


cityofnovi.org

# CITY of NOVI CITY COUNCIL

## Agenda Item 1 December 20, 2010

**SUBJECT:** Consideration of recommendation from Consultant Review Committee to award a contract for General Counsel Legal Services to Secret Wardle for a two-year term and one-year renewal option, and adoption of associated fees and charges, effective December 31, 2010.

**SUBMITTING DEPARTMENT:** Assistant City Manager 

**CITY MANAGER APPROVAL:** 

### BACKGROUND INFORMATION:

This past Fall the Consultant Review Committee (CRC) directed City Administration to review the attorney contracts that are set to expire on December 31, 2010. Per the direction of the CRC a Request for Proposals (RFP) was announced for General Counsel Legal Services this past November. Seven (7) firms submitted proposals by the deadline. An evaluation team comprised of Leadership Team members evaluated the proposals utilizing the Quality Based Selection system (QBS). The results were presented to the CRC at their meeting on December 6, 2010. At that meeting the CRC unanimously voted to recommend a two-year agreement with Secret Wardle with an option to renew in 2013.

The agreement provides for meeting attendance assignments as follows:

<b>City Council:</b>	Thomas Schultz
<b>Planning Commission:</b>	Kristin Kolb
<b>Zoning Board of Appeals:</b>	Beth Kudla

The draft agreement provides for a fee **decrease** from the rates adopted in 2007 as follows:

#### Existing Rates:

<u>Position</u>	<u>Hourly Rate</u>
Partners	\$130.00
Senior Associates	\$120.00
Associates	\$110.00

#### Proposed Rates:

<u>Position</u>	<u>Hourly Rate</u>
Partners	\$125.00 (-\$5/hour from current agreement)
Senior Associates	\$120.00
Associates	\$110.00

**RECOMMENDED ACTION:** Approval of award of contract for General Counsel Legal Services to Secret Wardle for a two-year term and one-year renewal option, and adoption of associated fees and charges, effective December 31, 2010, subject to completion and signature of contract incorporating terms, conditions, fees, and charges in accordance with the proposal and signature by Mayor and Clerk.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gaff				
Council Member Fischer				
Council Member Margolis				

	1	2	Y	N
Council Member Mutch				
Council Member Staudt				
Council Member Wrobel				

**CONTRACT FOR GENERAL LEGAL COUNSEL SERVICES**

**BETWEEN**

**THE CITY OF NOVI**

**AND**

**SECRETST WARDLE**

Effective December 31, 2010

## **CONTRACT FOR GENERAL LEGAL COUNSEL SERVICES**

**AGREEMENT** between City of Novi (“Novi”) and the law firm of Secrest, Wardle, Lynch, Hampton, Truex and Morley (the “Firm”) for the provision of General Legal Counsel services for Novi.

### **RECITATIONS:**

The Charter of the City of Novi makes provision for the establishment of a general legal counsel, or city attorney, for the City.

The Firm submitted a written proposal to Novi, dated November 24, 2010, which is incorporated by this reference, to continue its services to provide general legal counsel to the City.

The Novi City Council determined to continue the Firm’s services, on the terms and provisions described below.

### **NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

#### **IN GENERAL**

Novi retains the Firm to provide General Counsel Services for Novi, which shall include the provision of all legal counsel services, with the exception of: prosecuting traffic violations in the District Court, providing labor and employment law services, and providing bond counsel services. Such General Counsel Services shall be provided in accordance with the terms and provisions of this Agreement. The authority and responsibility for General Counsel Services under this Agreement shall commence on December 31, 2010.

As of the date of this Agreement, services to the City are intended to be provided by a team of attorneys from the Firm's Municipal Law Practice Group. Thomas R. Schultz, a Partner in the Firm and Co-Manager of the Municipal Practice Group, will be the City's business contact person. Mr. Schultz, along with William P. Hampton, will oversee the Firm’s general counsel services to the City of Novi and will serve as principal attorney for contact and day-to-day services and advice. Elizabeth M. Kudla, Kristin Bricker Kolb, and Vahan C. Vanerian are proposed as the key attorneys to serve as the principal back-up attorneys. Stephanie Simon-Morita, along with Derk W. Beckerleg, would continue to provide representation on Tax Tribunal matters. Vahan C. Vanerian would be assigned to the District Court for ordinance enforcement purposes.

#### **SERVICES ANTICIPATED TO BE PROVIDED**

The services anticipated to be provided by the Firm under this Agreement are the following, among others:

1. Attend meetings of the City Council, Planning Commission and Zoning Board of Appeals, and attend meetings with and on behalf of members of the City Administration as required to undertake the legal business of the City and/or required to provide general legal counseling and consultation.
2. Prepare legal opinions and agreements, prepare codes and ordinances, and amendments of such documents, and proactively make recommendations in the interest of Novi.
3. Assist with City planning.
4. Provide City zoning services.
5. Represent Novi in litigation, including Circuit Court, Court of Appeals, Supreme Court, Federal Court, Tax Tribunal and administrative proceedings; and, monitor litigation in which legal counsel has been assigned by Novi's insurance provider, including review of billings and serving as co-counsel on appropriate cases, as determined by the City Council.
6. Work with the City Administration to enhance the City.
7. Provide environmental law services.
8. Provide services in connection with infrastructure installation and finance (with the exception of bond counsel services).
9. Provide services relative to telecommunications matters.
10. Provide services relative to real estate and condemnation matters.
11. Prepare for and attend monthly meetings of the City Council (or on other periodic basis as the City shall determine appropriate) for the purpose of summarizing and receiving direction from Council on pending litigation.

The services to be provided by the Firm under this Agreement shall not include the prosecution of traffic violations in the District Court, or the provision of labor and employment law services or bond counsel services.

## **MANAGEMENT AND PROVISION OF SERVICES**

The following reflects current staffing by the Firm. The Firm will notify the City of any expected or required changes in personnel.

### ***Meeting Attendance***

- City Council: Thomas Schultz
- Planning Commission: Kristin Kolb
- Zoning Board of Appeals: Beth Kudla

### ***Day-to-Day Advice, Calls, and Meetings***

This function will be performed by Thomas Schultz, Beth Kudla, and Kristin Kolb. Thomas Schultz, Beth Kudla, and Kristin Kolb, will be available for phone calls and conferences, and for meetings out of the office as requested. In addition, if the City would like an attorney to maintain regular office hours at the City (e.g., specified time at the City each week), Thomas Schultz and Beth Kudla would represent the Firm for this service.

### ***Litigation***

As desired by the City, and depending upon the specific subject matter at issue, litigation will be handled by Thomas Schultz, William Hampton, Kristin Kolb, Vahan Vanerian. Mark Roberts, a member of the Firm's Municipal Department, will also be available to handle as appropriate.

### ***Tax Tribunal***

Tax assessment litigation, claims of tax exemptions and challenges to special assessments will be handled by Stephanie Simon-Morita and Derk Beckerleg.

### ***Real Estate and Condemnation***

Real Estate and Condemnation will be handled by Thomas Schultz and Beth Kudla, with the assistance of Kristin Kolb and Mark Roberts.

### ***Agreements***

Agreements will be reviewed and prepared by Thomas Schultz and Beth Kudla, with the assistance of Kristin Kolb and other attorneys in the Municipal Group (or other Departments, as needed, depending upon the need for particular expertise, e.g., a contract with sensitive environmental aspects may also be reviewed by the Environmental Group of the Firm).

***Planning and Zoning***

Planning and Zoning matters will be handled by Thomas Schultz, Beth Kudla and Kristin Kolb.

***Infrastructure***

Infrastructure issues, including sewer, water, drainage, roads, sidewalks, and the like, will be handled by Thomas Schultz and Beth Kudla.

***Telecommunications***

Telecommunications matters will be headed-up by Gary Dovre with the assistance of Kristin Kolb.

***Prosecutions***

Code enforcement matters will be handled by Vahan Vanerian.

**COMPENSATION AND BUDGET**

The Firm shall provide legal services based exclusively upon an hourly rate compensation arrangement. The following rates for legal services shall apply, based upon the classification of attorneys within the Firm:

Partners	\$125.00 per hour
Senior Associates	\$120.00 per hour
Associates	\$110.00 per hour

The partners who may provide services to the City under this Agreement are Thomas Schultz, Derk Beckerleg, Gary Dovre, and William Hampton.

The senior associates who may provide services to the City under this Agreement are Beth Kudla, Kristin Kolb, Stephanie Morita, Van Vanerian, and Mark Roberts.

On the date of this Agreement, the attorneys in the Firm's Municipal Department, and their respective classifications, are as set forth above. Classifications may change within the firm, and in such event notice of same will be given to the City for approval of a change in classification for purposes of this agreement.

Costs for copying, faxing, mileage, phone, computer research and postage for the monthly billing period shall be billed at a flat 2% of the total monthly billing. Other costs

incurred or advanced on behalf of Novi, such as costs for trial transcripts, expert fees, and the like shall be paid or reimbursed by Novi.

A special arrangement applies for matters to be billed under the City Ordinance Code provision for the escrow of fees by applicants for legal reviews prior to City action. The following general rules shall apply to legal reviews understood to be financed by escrowed funds:

- ◆ Unless directed otherwise, the Firm shall not commence work on a matter to be financed by escrowed moneys until the Firm receives a written or electronic notice from the City Manager or City Finance Director, or a person designated by the City Manager or Finance Director, that the escrow moneys have been collected for the respective review.
- ◆ Unless otherwise approved, the Firm shall not be paid an amount in excess of the amount specified in the ordinance or resolution, or the amount estimated by the Firm for the particular review, as applicable for the respective review.

Detailed monthly billing statements shall be provided within 30 days after the period covered in the bill, specifying the attorney performing each service, the date, description and time expended for each service performed, and an itemization of expenses to be reimbursed. Except amounts covered under the 2% category, as specified, above, expenses shall be billed at cost, without an add-on multiplier.

#### **ASSIGNMENT OF WORK AND DURATION OF AGREEMENT**

Legal work shall be consistent with the contemplation of the City Charter, and shall be assigned as specified in the proceeding section of this contract, and matters involving the assessment of property taxes may be assigned by the City Assessor. Modifications of this authorization for the assignment of work, and/or any other modifications of the interrelationship of the City and Firm shall be provided by action of the City Council if the modification is initiated by the City, or by the management of the Firm if initiated by the Firm.

This Agreement shall continue and remain in effect for a period of two (2) years, until December 31, 2012, with an option on the part of the City to renew for a third year, until December 31, 2013, or until a notice of termination is provided by either the City Council or the Firm. A notice of termination may be given at any time by either the City Council or the Firm, for cause or based upon the sole and exclusive discretion of either the City Council or the Firm, without any cause whatsoever. Unless otherwise mutually



agreed upon, in the event a notice of termination is given by the City Council without cause, the effective date of the termination shall be the day after the expiration of sixty (60) days following the date of the notice of termination.

**CITY OF NOVI**

By: \_\_\_\_\_  
DAVID B. LANDRY, MAYOR

**SECRET, WARDLE, LYNCH,  
HAMPTON, TRUEX AND MORLEY**

By: \_\_\_\_\_  
THOMAS R. SCHULTZ

Dated: Effective December 31, 2010

1542882

**Fees and Costs Proposal**

**City of Novi**

**November 24, 2010**

**SECRET WARDLE**

c/o Thomas R. Schultz, Esq.  
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E-mail: [tschultz@secretwardle.com](mailto:tschultz@secretwardle.com)

## FEES AND COSTS PROPOSAL

The following fees and costs proposal is submitted consistent with the City of Novi's Request for Qualifications for Legal Services dated October 27, 2010.

We propose to provide legal services to the City of Novi based upon an hourly rate calculation, using the following rates for the respective attorneys in the firm:


<u>Position</u>	<u>Hourly Rate</u>
Senior/Executive Partners	\$125.00
Partners/Senior Associates	\$120.00
Associates	\$110.00
Legal Assistant	\$50.00

The proposed rates reflect a **reduction** in the current Senior/Executive Partner rate, only, of \$5.00/hr from the current rate structure, with all the other rates remaining as they currently are. This reduction would apply to a significant amount of the work performed on the City's account. It acknowledges the significant financial stresses that the City is currently experiencing. The other rates are proposed to remain the same, as they reflect significant value for service for the City. And as indicated in the Qualifications document, we have added a legal assistant at reduced rates to undertake certain of the tax appeal work.

We propose that these rates would apply to the **first and second year** of the contract. In the **third year**, we would reserve the right to seek an increase in the fees through discussions with the City Council.

As is currently the case, detailed monthly billing statements would be provided within 30 days after the period covered in the bill, specifying the attorney performing each service, the date, description and time expended for each service performed, and an itemization of expenses to be reimbursed. Costs for copying, faxing, mileage, phone, computer research and postage for the monthly billing period shall be billed at a flat 2% of the total monthly billing. Other costs incurred or advanced on behalf of the City, such as costs for trial transcripts, expert fees, and the like would be paid or reimbursed by the City. Except amounts covered under the 2% category, as specified above, expenses would be billed at cost, without an add-on multiplier.

SECRET WARDLE

  
Thomas R. Schultz