

OFFICE OF THE TOWN ATTORNEY  
TOWN OF OYSTER BAY  
NASSAU COUNTY, NEW YORK

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REQUEST FOR PROPOSALS  
FOR  
SPECIAL COUNSEL SERVICES

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NOTES:

1. ISSUANCE DATE: July 11, 2018
  2. THIS RESPONSE IS DUE BY: July 25, 2018  
[Consideration will only be given to responses received at or before 12:00 p.m. EDT]
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PROJECT NAME: **SPECIAL COUNSEL TO THE TOWN ATTORNEY  
LITIGATION**

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REQUEST FOR PROPOSALS

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## AUTHORIZED CONTACT PERSON

Prospective firms are advised that the authorized Town of Oyster Bay contact person for all matters concerning this Request for Proposals (the “Request” or “RFP”) is:

Joseph Nocella, Town Attorney  
54 Audrey Avenue  
Oyster Bay, NY 11771  
Telephone: (516) 624-6150 – Fax: (516) 624-6196  
Email: jnocella@oysterbay-ny.gov

## INTRODUCTION

In accordance with the General Municipal Law §104-b and the Town of Oyster Bay’s qualification based procurement policy, the Office of the Town Attorney of the Town of Oyster Bay (the “Town”) is seeking proposals from qualified individuals or law firms interested in serving as special counsel with respect to providing counsel on matters of insurance coverage litigation.

Counsel must be admitted to the New York State courts.

The scope of the anticipated services and experience and knowledge required are more fully described below.

## FORM OF RESPONSE

Firms must submit three (3) copies of their firm’s resume, individual attorneys’ credentials, representative case work, and a proposed fee schedule.

Firms should conduct a conflicts check prior to submitting a response to this Request. Kindly indicate the result of such check in your response.

## QUALIFICATION BASED SELECTION PROCESS

The Town, after receipt and review of responses to this RFP, reserves the right to reject all responses based upon the information provided by the firm(s) in their response(s) and based upon subsequent negotiations between the Town and the firm(s). The review process of the responses submitted is based on the qualifications of the firm for the nature of the services.

## CRITERIA FOR EVALUATION

It is expressly acknowledged that the quality of the services to be rendered is of paramount importance to the Town. However, it is further expressly acknowledged that the cost of the services to be rendered is a substantial concern because the Town seeks effective representation at reasonable rates.

Following its review of each response, the Town will notify the responding firms of their standing. The top ranked firm will be invited to submit an engagement letter, which will be subject to negotiation. If a satisfactory agreement cannot be negotiated with such firm at a fee determined by the Town to be fair and reasonable, then negotiations with such firm will be terminated and negotiations will continue with other suitably ranked firm(s). Please note that the Town does not make retainer payments in advance of services rendered.

## USE OF SUB-CONSULTANTS AND OTHER SUBORDINATE ENTITIES

Prospective firms are advised that the Town will entertain responses that include the use of sub-consultants and/or other subordinate entities, i.e. experts. In such event, the responses must clearly state the extent and nature of the work proposed to be delegated to the other entity and the cost reasonably estimated to be passed on to the Town in connection with the service.

## FAMILIARIZATION WITH CURRENT PROGRAMS, FACILITIES AND DOCUMENTS

It is the sole responsibility of the prospective firms to familiarize themselves with the Town's current programs, facilities, documents and any other information which is necessary and relevant to the scope of this RFP. Upon sufficient and reasonable advance notice to the contact person named above, arrangements may be made to visit and inspect any involved Town facilities and/or to view applicable documents.

Any and all costs borne by the prospective proposer in familiarizing themselves with the above are to be borne solely by the prospective proposer. In the event that the prospective proposer is ultimately awarded a retainer pursuant to this RFP, the Town will not allow any claims for payment which include billable time for such familiarization and travel costs, regardless of whether they were incurred prior to or following the submission of the proposer's response.

## PAYMENTS AND CLAIMS

Payment for services rendered is made on a monthly basis, following submission of an invoice and Town claim form, which is subject to review and audit by Town personnel. Billing shall be computed on one-tenth of an hour basis, and invoices must clearly reflect the staff assigned to this project, the number of hours or portion thereof spent on this project, the hourly rate of each staff member, and a description of the services rendered by each staff member.

**Note: The Town makes no representation of the actual value of the work. Further, as part of the award process, a maximum dollar amount may be determined and may be incorporated into the agreement that is awarded pursuant to this Request for Proposals. The Town further states that it also makes no representation that actual services required will be for the full maximum dollar amount incorporated into the agreement.**

**Kindly note that consideration will only be given to the responses received in this office on or before 12:00 p.m. EDT on July 25, 2018.**

## SCOPE OF SERVICES

The Town seeks qualified legal counsel to provide legal services relating to a *pro se* action commenced against the Town and several of its current and former officials and employees arising out of a Town Code enforcement matter. The *pro se* plaintiff alleges two causes of action: 1) for an alleged breach of contract and 2) for malicious prosecution.

By way of background, plaintiff was charged and convicted – following trial – of violations of several Town ordinances relating to, among other things, the maintenance and repair of his home. Plaintiff took an appeal to the Appellate Term, which heard arguments on the matter in June, 2018. As of the issuance date of this RFP, no decision has been rendered by the Appellate Term in connection with that appeal. Notwithstanding his conviction, the *pro se* plaintiff commenced the instant action, alleging malicious prosecution as to certain other counts that were dismissed by a trial order of dismissal.

This Office timely answered the *pro se* complaint, copies of which are available upon request. Following joinder of issue, however, certain conflicts of interest arose that prevent this Office from taking further action in furtherance of the defense against the *pro se* action. Consequently, this RFP seeks counsel to separately represent 1) the Town and 2) the individual defendants. **Prospective counsel must indicate in their response whether their response is submitted for consideration as to the Town's representation, the individual defendants' representation, or both. Under no circumstances, however, will a firm be chosen to represent both the Town and the individual defendants.**

## EXPERIENCE AND SPECIAL KNOWLEDGE REQUIRED

- Civil defense;
- Defense of municipal officers and employees;

- Municipal policies and practices relative to ordinance enforcement and prosecution;
- Malicious prosecution actions; and
- Breach of contract actions in the context of municipal law.

### QUESTIONS

Should you have any questions regarding this RFP, the nature of the services sought hereunder, or any other matter concerning this RFP, such questions may be directed by e-mail only to the Authorized Contact Person noted above, with an electronic carbon copy to Matthew M. Rozea, Esq. (mrozea@oysterbay-ny.gov) and Jeffrey A. Lesser, Esq. (jlesser@oysterbay-ny.gov).