

TO: MAYOR AND CITY COUNCIL
FROM: NEIL JENSEN, City Administrator
SUBJECT: Cannon Falls Civil Attorney Agreement
MEETING DATE: December 15, 2020

BACKGROUND:

On Monday, November 30th the city council held a work session to interview 4 applicants for the city attorney civil legal services. All the applicants were very qualified for the position and it was a difficult decision to select the next city attorney. The city council recommended the law firm of Hoff – Berry to be the next Civil City Attorney firm.

Sarah Schwarzhoff will be the representative from Hoff-Berry as the city's next civil attorney. Please find in your packet the agreement for civil legal services. The expected start date is January 1st, 2021.

STAFF RECOMMENDATION

Please make a motion to approve the Agreement for General Civil Legal Services from Hoff – Berry Attorneys with the start date of January 1, 2021.

REQUESTED COUNCIL ACTION

Please make a motion to approve the Agreement for General (Civil) Legal Services from Hoff – Berry Attorneys with Sarah Schwarzhoff as the lead attorney and the start date of January 1, 2021.

Agreement for General (Civil) Legal Services

Whereas, the City of Cannon Falls ("City"), a public body corporate and politic operating as a charter city under the laws of the State of Minnesota and located within the County of Goodhue, desires to have certain attorney services provided; and

Whereas, the City desires to have Sarah E. Schwarzhoff in conjunction with the firm of Hoff & Barry, P.A. ("Attorney") to serve as city attorney;

Whereas, the parties desire to more specifically identify the duties and responsibilities of the City and Attorney;

NOW THEREFORE, IT is hereby agreed that this document by and between the City and the Attorney, shall be a binding obligation on behalf of the parties named.

- I. Term. This agreement shall be effective January 1, 2021, and terminable as provided in Section IX.

- II. Scope of Legal Services. The services required by the City include, but are not limited to, the following:
 - Attendance at all City Council meeting. Attendance at other meetings as requested.
 - Review of municipal contracts as requested, including contracts for public improvements, developments, joint powers agreements, construction, lease agreements, and the like.
 - Representation of the City in the acquisition of properties for public improvements, special assessment appeal, easements, parks.
 - Review of all City Council and Planning Commission materials.
 - Representation of the City in proceedings for public improvement projects.
 - Representation of the City on economic development related issues as requested.
 - Representation of the City in matters related to the enforcement of City Codes, including building, subdivision, nuisance and zoning codes.
 - Defend the City in all litigation, except in those cases where insurance companies are required to exclusively provide defense, or where the City chooses to hire specialized or other legal services. The Attorney is responsible for monitoring and coordinating with the selected representation.
 - Review of legal issues in City Council, HRA and Planning Commission agenda items as requested.
 - Review of draft ordinances, resolutions, developer agreements and correspondence as requested.
 - Meeting and/or telephone conversations with and advising Mayor, Council members, City Administrator and other staff on general legal matters.
 - Research and submit legal opinions on legal matters requested by the City Administrator.

- Provide written and/or oral summaries to City Administrator of law changes affecting the City, including recommending changes in operations or procedures to assure compliance.
- Available by phone and email to answer staff questions.

III. Fees

General Legal Services:

\$165/hour for partners/of counsel attorneys;
 \$155/hour for associate attorneys;
 \$100/hour for paralegals;
 \$90/hour for law clerks.

Litigation and Matters involving Threatened/Pending Litigation:

\$185/hour for partners/of counsel attorneys;
 \$155/hour for associate attorneys;
 \$100/hour for paralegals;
 \$90/hour for law clerks.

Development, Third Party Revenue Financing and other Projects for which legal fees are paid by Applicant:

\$240/hour for partners/of counsel attorneys;
 \$225/hour for associate attorneys;
 \$120/hour for paralegals;
 \$100/hour for law clerks.

Expenses to be reimbursed: Express delivery, copies, Westlaw charges, postage

Percent of an hour billed: .25

- IV. Responsible Attorney and Staff. Sarah E. Schwarzhoff shall be the primary attorney for the City. Ms. Schwarzhoff shall be responsible for the performance of this agreement, although she may be assisted by other attorneys or support staff in the firm. Ms. Schwarzhoff shall supervise all work performed on behalf of the City.
- V. Conflicts of Interest. The Attorney shall not accept any client or project which knowingly would place it in a conflict of interest with the services to be provided to the City under this agreement. If a conflict of interest should develop, the Attorney shall be responsible for taking the necessary steps to comport its representation of the City with the Lawyers Code of Professional Responsibility.
- VI. Assignment of Services and Agreement. The Attorney shall not assign any interest or obligation of this Agreement without the prior written consent of the City.

- VII. Work Product. All ordinances, resolutions, correspondence, and other documents or materials drafted for the City by the Attorney shall, upon their completion, become the property of the City.
- VIII. Insurance and Indemnification. Attorney agrees to maintain a valid policy of Professional Liability Insurance for the duration of this agreement. The value of the policy shall not be less than the cap for municipal tort liability as established by Minnesota Statutes.
- IX. Termination. The City or Attorney may terminate this agreement upon sixty (60) days written notice. Failure by the City or the Attorney to comply with any of the terms of this agreement shall be grounds for terminating this agreement, as shall be the City's dissatisfaction with the Attorney's performance under the agreement. Upon termination of this agreement, the City shall only be responsible for billings accrued as of the date of termination.

Further, the City expressly reserves the right to hire independent counsel on matters it determines requires an attorney with more experience or expertise in a particular field. In such a situation, the City shall remain responsible to the Attorney for any billings not related to the matter for which special counsel was retained. The City shall only be responsible to the Attorney for extra expenses in relation to the matter for which special counsel is retained if the City names the Attorney as co-counsel in the matter or otherwise requests the Attorney's participation.

- X. Acceptance. The terms of this agreement are hereby accepted and made binding upon and between the City of Cannon Falls and Sarah E. Schwarzhoff in conjunction with the law firm of Hoff & Barry, P.A.

City of Cannon Falls

Hoff Barry P.A.

John Althoff, Mayor

Partner

Neil Jensen, City Administrator