



REQUEST FOR PROPOSALS FOR
CIVIL ATTORNEY LEGAL SERVICES
FOR
THE NORTH BRANCH MUNICIPAL
WATER AND LIGHT COMMISSION

June 19, 2021

Submission Deadline: July 7, 2021 – 4:00 PM

REQUEST FOR PROPOSALS FOR GENERAL LEGAL SERVICES

June 2021

The North Branch Municipal Water and Light Commission, hereafter the NBWL Commission, is soliciting proposals for civil attorney services from qualified law firms. Preference will be given to those submittals demonstrating experience in this area of municipal and utility law. The successful applicant(s) shall possess sufficient resources to ensure that the demands for the NBWL Commission's legal needs will be met on a timely basis. The relationship would be on a consulting or contractual basis, as opposed to a staff position. The NBWL Commission will be awarding a remainder of 2021 and one-year contract for 2022.

Included in this RFP are a more detailed description of the services to be provided, an outline of the proposal requirements, a description of the proposal review process, and a description of required contract ethics.

In order to ensure a fair review and selection process, firms submitting proposals are specifically requested not to make other contacts with NBWL or City staff or NBWL Commissioners or City Council regarding these proposals. Failure to comply with this request may result in disqualification of the proposal. If there are questions regarding this process, they should be directed to Scott Hautala, NBWL Commission General Manager, 6388 Maple Ave, North Branch, MN 55056 or scotth@nbpuc.com. Written questions regarding this RFP may be sent via e-mail to scotth@nbpuc.com prior to the submission deadline. Responses to the questions will be shared with all interested responders who have requested an RFP.

Proposals received after the deadline will not be accepted. It is neither the NBWL Commission's responsibility nor practice to acknowledge receipt of any proposal. It is the responder's responsibility to assure that a proposal is received in a timely manner.

The NBWL Commission will not reimburse any expenses incurred by the responder including, but not limited to, expenses associated with the preparation and submission of the response and/or attendance at interviews.

The NBWL Commission reserves the right to reject any and all proposals, to waive irregularities and informalities, to request additional information from all respondents, and further reserves the right to select the proposal which furthers the best interests of the NBWL Commission.

Public Records and Proprietary Material

Respondents are required to complete the attached Form of Consent for Release of Response Data (Exhibit "A"). Respondents should be aware that any records they submit to the NBWL Commission, or that are used by the NBWL Commission even if the respondents possess the records may be public records. The NBWL Commission will promptly disclose public records upon request unless a statute exempts them from disclosure. Proponents should also be aware that if even a portion of a record is exempt from disclosure, generally, the rest of the record must be disclosed. Exemptions, including those for trade secrets and "valuable formula," are narrow and specific. Proponents should clearly mark any record they believe is exempt from disclosure.

Upon receipt of a request for public disclosure, the NBWL Commission will notify the proponent of any

public disclosure request for the proponent's submittal. If the proponent believes its records are exempt from disclosure, it is the proponent's sole responsibility to pursue a lawsuit to enjoin disclosure. It is the proponent's discretionary decision whether to file such a lawsuit. However, if the proponent does not timely obtain and serve an injunction, the NBWL Commission will disclose the records, in accordance with applicable law.

COMMUNITY OVERVIEW

North Branch is home to approximately 10,900 residents, with an estimated 3,900 households. The city is 36 square miles in size and is located at the crossroads of Interstate 35 and Trunk Highway 95 in Chisago County. The city is named for the north branch of the Sunrise River. The city is known for its small-town personality and commitment to its natural resources. The City's EDA is the owner of approximately 250 acres of vacant industrial land that is currently being marketed for sale and development. The City is experiencing significant new housing development and growth and hopes to experience additional commercial and industrial growth in the coming years.

North Branch is a statutory city under Minnesota State Law. The City Council, which governs the city, is made up of a Mayor and four council members elected at large. The City Administrator reports to the City Council and is responsible for managing the operations of the city.

The City has a separate but financially subordinate utility company that provides water service and is one of three electricity providers in the city in service territory administered by the MN Public Utility Commission. The City Council appoints the five members of the Water and Light Commission but does not have general oversight of operations for the utility.

NBWL has approximately 2,100 electric customers largely in a one square mile area and 2,600 water customers inside the larger urban service territory.

The NBWL Commission currently employs five full time/part time employees that are represented by the Operating Engineers Local 49 under the terms of one collective bargaining agreement. A General Manager, not a bargaining unit employee, reports to the Commission and is responsible for managing the operations of the Commission. Currently, there is also a temporary Utility Billing clerk and contracted consultant (through the City) to perform financial and customer services. The NBWL Commission also uses legal services with other firms in relation to bond counsel, personnel, electric service territory transfers, and other specialized matters.

SECTION ONE: SCOPE OF GENERAL LEGAL SERVICES

The law firm/attorney(s) are required to be knowledgeable in a variety of legal areas, including but not limited to:

- General municipal laws
- General state and federal laws relating to municipal government
- Zoning, housing, subdivision and land use law
- Ordinance and resolution development and interpretation Government Data Practices
- City Ordinance issues
- Contract law
- Environmental law
- Trial activity
- Utility regulations, specific to electric and water
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CIVIL SERVICES TO BE COVERED BY HOURLY RATE

The following are services will be charged at an hourly rate:

General Legal

1. Meetings and/or telephone conversations with and advising Commission, General Manager, and other staff on general legal matters.
2. Research and submission of legal opinions on municipal or other legal matters requested by Commissioner or General Manager; availability to answer Commissioner and General Manager questions by telephone.
3. Legal consultation and general support for Commission and General Manager on general legal matters.
4. Provide high level of customer service by responding in a prompt manner.
5. Provide annual training for Commission and staff on matters related to open meeting law, MN Data Practices Act, conflict of interest/ethics for government officials.
6. Review such resolutions as the General Manager or Commission shall direct, except resolutions relating to the responsibility of the fiscal consultant or bond approving attorney.
7. Review of municipal contracts, including contracts for public improvements, developments, joint powers agreements, construction, purchase of equipment, and the like for content, form, legality and execution as requested.
8. Examine and advise regarding the legality of all proceedings and actions of the Commission.
9. Render written opinions on law when requested, including interpretation of statutes, ordinances, rules and regulations.
10. Review of ordinances, ordinance amendments, resolutions, developer agreements and contracts, and correspondence as requested.
11. Review utility ordinances as requested.
12. Review bonds, deeds, securities and insurance requirements required by or for Commission contracts or activities.
13. Prepare small business assistance loan documents and related materials.
14. Review data requests and related documents and advise staff regarding release and redactions.
15. Assist staff with delinquent account special assessment processes and procedures.
16. Prepare or review such routine legal notices for posting, publishing or mailing as required by the statutory assessment process.
17. Receive and evaluate all utility assessment appeals and try cases in District Court or recommend amendments to assessment if warranted.
18. Handle all legal matters, excluding personnel and any resulting litigation.

Claims Against the Commission

19. Where no insurance coverage is provided, make appropriate evaluation of claims for legality, investigate facts, and make recommendations to the Commission.
20. Defend in court all litigation where no insurance coverage is available.
21. Assist in resolving claims not resulting in litigation.

Claims By the Commission

22. Investigate and evaluate all claims by the Commission against others and recommend appropriate course of action, including, but not limited to: code enforcement issues and administrative citations.

23. Attempt collection of all proper claims including litigation where necessary and authorized by the Commission.

Intergovernmental Relations and Disputes

24. Provide such services as requested by the Commission regarding contractual dealings with Federal, State, County, Township, Municipal, and City, including Joint Powers Agencies including wholesale purchase and sales agreements.
25. Handle disputes between the Commission and other governmental units, including litigation.

CIVIL SERVICES TO BE COVERED BY RETAINER OPTION –

The Commission has generally paid for legal services on an hourly basis. Proposers may include as an add-on or alternative proposal for a retainer-based option. Please note that the Commission has not required its attorney to attend Commission meetings for the past 2-3 years. Service needs have varied from month to month and year to year. If the response includes a retainer option, the response should describe the basis for the retainer, the fee to be charged, and specifically describe the services and the items that are to be covered by the retainer. Also state separately the rate for any other cost items proposed to be itemized and billed (i.e. photocopying, Westlaw, or Lexis fees, overhead factor, etc.).

SECTION TWO: INSTRUCTIONS TO PROPOSERS

1. Proposals should be submitted to Scott Hautala, General Manager, North Branch Water and Light Commission, 6388 Maple Street, North Branch, MN 55056. Proposals must be received no later than 4:00 p.m. on July 7, 2021.
2. One (1) electronic copy (pdf) of entire proposal and two (2) paper copies of each proposal should be submitted.
3. All proposals submitted must provide complete information as indicated in this request. Any other information that the respondent wishes to include for evaluation and consideration by the Commission as part of the proposal may also be included.
4. Questions regarding this request should be directed to General Manager Scott Hautala, North Branch Water and Light Commission, 6388 Maple Street, North Branch, MN 55056 or scotth@nbpuc.com. Written questions regarding this RFP may be sent via e-mail to scotth@nbpuc.com prior to the submission deadline. To ensure a fair review and selection process, law firms submitting proposals are specifically requested not to make other contacts with Commission/City staff or Commissioners/City Council regarding their proposals.

SECTION THREE: REQUIRED CONTENTS FOR PROPOSALS

1. Title Page - Show the RFP subject: Provision of Civil Attorney Legal Services, the name of the respondent's firm, address, telephone number, e-mail, name of contact person, and the date.
2. General Information
 - Provide a brief background history of the firm, and number of attorneys employed. An organizational chart or description of office organization would be helpful.
 - Designate the primary contact and identify those who would be working in more specialized areas. Describe the current principle responsibilities for the individual designated as lead attorney.
 - Describe how the firm would structure the working relationship between the Commission Attorney

and the Commission and General Manager.

- Describe the standard time frames for response by the Commission Attorney to direction and/or inquiry from Commission or General Manager.
- Describe the systems or mechanisms that would be established for monthly reporting of the status of projects, requests, and litigation.
- Include a current resume for each attorney who will be primarily assigned to Commission. This information should include relevant academic training and degrees, description of prior experience in law areas described in the scope of services, number of years with the firm, areas of responsibility with the firm, and other background or experience which may be helpful in evaluating your proposal.
- Provide information as to how many attorneys are knowledgeable about municipal law and related fields as described in the scope of services.
- Indicate the location of the primary office and attorneys assigned to service this account. Provide the address, phone number(s), e-mail address, and FAX number(s) of the firm.
- Provide information regarding the number of paralegals by their specialties, and the number and position titles of support personnel, specifically those who may be providing services to the Commission.
- Provide an assessment of the availability of the attorney and other professional staff to be assigned to a contract with the Commission. This includes availability of back-up attorneys in case of illness, turnover, or other loss of personnel.
- Provide a statement of how the workload of the Commission would be accommodated and what kind of priority it would be given. Be sure to address items outlined in the scope of services section. The proposal should expand upon each item and set forth the firm's approach/ability to carry out each activity. Include a description of the proposed allocation of work between the attorney(s) and support personnel identified (i.e. who will be the lead attorney and what work will be handled by junior partners, associates, or paralegals).
- Describe your legal library and research capabilities, with specific emphasis on municipal law publications, computer links, and the firm's capability to maintain a proposed response time for legal reports and memorandums.
- If the firm or any of the attorneys employed by the firm have ever been sued by cities or other clients for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, please provide information about the nature of the incident, the dates of when the matter began and was concluded, and the results of the situation.
- Describe malpractice insurance coverage: carrier, limits, and exemptions and provide a copy of Malpractice/Liability Insurance Certificate in a minimum amount of \$2,000,000.
- Provide a recent audit or financial report of the firm.

3. Knowledge and Experience - Provide information demonstrating the knowledge and experience of the primary attorney that will be assigned to the Commission in the following areas:

- a. General state and federal laws relating to municipal government.
- b. Ordinance and resolution development and interpretation
- c. Government Data Practices
- d. City Utility Ordinance issues
- e. Contract law
- f. Environmental law
- g. Trial activity
- h. Municipal Litigation - Describe any municipal litigation handled in the last five years.

Indicate the types of cases tried.

4. Specialized Issues - Any areas of specialty that may relate to municipal law may be outlined in this section.
5. References - Provide a reference list of three (3) recent (within five years) municipal clients. If municipal clients are not available, other major clients may be submitted. Particular attention will be given to municipal client references. Please provide contact information including, address, phone number and e-mail address.
6. Fees - Identify in your proposal the amount your firm proposes to charge for the following: Please provide billing information for a period through 2022 on the attached form.

HOURLY BILLING Please quote the dollar amount of fixed and/or hourly fees and costs your firm will charge for providing legal services to the NBWL Commission covered by your proposal that fall outside the duties covered by the Retainer. For the hourly fees portion of your proposal, please identify the hourly rate of each attorney and support personnel. Identify the minimum increment of time billed for each service, e.g. phone calls, correspondence, personal conference.

RETAINER If an add-on or alternative proposal includes a retainer option, please quote a retainer fee to be charged for civil attorney services and the items noted herein that are to be covered by the retainer. Also state separately the rate for any other cost items proposed to be itemized and billed (i.e. photocopying, Westlaw, or Lexis fees, overhead factor, etc.). Clearly note any "retainer" items listed above that your firm would not provide as part of the retainer duties and prefer to bill on an hourly basis. Please be specific.

7. CONFLICT OF INTEREST STATEMENT

Indicate whether your firm currently represents or has represented any client where representation may conflict with your ability to serve as NBWL Commission Attorney of the City of North Branch.

Indicate if your firm currently represents any electric utility providers doing business with, or anticipating doing business with, the City of North Branch.

Indicate what procedures your firm would utilize to identify and resolve conflicts of interest.

8. AFFIRMATIVE ACTION

The NBWL Commission requires affirmative action and therefore, the firm selected shall not discriminate under the contract against any person in accordance with federal, state and local regulations. The NBWL Commission does not discriminate on the basis of race, color, national origin, sex, religion, age, sexual preference, disability or any other basis protected by law in the admission or access to, or treatment or employment in, its programs, activities or services.

SECTION FOUR: SELECTION PROCESS/PROPOSAL EVALUATION AND CONTRACT AWARD

The NBWL Commission intends to award a contract to the respondent evaluated to be best qualified to perform the work in Section one, based on the extent and quality of the firm’s resources, cost, communication, and presentation skills, compatibility and quality and extent of municipal representation experience. Other performance factors may also be considered. Based upon the number of proposals submitted, the proposals may be pre-screened by a Commission subcommittee that will recommend selected firms for interview with the Commission.

The NBWL Commission reserves the right to reject any and all proposals, to waive irregularities and informalities, to request additional information from all respondents, and further reserves the right to select the proposal which furthers the best interest of the Commission. The approval of the firm selected, and the contract award will be made by the NBWL Commission.

The NBWL Commission reserves the right to negotiate the final terms and conditions of the contract to be executed. Should the Commission and a consultant be unable to mutually agree upon the entire contract, the Commission reserves the right to discontinue negotiations, select another consultant or reject all of the statements of proposal. Upon completion of negotiations agreeable to the NBWL Commission and the consultant, a contract shall be executed.

Once a contract is awarded, the term of contract duration shall be subject to ongoing review and evaluation by the NBWL Commission and the General Manager.

Timeline

Action	Date
Commission Approval of RFP	June 16, 2021
Advertisement of RFP begins	June 17, 2021
Deadline for RFP	July 7, 2021, 4:00 pm
Proposal review by subcommittee	Week of July 12, 2021
Interviews by Commission	Week of July 19, 2021
Consideration of approval of selected firm and award of contract by the NBWL Commission	Week of July 26, 2021
New contract begins	To Be Determined

SECTION FIVE: CONTRACT ETHICS

1. No elected official or employee of the NBWL Commission 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.
2. It is a breach of ethical standards for any person to offer, give or agree to give any NBWL Commission employee or commissioner, or for any Commission employee or commission member 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.
3. 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 NBWL Commission.
4. The firm shall not accept any client or project that places it in a conflict of interest with its representation of the NBWL Commission. If such a conflict of interest is subsequently discovered, the Commission shall be promptly notified.

Exhibit A
REQUEST FOR PROPOSAL (RFP)
FORM OF CONSENT FOR RELEASE OF RESPONSE DATA

_____, 2021

North Branch Water and Light Commission
Attn: General Manager
6388 Maple Street
North Branch, MN 55056

Re: Request for Proposal: Attorney Services

Consent for Release of Response of Data

_____, on behalf of _____,
hereby consents to the release of its proposal in response to the Request for Proposals for Attorney Services and waives any claims it may have under Minnesota Statutes Section 13.08 against the NBWL Commission for making such information public. The foregoing consent and waiver does not extend to financial statements, if any, submitted under separate confidential cover. Such information provided under separate cover may be public data, but will be treated by the Commission consistent with Minnesota Statutes Chapter 13.

Signature

Printed Name

Title

Exhibit B

REQUEST FOR PROPOSAL (RFP) PROPOSED FEES

RETAINER – If an add-on or alternative proposal includes a retainer option, please quote a retainer fee to be charged for civil attorney services and the items noted herein that are to be covered by the retainer. Also state separately the rate for any other cost items proposed to be itemized and billed (i.e. photocopying, Westlaw, or Lexis fees, overhead factor, etc.). Clearly note any “retainer” items listed above that your firm would not provide as part of the retainer duties and prefer to bill on an hourly basis. Please be specific.

HOURLY BILLING – Please quote the dollar amount of fixed and/or hourly fees and costs your firm will charge for providing legal services to the NBWL Commission. For the hourly fees portion of your proposal, please identify the hourly rate of each attorney and support personnel. Identify the minimum increment of time billed for each service, e.g. phone calls, correspondence, personal conference.

	2021	2022
Retainer fee (monthly amount), optional		
Hourly Rate for Primary Attorney		
Hourly Rate for Other Attorneys (Please name):		
Hourly Rate for Support Personnel (Name or title):		
Itemized fees (please describe):		
Minimum increments of time billed for each service (list):		

Feel free to attach additional sheets to note other costs items, if needed

- Any other items related to fees that you feel are pertinent in the consideration of your proposal