

# CITY OF PORT TOWNSEND

## REQUEST FOR QUALIFICATIONS AND PROPOSAL FOR PROSECUTION SERVICES

The City of Port Townsend (“City”), Washington, is requesting proposals from well qualified law firms and/or attorneys interested in providing prosecution services in Jefferson County District Court on behalf of the City of Port Townsend. The preferred start date is January 1, 2013.

### DUTIES

The City has an in-house City Attorney who will manage the Prosecutor contract, but the selected law firm/attorney will provide all prosecution services as an independent contractor to the City. The proposed change in service model from the current in-house prosecutor to a contract prosecutor is based solely on City budget considerations to reduce costs to the City. The change also results in a reduction in services, as the contract prosecutor would not provide a number of services that the prosecutor currently provides to the City, including, handling public records requests, code enforcement, and non-prosecution related police matters.

The City is looking for proposals that identify either a flat fee proposal for *all* services, or fees that are based on different services. Prosecution–related services consist of the following:

1. Prosecuting misdemeanor and gross misdemeanor criminal violations and contested infractions. This includes all aspects of case preparation and attendance at hearings to represent the City, including: interviewing witnesses and victims of crimes as part of case presentation; advising victims regarding their rights and responsibilities; representing the City at arraignments, pretrial hearings, bench trials, jury trials, probation revocation hearings, certain contested infraction matters, review hearings and appeals; making appropriate sentencing recommendations to the Court; preparing and presenting legal memoranda and other documents for court cases; preparing subpoenas, jury instructions, and other related materials; and staffing mental health court team meetings if and when Jefferson District Court adopts a mental health court program.

In prosecuting cases, the prosecutor would of course adhere to the duty to seek justice, not merely to convict. The City expects this duty would be carried out with a high level of discretion that carefully weighs prosecution standards in light of available resources. The City understands this necessarily means that not every case can or should be charged or go to trial if the prosecutor reaches an outcome that serves justice.

Hours in court fluctuate depending on court schedule and case activity, and it is difficult to provide anything more than ball park approximations of past hours or estimates of future hours. An approximation of current average hours is 10 - 12 hours per week. In

addition to court schedule and case activity, hours will vary depending on the individual prosecutor service approach.

Below is information on the current schedule for court hearings and a history of caseload information. While history may provide useful guidance, the City cannot make any assurances with regard to the schedule for court hearings or case loads.

A flat fee proposal is preferred for this service.

2. Reviewing criminal cases for charging (with input from the City's Police Department as necessary). The number of referrals (cases that the Police Department has not cited and has referred to the prosecutor for review) can be up to ten (10) per month.

A flat fee proposal is preferred for this service, but fee proposals for this service may be based on a formula, for example, "fee multiplied by the number of matters referred," or "flat fee up to XX number and thereafter hourly rate of \$XX, etc.."

3. Providing advice, legal research, training, and assistance to the Police Department as specifically requested by the Department in all criminal matters, including statutory interpretation, enforcement issues and case decisions. This includes: the Prosecutor must also be reasonably available for night and weekend (24 / 7) contact by police personnel. The number of night and weekend contacts with police personnel averages approximately 4 to 6 per year.

A flat fee proposal is preferred for this service, but fee proposals for this service may be based on a formula, for example, "hourly rate," or "included in flat fee proposal for prosecution up to XX hours per month, then \$ YY per hour, etc.."

4. Incidental services/ requirements would include:

Assisting the City Administration as needed in processing discovery and related records disclosure requests (only to the extent that the City requires from the Prosecutor a) information regarding the status/disposition of a case; and b) certain records, in order to respond in a timely manner to records requests). This clerical function is estimated not to exceed ½ hour per week.

In addition, the Prosecutor:

- Must be able to respond to communications from the City, the Police Department, the Court, defense attorneys, pro se defendants and victims in a timely manner.
- Is responsible for collecting documents from the City Prosecutor's box at both Jefferson County District Court and Jefferson County Superior Court on a daily basis.

- Is also required to maintain case lists in the currently-used format, copies of which will be provided to the City Attorney and Police Department quarterly. These lists will provide updates regarding the caseload and disposition of cases. In addition, the information on this case list will be used to assist the City in complying with reporting requirements for Domestic Violence and other grants. The Prosecutor will cooperate with the City in providing additional reports generated from the case list to satisfy grant reporting requirements.

The City Attorney's Office does not provide staff support or office space for this contract and it will be the successful firm/candidate's responsibility to ensure that appropriate support is provided.

### **QUALIFICATIONS**

The Prosecutor must be an attorney admitted to the practice of law in the State of Washington with a minimum of two (2) years experience that must include significant trial experience. Experience in the prosecution of criminal and infraction matters is highly desirable.

### **COMPENSATION**

The City and Prosecutor will enter into a professional services agreement which will address compensation. Proposals shall clearly set forth fees or fee structure to be charged for prosecution services. A flat fee proposal is preferred, however alternatives are welcome (see above).

### **COURT HEARINGS SCHEDULE**

Hearings are normally conducted on the following days:

- Arraignment calendars are held daily at 1:15 p.m. for in-custodys and on Monday from 1:30 p.m. until the calendar is finished;
- Contested Infraction calendar is held on Monday from 9:00 a.m. until the calendar is finished.
- Pretrial calendar is held on Wednesday from 8:30 a.m. to 12:00 p.m. (or until the calendar is finished) and from 1:30 p.m. until the calendar is finished.
- Motion calendar is held on the second and fourth Friday of the month from 2:00 p.m. until the calendar is finished.
- Bench trials are held on Tuesdays at 8:30 a.m.; Jury Trials are held on Thursdays at 8:30 a.m.

## **CASE LOAD**

Table 1 set forth below is a compilation of the caseload information from the AOC for the years of 2007 through 2011, and 2012 (through August 31, 2012). For more information, excerpts from AOC's "Published Caseload by Jurisdictions" are available at <http://cityofpt.us/currentbidsforservices.htm>.

<b>Table 1: City of Port Townsend Municipal Court Caseload by Year</b>							
<b>Year</b>	<b>Traffic Infractions *</b>	<b>DUI/Physical Control Misdemeanor s Charged</b>	<b>Other Traffic Misdemeanor s Charged</b>	<b>Non-Traffic Misdemeanor s Charged</b>	<b>RALJ Appeals to Superior Court</b>	<b>Trials Set</b>	<b>Trials Held</b>
2007	1,114	61	133	189	4	98	19
2008	1,090	46	90	183	2	154	18
2009	1,125	36	112	169	0	97	12
2010	714	42	78	205	1	52	2
2011	629	30	68	141	0	29	0
2012 - thru Aug 31	438	27	46	150	3	36	1

*\* Traffic Infractions include all traffic infractions charged in the City of Port Townsend. However, the Prosecutor only appears in infraction matters with Contested Hearings.*

## **CONTRACT TERM**

The City of Port Townsend desires a two-year contract period that may be renewed for a successive two-year period.

## **SELECTION PROCESS**

Deadline for submittal is November 1, 2012. All proposals will be reviewed and screened by the City Clerk, City Attorney and City Manager or designees. Top candidates will be invited for interviews during the weeks of November 5 and 12, 2012. Following contract negotiation, the matter would be submitted to the City Council for review and approval. Expected start date is January 1, 2013. This Request for Qualifications and Proposal does not constitute an offer of employment or contract. The City reserves the right to vary from the qualifications requested, to consider applicants who do not meet all qualifications, to select based on the best interests of the City, and to reject all applicants.

## **REQUIREMENTS**

The selected attorney and/or firm will be required to undergo a reference check prior to appointment, and to provide to the City proof of insurance (including professional liability insurance).

## **INSTRUCTIONS TO REPLY TO THIS REQUEST FOR QUALIFICATIONS & PROPOSAL**

To reply to this RFQ, please submit the following:

1. Resume;
2. Cover letter and statement of qualifications, which must include Washington State Bar Numbers for all attorneys responding to this RFQ;
3. Professional references with addresses and phone numbers;
4. Submit a proposed schedule of billing arrangements you would be seeking as compensation. A flat fee proposal is preferable. (Final agreement will be negotiated under a professional services agreement.)
5. Answers to the RFQ questions below.

All materials shall be submitted in one packet and provided to the City Clerk's Office at City of Port Townsend, 250 Madison Street, Suite 2, Port Townsend, WA 98368, or electronically to Pam Kolacy, City Clerk at [pkolacy@cityofpt.us](mailto:pkolacy@cityofpt.us).

**ALL APPLICATION MATERIALS SHALL BE SUBMITTED BY 4:00 P.M. ON  
NOVEMBER 1, 2012.**

At the City's discretion, late proposals may be considered. Proponents accept all risks of late delivery of mailed proposals regardless of fault.

## **RFQ QUESTIONS**

Please provide clear and concise responses to the following questions. A short paragraph should suffice for each question. Responses to questions may be combined in a single paragraph. The goal is to provide the City with information to assist in evaluating qualifications. Please place your name and/or the name of your firm on each sheet of paper used.

1. Describe the steps you will take as Prosecutor to ensure that violators are prosecuted to the full extent of this community's standards.

2. Discuss your philosophy regarding plea bargaining and how you would apply it in this position.
3. Describe the role of the Prosecutor and his/her relationship to the Court, Police Department, victims, witnesses, and the community.
4. Describe the level of availability you would have to police staff and City staff during both working and off hours.
5. Describe the steps you would take to ensure timely resolution of cases, response to staff requests and related matters.
6. Describe the level of support staffing you will or would have available to assist you in effective management and prosecution of the City's caseload.
7. Disclose any pending litigation and/or judgments rendered against you and/or your firm in any matter relating to the professional activities of you and/or your firm.
8. Disclose any pending complaints to the Washington State Bar Association ("WSBA") or any past complaints to WSBA which resulted in a finding of other than unsubstantiated, regardless of whether you were subject to disciplinary action.
9. Describe how you will safeguard confidential information both in electronic format as well as hard copies.

### **QUESTIONS**

Please submit any questions to City Attorney John Watts at 360/379-5048 [jwatts@cityofpt.us](mailto:jwatts@cityofpt.us) or City Clerk Pam Kolacy at 360/379-5045 [pkolacy@cityofpt.us](mailto:pkolacy@cityofpt.us).