

REQUEST FOR PROPOSAL

City of Tonka Bay



PROFESSIONAL LEGAL SERVICES

PROPOSALS DUE: 2:00 P.M., February 25, 2016

LOCATION: City of Tonka Bay
4901 Manitou Road
Tonka Bay, MN 55331

**CITY OF TONKA BAY
REQUEST FOR PROPOSAL FOR
PROFESSIONAL CITY LEGAL SERVICES**

I. PURPOSE OF REQUEST

The City of Tonka Bay is requesting qualifications and proposals from firms experienced in municipal law to provide civil legal services to the City and act as City Attorney. Preference will be given to those submittals which demonstrate experience in this area of municipal law. As City Attorney, the selected law firm will be expected to provide a wide and diverse range of legal services as described throughout this Request for Proposals (RFP). The City Attorney is to be appointed by the City Council and works under the direction of the Mayor and City Administrator.

As a result of this RFP, the City will select a top qualifier with whom to commence contract negotiations. If negotiations are successful, the City will enter into a professional services contract with that firm. The City will consider a City Attorney Services contract of three (3) years, renewable annually. The initial contract period is anticipated to start March 14, 2016 and run through March 14, 2019. The City reserves the right to conduct an annual review of these services and the City Attorney's performance. The City retains the option to use alternative service methods and providers when the City deems it appropriate.

II. GENERAL INFORMATION

- A. The City of Tonka Bay is a suburban community of approximately 1,547 residents located within thirty minutes of downtown Minneapolis. The City covers 632 acres in western Hennepin County.
- B. The City operates under a Council-Administrator form of government. The City Council is the legislative and policy making body of the City. The Council consists of the Mayor and four Councilmembers. The City Administrator is the chief administrative officer of the City. The City Administrator is accountable to the City Council for the implementation of Council direction and the administration of all affairs of the City. The City Council meets the second and fourth Tuesday of every month.
- C. The City is responsible for maintaining approximately nine miles of roads. All city roads are paved.
- D. The City is responsible for maintaining five (5) parks.
- E. The City has three public works employees and three administration employees.

- F. The City consults with a private firm for engineering and planning services.
- G. The City holds a joint-powers agreement with the Excelsior Fire District and the South Lake Minnetonka Police Department for fire and police services.

III. INSTRUCTIONS TO PROPOSERS

- A. All proposals should be sent and all questions and correspondence should be directed to:
 - City of Tonka Bay
 - Lindy Crawford, City Administrator
 - 4901 Manitou Road
 - Tonka Bay, MN 55331
 - 952-474-7994
 - lcrawford@cityoftonkabay.net
- B. All proposals must be received no later than 2:00 p.m., February 25, 2016. One electronic copy and eleven (11) copies of the proposal must be presented. The copies shall be sealed and clearly identified with “City Attorney” by the submittal deadline.
- C. In order to be considered a valid proposal, each proposal must meet the following requirements:
 - i. Written proposals received after 2:00 p.m., February 25, 2016 will not be considered.
 - ii. Each proposal must be signed by an officer of your company who can be held accountable for all representations.
- D. The proposal shall be limited to a maximum of thirty pages, printed on one side. Additional material, other than that requested by the City of Tonka Bay, will be disregarded.
- E. The City will review the proposals and may schedule interviews for finalists.
- F. Proposers are prohibited from contacting any representatives of the City Council regarding this proposal.

IV. PROPOSAL CONTENTS

- A. Title Page Show the proposal subject, the name of the proposer’s firm, address, telephone number, email address, and name of the contact person and the date.

- B. Table of Contents Include a clear identification of the material by section and page number.
- C. Executive Summary Introduce the proposal and summarize the key provisions of the proposal. Provide a statement describing why the proposer is qualified to perform this work and the name and qualifications of the individual who would serve as City Attorney.
- D. Statement of Understanding Include a detailed statement of understanding of the City Attorney services to be provided. If there are services listed in this RFP that the proposer will not be able to provide, describe those services in this section.
- E. Approach to Legal Services Provide a response to each of the following items:
- i. Describe your view of the role of the City Attorney.
 - ii. Describe how you will keep the City informed about the status of litigation and other legal matters.
 - iii. Provide an example of a written communication (not to exceed three pages) to the governing body about a legal issue, in which options are explained and a recommendation is given.
 - iv. Describe how you track and manage legal costs so that City legal costs are held to a minimum. Please provide an example.
 - v. Describe how you would proactively advise the City Council about legal developments or issues of concern.
 - vi. Describe how as the City Attorney you would work with the City Administrator.
 - vii. Describe how as the City Attorney you would work with the Mayor and City Council, and participate in City Council meetings. Would you describe your style of participation in such meetings as proactive or reactive?
 - viii. How do you evaluate the costs/ benefits of litigating or settling cases?
 - ix. How would you evaluate whether to use an attorney within your law firm or an attorney from another firm to handle a case, to provide expert advice, or provide other needed services? How will fees enter into your judgment of who to use in your role as City Attorney representing the interests of the City of Tonka Bay?
 - x. Describe what you consider to be your firms contractual obligations to the City of Tonka Bay when the advice you provide, or fail to provide, results in litigation or other legal action against the city (or Staff/ Council Members in this regard)?

- xi. Describe the firm's practices regarding professional development, training, and keeping current in the law and legal matters affecting their clients.

F. Background and Capacity

- i. Describe your firm's background/ history; including the number of years in business.
- ii. Describe your firm's municipal legal services training and experience.
- iii. Location of office(s) that would serve the City of Tonka Bay.
- iv. Staff services available (clerical support, paralegals, other non-attorney staff).

G. Proposed Attorney(s) Name the person whom you propose to designate as City Attorney, and as alternate City Attorney(s). Provide the following for each:

- i. Certificates or licenses (including the date of admission to the State Bar of Minnesota);
- ii. Description of education (including name of educational institutions, degrees conferred, and year of each degree);
- iii. Professional background and professional associations;
- iv. Experience with and knowledge of the law relating to land use and planning, environmental law, redevelopment law, comprehensive plans, code enforcements and other related areas of law, administrative law; labor relations/personnel law, and other areas of municipal law; and
- v. Expertise and training.

H. Expertise of Other Attorneys Indicate the expertise your firm is able to provide the City of Tonka Bay (e.g., TIF, bond, employment, etc.). Provide names and qualifications of attorneys in your firm which would be able to provide such legal services.

I. References Provide contact information for three (3) municipal clients for which services have been provided in the last three years, so reference checks can be conducted. Please include the contact person's name, municipality, phone number, and email address.

J. Clients/Potential Conflicts of Interest

- i. List all public clients for whom your firm currently provides services under a fee for services basis or on a retainer basis. Indicate the services provided. Identify any potential conflicts of

- interest that could result from such representation and the manner in which you would propose to resolve such conflicts.
- ii. For the person to be designated as City Attorney, list all public clients that person presently represents as city attorney or general counsel, along with the meeting dates and times for each governing body.
- iii. List all private clients that could potentially pose a conflict of interest with your representing the City of Tonka Bay.
- iv. Identify all situations in the last five years in which you have been adverse to public entities, either in litigation or administrative matters.
- v. Provide a statement of any malpractice claims and/ or ethics complaints taken against the firm or firm's attorney(s) over the last five years and the status or outcomes of such action. Indicate whether the action is pending or is currently under review by the State Ethics Board.

V. SCOPE OF WORK

The City of Tonka Bay is searching for a firm that will provide professional legal services. The law firm/ attorney(s) are required to be knowledgeable in a variety of legal areas, including but not limited to:

- i. General municipal laws
- ii. General state and federal laws relating to municipal government
- iii. Zoning, housing, annexation, subdivision and land use law
- iv. Economic development activities including development, redevelopment, enforcement, tax increment financing, and property/real estate law
- v. Legal activity relating to general obligation bonds, revenue bonds, tax increment bonds, tax exempt bonds, and other bonding and financial processes
- vi. Ordinance and resolution development and interpretation
- vii. Government Data Practices
- viii. City Code issues
- ix. Contract law
- x. Environmental law
- xi. Franchise law
- xii. Municipal leases
- xiii. Eminent Domain

At a minimum, the following legal services shall be provided as outlined below.

- A. Attend all City Council meetings (2nd and 4th Tuesdays of every month) and other City Board, Commission or Committee meetings as requested by the City Council or City Administrator.

- B. Draft and review ordinances, resolutions, and correspondence, as requested.
- C. Review selected City Council agenda items and minutes.
- D. Advise Mayor, Councilmembers, City Administrator, and other staff on City legal matters.
- E. Prepare and/or review municipal contracts, such as contracts for public improvements, developer's agreements, joint powers agreements, franchise agreements, construction, and purchase of equipment.
- F. Represent City in matters related to the enforcement of City building/zoning codes.
- G. Research and submit legal opinions on municipal or other legal matters, as requested by City Council or City Administrator.
- H. Meet with the City Council and City Administrator as needed, to review Council agenda items, and the status of all legal matters before the City.
- I. Provide legal briefings as requested to City Council and Staff regarding new or proposed legislation or new court cases affecting municipal operations and activities.
- J. Upon request, provide written update on new State or Federal legislation or judicial decisions impacting the City and suggested action or changes in operations or procedures to assure compliance.
- K. Provide advice on open meeting law, data practice, records retention and privacy issues.
- L. Represent the City in employment related issues, labor negotiations, arbitration, administrative hearings and in litigation involving same.
- M. Interpret, advise and provide training with respect to municipal employment matters including but not limited to PERA, labor agreements, personnel policy, FLSA, FLMA, Veterans' Preference, and unemployment compensation.
- N. At the City's discretion (as well as the discretion of any insurance company providing coverage), represent the City in litigation including, but not limited to, human rights claims; condemnation; permits/administrative actions; and labor/employment matters.
- O. At the City's discretion, represent the City in uninsured claims and other insurance matters.
- P. In coordination with other attorneys representing the City on a case-by-case or project-by-project basis, review financing arrangements, special assessments, bonds and insurance requirements required by or for City contracts or activities, and interpret and advise the City regarding State land use statutes and regulations and City Code provisions.
- Q. Represent the City in the acquisition of properties for public improvements, easements, and parks.
- R. Represent the City in condemnation proceedings for public improvement projects.
- S. Represent the City in workers' compensation matters.

- T. Initiate litigation on behalf of City as requested by City Council.
- U. Review the following: Conditional Use Permits and Documentation; Vacation of Rights-of-Way; and other land use approval documents, as requested.

VI. BASIS FOR COMPENSATION

- A. Compensation for legal services shall be on a monthly retainer fee basis and/or on an hourly fee for services basis as described below:
 - i. A retainer fee basis of payment shall apply to all or parts of a work scope where the tasks can be readily defined and/or the level of effort required to accomplish such tasks can be estimated with a reasonable degree of accuracy (i.e. City Council meetings). Please describe what work is included in the retainer fee.
 - ii. An hourly fee for services basis shall apply to all or parts of a work scope where the tasks cannot be readily defined and/or where the level of effort required to accomplish such tasks cannot be estimated with a reasonable degree of accuracy. Under this method, the actual hours worked times an hourly billing rate established for each employee shall be paid. Please provide an hourly rate for all of the individuals who may be working with the City of Tonka Bay from the firm.
 - iii. Include a detailed description and explanation of all other fees and/or charges that may arise for legal services. Direct expenses shall be reimbursed at cost. Routine travel expenses would be the responsibility of the law firm.
- B. Billing statements to the city shall include specific dates, description of the services performed; the fee for those services, time spent and assigned staff completing the work. Billing must list separately any fees, which the City shall be reimbursed from other sources.
- C. The firm shall outline their billing process and timeline from the work being completed until the city receives the invoice.
- D. The proposer should provide a sample bill for a municipal client that illustrates the program and task detail that would be included in City of Tonka Bay billings.
- E. The proposer shall include detail as to billing structure for projects under an hour in length, including work that is prescribed as administrative (ie. filing, typing, phone calls, etc.) Identify the minimum increment of time billed for each service. State separately the rate for

any firm cost items to be billed such as printing, photocopying, researching, etc.

VII. SELECTION

- A. The City reserves the right to accept or reject any or all submissions in the best interest of the City. In connection with the evaluation, the City may, at its option, invite one or more applicants to make a presentation to the selection committee at time and location to be announced, and may require the submission of supplemental material intended to substantiate or clarify information previously submitted.
- B. A selection committee including the City Administrator and the Mayor will evaluate the Request for Proposal submissions on the following criteria (not in ranked order):
- i. Meets all qualifications and requirements identified in this RFP.
 - ii. Includes complete and clear responses to items in the Content of Responses section.
 - iii. Breadth and relevance of experience of the attorneys and staff proposed to provide legal services.
 - iv. The professional reputation on the part of the applicant firm and each individual attorney for providing high-quality services and demonstrating sound judgment, integrity, and reliability.
 - v. Familiarity with laws and regulations governing Minnesota local governments and operating procedures relative to the conduct of city business.
 - vi. Demonstrated expertise in land use and zoning law as it relates to municipalities.
 - vii. Demonstration of workload capacity and a level of experience commensurate with the level of service required by the City.
 - viii. The applicant's ability to work cooperatively with the City Council, City Administrator, city staff, and members of the business community and general public as demonstrated by positive current client references.
 - ix. Cost of providing basic and hourly services as per the submitted retainer fee and hourly rate schedule. (Though cost of service is important to the City Council and City Administrator, it is not, necessarily the most critical factor in evaluating a firm's RFP submittal).
 - x. Supplemental information submitted by the applicant.
- C. Terms and Conditions
- i. The City of Tonka Bay reserves the right to cancel or amend the Request for Proposals at any time. The City of Tonka Bay reserves the right to determine the successful respondent. The

City of Tonka Bay reserves the right to reject any or all proposals.

- ii. The City of Tonka Bay will not be liable for any costs incurred by the firm responding to this request.
- iii. The firm shall not assign any interest in this proposal and shall not transfer any interest in the same without the prior written consent of the City of Tonka Bay.
- iv. For the purposes of this agreement, the consultant shall be deemed to be an independent contractor, and not an employee of the organization. Any and all agents, servants, or employees of the firm or other persons, while engaged in the performance of any work or services required to be performed by the City of Tonka Bay under this agreement, shall not be considered employees of the City and any and all actions which arise as a consequence of any act or omission on the part of the firm, its agents, servants, employees or other persons shall in no way be the obligation or responsibility of the City. The consultant, its agents, servants, or employees shall be entitled to none of the rights, privileges, or benefits of organization employees except as otherwise may be stated herein.
- v. No official or employee of the City of Tonka Bay who exercises any responsibilities in the review, approval or carrying out of the proposal shall participate in any decision which affects his or her direct or indirect personal or financial interest.
- vi. The consultant agrees to comply with the provisions of all applicable federal, state, and City of Tonka Bay statutes, ordinances, regulations and policies pertaining to civil rights and nondiscrimination including without limitation Minnesota Statutes, Section 181.59, incorporated herein by reference.
- vii. The consultant agrees to comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, and all other applicable state and federal laws relating to data privacy or confidentiality. Consultant shall immediately report to the City any requests from third parties for information. All data created, collected, received, stored, used, maintained, or disseminated by consultant in performing its obligations is subject to the requirements of the Act, and consultant must comply with those requirements as if it were a government entity. The City agrees to promptly respond to inquiries from consultant concerning data requests. Consultant agrees to hold the City, its officers, department heads and employees harmless from any claims resulting from consultant's failure to disclose data maintained by Consultant authorized for release by the City, and from consultant's unlawful disclosure or use of data protected under state and federal laws.

VIII. CONTRACT ETHICS

- A. No elected official or employee of the City who exercises any responsibilities in the review, approval, or implementation of the proposal or contract shall participate in any decisions, which affects his or her direct or indirect personal or financial interest.
- B. It is a breach of ethical standards for any person to offer, give or agree to give any City employee or Councilmember or for any City employee or Councilmember to solicit, demand, accept, or agree to accept from another person or firm, a gratuity or an offer of employment whenever a reasonably prudent person would conclude that such consideration was motivated by an individual, group or corporate desire to obtain special, preferential, or more favorable treatment than is normally accorded to the general public.
- C. The firm shall not assign any interest in this contract and shall not transfer any interest in the same without the prior written consent of the City.
- D. The firm shall not accept any client or project that places it in a conflict of interest with its representation of the City of Tonka Bay. If such a conflict of interest is subsequently discovered, the City shall be promptly notified.

REQUEST FOR PROPOSAL AND SELECTION SCHEDULE

City Council Approval of RFP:	January 12, 2016
Advertise and Distribute RFP:	January 13, 2016
RFP Submittal Deadline:	February 25, 2016
Review of Proposals:	March 3, 2016
Interviews:	Scheduled as needed
Appointment of City Attorney:	March 10, 2016
Start Date:	March 14, 2016