



Request for Expressions of Interest and Proposals #173-2009

Provision of Legal Services for The City of Winnipeg – Corporate Utility Project

The City of Winnipeg invites qualified law firms to respond to this Request for Expressions of Interest and Proposals (REOIP) related to the provision of legal services to assist the City project team and City Legal Services to draft recommendations to City Council regarding the potential creation of a wholly owned city utility corporation as a new management model for the existing civic water, wastewater and solid waste utility department (Water and Waste Department) of the City of Winnipeg.

On November 19, 2008 City Council directed that the concept of a City owned Municipal Corporate Utility be explored as a new arm's length business model to operate city owned utilities and that a due diligence process be undertaken along with identification of legislative authorities required to establish and operate the aforementioned Municipal Corporate Utility.

<http://www.winnipeg.ca/CLKDMIS/ViewDoc.asp?DocId=8799&SectionId=&InitUrl>

The Report to Council in the above cited web link provides detailed background as to this project as well as a proof of concept consulting report done as background.

Additional information about the project may be viewed at the City-Owned Utility website:

<http://winnipeg.ca/interhom/utility/>

Scope of Services Required

1. Detailed due diligence advice and recommendations regarding all necessary legal agreements and statutory authorities that may be required to establish and operate the City Owned Corporate Utility as a new management model for the existing civic department of the City.
2. Without limiting the foregoing, the recommendations shall give specific attention to the human resource and collective agreement implications of this proposed project as well as any impacts the regulatory regime for drinking water and sewage treatment may have on the project.

3. The services under this contract shall not include advice or drafting related to the other aspects of the utility project where a procurement process has been launched to potentially engage a private sector strategic partner. However, the successful respondent engaged under this REOIP will be expected to work collaboratively with the legal counsel who are working on the procurement process.
4. The firm that is engaged for this part of the project will be expected to provide their initial written report by mid-April with a final report due by mid-May.

Recommendations regarding the establishment and operation of a City Owned Corporate Utility are expected to be presented to City Council this summer. The firm may be retained as counsel to the City or the Municipal Utility Corporation for implementation of some or all the various recommended actions for the establishment and operation of the new entity.

Terms and Conditions

The terms and conditions for the provisions of services will include:

1. The Contract resulting from this REOIP will be subject to the City's General Conditions for the Supply of Services (Revision: 2007-04-12) available at <http://www.winnipeg.ca/finance/findata/matmgt/conditions/gc-serv2007-04-12.pdf>
2. The law firm declares that, in submitting its REOIP Response, it does so in good faith and that it will disclose whether to the best of its knowledge, any member of council or any officer or employee of the city would have any pecuniary interest, direct or indirect, should the Law Firm be awarded a contract to provide legal services related to the Municipal Corporate Utility Project.
3. Information provided to a law firm by the City or acquired by a law firm by way of further enquiries is confidential. Such information must not be used or disclosed by the Law Firm in any way without the prior written authorization of the City.
4. The law firm must not make any statement of fact or opinion regarding any aspect of the REOIP to the media or any member of the public without the prior written authorization of the City.
5. To the extent permitted, the City will treat all REOIP Responses as confidential, however the law firm is advised that any information contained in any REOIP Response may be disclosed if required by City policy or procedures, by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law.
6. The Law Firm must comply with the Professional Code of Conduct, in particular with the conflict of interest provisions. The Law Firm will not be permitted to represent any respondents, or their key team members with respect to the procurement of a strategic partner for the City Owned Corporate Utility.

7. The Law Firm will be required to have Professional liability or Errors and Omissions liability insurance in an amount determined to be acceptable by the City Solicitor based on the scope of the Services (estimated magnitude is \$3,000,000.00 per claim, \$5,000,000.00 in aggregate); said insurance to remain in place throughout the performance of the Services and a suitable warranty period that shall be no less than 90 days after the completion date, as well as Commercial General liability insurance, in the amount of at least two million dollars (\$2,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause (otherwise known as severability of interest), contractual liability, contingent employers liability (if not otherwise covered) to remain in place at all times during the performance of the Services.

REOIP Response Requirements

The REOIP Response must contain:

- An outline of the law firm's qualifications including relevant experience and satisfactory performance on similar projects;
- Names and resumes of all members of firm who will work on the project including details of what each member will provide;
- Proposed fee structure including applicable hourly and disbursement rates, and where possible a fixed fee pricing proposal;
- A description of key elements of the project that the firm expects to investigate in order to both ensure some basic understanding by the firm of civic intentions in the project and to demonstrate at a conceptual level the firm's grasp of legal issues related thereto;
- Conflict of interest disclaimer; and
- Name and contact information (address, phone, fax and email) of law firm principal client contact for the project.

Response Deadline

Responses must be received no later than 12:00 noon Winnipeg Time on Monday, March 9, 2009 by one of the following methods:

1. In a sealed envelope clearly marked " Expression of Interest and Proposals #173-2009 – Legal Services for City of Winnipeg - Corporate Utility Project" to:
Leonard E. Strijack
Acting City Solicitor/Manager of Legal Services,
4th Floor - 185 King Street, Winnipeg Manitoba.R3B 1J1; or
2. By facsimile transmission (fax) clearly marked "Expression of Interest and Proposals - Legal Services for City of Winnipeg Municipal Corporate Utility Project" to 204-947-9155; or
3. as a PDF attachment to an internet electronic mail (email) to:
lstrijack@winnipeg.ca

REOIP Responses will not be opened publicly.

REOIP Responses will be evaluated by a selection committee on the basis of the law firm's skills and experience, proposed cost, the description of key elements of the firm's proposed work as well as the willingness of the firm to work cooperatively and respectfully with staff of the City as well as other service providers to the project.

The City of Winnipeg does not bind itself to accept any of the responses to this Request for Expressions of Interest and Proposals and reserves the right to negotiate details of the responses and may enter into negotiations with one or more of the law firms which have submitted responses without being obligated to offer the same opportunity to other law firms. Negotiations may be concurrent and will involve each law firm individually. The City shall incur no liability to any law firm as a result of such negotiation. Negotiations may be in person or by telephone conference call.

City reserves the right to reject any or all responses, or to accept the response that it determines to be most advantageous to City. By submitting a Response to this REOIP and participating in the process as outlined in this REOIP, the law firm expressly agrees that no contract of any kind is formed under or arises from this REOIP. No law firm shall have any claim for compensation of any kind whatsoever, as a result of participating in this REOIP and by submitting a response, each law firm shall be deemed to have agreed that it has no claim.

Should the City award a contract pursuant to this REOIP, the name of the successful Proponent will be posted on the City's Closed Bid Opportunity website.

<http://www.winnipeg.ca/finance/findata/matmgt/bidres/Past/2009.asp>

Inquiries and questions regarding this REOIP may be directed to Bryan Gray, Manager Utility Development at (204) 986-2980 or at bryangray@winnipeg.ca.