

Request for Proposal

RFP No. PLN-2017-001



October 16th, 2017

Land Use Planning Services: Review of the County Official Plan for Compliance with Provincial Changes

Deadline for Receipt of Proposals: November 9th, 2017 by 2:00 p.m.

Proposals are to be addressed to Durk Vanderwerff and submitted either to the receptionist at the County Building, 399 Ridout Street North, London, ON N6A 2P1 or by e-mail to Durk Vanderwerff (dvanderwerff@middlesex.ca).

1) BACKGROUND AND INTENT OF THIS RFP

The Corporation of the County of Middlesex (the “County”) is seeking proposals from qualified professional land use planning firms to undertake Land Use Planning Services for the following Project: Review of the County Official Plan for Compliance with Provincial Changes.

Since the County Official Plan was last updated in July 2006 the Province of Ontario has undertaken a number of changes to the land use planning policy framework. The Project will entail a review of the County of Middlesex Official Plan (“Official Plan”) against the relevant planning policy changes undertaken by the Province to determine any revisions necessary to the Official Plan.

The Project relates to work to be completed in support of a future amendment to the Official Plan but does not include the statutory official plan amendment process. It is noted that this Project does not include the City of London or the First Nations Communities that are geographically within the County but that are politically separate.

2) MANDATORY AND RATED REQUIREMENTS OF THIS RFP

a) Mandatory Requirements (M)

Proposals **must (M)** at minimum, provide the following:

1. A summary of how the consultant would provide Land Use Planning Services which includes:
 - i. The examination of the following Provincial Changes:
 - a) 2006 Planning and Conservation Land Statute Law Amendment Act (Bill 51),
 - b) 2009 Green Energy and Green Economy Act (Bill 150),
 - c) 2011 Strong Communities through Affordable Housing Act (Bill 140),
 - d) 2014 Provincial Policy Statement,
 - e) 2015 Smart Growth for Our Communities Act (Bill 73),
 - f) 2016 Promoting Affordable Housing Act (Bill 7),
 - g) 2016 Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas,
 - h) 2017 Minimum Distance Separation (MDS) Document,
 - i) 2017 Aggregate Resources and Mining Modernization Act (Bill 39), and
 - j) others to be identified in the proposal.
 - ii. In addition, although not a Provincial document, the Project should address the 2013 ‘Guidelines for New Development in Proximity to Railway Operations’ prepared for the Federation of Canadian Municipalities and the Railway Association of Canada.
 - iii. This Project does not include the topic of Drinking Source Water Protection planning which has already been addressed in another Project.

- iv. The 2014 Provincial Policy Statement requires that Natural Heritage Systems be identified. To this end, the County has undertaken the 2014 Middlesex Natural Heritage Systems Study (MNHSS) (www.middlesex.ca/departments/planning/forestry-natural-heritage/natural-heritage-planning) that identifies the Natural Heritage System for Middlesex and that will inform the consultant's work and any proposed changes to the County Official Plan.
- v. The preparation of a background report that addresses the Provincial Changes and at a minimum includes sufficient information to stand alone on the issues, reviews existing policies, looks at other comparable municipal best practices where appropriate, and reviews policy options.
- vi. Although the background report is in support of an amendment to the County Official Plan, it should have sufficient detail and analysis to inform future consideration of the issues related to local municipal official plans within Middlesex County.
- vii. A 'change-tracking' version of the Official Plan showing the recommended edits in the form of deletions and additions.
- viii. Consultation with the Ministry of Municipal Affairs and possibly with other Ministries as necessary.
- ix. Presenting findings to County Council.
- x. It is noted that this Project does not include the statutory process of including the changes into the Official Plan. Any official plan amendment will be considered subsequent to the completion of this Project.
- xi. It is noted that the County utilizes Geographic Information Systems based upon the ESRI platform. Any mapping for this Project must meet those standards. Further, the County has GIS technicians that will work collaboratively with the chosen consultant to incorporate the required mapping into the County's GIS.
- xii. It is noted that the Official Plan has been an effective document to-date, so the approach to be taken to this Project is to minimize changes undertaken while meeting the County's legislative requirements.
- xiii. It is noted that the Official Plan establishes an upper tier policy framework that provides guidance to the local municipal planning documents and does not address in any great detail those planning matters which can better be dealt with by local municipalities. The recommended edits to the Official Plan must be commensurate with this approach to land use planning undertaken within Middlesex County.
- xiv. It is anticipated that the Project Deliverables will be complete by February 28th 2018.
- xv. In addition to all of the above, also, for the qualified consultant to include in the proposal any additional details which, in their professional opinion, are necessary.

b) Pricing Model (M)(R)

Proposals must (M) at minimum, provide the following:

1. an hourly rate quotation with a total *Upset Limit* (inclusive of all taxes) in which the consultant pledges to adhere to in order to provide the Land Use Planning Services for the Project.
2. an hourly rate quotation in which the consultant pledges to adhere to in order to provide any and all *Future Additional Work*, as defined herein, on the Project should the County in its sole discretion request such *Future Additional Work* to be completed by the consultant.
3. interim invoice(s) not to exceed 75% of the total Project and final invoice(s) at the completion of the Project Deliverables.

c) Experience and Qualifications (M)(R)

Respondents must provide three (3) references that the County may contact. Respondents should provide a description of their current and past experience in providing similar Land Use Planning Services for other clients. As well, please provide three (3) examples of current work that you are particularly proud of.

d) Implementation Plan and Timeframe (M)(R)

Respondents must include an Implementation Plan that includes;

- 1) How the Proponent would intend to meet with County Staff to refine project deliverables;
- 2) A Timeline for submission of draft work, meetings with County Staff, stakeholder consultation, submission of final work, and presenting findings to County Council,
- 3) Timelines including any milestones with a February 28th, 2018 project completion date.
- 4) How the Proponent would plan to meet with County Staff with respect to potential *Future Additional Work*.

e) RFP Response Form (Acknowledgement) (M)

An original or scanned copy of an originally endorsed RFP Response Form must be provided to Durk Vanderwerff (dvanderwerff@middlesex.ca) by the deadline for receipt of proposals (November 9th, 2017 2:00 p.m.) for the proposal to meet the Mandatory requirements of this RFP. In the event a scanned copy is provided by the deadline, an original may follow and be received by the County following the close of the RFP without the proposal being deemed non-compliant.

f) Strength of Mandatory Requirements (R)

How strongly, creatively, and the ease at which the characteristics of the mandatory requirements meet the specific characteristics of the mandatory features (above) and meet the County's intention and needs stated in this RFP will be rated (R) pursuant to the Rated Requirements Best Value Evaluation Criteria set out this RFP.

3) SUMMARY OF DOCUMENTS AVAILABLE TO PROPONENTS

The following is intended to highlight the key documents that are applicable to the project.

- County of Middlesex Official Plan (www.middlesex.ca/departments/planning/county-official-plan)
- Ontario Planning Act, RSO 1990
- 2006 Planning and Conservation Land Statute Law Amendment Act (Bill 51),
- 2009 Green Energy and Green Economy Act (Bill 150),
- 2011 Strong Communities through Affordable Housing Act (Bill 140),
- 2014 Provincial Policy Statement,
- 2015 Smart Growth for Our Communities Act (Bill 73),
- 2016 Promoting Affordable Housing Act (Bill 7),
- 2016 Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas,
- 2017 Minimum Distance Separation (MDS) Document,
- 2017 Aggregate Resources and Mining Modernization Act (Bill 39), and
- others to be identified in the proposal.

4) EVALUATION METHODOLOGY

a) Examination for Compliance with Mandatory (M) Requirements

Proposals will first be examined for compliance with the mandatory requirements of this RFP. If a mandatory requirement is not provided in a proposal, that proposal will be considered non-compliant with this RFP and will be unable to be evaluated/scored under the Rated Requirements Best Value Evaluation Criteria unless the doctrine of substantial compliance (as defined in this RFP) is deemed to apply by the County in its sole and absolute discretion.

b) Rated (R) Requirements Evaluation Criteria

The rated requirements of compliant proposals will be evaluated under the Rated Requirements Evaluation Criteria provided in the table below. The Rated Requirements Evaluation Criteria rates how strongly and the ease at which the characteristics of the mandatory requirements provided in proposals meet the County's needs based on a "best overall value" rated formula.

The proposal which includes the lowest cost or any proposal at all will not necessarily be accepted by the County. The basis for selection of a potential proposal for negotiations with the County will be the proposal that provides the best overall value as determined by the exercise of the Rated Requirements Best Value Evaluation Criteria. In the event a proposal is selected by County Administrative Staff, the award is a recommendation for the proponent to be able to negotiate a potential contract with County Council.

The County reserves the right to accept or reject any and or all proposals and/or to cancel this RFP in its entirety for final cancellation or potential reissue either in advance of or following the receipt of proposals without providing reasons should such be determined by the County in its

sole and absolute discretion to be in its best interest. Should only one proposal be received, the County reserves the right to reject it.

ITEM	RATED REQUIREMENTS EVALUATION CRITERIA (BEST VALUE)	EVALUATION WEIGHING
1.	Strength of Mandatory Requirements	25%
2.	Demonstrated understanding of project and professionalism of proposal	20%
3.	Pricing Model	20%
4.	Experience and Qualifications	15%
5.	Implementation Plan and Timeframe	10%
6.	Overall Thoroughness/Professionalism of Proposal	10%
TOTAL		100%

5) SUBMISSION OF PROPOSALS AND TIMELINE OF RFP EVENTS

a) Submission of Proposals

Please ensure that your proposal:

- includes the name and contact particulars of the Proponent
- includes name, contact information, experience and qualifications of all team members who would work on this project
- is addressed to Durk Vanderwerff and submitted either to the receptionist at the County Building, 399 Ridout Street North, London, ON N6A 2P1 or by e-mail to Durk Vanderwerff (dvanderwerff@middlesex.ca) by the submission deadline.
- provide for and addresses all mandatory (M) and rated (R) requirements of this RFP
- includes an original or scanned copy of an originally endorsed RFP Response Form (attached), an original may follow and be received by the County following the close of the RFP without the proposal being deemed non-compliant with the RFP.

b) Timeline of RFP Events

Event	Date
Posting of RFP on the County website (www.middlesex.ca)	October 16 th , 2017
Final date for submission of clarification questions (by 12:00pm)	October 27 th , 2017
Posting of answers to clarification questions on County website (www.middlesex.ca) ONLY	October 31 st , 2017
Deadline for receipt of proposals (by 2:00pm)	November 9 th , 2017
Evaluation of proposals, Discovery Phase, Potential Award of Contract and Start of Implementation	November 28 th , 2017
Completion Date for Project Deliverables	February 28 th , 2018

6) GENERAL CONDITIONS OF THIS RFP

a) General Conditions

Every Mandatory Requirement and other right reserved in this RFP by the County, regardless of whether or not it is expressed to be a condition, shall be deemed to be a condition to this RFP.

b) Independent Contractor Status of Proponent; Declaration of Potential Conflicts

The Proponent acknowledges that in providing a proposal, it provides such as an independent contractor and for the sole purpose of potentially providing professional Land Use Planning Services. Neither the Proponent nor any of its personnel is engaged as an employee, servant or agent of the County. Any potential conflicts of interest in which a Proponent may have with the County or any employee of the County will be identified and described in detail in the proposal of each proponent.

c) Indemnity and Insurance Acknowledgement

The County expects the Proponent to stand behind its/his/her designs. The Proponent in submitting a proposal hereby acknowledges that in the event it/he/she were to enter into a contract with the County, it would be required to:

- i) Be fully responsible for its/his/her designs;
- ii) release, indemnify and hold completely harmless the County from any and all liability, including legal costs, which attributable to negligence associated with the Proponents' designs (as differentiated from the negligence of Construction Companies and their sub-contractors and/or specific County negligence, which would be excepted from the design release and indemnity)
- iii) carry a Commercial General Liability Insurance policy on an occurrence basis in an amount and with appropriate policy coverage as determined to be appropriate by the County; and
- iv) carry Errors and Omissions coverage for potential errors and omissions arising from the provision of its services in an amount determined to be appropriate by the County which is underwritten by an insurer licensed to conduct business in the Province of Ontario – such policy to be in force for each year of any potential contract and renewed for three (3) years post termination of any potential contract.

d) Subcontracting and Assignment

The Proponent acknowledges that in any potential contract with the County, no subcontracting or assignment of rights and obligations of the Proponent will be permitted without the written consent of the County.

7) ADDITIONAL SPECIAL CONDITIONS OF THIS RFP

a) Addenda

The County reserves the right to revise this RFP up to the final date for the deadline for receipt of proposals (November 9th, 2017 2:00 p.m.). Any necessary addenda to this RFP will be posted on the County website (www.middlesex.ca) ONLY. The County at its discretion may or may not change the date for submissions depending on the date and extent of any Addenda.

b) Question Period

In the event any proponent has clarification question(s) on the requirements for the submission of a proposal pursuant to this RFP, such questions must be submitted by email to Durk Vanderwerff (dvanderwerff@middlesex.ca) on or before October 27th, 2017 at 12:00 p.m. Answers to all clarification questions with respect to the submission of a proposal will be provided in an addendum which will be posted on the County website (www.middlesex.ca) ONLY, on October 31st, 2017.

c) Start Date

In the event a contract is endorsed by County Council, the Proponent must be able to commence work on the Project immediately.

d) Ownership of Work/Intellectual Property

The Proponent hereby agrees that in the event a contract is endorsed between the County and it/him/herself, it/he/she shall transfer, assign and convey to the County all of the Consultant's right, title, interest and ownership in and to all information collected, sketches, drawings, digital files, documents and all other deliverables (hereinafter the "Intellectual Property") produced for the Project.

The Proponent represents that in advance of and at the time of such transfer of the Intellectual Property, it would have the right, title and/or interest in and to the intellectual property embodied in the Intellectual Property which it legally and validly assigns and conveys to the County and would fully release, indemnify, hold harmless and defend the County at its expense from any action brought against the County, including but not limited to court costs, damages or settlements awarded against the County, to the extent that the action is based on a claim that any of the Land Use Planning Services, deliverables or any part thereof infringe upon any third-party's intellectual property rights including but not limited to copyright, trade secret, patent or industrial design rights, provided that:

- a. the County promptly notifies the Proponent of any matter in respect of which the foregoing may apply and of which the County has knowledge;
- b. the County has sole control over the defence, settlement or compromise of any such action as long as such defence, settlement or compromise does not place any liability or obligation on the Proponent; and

- c. the action is not over any content or data provided to the Proponent by the Consultant.

The County agrees that in the event a contract for Land Use Planning Services is endorsed by County Council, all skills, methodologies and processes used by the Proponent in preparing the deliverables for the County in connection with the Project, or which are otherwise developed or first reduced to practice by the Proponent in the performance the Land Use Planning Services provided by the Proponent to the County, which are patentable and capable of trademark or otherwise, shall remain the property of the Proponent. The County agrees that it will not engage in the unauthorized use of the Proponent's skills and processes.

e) Confidentiality/Freedom of Information

The Proponent acknowledges that any and all information relating to the business and affairs of the County which is not a matter of public record are confidential and that in the event it is able to negotiate a contract with the County, any agreement with the County will include a confidentiality clause requiring the strict protection of such confidentiality by the Proponent.

When Proposals are considered before County Council, the Proponent does hereby consent to its Proposal, including all proprietary and personal information contained therein, becoming a part of the public record and being released to the public as part of the public agenda.

All documentation submitted to the County by proponents pursuant to this RFP is subject to MFIPPA, which is a provincial statute governed by the Province under the auspices of the Privacy Commissioner. Prior to any potential consideration of Proposal(s) at a public County Council meeting, the County will attempt to treat all proprietary and personal information contained in Proposals as confidential, so far as such is reasonably allowable by the provisions of MFIPPA, as amended. The County, however, is required upon receiving a Freedom of Information request to release information as reasonably allowable pursuant to MFIPPA legislation or lawful order.

The Proponent does hereby fully release and hold harmless the County, including their respective Warden, Councillors, officers, directors, employees, agents, consultants, representatives, and legal counsel from and against all responsibilities, claims, causes of action, demands, losses, costs, charges, fees, expenses, duties, dues, accounts, covenants, or other proceedings of every kind or nature whatsoever at law or in equity brought against, suffered by or imposed as a result of the release of information contained in their respective Proposal, including proprietary and personal information, in the event the Proposal is considered at a municipal Council meeting and/or as a result of the release of information authorized under the provisions of MFIPPA or lawful order.

8) PROPOSAL CONTENT AND DOCTRINE OF SUBSTANTIAL COMPLIANCE

This RFP includes both mandatory and rated requirements. The County requests proposals which confirm and demonstrate compliance with all of the stated mandatory requirements, and should address or respond to each of the stated rated requirements.

a) Mandatory Requirements

Mandatory requirements are expressed in this RFP using terms such as "must" or "shall" and are followed by the letter **(M)** in section 2 of this RFP.

These mandatory requirements will be understood to constitute imperative requirements of the County with respect to this RFP. Proponents are required to provide a clear response to each mandatory requirement item in their proposals. If a mandatory requirement is not provided in a proposal, that proposal will be considered non-compliant with this RFP and will be unable to be evaluated/scored under the Rated Requirements Best Value Evaluation Criteria (see Evaluation Methodology of this RFP) unless the doctrine of substantial compliance (as defined in this RFP) is deemed to apply by the County in its sole and absolute discretion.

If a mandatory requirement is not technically feasible, not in line with industry standards, or contradicts other requirements, the Proponent should state so in writing to Durk Vanderwerff (dvanderwerff@middlesex.ca) on or before October 27th, 2017 at 12:00 p.m. such that the concern may reasonably be addressed by the County at its sole and absolute discretion through an Addendum, pursuant to this RFP.

b) Rated Requirements

Proposals will be evaluated and scored pursuant to the Evaluation Methodology set out in this RFP. The Rated Requirements Best Value Evaluation Criteria rates how strongly and the ease at which the characteristics of the mandatory requirements provided in proposals meet the County's needs based on a "best overall value". Rated requirements in this RFP are followed by the letter **(R)** in this RFP and will be assessed/scored by the County in accordance with the Rated Requirements Best Value Evaluation Criteria set out in this RFP. Note to Proponents: It is essential that proposals are stated in a clear and concise manner. Failure to provide complete information as requested will be to the Proponent's disadvantage.

c) Doctrine of Substantial Compliance

While it remains the County's prerogative in its absolute and sole discretion to exclude any proposal from further evaluation or consideration for having failed to meet a mandatory requirement, the County nevertheless reserves the right in its absolute and sole election to determine that a proposal substantively complies with a mandatory requirement. In such a case, substantive compliance means where the solution proposed or the proposal itself: accomplishes a mandatory requirement using an alternative method than that envisaged by the County; and the degree that the proposal is apparently non-compliant with the specified requirement is considered by the County to be minor and not material to the overall procurement intent of this RFP.

9) AWARD and POTENTIAL CONTRACTUAL DISCUSSIONS

The County reserves the right to accept or reject any and or all proposals and/or to cancel this RFP in its entirety for final cancellation or potential reissue either in advance of or following the receipt of proposals without providing reasons, should such be determined by the County to be in its best interest in its sole and absolute discretion. Should only one proposal be received, the County reserves the right to reject it.

The County does not guarantee that any proposal will produce a recommendation by County Administrative Staff to County Council or that any contract for services will ultimately be approved

and endorsed by County Council. In the event there is a successful Proponent to this RFP, the Award to a successful Proponent is a recommendation by County Administrative Staff for the successful Proponent to enjoy the sole ability of being able to discuss a potential contract with County Council, which County Council ultimately may approve or disapprove.

In the event there is a successful proponent to this RFP but the end result of negotiations is not a contract approved by County Council, the County reserves the right and ability to either negotiate with the next highest scoring proponents in sequential order pursuant to the Evaluation Criteria or to cancel this RFP in its entirety for final cancellation or potential reissue.

Regardless of whether or not there is a successful proponent to this RFP and in the event that no contract is approved by County Council for whatever reason, the Proponent in endorsing the RFP Response Form does hereby acknowledge that no damages or liability flow from the inability for a contract to be reached and does hereby release and hold completely harmless the County for any costs or damages incurred by the Proponent in preparing a Proposal or negotiating with the County.

10) DEFINITIONS

In addition to terms defined elsewhere in this Request for Proposal, the following terms have the following meanings:

“Consultant” means a Respondent that undertakes Professional Land Use Planning work.

“Future Additional Work” means potential additional work and/or necessary appearances/preparation beyond the specific scope of this RFP, which may be requested by the County at its sole discretion following completion of the project.

“Mandatory Requirement” has the meaning described in this Request for Proposal.

“Middlesex County” is duly incorporated upper-tier municipality in the province of Ontario, within the meaning of the *Municipal Act, 2001*, SO 2001, c 25, as amended;

“County” means the Corporation of the County of Middlesex, the calling agency for this particular RFP.

“Rated Requirement” has the meaning described in this Request for Proposal.

“Respondent” means any person or entity providing a proposal in response to this RFP;

“Proponent” means any person or entity providing a proposal in response to this RFP;

“Request for Proposal or RFP” means this document inclusive of all definitions and provisions contained therein.

“Substantial Compliance” has the meaning as set out in this RFP.

“Successful Respondent” means a Respondent which based on its proposal, receives a recommendation to be able to discuss a potential contract for Services with Middlesex County Council, the approval of County Council being required for the establishment of a potential Service contract with Middlesex County.

“Upset Limit(s)” means the maximum amounts payable by the County to the Proponent for delivery of Land Use Planning Services as defined herein.

“Land Use Planning Services” means the Project Work as defined herein, referred to collectively.



RFP RESPONSE FORM (ACKNOWLEDGEMENT)

Request for Proposal

RFP No. PLN-2017-001

Land Use Planning Services

I/We have read and understand this RFP, including all Addenda to this RFP, and hereby agree to all of the terms and conditions noted in this RFP and all Addenda thereto.

Dated at _____, Ontario this ____ day of _____, 2017.

_____ Name of Proponent (please print)

_____ Address

_____ Telephone

_____ Facsimile

_____ Email

Per: _____ Signature of Proponent

_____ (Name), _____ (Position)

I have authority to bind the _____ (business type)