CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Motion Approving Legal & Consulting Services - Brick Gentry P.C.

DATE: May 15, 2017

FINANCIAL IMPACT: Partners are billed at a discounted rate of $200 per hour, associates are billed at $150 per hour with paralegals and law clerks billed at $75 per hour. No retainer is required.

BACKGROUND: Brick Gentry P.C. is to provide legal consulting and investigation services for the City of West Des Moines. The primary focus is to handle employee complaint investigations. Internal investigations can and are still being conducted on certain types of issues, but those that rise to a more significant level as deemed by our complaint process, City Attorney's office or City Manager's office, will involve Brick Gentry P.C.

RECOMMENDATION: Approve the proposed agreement with Brick Gentry P.C. and authorize City Manager to execute document on behalf of the City.

Lead Staff Member: Jamie Letzring, Deputy City Manager

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

BRICK GENTRY P.C.
ATTORNEYS & COUNSELORS at LAW

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May 10, 2017

Tom Hadden
City Manager
4200 Mills Civic Parkway, Suite 1A
West Des Moines, IA 50265

RE: Legal Services Agreement

Dear Mr. Hadden:

Thank you for engaging Brick Gentry, P.C. This letter confirms our agreement to represent you on an as-needed basis to provide legal services for employment and other municipal issues.

Our fees will be based on the hourly billing rates charged by each lawyer in the firm who performs work on this matter. Partners are billed at a discounted rate of $200 per hour, associates are billed at a rate of $150 per hour, with paralegals and law clerks billed at $75 per hour. I will be the primary lawyer working on this matter, and my fees will be billed at our hourly rate designated for partners. The following provisions of legal representation will apply to this relationship:

1. Fees for services rendered will be based on the reasonable value of those services as determined under the American Bar Association and Iowa Rules of Professional Conduct. Such fees will be based primarily on our hourly billing rates. The above billing rates differ, depending on the attorney's experience and years of practice. The time for which a client will be charged will include, but will not be limited to, telephone and office conferences with a client and counsel, witnesses, consultants, court personnel and others; conferences among our legal personnel; factual investigation; legal research; responding to clients' requests for us to provide information to their auditors for review or audits of financial statements; drafting of letters, pleadings, briefs and other documents; travel time; waiting time in court; and time in depositions and other discovery proceedings. Time is billed in tenths of an hour with a minimum charge of three tenths. To reduce legal fees, whenever possible we use paralegal personnel and law clerks. Other factors may be considered in determining our fees, including the responsibility assumed, the novelty and difficulty of the legal problem involved, the benefit resulting to the client and any unforeseen circumstances arising in our representation.

2. In additional to our fees, we will be entitled to payment or reimbursement for costs and expenses incurred in performing services such as photocopying, messenger and delivery services, computerized research, travel (including mileage, parking, airfare, lodging, meals and ground transportation), long-distance telephone, word processing, court costs and filing fees. Certain of such items may be charged at more than our direct cost to cover our overhead. Unless special arrangements are made at the outset, fees

and expenses of others will not be paid by us and will be the responsibility of, and billed directly to the client.

3. Upon execution of this Agreement, Client agrees to or has delivered to Attorney an initial retainer of **$0.00**. The retainer funds will be held in the Brick Gentry PC Trust Account, a trust account established under the Interest on Lawyer Trust Account program established by the Iowa Supreme Court, until earned. The Attorney's trust account is interest bearing and interest on this account is remitted to the Lawyer Trust Account Commission, State Capitol, Des Moines, Iowa 50319, as required by law. Client acknowledges that Brick Gentry, P.C. has an Iowa Code § 602.10116 attorney lien on client funds placed into the Brick Gentry PC Trust account for fees and expenses due under this agreement, and otherwise as provided by law.

4. Fees and expenses will be invoiced monthly and are payable upon presentation. We expect prompt payment. We reserve the right to postpone or defer providing additional services or to discontinue our representation if invoiced amounts are not paid when due. By executing this agreement, you authorize Attorney to draw client funds from the Brick Gentry PC Trust Account necessary to pay any fees or costs that remain due on the seventh day past the postmark date of each monthly invoice.

5. Although we may be asked to furnish estimates of fees or costs that we anticipate will be incurred, these estimates are subject to unforeseen circumstances and are by their nature inexact.

6. A client shall have the right to terminate our services and representation upon written notice to the firm. Such termination shall not, however, relieve the client of the obligation to pay for all services rendered and costs or expenses paid or incurred for the client prior to such termination. Upon termination of our services or representation, you authorize Attorney to immediately draw client funds from the Brick Gentry PC Trust Account necessary to pay for all services rendered and costs or expenses paid or incurred for the client prior to such termination and any client funds remaining in the Brick Gentry PC Trust Account after payment of said fees and expenses, shall be promptly returned to Client.

7. We reserve the right to withdraw from our representation if the client, or other persons responsible for these terms, fails to honor the engagement letter, the client fails to cooperate or follow our advice on a material matter, or any fact or circumstance that would, in our view, render our continuing representation unlawful or unethical. If we elect to withdraw, the client will take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to complete our withdrawal, and we will be entitled to be paid for all services rendered and costs and expenses paid or incurred for the client to withdrawal, under this agreement.

8. If any claim or action is brought against us, or any personnel of the firm, and such claim arises from the client's negligence or misconduct, the client, or other persons responsible for these terms, will hold us harmless and indemnify us for all damages incurred.

If the foregoing accurately reflects your understanding, and you agree to the terms and conditions of our representation, please indicate your acceptance by executing the acceptance in the space below, and return this document to our office.

We are pleased to have the opportunity to represent you, and look forward to working with you.

Sincerely,

MATTHEW S. BRICK

ACCEPTANCE OF ENGAGEMENT TERMS

I, _____, on behalf of the City of West Des Moines, Iowa, have read the attached engagement letter and general provisions of legal representation, and agree to be bound by all terms outlined. By signing this acceptance letter, I agree to the terms of legal representation outlined in the engagement letter on this the ____ day of _____, 2017.

_____
Name

_____
Title