



REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: September 2, 2008

SUBJECT: Approval of a Revised Agreement with Best Best & Krieger for City Attorney Services

Report in Brief

Earlier this year the City Council directed staff to seek competing proposals from qualified firms to provide legal services to the City of Woodland. A process was implemented to receive and evaluate the proposals and the City Council met in closed sessions to review information and interview candidates in the course of selecting the most qualified firm. This process resulted in the selection of the proposal from Best Best & Krieger (BB&K) with the team of Andrew J. Morris as City Attorney and Sigrid K. Asmundson as Assistant City Attorney.

Staff recommends that the City Council approve the revised agreement with BB&K to provide legal services for the City of Woodland designating Andrew J. Morris as City Attorney and authorize the City Manager to execute the agreement.

Background

On January 8, 2008 the City Council held a Closed Session pursuant to Section 54957 to discuss the position of City Attorney. During the Closed Session the City Council directed staff to develop a process to seek competing proposals from qualified firms and individuals to provide legal services. Staff developed a Request for Proposal (RFP) for the City Council's review and comment that was reviewed during the Closed Session of February 5. The RFP provided a background summary of issues facing Woodland and outlined the professional requirements, knowledge, skills and abilities necessary for firms and candidates to be considered as the next City Attorney. As this position serves the City Council, the Council's review of the RFP and comments regarding the process were factored into the selection process following the February 5 Closed Session.

Staff issued the RFP following the Closed Session. On April 18, the City received eight proposals from qualified legal firms that provide municipal legal services. Staff reviewed the proposals and selected four firms as the most qualified based on their response to the RFP, overall experience and knowledge of the City of Woodland. The four firms were invited to interview with a committee that included the City Manager, Assistant City Manager, Director of Administrative Services and an

independent consulting attorney. Following the interview, three firms were selected for a final interview with the City Council that was held during the Closed Session of July 15.

As a result of this process, the City Council selected the proposal from BB&K and the team of Andrew J. Morris as City Attorney and Sigrid K. Asmundson as Assistant City Attorney. Mr. Morris has been an attorney for eight years and has served as City Attorney for Galt and General Counsel for El Dorado LAFCO. Mr. Morris also has extensive experience advising the cities of Claremont, Corona and Lake Forrest. During his service to these cities and other public agencies, Mr. Morris has provided legal advice on land use issues, planning, environmental regulations, open space and annexation. Ms. Asmundson has been an attorney for three years and currently serves as Woodland's Assistant City Attorney. In addition to Woodland, Ms. Asmundson provides Assistant City Attorney services for Galt, Escalon and Jackson. Ms. Asmundson has advised her municipal clients on legal matters such as referenda, special/general taxes, state mandates and subdivision law. As a native of Yolo County, Ms. Asmundson has a special awareness of the issues facing Woodland and the region.

Following the interviews and the Council's selection of BB&K, staff and Mr. Morris developed a revised agreement. Most of the terms and conditions are similar to the existing agreement; the major elements are described in the following section. The agreement is included as an Attachment to this report for the Council's consideration.

Discussion

The scope of service associated with the engagement of BB&K includes the preparation and attendance at all regular, adjourned regular and special City Council meetings; Planning Commission and/or other board, commission or committee meetings as necessary; and weekly attendance at City staff meetings, if required. BB&K shall also be responsible for the preparation or review of all City ordinances and resolutions, together with such agreements, deeds and other legal documents as requested by the City. Further, BB&K shall render to officers and employees of the City legal advice and opinions on all matters affecting the City, the City Council, the City Planning Commission, and the City departments, boards, commissions or committees, as directed by the City Council and the City Manager. The agreement specifically designates Mr. Morris as City Attorney and stipulates that this assignment shall not change without the consent of the City.

The rates in the proposed agreement are below BB&K's current standard rates for general counsel work for public agency clients. This means that the rates are lower than the rates that the firm ordinarily offers and lower than the rates provided to new clients. BB&K offered the proposed rates because of the firm's existing relationship with the City. In an effort to partially offset the unusually low rates, BB&K asked to remove from the proposed agreement the one-hour cap on billing for attending City Council and Planning Commission meetings. It was noted that the firm does not generally cap billing for participation in meetings, so the former arrangement was a bit of an anomaly.

Staff agreed to this proposed change for two reasons. First, staff and the City Council have worked to keep most City Council meetings to approximately 90 minutes by implementing new procedures such as advance distribution of Council packets. Second, staff and Mr. Morris will be reviewing how

the City Attorney is utilized by the organization in order to make sure the professional services are efficiently and effectively provided. As an example, the City Attorney's attendance at weekly department head meetings will likely be limited to the Mondays prior to Tuesday Council meetings. These meetings are especially important in order to have the City Attorney's review of issues that have been identified by Council members after review of the agenda or may be discussed by citizens during the meeting. Other issues that have been discussed with the City Attorney during the weekly meetings can usually be handled through telephone and email. Therefore, staff believes the proposed change will not cause the annual expenses allocated for City Attorney services to increase.

Fiscal Impact

The annual expense included in the FY 09 budget and updated 10-year Plan is \$461,500. As stated above, staff believes that the budgeted resources will adequately fund the proposed agreement.

Public Contact

Posting of the City Council agenda. A copy of the agenda and report has been provided to Mr. Morris.

Recommendation for Action

Staff recommends that the City Council approve the revised agreement with BB&K to provide legal services for the City of Woodland designating Andrew J. Morris as City Attorney and authorize the City Manager to execute the agreement.

Mark G. Deven
City Manager

Attachment: Proposed Agreement with BB&K

**AGREEMENT TO PROVIDE LEGAL SERVICES
TO THE CITY OF WOODLAND**

This Agreement to Provide Legal Services to the City of Woodland "Agreement" is made as of the 2nd day of September, 2008, by and between the City of Woodland, a California municipal corporation ("City"), and Best Best & Krieger LLP, a limited liability partnership engaged in the practice of law ("BB&K"). The City wishes to engage the services of BB&K as City Attorney on the terms set forth below.

1. TERM.

The term of this Agreement shall commence on September 1, 2008, and shall continue in full force and effect until terminated in accordance with Section 10 herein.

2. SCOPE OF SERVICES.

BB&K shall serve as City Attorney and shall perform legal services as may be required from time to time by the City and its officers as set forth by this Agreement ("Services"). As part of the Services to be performed hereunder, BB&K shall be responsible for the preparation and attendance at all regular, adjourned regular and special City Council meetings; Planning Commission and/or other board, commission or committee meetings as necessary; and weekly attendance at City staff meetings, if required. BB&K shall also be responsible for the preparation or review of all City ordinances and resolutions, together with such agreements, deeds and other legal documents as requested by the City. Further, BB&K shall render to officers and employees of the City legal advice and opinions on all matters affecting the City, the City Council, the City Planning Commission, and the City departments, boards, commissions or committees, as directed by the City Council and the City Manager.

Andrew J. Morris of BB&K, shall be the individual designated as City Attorney and shall be responsible for the performance of services under this Agreement and the supervision of services performed by other members of BB&K. No change in this assignment shall be made without the consent of the City.

3. GENERAL COUNSEL SERVICES AND COMPENSATION.

BB&K shall receive compensation for all legal services rendered by attorneys under this Agreement at the rates set forth below, with the exception of bond counsel and third party reimbursable services, as follows:

\$185 per hour blended for attorneys
\$116 per hour for clerks
\$100 per hour for paralegals

Rates will be annually adjusted by the lesser of CPI or increases provided to City personnel.

4. SPECIAL COUNSEL SERVICES AND COMPENSATION.

Special counsel legal services will be provided in addition to, and billed separately from, the City Attorney services. Special services, such as litigation, complex real estate transactions, complex environmental, water, eminent domain, and labor and employment services (to the extent needed and as requested by the City), will be provided at the hourly rates listed below.

Partner	\$235/hr
Of Counsel	\$225/hr
Associate	\$205/hr
Paralegal/Clerk	\$130/hr

Rates would be adjusted annually pursuant to the CPI.

Fees for bond counsel services in connection with the financing of public facilities shall be contingent and based on the size of the issue. Unless otherwise agreed in writing by City, BB&K shall be compensated for such services solely from the proceeds of the sale of the bonds, certificates of participation or other obligations issued. All legal services provided to City for which City receives reimbursement from a developer or other third party, as determined according to the mutual agreement of City and BB&K on a case-by-case basis, shall be billed at BB&K's then current standard private client rates.

5. REIMBURSEMENT OF COSTS

BB&K shall receive reimbursement of costs advanced by BB&K on behalf of City, as well as other expenses, in addition to fees for services. Such reimbursable costs include, but are not limited to, automobile mileage (limited to travel to and from the Sacramento office) at the current IRS rate per mile, actual expenses away from the Sacramento office on City business, extraordinary photocopy charges at 15¢ per page, and any costs of producing or reproducing photographs, documents, and other items necessary for legal representation. BB&K shall not charge separately for secretarial, administrative or other "overhead" charges.

6. BILLING

BB&K shall submit to the City a monthly statement of account for all services and costs. The City shall review BB&K's monthly statements and pay BB&K for all Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

7. INCREASES TO COMPENSATION.

BB&K or the City Council may initiate consideration of a rate increase for legal services. Such rate increase may be approved by the City Council in its sole and absolute discretion.

8. COOPERATION WITH CITY COUNCIL AND CITY MANAGER.

BB&K shall work cooperatively with the City Council and City Manager and keep them informed on all matters of importance as they arise.

9. INSURANCE COVERAGE.

BB&K carries errors and omissions insurance with Lloyd's of London. After a standard deductibility amount, this insurance provides coverage which exceeds the amount required by the State of California.

10. TERMINATION OF AGREEMENT AND LEGAL SERVICES.

This Agreement may be terminated at any time upon thirty (30) days written notice from either Party, with or without cause. In the event of such termination, BB&K shall be paid for all services (and reimbursable expenses) authorized by the City and performed up through and including the effective date of termination.

IN WITNESS WHEREOF, the City and BB&K have executed this Agreement as of the date first written above.

CITY OF WOODLAND

BEST BEST & KRIEGER LLP

By: _____
Mark Deven, City Manager

By: _____
Ann M. Siprelle, Managing Partner

Attest:

By: _____
Sue Vannucci, City Clerk