

Request for Proposals and Qualifications for Prosecuting Attorney Services

Overview of Services: The City of Minot is soliciting proposals from qualified lawyers and law firms interested in providing criminal, non-criminal, and traffic prosecution services on a contractual basis. The contracting lawyer or firm would represent the City in the prosecution of all misdemeanor, infraction, and traffic violations of the Minot Municipal Code in Minot Municipal Court, the North Central District Court, and if necessary, the North Dakota Supreme Court. Proposals are requested for the fiscal year beginning January 1, 2021 through December 31, 2021, and the contract position will be evaluated by the City Council when creating the 2022 City Budget.

- **Minot Municipal Court:** Minot Municipal Court presently operates Monday through Thursday from 8:30 a.m. until all court matters scheduled for the day have ended. Bench trials are presently scheduled on Tuesdays, Wednesdays, and Thursdays beginning at 9:30 a.m. The Minot Municipal Court is located in the basement of the Minot Auditorium located at 420 - 3rd Ave. SW, Minot, ND 58701. This schedule is subject to change, and attendance of the City Prosecutor is required at all appearances before the Minot Municipal Court in which the City is the prosecuting party.
- **North Central District Court:** The City Prosecutor appears at the North Central District Court weekly for initial appearances on Tuesdays at 11:30 a.m., and pretrial conferences on Wednesdays at 1:30 p.m. at the Ward County Courthouse, located at 315 – 3rd St. SE, Minot, ND 58701. The City Prosecutor also must appear at any status conferences, motion hearings, order to show cause hearings, and jury trials as scheduled by the North Central District Court. This schedule is subject to change, and attendance of the City Prosecutor is required at all appearances before the North Central District Court in which the City is the prosecuting party.
- **North Dakota Supreme Court:** The City Prosecutor would be responsible for representing the City of Minot in any and all traffic or criminal cases that are appealed to the North Dakota Supreme Court. The North Dakota Supreme Court is located in Bismarck, ND, in the Judicial Wing of the State Capitol Building.
- **Minot City Attorney's Office:** The Minot City Attorney (Kelly Hendershot) serves as the Department Supervisor of the City Attorney's Office. Within the Department is one Assistant City Attorney (Stefanie Stalheim), one full time legal assistant (Nancy Horst), and one part time legal assistant (Lacey McCarten). The City Attorney's Office is located on the 2nd floor of City Hall, located at 515 2nd Ave. SW, Minot, ND 58701.

Requirements of Proposal:

Individual lawyers or law firms submitting proposals must submit the following:

1. **Cover Letter** including the following:

- a. The name of the lawyer or law firm responding to the request for qualifications and proposals to provide prosecution services.
 - b. Designation of a primary contact person, preferably the lawyer that would be primarily handling prosecution services if awarded the prosecution services contract. Include their name, local address, mailing address (if different from local address), telephone number, and email address.
 - i. Designation of any secondary contact persons, specifically if any attorney other than the primary contact person will be handling prosecution services in addition to the primary contact.
 - c. Succession plan in the event the primary contact person is unavailable to handle the city prosecution contract, or finds themselves double-booked between city prosecution appearances and other clients.
 - d. Brief review of the applicant's experience and qualifications to prosecute on behalf of the City of Minot. Additionally, in the case of a law firm applicant, include a brief background of the firm and number of attorneys employed by the firm.
2. **Current Resumes** for any lawyers that will be providing prosecution services to the City of Minot. In the case of a law firm, the City would only require current resumes from all attorneys expected to actually provide the prosecution services.
3. **Written Proposal** outlining how prosecution services would be provided to the City of Minot. At a minimum, the following must be included and discussed in your proposal for Prosecuting Attorney Services:
- a. **Experience:** Summarize experience relevant to prosecution services. Identify the attorney who would be the City Prosecutor and any attorneys that would provide backup services. Include resumes of all attorneys who will provide prosecution services.
 - i. Indicate state bar membership, and date of admission to the North Dakota State Bar.
 - ii. Include any knowledge and experience with the Minot Municipal Ordinances, North Dakota Municipal Law, and prosecution of criminal and traffic offenses.
 - iii. Include any knowledge and experience with open records laws.
 - iv. Include any knowledge and experience representing other political subdivisions and the years that you represented them.

- v. Include any knowledge and experience answering questions and emails from law enforcement, crime victims, and trial witnesses.
 - vi. Disclose any pending litigation and/or judgment rendered against you and or your firm in any matter relating to the professional activities of you and/or your firm, including, but not limited to, any pending complaints with the North Dakota State Bar Association's Disciplinary Board.
- b. **Method of Service:** Describe the services you would provide under the prosecuting attorney contract, as well as your philosophy and approach to the prosecution of violations of city ordinances. Please highlight any qualities, experiences, or philosophies that make you unique with respect to providing prosecutorial services.
- i. Describe what administrative functions related to criminal prosecutions and contested traffic infractions would be handled by your office, such as the creation of files, gathering of files for calendars, completion of discovery requests and other similar tasks.
 - ii. Describe what administrative functions related to criminal prosecutions and contested traffic violations would be expected to be handled by the present staff at the City Attorney's Office.
- c. **Fee Structure:** The City intends to pay a flat fee for the services provided under this contract, but requests that applicants describe any expenses the applicant intends to charge the City.
- i. Describe any and all expenses that would be charged to the City under your proposal, including whether you would charge for telephone services, printing, photocopying, supplies, and/or travel time or mileage to appearances at the Minot Municipal Court, North Central Judicial Court, or the North Dakota Supreme Court.
 - ii. Describe any work that would be considered extra or specialized work that would be billed in addition to basic services.
 - iii. Identify any minimum increment of time billed for each service, including phone calls, correspondence, and personal conferences.
- d. **References:** Identify three references who can attest to your experience and capabilities as they relate to services requested. The references must include contact name, address, and telephone number.
- e. **Conflict of Interest Statement:** Indicate whether the applicant lawyer or law firm currently represents, or has represented, any client where representation may conflict with their ability to serve as City Prosecutor for the City of Minot. Include the following:

- i. Disclose if the applicant lawyer or law firm currently represents, or has represented, any real estate developers doing business with, or anticipating doing business with the City of Minot.
- ii. Indicate whether you currently represent or have represented any other political subdivisions or local units of government - especially those having jurisdiction within, or contiguous to, the City of Minot.
- iii. Indicate whether you currently represent or have represented any individuals or entities prosecuted by the City of Minot.
- iv. Indicate whether you currently represent or have represented any individuals or entities involved in past, present, or reasonably anticipated lawsuits or legal matters with the City of Minot.
- v. Indicate what procedures the applicant lawyer or law firm would utilize to identify and resolve any conflicts of interest.

Specific Services/Qualifications Requested:

Mandatory Minimum Services and Qualifications: Mandatory prosecution services would include regular appearances in Minot Municipal Court, the North Central District Court, and if needed, the North Dakota Supreme Court, for all criminal, non-criminal, and traffic matters, unless excused by the Court. Appearances are required in all traffic, non-criminal, and criminal offenses.

The contract City Prosecutor and any back up attorneys providing prosecution services to the City of Minot must be licensed to practice law in the State of North Dakota and be in good standing with the State Bar of North Dakota. Additionally, the contract City Prosecutor and any back up attorneys will be subject to a criminal background check and will be required to provide proof of professional liability insurance. Experience in providing the types of services described below is highly desirable.

Specific services requested include:

1. Review of cases forwarded to the City Attorney's Office for decisions as to the filing of criminal charges, with input from the Minot Police Department, and request additional investigation as required;
2. Preparing and providing discovery charged with violations of Minot City Ordinances;
3. Managing all cases concerning violations of Minot City Ordinances;
4. Representing the City of Minot at all arraignments, pretrial hearings, status conferences, motions, bench and jury trials, bail bond hearings, sentencing and any other post-conviction hearings, such as restitution hearings, that concern violations of Minot City Ordinances;

5. Examine, evaluate, and provide representation for all appeals to appellate courts from cases involving prosecution by the City of Minot;
6. Conduct plea bargain negotiations and make appropriate plea offers consistent with Minot City Ordinances and the North Dakota Century Code as well as with the City Attorney's Offices regular standards and policies;
7. Preparing and presenting legal memoranda, subpoenas, jury instructions, and other related materials as needed concerning violations of Minot City Ordinances;
8. Making appropriate bail bond and sentencing recommendations to the Court;
9. Advising the Minot Police Department on the conduct of investigations, trial preparation, seizures, and related matters;
10. Providing legal research, training, and assistance to the Minot Police Department on criminal matters as needed, including statutory interpretation, enforcement issues, and case decisions;
11. Meeting with witnesses and victims of crimes and answering their questions and concerns, especially in regard to their rights under Marsy's Law;
12. Fulfilling the City's responsibilities under Marsy's Law;
13. Assisting the City Attorney's Office with legal and policy issues concerning prosecution of Minot City Ordinances periodically;
14. Creating and Maintaining appropriate files; and
15. Performing other duties related to prosecution of Minot City Ordinances as required.

Specific qualifications requested include:

1. All law firms or lawyers submitting proposals must designate an attorney that will be accountable for contract performance.
2. All law firms or lawyers submitting proposals must identify one attorney to be the City Prosecutor. This lawyer must appear at the Minot Municipal Court on a regular and ongoing basis and have prior work experience in criminal law. Prior experience as a prosecutor is strongly preferred. The contract attorney must provide continuity of representation while at the same time ensure effective back-up coverage in the event of their absence. The person identified as City Prosecutor and his or her back-up attorneys shall be appointed as special assistant city attorneys by the City Council before the City Prosecutor or his or her back-up attorney provides any services on behalf of the City.

3. Any lawyer that a law firm or lawyer may be called on as a back-up attorney must be identified to the City and have current awareness of City of Minot prosecutions so that they are fully prepared to provide prosecution services in the event of an unanticipated absence by the City Prosecutor.
4. All law firms or lawyers submitting proposals must ensure that availability of attorneys and support staff is consistent with efficient and skilled delivery of prosecution services, including coverage for regular vacations.
5. All law firms or lawyers submitting proposals must ensure the delivery of prosecution services as required for efficient case management.
6. All law firms or lawyers submitting proposals must be responsive to the City Attorney's Office, the Minot Police Department, defense attorneys, and witnesses and return any and all communications received from the same in a timely manner.
7. All law firms or lawyers submitting proposals must have the capability to use the Odyssey e-file and serve system in order to file cases electronically and comply with all North Dakota Court Rules concerning proper filing, notice, and service.

Compensation: The 2021 City budget has allocated \$72,000 for prosecution services. Respondents may propose a flat rate, retainer, or hourly rate for prosecution services. Regardless, respondents must keep track of the hours they spend providing prosecution services for the City and provide a monthly invoice for the same to the City so that it may have that information available to the City Council for the following year.

Contract: The selected party must be willing and able to enter into and perform a services contract with the City of Minot for prosecution services beginning January 1, 2021 through December 31, 2021. A draft of this Agreement is attached to this Request for Proposals and Qualifications. Respondents should note any section it would object to and propose alternative language in the proposal.

Selection Process and Schedule: Written questions regarding this request for proposals should be submitted by 4:30 p.m., CST on November 16, 2020 and directed to Kelly Hendershot, City Attorney, by email to kelly.hendershot@minotnd.org, or by mail to Minot City Attorney's Office, P.O. Box 5006, Minot, ND 58701. In order to ensure a fair review and selection process, applicants are requested to send all inquiries regarding this request for qualifications and proposals to Kelly Hendershot. Responses to all questions received will then be posted to the City Attorney's website by November 18, 2020.

Proposals must be received no later than 4:30 p.m. CST on November 23, 2020. The City prefers to receive proposals by email. Emailed proposals should include "2021 City Prosecution Services RFP" in the subject line and be addressed to kelly.hendershot@minotnd.org or by mail to Minot City Attorney's Office, P.O. Box 5006, Minot, ND 58701. As an alternative to email, proposals can also be hand delivered to the Minot City Attorney's Office. If submitting a paper proposal, the original must be submitted in a sealed envelope with the following words clearly marked on the

outside of the envelope “2021 City Prosecution Services RFP”. The proposer’s name and address must also be clearly indicated on the envelope.

All proposals will be reviewed and screened by the City Attorney or her delegate. The City Attorney or her delegate will then make a recommendation to the City Council, who will make the final decision. The City of Minot reserves the right to reject any and all proposals or to request additional information from all proposers. The selected party must be prepared to begin providing services on January 1, 2021. The City and the individual or law firm selected by the City to provide prosecution services will enter into a Professional Services Agreement, a sample of which is attached to this Request for Proposals and Qualifications, outlining duties, compensation, hours of work, and other pertinent matters. Once a contract is awarded, the term of the contract duration shall be subject to ongoing review and evaluation by the City Attorney, City Manager, and City Council.

The City of Minot will attempt to follow the following timetable, which should result in the full implementation of an agreement by January 1, 2021.

Issue RFP	November 2, 2020
Deadline for Questions	November 16, 2020
Responses to Questions	November 18, 2020
Deadline for Submittal of Proposals	November 23, 2020
Recommendation made to City Council	November 27, 2020
Agreement for Services Signed	December 2, 2020
Implementation of Services	January 1, 2021

This timetable is subject to modification without notice. It is strongly suggested that interested parties submit an application early in the process. If the City Attorney’s Office is able to recommend a qualified applicant and enter into a services contract ahead of this timetable, it will consider doing the same.

Proposal Modifications, Reservations, and Clarifications: The City will not reimburse any individual or firm for the costs involved in the preparation and submission of proposals or for attendance at any interviews. Furthermore, this request for proposals does not obligate the City to accept or contract for any express or implied services. The City reserves the right to negotiate regarding the terms and compensation for any proposal. The City reserves the right to request any proposer clarify their response or to supply additional material deemed necessary to assist in the evaluation, and to modify or alter any or all of the requirements in this request for proposals.

Evaluation Procedures: Staff will evaluate the submitted proposals and consider whether the proposed methodology meets the needs of the City. Responses must be clear and complete so that the evaluators can adequately understand all aspects of the proposal. The evaluation process is intended to help the City select the proposal with the best combination of attributes, including price, based upon the following evaluation factors:

- **Completeness of Proposal Submitted** **0-10 points**
- **References** **0-30 points**

- **Demonstrated ability to provide requested services** **0-20 points**
- **Individual attorney's or law firm's experience** **0-30 points**
- **Proposed compensation and contract terms** **0-10 points**

The City reserves the right to reject any and all proposals, request additional information, and to suggest modifications to terms and conditions. This Request for Qualifications and Proposals is not an officer of employment. The City reserves the right to vary from the qualifications requested, to consider proposals that do not meet all of the qualifications, and /or to reject any and all proposals.