

REQUEST FOR PROPOSALS
PROFESSIONAL LEGAL SERVICES CONTRACTS

PURPOSE OF REQUEST

The Town of Amherst Zoning Board of Appeals (ZBA) is requesting proposals (RFP) from qualified law firms to provide legal services for the defense of the ZBA in a lawsuit being commenced by the Town Board, Town of Amherst regarding the ZBA's grant of variances to property located at 4400 North French Road and issues related thereto. Legal services may also include representation of members of the Town of Amherst Zoning Board of Appeals sued in their governmental capacity. Using this RFP, the ZBA intends to select one firm who will be available to provide legal services as needed. If selected, a retainer agreement will be requested at a compensation rate agreed upon.

PERIOD OF SERVICES

From retention through December 31, 2018.

SCOPE OF SERVICES

It is the intent of the ZBA to solicit a statement of qualifications and experience from individuals and firms who have expertise in the provision of professional services as described herein. Respondents must demonstrate that they will have the continuing capabilities to perform these services and do not have a conflict in relation to the Town of Amherst.

Counsel may, on an as needed basis, also be assigned and required to provide representation in related litigation, including but not limited to, preparation of pleadings, motions, and discovery documents; participation in all discovery including attendance at all depositions; participation in and attendance at settlement conferences, pre-trial motions, trials, and appeals.

Counsel may be called upon to attend meetings with the ZBA.

Counsel may also be called upon to provide other types of legal services of a specialized nature related to the subject matter of this RFP.

QUALIFICATIONS STATEMENT

Respondent shall submit a description of its overall experience in providing the type of services sought. At a minimum, the following information on past experience should be included as appropriate:

- A. Name, address and contact information of references.

- B. Names and resumes of attorneys who will be assigned to provide legal services to the ZBA if the ZBA awards a contract to Respondent.
- C. List all immediate relatives of Principal(s) of Respondent who are Town employees or elected officials of the Town. For purposes of the above, "immediate relative" means a spouse, parent, stepparent, brother, sister, child, stepchild, direct-line aunt or uncle, grandparent, grandchild, and in-laws.
- D. Limits of malpractice insurance coverage with certification that the same will be maintained to the extent necessitated by the Town.
- E. A listing of all other engagements where services of the types being proposed were provided in the past five (5) years. This should include other municipal/government clients. Contact information for the recipients of the similar services must be provided. The Town may obtain references from any of the parties listed.
- F. Respondents must demonstrate a proven record of cases tried before the Federal and State Courts in the NYS Supreme Court Eighth Judicial District.
- G. The number of years Respondent has been in business under the present name.
- H. The number of years Respondent has been under the current management.
- I. Any judgments within the last three (3) years in which Respondent has been adjudicated liable for professional malpractice. If any exist, please explain.
- J. Whether the Respondent is now or has been involved in any bankruptcy or reorganization proceedings in the last ten (10) years. If yes, please explain.
- K. Confirmation of appropriate federal and state licenses.
- L. Respondents must list all cases where they represented the ZBA or in which they sued the ZBA or in which they represented a client that sued the ZBA, or where they have represented a client before any agency of the Town of Amherst within the last five (5) years.

***Note : Consents allowable under Rule 1.7 of the Code of the Town of Professional Responsibility may only be considered on a matter by matter basis by the Town Board.**

- M. Proposed Billing Rate Structure, including, but not limited to, hourly rates and alternative fee arrangements.
- N. Results obtained for other municipality/governmental entity, in the past three (3) years in providing legal service of the type requested.

CONDITIONS

Upon submission of a Qualification Statement in response to this RFP, the Respondent acknowledges and consents to the following conditions relative to the submission and review and consideration of its Qualification Statement:

- This RFP does not commit the ZBA to issue a contract.
- The ZBA reserves the right (in its sole judgment) to reject any Respondent that submits incomplete responses to this RFP, or a Qualification Statement that is not responsive to the requirements of this RFP.
- The ZBA reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP, or otherwise request additional information.
- All responses will be treated as confidential, unless otherwise required by law.
- The ZBA may request Respondents to send representatives to the Town for interviews.
- Neither the ZBA nor its officers, officials or employees shall be liable for any claims or damages resulting from the solicitation or preparation of the Qualification Statement, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Qualification Statement or for participating in this procurement process.

The ZBA reserves, holds and may exercise, at its sole discretion, the following rights and options with regard to this RFP and the procurement process in accordance with the provisions of applicable law:

- To determine that any Qualification Statement received complies or fails to comply with the terms of this RFP.
- To supplement, amend or otherwise modify the RFP through issuance of addenda to all prospective Respondents who have received a copy

of this RFP.

- To waive any technical non-conformance with the terms of this RFP.
- To change or alter the schedule for any events called for in this RFP upon the issuance of notice to all prospective Respondents who have received a copy of this RFP.
- To conduct investigations of any or all of the Respondents, as the ZBA deems necessary or convenient, to clarify the information provided as part of the Qualification Statement and to request additional information to support the information included in any Qualification Statement.
- To suspend or terminate the procurement process. If terminated, the Town may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.
- The ZBA shall be under no obligation to complete all or any portion of the procurement process described in this RFQ.

EVALUATION CRITERIA

In selecting the proposer(s) with whom to commence contract negotiations, and in ultimately awarding this RFP, the ZBA will choose the proposal(s) from the responsible proposer(s) that is/are advantageous to the ZBA, and otherwise in accordance with the Town of Amherst's procurement policy.

In order to determine what proposal(s) is/are most advantageous, the ZBA will evaluate all proposals on the basis on the criteria specified below. These criteria are not necessarily listed in order of importance. The ZBA reserves the right to weigh its evaluation criteria in any manner it deems appropriate. While price will be a factor in consideration of the proposals, it is not the sole criterion.

The criteria for evaluation is as follows:

- 1.) Proposer's demonstrated ability to provide the solicited legal services (10 Points).
- 2.) Evaluation of the professional qualifications, background and resume(s) of the individual(s) proposed to be involved in providing the solicited legal services (10 Points).
- 3.) Proposer's experience performing the legal services solicited (10 Points).

- 4.) Evaluation of the proposer's fee proposal. It should be noted that fees are not the only consideration, but it is an important one. The fee structure shall remain in effect through December 31, 2018 (10 Points).
- 5.) A determination that the proposer has submitted a complete and responsive proposal as required by this RFP (10 Points).
- 6.) An evaluation of the proposer's projected approach and plans to meet the requirements of this RFP (10 Points).
- 7.) Whether the Respondent is qualified as a MWBE (5 Points).

SUBMISSION REQUIREMENTS

Please submit one original and nine (9) copies of the RFP on white 8.5" x 11" paper no later **4:00 p.m. on Monday July 10, 2017** to:

Timothy J. Koller
Asst. Deputy Town Clerk
Town of Amherst
5583 Main Street
Williamsville, NY 14221

- 1.) Each proposal package must be delivered in a sealed envelope that is clearly marked:

LEGAL SERVICE PROPOSAL – Suit by Town of Amherst

- 2.) Once delivered, proposals will be secured unopened so long as the envelope is marked as described above. Telephone, facsimile, and e-mail proposals will not be accepted.
- 3.) Each proposer's proposal must be received by the ZBA by the stated due date. The ZBA is not responsible for any internal or external delivery delays that may cause the proposer's package to arrive beyond the deadline. To be considered, a proposal package **MUST** arrive in the place specified herein and be time-stamped prior to the deadline.