

**MOTION**  
**M2014-128**

THE NORTHFIELD CITY COUNCIL AUTHORIZES EXECUTION OF A FIVE YEAR AGREEMENT WITH ECKBERG AND LAMMERS FOR CITY CRIMINAL LEGAL SERVICES AND THAT THE TERMS OF THE CONTRACT INCLUDE: 1) MEET WITH VICTIMS' ADVOCATES PERSONALLY AS REQUESTED; 2) MEET WITH DEFENDANTS IN NORTHFIELD OR SOME CONVENIENT LOCATION PRIOR TO COURT HEARINGS AS REQUESTED; 3) ATTEND ALL COURT HEARINGS, INCLUDING ALL BAIL HEARINGS; 4) COMBINE 1 X AND Y TO BE CLEAR THAT SERVICES INCLUDE ALL VEHICLE FORFEITURES.

Adopted: July 8, 2014

## **CONTRACT FOR CRIMINAL PROSECUTION LEGAL SERVICES**

This CONTRACT FOR CRIMINAL PROSECUTION LEGAL SERVICES (the "Agreement") is entered into by and between The City of Northfield (hereinafter "City"), 801 Washington Street, Northfield, MN, 55057 and the law firm of Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P. (hereinafter "Law Firm"), 1809 Northwestern Avenue, Stillwater, MN, 55082, for the purpose of utilizing the Law Firm to provide legal services to the City.

### **RECITALS**

1. The City wishes to retain the Law Firm to provide criminal prosecution legal services on behalf of the City.
2. The Law Firm agrees to provide criminal prosecution legal services to the City on a monthly flat fee retainer paid by the City to the Law Firm.
3. The annual retainer rates identified in the proposal submitted by the Law Firm are as follows:

Year One (August 1, 2014 – July 31, 2015)	\$78,000.00
Year Two (August 1, 2015 – July 31, 2016)	\$80,340.00
Year Three (August 1, 2016 – July 31, 2017)	\$81,960.00

Appellate criminal work, if any, will be billed at \$150.00 per hour through the term of this Agreement.

#### **Expenses to be billed:**

The City will reimburse the Law Firm for the actual, necessary and reasonable costs and expenses incurred by the Law Firm in the performance of the legal services contained in this Agreement. These costs and expenses include but are not limited to:

- Courier or Delivery Charges
- Process Server Fees
- Court Filing Fees
- Document Recording & Closing Fees
- Court Reporter Transcription Fees

**NOW, THEREFORE, IN CONSIDERATION OF** the mutual promises contained herein and other good and sufficient consideration, the parties hereto agree to the following:

## **TERMS**

**1. Scope and Nature of Prosecution Services:** The Law Firm provide criminal prosecution legal services as outlined in the CITY's REQUEST FOR PROPOSALS FOR CRIMINAL PROSECUTION LEGAL SERVICES, March 2014, and contained in the Law Firm's proposal dated April 18, 2014 (Attachment "A"). The parties hereto agree that in addition to the foregoing, the following describes the nature of the legal services to be provided by the Law Firm to the City:

- a) Meetings and/or telephone conversations with and advising the Mayor, Council Members, City Administrator, Police Chief, and other authorized staff on general criminal legal matters.
- b) Research and submission of legal opinions on municipal or other criminal legal matters requested by the City Administrator, Police Chief or other authorized staff; availability to answer staff questions by telephone.
- c) Legal consultation and general support for the Mayor, Council Members, City Administrator, Police Chief and other authorized staff on general criminal legal matters.
- d) Provide high level of customer service by responding in a prompt manner.
- e) Prosecute all petty misdemeanor, misdemeanor and statutorily delegated gross misdemeanor offenses committed within the corporate limits of the City. This service includes all such cases initiated by any law enforcement agency and citizen complaints including, but not limited to, traffic violations, DWI cases, theft and City Code violations.
- f) Provide advice, consultation and training where required to the City's Police Department and to all other departments of the City in the interpretation and enforcement of statutes, ordinances and investigations of violations in connection with the prosecution of criminal cases.
- g) Prepare criminal complaints where facts warrant.
- h) Evaluate all cases where a plea of not guilty is entered and prosecute where warranted.
- i) Prepare appropriate pre-trial notices as required.
- j) Seek such additional investigation as required.
- k) Negotiate and enter plea bargains where deemed advisable.

- l) Represent the City at all pre-trial motions.
- m) Perform all legal research and prepare briefs when required.
- n) Try all jury and court cases.
- o) Examine, evaluate and provide representation for all appeals to the Appellate Courts.
- p) Draft ordinances, ordinance amendments, resolutions, and correspondence as requested.
- q) Review ordinances as requested.
- r) Render written opinions on law when requested, including interpretation of statutes, ordinances, rules and regulations.
- s) Ensure proper notification and preparation of police officers and staff for trial.
- t) Investigate and evaluate all claims by the City against others and recommend appropriate courses of action, including, but not limited to: code enforcement issues and administrative citations.
- u) Attempt collection of all proper claims including litigation where necessary and authorized by the City.
- v) Defend in court all litigation where no insurance coverage is available. This includes but is not limited to: (1) administrative actions and administrative citations; and (2) code enforcement issues.
- w) Assist in resolving claims not resulting in litigation.
- x) Vehicle forfeitures. Preparation of complaints, notices, orders, settlement agreements and other pleadings related to vehicle forfeitures, and attendance at all necessary court appearances regarding the same.
- y) Meet with victims' advocates personally as requested.
- z) Meet with defendants in Northfield or some convenient location prior to court hearings as requested.
- aa) Attend all court hearings including all bail hearings.

**2. Conflict of Interest and Attorney/Client Privilege Issues:**

- a) **Conflict of Interest:** The Law Firm will notify the City if the Law Firm represents or has ever represented an opposing party in a legal matter,

whether within or outside of any of the scope of services mentioned by the retainer above.

- b) **Attorney/Client Privilege:** The Law Firm is authorized to utilize e-mail without encryption to transmit and receive confidential client information. While digital cordless and cellular telephones within a digital service area would be best to be used to transmit and receive confidential client information and may be used by the Law Firm to transmit and receive confidential client information. The City specifically acknowledges that it understands the confidentiality risks associated with inadvertent interception.

**3. Prosecution Services Billing Format, Cycle, Payment Expectations and Interests.**

- a) **Billing Format:** The Law Firm will submit monthly statements for criminal prosecution legal services rendered for the prior month, including expenses incurred.
- b) **Appellate Services:** Within such monthly statements, the Law Firm will submit a detailed billing statement for appellate criminal services and any other hourly legal services stated above.
- c) **Payment Expectations:** The City will pay the bill of the Law Firm routinely according to its internal payment procedures by forwarding a check to the Law Firm paying for both legal services and expenses shown on the Law Firm's monthly statement.
- d) **City Approval:** The City Council authorizes the Law Firm to commence performing the services contemplated under this Agreement on August 1, 2014.
- e) **Alternative Fee Arrangement.** FIRM and CITY may discuss and enter into alternative fee arrangements.
- f). **Rate Adjustments.** FIRM may adjust its hourly rates or monthly retainer, as applicable, annually beginning August 1, 2017 with 30 days written notice to CITY.

**4. Prosecuting Attorney Appointment.** CITY appoints Law Firm as Prosecuting Attorney with Thomas J. Weidner acting as primary prosecuting attorney for the City. Mr. Weidner and Rebecca S. Christensen, are designated and appointed as the Prosecuting Attorney's, will perform, supervise and be responsible to the City for the all criminal prosecution legal services provided to the City by the Law Firm.

5. **Communication:** Law Firm and City will establish a regular communication process between the primary prosecuting attorney and the City Administrator, or his or her designated representative, in order to communicate legal issues and services provided to the City.
6. **Institutional History:** The Law Firm shall be familiar with the City Charter, City Code and City ordinances and will work with the City Administrator and Chief of Police to develop and expand Law Firm's knowledge of the City's legal issues as well as the history of the community. The City shall make reasonable efforts to facilitate Law Firm's said familiarity.
7. **Term And Termination:** This Agreement shall commence on August 1, 2014 and shall continue in effect for a period of five years ending on July 31, 2019. This Agreement may continue past this date by mutual written agreement of the Law Firm and the City. Notwithstanding the foregoing, this Agreement may be terminated by the City at any time or by the Law Firm upon 90 days written notice, provided however, that Law Firm's termination of this Agreement shall be governed by Rule 1.16 of the Minnesota Rules of Professional Conduct. The City shall pay the Law Firm for the work performed prior to the effective date of termination based upon the payment terms of this Agreement.
8. **Notice:** Any notices required under the provisions of this Agreement shall be in writing and sufficiently given if delivered in person or sent by U.S. mail, postage prepaid, as follows:
  - 8.1 Notice to CITY shall be mailed or delivered to City Administrator, City of Northfield, 801 Washington Street, Northfield, MN 55057-2565.
  - 8.2 Notice to Law Firm shall be delivered to Thomas J. Weidner, Eckberg, Lammers, Briggs, Wolff, & Vierling, P.L.L.P, 1809 Northwester Avenue, Stillwater, MN 55082.
9. **Status Of Firm As Independent Contractor:** Law Firm shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for in this Agreement. No statement contained in this Agreement shall be construed so as to find Law Firm to be an employee of the City. Law Firm shall not be entitled to any of the rights, privileges, or benefits of employees of City, including but not limited to, workers' compensation, health/death benefits and indemnification for third-party personal injury/property damage claims. Law Firm acknowledges and agrees that no withholding or deduction for state or federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Law Firm and that it is Law Firm's sole obligation to comply with the applicable provisions of all federal and state tax laws. Law Firm shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein. Law Firm is responsible for hiring sufficient workers to perform the services/duties required

by this Agreement, withholding their taxes, and paying all other employment tax obligations on their behalf.

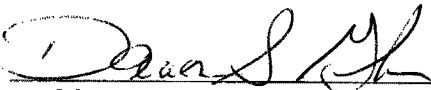
10. **Data Practices:** All data collected, created, received, maintained or disseminated for any purposes by the activities of Law Firm because of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as amended, the Minnesota Rules implementing such act now in force or as adopted, as well as federal regulations on data privacy. This paragraph does not create a duty or any obligation on the part of Law Firm to provide access to public data to the public for inspection or otherwise if the public data are available from City.
11. **Audits:** Pursuant to Minn. Stat. §§ 6.551 and 16C.05, subd. 5, Law Firm agrees that City, the State Auditor, or any of their duly authorized representatives, may examine any books, records, documents and the accounting practices and procedures of Law Firm. If either City or Law Firm requests that the State Auditor conduct such an examination, then the requesting party is liable for the costs of the examination.
12. **Indemnification And Insurance:** Law Firm agrees it will defend, indemnify and hold harmless City, its officers and employees against any and all liability, loss, costs, damages and expenses which City, its officers or employees may hereafter sustain, incur, or be required to pay arising out of Law Firm's negligence related to performance of this Agreement. Law Firm further agrees that in order to protect itself as well as City under the indemnity provision set forth above, it will at all times during the term of this Agreement keep in force lawyers professional liability insurance with a coverage amount of not less than \$2 million/occurrence and \$4 million/aggregate. The Law Firm shall provide the City with a Certificate of Insurance showing all of the coverages that the Law Firm carries. City agrees it will defend, indemnify and hold harmless Law Firm, its officers and employees against any and all liability, loss, costs, damages and expenses which Law Firm, its officers or employees may hereafter sustain, incur, or be required to pay arising out of City's negligence related to performance of this Agreement.
13. **Force Majeure:** Each party shall be excused from any breach of this Agreement which is proximately caused by war, strike, act of God or other similar circumstance normally deemed outside the control of well-managed businesses.
14. **Governing Law:** This Agreement is made pursuant to, and shall be construed in accordance with the laws of the State of Minnesota.
15. **Headings And Captions:** Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement.

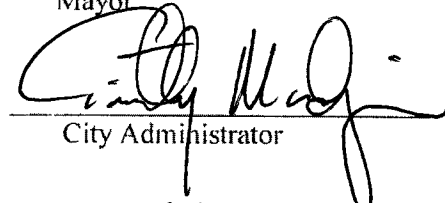
16. **Entire Agreement:** This Agreement contains the entire Agreement for legal services between the parties hereto. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.
17. **Modification:** Any modification of the provisions of this Agreement shall be reduced to writing and signed by the parties hereto.
18. **Severability in Event Of Partial Invalidity:** If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.
19. **City Approval:** The City Council has approved Law Firm's retainer to provide criminal prosecution legal services for City during the term of this Agreement. The signing of this Agreement will be ministerial and the Law Firm is authorized to commence performing services on August 1, 2014.
20. **Agreement Not Assignable.** Except relating to conflicts of interest, the rights and obligations created by this Agreement may not be assigned by either party.
21. **Work Products.** All records, information, materials and other work products prepared and developed in connection with the provision of services pursuant to this Agreement shall become the property of the City.
22. **Recitals.** The recitals to this Agreement are made a part hereof and incorporated herein by reference.

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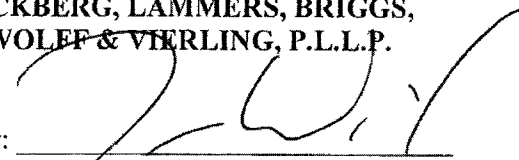
THE CITY OF NORTHFIELD

By:   
Mayor

By:   
City Administrator

Dated: 07.31., 2014

ECKBERG, LAMMERS, BRIGGS,  
WOLF & VIERLING, P.L.L.P.

By:   
Thomas J. Weidner

Dated: 7-22-, 2014

**Response to Request for Proposals  
For Criminal Prosecutorial Legal Services**

Prepared by:  
Thomas J. Weidner  
(651) 351-2119 (direct)  
tweidner@eckbergglammers.com

**City of Northfield, Minnesota**

**April 18, 2014**



**Submitted By:**

**Eckberg, Lammers, Briggs, Wolff, & Vierling, P.L.L.P.  
1809 Northwestern Avenue  
Stillwater, MN 55082  
(651) 439-2878 – Phone**

## GENERAL INFORMATION

### Introduction

Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P. (hereinafter referred to as the "Firm" or "Eckberg Lammers") is pleased to submit this Response (the "Response") to the Request for Criminal Prosecutorial Legal Services to the City of Northfield, Minnesota (the "City").

Eckberg Lammers is uniquely qualified to represent the City for criminal prosecution matters. As both a historical tradition and a current practice, the true strength of Eckberg Lammers is the Firm's remarkable breadth and depth of knowledge in municipal law. The Firm's public clients are not just served by one general attorney, but by an experienced team of attorneys and staff who have the institutional knowledge to effectively advise municipalities on almost all circumstances that may arise in the criminal prosecution area. There is no requirement for City staff or officials to go through the "lead" prosecutor. Instead, the City is always able to directly contact the prosecutor who is most readily available or has a specialized background (i.e. forfeiture, appellate representation). This approach is possible because the City will get to know all of the Firm's municipal prosecutors early in the representation and will feel comfortable with each attorney's background. This practice style has worked very well with all of the Firm's municipal clients, as staff and public officials overwhelmingly appreciate the comprehensive approach and efficient response on any given issue. The attorneys at the Firm who may assist with a given issue raised by the City (and almost all prosecuting attorneys may assist, given the widespread municipal practice at the Firm) will coordinate with the lead prosecutor as appropriate, in order to maintain a consistent response for the City.

Engaging with a comprehensive civil and criminal municipal law firm provides the City with strong, steady, and consistent representation, giving staff and public officials the ability to concentrate on the truly important issues facing the City. Eckberg Lammers believes that municipal representation is best approached as a partnership, with full and frequent communication among all necessary parties. The Firm wants its municipal clients to succeed in all core functions, and the Firm's attorneys frequently play the educational and advisory roles necessary to enable that success.

The attorneys at Eckberg Lammers proposed to work with the City will represent the City in all matters related to the prosecution of criminal, traffic, forfeiture, and city code violations. The Firm will also represent the City in any settlement negotiations and alternative dispute resolution sessions, and will keep City staff informed and updated on new criminal cases and legislation. The Firm is also applying to be the City's general civil attorneys. If the Firm has the privilege of being selected as the civil attorney, retaining the Firm as the City's prosecuting attorney will ensure a steady, consistent, and thorough representation, as the prosecuting and civil attorneys assigned to the City will be able to freely and frequently collaborate on all important matters. This comprehensive and cost-effective approach is available to address all of the City's legal and advisory needs. The Firm's attorneys additionally have substantial experience appearing before Minnesota's district and appellate courts, and they have the respect of judges and court personnel.

Eckberg Lammers has always had a significant focus in municipal and public-sector practice and since its inception has been one of the leading municipal law firms in the 13-county Twin Cities Metropolitan Area. The Firm currently serves as general counsel to the following cities:

- City of Woodbury
- City of East Bethel
- City of Mendota Heights
- City of Wyoming
- City of Oak Park Heights
- City of Grant
- City of Scandia
- City of Bayport
- City of Montrose
- City of Mahtomedi (prosecution only)
- City of Lake St. Croix Beach
- City of St. Mary's Point
- City of Mendota
- City of Lilydale

Additionally, in past years, the Firm has provided special services in conflicts of interest and other circumstances to the following communities:

- City of Stillwater
- City of Maplewood
- City of White Bear Lake
- City of Otsego
- City of West St. Paul

Finally, the Firm serves as special counsel, such as public finance/TIF counsel and land use counsel, to the following communities:

- City of Glencoe
- City of Sleepy Eye
- City of Breckenridge
- City of Maple Plain
- City of Hanover
- City of East Gull Lake
- City of Hudson, Wisconsin
- City of New Richmond, Wisconsin
- City of River Falls, Wisconsin

### Background History; Number of Attorneys Employed

Eckberg Lammers was established by Lyle Eckberg, who began the practice of law in 1946. Since its founding, the Firm has served as civil, prosecuting, and special counsel for numerous municipalities throughout the State of Minnesota, and the Firm's attorneys and staff highly value the relationships made with countless elected officials, staff and residents in these municipalities. The Firm has grown at a relatively constant rate in employees and revenues in the past 65-plus years, and currently operates as a professional limited liability partnership under the laws of the State of Minnesota. The Firm's main office is located in Stillwater, Minnesota, and a branch office is located in Hudson, Wisconsin.

In addition to the Firm's substantial representation of municipal and public sector clients, the Firm maintains a general practice, offering legal services in Business and Commercial Law, Banking Law, Real Estate, Employment Law, Estate Planning, Probate and Guardianship, Mediation/Arbitration, Criminal Law, Civil Litigation, Personal Injury, Worker's Compensation, and Family Law. The Firm also owns a majority interest in FSA Title, LLC, a title company and real estate closing service located in Oak Park Heights and Blaine. These rich and varied practice areas provide greater perspectives into many of the issues facing the Firm's municipal clients.

Eckberg Lammers currently employs 15 attorneys. Of the Firm's attorneys, two are exclusively licensed in Wisconsin, and the remainder are either exclusively licensed in Minnesota or licensed in both states. The following is a table of attorneys currently at the Firm and their areas of specialty:

<b>Mark J. Vierling</b>	Municipal Law, Civil Litigation, Family Law, Estate Planning
<b>Thomas J. Weidner</b>	Municipal Prosecution, Personal Injury & Wrongful Death
<b>Sean P. Stokes</b>	Family Law, Criminal Defense, Alternative Dispute Resolution
<b>Nicholas J. Vivian</b>	Municipal Law, Banking and Finance, Business Organization
<b>Thomas R. Lehmann</b>	Municipal Law, Civil Litigation, Business Organization, Family Law
<b>Shannon H. Enright</b>	Estate Planning, Trust & Probate
<b>Andrew J. Pratt</b>	Municipal Law, Public Finance, Banking and Finance, Real Estate
<b>Kevin S. Sandstrom</b>	Municipal Law, Commercial Litigation, Workers' Compensation
<b>Daniel P. Bakken</b>	Banking and Finance, Commercial Litigation, Business Organization
<b>Amanda E. Prutzman</b>	Commercial Litigation, Banking and Finance
<b>Rebecca S. Christensen</b>	Municipal Prosecution, Tax Planning, Banking and Finance
<b>Thomas P. Raisbeck</b>	Family Law, Estate Planning, Civil Litigation
<b>Jeffrey L. Kemp</b>	Family Law, Criminal Defense, Civil Litigation
<b>Michael L. McCain</b>	Municipal Law, Labor and Employment, Business Organization
<b>Joe Van Thomme</b>	Municipal Prosecution, Municipal Law, Family Law

### Primary and Secondary Attorneys

The chief prosecutor assigned to the City will be **Thomas J. Weidner**. Tom has been a member of the prosecution team for more than 20 years. In that time he has served as the primary prosecutor for the following cities:

- City of Woodbury (20+ years)
- City of Bayport (14 years)
- City of Oak Park Heights (14 years)
- City of Lakeland (14 years)
- City of Lake St. Croix Beach (14 years)
- City of Mahtomedi (14 years)
- City of St. Mary's Point (14 years)
- City of Hugo (12 years)
- City of Marine on the St. Croix (12 years)
- City of Lake Elmo (3 years)

Tom has also stepped in and served as a special prosecutor in conflict situations for the Cities of Stillwater, Maplewood, Forest Lake, Cottage Grove, Oakdale and St. Paul Park. Tom has tried over 40 jury trials and hundreds of bench trials, contested omnibus hearings, probable cause hearings and oral motions to court. In addition to his substantial prosecution duties, Tom maintains a private practice in the areas of Personal Injury and Wrongful Death and Civil Litigation.

Another prosecutor that will be assigned to the City is **Thomas R. Lehmann**. Tom has been a prosecutor for over 20 years for the Cities of Lilydale and Mendota. Before beginning his own law firm, Tom additionally prosecuted for the Cities of South St. Paul, West St. Paul, Inver Grove Heights and Sunfish Lake. Tom has also taken on numerous prosecution assignments for other municipalities as a special counsel during conflicts, including the Cities of Mendota Heights, South St. Paul, Inver Grove Heights, Eagan, West St. Paul and Wayzata. On the civil side of his municipal practice, Tom is the City Attorney for the Cities of Mendota Heights and Mendota, and a co-civil attorney for Lilydale. Given his extensive experience as a prosecutor in Dakota County, Tom would appear and handle prosecutions for the City related to offenses committed within that county.

A third prosecutor who will be working with the City is **Rebecca S. Christensen**. Rebecca has more than seven years experience as a municipal prosecutor. She prosecuted for the Cities of Eagan and Mendota Heights for five years. Since joining Eckberg Lammers in 2012, Rebecca has become a lead prosecutor for the Cities of Woodbury, Bayport, Oak Park Heights, Grant, Lake St. Croix Beach, Mahtomedi, and East Bethel. Like the other prosecutors, Rebecca has taken on numerous prosecution assignments for other municipalities as a conflict prosecutor, namely in the Cities of Forest Lake, Cottage Grove, Scandia, West St. Paul, Mendota and Lilydale.

Rebecca is also actively involved in the Tubman Alliance Systems and Service Integration Think Tank, which is a board that facilitates discussions and policy implementation regarding current policies and procedures as they relate to the protection of domestic abuse victims and sentencing structures designed to reduce domestic abuse recidivism.

Finally, the City will also work with **Joe Van Thomme** on prosecution matters. Joe joined the Firm in March 2014, after spending more than four years at another firm as a prosecutor. At that firm Joe was the prosecutor for the Cities of Ramsey, Bethel, and Nowthen. Since joining Eckberg Lammers, Joe has continued to prosecute for the City of Ramsey, and also works with the Cities of East Bethel, Woodbury, and Oak Park Heights. Joe also actively advises municipalities on vehicle forfeitures, administrative law and ordinance enforcement issues.

#### Resumes and Further Information on Attorneys Assigned to City

Statements of Qualification for all attorneys proposed to work with the City are attached to the end of this Response. Of course, in cases of turnover or illness, any of the Firm's municipal attorneys is qualified and able to work with the City. Attorneys at the Firm certainly do not guard municipal clients, walling them off from other attorneys who are able to assist. The capabilities of all municipal attorneys of the Firm are described throughout this Response. For prosecutorial matters, this cooperative approach has served all of the Firm's municipal attorneys well, as the prosecutors work together to ensure that all requested pre-trial and trial hearings are covered.

#### Attorneys Knowledgeable in Municipal Law

Eckberg Lammers is proud of its historical and dynamic municipal representation. The Firm is widely known throughout Washington County, the Twin Cities Metropolitan Area, and regionally for the depth of its municipal practice, and this depth is reflected in the following attorneys knowledgeable and experienced in municipal law,<sup>1</sup> along with their areas of specialty, as described in the Scope of Services in the Request for Proposal:

##### **Thomas J. Weidner**

- Criminal Prosecution: lead Prosecutor for the Cities of Woodbury, Oak Park Heights, Bayport, Lake St. Croix Beach, Mahtomedi and St. Mary's Point.
- Code Enforcement: assists with the organization and implementation of new and dynamic code enforcement efforts for all client municipalities.

##### **Thomas R. Lehmann**

- Criminal Prosecution: lead Prosecutor for the Cities of Mendota and Lilydale.
- Civil/Criminal Liaison: serves as civil City Attorney for the Cities of Mendota Heights, Mendota and an assistant for Lilydale; works with police in all communities to deal with civil/criminal code enforcement matters.

##### **Rebecca S. Christensen**

- General Municipal: prosecutor for the Cities of Woodbury, Oak Park Heights, Bayport, Lake St. Croix Beach, Mahtomedi, St. Mary's Point and East Bethel.
- Trial Activity: undertakes condemnation actions and enforces Code violations.

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<sup>1</sup> The listed attorneys are knowledgeable in criminal law; the Firm has many other attorneys knowledgeable in civil municipal law, as described in the Response for the civil attorney position.



**Joe Van Thomme**

- Criminal Prosecution: prosecutor for the Cities of Woodbury, Oak Park Heights, Bayport, Lake St. Croix Beach, Mahtomedi, St. Mary's Point, Ramsey and East Bethel..
- Trial Activity: Court-appointed Attorney in Anoka County representing parents in child protection and termination of parental rights matters.

**Andrew J. Pratt**

- General Municipal: civil City Attorney for the Cities of Bayport, Montrose, Wyoming (co-counsel) and Scandia (co-counsel).
- Civil/Criminal Liaison: collaborates with city administration and police to ensure code enforcement procedures are effective.
- Data Practices: serves as Firm's principal data practices attorney.

**Primary Office Location**

The Firm's primary office is located at 1809 Northwestern Avenue in Stillwater. The Firm's main office number is (651) 439-2878, and its main fax number is (651) 439-2923. Direct phone numbers and email addresses for the attorneys proposed to work with the City are listed on each attorney's Statement of Qualification attached to this Response. Eckberg Lammers also maintains an office in Hudson, Wisconsin, at 430 Second Street. All attorneys proposed to work with the City are located at the main Stillwater office.

**Paralegals and Support Personnel**

The Firm employs more than 20 support staff consisting of paralegals, legal assistants, law clerks, administrative and receptionist positions. The Firm has a stable and consistent staff base that has steadily grown with the Firm. All positions are filled with employees with the experience, knowledge and depth to meet the requirements of the Firm's municipal clients.

The Firm employs nine paralegals; their names and areas of specialty are as follows:

<b>Karen Stoltzmann</b>	Estate Planning, Trust and Probate
<b>Jenny Brodrick</b>	Personal Injury and Workers' Compensation
<b>Danette Langness</b>	Municipal, Real Estate, Banking and Finance, Business Organization
<b>Julie Valsvik</b>	Municipal, Real Estate, Banking and Finance, Business Organization
<b>Mary Hughes</b>	Bankruptcy, Estate Planning, Trust and Probate
<b>Rachel Seely</b>	Criminal Prosecution
<b>Dana Reynolds</b>	Personal Injury and Workers' Compensation
<b>Karen Woerner</b>	Banking and Finance
<b>Karen Abraham</b>	Municipal, Banking and Finance, Civil Litigation

The paralegals with municipal experience highlighted above, particularly Rachel Seely, with Jessica Mertz assisting, will become quite familiar to the City, as they communicate frequently with all City personnel and police to handle high volumes of prosecution matters.

### Availability of City Attorney

Eckberg Lammers views its municipal representation as a collective, and not an individual, effort. Therefore every attorney and member of the support staff that is knowledgeable in municipal law will likely assist in the City's legal representation at one time or another, given the larger size of the City and the increasing pace of development. The Firm has never had any problems servicing the legal needs of any of its municipal clients.

Specifically, as stated elsewhere in this Response, Tom Weidner will be the principal attorney assigned to the City to handle criminal prosecution matters. As prosecution is such a labor-intensive process, Tom Lehmann, Rebecca Christensen, and Joe Van Thomme would all be available to handle the City's workload. Tom Lehmann will specifically be the lead prosecuting attorney for Dakota County matters, and all attorneys will coordinate representation in Rice County with Tom Weidner. Support personnel such as the paralegals and assistants described in this Response will handle case organization, case scheduling, pre-trial and trial discovery compliance, victim/witness coordination, officer correspondence/notifications, technical support, and conflict searches. The Firm has never had any trouble attending all required hearings and processing new cases.

The Firm holds "office hours" in its various cities from time to time, and encourages this arrangement in the City of Northfield. Conference calls and email correspondence are always options, but office hours can be helpful for staff and public officials to have a face-to-face meeting with the prosecutor. The Firm is happy to consider an "office hours" arrangement with the City if that is desirable. Almost any time would be available in the discretion of the City, in compliance with the various prosecution calendars.

### City Workload – Scope of Services

The Firm historically has granted the highest level of priority to municipal representation and that philosophy will continue if the City becomes a valued municipal client. Some of the Firm's attorneys hold "office hours" periodically at other cities, in order to give staff and officials uninterrupted time to address important legal matters with the attorneys. The Firm has found this facet of the representation to be efficient and effective, and is able and willing to provide such regular availability to the City. When not at City Hall, the Firm's municipal lawyers working with the City will always be available by phone or email, and all of the municipal attorneys will soon become known to City staff and officials. In the end, Eckberg Lammers intends to be a legal partner with the City, with the goal to assist in the City's long-term success and growth, and not as an obscure arbiter handing down opinions with no attachment or flexibility.

Specifically, the following attorneys will carry out the following respective matters, as enumerated in the Scope of Services section<sup>2</sup>:

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<sup>2</sup> Items in the Request for Proposal that overlap with civil municipal representation are addressed in the Firm's civil municipal Response.

### *General Municipal Law*

- A majority of the Firm's attorneys are fluent in municipal law matters. This representation is especially effective when the civil attorney and the criminal prosecutor come from the same firm, as often there are civil and criminal remedies available to address the same situation. The Firm has four current prosecutors and five current civil attorneys who are the primary city attorneys in various municipalities throughout the 13-county Twin Cities Metropolitan Area.

### *General Laws Relating to Municipal Government*

- Tom Weidner leads annual and periodic prosecution training programs in front of law enforcement and other municipal staff on a variety of subjects, including both criminal law issues and civil code enforcement issues. Andy Pratt assists to provide context from the civil representation. The Firm views itself as a partner in prosecution with its municipal clients, with a constant learning process to implement for new police officers and court personnel.

### *Ordinance and Resolution Development and Interpretation*

- Tom Lehmann and Andy Pratt have assisted municipalities in which they serve as civil attorney to implement solid ordinances and resolutions that govern criminal enforcement remedies for various offenses. Often this representation will reveal the need to more fully organize and amend various outdated city codes, and this opportunity is given to all of the Firm's municipal clients.

### Response Time Capability

Eckberg Lammers is a "paperless" prosecution firm and is equipped with cutting-edge case management systems, e-charging software, and inter-agency information exchange programs. The Firm uses the LENS prosecution case management system and charges all complaints (where allowed) electronically. Further, the Firm is equipped with technology that allows a free-flow of information between law enforcement personnel, the court system and our office. We pride ourselves on delivering efficient prosecution services always from a public-safety perspective.

Long ago, Eckberg Lammers switched from a "paper library" to an electronic library. The Firm contracts with Westlaw to provide each of our attorneys with instant access to a number of Westlaw libraries, including Court of Appeals reported and unreported decisions, Minnesota Statutes Annotated, Attorney General Opinions, and more. Having instant Westlaw access allows the Firm's attorneys to do quick, automated searches and obtain the information needed expeditiously and thoroughly.

In addition to this automated library, each attorney has access to the Minnesota Statutes in their respective office. Eckberg Lammers also maintains a set of Minnesota Statutes Annotated, *McQuillin on Municipal Corporations*, and a number of other municipal publications and treatises that are relevant and necessary. Firm attorneys also subscribe to the instant reporting services and attorney list-servs provided by the Minnesota State Bar Association. This service emails all Minnesota Court of Appeals and Minnesota Supreme Court decisions as they are reported. The attorneys review these cases as they are released and forward as necessary to City personnel and public officials. City attorney list-servs provide valuable information and the opportunity to share experiences between subscribing municipal attorneys, and the Firm's municipal attorneys always attend and take part in the annual Minnesota City Attorney's Association conference and legislative update. The Firm also maintains a subscription to the League of Minnesota Cities bi-monthly magazine and frequently uses the League's research attorneys for support.

The Firm's computer systems are used by attorneys and staff daily on- and off-site for work, yet provide maximum security and systems control. All attorneys have laptop access and smart-phone access to email and documents as needed. The Firm shares, edits and finalizes documents with our municipal clients on a daily basis. Consistently delivering such timely communication and work product is a source of pride for Eckberg Lammers.

The Firm has regular office hours from 8:00 a.m. until 5:00 p.m. The Firm's attorneys are also available outside of business hours and are willing to spend additional time as is necessary to fully serve the needs of the City. It is our policy that all phone calls and email inquiries from City staff and officials are returned the same business day, or immediately on the next business day (if the inquiry is received late in the day or after business hours). All attorneys are available to the City by office phone, cellular phone, e-mail and facsimile transmission. Recorded voice messaging or the opportunity to speak to support staff and leave a personal message with a live person is provided as well. Simply stated, this office will have no problem handling the volume of work associated with civil representation of the Northfield.

#### Malpractice Insurance Coverage

The Firm's professional liability carrier is Minnesota Lawyers Mutual. The insurance policy contains limits of liability of \$3,000,000 per claim and \$5,000,000 in the aggregate. A copy of the insurance coverage is attached to this Response.

### **KNOWLEDGE AND EXPERIENCE**

In the previous section, we briefly summarized our approach and ability to carry out each activity described in the Scope of Services portion of the Request for Proposals. The purpose of this section is to expand on that information and offer some concrete examples of methods used to assist the City. Again, for matters that are related to civil representation, those have been addressed in the Firm's civil municipal Response. We would like to touch on a few matters of criminal law in this section.

### Trial Activity

The Firm's prosecuting attorneys have extensive trial experience, including jury and bench trials for misdemeanors, gross misdemeanors and petty misdemeanor offenses. Prior to trial, our attorneys prosecute at all stages of the criminal law process, including arraignments, pretrial hearings, contested omnibus hearings, sentencing hearings and probation violation hearings. Our prosecutors have successfully litigated officer authority issues such as search-and-seizure, vehicle stop, non-custodial and custodial interrogation, *Miranda* issues, *Brooks* and *McNeely* warrantless search and probable cause matters. The Firm's attorneys are knowledgeable in recent changes to the law and advise officers and City staff appropriately.

### Criminal Law and Police Authority

Because the Firm currently prosecutes on behalf of ten separate communities in three different counties, each of our prosecuting attorneys has significant experience reviewing, drafting and charging criminal complaints. The Firm places an emphasis on officer input when making charging decisions, and communicates routinely and easily with law enforcement personnel regarding those decisions. Further, our attorneys work to establish good relationships and rapport with the officers they work with, so that on the occasion where evidence is lacking, or an officer made a mistake, our team can communicate that to the officer in a way that educates and informs, which ultimately improves the officer's work in the future. Accordingly, our attorneys are available to law enforcement by cell phone and email and make it a priority to respond to officers in a prompt and efficient manner.

The Firm's prosecutors also frequently develop seminars, trainings, and prepare newsletters to distribute to police departments to keep all parties updated on criminal procedure issues. In the rare event that a conviction is appealed, the Firm's prosecutors handle the legal brief preparation and oral argument.

Eckberg Lammers believes that each case requires an experienced attorney's attention, which our firm is able to provide. Our attorneys are capable negotiators when it comes to resolving criminal cases short of trial, and will do so when appropriate, with an eye toward public safety and an efficient use of an officer's time. When cases cannot be resolved, our attorneys are confident litigators before a jury or judge.

## **SPECIALIZED ISSUES**

Recently the Firm's prosecution department has assisted to initiate a program designed to encourage "neighborhood mediation," among residents who may be looking at separate criminal offenses arising out of a single incident. For example, two residents may face disorderly conduct charges out of an event, but the Firm's prosecutors assist to convene the parties, mediate the dispute, and execute an agreement allowing for a case dismissal as long as the agreement is upheld. This program is appreciated by local police officials and may help to avoid lengthy and costly criminal proceedings. The Firm's prosecutors are enthusiastic to discuss this arrangement with the City of Northfield and to test its effectiveness.

## REFERENCES

City of Mahtomedi: Scott Neilson, City Administrator  
Mahtomedi City Hall  
600 Stillwater Road  
Mahtomedi, Minnesota 55115  
(651) 426-3344  
sneilson@ci.mahtomedi.mn.us

City of Oak Park Heights: Brian DeRosier, Chief of Police  
Oak Park Heights City Hall  
14168 Oak Park Boulevard  
Oak Park Heights, Minnesota 55082  
(651) 439-4723  
bwderos@cityof oakparkheights.com

City of Woodbury: Lee Vague, Chief of Police  
Woodbury City Hall  
8301 Valley Creek Road  
Woodbury, Minnesota 55125  
(651) 714-3500  
lvague@ci.woodbury.mn.us

City of Bayport: Laura Eastman, Chief of Police  
Bayport City Hall  
294 Third Street North  
Bayport, Minnesota 55003  
(651) 275-4404  
leastman@ci.bayport.mn.us

City of East Bethel: Jack Davis, City Administrator  
2241 221st Avenue Northeast  
East Bethel, Minnesota 55011-9790  
(763) 367-7840  
jack.davis@ci.east-bethel.mn.us

## FEES

### *Option A – Retainer + Hourly Fees*

Subject to negotiation with the City, Eckberg Lammers proposes a general services retainer plus hourly fees as follows:

	<b>2014</b>	<b>2015</b>	<b>2016</b>
Retainer Fee (monthly amount)	\$6,500	\$6,695	\$6,830
Hourly Rate – Primary Attorney*	\$150	\$150	\$150
Hourly Rate – Support Personnel			
Paralegals	\$80	\$80	\$80
Law Clerks	\$75	\$75	\$75

\* The hourly rates for all attorneys will be the same.

The scope and nature of the general services retainer would cover all services in the “Scope of Services” section in the Request for Proposals (Nos. 1-23, except No. 15). The only item that would be charged on an hourly basis is work related to representation for appellate criminal cases. If the Firm maintains “office hours” at City Hall, that time would be categorized under the retainer.

### *Option B – Hourly Fees*

	<b>2014</b>	<b>2015</b>	<b>2016</b>
Hourly Rate – Primary Attorney*	\$140	\$145	\$150
Hourly Rate – Support Personnel			
Paralegals	\$80	\$80	\$80
Law Clerks	\$75	\$75	\$75

\* The hourly rates for all attorneys will be the same.

If the Firm maintains “office hours” at City Hall under this Option B, that time will be billed at the then-applicable hourly rate.

Detailed monthly billing statements can be tailored to the requirements of the City, as referenced on page 8 in the Request for Proposals.

Legal assistant/secretary services are not charged. Minimum hourly billing kept by all timekeepers will be in increments of .10 hours.

*Hard Costs – Effective for Option A or Option B*

Copying:	\$0.20 per page
Faxes from Client:	\$0.00
Faxes to Client:	\$0.50 per page
Transportation time and reimbursement:	\$0.00
Phone calls from Staff/Council:	\$0.00

The following charges are passed through at cost:

- Courier or Delivery Charges
- Process Server Fees
- Court Filing Fees
- Document Recording & Closing Fees
- Court Reporter Transcription Fees

There will be no charges for the following:

- WestLaw/Lexis Research Fees/Computer time
- Administrative billings for file setup and computer entry
- Electronic copies of documents
- Personal conference with City staff/officials, unless subject to "office hours" under retainer or undertaken as part of a specific project

**CONFLICT OF INTEREST**

*Current Private Representation*

Eckberg Lammers does not currently represent, and has not represented in the past, any client where the representation may conflict with the Firm's ability to serve as the Northfield City Attorney. Eckberg Lammers currently does not represent any real estate developers doing business with, or anticipating doing business with, the City. The Firm does not currently represent any other local unit of government having jurisdiction within, or contiguous to, the City.

*Conflict Procedures*

The potential for conflicts of interest always exists. The Firm maintains a conflict protocol and client registry as required under existing ethics standards for that purpose. The Firm is keenly aware of representation of real estate developers, contractors and others that may impact any municipal clients, and Eckberg Lammers has successfully avoided those conflicts over the years. In the event a conflict presents itself, the Firm would promptly notify the affected private clients as we are professionally required to do, and if further representation on the matter could not be retained we would assist in making the necessary referrals and transition the file to other counsel in an efficient manner.



The City should be aware that the Firm has a client list in its computer system which notes all clients and adverse parties. This list is routed past all attorneys on a regular basis. If any of the attorneys question whether or not a conflict of interest may exist, that file is highlighted and further research is done to determine whether or not a conflict is present.

### CONCLUSION

As part of the Firm's due diligence for this Response, a review of the City's website and meeting agendas/minutes was conducted. This review revealed that the City regularly engages four law firms to conduct its legal work: civil general, criminal prosecution, public finance/bond, and employment law. **If the City selects Eckberg Lammers, it will only need one firm to complete all of its legal projects.** This is a very rare opportunity for the City. Many municipal law firms can provide one or two service categories, and maybe a few can provide three, but it can be stated with certainty that no municipal law firm applying to the City can provide all four areas of representation under one roof. Other law firms are just not able to combine criminal prosecution with a bond attorney who is in the "RedBook," in addition to highly efficient general civil and employment representation. We look forward to meeting City staff and Council, and to be considered for the Northfield Criminal Prosecutor position.

Respectfully submitted this 18th day of April, 2014.

**ECKBERG, LAMMERS, BRIGGS,  
WOLFF & VIERLING, P.L.L.P**

By: \_\_\_\_\_  
Thomas J. Weidner



## STATEMENT OF QUALIFICATION

### THOMAS J. WEIDNER

ECKBERG, LAMMERS, BRIGGS, WOLFF & VIERLING, P.L.L.P.

1809 Northwestern Avenue

Stillwater, MN 55082

Direct Dial: (651) 351-2119

tweidner@eckbergglammers.com

### EDUCATION:

- Bachelor of Arts, 1985  
Augsburg College, Minneapolis, MN
- Juris Doctor, January 1990  
William Mitchell College of Law, St. Paul, MN

### PROFESSIONAL EXPERIENCE:

Mr. Weidner joined the firm in 1990 and concentrated his practice in the areas of criminal prosecution services and civil litigation. Mr. Weidner serves as a prosecutor for the Cities of Woodbury, Mahtomedi, Oak Park Heights, Bayport, Lake St. Croix Beach and St. Mary's Point. Mr. Weidner also has a unique perspective on various municipal issues, as a member of the Stillwater City Council. Mr. Weidner's litigation practice is concentrated primarily in the areas of plaintiffs' negligence and liability cases.

### PRACTICE AREAS:

- Criminal Prosecution
- Civil Litigation

### PROFESSIONAL ORGANIZATIONS:

- Board of Governors Minnesota State Bar Association 1997-2004
- Ethics Committee Member 19<sup>th</sup> District Bar Association 1999-2005
- Past President, 19<sup>th</sup> District Bar Association
- Former President of the American Heart Association, St. Croix Valley Division
- Member of the Washington County City Prosecutors Association
- President of the Stillwater Community Foundation
- Member of the Minnesota Trial Lawyers Association
- Member of the City of Stillwater City Council 1997-2000
- Washington County Sentence to Service Advisory Board 2000-present
- Washington County Bar Association, 19<sup>th</sup> District Bar Association



STATEMENT OF QUALIFICATION

**THOMAS R. LEHMANN**

ECKBERG, LAMMERS, BRIGGS, WOLFF & VIERLING, P.L.L.P.

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Stillwater, MN 55082

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[tlehmann@eckberglammers.com](mailto:tlehmann@eckberglammers.com)

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**EDUCATION:**

- Bachelor of Science, *Cum Laude*, 1984  
Concordia College, Moorhead, Minnesota
- Juris Doctor, 1987  
William Mitchell College of Law, Saint Paul, Minnesota

**PROFESSIONAL EXPERIENCE:**

Mr. Lehmann's diverse practice includes representing municipalities, businesses and individuals. Since 1989, Mr. Lehmann has served as City Attorney for the City of Mendota. Mr. Lehmann also serves as the city prosecutor and assistant civil attorney for the City of Lilydale, and recently was appointed as the City Attorney for the City of Mendota Heights. Mr. Lehmann has worked for suburban municipal-focused law firms in the past, and owned his own firm, Lehmann & Lutter, for many years. Mr. Lehmann joined Eckberg Lammers in January 2013.

**PRACTICE AREAS:**

- Municipal Law – General Municipal, Ordinances/Resolutions, Contracts, Trial Activity
- Business and Commercial Law
- Business Transactions/Business Litigation
- Employment Law
- Real Estate
- Wills and Trusts/Family Law

**PROFESSIONAL ORGANIZATIONS:**

- Vice Chair, Stillwater Public Schools
- Minnesota State Bar Association
- Minnesota Association for Justice



STATEMENT OF QUALIFICATION

**REBECCA S. CHRISTENSEN**

ECKBERG, LAMMERS, BRIGGS, WOLFF & VIERLING, P.L.L.P.

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**EDUCATION:**

- Bachelor of Arts, *Cum Laude*, 2004  
University of St. Thomas, Saint Paul, Minnesota
- Juris Doctor, 2007  
William Mitchell College of Law, Saint Paul, Minnesota

**PROFESSIONAL EXPERIENCE:**

Prior to joining Eckberg Lammers in 2012, Ms. Christensen was a tax preparer and an attorney for another suburban municipal law firm. Ms. Christensen handles business and commercial law and transactions, as well as tax returns, for the Firm's commercial entities and interested individuals. Ms. Christensen also has a long history of criminal prosecution in Washington County and Dakota County.

**PRACTICE AREAS:**

- Municipal Law – Contract Law, Environmental Law, Trial Activity
- Criminal Prosecution
- Business Transactions
- Taxation
- Banking and Finance

**PROFESSIONAL ORGANIZATIONS:**

- Minnesota State Bar Association
- 19th District Bar Association
- Minnesota Women Lawyers – Washington County

STATEMENT OF QUALIFICATION

**JOE VAN THOMME**

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1809 Northwestern Avenue

Stillwater, MN 55082

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**EDUCATION:**

- Bachelor of Arts, 2006  
University of Minnesota, Minneapolis, MN
- Juris Doctor, 2009  
Hamline University School of Law, St. Paul, MN

**PROFESSIONAL EXPERIENCE:**

Mr. Van Thomme specializes in criminal prosecution for the Cities of Ramsey, East Bethel, Woodbury, Oak Park Heights and several other suburban and exurban communities. Mr. Van Thomme handles everything from initial charging to trial and verdict, along with contested evidentiary hearings and probation violations. Mr. Van Thomme is also a court-appointed attorney in Anoka County representing parents in child protection and termination of parental rights matters. Finally, Mr. Van Thomme works in civil municipal areas as an assistant attorney, advising cities regarding vehicle forfeitures, administrative law and ordinance enforcement issues.

Mr. Van Thomme joined Eckberg Lammers in March 2014. He was selected as an "Up and Coming Attorney" by *Minnesota Lawyer* in 2013.

**PRACTICE AREAS:**

- Municipal Law – Criminal Prosecution
- Municipal Law – Civil Representation
- General Civil Litigation

**PROFESSIONAL ORGANIZATIONS:**

- Minnesota State Bar Association, Washington County Bar Association
- 19<sup>th</sup> District Bar Association, Hennepin County Bar Association