

RESPONSE TO REQUEST FOR PROPOSALS

CITY OF VERGAS

CITY ATTORNEY

Ramstad, Skoyles & Winters, P.A.
114 Holmes Street West
Detroit Lakes, MN 56501

Dated: June 2021

Contact: Charles J. Ramstad
(218) 847 -5653
cramstad@arvig.net

RAMSTAD, SKOYLES & WINTERS

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ATTORNEYS AT LAW

A Professional Association

CHARLES J. RAMSTAD*
KAREN SKOYLES
THOMAS P. WINTERS
PATRICK A. BAKKEN

- Attorney ID 0169390
- Attorney ID 0178317
- Attorney ID 0390351
- Attorney ID 0401154

**Minnesota State Bar
Association Board
Certified Specialist in
Real Property Law*

June 29, 2021

Ms Julie Lammers
City Clerk/Treasurer
City of Vergas, Minnesota
jlammers@cityofvergas.com

RE: Proposal and Qualifications
Legal Services

Please consider this the response of Ramstad, Skoyles & Winters, P.A. to the City's Request for Proposals and Qualifications for Legal Services.

A. Firm Background

1. Brief History. Ramstad, Skoyles and Winters, P. A. originated in 1908 as a general practice law firm in Detroit Lakes and began providing municipal legal services to the City of Detroit Lakes in approximately 1963, with attorney James Ramstad in the lead. Since that time the firm has continuously represented Detroit Lakes, adding the other Becker County cities of Frazee, Audubon and Callaway in the early 1970's and Lake Park in the 1990's. We added the City of Sebeka in Wadena County in 2018, and the City of Menahga in Wadena County in 2021. We provide regular City Attorney services for all of those Cities, including Prosecuting Attorney services. In 2021 we were appointed City Attorneys for the Otter Tail County City of Perham, where we provide general City Attorney services, but not Prosecuting Attorney services. We have also occasionally represented the Clay County Cities of Hitterdal and Moorhead, the Mahnomen County City of Bejou and the Pope County City of Starbuck, usually on special projects like development, eminent domain or USDA rural water development, matters where their regular City Attorney has a conflict or on litigation matters such as construction contract disputes.

a. Services. Ramstad, Skoyles and Winters, P. A. is a general practice law firm located in Detroit Lakes, with a focus on municipal law, real estate and real estate litigation, estate planning, wills, trusts and probate. We also represent private clients in business formation and business transactions.

b. Qualifications/Municipal Law Services. We have experience in nearly all aspects of municipal law, including but not limited to economic development, tax increment financing, zoning and subdivision, planned unit developments, municipal purchasing and contracts, contract litigation, special assessments, real estate, eminent domain,

nuisance abatement and hazardous building elimination, data practices, open meeting law, labor relations and public employment law, public utilities, public recreation facility law, ordinance enforcement, and misdemeanor and gross misdemeanor prosecution.

c. Knowledge and Scope of Services. We are qualified to provide all necessary municipal legal services other than acting as bond counsel, including but not limited to those described in this section. We provide these legal services in house, and do not subcontract for any legal services, although we do work with other contracted legal services such as bond counsel and insurance defense litigators to advance and protect the interests of the City.

1) Public Meeting Attendance. We believe that regular attendance at Council meetings and attendance at select public hearings and committee meetings by the City Attorney is beneficial both to the City and gives us the ability to provide the best quality legal services. Meeting attendance allows us to provide immediate feedback on issues and proposals, and can help the City avoid mistakes. It helps us to better understand the issues facing the City at any given time and to provide on point information to staff and the Council. We prefer to attend meetings, and structure our compensation to encourage the City to request our presence, but follow the direction of the City as to the type and number of meetings we attend.

2) Ordinances and Resolutions. We have experience drafting all types of municipal ordinances, from parking and nuisance ordinances, to zoning, subdivision, franchise, right of way and utility ordinances. We have developed our own set of template ordinances, and customize those templates together with templates from other Cities and the League of Minnesota Cities to meet the needs of each City we represent. Since we place special emphasis on our ability to enforce ordinances, we pay close attention to the language of the ordinance to make sure that the ordinance will be effective and will comply with all legal requirements. We draft resolutions as required, together with our own correspondence and official correspondence from the City when the correspondence needs to meet specific legal requirements.

3) Agenda. We request and review proposed meeting agendas prior to regular and special council meetings so that we can provide feedback to staff and council on legal issues prior to or at the meetings.

4) Consultations. We accept and encourage telephone and e-mail consultations between our attorneys and City staff, Mayor and Council members relating to City issues and City business. Short communications to answer general municipal legal questions are typically not separately billed, even when no retainer arrangement is in place. We are prepared to provide advice on a multitude of municipal issues, including but not limited to common and complex questions on land use, open meeting law, data practices, records retention and privacy issues.

5) Contracts and Agreements. We have experience drafting many types of custom contracts and agreements relating to various City issues, including but not limited to joint powers agreements, management agreements for City facilities, cell tower and other leases, property and equipment acquisition agreements, settlement agreements, employee separation agreements and agreements between the City and various professional consultants such as engineers, architects and lawyers. Construction contracts for public improvements are typically standard form AIA or EJCDC documents utilized by architects and engineers. We have experience in reviewing and customizing these forms, insurance policies and bonds to eliminate provisions adverse to the City and to ensure compliance with the City's objectives, Davis Bacon and FLSA wage requirements, insurance requirements, bond requirements and the municipal contracting laws.

6) Acquisition of properties. We have experience with all types of property acquisition, from drafting donation agreements, purchase agreements, easements for roadways and public utilities, and dedications to all phases of the eminent domain process. Generally, we strive to negotiate voluntary acquisition of easements and land, but we have commenced and completed eminent domain proceedings with quick take commissioner hearings and court appeals.

7) Code enforcement. We are actively engaged with the code enforcement process, utilizing the civil process of nuisance abatement, hazardous building elimination under Minn. Stat. Chapter 463, stop work orders and injunctions for building code violations. We encourage City staff to contact us at the inception of a problem to consult with them as to the most viable means of obtaining code compliance, with a referral to criminal prosecution for nuisance, zoning and other ordinance violations only when necessary. If a City does not have an Administrative Penalties process in place, we have drafted the ordinances and procedures necessary to institute that process.

8) Employment issues. Employee performance issues are often the most difficult and sensitive matters to deal with, as well as the most complex. Analyzing the circumstances and proper response involves personnel policies, employment contracts, union contracts, constitutional issues, statutory issues such as veterans preference and open meeting, data practices and privacy issues. We have experience with all types of personnel issues, including all of the above as well as personnel policy review and drafting, veterans preference hiring issues, FLSA requirements, union contract negotiation and arbitration, union bargaining unit certification and voting, comparable worth audits, step and grade implementation, human rights issues, employment investigations, police civil service commissions, peace officer discipline procedures, discipline and termination hearings and unemployment compensation appeals and hearings. To date, we have successfully resolved all employment matters utilizing mediation, arbitration and settlements when necessary, without the need for actual litigation.

9) Legal opinions and memoranda. We provide formal legal opinions when necessary, and initiate and respond to requests for informal memorandums regarding municipal and other legal issues confronting the City, both confidential and public. We monitor proposed changes and adopted changes in State and Federal law affecting municipalities and advise our municipal clients accordingly, with specific statutory and case law references and memorandums interpreting those changes, and suggest any necessary or advised changes in City procedures or operations to secure or maintain compliance.

10) Litigation. We believe that avoiding litigation is almost always the best course of action, and actively work to enforce City codes and ordinances without the need for litigation. We also believe in pro-actively addressing City procedures to eliminate or reduce claims and lawsuits against the City. However, when other measures fail, we are prepared to and have initiated litigation, have defended Cities in litigation and have assisted insurance defense council in municipal litigation. We have experience in litigation involving human rights and ADA claims, eminent domain, hazardous building condemnation, zoning and land use appeals, construction disputes, zoning and building permits, labor and employment and workers compensation matters.

11) Municipal debt. We are familiar with working with bond counsel, USDA rural development administration and Minnesota public facilities administration on municipal development projects, including contract drafting, funding declarations, special assessments and legal opinions as needed to comply with bond or other municipal debt requirements.

12) Zoning, Platting, Land use and development. Our experience with municipal land use and development ranges from advising and assisting the City zoning and development staff to administer land use regulations to actively managing land use and zoning regulations for some Cities. We have experience reviewing and preparing zoning ordinances, subdivision ordinances and documentation for conditional use permits, zone changes, variances, plats and other land subdivisions, planned unit developments, development agreements, TIF development agreements, TIF certifications and de-certifications, assessment policies, special assessments and special assessment appeals and petitions for vacation of dedicated and other public rights of way and land. We provide ongoing advice regarding application of the City's land use ordinances and State statutes.

13) Economic Development, Tax Increment Financing ("TIF") and other development assistance. We advise a number of City Economic Development Authorities and routinely attend their meetings. We understand the TIF process and statutory requirements, we have and can draft the necessary TIF development agreements and resolutions adopting a TIF district and plan and to certify a housing or redevelopment agreement and can assist staff in administering the development district. We also are familiar with and have

drafted tax abatement agreements and resolutions as well as the required business subsidy policy and agreements.

14) Comprehensive Plans. While we do not draft Comprehensive Plans or Redevelopment Plans, we are familiar with the statutory requirements for such plans and the adoption and utilization of a Comprehensive Plan as a tool and guide for drafting and implementation of zoning and other land use ordinances. Even when not statutorily required, we encourage Cities to create and use a Comprehensive Plan as the basis for their land use controls.

15) Prosecution Services. As noted above, we provide prosecuting attorney services for petty misdemeanors, misdemeanors and gross misdemeanors with related legal advice to City law enforcement. We believe that Cities adopt ordinances with the expectation that they will be enforced and we take the obligation to prosecute City ordinances as seriously as State laws.

2. Office location. We are located at 114 Holmes Street West in Detroit Lakes, on the north side and across the street from the Becker County Courthouse.

3. Malpractice Claims and/or Ethics Complaints. We have had no malpractice claims, complaints or issues. On November 18, 2019 a complaint was made to the Office of Lawyers Professional Responsibility by a defendant in a pending criminal case against prosecutor Karen Skoyles. The Office of Lawyers Professional Responsibility determined that discipline was not warranted and dismissed the complaint without investigation on December 10, 2019. There are no pending actions or issues currently under review by the State Ethics Board.

B. Attorney Qualifications.

1. Lead Attorneys.

For City Attorney services the lead attorney will be Charles Ramstad.

- B.A. University of Minnesota in Political Science 1982.
- J.D. University of Minnesota law school 1985.
- Minnesota State Bar Association certified Real Property Law Specialist.
- 35 years of municipal law experience, starting as City Attorney for Frazee in and Assistant City Attorney in Detroit Lakes in 1988. City Prosecutor in Detroit Lakes and Frazee from 1985 to 1992. City Attorney in Audubon since 1992, Lake Park since 1998, Callaway since 2000, Detroit Lakes since 2012 and Sebekka since 2018.
- Experienced in all aspects of municipal law, including but not limited to union negotiations, employment law, veterans preference, zoning and land use planning, ordinance drafting, open meeting law and data practices law, records retention, eminent domain, construction law, special assessment law, municipal contracts and purchasing, Fire Department organization, Fire Relief Association, Tax Increment Financing, tax abatement and other development assistance.
- Experienced in working with public utilities, including water, sewer, gas and

- electric municipal utilities.
- Municipal litigation has focused on hazardous building abatement, construction contract disputes, eminent domain and special assessment appeals. All of these litigation matters have been successfully resolved, most by a settlement. Most recently Charles Ramstad was successful in abating by litigation four hazardous buildings in Sebeka and in securing a public easement by eminent domain for the City of Moorhead.
- 2015-2016 President of the Minnesota City Attorneys Association
- 2013-2017 Board member Minnesota City Attorneys Association
- Presenter at numerous legal education seminars on municipal law issues through the Minnesota City Attorneys Association and real estate law through MNCLE

For Prosecuting Attorney services the lead attorney will be Karen Skoyles.

- B.A. Moravian College, Bethlehem Pennsylvania in Political Science 1983.
- J.D. University of Minnesota 1986.
- 30 years of municipal prosecution experience for Detroit Lakes and Frazee, with Audubon starting in 1992, Lake Park in 1998, Callaway since 2000, Sebeka and Menahga since 2018.
- Full time prosecutor experienced in prosecution of all misdemeanors, selected gross misdemeanors including DUI and misdemeanor and petty misdemeanor ordinance violations.
- Numerous trials including Jury Trials and Court Trials spanning over 30 years. Success rate by conviction in trials exceeds 90%. Experienced in criminal law appeals, brief writing and oral arguments. Routine and day to day hearings associated with criminal and petty misdemeanor prosecutions.
- Experienced in nuisance abatement through civil hearing process and also through criminal prosecution.
- Experience in water use law as the attorney for the Pelican River Watershed District.

2. Assistant Attorneys.

Thomas Winters will act as an assistant attorney for City Attorney services.

- B.A. from Hamline University in Political Science 2005.
- J.D. from William Mitchell law school 2009.
- 12 years of experience in civil litigation, wills, trusts, estates and probate law including family law, conservatorships and guardianships.
- Criminal defense litigation 2009 - 2016.
- City of Detroit Lakes Fireman 2014 to 2019.
- Experienced in municipal law, including ordinance drafting, open meeting law, data practices law, records retention, zoning and land use planning, special assessment law, fire department organization, fire relief association law, municipal construction law.
- City Attorney for Frazee since 2017, Menahga and Perham since 2021.
- Municipal litigation experience in criminal prosecutions since 2017 and in a successful settlement of a special assessment appeal in Frazee in 2018.

Patrick Bakken will act as an assistant City Prosecutor.

- Associate
- Practicing since 2019
- B.A. from University of North Dakota 2016.
- J.D. from University of North Dakota Law School 2019.
- Assistant Prosecuting Attorney for Detroit Lakes and Audubon
- City Attorney for Audubon
- Primary area of practice is litigation followed by general civil practice

3. Availability. We are a small business with a relatively informal organizational structure. Each attorney has and utilizes a separate e-mail address and the firm has a general e-mail address monitored by staff. Scheduling for each attorney is the responsibility of their primary assistant. We do not use voice mail; calls are answered by one of the assistants and are either directed to the relevant attorney or a message taken and delivered to the relevant attorney. Attorneys typically return their own calls and e-mails, unless the issue relates to scheduling. With our municipal clients we welcome calls and e-mails from City staff and law enforcement members so that we can address situations before they become issues or problems. Typical turnaround time on advice, questions, reports, memos and basic documents is less than one week, typically by phone or e-mail. For larger projects the schedule is often dictated by external sources, public hearing or meeting schedules, but we make it a point to not be the cause of delay in any municipal matter.

4. Professional support personnel. We have two legal assistants. We do not separately charge for these services. Staff is available from 8:30 a.m. to 5:00 p.m. Monday through Friday.

C. Firm Qualifications.

1. Experience in municipal legal services. We have a long history of providing municipal legal services that continues to date, as described above in this response. We are happy to have you contact any of the Cities that we have represented on an occasional basis and that we currently represent. As noted above, we currently represent as City Attorney the Cities of Detroit Lakes, Frazee, Audubon, Callaway, Lake Park, and Sebeka, Menahga and Perham. Primary contacts are as follows:

- 1) City of Detroit Lakes
Kelcey Klemm
City Administrator
(218) 847-5658
- 2) City of Frazee
Jordin Roberts
City Clerk Administrator
(218) 334-4991
- 3) City of Audubon
Stephanie Poegel
City Clerk
(218) 439-6652

- 4) City of Callaway
Shelly Dillon
City Clerk Treasurer
(218) 375-4691
- 5) City of Lake Park
Lonnie Neuner
City Clerk
(218) 238-5532
- 6) City of Sebeka
Cheryl Hahn
City Administrator
(218) 837-5773
- 7) City of Menahga
Curt Kreklau
City Administrator
(218) 564-4557
- 8) City of Perham
Jonathan Smith (former Clerk Administrator for Frazee)
City Manager
(218) 346-9799
- 9) City of Moorhead
Dan Mahli
City Manager
(218) 299-5166
- 10) City of Starbuck (2018 - 2019 construction contract litigation and settlement)
Gary Swenson, Mayor
(320) 239-2196

2. Library and Research Capabilities. We have a physical library of legal material dating back over one hundred years. For current capability, we use technology for computerized legal research and for sharing and editing documents electronically. We have access to and routinely use Fastcase, MSBA practicelaw, Google Scholar, the State of Minnesota database of statutes and rules and Westlaw for legal research. As is required by the Minnesota and Federal Courts system, we file all of our litigation matters with all Courts electronically. We use a number of computer based support programs, such as Amicus case management, Quickbooks, Timeslips, Microsoft Word, Microsoft Excel, WordPerfect and Adobe Acrobat and are subscribers to the court information systems (MGA) and are authorized to have access to traffic records through the Minnesota Department of Public Safety database program and criminal history information through the FBI's NCIC system, as is required in order to provide prosecution services.

D. Fees.

1. Description. We work with our municipal clients on a fee basis that they prefer. With the City of Detroit Lakes, we work on an annual contract basis, paid in monthly installments, for non-litigation based civil legal services and all prosecution services. This is a comprehensive contract that includes working with the City, Public Utilities and City boards and commissions.

When services extend to litigation matters or entities affiliated with the City such as the Development Authority or the Airport Joint Powers Board we charge an hourly rate for those additional services.

We charge the other Cities that we work with on an hourly basis for civil City Attorney services. Our normal hourly rate for private clients and other municipal clients is \$250.00 per hour for services including civil litigation, with a flat fee of \$100.00 per meeting attended.

2. Time Increment. When we charge on an hourly basis we charge in increments of 0.10 of an hour (6 minutes). The minimum increment billed for each service is 0.10 of an hour for phone calls, e-mails, correspondence and personal conferences, although short phone calls that can be answered without research are usually not billed. We charge for prosecution services on a monthly flat fee, based on our experience with the volume generated in those cities.

For Vergas we would propose an hourly charge of \$225.00 per hour for civil City Attorney services and civil litigation services provided by the responsible attorney, with a flat fee of \$100.00 per council meeting attended, plus mileage. As alternative, we would be happy to discuss a monthly flat fee for all civil City Attorney services. For City Prosecutor services we are willing to work on an hourly basis at the rate of \$225.00 per hour, or on a monthly flat fee of \$250.00 plus mileage, subject to adjustment after six (6) months based on volume. As with City Attorney services, this relationship is subject to further discussion and negotiation if we are chosen as a finalist.

3. Other costs. We do not charge for support staff services. We do not charge extra for printing, telephone, internet or other services. We do charge \$0.25 per paper copy for large copy jobs, typically involved in responding to discovery requests in civil litigation matters, although more and more of those responses are delivered electronically without physical copies. We charge for mileage based on the current IRS reimbursement rate per mile. We do ask our City clients to reimburse us for fees charged by the State of Minnesota for access to traffic records through the Minnesota Department of Public Safety database program, criminal history information through the FBI's NCIC system, and by the State for access to the mandated e-charging system, as is required in order to provide prosecution services.

4. Invoices. Our invoices comply with the requirements of section D. 4. of the City's Request for Proposals. We reserve the right to make adjustments to fees on an annual basis, after at least 60 days notice, consultation and negotiation with the City.

E. Conflicts of Interest: We have no known actual or potential conflicts of interest relating to the City of Vergas. We do not represent Otter Tail County or any other governmental unit having contiguous jurisdiction with the City of Vergas. We do not currently represent any professional real estate developers, but we do represent individuals and businesses relating to land upon which they may be building a home, cabin or commercial building. Prior to undertaking any representation, we utilize the computer based database from our law firm practice management software Amicus and our account records database to identify possible conflicts. If appointed, we will not accept any client or project which would knowingly place our firm in a conflict of interest with the services to be provided to the City and will comply with all professional rules

regarding actual and potential conflicts of interest.

- F. Malpractice Insurance Coverage. We are and have consistently been insured by Minnesota Lawyers Mutual Insurance Company. Current coverage has limits of \$2,000,000 per claim and an aggregate of \$5,000,000 with a \$5,000 deductible. We will maintain insurance with at least these limits into the future.
- G. Affirmative Action. Our firm does not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, sexual orientation or age and shall comply with all aspects of the Minnesota Human Rights Act, Minnesota Statutes 363.01, et. seq., Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990 and its subsequent amendments.
- H. Summary. Our municipal clients are primary. We are working to become a regional municipal law firm and planning toward that goal. We believe that we will succeed as our municipal clients succeed in providing the best possible and most cost effective public services and public infrastructure for their residents and taxpayers. To that end, we strive to make ourselves available not only to our direct contacts, usually the City Administrator or City Clerk, but also to other City staff such as utility superintendents, police chief and patrol officers. From our experience, we know that it is better to address a problem or issue up front, quickly and preferably before it becomes a problem, than it is to try to fix the problem once it has occurred. We have worked well with all of our City Councils not only in setting policy and implementing that policy through ordinances or other means, but also taking on an education role to supplement advice they may receive from the League of Minnesota Cities or other municipal organizations. We have years of experience in navigating the Minnesota Data Practices Act requirements and the requirements of the Minnesota Open Meeting Law. Our attorneys' involvement with the Minnesota City Attorneys Association has enabled us to have a first name basis relationship with many other City Attorneys throughout the State, making us a resource for them, and them a resource for us. We work well with the staff and attorneys at the League of Minnesota Cities and the League of Minnesota Cities Insurance Trust.

We are confident that we are fully prepared and competent to provide all of the City Attorney services required by the City of Vergas.

Sincerely,

RAMSTAD, SKOYLES & WINTERS, P.A.

Charles J. Ramstad