

City of Pipestone

Request for Qualifications and Request for Proposals Legal Services excluding Criminal Prosecution

January 17, 2023

City of Pipestone
119 – 2nd Ave SW
Pipestone, MN 56164
Deb Nelson, City Clerk and Interim City Administrator
Phone (507) 825-3324
www.progressivepipestone.com

The City of Pipestone is an Equal Opportunity Lender, Provider and Employer.

INTRODUCTION

The City of Pipestone, population 4,215, is in southwestern Minnesota, and the county seat of Pipestone County. Situated roughly 50 miles from Sioux Falls, the community of Pipestone has the advantage of being close to major shopping and entertainment venues of a larger city, but while maintaining a rural setting. This advantage has served the community well - with a thriving economy and real estate market, a quality educational system, strong local businesses that give back to the community, and a tremendous quality of life. The Pipestone National Monument, operated by the U.S. National Park Service, is found here, as are several historic buildings listed on the National Register of Historic Places. Recently, the medical center and family clinic have enjoyed nationwide recognition and awards.

The City's population in 2020 was 4,215.

The City's administrator and attorney, Jeff Jones, retired in December 2022 after 20 years of superior service to the City and community. The City is investigating its options regarding legal services. The two functions of what had been the combined office of City Administrator/ City Attorney are now separate.

The City of Pipestone is a statutory Plan A city with a home-rule charter and council-administrator form of government. Currently, the Pipestone Economic Development Authority's members are the Mayor and City Council. The City provides or coordinates many services, including: water, sewer, fire, library, parks and recreation. The Pipestone County Sheriff's Office provides law enforcement within the City.

INSTRUCTIONS

1. All proposals must be sent as a PDF document via email to Deb Nelson, City Clerk/Interim City Administrator, at dnelson@cityofpipestone.com . No paper copies of the proposal need be printed or mailed. Questions about the RFQ and RFP process may be directed to Ms. Nelson.
2. Firms intending to respond should contact only Ms. Nelson with questions or concerns.
3. All proposals must be received no later than 4:00 p.m. on Wednesday, February 15, 2023.

PROPOSAL EVALUATION AND CONTRACT AWARD

1. The City intends to award a contract to the proposing firm evaluated to represent the best value for the City, upon cost, qualifications, experience and all other relevant factors considered.
2. Either the City Administrator will evaluate the proposals submitted and recommend to the City Council for its selection or the City Council will both evaluate the proposals submitted and select the proposing firm(s) adjudged to represent the best value. The Council may opt to conduct interviews, which shall be in-person and open to the public, of one or more proposing firm(s) as the Council sees fit. Should a firm decline an interview, the Council may deem its proposal to be withdrawn.

3. The City will not reimburse any expenses incurred by any firm submitting a response, including but not limited to expenses associated with preparation and submission of responses and expenses incurred in attendance at any interviews held. Interviews will be open to the public.
4. The City reserves the right to reject all proposals submitted. The City reserves the right to negotiate the final terms and conditions of the contract to be executed. Should the City and the selected firm be unable to mutually agree upon the whole contract, the City reserves the right to discontinue negotiations, select another responding firm, or reject all other proposals with or without subsequently re-issuing a Request for Qualifications and Proposals.
5. If awarded a contract and the contract is negotiated and executed, a firm's responsibilities to the City under the contract are non-delegable and non-assignable. It is anticipated that the City will establish a relationship with the selected firm(s) for a minimum of three (3) years, however a contract for one year with annual renewals is expected, and each party may terminate the contract with a 90-day notice, whether or not such 90-day period corresponds to the end of a calendar year.

PUBLIC RECORDS AND PROPRIETARY MATERIAL

Respondents shall take notice that by submitting responses, the records they submit to the City may be public data, even if respondents retain possession of the records. As such, the City will upon lawful request disclose this public data unless a statute clearly exempts data from disclosure. Respondents shall also take notice that even if a portion of a record is exempt from disclosure, the remainder of the record must generally still be disclosed. *Exemptions, including those for trade secrets and "valuable formula" are narrow and specific, and may be inapplicable.* Respondents shall clearly mark any record they believe to be exempt from disclosure.

Upon receipt of a request for public disclosure, the City will notify the respondents of any public disclosure request for the respondents' submissions. If a respondent believes its records are exempt from disclosure, it is that respondent's sole responsibility to without delay promptly notify the City that they will bring suit to enjoin disclosure, and without delay promptly serve and file their pleadings to initiate such lawsuit. It is each respondent's sole discretionary decision as to whether to bring suit. However, if a respondent does not promptly obtain and serve an injunction, the City will disclose the records in accordance with the Data Practices Act.

PROPOSAL CONTENT

Firm Qualifications

- A. Title Page: Show the RFQ subject, the name of the firm, local address, telephone number, e-mail address of firm contact person and the address of the firm's website if any.
- B. Description and Overview of Legal Services proposal - specify, list, define and/or describe:
 1. A brief background and history of the firm.
 2. The firm's areas of expertise and general services available.

3. The firm's general qualifications as related to municipal law services.
4. The name, experience and qualifications of the person or persons who will be responsible for fulfilling the obligations to the City, including a brief resume for each.
5. The availability of this person or persons.
6. Any previous or current experience in municipal legal services, the activities performed, and the name and contact number of a person who may be contacted at the municipality.
7. Other background or experience that may be helpful in evaluating the firm's proposal. Land-use regulation, public contracting, municipal finance, annexation, real estate, public-employment and human-resources-related legal matters, and municipal civil and administrative litigation are areas of particular interest in evaluating proposals.
8. A list of previous or current activities being performed for the City of Pipestone, if any.
9. Any current or potential conflicts in providing legal services to the City of Pipestone, the firm's definition of constitutes a conflict and its criteria for determining if a conflict exists.
10. Your firm's research capabilities and the reference materials your firm utilizes.
11. Your firm's capability to maintain a proper response time for legal work product for the City as well as for inquiries and questions from the City submitted by phone or e-mail.
12. A detailed description and explanation of all fees and/or charges that may arise in the course of your firm's provision of municipal legal services excluding criminal prosecution. How and when are proposed increases in fees and/or charges communicated to the City? Also, as the City may be interested in investigating fee arrangements other than on an hourly rate, indicate whether and what billing arrangements other than by hourly rate your firm would consider and in what circumstances you would find them appropriate.
13. The physical location of your firm's office(s). The City expects any firm to have a physical location close enough to Pipestone for its attorney(s) to timely attend in-person meetings when the City requests. The City may make such a request on relatively short notice.
14. As specifically as possible except and to the extent clearly disallowed by either the Rules of Professional Responsibility or by any other governing provision of law or contract, a statement of: within the last 5 years, (i) any malpractice claims, indicating whether suit was brought or not and (ii) any ethics or oversight-board complaints filed against your firm or your firm's attorney(s), and the status or outcomes of all such claims and/or complaints. Indicate whether any such claim or complaint is currently pending and/or under review.
15. The coverage limits (in the aggregate and per covered event) of the professional-liability insurance your firm maintains. Please note: when negotiating a contract with the successful respondent, there may be other provisions required regarding professional-liability insurance, and the successful respondent must within 30 days of the date of notification of selection tender to the City the declarations page of its policy. Any extra premium payable by the firm to increase coverage to include city-attorney activities will not be reimbursed.
16. If a respondent proposes compensation be paid to it in any manner other than directly to the firm and reported wholly on Form 1099-NEC Box 1 or 1099-MISC Box 3 or 10, no part of which the City would pay into any IRA, HSA, education account, pension plan or similar tax-advantaged account, specify that proposed manner, specify all municipal or government clients currently paying your firm in this manner, and specify all legal authority why you

believe if the City were to pay compensation to your firm in this manner, neither it nor your firm would be out of compliance as to public-employment law, income-tax law, gender-pay-equity law, the City of Pipestone human-resources policy and any other laws as apply. The City reserves the right to further negotiate and/or decline to pay in any manner other than directly to the firm and reported wholly on Form 1099-NEC Box 1 or 1099-MISC Box 3 or 10.

Firm Qualifications

Provide the names and telephone numbers of three (3) client references the City may contact. Municipal references, while not absolutely required, are very strongly preferred. If the firm has represented any Minnesota municipalities, political subdivisions, bodies of law corporate and politic, and/or governmental agencies from 2015 to the present, state the name of that entity and a name, title and contact number of a reference at that entity whom the City may contact. If the firm has represented such an entity but wishes the City not contact that entity, list the name of that entity and briefly state the reasons why no contact is requested.

Retainer and/or Hourly Rate - specify, list, define and describe (A) and/or (B) below.

- (A) The retainer fee the firm proposes for providing the legal services to the City which your proposal covers, whether this retainer is a flat monthly amount or is only up to a certain maximum number of hours in a month, and the tasks covered by the retainer. Also, state separately the rate for any cost the firm proposes to charge the City (such as photocopying, travel time, postage, Westlaw/Lexis-Nexis, etc.)
- (B) The hourly rate(s) the firm proposes for providing legal services to the City which your proposal covers. For the hourly fees portion of your proposal, identify the hourly rate of each attorney and of each hourly-billable support-staff, if any. Identify the minimum increment of time billed for each service (for example, phone calls, correspondence, personal conference, meeting/ hearing appearance, travel time). Also, state separately the rate for any cost the firm proposes to charge the City (such as photocopying, travel time, Westlaw/Lexis-Nexis, etc.) Indicate whether you would charge a different rate if any costs are reimbursed from an outside source. If the firm selected proposes billing by hourly rate, the City requires billing information to include the dates of services, the name of the attorney or staff person providing the service, the time spent for each service, a description detailed enough to enable easy identification of the subject and type of the service, a line-item itemization of the fee for the service and of any associated costs and expenses charged along with the service.

Scope of Work

For the purposes of this Request for Proposals, the legal services solicited shall exclude criminal prosecution and shall include, but are not necessarily limited to, the following:

- Routine legal advice, electronic communication, telephone and in-person consultation with the mayor and councilmembers, Administrator, Clerk, department heads and various other city staff and engineer.

- In-person attendance - as requested by the mayor, councilmembers, Administrator or Clerk - at regular City Council meetings and other special City Council, Board, Commission, Committee or Pipestone Economic Development Authority meetings.
- Assistance in the preparation and review of ordinances, resolutions, agreements, contracts, forms, notices, certificates, deeds and other documents as necessary and requested by the City or Pipestone Economic Development Authority.
- Legal advice and opinions on all legal matters affecting the City or Pipestone Economic Development Authority.
- Legal advice to the Council and Economic Development Authority and to all boards, commissions and committees as approved by mayor, councilmembers, Administrator or Clerk.
- Legal advice pertaining to Human Resources issues. Provide guidance and advice on City employment-related personnel matters, including but not limited to: personal policy, FLSA, workers'-compensation, unemployment -insurance, veterans'-preference, PERA, employee disciplinary and grievance matters.
- Legal advice on municipal-utility issues and questions. Legal advice, and coordination of actions as needed, regarding local franchise-tax, lodging-tax, sales-tax or excise-tax issues or questions.
- Legal advice on open-meeting-law, data-practices-act and data-privacy issues. Coordinate responses to data-practices-act requests and review collected data for responsiveness to request, privilege and exception from disclosure as non-public data. Legal advice and/or drafting of press releases if directed.
- Legal and title work pertaining to real- or personal-property acquisition, property dispositions, municipal contracting and competitive-bidding law, public-improvement initiation and special-assessments, municipal financing, easements, developments, multi-unit developments, land-use permitting, right-of-way vacations, eminent-domain acquisition, etc.
- Legal advice and coordination of further action on community development, redevelopment, blight- and nuisance-abatement and/or economic-development-authority projects.
- Legal work pertaining to legal documents, and coordinating of responses, as required by the City's Zoning and Subdivision Codes.
- Enforcement of City Code and/or of Minnesota Statutes by administrative or judicial action.
- Defend the City in litigation not covered by liability insurance, as needed. Advise and assert the City's rights and interests in joint-powers agreements and on inter-governmental issues.
- Initiate judicial and administrative litigation on behalf of the City as directed by the council.