

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 08/03/2022 Weekly Agenda Date: 08/09/2022

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Supervisor Ung & HR Director Thomas

WORDING FOR AGENDA ITEM:

Approval of Heidman Law Firm as Woodbury County's designated legal counsel for collective bargaining and union relations

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

The work group has reviewed the RFPs and has come to a consensus that Heidman Law Firm is the best choice to represent Woodbury County for collective bargaining and union relations.

BACKGROUND:

It has been many years, perhaps decades, since Woodbury County has been through the RFP process for these services. Three proposals were received and vetted by the work group approved by the board for this purpose, with the consensus and recommendation being Heidman Law Firm.

FINANCIAL IMPACT:

The financial impact will be contingent upon the number of hours performed on our behalf. Hourly rates are \$210 for partners, \$170 for associates, and \$90 for paralegals.

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

The work group identified a major consideration in favor of Heidman Law Firm, which is the added cohesiveness and existing knowledge due to the fact that Heidman Law Firm already serves Woodbury County's Human Resources Department in the context of general employment questions, and has done so far years.

ACTION REQUIRED / PROPOSED MOTION:

Motion by Ung, second by _____, to approve Heidman Law Firm as Woodbury County's designated legal counsel for collective bargaining and union relations



HEIDMAN LAW

Daniel D. Dykstra†
John C. Gray*†
Thomas J. Whorley
Patrick L. Sealey*†
Jeff W. Wright*†
Rosalynd J. Koob*
Joel D. Vost†

Sarah K. Kleber*†
Jacob B. Natwick*
Allyson C. Dirksen*†
Jessica A. Board*†

Bryan E. Shusterman*†
Daniel B. Segura*†
Zackary A. Martin
Leland G. Slawson

Of Counsel
Lance D. Ehmcke*
Alan E. Fredregill*
Cynthia C. Moser†
James W. Redmond*†

Retired
Marvin F. Heidman
Thomas M. Plaza (1954 – 2022)
John F. De Hoogh

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June 27, 2022

VIA HAND DELIVERY:

Melissa Thomas
Woodbury County Human Resources Director
620 Douglas Street, Room 701
Sioux City, IA 51101

*RE: Legal Services for Woodbury County, Iowa – Response to Request
for Proposal*

Dear Melissa:

Please consider this letter the response of Heidman Law Firm, PLLC (“HLF”) to the Request for Proposal for Legal Services (“RFP”) by Woodbury County, Iowa (the “County”). Thank you for the opportunity to present this response. This letter shall serve as the cover letter expressing HLF’s interest in providing the requested legal services as well as HLF’s proposal.

1. Ability to Handle the Scope of Services. HLF is well-equipped to provide legal services set forth in the RFP’s Scope of Services. HLF is a general practice, full-service law firm with offices in Sioux City, Iowa and Sheldon, Iowa. HLF’s three partners specializing in employment and public employee labor relations law, municipal law, and school law collectively have over 70 years of experience in these areas. This does not include the decades of experience of several of the firm’s litigation partners who have litigated various matters for the firm’s employment, school, and municipal clients throughout the firm’s history.

a. Public employee labor relations. Partner Tom Whorley has worked for public employers for over 40 years. During this time, Tom has negotiated public employee collective bargaining agreements and participated in all other aspects of public employee relations for school districts and public entities. In my practice, I represent school districts, counties, and cities on all aspects of employment law. In so doing, I have worked on various labor relations issues including defending prohibited practice complaints, advising and interpreting union contracts, and negotiating/mediating with union representatives. Both Tom and I have interpreted and advised clients on the 2017 changes to Iowa Code Chapter 20.

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b. Workers compensation and employment matters. In the area of workers compensation and employment matters HLF provides the full range of employer-employee relationship services. HLF serves a risk-reduction function in assisting with organizing and documenting the company's administrative employment structure, drafting proposed employee handbooks, consulting on company policies and other procedures to promote employer goals or comply with government regulations. HFL also serves a remedial function through employer enforcement of company policies, responding to government inquiries and handling employee problems and claims of all varieties. Sarah Kleber and I lead the HLF team in these areas of employment administration planning and practice. We also regularly handle civil rights and discrimination matters, wrongful termination, unemployment appeals, wage & hour issues, Fair Labor Standards Act matters, OSHA compliance, drug testing, compensation/severance agreements, and disciplinary actions.

From the time the workers compensation laws were first enacted HLF has had an extensive practice in defending workers compensation claims. HLF represents numerous clients who are insured but also has extensive experience representing clients who are self-insured. Representative self-insured clients include Sara Lee-Hillshire, Gomaco, AGP in western Iowa, Mid-American Energy and Unity Point St. Luke's Regional Medical Center in Sioux City. Sarah Kleber leads our workers compensation team.

c. Litigation. Although we have an extensive business practice, many Sioux City attorneys would describe HLF as a litigation firm. Historically for the past 125 years HLF has had a strong litigation team. We handle all types of claims and actions whether in courts or administrative agencies. Our litigation attorneys are well-recognized for their courtroom expertise including membership in the Iowa Academy of Trial Lawyers and the American College of Trial Lawyers. Jeff Wright is particularly experienced in commercial litigation and medical malpractice defense. Patrick Sealey specializes in insurance disputes and personal injury defense. John Gray specializes in medical malpractice and insurance defense. All three litigators have represented employers in employment related disputes. In 2015, John and I successfully obtained a defense jury verdict in an excessive force case brought against several of the County's jailers. Within our litigation team, we have attorneys licensed in Iowa, Nebraska, and South Dakota state and federal courts and are experienced with all aspects of alternative dispute resolution including mandatory arbitration under CBAs.

2. Legal Experience. HLF has served as external counsel for the County since 2015. Although our duties have not included negotiation of the County's union contracts, we have regularly reviewed, analyzed, and applied the County's union contracts as we have advised the County's human resources staff on various employment issues. We have defended several prohibited practice complaints and negotiated settlements/severance agreements with union employees. In my representation of the County, and because of Tom's representation of other clients, we are both familiar with Preston DeBoer, the AFSCME union representative for

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Northwest Iowa. As requested by the RFP, and in addition to the experience representing the County, the following are other representative clients of HLF:

- a. Sheldon Community School District (1700 E. Fourth Street, Sheldon, Iowa 51201). Tom has represented the Sheldon Community School District since 1975. Both Tom and Allyson currently provide public employment/labor and school law services to this client. In this capacity, Tom has negotiated the union contracts for the District. A representative for the District you may contact is Robin Spears, 712-324-8240.
- b. Northwest Iowa Community College (603 West Park Street, Sheldon, Iowa 51201). Tom has represented Northwest Iowa Community College since 1975. Both Tom and Allyson provide public employee/labor and school law services to this client. A representative for the College you may contact is President, Dr. John Hartog, 712-324-5061.
- c. O'Brien County, Iowa Conservation Board (4931 Yellow Ave, Peterson, Iowa 51047). Tom and I have provided legal services on an outside counsel basis at various times. Most recently, HLF was hired by the O'Brien County Conservation Board to provide counsel regarding employment matters. The contact person for the O'Brien County Conservation Board is Board President Tom Konz, 712-230-1136.
- d. City Attorney Services. Tom has provided counsel regarding public employee collective bargaining issues to the City of Sheldon, Iowa for over 20 years. Sarah Kleber and I currently serve as the City Attorney for various Iowa cities. In the past, Tom has also provided city attorney services. Contacts for individual cities can be provided upon request.

3. Organization, Size, Structure, and Areas of Practice. As stated above, HLF is a general practice, full-service law firm with offices in Sioux City, Iowa and Sheldon, Iowa. In addition to employment services, HLF has attorneys who specialize in real estate, business, estate planning and probate, family law, health law, tax law, and a variety of other specialties. Please see HLF's website for more information (www.heidmanlaw.com). HLF currently has 19 attorneys (partners, associates, and of-counsel).

4. Attorney Qualifications. Subject to your approval, I would be the main attorney contact at HLF with Tom Whorley and/or I performing the services requested in this RFP. Tom and my CVs are attached for your reference. On occasion, it may be necessary to have other partners, associates, and/or paralegals assist on matters depending on the subject matter of the representation. For example, one of our experienced litigators would generally participate in litigation matters.

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5. Hourly Fee Arrangements for Legal Services. Generally, in the Sioux City market customary hourly rates for corporate and employment legal services are in the \$250 - \$275 range or more for law firm partners; and in the \$175 - \$200 range for law firm associate attorneys. Attorneys practicing in certain specialty areas are higher. Paralegal services are in the \$100-145 range. Historically, HLF has offered rates to serve as outside counsel for public entities at a lower rate than our customary corporate and employment work. Recently, however, increasing costs of operation including staff wages along with other inflationary pressures has required HLF to raise all client hourly rates. Accordingly, HLF proposes to perform the work requested in this RFP at the hourly rates of \$210 for partners, \$170 for associates, and \$90 for paralegals. Rates are subject to increase from time to time.

HLF will not charge for “soft costs” such as photocopying on HLF copiers, use of telephone or telefax or similar expenses. An exception would be huge-volume photocopying for a matter. When photocopying of such volume is to occur in-house, reimbursement will be discussed and approved by the County.

HFL will charge as expenses over and above attorney fees for all actual, out-of-pocket expenses. Examples are: fees for experts, doctors’ written reports and opinions, fees for obtaining medical records, appraisals, surveys and similar professional services from other providers, recording and filing fees, fees to obtain copies of government documents, photo duplication, commercial transportation, lodging and other out-of-pocket travel expenses and mileage at the current IRS reimbursement rate for vehicle travel outside the fifteen mile radius of the HLF Sioux City, Iowa offices. Such reimbursable expenses may be billed separately.

Invoices for HLF legal services and expenses will be submitted at least quarterly, or more frequently based on the work in progress or at the request of the County.

6. Conflicts of Interest. HLF currently serves as outside counsel for the County, primarily for employment matters. We are not aware of any relationships or compensation arrangements that would create or appear to create a conflict of interest if the HLF is selected for this work. Pursuant to the Iowa Rules of Professional Responsibility, HLF performs conflict checks and would not take any engagement which would result in a conflict of interest with its representation of the County without first receiving informed consent by the Woodbury County Board of Supervisors.

In closing, Heidman Law Firm, LLP, respectfully asks Woodbury County Board of Supervisors to retain our law firm for the legal services requested. Please let me know if you need any additional information as you evaluate this proposal.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Allyson C. Dirksken". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

ALLYSON C. DIRKSKEN
For the Firm

ACD/jjh
Enclosures

Thomas J. Whorley

OFFICE:

Whorley Heidman Law Firm, PLLC
P.O. Box 309
Sheldon, IA 51201
(712) 324-4385
Email: Tom.Whorley@heidmanlaw.com

RESIDENCE:

2100 E. 6th Street
Sheldon, IA 51201
(712) 324-2313

PROFESSIONAL EMPLOYMENT HISTORY:

1973-Present Attorney at Law at Whorley Heidman Law Firm, PLLC, Sheldon, IA

1972-1973 Assistant Attorney General – State of Iowa Department of Justice

EDUCATIONAL BACKGROUND:

1972 University of South Dakota, Vermillion, South Dakota
J.D. (Juris Doctor)

1969 University of South Dakota, Vermillion, South Dakota
Bachelor of Arts Degree

BAR ADMISSIONS:

- U.S. Supreme Court
- 8th Circuit Court of Appeals
- U.S. District Court Northern District of Iowa
- State of Iowa
- State of Minnesota

PROFESSIONAL AFFILIATIONS AND ACTIVITIES:

- Iowa State Bar Association Member, 1972-Present
- American Bar Association Member
- 2002 Recipient of the Iowa State Bar Association, Community Service Award
- O'Brien County Bar Association Member, 1973-Present, President 1974-1984

- Iowa Council of School Board Attorneys, 1976-Present
President-1993
Executive Board Member, 9 years, 1987-1995
- Governor's Volunteer Award 1996
- Elected member of the Iowa Judicial Nominating Commission (Iowa Judicial District 3A) 2009-2014
- Adjunct Professor- Iowa State University Department of Education teaching School Law to PhD Candidates – Northwest Iowa Community College, Sheldon, Iowa.
- Iowa Legal Aid Volunteer Lawyer award pro-bono assistance, 2007
- Member of the University of South Dakota Foundation Board of Trustees 2006-2015
- National Organization of Legal Problems in Education Member (NOLPE), 1975-Present
- Member NSBA Council of School Attorneys 1976 - Present
- Frequent Presenter at the Iowa Association of School Boards Annual Meetings and Conferences, Iowa Council of School Board Attorneys Seminars, Past 20 years
- Taught Education Law Issues Classes for Area Education Agency 4, Sioux Center, Iowa, Northwest Iowa Community College, Sheldon, Iowa.
- Acted as legal counsel for School Administrators of Iowa (SAI) representing numerous school administrators in Iowa.
- Served as Iowa Department of Education, Administrative Law Judge, 12 years, Having heard 4 Cases – Administrative Terminations
- Legal Counsel to numerous Iowa School Districts, Past 40 years handling numerous and a wide range of legal issues in public and private education.
- Legal Counsel to Northwest Iowa Community College, Past 39 years
- Acted as Chief Negotiator for Teachers and Support Staff for numerous Iowa School Districts and the City of Sheldon over the past 45 years.
- Represented school districts and educators before the Iowa Department of Education
- Prosecuted School Law Cases in District Court and Iowa Supreme Court and the United States Federal District Court in the following cases:

Tom Brands v. Sheldon Community School District, 671 Fed 627(N.D. Iowa 1987)

Rabbi Thomas Friedman v. Sheldon Community School District, 995 Fed 2nd 802 (8th Circuit 1993)

Sheldon Community School District Board of Directors v. Ronald R. Lundblad 528 NW 2d 593 Iowa (1995)

- Prepared Amicus Brief on behalf of Iowa Association of School Boards in the following case:
Board of Directors of Ames County School District v. Cullinan, 745 NW 2d 487 (Iowa 2008)
- Member of the Sheldon Community School District Board of Education, 6 years (2 years serving as President)
- Member of the Sheldon Community School District Educational Foundation, 9 years (3 years as President)

PUBLICATIONS:

- (AV) Preeminent @ Peer Review Rating 5.0 out of 5 (Martindale-Hubbell Law Directory), 36 years
- Author of *The History of the Sheldon Community School*, published 2015
- Co-Author of *Images of Sheldon, Iowa*, Arcadia Publishing publish date August 2022

COMMUNITY ACTIVITIES:

- Sheldon Prairie Museum Board Member (2013 – Present)
- Chairman of United Way Board, 3 years, 1 year as President
- Sheldon Community Library Board Member – 6 years (President 2 years)
- Member of the Foundation Board of the Northwest Iowa Community College 1996-2005
- President of Sheldon Chamber of Commerce, 1984-1985
- Member of Northwest Iowa Health Center Hospital Board, 9 years (President 4 years)
- Sheldon High School Mock Trial Coach, 1992-1997 (Teams were ranked in the top 10 in the state competition for 5 consecutive years)

Thomas J. Whorley
Curriculum Vitae
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- Treasurer and Board Member of Village Northwest Unlimited, Sheldon, Iowa, Residential Care Facility for Disabled Adults 12 years of service (Founding Member)
- Chairman of Numerous Community Fund Drives for Children's World, Northwest Iowa Health Center, Playground Paradise, Northwest Iowa Community College Foundation, Sheldon Crossroads Pavillion, raising in excess of 5 million dollars
- Member of Committee on Appeals Evangelical Lutheran Church in America (ELCA) 1991-1997, 8765 West Higgins Rd., Chicago, IL 60631
- Lifetime member of USD Alumni Association

PERSONAL:

- Wife, Janna Whorley; Son, J Paul Whorley; and Daughter, Paige Whorley

INTERESTS:

- Reading, Traveling, Political Memorabilia Collecting and Stamp Collecting

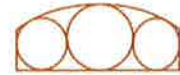
ALLYSON C. DIRKSEN

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HEIDMAN
LAW

Iowa • Nebraska • South Dakota

Allyson Dirksen's diverse practice primarily concentrates on employment law, healthcare law, municipal law, school law, and agricultural law matters.

In the employment law arena, Allyson regularly advises employers on compliance issues arising under local, state, and federal laws; drafts employment policies and handbooks; and represents employers in administrative and court proceedings. Allyson has experience representing clients in matters involving discrimination claims, wrongful termination, collective bargaining, FMLA, unemployment appeals, civil rights, wage and hour, OSHA, drug testing, compensation/severance agreements, professional licensure, disciplinary actions, and the Affordable Care Act.

Allyson's healthcare law practice includes representing physician practices, federally qualified health centers, individual providers and other healthcare professionals in areas involving compliance, contracting, corporate and transactional law and medical staff issues. Allyson advises clients on HIPAA and other patient confidentiality laws, AKS, Stark, False Claims Act, and professional conduct rules and licensure standards.

During law school, Allyson was the Editor-in-Chief of the *Creighton Law Review*. Allyson and her family are involved with a family farm operation near Danbury, Iowa.

ADMISSIONS

Iowa
Nebraska
South Dakota
U.S. District Court, Northern and Southern Districts of Iowa, Nebraska
Eighth Circuit Court of Appeals

EDUCATION

Creighton University, Juris Doctor 2011
Iowa State University, Bachelor of Science 2008

PROFESSIONAL ORGANIZATIONS

American Bar Association
Iowa State Bar Association
Nebraska State Bar Association
South Dakota State Bar Association
Woodbury County Bar Association
American Health Law Association
Iowa Municipal Attorneys Association

COMMUNITY INVOLVEMENT

St. Mary's Catholic Church, Danbury, Iowa
Woodbury County Farm Bureau – Past Board Member
Big Brothers Big Sisters of Siouxland – Past Board Member
Siouxland Agriculture in the Classroom – Past Board Member