



REQUEST FOR PROPOSAL

Notice is hereby given that proposals will be received by the City of Edmonds, Washington for:

RFP #2018-HR01 Prosecution Services

By filing with the City Clerk's office (First Floor) at City Hall, 121 Fifth Avenue North, Edmonds, WA 98020 by:

Date: **June 14th, 2019**
Time: **4:30 pm**

Upon the City's discretion, proposals submitted after the due date and time may not be considered. Proposers accept all risks of late delivery of mailed proposals regardless of fault.

Detailed Request for Proposal (RFP) information including general information, requested services, proposal requirements, and evaluation process is available from the City Clerk's Office located at the above address or by calling (425) 775-2525. The RFP is also available on the City's website at: <http://www.edmondswa.gov/doing-business/bids-rfps-and-rfqs.html>

The City has complete discretion in the evaluation of the proposals. The City reserves the right to reject any and all proposals and to evaluate proposals even when the information provided is not complete. This RFP does not obligate the City to pay any costs incurred by respondents in the preparation and submission of a proposal. Furthermore, the RFP does not obligate the City to accept or contract for any expressed or implied services.

The City is an equal opportunity employer and requires all Proposers to comply with policies and regulations concerning equal opportunity. The Proposer, in performance of the Contract, agrees to not discriminate because of race, color, religion, creed, national origin, ancestry, sex, pregnancy, marital status, sexual orientation, gender identity, gender, age, disability-sensory, mental or physical, the use of a trained guide or service animal by a person with a disability, honorably discharged veteran or military status, or other protected status.

Dated this 13th day of May, 2019.

City of Edmonds
Request for Proposals for Prosecution Services

The City of Edmonds invites interested and well-qualified individual attorneys, law firms and public agencies to submit written proposals to provide prosecution services for the City of Edmonds.

Scope of Services:

The services that are the subject of this Request for Proposal (RFP) are the prosecution of criminal misdemeanors and gross misdemeanors, civil and traffic infractions, criminal code enforcement and animal control matters. Proposers may be individuals, law firms, or public law offices. The contracted services are intended to begin on January 1, 2020.

The City is a strong mayor form of government. The City contracts with a law firm for the provision of civil legal services. The City has its own police department, with approximately 55 police officers. The City's municipal court is housed in the City's Public Safety Complex located at 250 Fifth Avenue North, Edmonds, WA 98020. Court sessions are held in a multi-purpose room. The courtroom also serves as the City Council Chambers and is used for award ceremonies, training, various committee meetings and public hearings.

According to the data provided by Washington Courts, in 2018, there were 145 DUI or physical control cases filed, 328 other traffic misdemeanor cases filed, and 466 non-traffic related misdemeanor cases filed. In addition, the prosecutor represented the City at 461 contested infraction hearings, wherein an attorney represented the offender.

The Edmonds Municipal Court is not a full-time court. Edmonds currently holds court five days per week. Currently three days are half days, but that can change depending on case load.

The City Prosecutor is responsible for all aspects of criminal prosecution for the City of Edmonds. Duties include but are not limited to:

1. Makes filing decisions on criminal cases, with input from City police;
2. Advises City police on the conduct of investigations, search warrants, trial preparation, seizures and related matters;
3. Interviews witness and victims of crimes and conducts all discovery;
4. Advises victims of their rights and responsibilities;
5. Communicates with victim's advocate;
6. Represents the City at arraignments, pretrial hearings, motions, bench and jury trials, sentencing, and review hearings and appeals in connection with criminal misdemeanor and gross misdemeanor cases;
7. Represents the City at contested traffic infraction hearings when offender is represented by an attorney;
8. Represents the City at all in-custody hearings;

9. Makes appropriate sentencing recommendations to the court;
10. Prepares, presents and responds to legal motions, memoranda and briefs as necessary in the routine prosecution of criminal cases;
11. Prepares subpoenas, jury instructions, and other trial related documents and materials;
12. Provides legal research, training, and assistance to City police in criminal matters, including statutory interpretation, enforcement issues, and cases decisions; and creating and maintaining appropriate files;
13. Files and prosecutes criminal code enforcement matters;
14. Files and prosecutes animal control cases;
15. Provides annual reports to the City Council during regular business meetings;
16. Provides quarterly reports to the City detailing cases filed, charges associated with the filings, status of cases, dispositions and sentences imposed;
17. Attends annual meetings with City staff, including but not limited to the City's Human Resource Director, Police Chief and City Attorney; and
18. Provides input to the City on proposed policy when so requested;

Additional appearances may be necessary to handle arraignments or jury trials. The Prosecutor shall be reasonably available for night and weekend contact by police personnel. The City and Prosecutor will enter into a professional services agreement, which will incorporate the above referenced scope of services and will address compensation. A sample professional services agreement is attached as Attachment 1. Detailed information indicating the volume and nature of the City's prosecutions can be found at <http://www.courts.wa.gov/caseload>. (Edmonds Municipal Court data is listed under Court Directory, Courts of Limited Jurisdiction, Snohomish County.)

Minimum Qualifications:

Any attorney proposed to provide prosecution services shall be licensed in the State of Washington. Five or more years of legal experience is preferred for any attorney proposed as the lead prosecutor. Experience in the prosecution of criminal and infraction matters is highly desirable, including matters involving violations of municipal or county ordinances.

Compensation:

The City and any attorney selected for these services will enter into a professional services contract, which will address compensation. Proposals are required to set forth the fees or fee structure (e.g. hourly, monthly retainer, per-case fee) to be charged for proposed services.

Selection Process:

The deadline for submitting a proposal to the City of Edmonds is June 15, 2019. All proposals shall be reviewed and screened by a Selection Committee based upon the qualifications and requirements outlined in this RFP. The Selection Committee may include the Human Resources Director, Police Chief, City Council Members and other

designated city staff. Finalists will be invited for interviews during the week of July 8. The Selection Committee then plans to make a recommendation to the City Council for consideration at the City Council's Regular Business Meeting on August 6th. Should there be a need to change this schedule, finalists selected to interview will be notified in advance of these changes.

Instructions to Reply to this Request for Proposals:

To reply to this RFP, please submit five (5) copies of the following: (1) resume for each attorney who may be part of prosecutor team; (2) cover letter and statement of qualifications, which must include Washington State Bar Numbers for all attorneys responding to this RFP; (3) three professional references with addresses and phone numbers; and (4) answers to the questions below. All materials shall be submitted in one packet and shall be mailed or hand-delivered to:

Mary Ann Hardie, Human Resources Director
Attention: Prosecution Services Proposal City of Edmonds
Address: Edmonds City Hall, 121 Fifth Avenue North, Third Floor,
Edmonds, WA 98020

Requested Information:

Proposers must answer the questions below. Proposers may also submit additional information they would like considered.

1. For individual proposers, employment history since 2010. For firm proposers, legal status of firm or predecessor firms since 2010, and areas in which the firm has practiced over those years.
2. The proposer's professional qualification for providing prosecution services, including for each attorney likely to provide services:
 - (a) Law School attended (including year of graduation), year of admission to Washington State Bar, Bar Number, and years of practice. Must be a member in good standing with the Washington State Bar Association.
 - (b) Years of experience providing prosecution services.
 - i. Describe relevant areas of knowledge and experience related to municipal court prosecution.
 - ii. Describe experience with motions practice relevant to prosecution services;
 - iii. Describe jury and bench trial experience.
3. The proposer's understanding of the type and level of services needed;
4. The proposer's intended approach to providing the services;
5. The proposer's experience with therapeutic courts and viewpoint concerning therapeutic courts.
6. The proposer's experience with diversion programs and viewpoint concerning diversion programs.

7. A statement of the proposer's understanding of the role of the Prosecutor, and his/her relationship to the court, police department, victims, witnesses and community;
8. The proposer's philosophy in prosecuting cases where the defendant is pro se;
9. All other clients represented by the proposer;
10. Affiliations or clients that could cause conflicts of interest regarding City matters, if any;
11. Any pending litigation or judgment rendered against the attorneys proposed to provide services that relate in any manner to the professional activities of the attorney and/or the firm, including any pending complaints with the Washington State Bar Association;
12. The proposed compensation structure for services rendered; and
13. Contact information for three professional references.

The City reserves the right to reject all proposals, to request additional information concerning any proposal and to interview any proposer.

ATTACHMENT 1

**PROFESSIONAL SERVICES
AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into between the City of Edmonds, a Washington municipal corporation (hereinafter referred to as the "City"), and the _____ (hereinafter referred to as the "Consultant").

WHEREAS, the City has established its municipal court under the provisions of Chapter 3.50 RCW and Edmonds City Code 2.15; and

WHEREAS, the City wishes to contract with a skilled firm with attorneys familiar with the prosecution of criminal and infraction matters involving allegations of violation of municipal ordinances; and

WHEREAS, the Consultant and its attorneys are licensed to practice law in the State of Washington and have experience as prosecutors within the State of Washington;

NOW THEREFORE, in consideration of the mutual promises and benefits to be derived, this Agreement is entered into on a date specified hereafter between the City and the Consultant, subject to the terms and conditions set forth below:

1. **Scope of work.** The scope of work shall include all services and material necessary to accomplish the above mentioned objectives in accordance with the Scope of Services that is marked as Exhibit A, attached hereto and incorporated herein by this reference.

2. **Payments.** The Consultant shall be paid by the City for completed work for services rendered under this Agreement as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work, and shall consist of the following:

2.1. **Base Rate:** The Prosecutor shall receive a monthly retainer of _____ DOLLARS (_____) per month for performance of those duties set forth in the Exhibit A Scope of Services.

2.2. **Hourly Rate.** Services performed outside the scope of services described in Exhibit A, or which may be mutually agreed upon to be added at a later date, shall be in addition to the base rate set forth in paragraph 2.1. Absent a separate agreement, those services shall be billed at a rate of _____ DOLLARS (\$_____) per hour. Any RALJ case filed in Superior Court shall be billed at the rate of _____ DOLLARS (\$_____) per hour.

Any other cases filed at the Court of Appeals; cases filed at the Supreme Court; cases filed in the Snohomish County District Court; forfeiture cases filed in courts other than the Edmonds Municipal Court, Lynnwood Municipal Court, or heard in Mountlake Terrace, which require the appearance of the Prosecutor; and such other activities agreed to by the City and the Prosecutor, shall be billed at _____ DOLLARS (\$_____) per hour. The Consultant shall obtain written approval from the City prior to pursuing appeal of any matter beyond the Superior Court.

- 2.3 Fees Review. The schedule of fees provided for in paragraph 2.1 and 2.2 shall apply for the contract period reflected in Article 4. Should the court substantially alter the requirements of the Consultant, the Consultant shall provide notification to the City. Changes in fees shall be proposed by the Consultant to the Mayor. Any changes must be mutually agreed to by the Mayor and the Consultant, and then must be approved by the Edmonds City Council. Upon acceptance by all parties, the changes will be made a part of this Agreement.
- 2.4 Costs. The City shall be the sole obligor and shall pay all witness fees, expert witness fees (including but not limited to Speed Measuring Device Experts), and interpreters' fees determined to be necessary by the Consultant in the preparation and disposition of its cases. The City shall approve all other anticipated fees, before such expense is incurred. The City will not unreasonably delay in granting approval of such expenses. The City further agrees to hold the Consultant harmless from such expenses and costs as set forth hereinabove.
- 2.5 Assistant Prosecutors. The City contracts with the Consultant for a monthly fee for prosecution services. Should the Consultant be absent, it shall be the responsibility of the Consultant to provide substitute coverage with a properly licensed State of Washington attorney, who has been previously approved by the City through its Police Chief. In the event of a dispute regarding approval of any individual, the Edmonds City Council shall be final arbiter. All individuals providing services under this Agreement (including substitute attorneys) must wear City-issued identification when in the Public Safety Building.

If a "Conflict Prosecutor" is required, such "Conflict Prosecutor" shall be approved by the City through its Police Chief. In the event of a dispute regarding approval of any individual, the Edmonds City Council shall be final arbiter. The Consultant is responsible for any costs associated with the "Conflict Prosecutor."

3. **Ownership and use of documents.** All City files and other documents maintained by the Consultant shall be the files of the City and accessible by the City through its City Attorney or other duly authorized representative during normal business hours, subject to the Washington State Bar Association Rules of Ethics. At the request of the City, any and all files maintained by the Consultant shall be tendered to the City, subject to the terms and conditions of this Agreement and the Washington State Bar Association Rules of Ethics. All equipment and facilities furnished by the City shall remain the sole property of the City. Any equipment, facilities and materials provided by the Consultant shall remain the sole property of the Consultant.

4. **Term of Contract.** The term of this Agreement shall be from January 1, 2020 through December 31, 20___. Consultant shall perform the work authorized by this Agreement promptly in accordance with the receipt of the required governmental approvals.

5. **Hold harmless agreement.** The Consultant shall indemnify and hold the City and its officers and employees harmless from and shall process and defend at its own expense all claims, demands, or suits at law or equity arising in whole or in part from the Consultant's negligence or breach of any of its obligations under this Agreement; provided that nothing herein shall require the Consultant to indemnify the City against and hold harmless the City from claims, demands or suits based solely upon the conduct of the City, its agents, officers and employees; and

provided further that if the claims or suits are caused by or result from the concurrent negligence of: (a) the Consultant's agents or employees; and (b) the City, its agents, officers and employees, this indemnity provision with respect to: (1) claims or suits based upon such negligence; and/or (2) the costs to the City of defending such claims and suits shall be valid and enforceable only to the extent of the Consultant's negligence or the negligence of the Consultant's agents or employees.

The Consultant shall comply with all applicable sections of the applicable Ethics laws, including RCW 42.23, which is the Code of Ethics for regulating contract interest by municipal officers. The Consultant specifically assumes potential liability for actions brought by the Consultant's own employees against the City and, solely for the purpose of this indemnification and defense, the Consultant specifically waives any immunity under the state industrial insurance law, Title 51 RCW.

6. **General and professional liability insurance.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Consultant shall obtain insurance of the types described below from insurers licensed to do business in the State of Washington, and which have a current A.M. Best rating of not less than A:VII:

- A. Worker's Compensation and employer's liability insurance as required by the Industrial Insurance laws of the State of Washington.
- B. Commercial General Liability and property damage insurance shall be written on Insurance Services Office ("ISO") occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City. Commercial General Liability insurance shall be written with limits no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate.
- C. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on ISO occurrence form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage. Automobile Liability coverage shall have a minimum combined single limit for bodily injury and property damage of one million dollars (\$1,000,000) per accident.
- D. Professional Liability insurance appropriate to the Consultant's profession. Professional Liability insurance shall be written with limits no less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) policy aggregate limit.

The Consultant's Commercial General Liability and Automobile Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contribute with it. Excepting the Worker's Compensation Insurance and Professional Liability Insurance secured by the Consultant, the City will be named on all policies as an additional insured. The Consultant shall furnish the City with verification of insurance in the form of original certificates and copies of any amendatory endorsements required by the Agreement evidencing the insurance requirements before commencement of the work. The

City reserves the right to require complete, certified copies of all required insurance policies at any time.

The Consultant shall provide the City with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

The Consultant's professional liability to the City shall be limited to the amount payable under this Agreement or one million dollars (\$1,000,000), whichever is the greater, unless modified elsewhere in this Agreement. In no case shall the Consultant's professional liability to third parties be limited in any way.

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five (5) business days' notice to the Consultant to correct the breach, immediately terminate this Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

7. **Discrimination prohibited.** Consultant shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, age, sex, marital status, sexual orientation, honorably discharged veteran or military status, liability for service in the armed forces of the United States, disability, or the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, or any other protected class status, unless based upon a bona fide occupational qualification.

8. **Consultant is an independent contractor.** The parties intend that an independent contractor relationship will be created by this Agreement. No agent, employee or representative of the Consultant shall be deemed to be an agent, employee or representative of the City for any purpose. Consultant shall be solely responsible for all acts of its agents, employees, representatives and subcontractors during the performance of this Agreement.

9. **City approval of work and relationships.** Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this Agreement must meet the approval of the City. During pendency of this Agreement, the Consultant shall not perform work for any party with respect to any property located within the City of Edmonds or for any project subject to the administrative or quasi-judicial review of the City without written notification to the City and the City's prior written consent.

10. **Termination.** The attorney/client relationship is personal and involves the ability of the parties to communicate and maintain credibility. This is an agreement for legal services and the City as client may terminate the Agreement for any reason upon sixty (60) days' notice. In the event of termination, work in progress will be completed by Consultant if authorized by the City under terms acceptable to both parties. If completion of work in progress is not authorized or acceptable terms cannot be worked out, Consultant will submit all unfinished documents, reports, or other material to City and Consultant will be entitled to receive payment for any and all satisfactory work completed prior to the effective date of termination.

11. **Integration.** The entire agreement between the parties shall consist of this document and the Scope of Services, attached hereto as Exhibit A. These writings constitute the entire Agreement of the parties and shall not be amended except by a writing executed by both parties. In the event of any conflict between this written Agreement and any provision of Exhibit A, this Agreement shall control.

12. **Changes/Additional Work.** The City may engage Consultant to perform services in addition to those listed in this Agreement, and Consultant will be entitled to additional compensation for authorized additional services or materials as described in Section 2.2, above. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Consultant to render services, or the City to pay for services rendered, in excess of the Scope of Services in Exhibit A unless or until an amendment to this Agreement is approved in writing by both parties.

13. **Standard of Care.** Consultant represents that Consultant has the necessary knowledge, skill and experience to perform services required by this Agreement. Consultant and any persons employed by Consultant shall use their best efforts to perform the work in a professional manner consistent with sound legal practices, in accordance with the schedules herein and in accordance with the usual and customary professional care required for services of the type described in the Scope of Services.

14. **Non-waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

15. **Non-assignable.** The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

16. **Covenant against contingent fees.** The Consultant warrants that he/she/they/it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that he/she/they/it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

17. **Compliance with laws.** The Consultant in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services.

The Consultant specifically agrees to pay any applicable business and occupation (B & O) taxes that may be or become due on account of this Agreement.

18. **Notices.** Notices to the City shall be sent to the following address:

**City of Edmonds
121 Fifth Avenue North
Edmonds, WA 98020**

Notices to the Consultant shall be sent to the following address:

[Consultant Name]
[Address]
[City, State, Zip]

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mails, with proper postage and properly addressed.

DATED THIS _____ **day of** _____ **2019.**

CITY OF EDMONDS

[CONSULTANT NAME]

_____ **By** _____
David O. Earling, Mayor

Its _____

ATTEST/AUTHENTICATED:

Scott Passey, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

STATE OF WASHINGTON)
)ss
COUNTY OF)

On this ____ day of _____ 2019, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said person, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

NOTARY PUBLIC
My commission expires:

Exhibit A

Scope of Services