

MEMORANDUM
ADMINISTRATIVE SERVICES DEPARTMENT

TO: Thomas E. Thomas, City Manager

SUBJECT: City Attorney Legal Services

Date: February 28, 2012

The Administrative Services Department conducted a request-for-qualifications (RFQ) for City Attorney and Prosecutor Legal Services. Request-for-qualifications were mailed on January 5, 2012 with a deadline for return of February 3, 2012. There were 59 request-for-qualifications directly mailed to prospective law firms (see Appendix A). Administrative Services also placed a legal notification with the Rock Island Argus/Daily Dispatch on Thursday, January 5, 2012.

The Administrative Services Department received responses from the following law firms:

Kutsunis, Weng & Morrison (Ted Kutsunis),
Bozeman, Neighbour, Patton & Noe (Mark Tarnow),
Snyder, Park, Nelson & Schwiebert (Bill Snyder),
Califf & Harper (Roger Strandlund), and
Dergo Law (Michael Dergo).

The City Attorney is expected to provide the following legal services to the City of Rock Island:

1. Parliamentary Procedure and Robert's Rules of Order;
2. General Municipal Law in Illinois, including the Open Meetings Act and Freedom of Information Act;
3. Fire and Police Commission Rules and Regulations (separate legal counsel is provided to the Commission Board);
4. State of Illinois Liquor Licensing Requirements;
5. Land Use Law and Zoning Processes and Procedures;
6. Acquiring Easements or other Property Interests through Negotiations or Eminent Domain;
7. Knowledge of Applicable Criminal Law Issues, such as search and seizure issues, etc;
8. Municipal Code Violations;
9. Development Agreements and Legal Issues Related to Tax Increment Financing, Special Service Areas, Enterprise Zones, etc;
10. Defense of Insurance Claims, including knowledge of the Illinois Tort Immunity Act; and
11. Legal Issues relating to Franchising Agreements involving Utility and Cable Companies.

The City has an annual retainer for the provision of legal services such as: attendance at city council meetings, providing legal advice to the Mayor and City Council members, drafting ordinances and resolutions and contract review. The retainer also covers city prosecutor services which includes violations of municipal code such as traffic offense violations, ordinance violations, misdemeanors and city code violations. These cases are typically prosecuted through the Administrative Hearing Officer (Municipal Code Enforcement System or MUNICES) and the City Prosecutor administers cases during this process.

All other litigation services, including representation of the City at commission hearings, representation to boards and commissions, legal advice to city management staff and insurance claims/lawsuits are billed on an hourly basis. Any files which originate before the Administrative Code Hearing Officer and filed in the circuit court are also billed on an hourly basis.

The Selection Advisory Committee included Maureen Riggs (Moline City Attorney), City Manager Thomas and the Administrative Services Director. Each firm was reviewed primarily on its' technical competencies identified in the evaluation and selection portion of the RFQ. This includes understanding of project, cost of services, technical competencies (eg. professional qualifications/experience, litigation experience in area of law, specialized experience of the proposer and personnel committed to project, and performance of the proposer on other contracts), compliance with insurance requirements, submission of licenses/permits and completion of the Equal Employment Opportunity policy. The Selection Advisory Committee (SAC) also performed an analysis of three-year contract costs proposed by each law firm (see attachment – city attorney contract).

On February 24, the SAC interviewed all the firms submitting responses to the RFQ. Scripted questions were developed and asked of all respondents. The interview focused on the legal services and the delineation as to who would be providing these services to the city. At the conclusion of the interview, the SAC discussed the strengths and weaknesses of each firm and who would be the most knowledgeable provider.

The SAC concluded Kutsunis, Weng & Morrison were the most experienced in the delivery of municipal legal services. The SAC determined Mr. Kutsunis and Mr. Morrison have demonstrated the ability to perform the full range of legal services required in the RFQ and recommends the firm be retained for City Attorney and Prosecutor Legal Services.

Recommendations: There are two recommendations to City Council: (1) Effective April 1, 2012, City Council approves a three-year contract with Kutsunis, Weng & Morrison (Ted Kutsunis and Dave Morrison) at the rate of \$120.00 per hour and \$77,250 for the annual retainer fee. The hourly fee and retainer fee will increase in the second and third year of the contract based on the annual general wage increase given by city council to non-affiliated employees. Upon termination of this contract, the City will have the option to renew the contract for two additional one-year periods beginning April 1, 2015. (2) The City Council authorizes the City Manager to execute the contract document with Kutsunis, Weng & Morrison to provide city attorney legal services to the City of Rock Island.

Submitted By: John Thorson, Administrative Services Director 

Approved By: Thomas E. Thomas, City Manager

Appendix A – Prospective Law Firms

KLOCKAU CHRISTOPHER
1600 4TH AVENUE
ROCK ISLAND IL 61201

LANE & WATERMAN
224 18TH STREET
ROCK ISLAND IL 61201

LEE & LEE
844 15TH AVENUE
EAST MOLINE IL 61244

JOHN R LEWARNE
121 16TH STREET
ROCK ISLAND IL 61201

DONAN MCCAULEY
1800 3RD AVENUE
ROCK ISLAND IL 61201

MCGEHEE
105 7TH STREET
SILVIS IL 61282

MOSS H MEERSMAN
2006 16TH
MOLINE IL 61265

MID AMERICA LAW OFFICERS LTD
1630 5TH AVENUE
MOLINE IL 61265

BRIAN S NELSON
400 16TH STREET
ROCK ISLAND IL 61201

NEPPEL LAW FIRM
1600 4TH AVENUE
ROCK ISLAND IL 61201

PAPPAS, CLEARY, O'CONNOR
FILDES, SECARAS PC
1617 2ND AVENUE, SUITE 300
ROCK ISLAND IL 61201

PHARES & CHICKRIS
4500 KENNEDY DR
EAST MOLINE IL 61244

POTTER GALVIN & MORRISON
1800 3RD AVENUE
ROCK ISLAND IL 61201

SHARON PULSIFER
3325 AVENUE OF THE CITIES
MOLINE IL 61265

RUUD SCOVIL & MARSH
2009 9TH AVENUE
ROCK ISLAND IL 61201

WILLIAM G SCHICK
423 17TH STREET
ROCK ISLAND IL 61201

JACK SCHWARTZ
1800 3RD AVENUE
ROCK ISLAND IL 61201

MARK SCHWIEBERT
501 15TH STREET
MOLINE IL 61265

WILLIAM SNYDER
1600 4TH AVENUE
ROCK ISLAND IL 61201

PETER SOBLE
226 17TH STREET
ROCK ISLAND IL 61201

LINNEA THOMPSON
5030 38TH AVENUE
MOLINE IL 61265

CURTIS TREVOR
501 15TH
MOLINE IL 61265

WALKER & WALKER
423 17TH STREET
ROCK ISLAND IL 61201

MICHAEL WARNER
1600 4TH AVENUE
ROCK ISLAND IL 61201

WESSELS & STOJAN
423 17TH STREET
ROCK ISLAND IL 61201

WINSTEIN & KAVENSKY
224 18TH STREET
ROCK ISLAND IL 61201

RUSSELL DIRCKS
111 E 3RD STREET
DAVENPORT IA 52801

DENNIS DUFFY
1840 E 4TH STREET
DAVENPORT IA 52801

JOHN FLYNN
111 E 3RD STREET
DAVENPORT IA 52801

ANDICH & ANDICH
1800 3RD AVENUE
ROCK ISLAND IL 61201

BOZEMAN NEIGHBOUR PATTON & NOE
1630 5TH AVENUE
MOLINE IL 61265

JOHN H WESTENSEE
400 16TH
ROCKISLAND IL 61201

ROGER STRANGLUND
CALIFF & HARPER PC
506 15TH STREET
MOLINE IL 61265

JOHN CALLAS
329 18TH STREET
ROCK ISLAND IL 61201

GREGORY CHICKRIS
4500 KENNEDY DR
EAST MOLINE IL 61244

CHURCHHILL & CHURCHILL
1610 5TH AVENUE
MOLINE IL 61265

KENNETH COLLINSON
225 E 1ST STREET
MILAN IL 61264

CORYN & WALKER
1515 4TH AVENUE
ROCK ISLAND IL 61201

DAVID DAILEY
1528 6TH AVENUE
MOLINE IL 61265

CLARENCE DARROW
1515 4TH AVENUE
ROCK ISLAND IL 61201

DEUTSCH & DEUTSCH
1825 3RD AVENUE
ROCK ISLAND IL 61201

EAGLE & EAGLE
224 18TH STREET
ROCK ISLAND IL 61201

HUNTOON H KARL
1000 36TH AVENUE
MOLINE IL 61265

CRAIG B GRAFTON
3610 25TH STREET
MOLINE IL 61265

JOSEPH F FACKEL
1718 8TH AVENUE
MOLINE IL 61265

MARK DEVRIEZE
3637 ARCHER DRIVE
EAST MOLINE IL 61244

STEVE HANNA
418 16TH STREET
MOLINE IL 61265

GLOCKHOLF & HAYTCHER
912 15TH AVENUE
EAST MOLINE IL 61244

CAPRON & AVGERINOS, P.C.
5030 38TH AVENUE
MOLINE IL 61265

NELSON KEYS KEYS
224 18TH STREET SUITE 300
ROCK ISLAND IL 61201

BUCKROP & VANDELDELDE
329 18TH STREET, #500 LAW CENTRE
ROCK ISLAND IL 61201

MCCARTHY, CALLAS, CHUCH & FEENEY
329 18TH STREET, SUITE 100
ROCK ISLAND IL 61201

KATZ, HUNTOON & FIEWEGER
1000 36TH AVENUE
MOLINE IL 61265

TIMOTHY FEENEY
329 18TH STREET
ROCK ISLAND IL 61201

MICHAEL HALPIN
329 18TH STREET
ROCK ISLAND IL 61201

ALLAN HARTSOCK
224 18TH STREET
ROCK ISLAND IL 61201

KUTSUNIS & WENG
1515 4TH AVENUE
ROCK ISLAND IL 61201

THOMAS SKOREPA
1617 2ND AVENUE
ROCK ISLAND IL 61201

NASH NASH BEAN & FORD LLP
5030 38TH AVENUE
MOLINE IL 61265

CITY ATTORNEY CONTRACT

(3-Year Agreement)

| Law Firm | Year 1 | | Year 2 | | Year 3 | | 3-Year Contract Cost |
|-------------------------------------|----------|-----------------------------|----------|-----------------------------|----------|-----------------------------|----------------------|
| | Retainer | Legal Service (Hours) 623.7 | Retainer | Legal Service (Hours) 623.7 | Retainer | Legal Service (Hours) 623.7 | |
| 1 Kutsunis, Weng & Morrison | \$77,250 | \$74,844 | \$78,795 | \$76,341 | \$80,371 | \$77,868 | \$158,239 |
| 2 Bozeman, Neighbour, Patton & Noe | \$88,000 | \$96,674 | \$90,200 | \$99,792 | \$92,500 | \$99,792 | \$192,292 |
| 3 Snyder, Park, Nelson & Schwiebert | \$93,600 | \$99,792 | \$95,472 | \$101,788 | \$97,381 | \$103,824 | \$201,205 |
| 4 Calliff & Harper | \$80,000 | \$106,029 | \$85,000 | \$106,029 | \$85,000 | \$106,029 | \$191,029 |
| 5 Dergo Law | \$60,000 | \$68,607 | \$62,500 | \$71,726 | \$65,000 | \$74,844 | \$139,844 |
| | | \$152,094 | | \$155,136 | | | \$465,468 |

Notes:

(1) Kutsunis, Weng & Morrison: City Attorney (Ted Kutsunis), Prosecutor (David Morrison)

Hourly rate is \$120 per hour in year 1. In years 2 & 3, retainer and hourly rate is based on percentage increase given to non-affiliated employees which is assumed at 2% each year.

The firm is the current incumbent. The FY11/12 charges are budgeted at \$85,852 for the retainer and \$131 per hour for Ted Kutsunis.

(2) Bozeman, Neighbour, Patton & Noe: City Attorney (Mark Tarnow), Prosecutor (Jeff Jacobs)

Hourly rate is \$155 per hour in year 1; \$160 per hour in years 2 and 3.

(3) Snyder, Park, Nelson & Schwiebert: City Attorney (Bill Snyder), Backup City Attorney (Dee Rummels), Prosecutor (Joe Van Vooren)

Hourly rate is \$160 per hour in year 1. In years 2 & 3, retainer and hourly rate is based on percentage increase given to non-affiliated employees which is assumed at 2% each year.

(4) Calliff & Harper: City Attorney (Roger Strandlund), Prosecutor (Jonathan Fox)

Hourly rate is "blended rate" ranging from \$140 to \$170 per hour for each year of the contract. The \$170 rate is assumed for each year. If using the \$140 rate per hour, the 3-year contract cost would be \$511,954 (a reduction of \$56,133).

(5) Dergo Law: City Attorney (Michael Dergo), Prosecutor (Charles Majursky)

Hourly rate is \$110 per hour in year 1; \$115 per hour in year 2; and \$120 per hour in year 3.

AGREEMENT

THIS AGREEMENT entered into this ____ day of _____, 2012, by and between the CITY OF ROCK ISLAND, ILLINOIS, a Municipal Corporation (hereinafter referred to as the "City"), and Attorneys Theodore G. Kutsunis, Michael J. Weng, and David G. Morrison, and the firm of KUTSUNIS, WENG & MORRISON (hereinafter referred to as "the Firm");

WHEREAS, the parties have agreed that a written agreement will exist between them setting forth the duties of the aforesaid Attorneys and the amount of compensation to be paid therefor,

IT IS THEREFORE STIPULATED, COVENANTED AND AGREED by and between the parties hereto, in consideration of the mutual covenants contained herein, as follows:

1. That the aforesaid Attorneys, and other members of the Firm, shall perform all legal services for the City, excepting labor law, Workers' Compensation Law, Environmental Law, and any such other matters that the City shall, in its sole discretion, refer elsewhere. A City Attorney shall attend regular Council meetings, and its Study Sessions (but only as specifically required for the matter to be considered), prepare ordinances and resolutions for the City Council, review contracts, and respond to inquiries through day-to-day phone conferences with the Mayor, City Manager, Members of the City Council, and department heads (not requiring research or drafting of documents), and shall participate in regular reviews with the City Manager concerning goal setting and performance of the City Attorneys and Firm, and, further, shall provide all necessary prosecution services, including participation in City Municipal Code Hearings, C.O.R.A. hearings, and Circuit Court hearings on Petitions to Revoke Court Supervision and Conditional Discharge for D.U.I.'s, for an annual retainer fee of \$77,250.00, payable in equal monthly installments.
2. That all other legal work performed by the Firm and City Attorneys shall be compensated at a fee of \$120.00 per hour, except legal assistant time which shall be billed at a rate of \$61.00 per hour.
3. The aforesaid retainer and hourly rate shall increase each year (April 1) at the same rate that the City's non-affiliated wage rate increases annually.

4. This Agreement shall be for the term of three (3) years beginning April 1, 2012, and continuing thereafter until March 31, 2015, but may be terminated by either of the parties by a ninety (90) day written notice to the other party.
5. Option for Extended Renewal. Upon the termination of this contract, the parties shall have the option to renew this contract for two additional one-year periods beginning April 1, 2015.

CITY OF ROCK ISLAND, ILLINOIS, a
Municipal Corporation,

By: _____
CITY MANAGER

Attest:

By: _____
CITY CLERK

KUTSUNIS, WENG & MORRISON

By: _____
THEODORE G. KUTSUNIS

By: _____
MICHAEL J. WENG

By: _____
DAVID G. MORRISON