



REQUEST FOR PROPOSALS FOR

CIVIL ATTORNEY

LEGAL SERVICES FOR

THE CITY OF FAIRMONT, MN

October 2019

Submission Deadline: October 28th @ 2:00 p.m.

REQUEST FOR PROPOSALS FOR CIVIL ATTORNEY LEGAL SERVICES

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The City of Fairmont 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 law. The successful applicant(s) shall possess sufficient resources to ensure that the demands for the City'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 City will be awarding a three-year contract, with two one-year renewal options for these services.

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 City staff 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: Mike Humpal, City Administrator, 100 Downtown Plaza, Fairmont, MN 56031, (507) 238-3936 or mhumpal@fairmont.org. Written questions regarding this RFP may be sent via e-mail to mhumpal@fairmont.org 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 City of Fairmont'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 City 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 City of Fairmont 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 City.

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. 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 City 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 City will disclose the records, in accordance with applicable law.

COMMUNITY/POSITION HISTORY

Fairmont is a growing, full-service city of approximately 10,600 people located on Interstate 90, 50 miles south of Mankato. Fairmont is a Charter City under Minnesota State Law. The City Council, which governs the city, is made up of a Mayor elected at large and five Council Members, four elected by ward and one elected at large, serving four year terms; each has one vote on the City Council, except for the Mayor who only votes if there is a tie. The City Administrator reports to the City Council and is responsible for managing the operations of the city.

The city employs approximately 87 full time benefited employees and approximately 100 part time/seasonal non-benefited employees. Police protection is provided by 18 licensed peace officers and fire protection is provided by 34 paid on-call firefighters. Unionized employees are represented by three (3) separate bargaining units.

The total 2018 budget for the City is \$34,000,000, with the General fund budget at \$9,315,823.

The City has 13 boards/commissions/committee including a Charter Commission, Board of Equalization, Police Commission, Park Board, Public Utilities Commission, Planning Commission, Board of Zoning Appeals, Fairmont Economic Development Authority, Housing & Redevelopment Authority, Human Rights Commission, Safety Council, Airport Board and Building/Fire Code Appeals Board.

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, annexation, subdivision and land use law
- Economic development activities including development, redevelopment, enforcement, and property/real estate law
- Legal knowledge relating to general obligation bonds, revenue bonds, tax increment bonds, tax exempt bonds, and other bonding and financial processes
- Ordinance and resolution development and interpretation
- Government Data Practices
- City Charter and City Code issues
- Contract law
- Environmental law
- Franchise law
- Municipal leases
- Eminent Domain
- Trial activity

CIVIL SERVICES COVERED BY RETAINER

Except as specifically limited below, the services and qualifications that are required by the City for civil law services covered by a fixed retainer fee include, but are not limited to, the following areas:

General

1. Meetings and/or telephone conversations with and advising Mayor, Council Members, City Administrator, Department Managers and other staff on general legal matters.

2. Research and submission of legal opinions on municipal or other legal matters requested by City staff or City Administrator; availability to answer staff questions by telephone.
3. Legal consultation and general support for Mayor, Council Members, City Administrator, Department Managers and other staff on general legal matters.
4. Provide high level of customer service by responding in a prompt manner.
5. Provide annual training for Council, Boards and Commissions and staff on matters related to open meeting law, MN Data Practices Act, conflict of interest/ethics for government officials, and provide specific training for the Council and Planning Commission on land use and zoning law issues.

Meetings

6. May be requested to attend regular City Council meetings and advise the Mayor, Council Members and City Administrator on matters of parliamentary law and procedures of a general matter. Attendance maybe by telephone, skype or some other method unless otherwise asked to attend in person by Council or Administrator.
7. May be requested to attend such special City Council meetings as the Council or the City Administrator directs.
8. Attend such meetings of boards or commissions as the City Administrator directs.
9. Attend such other meetings, planning sessions, conferences and/or departmental meetings as requested by the City Administrator.
10. Attendance at any 24 meetings during a calendar year, as described under items #6-9 above, shall be included in the retainer fee. Meetings attended in excess of 24 in any calendar year, shall be billed and paid at the previously agreed to hourly contract rate.
11. Limited consultation with Charter Commission.

Legal Documents

12. Prepare such resolutions as the City Administrator or the City Council shall direct, except resolutions relating to the responsibility of the fiscal consultant or bond approving attorney.
13. Review of municipal contracts, including contracts for public improvements, developments, subdivisions, joint powers agreements, construction, purchase of equipment, and the like for content, form, legality and execution as requested.
14. Examine and advise regarding the legality of all proceedings and actions of the City Council and other boards or commissions.
15. Render written opinions on law when requested, including interpretation of statutes, ordinances, rules and regulations.
16. Drafting and review of ordinances, ordinance amendments, resolutions, developer agreements and contracts, subdivision agreements and correspondence as requested.
17. Review ordinances as requested.
18. Review deeds, and insurance requirements required by or for City contracts or activities.
19. Prepare small business assistance loan documents and related materials.
20. Review data requests and related documents and advise staff regarding release and redactions.

Public Improvements

21. Examine all petitions for improvements for validity.
22. Assist the city engineer in preparing preliminary report as to legal costs, easement costs, assessment methods, and assessment area.
23. Assist staff with special assessment processes and procedures.
24. Prepare or review such routine legal notices for posting, publishing or mailing as required by the statutory assessment process.

Real Estate Sale and Acquisition

25. Review acquisition requirements with appropriate departments, evaluate any special legal or cost problems, develop acquisition timetables, make preliminary cost estimates and obtain or develop proper legal descriptions.
26. Examine title to each parcel as requested by the City Administrator.
27. Prepare documents necessary for routine land purchases and/or sales. All such transactions shall be deemed to be routine unless the Attorney contacts the City in advance and obtains the City's approval that the transaction contemplated is non-routine. Any such non-routine transactions shall be billed at the previously agreed to hourly contract rate.

Zoning

28. Provide legal advice to staff, City Administrator, Planning Commission and City Council regarding zoning code matters.
29. Represent the City in matters related to the enforcement of city building, subdivision, and zoning codes.

CIVIL SERVICES COVERED BY HOURLY RATE

The following are services that are not covered by the fixed retainer, if that option is proposed, and may be charged at an hourly rate:

Public Improvements

30. Represent the City in the acquisition of properties for public improvements, easements, parks and the like as needed.
31. Perform all legal work in connection with financing, not usually performed by the fiscal consultant or bond counsel.
32. Receive and evaluate all assessment appeals and try cases in District Court or recommend amendments to assessment if warranted.
33. Handle all legal matters under construction contracts and any resulting litigation.

Land Acquisition and Sale

34. Represent the City in condemnation proceedings for public improvement projects, etc.
35. Initiate annexation proceedings at the direction of the City and follow through with all necessary documentation and presentation to the State Boundary Adjustments Division.

Economic Development

36. Representation of the City on Economic Development related issues, including developer agreements as needed. Finance tax abatement and other forms of public finance assistance. Public financing assistance in public/private partnerships.

Claims Against the City

37. Where no insurance coverage is provided, make appropriate evaluation of claims for legality, investigate facts, and make recommendations to the City Council.
38. Defend in court all litigation where no insurance coverage is available. This includes but is not limited to: (1) human rights claims; (2) condemnation; (3) zoning and land use regulation matters; (4) permits and administrative actions; (5) administrative citations; (6) code enforcement issues; and (7) labor and employment matters.
39. Assist in resolving claims not resulting in litigation.

Claims by the City

40. Investigate and evaluate all claims by the City against others and recommend appropriate course of action, including, but not limited to code enforcement issues and administrative citations.
41. Attempt collection of all proper claims including litigation where necessary and authorized by the City.

Intergovernmental Relations and Disputes

42. Provide such services as requested by the City regarding contractual dealings with Federal, State, County, Township, Municipal, and Special Districts by the City, including Joint Powers Act Public Improvements.
43. Handle disputes between the City and other governmental units, including litigation.

Zoning

44. Represent the City in litigation on zoning matters; i.e. rezoning, variances, special permits, subdivisions.

SECTION TWO: INSTRUCTIONS TO PROPOSERS

1. Proposals should be submitted to Patricia J. Monsen, City Clerk, City of Fairmont, 100 Downtown Plaza., Fairmont, MN 56031. Proposals must be received no later than 2:00 p.m. on October 28, 2019.
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 City as part of the proposal may also be included.
4. Questions regarding this request should be directed to City Administrator Mike Humpal, City of Fairmont, 100 Downtown Plaza., Fairmont, MN 56031, 507-238-3936, or mhumpal@fairmont.org to ensure a fair review and selection process, law firms submitting proposals are specifically requested not to make other contacts with City staff or 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.
 - Include a current resume for each attorney who will be primarily assigned to City of Fairmont. 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 City of Fairmont.
- Provide an assessment of the availability of the attorney and other professional staff to be assigned to a contract with the City of Fairmont. 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 City of Fairmont 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 City of Fairmont in the following areas:

- a. General state and federal laws relating to municipal government
- b. Development Issues
 - i. Zoning, housing, annexation, subdivision and land use law
 - ii. Platting and Land Development Issues
 - iii. Eminent Domain
 - iv. MSA 429 Projects (Procedures and Appeals)
- c. Economic development activities including development, redevelopment, enforcement, and property/real estate law
- d. Municipal Financing – Specify whether the firm is a recognized bond counsel and plans to serve in that capacity in the proposed representation
 - i. Minnesota tax increment law
 - ii. Municipal bonds: General obligation bonds, revenue bonds, tax increment bonds, tax exempt bonds, and other bonding and financial processes
 - iii. Demonstrate knowledge of collection law and municipal finance and purchasing.
- e. Ordinance and resolution development and interpretation
- f. Government Data Practices
- g. City Charter and City Code issues
- h. Contract law
- i. Environmental law
- j. Franchise law
 - i. Interpretation of cable television franchise authority

- ii. Water/wastewater, electric and other miscellaneous utilities, and related laws/regulations.
 - k. Municipal leases
 - l. Trial activity
 - m. 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 of three years on the attached form. Fees for the two one- year extensions will be negotiated.

Please note that the City of Fairmont is requesting fees to be submitted with two options: Options "A": retainer plus hourly fees and Option "B" hourly fees for all work without a retainer.

OPTION "A" – RETAINER+ HOURLY FEES:

RETAINER – 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 City of Fairmont 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.

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 Fairmont 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.).

The City requires detailed monthly billing statements that shall include but are not limited to the following items:

1. Itemize the date of services
2. Identify the attorney and/or support personnel providing the services.
3. List the time spent for each service or activity by tenths of an hour.

4. Provide a detailed description of the services performed.
5. State the fees for those services.
6. Organize billing for general corporate work by department, type of services, and/or project.
7. Itemize all associated costs and expenses related to the services performed.

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 City Attorney for the City of Fairmont.
- Indicate if your firm currently represents any real estate developers doing business with, or anticipating doing business with, the City of Fairmont.
- Indicate whether you currently represent any other local units of government having jurisdiction within, or contiguous to the City of Fairmont.
- Indicate what procedures your firm would utilize to identify and resolve conflicts of interest.

8. AFFIRMATIVE ACTION

The City of Fairmont 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 City of Fairmont 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 City intends to award a contract to the respondent evaluated to be best qualified to perform the work in Section One for the City, 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 review of the submitted proposals a number of selected firms will be asked to interview with the City Council and staff. The City Council and staff will recommend to the City Council a firm to be retained.

The City of Fairmont 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 City.

The approval of the firm selected, and the contract award will be made by the City Council.

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

Timeline

Action	Date
Mail RFP	October 7, 2019
Deadline for RFP	October 29, 2019 at 2:00 p.m.
Interviews by City Council	November 14-15, 2019
Update to City Council at Work Session and written staff input on selection	November 18, 2019
Consideration of approval of selected firm and award of contract by the City Council	To Be Determined
New contract begins	To Be Determined

* Tentative dates

SECTION FIVE: 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 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 City employee or council member, or for any City employee or council 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 City.
4. The firm shall not accept any client or project that places it in a conflict of interest with its representation of the City of Fairmont. If such a conflict of interest is subsequently discovered, the City shall be promptly notified.

Exhibit A

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

_____, 2019

City of Fairmont
Patricia J. Monsen, City Clerk
100 Downtown Plaza
Fairmont, MN 56031

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 Fairmont 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 dollar amount of fixed and/or hourly fees and costs your firm will charge for providing legal services to the City of Fairmont 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.

	2020	2021	2022
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 Fairmont 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.).

	2020	2021	2022
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