

**City of Hermantown**

**Legal Services  
Request for Proposals**

**June 8, 2021**

## **TENTATIVE SCHEDULE**

City Council Approval of RFP	<b>June 7, 2021</b>
RFP Submittal Deadline	<b>July 8, 2021</b>
Staff Review of Proposals	<b>July</b>
Staff Interviews & City Council Interviews	<b>July/August</b>
City Council Approval	<b>August/September</b>
Start	<b>As negotiated.</b>

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## INTRODUCTION

The City of Hermantown is requesting proposals to retain the services of firms experienced in municipal law for general legal civil matters for the City of Hermantown.

The City of Hermantown is located in northeastern Minnesota near the shores of Lake Superior. Situated adjacent to the City of Duluth, in St. Louis County, the community of Hermantown has the advantage of being close to major shopping (Miller Hill Mall) and entertainment facilities of a larger city, while maintaining a rural setting. This advantage has served the community well with its thriving economy, quality educational system and growing population, while helping provide a quality of life unequalled elsewhere in this region.

The City's current attorney, Steve Overom, has served the City since 1979 and desires to reduce his practice. The City anticipates that Mr. Overom will assist in the transition and may stay on for specific projects. The start date for the new attorney will be sometime in 2021 but the actual date and transition will be negotiated between the selected attorney and the City of Hermantown

The city's estimated population is 9,539 (2017 Estimate).

1. **City Organization** - The City of Hermantown is as a statutory, Plan A City and has a Council/Administrator form of government. The City provides a full array of municipal services and general administrative functions.
2. **City Council** - The Hermantown City Council is the final review and approval authority regarding all contracts, payments, plans, improvements, policies, procedures, and other business of the City. The City Council, composed of four members and the Mayor, is the legislative and policy making body of the City. The Mayor, who presides over City Council meetings, is elected at large for a four-year term. The Councilmembers are also elected at large for four-year terms. The current composition of the City Council is as follows:

<b>Name</b>	<b>Title</b>	<b>Term Expires</b>
Wayne Boucher	Mayor	December 31, 2024
John Geissler	Councilmember	December 31, 2024
Gloria Nelson	Councilmember	December 31, 2022
Natalie Peterson	Councilmember	December 31, 2022
Grant Hauschild	Councilmember	December 31, 2024

3. **City Council meetings** are held on the first and third Monday's of each month. Planning Commission meetings are held the third Tuesday of each month. The Hermantown Economic Development Authority (HEDA) meetings are on the fourth Thursday of the month.
4. **City Administrator** - The City Administrator reviews and coordinates all matters coming before the City Council. He is responsible for the implementation of Council direction and the coordination and management of City departments on a daily basis.
5. **City Staff** - The City Administrator implements Council direction through the Department Directors.

## INSTRUCTIONS FOR PROPOSERS

1. All proposals must be sent as a PDF document via email to John Mulder, City Administrator, [jmulder@hermantownmn.com](mailto:jmulder@hermantownmn.com). Questions about the proposal and RFP process may also be directed to Mr. Mulder.
2. The City is requesting all proposals be submitted via email; thus, no paper copies of the proposal(s) need to be printed or mailed to the City.
3. To ensure fairness and uniformity, firms submitting responses should contact only Mr. Mulder with questions, concerns, or comments.
4. All proposals must be received no later than 4:00 p.m. on Thursday, July 8, 2021.

## 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 City, or that are used by the City even if the respondents possess the records may be public records. The City will promptly disclose public records upon request unless a statute exempts them from disclosure. Respondents 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. Respondents should clearly mark any record they believe is exempt from disclosure.*

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

## PROPOSAL CONTENT

### **FIRM Qualifications**

- A. Title Page: Show the RFP subject, the name of the firm, local address, telephone number, email, website, name of contact person and the date.
- B. Table of Contents: Include a clear identification of the material by section and page number.
- C. Description and overview of Professional Legal Services:  
Proposal shall include:

1. A brief background and history of the Firm.
2. The areas of expertise and general services available.
3. The general qualifications of the firm as related to municipal law services.
4. The name, experience and qualifications of the person or persons who will be responsible for fulfilling the obligations to the City, including a brief resume for each.
5. The qualifications and resumes of other professional staff that will be responsible for providing professional legal services for which the City will be charged.
6. The availability of the aforementioned staff.
7. List and describe any previous or current experience in municipal legal services, specify activities performed, and the name of a person and a telephone number who may be contacted at the municipality.
8. Other background or experience which may be helpful in evaluating your proposal. Background or experience in the areas of land use regulation, general and public contracting, annexation, real estate, labor relations, public employment, and municipally related litigation will be of special interest in evaluating proposals.
9. A list of previous or current activities performed for the City of Hermantown if applicable.
10. Define any potential conflicts of interest the firm may have providing services to the City.
11. Describe your research capabilities, and the references that you utilize.
12. Detail your capability to maintain a proper response time for legal reports and memos as well as inquiries and questions from the City submitted by telephone or e-mail.
13. Provide a detailed description and explanation of all fees and/or charges that may arise for provided municipal legal services. How are increases in fees and charges communicated to the City? As the City is also interested in exploring fee arrangements other than an hourly rate, indicate what alternate billing arrangements you would be willing to consider and under what circumstances they would be most appropriate.
14. Office(s) location. The City will expect all firms to have a physical location within the Twin Port area in order to provide timely in person meetings when required.
15. Statement of any malpractice claims, whether suit was brought or not, and/or ethics complaints taken against your firm or firm's attorney(s) over the last five years and the status or outcomes of such action. Indicate whether any malpractice claim is pending or if an ethics complaint is currently under review by the State Ethics Board.
16. Professional Liability (E&O) Insurance .Please provide a Certificate of Insurance evidencing the insurance your firm currently maintains.

*\*Please note that when the contract is negotiated with the successful bidder, there may be other provisions required with regard to professional liability insurance.*

Bidder is required to maintain insurance protecting it from all claims the Bidder may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Bidder's professional services required under the contract.

Contractor is required to carry the following limits:

- \$2,000,000 – per claim or event
- \$5,000,000 – annual aggregate
- Any deductible will be the sole responsibility of the Bidder and may not exceed \$25,000 without the written approval of the City.
- The retroactive or prior acts date of such coverage shall not be after the effective date of the contract and the Bidder shall maintain such insurance for a period of at least (3) years, following completion of the work. If such insurance is discontinued, extended reporting period coverage must be obtained by the Bidder to fulfill this requirement.

D. Firm Qualifications: Provide the names and telephone numbers of three client references the City may contact. Municipal references are required. If the firm has represented any Minnesota municipalities or governmental agencies from 2015 through the present, state the name of that agency, and the name, title, and telephone number of a reference at that agency whom the City may contact. If the firm has represented such an entity but does not wish the City to contact the entity, list the name of the municipality or agency, and state your reasons why no contact is requested.

E. Fees

Identify in your proposal which of the following billing options you will offer:

## RETAINER

The retainer fee to be charged for general governmental services and the items covered by the retainer. Also, state separately the rate for any firm cost items to be billed (i.e. photocopying, Westlaw, or Lexis fees, etc.)

The retainer would cover the following services:

- A. Attend and be prepared to give legal and parliamentary advice at two meetings of the City Council agenda sessions each month;
- B. Confer with the Mayor, City Clerk and City Administrator by telephone and otherwise on routine City matters;
- D. Draft routine ordinances and resolutions relating to the business of the City;

- E. Review contracts to be made by the City when such contracts are prepared by the other party to the contract;
- F. Prepare for meetings of the City as above by reviewing the agenda of the meeting and otherwise preparing to speak to legal issues that may arise at the meeting;
- G. Advise the City from time to time as to the construction of statutes and principals of law that may apply to the City; and
- H. Expend up to 25 hours per year to assist the City in preparing standard forms, practices and procedures for recurring City matters.

## HOURLY RATES

Your proposal for the hourly fees and costs your firm will charge for providing the legal services to the City of Hermantown covered by your proposal. 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. Also state separately the rate for any firm cost items to be billed (i.e., photocopying, Westlaw or Lexis fees, etc.)

Please indicate if you would charge a different rate if costs are reimbursable to the City from an outside source:

Under hourly rate method, the City requires detailed monthly billing statements which shall include, but are not limited to the following items:

BILLING INFORMATION should include:

1. Itemizes the date of services.
2. Identifies the attorney and/or support personnel providing the services.
3. Lists time spent for each service or activity by tenths of an hour.
4. Provides a detailed description of the services performed, including a clear identification of the subject of the service, such as a file number, address, or other clear identifying information.
5. States the fees for those services.
6. Organizes billing for general corporate work by department, type of services, and/or project.
7. Itemizes all associated costs and expenses related to the services performed.

If another billing format will be proposed, please describe that format and provide a sample.

## SCOPE OF WORK:

- A. **Advisor to the City Council, Committees and Staff:** The City Attorney acts as advisor to the City Council and their advisory committees, such as the Planning Commission, the Park Board, Utility Commission and other committees and staff. These activities include the preparation of opinions on miscellaneous legal issues including zoning, platting, the issuance of permits, procedural matters dealing with operation of the City Council and Planning Commission and other committees.
- Attend and be prepared to give legal and parliamentary advice at two regular meetings and when needed at special meetings of the City Council Agenda sessions each month.
  - Prepare for and attend two daytime preliminary agenda work session meetings per month.
  - Advise the City Council, Mayor, City Administrator and City Clerk as to construction of statutes and other principals of law pertaining to cities.
- B. **Legal Action:** The City Attorney's office is involved in any civil action brought against the City that is not covered by liability insurance. These primarily have to do with actions being brought as a result of action of the Planning Commission and City Council whereby a developer or applicant requests the court that the action be overturned. Other civil actions include condemnation for street and utility right-of-way, actions being brought either by or against the City regarding nuisance issues, and injunctions brought for or against the City where Hermantown's liability insurance carrier defends the claims.
- C. **Improvement and Redevelopment Projects:** The City Attorney's office is involved in assistance with improvement projects including sanitary sewer, water, storm sewer and street improvements. These functions include the acquisition and negotiation for all easements for street and utility purposes including condemnation where necessary, assistance in assessment process, issues including the preparation of assessment rolls and advising the Council in assessment hearings and other proceedings. In addition, the firm will handle all assessment appeals to the District Court and prepare and assemble transcripts for all General Obligation bond issues in cooperation with bond counsel for the City.
- D. **Community Development Projects:** The firm will also provide counsel on matters of economic development activities including attending Hermantown Economic Development Authority meetings, assisting on development, redevelopment, enforcement, and property and real estate law and acquisitions. Assist in the preparation and/or review of documents including development agreements and planned unit development agreements, preparation of agreements of a miscellaneous nature
- E. **Miscellaneous Legal Issues:** In addition, the City Attorney's office is involved in areas such as
- drafting ordinances;
  - reviewing resolutions,
  - negotiation for the acquisition, sale or transfer of title to personal property

- and land acquisition of easements by the City for miscellaneous purposes including parks, general advice to the City regarding building permits, zoning, platting,
- assistance with insurance issues,
- property maintenance and code enforcement,
- employee relations,
- data practices issues, etc.
- confer with the Mayor, City Clerk, Department Heads and City Administrator for routine City matters.
- assist in developing policies, procedures, and standard forms for routine matters.

## PROPOSAL EVALUATION AND CONTRACT AWARD

- A. The City intends to award a contract to the proposer(s) evaluated to be best qualified to perform the work for the City, cost and other factors considered.
- B. Based upon the evaluation, the City Administrator will recommend to the City Council the selection of the firm(s) judged to be the most responsive and responsible proposer for each position. The City Council may choose to conduct interviews of those firms they deem fit. The actual selection of the firm(s) and contract awards will be made by the City Council.
- C. The City shall not be liable for any expenses incurred by the proposer including, but not limited to, expenses associated with the preparation of the proposal or final contract negotiations.
- D. The City of Hermantown reserves the right to reject any and all proposals or to request additional information from any or all proposers.
- E. It is anticipated that the City will establish a relationship with a selected firm for a minimum of three (3) years. A contract for one year with annual renewals is expected. Each party may terminate the contract with 90-day notice.

## LEGAL SERVICES CONTRACT EXECUTION

- A. Contract Negotiations –

Notwithstanding a contract award, the City reserves the right to negotiate the final terms and conditions of the contract to be executed. Should the City and the proposer(s), to whom the contract(s) is recommended to be awarded, be unable to mutually agree upon the entire contract, the City reserves the right to discontinue negotiations, select another proposer or reject all of the proposals. Upon completion of negotiations agreeable to the City and proposer, a contract shall be executed.

- B. Contract Ethics –

1. 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 decision 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 City employee or Council person or for any City employee or Council person to solicit, demand, accept or agree to accept from another person or firm, a gratuity or an offer of employment whenever a 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(s) shall not assign any interest in this contract and shall not transfer any interest in the same without prior written consent of the City.
4. The firm(s) shall not accept any client or project which, by nature, places it in an ethical conflict with its representation of the City of Hermantown.

Exhibit A  
REQUEST FOR PROPOSAL (RFP)

FORM OF CONSENT FOR RELEASE OF RESPONSE DATA

\_\_\_\_\_, 2021

City of Hermantown City Clerk  
5105 Maple Grove Road  
Hermantown, MN 55811

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 City of Hermantown 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 City consistent with Minnesota Statutes Chapter 13.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## Exhibit B

### REQUEST FOR PROPOSAL (RFP) PROPOSED FEES

**OPTION “A” – RETAINER + HOURLY FEES:**

**RETAINER** – Please quote a retainer fee to be charged for legal 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 hourly fees and costs your firm will charge for providing legal services to the City of Hermantown 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.

	2021	2022	2023
Retainer fee (monthly amount)			
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:

- Any “retainer” items that will not be provided as part of the retainer fee but rather billed on an hourly basis
- Description of other costs items, if needed
- Any other items related to fees that you feel are pertinent in the consideration of your proposal

**OPTION "B" – HOURLY FEES ONLY:**

**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 City of Hermantown covered by your proposal. 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. 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.).

	2021	2022	2023
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:

- Description of other costs items, if needed
- Any other items related to fees that you feel are pertinent in the consideration of your proposal