

REQUEST FOR INFORMATION
For
TOWN COUNSEL SERVICES TOWN
OF NATICK
13 WEST CENTRAL STREET
NATICK, MA 07160

I. Objective and Summary Process

The Town of Natick seeks to appoint a highly qualified attorney or law firm as Town Counsel effective on July 1, 2020. The Town of Natick's selection process occurs in two steps. The first step consists of a Town Counsel Screening Committee ("Screening Committee") conducting a search and preliminary evaluation of prospective candidates. The Screening Committee nominates and recommends candidates for consideration by the Select Board of Natick. The second step consists of the Select Board appointing Town Counsel from the list of nominated and recommended candidates. This Request for Information is being issued by the Screening Committee in connection with its work in the first step of considering candidates to nominate for the Select Board's consideration. Upon nomination and recommendation by the Screening Committee, it is anticipated that the Select board will interview candidates and may ask for further information and a formal proposal as part of the second and final step in the process of selection.

The successful appointee should meet or exceed the qualifications stated herein and, in general, should 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 Natick is located in Middlesex County, 16 miles west of Boston and has a population of approximately 36,000 residents. The town is predominantly residential with some significant commercial areas. Commercial areas are primarily located along Route 9, on Routes 27 and 135 and downtown Natick. The Town approved a budget of approximately \$166 million for Fiscal Year 2020 and maintains an AAA credit rating.

The Town operates under a Home Rule Charter with a five-member Select Board, Town Administrator, and a Representative Town Meeting. The Select Board heads the executive branch, which branch, is responsible for administration of the government and administrative policy. The Legislative Branch consists of a 180 member representative Town Meeting. The Representative Town Meeting is responsible for appropriating funds and other legislative matters. Elected officials and boards include the Town Clerk, Town Moderator, Board of Assessors, Planning Board, Board of Health and others. The Town has several appointed

boards, including but not limited to the Zoning Board of Appeals, Conservation Commission, and Council on Aging. (Note: The name Board of Selectmen was changed in both the charter and the bylaws to Select Board at Fall 2019 Town Meeting. The charter change is pending voter approval in March 2020. The bylaw change is awaiting approval by the Attorney General.)

The appointment of Town Counsel is made annually by the Select Board under the provisions of Article 3 Section 2 c Appointment Powers of the Town Charter and Article 22 of the Town ByLaws. A copy of these respective sections is attached in an appendix. The Charter provides for the appointment of a Town Counsel. The Town ByLaws require that Town Counsel be an independent contractor and allow that Town Counsel may be an individual or a firm. A complete copy of the Town's Charter and Bylaws can be found at:

<https://www.natickma.gov/681/Town-Charter-Bylaws>

Town Counsel is the primary legal advisor and lawyer for the Town. The ByLaws also allow the Selectmen Board to appoint Special Counsel from time to time. However, this Request for Information pertains to the office of Town Counsel. The office of Town Counsel serves as the primary legal advisor for the general government (i.e. non School Department) of Natick. Spending on legal fees for the general government of the Town of Natick has ranged from \$300,000 to \$500,000 in recent years. The School Committee separately engages its own legal counsel for the Natick Public School Department and can select a different law firm than Town Counsel. Historically and in recent years, the School Committee has used Town Counsel for some of its legal needs. Legal services for the Natick Public Schools are **not** part of this RFI. Spending on legal fees by the Natick Public Schools has ranged from \$150,000 to \$300,000 in recent years.

III. Role of the Town Counsel Screening Committee

The ByLaws provide for the appointment of a screening committee. The Screening Committee is comprised of five residents of the Town of Natick three of whom are members of the Massachusetts Bar. The Screening Committee is responsible for nominating and recommending candidates, which the Screening Committee believes are qualified to serve as Town Counsel, to the Select Board. The Select Board appoints Town Counsel from the list of recommended candidates.

The Screening Committee has prepared and issued this Request for Information to assist the Screening Committee in evaluating and interviewing potential candidates for consideration to be nominated and recommended to the Select Board to be considered as Natick's Town Counsel.

IV. Town Counsel Services

The Town seeks proposals from qualified legal firms to serve as Town Counsel. Qualified firms will have substantial experience and expertise in general municipal law. Particular areas of emphasis include: municipal finance; bylaws and regulations, collective bargaining, labor, employment and benefits, Open Meeting, Public Record, and Conflict of Interest laws, zoning and land use issues, real estate, Town Meeting, public procurement, elections law and procedures, licensing, and representation of the Town in all courts. A list of topic areas of legal expertise typically needed by the Town is presented in an Appendices.

Town Counsel serves as the legal advisor to the Town. In addition to those duties and responsibilities as set forth in the General Laws of the Commonwealth and the By-Laws, Town Counsel render all legal services that are reasonably required either by the vote of the Town or a majority of the Select Board or by the Town Administrator. All other requests for the services of Town Counsel, whenever time permits, are submitted to Town Counsel through the Office of the Town Administrator.

Notwithstanding this provision, the Town's Bylaws also provide that several town offices and town agencies have the right to request advice from Town Counsel concerning their duties. These include members of the Board of Selectmen, Town Clerk, Superintendent of Schools, Building Commissioner, Director of Public Works, Director of Public Health, Town Moderator, Comptroller, Town Treasurer/Collector, Director of Recreation and Parks, Chief of Police, Fire Chief, Community Development Director, and Chairman of the following Boards or Committees acting with the authority of a majority of their members: Board of Assessors, Board of Appeals, Planning Board, School Committee, Finance Committee, Board of Health, Conservation Commission, Retirement Board, Personnel Board and Recreation and Parks Commission. All other Boards or Committees and other Town Officials desiring to obtain legal advice must first obtain the prior consent of the Town Administrator or Board of Selectmen unless there has been a further vote of Town Meeting.

The Town expects Town Counsel attendance at the following: All sessions of Special and Annual Town Meetings (Annual Town Meeting starts on the 2nd Tuesday in April and again on the 3rd Tuesday in October); the motions meeting, which generally occurs a couple of weeks before a Town Meeting; and occasionally at Select Board meetings. The Select Board meets every other week on Monday evenings except holidays throughout the year. The Select Board meets on Tuesday's following Monday holidays. Information on the warrants, minutes and number of Town Meetings and the record of each Town Meeting from 2010 through 2019 can be found at <https://www.natickma.gov/375/Town-Meeting-Information> on the Town of Natick website.

IV. Request for Information

Summary

The Town is committed to obtaining competent and experienced legal advice and to containing legal costs and wishes to understand the basis on which the responding firms charge fees and expenses. The responses to this Request for Information should be submitted in one document as organized below. Section A should consist of the a detailed statement of the qualifications and experience of the respondent to meet the legal services needs of the Town of Natick as summarized in this Request for Information including the Appendices. Section K should discuss the respondent's approach(es) to billing for legal services. This approach is not a contractual commitment but is intended to serve as a guide in understanding the respondent's approach or potential approaches to legal fees. The discussion of potential legal fees can be responded to generally in one of several manners. Respondents should indicate what services would be provided for:

1. A flat monthly fee or annual retainer with no additional charges or fees.
2. Hourly Rates
3. Provide an hourly fee or rate schedule/range for all matters, including trial work and specialty counsel for issues other than those listed above.

As an alternative, provide an hourly schedule of all fees for all Town Counsel work including estimates of hours necessary to provide the above-mentioned services and any expenses that are charged above hourly fees. Please state the hourly fees and any anticipated expenses for specialty legal work outside of the mentioned services.

Detailed Elements of the Response to this Request for Information

The response to the request for proposals should include the following:

- A. A statement of your ability to provide the legal advice and services typically required by the Town of Natick indicating familiarity and expertise with specific areas.
- B. Names, resumes, and legal specialties, if any, of all attorneys who will be providing counsel to the Town of Natick.
- C. Name and resume of the individual attorney who would serve as the primary contact and provider of legal services. If the person will not be the attorney anticipated to attend and to advise Town Meeting and the Select Board, please identify such attorney.
- D. An affirmative statement of your capacity and interest to serve as Natick's Town Counsel
- E. A list of all Massachusetts municipalities to which the firm currently provides legal counsel services indicating towns or cities served as primary legal counsel.
- F. A summary of legal services provided to the Town of Natick from July 1, 2015 to present. Please note any confidential matters should be identified only generally for example "Employment Matter – Confidential"

- G. A list of all municipalities to which the firm previously provided counsel or solicitor service, but which are no longer clients of the firm.
- H. A list of significant Massachusetts municipal cases litigated by the firm and the outcome of the case.
- I. An up to date list of municipal references, with contact names and numbers that can be contacted regarding the legal services the firm provides.
- J. Any other information you believe is relevant to the Screening Committee as part of the decision making process.
- K. Approach to Legal Fees
- L. Self Rating of Primary Lawyer(s) who would serve in the lead or primary role as Natick's Town Counsel Using the Categories and Scale in Appendix III
- M. Self Rating of Respondent's Law Firm Using the Categories and Scale in Appendix III
- N. A discussion of potential issues or topic areas for which the respondent has highly developed expertise or recognized specialization and how such expertise was acquired.
- O. A discussion of potential issues or topic areas for which the respondent might not have specific expertise and how such expertise might be obtained or provided either by subcontracting, hiring of special counsel by the town or otherwise.
- P. A discussion of potential issues or topic areas for which the respondent believes they have highly developed expertise or recognized specialization.
- Q. Place responses in a sealed envelope clearly marked "Town Counsel Response to Request for Information". Responses are due by 11:00AM on Friday, March 20, 2020, c/o the Town Clerk's Office, 13 West Central Street, Natick, MA 01760.
- R. Responses should be addressed to:

Town Counsel Screening Committee
c/o Town Clerk's Office
13 East Central Street
Natick, MA 01760
1-508-647-6430
NatickTCSC@gmail.com

Please provide eight (8) hard copies of the response and all associated documentation on 8 ½ by 11 papers, along with one digital copy in Adobe pdf format at the email address above. The Screening Committee intends to open all responses at its first meeting following March 20, 2020.

V. Nomination and Recommendation by the Screening Committee; Selection by the Select Board

Process

In seeking Town Counsel services, the Town of Natick is not bound by M.G.L. c.30B or by any other constraints apart from sound judgment. This process is being used to communicate the desired qualifications of Town Counsel and to solicit information in an orderly fashion for comparative purposes. Respondents should not contact individual

members of the Screening Committee. The Screening Committee will review responses to this RFI and contact lawyers and/or law firms that the Screening Committee decides to interview or proceed with further.

A Screening Committee will evaluate proposals, conduct preliminary interviews if necessary, and likely recommend at least three (3) candidates for consideration by the Select Board. The recommended candidates will likely interview with the Select Board during an open televised meeting. The Select Board will select the candidate or candidate team deemed to be in the best interests of the Town, in the sole discretion of the Select Board. The Select Board may or may not conduct a Request for Proposal (RFP) or further RFI process at its discretion.

Disclaimer

The Screening Committee has prepared this RFI in good faith to, among other matters, give potential respondents background information on the Town. The Screening Committee/the Town does not give any warranty, or make any representations, express or implied, as to the truth, completeness or accuracy of the information contained in this RFI or any information, which may be provided in connection with it. The Screening Committee/the Town expressly disclaims any and all liability relating to or resulting from the use of such information by a respondent or any third party in the preparation of a response.

Consequently, the Screening Committee, the Select Board and Town of Natick reserve the right to waive any irregularities in the RFI process or any potential RFP process and to accept or reject any or all responses or proposals, or to cancel these processes. The Town anticipates that the process will conclude by May 30, 2020. The Select Board appoints Town Counsel.

Schedule

Below are the tentative projected dates for this RFI process. The Town reserves the right to modify this schedule as it determines convenient:

February 14, 2020	Request for Information issued
March 20, 2020	Responses due by 11:00AM
March 21 - 26, 2020	Screening Committee interviews
April 7, 2020	Screening Committee nominations to Select Board
April 13, 2020	Select Board process begins
April 14, 2020	Representative Town Meeting begins

The dates noted above are projected dates; all dates subject to change. The Screening Committee would like to thank you in advance for your time and looks forward to your response.

Sincerely,
Town Counsel Screening Committee:
Paul Griesmer, Chairperson
James Connolly
William Proia, Esq.

Leah Phillips Falzone Esq.
John Wadsworth Esq.

Cc: Town of Natick Select Board

Appendices:

I. Article 3 Section 2; Town of Natick Home Rule Charter

II. Article 22 of Town of Natick ByLaws

III. List of Legal Services and Legal Areas

Typically Required by Town of Natick

**APPENDIX I:
TOWN OF NATICK HOME RULE CHARTER
ARTICLE 3 SECTION 2**

Board of Selectmen

- (a) **Composition, Term of Office** - There shall be a board of selectmen consisting of five members elected for terms of three years each, so arranged that the terms of as nearly an equal number of members as is possible shall expire each year.
- (b) **Powers and Duties** - The executive powers of the town shall be vested in the board of selectmen which shall be deemed to be the chief executive office in the town. The board of selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise. The board of selectmen shall serve as the chief policy making agency of the town. It shall be responsible for the issuance of policy directives and guidelines to be followed by all town agencies serving under it and, in conjunction with other elected town officers, to develop and to promulgate policy guidelines designed to bring all agencies of the town into harmony. Provided, however, nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of them, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines which are to be implemented by officers and employees appointed by or under its authority.

The board of selectmen shall cause a record of all its official acts to be kept. To aid it to perform its duties, the board of selectmen shall appoint a town administrator as provided in Article 4.

- (c) **Appointment Powers**- Subject to the provisions of Article 6, the Board of Selectmen shall appoint a town administrator for a term of not less than three nor more than five years; a town comptroller for a term of three years; three registrars of voters for terms of three years each, so arranged that one such term of office shall expire each year; a board of appeals to consist of five members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year, and three associate members appointed for terms of three years each, so arranged that one such term of office shall expire each year; a conservation commission to consist of seven members appointed for terms of three years each, so arranged that as nearly an equal number of such terms as is possible shall expire each year; a town counsel for a term of one year; a director of veterans' services; a police chief; and a fire chief.

APPENDIX II
TOWN OF NATICK BYLAWS
ARTICLE 22 TOWN COUNSEL

Section 1 Office and Qualifications

The Town shall have a Town Counsel who shall be an individual attorney or group, association, firm, partnership or professional corporation of attorneys admitted to practice in the Commonwealth. Town Counsel need not be a resident of the Town or maintain a law office in the Town.

Section 2 Relationship

Town Counsel shall be an independent contractor and shall not be an employee of the Town.

Section 3 Appointment and Term

Town Counsel shall be appointed by a majority of the Board of Selectmen for a term not to exceed one year expiring in each case, on June 30th. Town Counsel shall, in any case, serve at the pleasure of the Board of Selectmen and all contracts shall so state.

Section 4 Screening Committee

In the event of a vacancy in the Office of Town Counsel, the Selectmen shall, from time to time, establish a Town Counsel Screening Committee consisting of five members, who are residents of the Town, with at least three being members of the Massachusetts Bar and preferably senior attorneys who hire or supervise other attorneys' work. Said Committee will be responsible for nominating candidates who are members in good standing of the Massachusetts Bar for the position of Town Counsel. The Selectmen shall, on or before the first day of July, or whenever a vacancy shall exist, appoint a candidate from among those recommended as qualified by said Committee to serve as Town Counsel. The Selectmen shall have the right to request additional candidates from said Committee.

Section 5 Duties and Request for Services

- a. Town Counsel shall serve as the legal advisor to the Town. In addition to those duties and responsibilities as set forth in the General Laws of the Commonwealth and these By-Laws, all as may be amended from time to time, the Town Counsel shall render all legal services as may be reasonably required of him by the vote of the Town or majority of the Board of Selectmen or by the Town Administrator.
- b. All other requests for the services of Town Counsel shall, whenever time permits, be submitted to Town Counsel through the Office of the Town Administrator.
- c. The following shall have the right to request of Town Counsel advice concerning their duties: members of the Board of Selectmen, Town Clerk, Superintendent of Schools,

Building Commissioner, Director of Public Works, Director of Public Health, Town Moderator, Comptroller, Town Treasurer/Collector, Director of Recreation and Parks, Chief of Police, Fire Chief, Community Development Director, and Chairman of the following Boards or Committees acting with the authority of a majority of their members: Board of Assessors, Board of Appeals, Planning Board, School Committee, Finance Committee, Board of Health, Conservation Commission, Retirement Board, Personnel Board and Recreation and Parks Commission.

- d. That all other Boards or Committees and other Town Officials desiring to obtain legal advice must first obtain the prior consent of the Town Administrator or Board of Selectmen.

All requests for advice under Section b and c of this Article shall be made in good faith and be of sufficient legal implication to the Town.

Section 6 Authority to Settle

The Town Counsel shall not make final settlement of any claim to which the Town or any Town Agency is a party unless he has been duly authorized by vote of the Town Meeting or by the majority vote of the Selectmen, unless otherwise provided by law.

Section 7 Authority to Prosecute

The Town Counsel shall, if requested by the Selectmen, prosecute in the appropriate court, any cases of violation of the Statutes of the Commonwealth or the Charter or By-Laws of the Town.

Section 8 Special and Interim Counsel

Unless expressly authorized by statute, a vote of Town Meeting, or vote of the Selectmen, no Board, Officer or Official of the Town shall engage, for remuneration to be paid by the Town, any attorney, other than Town Counsel, with regard to its or his official duties, or any Town business, or the business of any of the Departments thereof. The Selectmen may, whenever they deem necessary, employ special and/or interim counsel to assist or act in place of Town Counsel. Said special counsel need not be a resident of the Town.

APPENDIX III

Town Counsel – Potential Topic Areas of Required Legal Expertise

1. Municipal Powers & Duties	1	2	3
Town Government			
Town Meeting			
Boards/Committees			
Town Officers			
2. Representative Town Meeting	1	2	3
Review of Town Meeting Warrant			
Review of Motions			
Consultations with Moderator			
3. Municipal Finance Laws and Regulations	1	2	3
Appropriations			
Borrowing			
Investments			
Revolving Funds			
Enterprise Funds			
Restricted Funds			
4. Assessment and Taxation.....	1	2	3
Exemptions			
Abatements			
Appeals/ ATB			
Betterments			
Tax Title/Foreclosure			
Chapter Lands (MGL Ch. 61, 61A, 61B)			
5. Zoning and Land Use.....	1	2	3
Zoning ByLaw Changes			
Special Permits			
Variances			
Section 6 Findings			
Conservation & Wetlands			
Subdivision Control			
Building Commissioner/Permits/Denials			
Dover, Solar and Cell Tower Matters			
6. Chapter 40 B – Affordable Housing	1	2	3

Town Counsel – Potential Topic Areas of Required Legal Expertise - continued

7. Environmental Law and Regulation.....	1	2	3
Federal			
State			
Permitting			
Hazardous Waste			
8. Licensing.....	1	2	3
Alcohol			
Common Victualer			
Dog			
Entertainment			
Auto Dealers			
Fuel Storage			
Taxis			
9. Licensing – Marijuana.....	1	2	3
10. Public Records.....,	1	2	3
Retention Requirements			
Requests			
11. Open Meeting Law	1	2	3
12. Ethics and Conflict of Interest Law	1	2	3
13. Labor and Employment	1	2	3
14. Contracts and Procurement including contract review	1	2	3
15. Town Meeting, Charter, ByLaws & Special Legislation.....	1	2	3
16. Elections	1	2	3
17. Real Property	1	2	3
Eminent Domain			
Acquisition/Disposition/Lease			
Restrictions			
Gifts			

18. Public Ways	1	2	3
19. Police and Public Safety Matters	1	2	3
20. Commissioners Roles and Responsibilities.....	1	2	3
Parks			
Water & Sewer			
Roads			
21. Litigation - Various.....	1	2	3

Self-Rating Scale:

- 1) Limited experience in this area.**
- 2) Demonstrated Competency; Solid Mastery and Capability**
- 3) Highly Developed Expertise; Recognized Specialization**