, 2019

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REQUEST FOR PROPOSALS FOR BOND, DISCLOSURE AND SPECIAL FINANCE COUNSEL

I. INTRODUCTION

A. Purpose of RFP

The board is requesting proposals for one or more firms to represent and advise FMPA as its bond, disclosure and special finance counsel beginning on or about January 2020.

FMPA will contract with a law firm or law firms who are best suited to meet its needs for now and into the future.

B. Term of Engagement

Pursuant to this RFP, FMPA expects to engage one or more firms for an initial term of a five-years, with options to renew or extend, subject to FMPA termination rights, as negotiated

II. DESCRIPTION OF ORGANIZATION

Florida Municipal Power Agency (FMPA) is a governmental legal entity, organized and existing under (i) Section 163.01 Florida Statutes (the "Florida Interlocal Cooperation Act"), (ii) Part II Chapter 361, Florida Statutes (the "Joint Power Act"), and (iii) an interlocal agreement creating FMPA among its 31 members (each individually a "Member" and collectively, the "Members") executed pursuant to the foregoing statutory authority (the "Interlocal Agreement").

FMPA has authority to plan, finance, acquire, construct, purchase, reconstruct, own, lease, use, share in, operate, maintain, repair, improve, extend or otherwise participate jointly in projects, including projects for the generation and transmission of electricity and to issue bonds, bond anticipation notes, or other evidences of indebtedness for the purpose of financing or refinancing the costs of such projects.

Effective May 24, 2007, the FMPA Board of Directors reorganized the governance structure of FMPA to give the Project Participants more control over the business and affairs of the Project. Each of the 31 Members appoints its director to the Board of Directors of FMPA (the "Board"). The Board is FMPA's governing body generally, except as regards the All-Requirements Power Supply Project. The Board has the responsibility for hiring a General Manager and General Counsel and establishing bylaws, which govern how FMPA operates, and policies which implement such bylaws. The Board also authorizes all non-Project debt issued by FMPA. The Board annually elects a Chairman, a Vice-Chairman, a Secretary and a Treasurer.

The Executive Committee consists of one representative for each All Requirements Power Supply Project (ARP) Participant, unless a Participant has elected to establish a contract rate of delivery (CROD), pursuant to section 3 of the ARP Power Supply Project Contract, as amended, and the CROD is established at less than 15% of the Participant's demand. The Executive Committee is the governing body of the ARP Project. The Executive Committee elects a Chairperson and Vice Chairperson who are in those roles only with regard to the Executive Committee. The Executive Committee adopts bylaws and has policy making authority and control over all the business and affairs of the ARP Project, including the authorization of ARP Project debt. The ARP Project budget and FMPA agency general budget are developed and approved by the Executive Committee.

The General Manager, General Counsel, Secretary and Treasurer of FMPA serve in their same position for both the Board of Directors and the Executive Committee. The day-to-day operations and expenditures of FMPA for projects other than the Project are controlled by the Board of Directors. The Executive Committee makes decisions on a one-vote-one-participant basis. A majority vote of a quorum (7 members) present is necessary for the Executive Committee to take action, except that on certain matters (generally (i) rate schedule amendments, (ii) approval of power supply or other contracts with a term of seven years or more, and (iii) any approval requiring the issuance of debt) a supermajority approval of 75% of the votes present is required for action, if requested by two or more members of the Executive Committee.

The FMPA members are listed in **Exhibit A**

A. Contact Information & Organizational Chart

The principal contact with FMPA will be Jody Finklea, General Counsel and CLO, or Linda S. Howard, CFO or a designated representative, who will coordinate any assistance to be provided. The General Counsel is one of two Board appointed offices of FMPA, who has management responsibility for all legal affairs of FMPA, including the engagement and oversight of all outside counsel. The CFO is supported by (4) departments that include Accounting, Treasury & Risk, Internal Audit and Financial Planning, Rates & Budgeting. The organizational chart is attached as **Exhibit B-1** and the List of Key Personnel is **Exhibit B-2**

B. Background Information

- FMPA fiscal year begins on October 1st and ends on September 30th
- FMPA has 8 separate projects currently, (5 are separately rated). Each project is financially separate, and funds cannot be intermingled
- As of 8/31/19, FMPA anticipates its outstanding debt will be approximately \$1.1 billion across all projects
 - Stanton and Tri-City Projects' debt will be paid off as of 10/1/19
 - The Agency, generally, and the Solar Projects have \$0 in debt
 - The Initial Pooled Loan Project has entered into a loan agreement with Capital Bank, a division of First Tennessee Bank National Association, for \$25 million, to lend to FMPA members.
 - See List of Existing Debt – **Exhibit C** for more detail
- FMPA has 92% fixed rate debt, 7% synthetically fixed rate debt and 1% variable rate debt
- FMPA is in the process of refinancing its ARP 2008C and 2013A bonds at the time of the issuance of this RFP.

III. Scope of Services

A. Qualifications

FMPA is seeking proposals from qualified firms to represent it as Bond, Disclosure, or Special Finance Counsel for the purpose of providing all legal services necessary to advise FMPA with respect to its financial matters and to provide for its issuance of different types of debt which may include multiple projects and/or debt issuances and revenue guaranteed debt in accordance with the Scope of Representation specified in this Request for Proposal (RFP) Number 2019-224. A qualified Proposer will have demonstrated experience and expertise in such matters for other entities like FMPA and in the public power arena. **Proposers who do not meet the qualifications listed below may be disqualified from further consideration for contract-award.**

1. Proposer must be listed in The Bond Buyer's Municipal Marketplace Directory (The Red Book).
2. Proposer must be familiar with Florida law regarding the issuance of municipal bonds including Part II Chapter 166, Florida Statutes and other laws governing FMPA.
3. Proposers must have a minimum of ten (10) years' experience serving as Counsel with respect to public finance transactions compiled through Electronic Municipal Market Access (EMMA) for issues completed. Emphasis should be placed on experience with Florida local governments and municipal utilities.
4. Have at least one principal who is listed as bond counsel in the most recent edition of the Red Book.
 - a. He/she must be a member of the bar in the State of Florida or another jurisdiction and in good standing.
 - b. Demonstrate expertise and extensive experience with tax-exempt revenue bonds issues or loans and other financings.
5. The Proposer must have given tax accepted opinions in municipal financing transactions in the past three years.

Scope of Representation

1. Advise FMPA concerning all legal and tax matters relating to debt issuance and on-going management with respect to financial-related matters
2. Prepare all resolutions and other instruments and documents as required in connection with the issuance of debt
3. Participate in the negotiation of agreements related to debt issuances
4. Prepare all documentation required for debt sales and closing, including resolutions, certificates, and opinions
5. Provide tax advice on matters related to debt issuance and provide opinions as to the validity and the tax-exempt status of debt
6. Provide legal advice and opinions in regard to interest rate swaps and other derivative products
7. Oversee all proceedings needed to complete a bond sale or other debt transaction
8. Assist with the SEC continuing disclosure requirements

9. Advise FMPA concerning all disclosure matters related to debt issuance and continuing disclosure
10. Coordinate with underwriter counsel and others in the preparation of the official statements
11. Prepare other disclosure documents
12. Provide disclosure advice in regard to interest rate swaps and other derivative products
13. Provide necessary training to Board Members and staff related to disclosure requirements
14. Provide legal advice on special and other projects as needed
15. Prepare special resolutions and other agreements or legal documents as required

IV. CONTENT OF PROPOSALS

The proposals must contain the following information to be considered:

A. Cover Letter

A cover letter on firm letterhead must provide the name and title of the person(s) who are authorized to answer questions about this RFP. Please include the following additional information: legal name, address, phone number and email address.

B. Table of Contents

To be arranged in the order provided here in the Content of Proposals, sections A. thru G.

C. Experience of the Firm

Provide a brief description of the Proposer's bond counsel (including tax experience), disclosure counsel, and/or public finance experience, including specific electric utility and municipal government experience with detailed descriptions of representative transactions

Provide a list of the public finance attorneys in the firm and their number of years of experience relevant to the services requested.

Provide the number and dollar volume of debt and derivative transactions in which your firm was involved during the last two years.

D. Experience of Attorneys Representing FMPA

Provide detailed resumes of the attorneys who will be primarily responsible for the representation of FMPA, including specific experience with electric utilities and municipal governments.

E. Approach to Representation

Briefly describe how the firm will service FMPA as a client to ensure that services are provided effectively and efficiently.

F. License to Practice in Florida and Insurance

Your response must include an affirmative statement indicating the firm and all assigned key professional staff are licensed to practice in Florida or other jurisdiction, and that your firm meets all legal requirements to undertake the representations of FMPA as described in this RFP. The firm must include copies of insurance coverage applicable to its proposed representation of FMPA.

G. Pricing

The response must include an itemization of the hourly rate and estimated hours, **Exhibit D** for each category of personnel assigned to the representation of FMPA, a not-to-exceed amount for individual expenses.

H. Proposer Warranties

Your response must include an executed warranty provided in **Exhibit E**.

I. Resolution of Legal Issues

The proposal should describe the firm's approach to resolving any legal issues that arise.

V. PROPOSAL PROCESS AND SUBMISSION

A. Response Date

Proposals must be submitted by:

3:00 PM EST Tuesday, September 24, 2019 via email to

Linda.howard@fmpa.com and

Jody.finklea@fmpa.com

Subject Line: BID # 2019-224

B. Incurring Costs

Proposals should be prepared simply and economically to provide a concise description of the firm's capabilities to perform the services required.

FMPA will not be responsible for any costs incurred in the preparation of proposals in response to this RFP, nor will FMPA be responsible for any costs incurred if your firm is invited to make an oral presentation to the evaluation team.

C. Signature

An official authorized to bind the firm to its provisions must sign all proposals.

D. Effective Period

All proposals submitted to this RFP must be valid for at least 180 days.

E. Withdrawal

The proposal may be withdrawn in person or by email to linda.howard@fmpa.com and to jody.finklea@fmpa.com.

F. Proposal Submission

Faxed or late proposals will not be accepted.

FMPA reserves the right to retain all proposals submitted regardless of whether that proposal is selected. Submission indicates acceptance by the firm of the conditions contained in this RFP, unless specifically noted in the proposal submitted and confirmed in the engagement letter between FMPA and the firm selected.

G. Questions

All questions relating to the preparation and/or submission of a response to this RFP should be directed to: linda.howard@fmpa.com and jody.finklea@fmpa.com and are due by Wednesday, **September 4, 2019**.

VI. SELECTION PROCESS

FMPA reserves the right to request additional information or clarification from firms, to allow correction of errors or omissions, and to waive irregularities and/or formalities when so doing may serve the best interests of FMPA.

FMPA reserves the right to reject any or all proposals and to proceed in any other manner selected by the FMPA. FMPA reserves the right to award to the firm(s) that it believes, in its sole discretion, best meets the needs of the organization.

The following will serve as the key criteria used to select firm(s): experience of the proposer firm and its assigned attorneys as listed in Section IV of this proposal. Other criteria will include the reputation of the firm and approach to completing the scope of representation listed herein.

The proposals will be evaluated by FMPA's evaluation team and must be approved by FMPA's General Counsel, Finance Committee, Executive Committee and Board of Directors.

VII. GENERAL INFORMATION

A. Proposed Timeline

Distribution of RFP	8/28/19
Due Date for Questions	9/4/19
Due date for proposals at FMPA	9/24/19
Oral presentations, if requested	Week of 9/30/19
Notification of Award (estimate)	12/13/19
Engagement term begins	01/01/2020

B. Oral Presentations

Upon request by FMPA, finalists may be selected to make an oral presentation to the evaluation committee.

C. Acceptance of Proposal Content

The contents of the proposal of the selected firm may become contractual obligations. Failure to accept these obligations may result in cancellation of the selection.

D. Type of Engagement Agreement(s)

It is expected that a contract entered into as a result of this RFP will be "time and expense" agreement with a "not to exceed" maximum price per fiscal year or project, excluding debt transactions. If firm would prefer to offer other fee arrangements, FMPA will evaluate them. Debt transactions will be based on a cost per bond basis.

E. Payment Schedule

Payment terms for any contract resulting from this RFP will be net 30 days. Firm may invoice FMPA for services performed during that month. Invoices must include a description of work performed, by whom and on which dates, with itemized ancillary expenses.

F. Non-Collusion

Each proposer certifies that its proposal has not been made or prepared in collusion with any other vendor or firm and the prices, terms or conditions thereof have not been communicated by or on behalf of the firm to any other firm and will not be so communicated prior to the official receipt of this proposal. This certification may be treated for all purposes as if it were a sworn statement made under oath, subject to the penalties for perjury.

G. Public Records/Trade Secrets

All proposals submitted are subject to the terms of the Florida Sunshine Law and will be retained by the FMPA. If any information submitted in a proposal is considered trade secret information of the proposing firm, as defined by Florida law, please separately indicate which information in particular has been given that designation. FMPA is obligated by Florida law to keep trade secret information confidential; however, each proposer hereby acknowledges and agrees to indemnify FMPA from all costs and liabilities related to challenges to a proposer's designation of trade secret information.

Appendix A
Member Listing by Project
Megawatt Hours Billed FYE 2018

		All Requirements	St. Lucie	Stanton	Tri-City	Stanton II
1	Alachua		2,927,163			
2	Bartow					
3	Blountstown					
4	Bushnell	25,429,514				
5	Chattahoochee					
6	Clewiston	90,070,073	15,236,899			
7	Fort Meade	39,929,856	2,321,190			
8	Fort Pierce	467,489,685	105,219,026	78,640,205	26,214,414	97,481,577
9	Gainesville					
10	Green Cove Springs	102,876,720	12,157,689			
11	Havana	25,402,051				
12	Homestead		57,217,950	53,400,635	35,600,425	59,238,001
13	Jacksonville Beach	693,403,374	50,660,721			
14	Key West	746,552,850			62,742,880	58,487,330
15	Kissimmee	1,566,078,735	63,874,631	3 9,321,617		194,958,102
16	Lake Worth		172,089,781	52,283,208		
17	Lakeland					
18	Leesburg	485,944,211	16,068,713			
19	Moore Haven		2,657,117			
20	Mount Dora					
21	New Smyrna Beach		68,393,060			
23	Ocala	1,328,133,408				

24	Orlando					
25	Quincy					
26	St. Cloud					86,733,190
27	Starke	56,412,463	15,326,846	7,862,907		7,311,169
28	Tallahassee					
29	Wauchula					
30	Williston					
31	Winter Park					
*	Vero Beach		105,191,350	104,852,531		97,481,577
	TOTALS	5,664,825,499	690,698,167	336,361,103	124,557,719	601,690,946

*Vero Beach is no longer a member as of 12/2018

Appendix B-1
Organizational Chart

Appendix B-2 List of Key Personnel

Barbara Quinones,
Howard McKinnon,
Karen Nelson,
Jacob Williams,
Jody Finklea,
Linda Howard,
Rich Popp,

Board of Directors, Chairperson
Executive Committee, Chairman
Finance Committee, Chairperson
General Manager and Chief Executive Officer
General Counsel and Chief Legal Officer
Chief Financial Officer
Treasurer and Risk Director

APPENDIX C LIST OF EXISTING DEBT

Projected Outstanding Bonds as of:		9/30/2019					
Project	Series	Rating Moody's / Fitch	Dated Date	Maturity Date	Total Outstanding Bonds	Syn. Fixed Rate	Fixed Rate
All-Requirements							
	Revenue Bonds, Series 2008A	A2 / A+	9/17/2008	10/1/2031	\$ 38,515,000		38,515,000.00
	Refunding Revenue Bonds, Series 2008C	A2 / A+	11/20/2008	10/1/2035	\$ 79,103,000	79,103,000.00	
	Revenue Bonds, Series 2009A	A2 / A+	4/28/2009	10/1/2031	\$ 5,145,000		5,145,000.00
	Revenue Bonds, Series 2009B	A2 / A+	4/28/2009	10/1/2019	\$ 15,235,000		15,235,000.00
	Revenue Bonds, Series 2013A	N/A	9/16/2013	10/1/2023	\$ 8,135,000		
	Revenue Bonds, Series 2015B	A2 / A+	6/30/2015	10/1/2031	\$ 104,730,000		104,730,000.00
	Refunding Revenue Bonds, Series 2016A	A2 / A+	4/5/2016	10/1/2031	\$ 424,120,000		424,120,000.00
	Refunding Revenue Bonds, Series 2017A	A2 / A+	6/27/2017	10/1/2028	\$ 69,625,000		69,625,000.00
	Refunding Revenue Bonds, Series 2017B	A2 / A+	6/27/2017	10/1/2025	\$ 52,925,000		52,925,000.00
	Refunding Revenue Bonds, Series 2018A	A2 / A+	7/12/2018	10/1/2030	\$ 57,790,000		57,790,000.00
Variable Rate Bonds:					\$ 8,135,000	0.95%	
Synthetically Fixed Rate Bonds:					\$ 79,103,000	9.25%	
Fixed Rate Bonds:					\$ 768,085,000	89.80%	
Total Bonds:					\$ 855,323,000	100%	
St. Lucie							
	Revenue Bonds, Series 2009A	A2 / A	12/10/2009	10/1/2021	\$ 12,010,000		12,010,000.00
	Revenue Bonds, Series 2010	N/A	12/17/2010	10/1/2021	\$ 6,330,000		6,330,000.00
	Revenue Bonds, Series 2011A	A2 / A	6/28/2011	10/1/2020	\$ 22,345,000		22,345,000.00
	Revenue Bonds, Series 2011B	A2 / A	6/28/2011	10/1/2026	\$ 24,305,000		24,305,000.00
	Revenue Bonds, Series 2012A	A2 / A	9/12/2012	10/1/2026	\$ 58,870,000		58,870,000.00
	Revenue Bonds, Series 2013A	N/A	10/3/2013	10/1/2026	\$ 10,990,000		10,990,000.00
Synthetically Fixed Rate Bonds:					\$ -	0.00%	
Fixed Rate Bonds:					\$ 134,850,000	100.00%	
Total Bonds:					\$ 134,850,000	100.00%	
Stanton							
	Refunding Revenue Bonds, Series 2008	A1 / A+	11/12/2008	10/1/2019	\$ 7,595,000		7,595,000.00
	Revenue Bonds, Series 2009A	A1 / A+	12/10/2009	10/1/2019	\$ 1,390,000		1,390,000.00
Fixed Rate Bonds:					\$ 8,985,000	100%	
Total Bonds:					\$ 8,985,000	100%	
Stanton II							
	Revenue Bonds, Series 2009A	A1 / A+	12/10/2009	10/1/2027	\$ 4,705,000		4,705,000.00
	Revenue Bonds, Series 2012A	A1 / A+	9/12/2012	10/1/2027	\$ 51,410,000		51,410,000.00
	Refunding Revenue Bonds, Series 2017A	N/A	10/26/2017	10/1/2027	\$ 21,501,000		21,501,000.00
	Refunding Revenue Bonds, Series 2017B	N/A	10/26/2017	10/1/2027	\$ 45,185,000		45,185,000.00
Synthetically Fixed Rate Bonds:					\$ -	0%	
Fixed Rate Bonds:					\$ 122,801,000	100%	
Total Bonds:					\$ 122,801,000	100%	
Tri-City							
	Revenue Bonds, Series 2009A	A1 / A+	12/10/2009	10/1/2019	\$ 410,000		410,000.00
	Refunding Revenue Bonds, Series 2013A	N/A	8/15/2013	10/1/2019	\$ 2,880,000		2,880,000.00
Fixed Rate Bonds:					\$ 3,290,000	100.00%	
Total Bonds:					\$ 3,290,000	100.00%	
Total Bonds, All Projects					\$ 1,125,249,000		
Total Variable Rate Bonds:		\$ 8,135,000	0.72%				
Total Synthetically Fixed Rate Bonds:		\$ 79,103,000	7.03%				
Total Fixed Rate Bonds:		\$ 1,038,011,000	92.25%				
Total Bonds:		\$ 1,125,249,000	100.00%				

Appendix E Proposer Warranties

- A. Proposer warrants that it is knowledgeable of and willing and able to comply with State of Florida laws.
- B. Proposer warrants that it is willing and able to obtain an errors and omissions or other similar insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof including professional liability coverage. If in place, the coverage amount is \$_____.
- C. Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of FMFA.
- D. Proposer warrants that all information provided by it in connection with this proposal is true and accurate.

Signature of Official: _____

Name: _____

Title: _____

Firm: _____

Date: _____

Appendix F
Audited 2018 Financial Statements

APPENDIX G
2019 Continuing Disclosure Report

APPENDIX H
ALL REQUIREMENTS POWER SUPPLY PROJECT BOND
RESOLUTION