

***TUSCOLA COUNTY
MICHIGAN***

REQUEST FOR PROPOSAL

Attorney Services – General & Labor

Respondents must submit one (1) original and six (6) complete copies of their RFP response.

Direct RFP Questions To:

Mike Hoagland: (989) 672-3700

Email: mhoagland@tuscolacounty.org

SUBMIT PROPOSAL TO:

Tuscola County Controller/Administrator

Attn: Mike Hoagland

207 E. Grant St.

Caro, MI 48723

PUBLIC NOTICE
Request for Proposal
Attorney Services – General & Labor

Tuscola County is currently seeking proposals from attorney firms qualified to provide general and/or labor attorney services to the County. Firms are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required as detailed in the Request for Proposal packet.

Sealed proposals will be received until Friday, December 4, 2009 at 4:30 P.M. to the attention of Mike Hoagland at the Tuscola County Annex located at 207 E. Grant St., Caro, MI 48723. There will be no formal opening of the proposals. Facsimile and electronic proposals will be accepted. Proposals will not be accepted after the stated closing date and time. Late proposals will be returned to the vendor unopened.

Proposal packets may be downloaded from www.tuscolacounty.org or may be obtained at the Tuscola County Annex at 207 E. Grant St., Caro, MI 48723, or by calling Mike Hoagland, at (989) 672-3700.

Pre-qualification of proposer is not required. All proposers are required to comply with the provisions of Michigan Compiled Laws (MCL).

Tuscola County reserves the right to:

- A. Reject any or all proposals not in compliance with public bidding procedures;
- B. Postpone award of the contract for a period not to exceed sixty (60) days from date of proposal opening;
- C. Waive informalities in the proposals; and
- D. Select the proposal which appears to be in the best interest of the County.

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DATE:

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DATE: Edition

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**SECTION 1
INTRODUCTION**

Tuscola County is seeking proposals from attorney firms qualified to provide general and/or labor attorney services to the County. Firms are invited to submit a proposal outlining their experience and qualifications in performing work directly related to the services required as detailed in the Request for Proposal packet.

**SECTION 2
PROPOSER'S SPECIAL INSTRUCTIONS**

A. PROPOSED TIMELINES

Monday, October 26, 2009 Advertisement and Release of Proposals
Friday, December 04, 2009 – 4:30 PM Deadline for Submission of Proposals
December 7-18, 2009 Presentation/Interviews (*Tentative*)
January 1, 2009 Commencement of Services (*Tentative*)

NOTE: The County reserves the right to modify this schedule at the County's discretion. Proper notification of changes in the time-line will be made to all interested parties.

B. GENERAL

By submitting a proposal, the Proposer certifies that the Proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.

C. PROPOSAL SUBMITTAL

The Proposal and all amendments must be signed and submitted no later than 4:30 PM on Friday, December 4, 2009 to the address below. Each proposal must be submitted in a sealed envelope and designated with proposal title. To assure that your proposal receives priority treatment, please mark as follows.

Attorney Services – General & Labor
December 4, 2009 – 4:30 PM

Tuscola County
Attn: Mike Hoagland
207 E. Grant St.
Caro, MI 48723

Proposer shall put their name and address on the outside of the envelope. It is the Proposer's responsibility to ensure that proposals are received prior to the stated closing time. The County shall not be responsible for the proper identification and handling of any proposals submitted incorrectly. Late proposals, late modification or late withdrawals shall not be considered accepted after the stated closing date and time and shall be returned unopened. Facsimile and electronic (email) proposals will be accepted but it is the Proposer's responsibility to insure timely receipt.

D. PROTEST OF SCOPE OF WORK OR TERMS

A Proposer who believes any details in the scope of work or terms detailed in the proposal packet and sample contract are unnecessarily restrictive or limit competition may submit a protest in writing, to the County Controller/Administrator. A protest may be submitted via facsimile. Any such protest shall include the reasons for the protest and shall detail any proposed changes to the scope of work or terms. The County Controller/Administrator shall respond to any protest and, if necessary, shall issue any appropriate revisions, substitutions, or clarification via addenda to all interested Proposers. To be considered, protests must be received at least five (5) days before the proposal closing date. The County shall not consider any protest against award due to the content of proposal scope of work or contract terms submitted after the established protest deadline. All protests should be directed to Mike Hoagland, Controller/Administrator and be marked as follows:

RFP Specification/Term Protest

RFP Name and Closing Date

Tuscola County

Mike Hoagland, Controller/Administrator

207 E. Grant St.

Caro, MI 48723

If a protest is received in accordance with section above, the proposal opening date may be extended if necessary to allow consideration of the protest and issuance of any necessary addenda to the proposal documents.

E. PROPOSAL SUBMISSION AND SIGNING

All requested forms and attachments (Signature Page, Acknowledgment Addendum, Statement of Proposal, etc.) must be submitted with the Proposal and in the required format. The submission and signing of a proposal shall indicate the intention of the firm to adhere to the provisions described in this RFP.

F. COST OF PREPARING A PROPOSAL

The RFP does not commit the County to paying any costs incurred by Proposer in the submission or presentation of a proposal, or in making the necessary studies for the preparation thereof.

G. INTERPRETATIONS AND ADDENDA

All questions regarding this project proposal shall be directed to Mike Hoagland, Controller/Administrator. If necessary, interpretations or clarifications in response to such questions will be made by issuance of an "Addendum" to all prospective Proposers within a reasonable time prior to proposal closing, but in no case less than 72 hours before the proposal closing. If an addendum is necessary after that time, the County, at its discretion, can extend the closing date.

Any Addendum issued, as a result of any change in the RFP, must be acknowledged by submitting the "Acknowledgment of Addendum" with

proposal. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

H. BUSINESS TAX/FEDERAL TAX ID REQUIRED

The Awarded Firm(s) shall be required to obtain a current Tuscola County Business Tax receipt. No contracts shall be signed prior to a firm obtaining the appropriate business tax numbers and employer identifications. Furthermore, upon contract award, Awarded Firm(s) shall complete a W-9 form for the County.

I. CONTRACT ADMINISTRATOR

The Contract Administrator Mike Hoagland, can be reached by phone at (989) 672-3700, or by email at mhoagland@tuscolacounty.org

J. PROPOSAL VALIDITY PERIOD

Each proposal shall be irrevocable for a period of sixty (60) days from the Proposal Opening Date.

K. FORM OF CONTRACT

A copy of the County's standard attorney services agreement, which the County expects the successful firm or individual to execute, is included as "Attachment C". The contract will incorporate the terms and conditions from this RFP document and the successful proposer's response documents. Firms taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section 2(D) "Protest of Scope of Work or Terms" or their exceptions will be deemed waived.

L. TERM OF CONTRACT

The term of the contract shall be a period of two (2) years with the option to renew for three (3) additional one (1) year periods. The total term of the contract cannot exceed five (5) years. This section is only incorporated for purposes of budgeting and does not require the county to pay or provide a set number of work or payment to the proposer at any time. The proposer will be used on an as needed basis. Nor does this agreement imply an absolute relationship, the county is free to seek any other services they choose including legal from any source they desire.

M. TERMINATION

The contract may be terminated by mutual consent of both parties or by the County at its discretion with a 30 days' written notice. If the agreement is so terminated, Contractor shall be paid in accordance with the terms of the agreement.

N. NON-COLLUSION

Proposer certifies that this proposal had been arrived at independently and has been submitted without collusion designed to limit independent bidding or competition.

O. PUBLIC RECORD

All bid material submitted by bidder shall become the property of the County and is public record unless otherwise specified. A bid that contains any information that is considered trade secret should be segregated and clearly identified as such along with the appropriate statute supporting such claim.

This information will be kept confidential and shall not be disclosed except in accordance with the Michigan Compiled Law (MCL). The above restrictions may not include cost or price information, which must be open to the public.

**SECTION 3
BACKGROUND**

The County is currently seeking to retain the services of one or more firms to provide both general attorney services and labor attorney services. The County is reserving the right to offer both services to one firm or offer general counsel services to one firm and labor counsel services separately to another firm. The firm or firms that are awarded a contract under this RFP will work closely with the County Commissioners, County Controller/Administrator, and county staff and employees, on various County issues including, but not limited to: providing legal aspects of general administration of County business, including preparing and providing legal opinions, assist with establishment of correct procedures, drafting and reviewing ordinances, resolutions, contracts, orders, agreements, and other legal documents; provide necessary collective bargaining assistance to the County as needed; and any other aspects of legal needs as detailed in this RFP packet.

**SECTION 4
SCOPE OF SERVICES**

Tuscola County is seeking both general attorney services and labor attorney services. The County is soliciting these services together while reserving the right to either award both services to one firm or to two different firms. Firms submitting proposals may submit on both services or on each individual service. There will be no preference given by the County with regards to which service, or combination of services, for which a firm submits a proposal response. Firms will be scored individually for both services if submitting the combination option. The Scope of Services for each requested service is as follows:

A. GENERAL ATTORNEY SERVICES

Awarded Counsel will be responsible for County legal representation as authorized by the County Board of Commissioners. Authorization to perform specific tasks will come from the County Board of Commissioners or other persons directly authorized by the County Board of Commissioners. Awarded Counsel shall appoint an attorney to act as lead attorney. The lead attorney could possibly be required to attend any or all County Commissioners meetings depending on the content or actions taking place. In the event that the lead attorney is not available for a meeting, Awarded Counsel shall further designate a backup lead attorney to attend the meetings. Legal Counsel will advise the County Controller/Administrator with appropriate notice if neither the lead attorney nor the backup lead attorney is available for a County Board of Commissioners meeting when requested to attend.

1. Unless otherwise specified by the County Board of Commissioners, the Awarded Counsel will be responsible for:
 - a. Legal aspects of general administration of County business, including preparing and providing legal opinions, assist with establishment of correct procedures, drafting and reviewing ordinances, resolutions, contracts, orders, agreements, and other legal documents, and related tasks needed to support County personnel, and County Board of Commissioners.
 - b. Providing sound legal direction on all forms of County business, including, but not limited to, the following:
 - 1) Real Property Transactions;
 - 2) Public Financing;
 - 3) Land Use Law;
 - 4) Local Budget Law;
 - 5) Codification of Ordinances;
 - 6) Election Laws;
 - 7) Open Meeting Laws;
 - 8) Public Record Laws;
 - 9) Public Contracting;
 - 10) Franchise Law (i.e. Solid Waste);
 - 11) Annexation Law;
 - 12) Public/Private Partnerships;
 - 13) Michigan Compiled Law;
 - 14) Public Meeting Law;
 - 15) General Business Law;
 - 16) Employment Law; and
 - 17) Labor Relations.
 - c. Training of non-legal personnel in the performance of legally related tasks in order to reduce legal expenses.
 - d. Regular attendance at County Commissioner meetings and attendance at other meetings on request.
 - e. Represent the County during litigation or Court prosecution.
 - f. Review County Commissioner packets and provide advice prior to meetings, if requested.
 - g. Notify County of changes in state and federal laws that require changes in county regulations, ordinances, regulations or policy. Work with county

staff to provide appropriate amendments to county regulations, ordinance, regulations or policies to remain in compliance with applicable laws.

2. Legal activities such as complex litigation and special project assignments which fall outside of the above categories, and which would include costs exceeding the projections of the County's budget for legal services, must be authorized by the County Board of Commissioners. Awarded Counsel and the County Controller and the Board of Commissioners will regularly review the level of expenditures on legal services and will prioritize projects in order to stay within the budgeted amounts.
3. The Awarded Counsel will coordinate with the County Controller/Administrator and Department Heads, but within the chain of command shall report directly to the Board of Commissioners. In this regard, in the event a conflict develops between the Board of Commissioners and the County Controller/Administrator and/or Department Heads, the Awarded Counsel will represent the County Board of Commissioners but will notify the County Controller/Administrator at first knowledge of a conflict.
4. The County reserves the right in appropriate situations to retain separate outside counsel. It is recognized that the County presently utilizes other law firms to provide representation in personnel issues, labor relations, and water-related matters (i.e., water rights, water supply, wind energy, etc.).

B. LABOR ATTORNEY SERVICES

Awarded Counsel shall provide employment and labor relations and personnel related attorney services as required by the County. Services shall include, but shall not be limited to, the following:

1. Contract negotiations for the following County's collective bargaining units:
 - a. AFSCME – General Unit
 - b. AFSCME – Deputies Unit
 - c. POAM – 911 Unit
 - d. POAM – Corrections
 - e. POAM – Road Patrol
 - f. POLC - Command
2. Consulting services, including legal advise on the following:
 - a. Representation at appropriate meetings/hearings;
 - b. Labor contract interpretation and administration;
 - c. Mediation;
 - d. Fact-finding;
 - e. Arbitration;
 - f. Dispute resolution;
 - g. Assistance in the selection of arbitrators;
 - h. Unfair labor practices;

- i. Staff and/or Commissioner strategy planning and progress meetings;
 - j. Representation;
 - k. Unit clarification and de-authorization matters;
 - l. Impact bargaining;
 - m. Communication and correspondence activities between the County and officials of the aforementioned bargaining units; and
 - n. Other employment related services as required.
3. Staff members of bargaining teams will provide necessary assistance to the Awarded Counsel including, but not limited to, information regarding operational procedures, department/division responsibilities and goals, necessary contract alteration, costing information, membership profile data, benefit and salary data, and other assistance deemed appropriate to an effective bargaining process.
 4. Awarded Counsel shall work directly with the Human Resources Department in the performance of all contractual duties.

SECTION 5 PROPOSAL CONTENT AND FORMAT

A. FORMAT

To provide a degree of consistency in review of the written proposals, firms are requested to prepare their proposals in the standard format specified below.

1. Title Page

Proposer should identify the RFP subject, name and title of contact person, address, telephone number, fax number, email address and date of submission.

2. Transmittal Letter

The transmittal letter should be not more than two (2) pages long and should include as a minimum the following:

- a. A brief statement of the Proposer's understanding of the project and services to be performed; and
- b. A positive commitment to perform the services within the time period specified, starting and completing the project within the deadlines stated in this RFP; and the names of persons authorized to represent the Proposer, their title, address and telephone number (if different from the individual who signs the transmittal letter).

3. Table of Contents

The table of contents should include a clear and complete identification by section and page number of the materials submitted.

4. Firm Qualifications & Experience

- a. Background of the firm. Provide a detailed description of the law firm, including historical background, number and location of firm offices, number of attorneys, and major areas of practice.
- b. Qualifications of the firm in performing this type of work. This should include examples of related experience and references for similar studies and projects. General Attorney firms should detail experience in, but not limited to, the following:

- 1) Real Property Transactions;
- 2) Public Financing;
- 3) Land Use Law;
- 4) Local Budget Law;
- 5) Codification of Ordinances;
- 6) Election Laws;
- 7) Open Meeting Laws;
- 8) Public Record Laws;
- 9) Public Contracting;
- 10) Franchise Law (i.e. Solid Waste);
- 11) Annexation Law;
- 12) Public/Private Partnerships;
- 13) Michigan Compiled Law;
- 14) Public Meeting Law;
- 15) General Business Law;
- 16) Employment Law; and
- 17) Labor Relations.

Labor Attorney firms should detail experience in, but not limited to, the following:

- 1) Labor contract interpretation and administration;
- 2) Mediation;
- 3) Fact-finding;
- 4) Arbitration;
- 5) Dispute resolution;
- 6) Assistance in the selection of arbitrators;
- 7) Unfair labor practices;
- 8) Staff and/or Council strategy planning;
- 9) Representation;
- 10) Unit clarification and de-authorization matters;
- 11) Impact bargaining;
- 12) Communication and correspondence activity between the County and officials regarding bargaining units; and
- 13) Other employment related services as detailed in this RFP packet.

5. Attorney and Paralegal or legal assistant Qualifications & Experience

Provide details in regards to the area or areas of practice in which each Attorney, paralegal, or legal assistant is qualified and the jurisdictions in which they practice and are licensed. Provide a detailed resumé and biographical sketch describing the education, and relevant experience of each Attorney, paralegal or legal assistant.

6. Project Approach

- a. Submit a work plan to accomplish the scope of work defined in the section entitled “Scope and Schedule of Work” in this RFP. The work plan should include time estimates (in hours) for each significant segment of the project and the staff level to be assigned. Where possible, individual staff members should be named and their titles provided. The planned use of specialists (if any) should be described.
- b. Indicate the extent to which County personnel would be expected to contribute to the project work effort.

7. Compensation

Proposers shall detail the hourly rates to be charged for partners, senior associates, associates, paralegals, legal assistants, clerical, and any other support staff. In addition, any potential additional cost, i.e. travel, per diem, etc., must be detailed in the proposal response. Any costs must be spelled out in the proposal otherwise they will be deemed non billable or collectible costs of the Proposer doing business.

8. Presentation/Interview

This will provide an opportunity to clarify or elaborate on the firm’s proposal, but will not, in any way provide an opportunity to change any fee amount originally proposed. The County will schedule the time and location of these presentations and notify the selected firms. **Note: It is likely that not all firms submitting a response will be selected for the presentation/interview phase.**

B. ADDITIONAL SERVICES

Provide a brief description of any other services that your firm could provide the County and an approximation of the hourly charge for each service of this type. Such services would again be contracted for on an “as needed” basis, to be provided and billed for separately.

C. ADDITIONAL INFORMATION

Please provide any other information you feel would help the Board of Commissioners evaluate your firm for this project.

D. REFERENCES

Please list three (3) references including the following information for each reference:

1. Company Name;
2. Contact Individual;
3. Title;
4. Phone Number; and
5. Email Address.

E. DISPUTES

Should any doubt or difference of opinion arise between the County and a Proposer as to the items to be furnished hereunder or the interpretation of the provisions of this RFP, the decision of the County shall be final and binding upon all parties.

F. COUNTY PERSONNEL

No Officer, agent, consultant or employee of the County shall be permitted any interest in the contract.

SECTION 6

PROPOSAL EVALUATION PROCEDURES

A. SELECTION AND EVALUATION PROCESS

The County Board of Commissioners will review the written proposals. Proposals will be evaluated to determine which ones best meet the needs of the County. After meeting the mandatory requirements, the proposals will be evaluated on both their technical and fee aspects. The County is seeking both general attorney services and labor attorney services. The County is soliciting these services together while reserving the right to either award both services to one firm or to two different firms. Firms submitting proposals may submit on both services or on each individual service. There will be no preference given by the County with regards to which service, or combination of services, for which a firm submits a proposal response. Firms will be scored individually for both services if submitting the combination option.

Proposals will be evaluated in accordance with the following:

1. Completed Proposal submitted on time Pass/Fail
2. An original plus six (6) copies of the complete proposal Pass/Fail
3. Transmittal letter Pass/Fail
4. Firm qualifications & experience 60 points
The evaluation of the firm's qualifications as listed under Section 5 of this RFP Packet.
5. Project Team member qualifications & experience 40 points
The evaluation of the project team members' qualifications based upon the information listed in the statement of team member qualifications detailed in Section 5.
6. Project understanding and approach 35 points
An evaluation of the proposer's work plan and general understanding of the project as detailed in Section 5.

7. Compensation 45 points
The evaluation of the proposed compensation structure will consider the overall cost (fees plus out-of-pocket expenses), and the proposed hours and County assistance requested. All of these factors are important in evaluating the reasonableness of the fee and the Proposer's understanding of the requirements.
8. Presentation/Interview 20 points
An evaluation of the proposer's presentation/interview as detailed in Section 5.

Note: It is likely that not all firms submitting a response will be selected for the presentation/interview phase.

Total Evaluation Points 200 points

B. INVESTIGATION OF REFERENCES

The County reserves the right to investigate references and the past performance of any proposer with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, its completion or delivery of a project on schedule and its lawful payment of employees and workers.

C. CLARIFICATION OF PROPOSALS

The County reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary to properly evaluate or particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in rejection of the firm's proposal.

D. RESERVATION IN EVALUATION

The Board of Commissioners reserves the right to either: (a) request "Best and Final Offers" from the finalist firms and award to the lowest priced or (b) to reassess the proposals and award to the vendor determined to best meet the overall needs of the County.

E. INTENT OF AWARD

Upon review of the proposals submitted, the County may negotiate a scope of work and an attorney services agreement with one or more firms, or may select one or more firms for further consideration.

F. PROTEST OF AWARD

Any adversely affected Proposer has fourteen (14) calendar days from the date of the written notice of award to file a written protest.

G. PROPOSAL REJECTION

The County reserves the right to:

1. Reject any or all proposals not in compliance with all public procedures and requirements;

2. Reject any proposal not meeting the specifications set forth herein;
3. Waive any or all irregularities in proposals submitted;
4. In the event two or more proposals shall be for the same amount for the same work, the County shall have the discretion to either : (a) request “Best and Final Offers” from the finalist firms and award to the lowest priced or (b) to reassess the proposals and award to the vendor determined to best meet the overall needs of the County.
5. Reject all proposals;
6. Award any or all parts of any proposal; and
7. Request references and other data to determine responsiveness.

**SECTION 7
PROPOSAL CERTIFICATIONS**

Non-discrimination Clause

The Contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, color, religion, sex, national origin, handicap or age with regard to, but not limited to, the following: employment upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this clause shall be barred from receiving awards of any legal or professional service contracts, unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Agreed by:

Firm Name:

Address:

Resident Certificate

Please Check One:

Resident Vendor: Vendor has paid unemployment taxes and income taxes in this state during the last twelve calendar months immediately preceding the submission of this proposal.

Or

Non-resident Vendor: Vendor does not qualify under requirement stated above.

(Please specify your state of residence:)

Officer's signature:

Type or print officer's name:

**SECTION 8
SIGNATURE PAGE**

The undersigned proposes to perform all work as listed in the Specification Section, for the price(s) stated; and that all articles supplied under any resultant contract will conform to the specifications herein,

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications and by County policies and regulations.

The undersigned, by submitting a proposal, represents that:

- A. The Proposer has read and understands the specifications.
- B. Failure to comply with the specifications or any terms of the Request for Proposal may disqualify the Proposer as being non-responsive.
- C. The undersigned certifies that the proposal has been arrived at independently and has been submitted without any collusion designed to limit competition.
- D. The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this proposal:

We therefore offer and make this proposal to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the County.

Name of firm:

Address:

Telephone Number:

Fax Number:

By:

Date:

(Signature of Authorized Official. If partnership, signature of one partner.)

Typed Name/Title:

If corporation, attest:

(Corporate officer)

Corporation Partnership Individual

Federal Tax Identification Number (TIN):

**ATTACHMENT A
ACKNOWLEDGMENT OF ADDENDA**

Tuscola County, Michigan

Request for Proposal

Attorney Services – General & Labor

Close: Friday, December 04, 2009

I/WE HAVE RECEIVED THE FOLLOWING ADDENDA:

If none received, write "None Received"

- A.
- B.
- C.
- D.

Date

Signature of Proposer

Title

Corporate Name

**ATTACHMENT B
STATEMENT OF PROPOSAL**

Name of Consultant:

Mailing Address:

Contact Person:

Telephone:

Fax:

Email:

accepts all the terms and conditions contained in Tuscola County Request for Proposal for Attorney Services – General & Labor and the attached agreement for attorney services (Attachment C):

Signature of authorized representative

Date

Type or print name of authorized representative

Telephone Number

Type or print name of person(s) authorized to negotiate contracts

Telephone Number

REFERENCES

Reference #1 _____

Telephone Number: _____

Project Title Contact Individual: _____

Reference #2 _____

Telephone Number: _____

Project Title Contact Individual: _____

Reference #3 _____

Telephone Number: _____

Project Title Contact Individual: _____

**ATTACHMENT C
TUSCOLA COUNTY
ATTORNEY SERVICES CONTRACT**

This agreement made and entered into this (___) day of (_____), (___) by and between Tuscola County, hereinafter called County, and (Awarded Firm) hereinafter called Legal Counsel.

WITNESSETH

WHEREAS, County has need for the services of an attorney firm with the particular training, ability, knowledge, and experience possessed by Legal Counsel; and

WHEREAS, County has determined that (Awarded Firm) is qualified and capable of performing the professional services as County does hereinafter require under those terms and conditions set forth;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

A. LEGAL SERVICES TO BE PROVIDED

Legal Counsel agrees to complete work, which is detailed in Exhibit "A" and by this reference made a part hereof.

B. EFFECTIVE DATE AND DURATION

This Agreement shall become effective beginning (Effective Date), and shall expire, unless otherwise terminated or extended, on (Expiration Date - 2 Years from Effective Date). This agreement may be extended at the agreement of both parties for three (3) additional one (1) year terms.

C. COMPENSATION

1. County agrees to pay Legal Counsel in accordance with this section for performance of services described herein. Payment shall be based upon a detailed monthly billing showing work performed and identifying specific legal matters worked on.

2. **Hourly Rates** - The hourly rates shall be as follows:

- Partners
- Sr. Associates
- Associates
- Paralegals
- Legal Assistants
- Clerical

The parties may by mutual agreement adjust these rates each contract year. Legal Counsel shall submit any proposed new rate structure in writing to the County for its review not less than 60 days prior to the new contract year.

3. The direct cost for such items as long distance charges, messenger services, printing, mileage, copy charges (cents per page) and the like will be billed to County, with no markup or overhead charge added, except that mileage charges for trips between Legal Counsel's office and County offices shall not be charged to the County.
4. Payment by County shall release County from any further obligation for payment to Legal Counsel, for services performed or expenses incurred as of the date of the statement of services. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
5. Payment will be made in installments based on Legal Counsel's invoice, subject to the approval of the County Board of Commissioners or designee. Payment shall be made only for work actually completed as of the date of the invoice.
6. The County certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

D. OWNERSHIP OF WORK PRODUCT

County shall be the owner of and shall be entitled to possession of any and all work products of Legal Counsel which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Legal Counsel prior to termination of this Agreement by Legal Counsel or upon completion of the work pursuant to this Agreement.

E. ASSIGNMENT/DELEGATION

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and not assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If County agrees to assignment of tasks to a subcontractor, Legal Counsel shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by County of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and County.

F. STATUS OF LEGAL COUNSEL AS INDEPENDENT CONTRACTOR

Legal Counsel certifies that:

1. Legal Counsel acknowledges that for all purposes related to this Agreement, Legal Counsel is and shall be deemed to be an independent contractor, and shall not be entitled to benefits of any kind to which an employee of County is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Legal Counsel is found by a court of law or any administrative agency to be an employee of County for any purpose, County shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Legal Counsel under the terms of this Agreement, to

the full extent of any benefits or other remuneration Legal Counsel receives (from County or third party) as a result of said finding and to the full extent of any payments that County is required or make (to Legal Counsel or to a third party) as a result of said finding.

2. The undersigned Legal Counsel hereby represents that no employee of the County, or any partnership or corporation in which a County employee has an interest, has or will receive any remuneration of any description from Legal Counsel, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.
3. Legal Counsel certifies that it currently has a County business license or will obtain one prior to delivering services under this Agreement.
4. Legal Counsel is not an officer, employee, or agent of the County.

G. INDEMNIFICATION

County has relied upon the professional ability and training of Legal Counsel as a material inducement to enter into this Agreement. Legal Counsel warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Legal Counsel's work by County shall not operate as a waiver or release. Legal Counsel agrees to indemnify and defend the County, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the County and its employees. Such indemnification shall also cover claims brought against the County under state or federal worker's compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

H. INSURANCE

1. Legal Counsel, and its subcontractors, shall maintain insurance acceptable to County in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Legal Counsel's activities or work hereunder, including the operations of its subcontractors of any tier.
2. The policy or policies of insurance maintained by Legal Counsel and its subcontractors shall provide at least the following limits and coverages:
 - a. Commercial General Liability Insurance - Legal Counsel shall obtain, at Legal Counsel's expense, and keep in effect during the term of this

contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract.

- b.** Legal Errors & Omissions/Lawyers Professional Liability Insurance - Legal Counsel shall obtain, at Legal Counsel's expense, and keep in effect during the term of this contract, Legal Errors & Omissions/Lawyer's Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts.
- c.** Commercial Automobile Insurance - Legal Counsel shall obtain, at Legal Counsel's expense, and keep in effect during the term of this contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles.
- d.** Workers' Compensation Insurance - Legal Counsel its subcontractors, if any, and all employers providing work, labor or materials under this contract will meet Michigan statutory requirements and employer's liability.
- e.** Additional Insured Provision - The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the County deems necessary shall include the County, its officers, directors, and employees as additional insureds with respect to this contract.
- f.** Extended Reporting Coverage - If any liability insurance required by this contract is arranged on a "claims made" basis, Extended Reporting coverage will be required at the completion of this contract to a duration of 24 months or the maximum time period the Legal Counsel's insurer will provide if less than 24 months. Legal Counsel will be responsible for furnishing certification of Extended Reporting coverage for 24 months following contract completion. Continuous "claims made" coverage will be acceptable in lieu of Extended Reporting coverage, provided its retroactive date is on or before the effective date of this contract.
- g.** Notice of Cancellation - There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days' written notice to the County. Any failure to comply with this provision will not affect the insurance coverage provided to the County. A 30 days' notice of cancellation provision shall be physically endorsed on the policy.
- h.** Insurance Carrier Rating - Coverages provided by the Legal Counsel must be underwritten by an insurance company deemed acceptable by the County. The County reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

- i. Certificates of Insurance - As evidence of the insurance coverage required by this contract, the Legal Counsel shall furnish Certificates of Insurance to the County. No contract shall be effected until the required certificates have been received and approved by the County. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the address listed in this section 10 days prior to coverage expiration.
- j. Primary Coverage Clarification - The parties agree that Legal Counsel's coverage shall be primary to the extent permitted by law. The parties further agree that they consider insurance maintained by the County as excess and not contributory insurance as to the insurance required in this section.
- k. Cross Liability Clause - A cross-liability clause or separation of insureds clause will be included in all general liability and professional liability policies required by this contract. Legal Counsel's insurance policy shall contain provision that such policies shall not be canceled or their limits of liability reduced without 30 days prior notice to County. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of County, in lieu thereof, a certificate in form satisfactory to County certifying to the issuance of such insurance shall be forwarded to:

Mike Hoagland, Controller/Administrator
Tuscola County
207 E. Grant St.
Caro, MI 48723

Such policies or certificates must be delivered prior to commencement of the work. The procuring of such required insurance shall not be construed to limit Legal Counsel's liability hereunder. Notwithstanding said insurance, Legal Counsel shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

I. PROFESSIONAL SERVICES

The County requires that services provided pursuant to this Agreement shall be provided to the County by a Legal Counsel which does not represent clients on matters contrary to County interests. Further, Legal Counsel shall not engage services of an attorney and/or other professional who individually, or through members of his/her same firm, represents clients on matters contrary to County interests.

Should Legal Counsel represent clients on matters contrary to County interests or engage the services of an attorney and/or other professional who individually, or

through members of his/her same firm, represents clients on matters contrary to County interests, Legal Counsel shall consult with the appropriate County representative regarding the conflict. After such consultation, the Legal Counsel shall have 30 days to eliminate the conflict to the satisfaction of the County. If such conflict is not eliminated within the specified time period, the Agreement may be terminated pursuant to Section 13 of this agreement.

J. METHOD & PLACE OF GIVING NOTICE, SUBMITTING BILLS & MAKING PAYMENTS

All notices shall be made in writing and may be given by personal delivery or by mail. Notices sent by mail should be addressed as follows:

Tuscola County

Attn: Mike Hoagland
207 E. Grant St.
Caro, MI 48723
Phone: (989) 672-3700
Fax: 989-672-4011

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

K. MERGER

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

L. TERMINATION WITHOUT CAUSE

At any time and without cause, the County of Tuscola shall have the right in its sole discretion, to terminate this Agreement by giving notice to Legal Counsel. If County terminates the contract pursuant to this paragraph, it shall pay Legal Counsel for services rendered to the date of termination. Termination by County must be done by motion of the County Board of Commissioners.

M. TERMINATION WITH CAUSE

- 1.** County may terminate this Agreement effective upon delivery of written notice to Legal Counsel, or at such later date as may be established by County, under any of the following conditions:
 - a.** If County funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.

- b. If federal or state regulations or guidelines are modified, changes, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
 - c. If any license or certificate required by law or regulation to be held by Legal Counsel, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked or not renewed.
 - d. If Legal Counsel becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Legal Counsel, if a receiver or trustee is appointed for Legal Counsel, or if there is an assignment for the benefit of creditors of Legal Counsel. Any such termination of this Agreement under paragraph (A) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
2. County, by written notice of default (including breach of contract) to Legal Counsel, may terminate the whole or any part of this Agreement:
- a. If Legal Counsel fails to provide services called for by this Agreement within the time specified herein or any extension thereof, or
 - b. If Legal Counsel fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from County, fails to correct such failures within ten (10) days or such other period as County may authorize.
 - c. If Legal Counsel fails to eliminate a conflict as described in Section 9 of this Agreement. The rights and remedies of the County provided in the above clause related to defaults (including breach of contract) by Legal Counsel shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. If County terminates this Agreement under paragraph (B), Legal Counsel shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Legal Counsel bear to the total services otherwise required or be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by County due to breach of contract by Legal Counsel. Damages for breach of contract shall be those allowed by Michigan law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

N. ACCESS TO RECORDS

County shall have access to books, documents, papers and records of Legal Counsel that are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

O. COUNTY ATTORNEY BAR MEMBERSHIP/MICHIGAN BAR MEMBERSHIP REQUIREMENTS

Legal Counsel is responsible for maintaining Legal Counsel's professional standing as a member in good standing of the Michigan State Bar Association and the Tuscola County Bar Association.

P. NON-WAIVER

The failure of County to insist upon or enforce strict performance by Legal Counsel of any of the terms of this Agreement or to exercise any rights hereunder, should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

Q. ATTORNEYS' FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

R. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Michigan. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Michigan.

S. COMPLIANCE WITH APPLICABLE LAW

Legal Counsel shall comply with all federal, state and local laws and ordinances, applicable public contracts, and to the work to be done under this contract.

T. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

U. AUDIT

Legal Counsel shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Legal Counsel agrees to permit County, the State of Michigan, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

V. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect and shall in no way be affected or invalidated thereby.

W. COMPLETE AGREEMENT

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Legal Counsel, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, County has caused this Agreement to be executed by its duly authorized undersigned officer and County Controller/Administrator has executed this Agreement on the date hereinabove first written.

Approved by Tuscola County Board of Commissioners on the (____) day of (____), (____)

COUNTY OF TUSCOLA

By:

Jerry Peterson, Board of Commissioners

Date:

Mike Hoagland, County Controller/Administrator

Date: