



**City of Rochester Hills
AGENDA SUMMARY
FINANCIAL ITEMS**

**1000 Rochester Hills Dr.
Rochester Hills, MI 48309
248.656.4630
www.rochesterhills.org**

Legislative File No: 2010-0075

TO: Mayor and City Council Members
FROM: Pamela M. Gordon, Human Resources, ext. 2521
DATE: February 22, 2010
SUBJECT: Labor and Employment Legal Services

REQUEST:

Purchasing authorization is requested for labor and employment legal services; to be allocated during a planned transition between Kemp Klein Law Firm, Troy, Michigan and Keller Thoma, P.C., Detroit, Michigan; based on \$115,000 requested for 2010 and \$140,000 per year for 2011 and 2012; with a total amount for three years not to exceed \$395,000 and the option to renew with Keller Thoma for an additional two years.

REASON FOR PURCHASE:

Per Council's direction in 2008, a request for proposals for labor and employment legal services was issued in October 2009. As a result, 19 proposals were submitted and reviewed by a panel that included Keith Sawdon, Finance Director; Jean Farris, Supervisor of Procurement and myself, as the Human Resources Director and labor relations manager for the City. Representatives of four firms were interviewed, including Tom Boyer of Kemp Klein Law Firm, the City's current principal labor counsel and Dennis Dubay of Keller Thoma, P.C. While Mr. Dubay's firm was the unanimous preferred selection, the panel agreed that, given the sensitive nature of legal representation in general and the critical nature of the next round of union contract negotiations during 2011 in particular, it would be in the best interest of the City to maintain the flexibility to utilize the services of both firms during a transitional period over approximately two years.

Keller Thoma was selected because they provide a full range of legal services, with attorneys placing particular emphasis on general employment, labor relations and litigation matters. Dennis Dubay is a principal with the firm and one of the preeminent labor attorneys in the State of Michigan, representing management in literally hundreds of arbitration cases under Public Act 312 during his career, as well as in all other facets of labor and employment law. Dubay previously assisted Rochester Hills in preparing for arbitration prior to reaching a contract settlement with the fire fighters' union in May 2008.

Tom Boyer has provided labor and employment legal services to the City of Rochester Hills for over 35 years. As a result, he has accumulated a wealth of historical and institutional knowledge of our municipality that cannot be instantly replicated. However, while Mr. Boyer's dedication to serving the needs of this City goes without question, the panel and I were not satisfied that a clear successor at Kemp Klein is currently prepared to assume primary responsibility for Rochester Hills in the event that Boyer would no longer be available to serve in that capacity. Keller Thoma was seen by the selection panel as a well qualified successor firm based on their ability to provide immediate, experienced and competent labor and employment legal expertise, while gaining important institutional knowledge over time.

In order to most effectively utilize Mr. Dubay this year, especially considering his experience with the complex process of collective bargaining under P.A. 312, it is envisioned that he will primarily assist City administration

in preparing for negotiations with the City's three bargaining units, whose contracts will all be open for negotiations at the end of this year. These negotiations will begin as soon as this fall, with Mr. Dubay serving as a principal management representative, particularly with the fire union. Mr. Boyer will continue to provide day-to-day advice and counsel for matters concerning administration of the existing contracts, as well as other employment legal compliance matters for the remainder of this year. These matters will be transitioned as well during 2011, with a goal of establishing Keller Thoma, P.C. as the City's labor and employment legal counsel by the end of 2011. May Boyer may be called upon after 2010 for historical perspective during contract negotiations, if needed.

PROCESS:

Vendor Name and Address:

Keller Thoma, P.C.
 440 East Congress, 5th Floor
 Detroit, MI 48226-2918

Kemp, Klein Law Office
 201 Big Beaver Road, Suite 600
 Troy, MI 48084

Reason for Selection:

Quality Based

Method of Purchase:

Blanket Purchase Order

BUDGET:

The budget for labor and employment legal services was reduced to \$115,000 in 2010 to reflect actual expenses in 2009 and based on Mr. Boyer's hourly rate of \$155. However, blanket purchases not to exceed \$130,000 have been authorized by Council each year for the past five years. Although Kemp Klein's proposal maintains Mr. Boyer's current hourly rate in 2010, Keller Thoma quoted an hourly rate of \$165 for principle/lead attorneys, with possible 3% increases for 2012 and 2014. The increased purchase amounts requested for 2011 and 2012 reflect this rate difference, as well as an anticipated increase in billable hours primarily due to the volume of negotiations.

Recognizing the budget challenges that the City is facing during the coming years, we intend to monitor billable expenses closely in an effort to stay within budget. However, given the difference in hourly rates, the possibility of some overlap between the two firms during the planned transition and preparations for this next round of critical negotiations, it is possible that a budget amendment and/or blanket purchase increase may be needed during the three-year term of this approval in order to maintain proper legal council during this "perfect storm" of necessary budget cuts and intense multi-bargaining unit labor negotiations.

Fund Name	Department Account No	Account No. Description	Budget Amount	Cost	Remaining Budget
General	210.805002	Legal Fees: Labor & Other	\$65,000	\$65,000	0
Fire	206.805002	Legal Fees: Labor & Other	\$20,000	\$20,000	0
Sewer	510.805002	Legal Fees: Labor & Other	\$18,000	\$18,000	0

Water	530.805002	Legal Fees: Labor & Other	\$15,000	\$15,000	0
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RECOMMENDATION:

It is recommended that the Rochester Hills City Council authorize the purchase of labor and employment legal services; to be allocated during a planned transition between Kemp Klein Law Firm, Troy, Michigan and Keller Thoma, P.C., Detroit, Michigan; based on \$115,000 requested for 2010 and \$140,000 per year for 2011 and 2012; with a total amount for three years not to exceed \$395,000 and the option to renew with Keller Thoma for an additional two years.

APPROVALS:	SIGNATURE	DATE
Department Review		
Department Director		
Budget Content: Finance Director		
Purchasing Process: Supervisor of Procurement		
Mayor		
City Council Liaison		