



## TOWN OF SUDBURY, MASSACHUSETTS

### REQUEST FOR PROPOSALS FOR TOWN COUNSEL SERVICES

#### **I. Objective**

The Town of Sudbury, Massachusetts seeks to appoint a highly qualified attorney or law firm as Town Counsel effective on or around July 1, 2017. The successful appointee must meet or exceed the qualifications stated herein and, in general, must be readily accessible to authorized public officials, exceptionally experienced in municipal law as further described below, scrupulous in adhering to required standards of professional conduct and ethics, and committed to rendering sound legal advice with suitable objectivity and professional detachment.

#### **II. Background**

The Town of Sudbury is located in Metrowest Boston and has a population of approximately 18,000 residents. The town is predominantly residential with some commercial area, primarily along Route 20. The Town approved a FY 17 budget of \$91 million and maintains an AAA Standard and Poor's credit rating.

The Town's general government structure established under the Town's current Charter (July 1, 1996) provides for appointment of a Town Manager by the Board of Selectmen. The Town Manager oversees all Town department functions. The Town has an open Town Meeting. The Town Moderator, Board of Assessors, Park and Recreation Commission, Board of Selectmen, Board of Health and Planning Board, among several other boards, are elected, while there are numerous other appointed boards, including the Zoning Board of Appeals, Conservation Commission, and Permanent Building Committee. The Town's decision-making process is highly collaborative and consensus driven. The Town takes great advantage of, and is fortunate for, the willingness of citizens with advanced knowledge and experience in many professional and technical fields to contribute to the community on volunteer boards, committees and task forces. Applicants are encouraged to learn more about the Town of Sudbury through its municipal website: [www.sudbury.ma.us](http://www.sudbury.ma.us) and its FY18 budget document located here: <https://sudbury.ma.us/finance/budget/>.

### **III. Town Counsel Services**

The Town seeks counsel experienced in the following matters:

- General Municipal Law, established under Massachusetts General Law and case law;
- Municipal Finance;
- Town bylaws and regulations;
- Open Meeting, public record, executive session, conflicts of interest law;
- Zoning and land use issues;
- Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax takings; licenses; conservation and agricultural restrictions; right-of-first refusal;
- Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting;
- Drafting and monitoring special legislation;
- Public bidding, public construction, and municipal procurement issues including lease-purchasing of equipment and contract approval;
- Affordable Housing; MGL. C. 40B; MGL c. 44, s. 55C (Municipal Housing Trusts)
- Subdivision control law;
- Community Preservation Act;
- Wetlands regulations;
- Environmental issues;
- Elections law and procedures;
- Licensing;
- Representation of the Town in all courts, including appellate level, and administrative agencies and other litigation;
- Appellate Tax Board matters;
- Property and Liability claims against Town;
- Effective collaboration with other counsel representing the Town.

The Town expects Town Counsel attendance at the following:

- All sessions of Special and Annual Town Meetings (Annual Town Meeting starts at the beginning of May and is held on the first Monday, Tuesday and Wednesday evenings; a Special Town Meeting is held in October.)

- Upon request of the Board of Selectmen (BOS) and/or Town Manager, be present at BOS meetings or other Town agency meetings. BOS meetings are generally held 1<sup>st</sup> and 3<sup>rd</sup> Tuesday evenings of the month from September through July; and generally once in August.
- The Selectmen may have special counsel (i.e. labor issues, tax takings, wetland issues, energy supply contracting; solar projects; environment/DEP permitting, etc.) and as such Town Counsel may need to collaborate or consult with Special Counsel.

#### **IV. Minimum Qualifications**

##### **A. Bar Admissions**

The appointee and all those who serve as back-up to the appointee (see below) must be a member in good standing of the Massachusetts Bar and of the Federal Bar for the District of Massachusetts.

##### **B. Experience**

The appointee must represent or have represented as Town Counsel (or functional equivalent) a minimum of one Massachusetts municipality for no less than five years each; or represented other Massachusetts municipalities in specific areas of municipal law; or possess equivalent experience. References for all municipalities currently represented or represented in the past ten years by the appointee must be furnished.

##### **C. Accessibility and Accountability**

The appointee must commit to be available for frequent contact either through in person meetings or via telephone or email, responding to all communications from authorized officials either himself/herself or through a qualified back up attorney within 24 hours of the call/email. Our current model for legal services has worked well with Town Counsel being available on-site during certain days/hours and via email/telephone to answer inquiries, including calls at home or on cell phone when necessary. The Town has a preference for the availability of Town Counsel in person in the Sudbury Town offices. The preference would be that the attorney be available in the Flynn building for, at a minimum, one half-day per week. The appointee must be accessible to Town staff and Board members. The Town Manager's Office manages requests for Town Counsel legal advice. The appointee must also commit, as a general rule, to responding to requests for written opinions within one week unless the circumstances of the opinion warrant a shorter or longer time frame for a response. The appointee must commit to preparing a brief written summary each month of all open issues at no cost to the Town. The appointee must: assist in the drafting of, or review and approve articles for the Town Meeting warrant; compose ballot question summaries and, upon request, ballot question arguments in a timely manner.

##### **D. Back-up**

The appointee must have within his or her firm or through an established relationship at least one other qualified attorney, who is specifically assigned as a back-up for Sudbury, and who is available to render advice and otherwise represent the interests of the Town of Sudbury when the appointee is unavailable. In this context, "qualified attorney" shall mean another lawyer who substantially meets the minimum qualifications set forth herein for the appointee.

### **E. Billing**

The appointee must commit to providing a summary of legal services rendered and invoices for services ordered, rendered and accepted on a monthly basis. Each statement, if based on an hourly rate for services, must disclose, at a minimum, the date of the service, the identity of the lawyer or staff person performing the service, the subject matter reference for the service, a description of the service performed, the time it took to perform that function, and the hourly rate for the individual performing the function. (See Attachment B.) Expense items must also be itemized. Billings may be subject to external review.

### **F. Insurance Requirements**

Evidence of valid minimum insurance coverage must be submitted by the selected firm or individual prior to or upon the execution of the contract, as follow:

Workers' Compensation Insurance as required by law

Insurance Certificates with the Town named as an additional insured for each:

General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$3,000,000 Annual Aggregate Limit.

Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident.

Lawyers Professional Liability of at least \$1,000,000/occurrence, \$3,000,000 aggregate.

The Town reserves the right to modify these insurance requirements.

### **V. Fees and Expenses**

The Town is committed to containing legal costs and wishes to understand the basis on which the responding attorneys propose fees and expenses. Any attorney/law firm wishing to be considered for appointment may submit with its application alternative proposals to the traditional hourly rate arrangement. For example, responding attorneys may propose a fixed retainer for a specified scope of services with an hourly rate for work outside the established scope of services, or a fixed cost for a set number of hours per month.

Towards this end, responding attorneys are encouraged to clearly outline how they might assist the Town in containing legal costs.

Any single expense/disbursement exceeding \$500 requires prior approval from Town Manager.

If a minimum annual contract is proposed, define what would be included in such an arrangement. Responding attorneys should feel free to be creative in this regard so long as the proposal is workable and reasonable.

Whether or not an alternative fee arrangement is proposed by the responding attorney, the attached fees and expenses response sheet must be filled out completely.

The Town seeks pricing structure proposals for 3 years; however, appointment of Town Counsel is made annually by the Board of Selectmen; therefore, although there will be a pricing structure in effect for three years, there's no guarantee of reappointment each year.

**VI. Selection**

In seeking Town Counsel, the Board of Selectmen of the Town of Sudbury is not bound by M.G.L. c.30B or by any other constraints apart from the sound judgment of the Selectmen. This process is being used to communicate the desired qualifications of Town Counsel and to solicit information in an orderly fashion for rough comparative purposes. The selection of Town Counsel shall be determined by vote of the Board of Selectmen in consultation with the Town Manager. The appointment of Town Counsel is made by the Board of Selectmen. The expected timetable is as follows:

Thursday, May 18, 2017	RFP issued
Thursday, June 8, 2017	Proposals due by 3:00 pm
TBD	Search Committee screening/interview process
TBD	Board of Selectmen interviews finalists/makes decision
July 1, 2017	Effective date of appointment

**VII. Application**

Qualified attorneys or law firms interested in responding to this RFP should fill out the attached forms completely and attach copies of all documents requested therein. Kindly return the same in a sealed envelope labeled "Town Counsel RFP" to Maryanne Bilodeau, Asst. Town Manager/HR Director, who also will be available to respond to questions at:

Maryanne Bilodeau  
Asst. Town Manager/HR Director  
Town of Sudbury  
278 Old Sudbury Road  
Sudbury, MA 01776  
[bilodeaum@sudbury.ma.us](mailto:bilodeaum@sudbury.ma.us)

Please provide 10 (10) hard copies of the RFP response and all associated documentation on 8 ½ by 11 paper, along with one digital copy in Adobe pdf format at the address above.

**All responses to this RFP must be received at the above address no later than 3:00 p.m. on Thursday, June 8, 2017.**

**ATTACHMENT A**

**RESPONSE TO REQUEST FOR PROPOSALS FOR  
TOWN OF SUDBURY TOWN COUNSEL**

<b>Name:</b>	
<b>BBO#</b>	
<b>Name of Firm:</b>	
<b>Street</b>	
<b>City, State,</b>	
<b>Telephone:</b>	
<b>Fax Number:</b>	
<b>Email:</b>	
<b>Website:</b>	

**Please respond to each of the following, using separate pages as necessary:**

1. Please identify by name (and BBO #, address and phone number if different than above) the proposed Town Counsel, and, if applicable, lead counsel as well as members of a team, and each proposed back-up counsel.
2. Please attach resumes or *curriculum vitae* for each attorney identified above.
3. Do each of the attorneys identified above meet the minimum bar admission requirements of the RFP? If other than “yes”, please explain.
4. With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney’s representation.
5. Please describe each identified attorney’s experience in municipal law.
6. Please describe how you propose to satisfy the Accessibility and Accountability requirements of the RFP.

7. Please describe how you propose to satisfy the attorney back-up requirements of the RFP.
8. If services are to be provided by a team of lawyers, describe how the team approach would work. For example, will specific attorneys be assigned to specific cases or subject matters? Will the specific attorney remain the contact throughout the case or matter?
9. How would you conduct or oversee litigation, including administrative proceedings, in which the Town and its boards are involved in their official capacity, to the extent such legal services are not provided by the Town's insurance carriers or outside counsel?
10. Are you available to review and approve as to form and content all contracts to which the Town is a party?
11. Do you provide regular updates on regulations, legislation and court decisions affecting municipalities and, if so, would this be a separate expense?
12. Do you provide training in legal obligations and compliance for elected, appointed and compensated Town employees on issues such as conflict of interest, ethics, freedom of information, open meeting law and harassment, and, if so, would this be a separate expense?
13. Please describe your suggestions for the transition from current Town Counsel.
14. Please describe any complaints with the Board of Bar Overseers or suits against each identified attorney in the last ten (10) years and how the complaints or suits have been resolved.
15. For each Town you and, if applicable, members of your firm have represented, please list those cases where municipal litigation has been undertaken in the last five (5) years (do not list special ed or appellate tax board cases) and the results of such litigation.

By my signature, I certify that the information contained in this Response to Request for Proposals are complete and accurate, to the best of my knowledge and belief.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT B

### RESPONSE TO REQUEST FOR PROPOSALS FOR TOWN OF SUDBURY TOWN COUNSEL - FINANCIAL INFORMATION

#### Fees and Expenses Response Sheet

(To be attached to and made a part of the overall Response to Request for Proposals)

1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as back-up.
2. If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and by hourly rate each position for whom you may bill.
3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e., any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).
4. In what hourly increments do you intend to bill?
5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.
6. Please describe any proposed alternative fee arrangement.
7. For each city or town you represent list the legal budget (broken down) the last five years and the actual amount spent that year, with an explanation for any substantial differences.
8. For each city and town, describe cost containment procedures you have implemented to keep the legal budget reasonable and cost effective.



## ATTACHMENT C

### MUNICIPAL LAW EXPERIENCE CHECKLIST (To be completed for each team member)

Rate your experience within the last five years in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

- \_\_\_\_\_ General Municipal Law, established under Massachusetts General Law and case law;
- \_\_\_\_\_ Municipal Finance;
- \_\_\_\_\_ Town bylaws and regulations;
- \_\_\_\_\_ Open Meeting, public record, executive session, conflicts of interest law;
- \_\_\_\_\_ Zoning and land use issues;
- \_\_\_\_\_ Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax takings; licenses; conservation and agricultural restrictions; right-of-first refusal;
- \_\_\_\_\_ Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting;
- \_\_\_\_\_ Drafting and monitoring special legislation;
- \_\_\_\_\_ Public bidding, public construction, and municipal procurement issues including lease-purchasing of equipment and contract approval;
- \_\_\_\_\_ Affordable Housing; MGL. C. 40B; MGL c. 44, s. 55C (Municipal Housing Trusts)
- \_\_\_\_\_ Subdivision control law;
- \_\_\_\_\_ Community Preservation Act;
- \_\_\_\_\_ Wetlands regulations;
- \_\_\_\_\_ Environmental issues;
- \_\_\_\_\_ Elections law and procedures;
- \_\_\_\_\_ Licensing;
- \_\_\_\_\_ Representation of the Town in all courts, including appellate level, and administrative agencies and other litigation;
- \_\_\_\_\_ Appellate Tax Board matters;
- \_\_\_\_\_ Property and Liability claims against Town;

**ATTACHMENT D**

**STATEMENT OF LITIGATION EXPERIENCE  
(To be completed for each team member)**

Rate your experience with in the last five years practicing with the following Courts, Boards and Commissions based on the scale listed below.

- 1. No experience
- 2. Limited experience
- 3. Moderate experience
- 4. Advanced experience
- 5. Extensive experience

- \_\_\_\_\_ Trials before State Courts (District, Superior, Land Courts)
- \_\_\_\_\_ Trials before Federal District Courts
- \_\_\_\_\_ Appeals before Massachusetts Appeals Court
- \_\_\_\_\_ Appeals before Massachusetts Supreme Judicial Court
- \_\_\_\_\_ Administrative Proceedings before Massachusetts Civil Service Commission
- \_\_\_\_\_ Arbitration Proceedings
- \_\_\_\_\_ Mediation Proceedings
- \_\_\_\_\_ Administrative Proceedings before Massachusetts Appellate Tax Board
- \_\_\_\_\_ Administrative Proceedings before Massachusetts Department of Environmental Protection
- \_\_\_\_\_ Administrative Proceedings before the ABCC
- \_\_\_\_\_ Administrative Proceedings before the Housing Appeals Committee
- \_\_\_\_\_ Administrative Proceedings before Division of Administrative law Appeals

**CERTIFICATE OF TAXES/TAX ATTESTATION**

Pursuant to M.G.L. Chapter 62C, Section 49A, I certify under penalties of perjury that \_\_\_\_\_, has/have complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

\_\_\_\_\_  
Social Security Number, or  
Federal Identification Number

\_\_\_\_\_  
Signature of Individual, or  
Corporation Name

By: \_\_\_\_\_  
Corporate Officer & Title (if applicable)

**AFFIX CORPORATE SEAL**

**CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under penalties of perjury that this bid, or proposal, has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

\_\_\_\_\_  
Signature of Individual, or  
Corporation Name

By: \_\_\_\_\_  
Corporate Officer & Title (if applicable)

**AFFIX CORPORATE SEAL**