TOWN OF DIGHTON
REQUEST FOR PROPOSALS
FOR TOWN COUNSEL SERVICES

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REQUEST FOR PROPOSALS
FOR TOWN COUNSEL SERVICES

I. OBJECTIVE

The Board of Selectmen of the Town of Dighton, Massachusetts seeks to appoint, on an at will basis, a highly qualified attorney/law firm as Town Counsel to commence services on July 1, 2013. The successful appointee should meet or exceed the qualifications stated herein and, in general, should be readily accessible to authorized public officials, exceptionally experienced in municipal law, labor, and environmental issues and committed to rendering sound legal advice with suitable objectivity and professional detachment.

II. MINIMUM QUALIFCATIONS

A. Bar Admissions

The appointee and all those who serve as back-up to the appointee (see below) must be a member in good standing of the Massachusetts Bar and of the Federal Bar of the District of Massachusetts.

B. Municipal Experience

State your past experience in municipal law. Include experience in contracts, labor law, collective bargaining, environmental law, drafting of municipal by-laws, regulations and legislation, Appellate Tax Board issues, insurance laws, cable license renewals and procurement. Identify the municipalities and period of time in which you have served as Town Counsel, City Solicitor or Special Counsel. Identify other attorneys within your firm with municipal experience that will be periodically assigned to work on Town of Dighton matters. Include resumes of yourself and other attorney to be assigned to the Town of Dighton. Identify the lead attorney who will be responsible for managing all of the Town's legal affairs.

C. Accessibility and Availability

The appointee must commit to returning all calls from authorized officials either himself/herself or through a qualified back up within 24 hours of the call. If located beyond the Dighton calling area, the appointee should be available by cell phone and fax.

The appointee must also commit, as a general rule, to responding to requests for written opinions within one week unless the circumstances of the opinion warrant a shorter or long time frame for a response.

Provide the location of your offices and indicate your ability to periodically schedule visits to Town Offices. Indicate the number of hours you and your firm members have available to devote to Town of Dighton in an average week. Indicate your availability to attend meetings, including nights and week-ends.

D. Backup

The appointee must have within his or her firm or through an established "of counsel" relationship at least one other qualified attorney available to render advice and otherwise represent the interests of the Town of Dighton if the appointee is unavailable. In this context, "qualified attorney" shall mean another lawyer who substantially meets the minimum qualifications set forth herein for the appointee. Notwithstanding, an exception to this requirement shall be allowed for solo practitioners, provided the solo practitioner identifies a backup attorney who would be available to provide legal services in the absence or unavailability of the solo practitioner.

E. Billing

The appointee must commit to providing statements for service rendered on a monthly basis. More frequent statements may be requested from the Town should the need arise. Each statement, if based on an hourly rate for services, must disclose, at a minimum, the date of the service, the identity of the lawyer or staff person performing the service, the subject matter referenced for the service, a description of the service performed, the time it took to perform that function, and the hourly rate for the individual performing the function. Expense items must also be itemized.

The Board of Selectmen is committed to staying within budget and will not pay for any non-approved legal services. Appointee must agree to abide by Town of Dighton guidelines either established or to be established for use of Town Counsel and understands that the Board of Selectmen approvals are required prior to any Town agency or agent engaging the use of Town Counsel.

III. FEES AND EXPENSE

The Town's budget for legal expense for FY 2014 is $45,000.00. This budget includes fees and expenses for both Town Counsel and Special Counsel; the Board of Selectmen strongly desires to be cost efficient and stay within this budgeted amount. ***Towards this end, the Board of Selectmen prefers to consider an alternative to the traditional hourly rate fee arrangement with counsel.*** As but one example, responding attorneys may propose a fixed retainer for a specified scope of services, with an hourly rate for work outside the established scope of services. Responding attorneys should feel free to be creative in this regard so long as the proposal is workable and reasonable. Whether or not the responding attorney proposes an alternative fee arrangement, the attached fees and expense response sheet must be completely filled out.

IV. SELECTION

In seeking Town Counsel, the Board of Selectmen is not bound by G.L. c.30B (the Uniform Procurement Act) or any other constraints apart from the sound judgment of its members, because contracts for legal services are exempt from Chapter 30B. This process is being

used to communicate the desired qualification of Town Counsel and to solicit information in an orderly fashion for rough comparative purposes. Ultimately, though, the Board of Selectmen will select the candidate that they deem to be in the best interests of the Town, in their sole discretion. Consequently, the Board of Selectmen and the Town of Dighton reserve the right to waive any irregularities in the RFP process and to accept or reject any or all proposals.

V. POTENTIAL CONFLICTS OF INTEREST

Identify any past or current clients that may give occasion to a conflict of interest to arise as a result of representing the Town of Dighton.

VI. WRITTEN SUBMITTAL

Submit a copy of an actually filed Memorandum of Law prepared by you as a demonstration of your writing skills. A redacted copy of such a pleading is acceptable.

VII. APPLICATION

Qualified attorney interested in responding to this RFP should fill out the attached forms completely, attach copies of all document requested herein, and return **FOUR (4) copies** in the same envelope labeled "Town Counsel RFP" to:

Dighton Board of Selectmen
979 Somerset Ave.
Dighton, MA 02715

All **Four (4)** copies of this RFP must be received at the above address no later than close of business on Thursday, May 9, 2013 at 4:30PM. **Price quotes should be in a separate envelope.**

VIII. REPORTING

Town Counsel should be prepared to attend a regular meeting with the Board of Selectmen on a quarterly basis, at which time Town Counsel should be prepared to discuss the status of all open issues and cases with the Board. In addition, Town Counsel will be required to submit an annual written report to the Town regarding the status of all legal cases addressed during the year, all open cases at the time of the report and all potential cases that Town Counsel is aware of. All such quarterly meetings and the annual written report shall be at no cost to the Town, if an hourly proposal is submitted, or shall be included in the flat rate or retainer rate paid for Town Counsel's services, if something other than an hourly proposal is submitted.

IX. TRAINING

Training of citizen volunteers and professional department heads is a high priority for the

Board of Selectmen in order to keep current with new legal decisions and other regulatory issues that may impact the Town and its various permitting issuing boards. Town Counsel should specifically address in the proposal how he or she proposes to meet this priority for the Town, specifying the number of training sessions that will be held on an annual basis, the anticipated town employees and volunteers who the training will be offered to, and the name of the person conducting the training. All training sessions shall be at no cost to the Town, if an hourly proposal is submitted, or shall be included in the flat rate or retainer rate paid for Town Counsel's services, if something other than an hourly proposal is submitted.

RESPONSE TO THE REQUEST FOR PROPOSALS TOWN COUNSEL

Name:_____

Firm Name:_____

Address:_____

Telephone:_____

FAX No.:_____

E-Mail:_____

In addition to submitting responses to the "Response to The Request for Proposals Town Counsel" items on the attached page, please respond to each of the following, using additional pages as necessary:

1.) Please identify by name (and address and phone number if different than above) the proposed Town Counsel and each proposed back-up counsel;
2.) Please attach resumes or curriculum vitae for each attorney identified above;
3.) Do each of the attorneys identified above meet the minimum bar admission requirements set forth in Section II(A) of the RFP? If other than "yes", please explain;
4. With respect to each attorney identified, please provide the statement required by Section II(B). Additionally, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation;
5.) Please describe how you propose to satisfy the accessibility requirements of Section II(C) of the RFP;
6.) Please describe how you propose to satisfy the back-up requirements of Section II(D) of the RFP;
7.) Please describe how you propose to satisfy the billing requirements of Section II(E) of the RFP?
8.) Please summarize the financial arrangement that you are proposing to offer to enter into with the Board for the provision of Town Counsel services, specifying the format of the proposed fee arrangement (i.e. flat rate, retainer, hourly, other), the specific rate/cost for each attorney who is proposed to be providing Town Counsel services, and any charges or expenses that are outside the identified rate/cost;
9.) Please identify any conflict of interest as set forth in Section V of the RFP;
10.) Please provide the written submittal required by Section VI of the RFP;

11.) Please describe how you propose to satisfy the reporting requirements of Section VIII of the RFP;

12.) Please describe how you propose to satisfy the training requirements of Section IX of the RFP;

13.) Please be sure to comply with the requirements of Section VII of the RFP in submission of any Response to Request for Proposals for consideration.

By my signature, I certify the information in this Response to Request for Proposals is complete and accurate, to the best of my knowledge and belief.

Signed:_____ Date:_____

RESPONSE TO THE REQUEST FOR PROPOSALS TOWN COUNSEL

FEES AND EXPENSES RESPONSE SHEET
(To be attached to and made a part of the overall Response to Request for Proposals)

1.) Please summarize the financial arrangement that you are proposing to offer to enter into with the Board for the provision of Town Counsel services, specifying the format of the proposed fee arrangement (i.e. flat rate, retainer, hourly, other), and the specific rate/cost for each attorney who is proposed to be providing Town Counsel services, .

2.) If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and by hourly or other rate each position for whom you may bill.

3.) Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e. any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for court fees).

4.) In what hourly or other increments do you intend to bill?

5.) Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.

6.) Please provide a blank copy of any contract or agreement which you require the Board to execute, if any, should you be chosen to provide Town Counsel services.

7.) Do you intend to propose an alternative fee arrangement? Yes_____No_____ If yes, please attach additional sheet(s) fully describing and explaining your proposal.

8.) Proposed monthly retainer fee: $_____

9.) Court appearance may be at a different fee: $_____

10.) FY14 appropriation for legal expenses inclusive of both Town Counsel and Special Counsel, which position will be appointed separately, is $45,000.00. Prospective bidders should take this into consideration in proposing and Responses to the Request for Proposal for consideration.

JOB DESCRIPTION-DUTIES OF DIGHTON TOWN COUNSEL

Under the general administrative direction of the Board of Selectmen, Town Counsel serves as legal counsel for the Town of Dighton. Some but not limited responsibilities of Town Counsel are outlined for guidance below:

Litigation

- Represents the Town in the prosecution and in the defense of legal actions in the federal court and state courts and in matters before federal and state agencies.
- Maintains a log of all cases and makes annual written report to the Selectmen containing a statement of each case which has been settled, tried or otherwise disposed of during the year, as well as those cases still pending with status of same.

Town Bylaws, Zoning Bylaws and Other Town Rules Regulations and Policies

- Drafts for review by the appropriate board, committee or commission general and zoning bylaws to be presented at Town Meeting.

Contracts and Agreements

- Drafts contracts and agreements as necessary or reviews contracts or agreements prepared by Town boards, committees, departments between the Town of Dighton and parties doing business with the Town.
- Approves all contracts and agreement as to form.

Land/Property Transfer

- Drafts deeds, easements and leases as necessary; or review the same when prepared by another party.
- Examines title to property
- Represents the Town at real estate closings

Town Meetings

- Review Town Meeting warrants and articles to ensure they have been legally and properly drafted
- Attend Town Meeting and respond to legal questions posed at Town Meeting.
- Advise Town Moderator in the proper rules of procedure for conduct of Town Meeting including motions.

Zoning and Land Use (ONLY WHEN SPECIAL COUNSEL UNAVAILABLE)

- Respond to requests of the Planning Board to review land use matters such as subdivision plans.
- Review special permits of the Planning board, Conservation Commission and the Board of Appeals as needed and prior to final issuance.
- Assist Building Inspector and Health Director with enforcement actions, as needed, pertaining to applicable bylaws, statutes and regulations

Collective Bargaining/Human Resources and Labor Issues

- Provide advice to the Town as requested on matters pertaining to collective bargaining and labor issues. Services shall include participation in negotiations if needed or requested, grievance and arbitration hearings if needed or requested.

Miscellaneous

- Attend Board of Selectmen and other Boards or Committee meetings as needed.
- Inform Selectmen, Boards, Committees and staff of court decisions or changes in law that will effect municipal operations.
- Advise Town officials of State Conflict of Interest Laws, Open Meeting Law and all other laws that might help the Town avoid risk and personal and individual exposure to liability.
- Periodically review insurance coverage and policies of the Town and advise the Town in these matters.
- Render legal opinions as requested and authorized by the Board of Selectmen.
- Represent the Town and the Board of Assessors if necessary in cases before the State Appellate Tax Board, upon the request of the Board of Selectmen
- Represent Boards, Committees, Town Officials, Town Departments and Town employees as authorized by the Board of Selectmen on legal matters pertaining to their representation of the Town.