

# CITY OF MIDWAY, UTAH REQUEST FOR PROPOSAL LEGAL SERVICES



## **REQUEST FOR PROPOSAL – PROPOSED TIMELINE**

1. RFP announced on 4 November 2016
2. RFP complete responses to Midway City by 12:00 p.m. on 23 November 2016
3. Decision announced on 14 December 2016

Submitted by: \_\_\_\_\_

# **CITY OF MIDWAY, UTAH REQUEST FOR PROPOSAL LEGAL SERVICES**

## **BACKGROUND**

The City of Midway has a Mayor and City Council form of government, with the Mayor acting as the chief administrative officer. There are a number of activities that may require legal advisory services including the general activities of the City Council, the normal business activities of the Planning Commission, legal advice and representation for the Board of Adjustment, the general support of the various City Departments, and other services as determined by request of the Mayor and City Council.

The Midway Municipal Code is available for review at the City of Midway web site [www.midwaycityut.org](http://www.midwaycityut.org). This web site also contains important information about the City, its history, citizens, departments and services, and current activities. It is recommended that applicants familiarize themselves with this information.

## **PURPOSE**

The City of Midway seeks proposals from law firms and/or attorneys to represent the City as its legal counsel. The firm and/or attorneys selected shall serve as chief legal advisor to the Mayor and City Council, City staff, and boards and commissions as approved by City Council.

Proposals shall be received by the City by 12:00 p.m. 23 November 2016. Respondents shall respond electronically to Mayor Colleen Bonner at [cbonner@midwaycityut.org](mailto:cbonner@midwaycityut.org) and in addition shall also provide seven (7) hard copies of their submittals clearly marked as "CITY OF MIDWAY LEGAL SERVICES RFP RESPONSE" to City of Midway, PO Box 277, Midway, UT 84049. The City of Midway shall not be responsible for any expenses incurred by any firm in preparation, submittal, or presentation of any proposal specific to this Request for Proposal.

The City of Midway reserves the right to reject any and all proposals and to select the legal firm deemed, in the sole judgment of the Mayor and City Council, to have submitted the proposal that serves the best interests of the citizens of Midway. The Mayor and City Council may request that respondents present their proposals and answer questions in an executive session scheduled by the Mayor and City Council after review of the written responses. The individual or firms selected shall be at the sole discretion of the Mayor and City Council. Attorneys or firms whose proposals are not accepted will be notified in writing.

## **GENERAL SCOPE OF SERVICES**

For planning and illustrative purposes to assist applicants in responding to this Request for Proposal, the following represent services that will be required on an ongoing ad hoc basis:

1. Advise the Mayor, City Council, City staff, and committees on legal questions arising from the conduct of City business.

2. Draft, review and/or edit proposed ordinances when requested and/or approved by the City Council.
3. Draft, review and/or edit all contracts and other instruments authorized and/or approved by the City Council or authorized members of City Staff.
4. Prepare all actions, charges, complaints, and appear in the appropriate court to represent the City Council regarding any violation of City ordinances. Upon direction of the City Council, the City Attorney shall defend the City and City Officials against any claim or action against them in their official capacity.
5. Maintain complete records of all activities and written opinions provided to the City of Midway. Such information shall include and be catalogued by subject matter, date requested, originator of request (title and person), question, and response. In addition, maintain a complete record of all suits in which the City of Midway has any interest; such records shall include and be catalogued by names of parties, court where filed, nature and subject of action, disposition of the case, and if pending the brief(s) of counsel.
6. Provide monthly status reports along with billing detail to the City. Billing shall include the following information: City of Midway department requesting service and individual's name, subject matter of request, legal firm's representative name handling request, hours spent, hourly rate, total amount charged by subject matter.
7. Make affirmative reports to the Mayor and City Council of any and all litigation or actions against the city or its representatives.
8. Prepare deeds, easements, and contracts for any and all real estate transactions of city property.
9. As requested review/revise any and all contracts for city required goods and services.
10. Attend meetings of the Mayor and City Council and other administrative boards and commissions as needed.
11. Approve all official bonds.
12. Draft, review and/or edit resolutions as to form.

It is further understood that in addition to the general and recurring activities listed above, ad hoc duties including verbal communications with the Mayor, the City Council, authorized department heads and city employees in elements of prudent administration of the legal responsibilities of office and delineation of the statutes of the State of Utah are also an integral component of the work associated with the duties of the City Attorney.

It is specifically noted that inquiries from the general public and/or the press are outside the purview of the City Attorney. Further, the legal firm reports directly to the Mayor and City Council. Therefore, City Committees (other than authorized by the Mayor) have no authority to incur expenses on behalf of the City of Midway. The City Attorney is not authorized to provide legal services to them.

It is anticipated that the City of Midway, through an order of the Mayor and City Council, will enter into a one year renewable to three-year (3-year) agreement with the firm for legal services. At all times the law firm will serve at the pleasure of the Mayor and City Council.

## **COMPENSATION**

The City anticipates payment for services on an hourly basis. However, alternative proposals including lump sum retainer, lump sum/not to exceed, hourly payment basis with an upset limit, or combination of these and others providing attractive alternatives will also be considered.

## **BILLABLE EXPENSES**

It shall be understood that the legal firm(s) shall provide general services to the City of Midway at no additional cost to the City for secretarial services, telephone, stationary, postage, supplies, library and equipment required to provide a satisfactory level of these general services. The city agrees to reimburse court costs and other associated “out-of-pocket” expenditures.

## **SUPERVISION AND CONTROL**

The City Attorney shall be under the general supervision of the Mayor and City Council and is expected to work under its guidance.

## **OTHER COURT ACTIONS**

Active court cases pending at the time of contract under this RFP shall be assumed by the firm assigned as City Attorney. It shall be incumbent on the firm to properly familiarize itself with any and all information appropriate to effectively and efficiently represent the City of Midway.

## **INSURANCE**

The legal firm shall be required to carry professional liability insurance of at least \$3,000,000, and upon successful acceptance of the contract, the City of Midway shall be named as “additional insured”. Proposals shall include delineation of the carrier and coverage limits per occurrence.

The legal firm shall indemnify the City of Midway from all suits, action, claims of any kind resulting or as a consequence of any act or omission by the legal firm or its employee or contractor acting under this contract for legal services.

## **QUALIFICATIONS OF LEGAL COUNSEL**

The legal firm shall provide with the proposal clear delineation of the size and experience of the firm including resumes of all staff and associates. In addition, the firm shall provide a representative listing of clients. The firm shall select from among the client base, no less than four (4) references with contact names and telephone numbers.

The proposal shall identify the primary attorney of the firm to be appointed City Attorney and that individual shall be authorized to represent the firm in all matters between the firm and the City of Midway. In addition, the proposal shall include a narrative explaining how the firm shall manage fulfillment of the duties and responsibilities of the designated city attorney in his or her absence or inability to act at any given time.

## **SELECTION CRITERIA**

The City Council shall make the selection based on the firm’s written proposal, the qualifications of the firm, the overall fee structure, the estimated cost of specific services referenced in the Request for Proposal and feedback from references.

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## **DESIRED QUALIFICATIONS OF THE SOLE PRACTITIONER AND/OR FIRM**

1. A thorough understanding of the legal framework of municipal government in Utah including diverse legal experience, particularly in the areas of municipal liability, land use, zoning, planning, regulation of new development, public employment law, construction and professional service contracts, bond and other debt issuance, litigation and real estate law.
2. Prior municipal law experience in service to a Utah city, town, or county.
3. Accessibility for the Mayor, Council, and designated City staff as needed.
4. Office location.
5. Knowledgeable in government ethics laws.
6. The respondent must be licensed to practice law in the State of Utah and be a member of the Bar in good standing. Include a list of any other professional qualifications; experiences and/or credentials you feel are relevant to this RFP.

## **PROPOSAL INFORMATION**

While additional data may be presented, the following subjects and questions must be addressed.

1. Name, address, telephone number, fax number and email address of firm. Include contact person and telephone number for purposes of following up on proposal.
2. Please tell us about your educational background. This should include undergraduate degrees, law degrees and any other degrees which you hold. This might include general information about you, where you grew up and any other information you may wish to share with the Council.
3. State the size of the firm, the firm's municipal law staff, the location of the office from which the work on this position is to be performed and the number and nature of the professional staff to be employed in this appointment.
4. Narrative about the history of the firm, including date of inception, experience with relevant Utah municipal, state and federal law and their experience performing services to Utah municipalities.
5. Narrative of the qualifications of the person(s) proposed to work directly with the City to include:
  - a. Legal training, years of practice, area of specialization; include date of admittance to Utah Bar;
  - b. Years of municipal, county or state government law practice;
  - c. Litigation experience and demonstration of a satisfactory court track record;
  - d. Identify any professional affiliations/detail experience in representing Utah municipalities.
6. Identify the accessibility of the proposed designated lead Attorney, and the response time that the individual offers to the City.
7. Narrative about the resources of the firm, to include clerical and support staff, library and research capabilities, and other relevant information.
8. Describe the level of coverage for malpractice insurance your firm carries. Is the coverage on a per client basis, or is the dollar figure applied to the firm as a whole? Provide documentation of the malpractice insurance coverage.
9. Within the last five years has your organization, its officers, partners, employees, shareholders or principals been a party in any litigation or other legal proceedings as a defendant relating to the services provided by your entity? If so, provide an explanation and indicate the current status or disposition of any such situation.

10. State whether the firm, its officers, partners, principals, agents, or employees, that are expected to perform services under this RFP, have been disciplined, admonished, warned, or had any license, registration, charter, certification, or any similar authorization to engage in the legal profession suspended or revoked for any reason.
11. Has the firm been in bankruptcy, reorganization or receivership in the last five years? If so, please explain current status.
12. Has the firm been disqualified or terminated by any municipal, county, state government or another public agency? If so, please explain under what circumstances this disqualification or termination occurred.
13. The position of City Attorney is often contacted by the Mayor, City Recorder, Senior Planner, and other staff members and elected officials regarding legal matters. In addition, the City Attorney attends meetings of the City Council and other City meetings as needed. If you were to be on vacation or out for any reason, how would you propose that Midway's legal business be handled?
15. Please provide a statement identifying the sole practitioner/firm's current clients doing business in and around the City of Midway area that have the potential to present a conflict of interest, and the sole practitioner/firm's approach to avoid potential conflicts of interest. Identify any conflicts of interest that your firm may have in representing the City of Midway.
16. Please provide a list of references for the City to contact.
17. Please share any other information you feel would be helpful to the Council as they make the decision on the City Attorney.