Kevin J. Rupp Scott T. Anderson Jay T. Squires*† Michael J. Waldspurger* Amy E. Mace Trevor S. Helmers Tessa S. Wagner John P. Edison Jennifer L. Gover Bannon Liz J. Vieira Abby M. Novak

Rupp, Anderson, Squires & Waldspurger, P. A.



*Also Admitted in Wisconsin

†Real Property Specialist Certified by the MN State Bar Association

April 17, 2014

Deborah Little City Clerk City of Northfield 801 Washington Street Northfield, MN 55057

RE: City of Northfield

Our File No. 9999-0004

Dear Ms. Little:

In response to the City of Northfield's Request for Proposals for Civil Attorney Legal Services, please find enclosed for your review two (2) copies of Rupp, Anderson, Squires & Waldspurger P.A.'s proposal. If you have any questions regarding the enclosed, or require any additional information, please contact my office. Thank you.

Very Truly Yours,

Jay T. Squires

Jay T. Squires

JTS

Enclosure

RASW: 11362

PROPOSAL FOR CIVIL ATTORNEY FOR

CITY OF NORTHFIELD



SUBMITTED BY THE LAW FIRM OF:

RUPP, ANDERSON, SQUIRES & WALDSPURGER, P.A.



527 Marquette Avenue South, Suite 1200 Minneapolis, MN 55402

T: (612) 436-4300 F: (612) 436-4340

Dated April 18, 2014

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Attachment A – Certificate of Malpractice Coverage

FIRM BACKGROUND

With more than 110 years of combined experience serving clients in the public sector, founding shareholders Kevin J. Rupp, Scott T. Anderson, Jay T. Squires, Michael (Mick) J. Waldspurger, and Amy E. Mace have dedicated their careers to working exclusively with cities, counties, towns and school districts. Consequently, 100% of our billings are for work representing our local government clients. In addition to the five founding shareholders, the firm employs six associate attorneys with extensive experience in the area of government law.

The firm represents more than 100 municipal and school clients. In addition, the attorneys at the firm have a long-standing relationship with the Minnesota Counties Intergovernmental Trust.

Currently, the firm represents the cities of Red Wing, Cambridge, North Branch, Hanover, Norwood Young America, and Grove City as general counsel. We also do labor and employment law work for the cities of Mendota Heights and Minnetrista. The Cities of North Branch, Norwood Young America and Grove City are new clients within the last three years. We have not stopped representing any City within the last three years.

Our attorneys provide an extensive array of legal services and have expertise in virtually all areas of law affecting cities, including, but not limited to:

- General municipal law
- Land use planning, zoning, development and redevelopment, including TIF
- Economic development (non-bond counsel work, including TIF, DEED, and municipal finance)
- Public sector labor and employment law
- Public contracting law
- Public improvements/special assessments
- Open Meeting Law and Data Practices Act
- Real estate acquisition (including the use of eminent domain)
- Ordinance and policy drafting and analysis
- Environmental law
- Forfeitures
- Election law
- Municipal litigation

Investigations

ATTORNEYS/QUALIFICATIONS

The firm's eleven attorneys and their specializations include:

- Kevin J. Rupp is a shareholder of Rupp, Anderson, Squires & Waldspurger, P.A. Before founding RASW, for 25 years Kevin was an associate attorney and shareholder at Ratwik, Roszak & Maloney, P.A. Kevin has extensive experience in labor and employment law. He has represented numerous employers as lead negotiator and consultant on collective bargaining matters, employee discipline, innumerable grievances and arbitrations, teacher tenure, layoffs, employment investigations, harassment and discrimination, constitutional rights, FMLA, veterans' preference, and unemployment compensation issues. He has represented dozens upon dozens of school districts as general counsel in all legal areas encountered by school districts, including issues involving school board powers and authority, open meeting law, school consolidations, elections, student rights and discipline, and other related matters. Kevin received his B.A. degree, magna cum laude, from St. Cloud State University and his J.D. degree, cum laude, from the University of Minnesota Law School.
- Scott T. Anderson is a shareholder of Rupp, Anderson, Squires & Waldspurger, P.A. Before founding RASW, Scott was a senior partner and one of the managing attorneys at Ratwik, Roszak, & Maloney, P.A., where he worked for the past twenty-one years. Scott is a senior litigator with twenty-eight years of experience. His primary client base consists of counties. Scott practices in the areas of municipal powers and duties, data privacy and open meeting law, labor and employment law, and general civil litigation in state and federal court with an emphasis on land use, employment, discrimination and police misconduct litigation. He is known throughout the State for his extensive experience in land use litigation, including zoning and environmental issues. He received his B.A. degree from the University of Minnesota and his J.D. degree, *cum laude*, from Hamline University School of Law.
- Jay T. Squires is a shareholder of Rupp, Anderson, Squires & Waldspurger, P.A. Jay received his B.A. degree from the University of Minnesota, Duluth and his J.D. degree from William Mitchell College of Law. Prior to founding RASW, Jay

was an associate and shareholder at Ratwik, Roszak & Maloney, P.A. Jay represents school districts, counties and cities throughout Minnesota and Wisconsin. His primary areas of practice and experience include general municipal and school law, real estate, land use and zoning, condemnation, construction disputes, and municipal litigation, including appellate work. He has argued over 50 cases to Minnesota's Appellate Courts. Jay has been a frequent presenter to professional groups and organizations in the areas of his practice. He is a Real Property Specialist certified by the Minnesota State Bar Association and is licensed to practice in both federal and state courts in Minnesota and Wisconsin.

- Michael (Mick) J. Waldspurger is a shareholder with the law firm of Rupp, Anderson, Squires & Waldspurger, P.A. Mick is dedicated to providing practical. proactive, and effective legal advice to his clients. He represents Minnesota and Wisconsin school districts in all areas of school law, including labor and employment law, special education, student discipline, data practices, board governance, and civil litigation. Mick also represents cities in labor and employment law matters and in civil litigation. Mick's successful litigation experience includes lawsuits, arbitration proceedings, due process hearings, and countless other administrative actions. Sharing the experience he has gained in the field, Mick frequently presents at school workshops, training sessions, and statewide conferences. Mick has also been a keynote speaker at the national level on labor negotiations. Mick is a member of the Wisconsin School Attorneys Association and the Minnesota Council of School Attorneys. After graduating from law school, Mick had the honor of serving as a law clerk to the Honorable Justice Donald Steinmetz of the Wisconsin Supreme Court. Mick received his B.A., cum laude, from Knox College and his J.D., cum laude, from Marquette University Law School, where he was an Executive Editor of the Marquette Law Review.
- Amy E. Mace is a shareholder of Rupp, Anderson, Squires & Waldspurger, P.A. She received her B.A. degree, *magna cum laude*, from the University of Minnesota and her J.D. degree, *magna cum laude*, from the University of Minnesota. Amy was an associate and shareholder at Ratwik, Roszak & Maloney, P.A. Amy represents cities, school districts, charter schools, and counties in Minnesota. Her areas of practice include general municipal law, labor and employment law, data practices and open meeting law, school law and municipal

litigation. Amy frequently presents in-services to clients and speaks to professional groups in the areas of her practice.

- Trevor S. Helmers is an associate attorney with Rupp, Anderson, Squires & Waldspurger, P.A. He joined RASW with the founding shareholders after having worked with them for five years as an associate attorney at the law firm of Ratwik, Roszak & Maloney, P.A. Trevor practices in all areas of school law, municipal law, labor and employment law, and civil litigation, and also routinely conducts employment investigations. Trevor's litigation experience includes lawsuits, arbitration proceedings, and other administrative actions. Trevor regularly presents on topics from all areas of his practice, including developments regarding student searches and social media concerns for school employees and students. He is a member of the Minnesota Council of School Attorneys, the Minnesota Defense Lawyers Association, the Minnesota State Bar Association, and the Hennepin County Bar Association. He earned his B.A. degree with honors and distinction from Iowa State University, and his J.D. degree, *cum laude*, from the University of Minnesota Law School. Trevor is admitted to practice in front of the state and federal courts in Minnesota.
- Tessa S. Wagner is an associate at Rupp, Anderson, Squires & Waldspurger, P.A. Her areas of practice include general municipal law, school law, labor and employment law, data practices and open meeting law, and student discipline. Tessa regularly represents school districts in expulsion proceedings. She assists charter schools in addressing formation, operation, and merger issues. She also routinely conducts employment investigations. Tessa presents at school workshops, training sessions, and CLE courses on topics from all areas of her practice, including record retention requirements and student discipline. She earned her B.A. degree from the University of Wisconsin-Madison and her J.D. degree, magna cum laude, from William Mitchell College of Law. Prior to joining the firm, Tessa worked as an associate attorney at Ratwik, Roszak & Maloney, P.A., and clerked for the Honorable Tony N. Leung and the Honorable Susan N. Burke. She is a member of the Minnesota State Bar Association, the Hennepin County Bar Association, Minnesota Women Lawyers, and the Phi Beta Kappa Honors Society
- **John P. Edison** is an associate attorney with Rupp, Anderson, Squires & Waldspuger, P.A. He joined RASW with the founding shareholders after having

worked with them as an associate attorney at Ratwik, Roszak & Maloney, P.A. John has devoted his entire legal career to working primarily with cities, counties, school districts and other government entities. As an advocate, John has experience making appearances in State and Federal District Court, the Minnesota Court of Appeals, administrative agency hearings, arbitration hearings and mediations. As an advisor, he works with clients to find practical, cost-effective solutions to a broad range of legal issues, such as open meetings and data privacy matters, conducting investigations, processing and analyzing land use applications, and drafting and reviewing contracts, ordinances, resolutions and other documents. Before transitioning to private practice, John worked as a law clerk and Assistant County Attorney in the Civil Division of the Ramsey County Attorney's Office in St. Paul, Minnesota. John received a B.A. degree, *summa cum laude*, from the University of North Dakota and his J.D. degree, *summa cum laude*, from the Hamline University School of Law.

- Jennifer L. Gover Bannon is an associate attorney with Rupp, Anderson, Squires & Waldspurger, P.A. Her areas of practice include school law, special education law, general municipal law, labor and employment law, and civil litigation. She earned her B.A. degree, magna cum laude, from the University of Illinois at Urbana-Champaign, and her J.D. degree, magna cum laude, from the University of Minnesota Law School. Jennifer was an early childhood teacher in Houston, Texas before attending law school. She served as a law clerk to the Honorable Donovan W. Frank in United States District Court for the District of Minnesota, and to the Honorable Dyanna L. Street in Minnesota's Tenth Judicial District. Jennifer is licensed to practice in Minnesota and Illinois, and is a member of the Minnesota State Bar Association, Hennepin County Bar Association, Minnesota Women Lawyers, and the Phi Beta Kappa Honors Society.
- Liz J. Vieira is an associate attorney with Rupp, Anderson, Squires & Waldspurger, P.A. Her areas of practice include general municipal law, school law, labor and employment law and civil litigation. She is admitted to practice in state courts in Minnesota and is a member of the Minnesota State Bar Association, Hennepin County Bar Association, Minnesota Women Lawyers, and the Phi Beta Kappa Honors Society. She earned her B.A. degree, *magna cum laude*, from the University of Minnesota and her J.D. degree from the University of Minnesota Law School. Prior to joining the firm, Liz served as a judicial law clerk for the Honorable Marilyn Brown Rosenbaum in Hennepin County District Court.

• Abby Novak is an associate attorney at RASW. Before joining RASW, Abby served as a judicial law clerk to the Honorable Judge Lawrence Johnson. Abby's primary areas of practice include general school law, labor and employment law, and civil litigation. Before clerking for Judge Johnson, Abby represented municipalities and also served as an assistant city prosecutor for four municipalities. Abby received her B.S., magna cum laude, from the University of Nebraska and her J.D., magna cum laude, from William Mitchell College of law.

PROPOSED LEAD ATTORNEYS

The firm proposes that Jay Squires would be the lead attorney, and Amy Mace would be the back-up attorney for work for the City.

Jay Squires has been practicing in the area of municipal law since 1989, representing cities, counties and school districts. He is currently the City Attorney for the Cities of Red Wing, Cambridge, North Branch, Hanover, and Norwood Young America. He is certified as a Real Property Specialist by the Minnesota State Bar Association. He worked for the City of Duluth while in college, and the League of Minnesota Cities while in law school. He devotes an increasing portion of his practice to representation of land use authorities throughout the State of Minnesota and is a regular presenter at land use workshops and conferences held statewide. His philosophy of representation in the land use area is to proactively assist our clients to make sound decisions that take into consideration the proper facts and legal standards and to create a record that is defensible should a land use decision be challenged. He is a member of the International Municipal Lawyers Association. He devotes 100% of his time to representing municipalities in work consistent with RFP scope of services.

Amy Mace has been practicing in the area of municipal law since 1996, representing cities, counties and school districts. Amy is the City Attorney for Grove City and the co-lead attorney for the Cities of Red Wing, North Branch, and Norwood Young America. Amy has represented municipal entities on a variety of employment and labor law issues, including discipline and discharge matters and grievance arbitrations. In addition to being a general municipal lawyer, Amy's practice includes litigation in areas of employment law, construction law, and land use. Amy speaks at seminars for public

sector entities on a variety of subjects, including employment issues, the bid laws, the Open Meeting Law, and the Government Data Practices Act. She devotes 100% of her work to services as described in the RFP.

REPRESENTATIVE FIRM PRACTICE AREAS

Our attorneys practice in all areas of municipal law. We work with municipal clients on land use, real estate, construction, environmental review, development and redevelopment, labor and employment, law enforcement, data practices and open meeting law issues, and issues in every other area where legal involvement is required.

We approach representation of municipal clients with three goals in mind. First, our advice needs to be sound. Second, the advice needs to be timely. Good advice isn't helpful if it does not meet the client's time requirements. Finally, the advice needs to be cost-effective. This is particularly true in the tighter budget times cities have been facing.

The firm's attorneys have litigated and arbitrated disputes in all areas of municipal law. We have represented clients in both state and federal courts. Jay Squires has himself argued over 50 cases to appellate courts, all in the area of municipal law. Following are examples of our work in some areas where legal services are commonly required.

Land Use

We have significant experience representing clients on land use issues. Jay Squires, as previously indicated, is a Real Property Law Specialist, having obtained that designation, in significant part, based on his land use work. He served 10 years as Chair of the Andover Planning Commission. He regularly presents at land use conferences.

Firm attorneys have made significant positive contributions to the body of case law that grants deference to municipal land use decisions. In <u>Helgeson Bros Partership v. City of Alexandria and Douglas County</u> and <u>Kronebusch v. Wabasha County</u>, Jay Squires successfully defended conditional use permit and variance denials based on ordinance density restrictions. In <u>Sherburne Land Inv. Co. v. Sherburne County</u> and in <u>In Re Cities of Annadale and Maple Lake</u>, Jay convinced the Court of Appeals to uphold decisions denying land requests based on considerations in the communities' comprehensive plans.

Firm attorneys have also shaped the law involving the 60 day automatic approval rule in Minn. Stat. § 15.99. In <u>Bender v. Todd County</u>, Jay convinced the Court of Appeals that oral notification of the 60 day period was sufficient. In <u>Carda v. Kanabec County</u>, Scott Anderson argued, successfully, that extension of the 60 day period could be done by zoning staff. And in <u>Motokazie! v. Rice County</u>, Mr. Anderson prevailed on the argument that the 60 day rule does not apply to zoning text amendments.

Environmental Review

Land use proposals can sometimes lead to environmental review under Minn. Stat. Ch. 116D, the Minnesota Environmental Policy Act. Firm attorneys regularly assist municipal clients with environmental review issues such as EAW petitions, issues regarding phased or connected action determinations, and EIS processes. We have also litigated environmental review issues. In <u>CARD v. Kandiyohi County</u>, Jay Squires successfully convinced the Supreme Court that the State Environmental Quality Board was not correctly applying its cumulative impact rules. The decision led to rule changes and clarifications. In <u>Friends of Lake Minnie Belle v. Meeker County</u>, and <u>Berne Area Alliance for Quality Living v. Dodge County</u>, Jay achieved favorable Court of Appeals' decisions which upheld municipal decisions not to require preparation of EIS studies.

Real Estate and Construction

Municipalities buy and sell land, condemn land, construct facilities, impose special assessments, and deal with real estate valuation issues. As stated above, Jay Squires is a certified Real Property Specialist, and deals frequently with such issues. Firm attorneys, when the occasion arises, have also litigated cases in this area. In <u>Day Masonry v. Independent School District No. 547</u>, Amy Mace convinced the Supreme Court to reject a contractor's assertion that our clients' construction defect claim was barred by statutes of limitation. In <u>Tollefson v. ISD No. 194</u>, <u>Lakeville</u>, Jay Squires successfully defended an appeal of a condemnation award that saved the client 1.3 million dollars.

Labor and Employment Law

Cities, as employers, are governed by a whole host of laws that do not apply to private employers. Collective bargaining agreements negotiated under PELRA and constitutional issues and concerns can shape the landscape in this area. Kevin Rupp has spent his entire career focusing on representing municipal clients on labor and employment matters. He has negotiated numerous municipal collective bargaining agreements, arbitrated hundreds of issues in varied areas, and participated in mediations,

veteran's preference hearings, unemployment hearings, civil service commission hearings, unit clarification processes, and discrimination proceedings.

Our attorneys are also experienced in litigating labor and employment issues. In <u>AFSCME Council 65 v. Sibley County</u>, Kevin Rupp convinced the Court of Appeals to reinstate a favorable arbitration award that had been vacated by the district court. In <u>Parker v. ISD No. 621</u>, he argued, successfully, that an employee's <u>Loudermill</u> rights had not been violated. In <u>Carlson v. Upsala School District</u>, Kevin successfully defended an unemployment law judge's decision to deny an employee unemployment benefits.

Open Meeting Law and Data Practices Act

The Opening Meeting Law and Data Practices Act impact day-to-day operation of municipalities. Whether a certain gathering needs to be an opening meeting, or whether certain data is public or private are common questions presented to us by clients.

Disputes involving these laws are not uncommon. Again, firm attorneys have experience in these areas, and frequently work with the State Department of Administration. We also have experience litigating in this area. In <u>WDSI v. County of Steele</u>, Scott Anderson convinced the Court of Appeals that a municipality has no obligation to obtain data from a contractor when presented with a request for data held by the contractor. In <u>Keezer v. Spikard</u>, he argued, successfully, that data in an employee's mind, and even spoken data, is not "data" under the Data Practices Act until it is reduced to tangible physical form.

PROPOSED SCOPE AND NATURE OF SERVICES

The Firm would provide all those services described as Section one of civil legal services in the RFP.

While the "client" is the City Council, we normally structure the working relationships with the City in a way that makes the Administrator, and Department Heads, the typical legal consumers. This allows us to contain costs, and assures that Councilmembers are all equally privy to legal advice given. We suggest a monthly "office hours" visit be set up to provide a regular time for staff to visit with the attorney. In addition, we maintain and provide to clients an open task list that shares the status of pending matters. This assures that things do not get lost, and gives the client updates on where a particular matter is at in the process.

OFFICE LOCATION, TECHNOLOGY AND SUPPORT PERSONNEL

Rupp, Anderson, Squires & Waldspurger, P.A. is located in the historic Rand Tower in downtown Minneapolis. Our office is equipped with conference rooms capable of hosting mediations, depositions, arbitrations, and meetings.

The firm utilizes a state-of-the-art computer network and modern case management software. Each attorney is assigned a laptop computer that can be used to connect to the firm's entire case management system from any location that has internet access. Attorneys regularly use electronic resources, including Westlaw, Google Scholar, and the Revisor of Statutes website, to conduct cost-effective and efficient legal research. All attorneys and support staff have access to e-mail and a state-of-the-art telephone system, as well as printing, copying, faxing, and scanning technology.

In addition to a staff of eleven attorneys, Rupp, Anderson, Squires & Waldspurger, P.A. employs one office manager/bookkeeper, two legal secretaries, and one receptionist/legal secretary.

STATEMENT OF CONFLICTS/CLAIMS

No attorney at the firm has ever been disciplined for violation of ethical rules. No attorney at the firm has ever been found to have committed malpractice.

When new matters come into the office, the firm's attorneys consult one another and run a conflict check to assure no conflict of interest exists. In the event of a potential conflict of interest, the firm will promptly notify each client or prospective client. If the firm reasonably believes that representation of one client will not adversely affect the relationship with the other client, we will represent clients only if both clients consent to the representation in writing. In the event our firm's relationship with an existing client could be materially limited by our relationship with a prospective client, we will not represent the new client, but will assist the client in finding adequate legal representation.

Our firm does not represent and will not represent any party that would create a direct conflict of interest with our representation of Northfield. Nor have we represented any client on a matter that would impact our ability to fully represent the City when a direct conflict does not exist.

We have, on occasion, provided legal services to the Northfield School District. We do not believe our prior relationship with the School District would impact our ability to represent the City. Moreover, we do not represent, nor have we ever represented, any real estate developers.

INSURANCE

The Firm carries malpractice insurance for the benefit of clients. A copy of the insurance certificate is attached hereto as Attachment A.

PROPOSED FEES

1. Attorney Rates:

Attorney rates for providing services consistent with the Request for Proposal would be billed at the hourly rate of \$150.00 per hour. For litigation and services that are passed through to third parties, the hourly rate would be \$205.00 per hour. Paralegals are charged out at \$80.00 per hour and Law Clerks at \$75.00 per hour. Proposed hourly rates for providing services consistent with the RFP are, per the City's RFP, set forth in an attachment hereto.

The hourly rates would be increased by \$5.00 per hour annually.

2. Reimbursable Costs:

Reimbursable costs will be billed separately. Long distance telephone calls will be billed at the actual cost, photocopies at \$0.20 per page, facsimiles at \$1.00 per page, and mileage at the prevailing IRS rate. Out-of-pocket costs such as filing fees, Westlaw, and the like would be billed at cost.

Our billing statements include the date of services, a detailed description of the services performed by each attorney, the time spent on the services, the fees for those services. We would work with the City to develop a system for identifying the billing to a specific City department or project. Our billing is done for actual time incurred in 1/10 hour increments.

REFERENCES

Because our representation of Minnesota municipalities and agencies has included nearly every county in the State and a large portion of the school districts, it is too extensive to include a complete list here. We will happily provide the City with a comprehensive list if it is deemed necessary. There are no municipal clients we would not want you to contact.

City of Red Wing, Kay Kuhlmann, Council Administrator	(651) 385-3612
City of Cambridge, Lynda Woulfe, City Administrator	(763) 552-3216
City of Hanover, Annita Smythe, City Administrator	(763) 497-3777
City of Norwood Young America, Steve Helget,	
City Administrator	(952) 467-1805
City of North Branch, Bridgette Konrad,	(651) 674-8113
City Administrator	- NEO

Respectfully Submitted: RUPP, ANDERSON, SQUIRES & WALDSPURGER, P.A.

Jay T. Squires

Amy E. Mace

RASW: 11321

Exhibit A REQUEST FOR PROPOSAL (RFP) FORM OF CONSENT FOR RELEASE OF RESPONSE DATA

April 17, 2014

City of Northfield City Clerk 801 Washington Street Northfield, MN 55057

Title

Re: Request for Proposal: Attorney Services

OPTION "B" - HOURLY FEES ONLY:

HOURLY BILLING – Please quote the dollar amount of fixed and/or hourly fees and costs your firm will charge for providing legal services to the City of Northfield covered by your proposal. For the hourly fees portion of your proposal, please identify the hourly rate of each attorney and support personnel. Identify the minimum increment of time billed for each service, e.g. phone calls, correspondence, personal conference. Also state separately the rate for any other cost items proposed to be itemized and billed (i.e. photocopying, Westlaw, or Lexis fees, overhead factor, etc.).

	2014	2015	2016
Hourly Rate for Primary Attorney	\$150	\$155	\$160
Hourly Rate for Other Attorneys (Please name):	\$150	\$155	\$160
Developer Paid	\$205	\$210	\$215
Hourly Rate for Support Personnel (Name or title):			
Paralegal	\$80	\$85	\$90
Law Clerk	\$80	\$80	\$85
Itemized fees (please describe):			
Long Distance	School	School	School
Copies	\$.20	\$.20	\$.20
Fax	\$1.00/pg.	\$1.00/pg	\$1.00/pg
Mileage	IRS	IRS	IRS
Out of Pocket	School	School	School
Minimum increments of time billed for each service (list):			
All Services	1/10	1/10	1/10
			-

Feel free to attach additional sheets to note:

- · Description of other costs items, if needed
- Any other items related to fees that you feel are pertinent in the consideration of your proposal