City of Carroll

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-1000 FAX: (712) 792-0139

MEMO TO: Honorable Mayor and City Council Members

FROM: Mike Pogge-Weaver, City Manager MPW

DATE: ~~January 25, 2018~~ **January 30, 2018**

SUBJECT: Appointment of an attorney for Labor and Employment Services

With the pending retirement of our labor counsel Jim Gilliam of Long & Gilliam the City sent out an RFP seeking an attorney for Labor and Employment Services. The City received 4 responses to our RFP from the following firms:

- Ahlers & Cooney, P.C.
- Brick Gentry, P.C.
- Dickinson, Mackaman, Tyler & Hagen, P.C.
- Hopkins & Huebner, P.C.

Councilmember Boes and Councilmember Dirkx along with Laura Schaefer, Dave Bruner, Brad Burke, and myself reviewed the RFP responses on January 12th. Based on their experience and large client base, the group is recommending that the council appoint the firm Ahlers & Cooney, P.C. for Labor and Employment Services for the City of Carroll.

Michael Galloway from Ahlers & Cooney met with the Council on January 29th to discuss his and the firm's background along with answering questions from the Council. Since the proposal from Ahlers & Cooney was inadvertently excluded from the agenda material for the January 29th meeting, action on appointing Ahlers & Cooney to this position was tabled by the Council to their February 1, 2018 meeting. Attached to this memo is the proposal from Ahlers & Cooney, P.C.

RECOMMENDATION: Consider approving a resolution appointing Ahlers & Cooney, P.C. the Labor and Employment Services attorney for the City of Carroll.

RESOLUTION NO. _____

A RESOLUTION APPOINTING AHLERS & COONEY, P.C. AS THE LABOR AND EMPLOYMENT SERVICES ATTORNEY FOR THE CITY OF CARROLL

WHEREAS, the City of Carroll desires the services of an attorney for Labor and Employment issues; and

WHEREAS, with the pending retirement of our current labor counsel the City is in need of a new attorney for Labor and Employment services; and

WHEREAS, after soliciting Labor and Employment services through an RFP process the Carroll City Council desires to appoint Ahlers & Cooney, P.C. as our Labor and Employment Services Attorney.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carroll that Ahlers & Cooney, P.C. is appointed as the Labor and Employment Services Attorney for the City of Carroll.

PASSED AND APPROVED by the City Council of the City of Carroll, Iowa, this 1st day of February, 2018.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

BY:_____
Eric P. Jensen, Mayor

ATTEST:

By:_____
Laura A. Schaefer, City Clerk

AHLERS COONEY
ATTORNEYS

Ahlers & Cooney, P.C.
Attorneys at Law
100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231
Phone: 515-243-7611
Fax: 515-243-2149
www.ahlerslaw.com

James C. Hanks
515.246.0334
jhanks@ahlerslaw.com

January 3, 2018

Mike Pogge-Weaver, City Manager
Attn: Municipal Labor Attorney RFP
112 E. 5th Street
Carroll, IA 51401

RE: Ahlers Law Firm Proposal
City of Carroll Municipal Labor Attorney RFP

Dear Mr. Pogge-Weaver:

The Ahlers & Cooney Law Firm is pleased to submit its response to the Request for Proposal issued by the City of Carroll. If you have any questions regarding the Firm's response, please direct those questions to us.

This Firm has had a very long and close relationship with representation of public entities in the area of employment law and labor relations. For years our Firm has focused its practice on providing the highest level of legal services to municipalities in Iowa. This Firm has been recognized both statewide and nationwide as a leader in city, county, and state labor and employment law. As a Firm, we believe we have a highly experienced and talented group of attorneys who have the unique ability to serve the City's labor and employment law needs. Indeed, there is no firm in this state that actively represents more cities and counties than ours.

The services provided by the Firm to the City as described in this proposal would include legal services in the areas of labor, employment, and contract negotiations. James Hanks and Michael Galloway would be the lead attorneys responsible for the delivery of services. However, Ann Smisek and Aaron Hilligas may also be involved to assist the City if Mr. Hanks or Mr. Galloway are unavailable. These four attorneys have collectively been involved in public and private sector labor and employment matters for over eighty years. Their experience encompasses the negotiation or impasse resolution of over 1,000 collective bargaining agreements. Our firm has experience and expertise with regard to cities in particular, including counseling in the bargaining process, strategies for negotiation, the formulation of initial proposals and counterproposals, to name a few services.

We encourage you and others within your office to contact us with any questions or if you need additional information or require additional services.

Sincerely,

James C. Hanks

James C. Hanks

Mike Galloway

Michael M. Galloway

I. EXECUTIVE SUMMARY

Ahlers & Cooney, P.C. (the "Firm") is the leading law firm for providing comprehensive legal services to public entities in the state of Iowa. We represent a multitude of cities, counties, school districts, community colleges, universities and municipal utilities throughout the state, many of whom the Firm has had the privilege of representing for decades. No other firm in the state has dedicated its practice to serving local governmental entities to the same extent as the Firm. The Firm includes a number of lawyers who have focused their practice on areas specific to the needs of public bodies such as finance law, economic development, open records/public meetings/public bidding, labor negotiations, and a full range of employment law and litigation work, including workers' compensation. **Our Firm does not accept engagements which knowingly will produce conflicts with our public sector clients.** We are committed to putting our public sector clients first, and have demonstrated this commitment by maintaining unparalleled depth with regard to our public law attorneys and their support staff.

Public entities that have retained the Firm as its legal service provider have benefitted from the efficiencies inherent in having a team of lawyers who stay abreast of the full array of laws that impact them. Indeed, our Firm is repeatedly called upon to educate clients and other lawyers across the state on various aspects of laws impacting the public sector. As many legal controversies involve more than one kind of claim and may have an impact in more than one area of operations, we have always maintained a team approach and a comprehensive view in handling whatever issues or controversies require our assistance.

The Firm's billing rates are competitive with other Iowa law firms given the depth and experience of our attorneys, and our ability to timely respond to unique public law issues. Accordingly, we think our rates and fees are very reasonable in comparison to others in the Midwest region and nationally. We endeavor to provide our service as efficiently and economically as possible by utilizing those attorneys in the Firm with an appropriate level of experience and expertise for any given project. We have proposed specific hourly rates for the attorneys listed in this response to the RFP who we expect will provide direct service to the City. In light of the Firm's representation of the City over the years, we have developed a "track record" of performance and experience with the Firm's fee structure.

I. DESCRIPTION OF SERVICES

Labor Relations

- Advising the City on its overall labor relations program which includes working closely with City and Union representatives to be proactive in resolving employee issues
- Advising the City on contract administration and compliance with federal and state labor/employment laws
- Providing assistance with the development of personnel policies
- Working closely with the City in investigating and responding to allegations of employee misconduct
- Counseling management in employee disciplinary matters including suspensions and discharges

Experience of the Firm:

The Firm provides labor relations consultation services to clients which include cities, counties, municipal utilities, school districts, area education agencies, and community colleges. The Firm has substantial experience in counseling clients on compliance with all state and federal labor and employment laws, workers compensation, contract administration, the development of personnel policies, and First Amendment issues. Additionally, this Firm works closely with management in providing advice and guidance in matters of employee discipline.

Contract Negotiations

- Representing the City in its negotiations of labor contracts with all certified employee organizations, including the preparation of all proposals, the handling of all table negotiations, and all services needed in mediation and arbitration
- Advising the City on the negotiation process
- Meeting with the City Administration to develop contract proposals that, if implemented, would help to provide more efficient services to the citizens of Carroll.

Experience of the Firm:

The Firm represents cities, counties, municipal utilities, the State of Iowa, school districts, area education agencies, and community colleges in the area of contract negotiations. Specifically, the Firm has substantial experience in the preparation for negotiations, the management of table negotiations, communicating with our clients regarding the status of negotiations, and communicating with our clients regarding the legal procedures of contract negotiations. The Firm also has vast experience in representing clients in impasse proceedings which include mediation and interest arbitration.

General Representation

- Representing the City in grievances filed under its labor contracts
- Representing the City before the Iowa Public Employment Relations Board in matters such as, but not limited to, prohibited practice complaints, bargaining unit determination hearings, and negotiability disputes
- Representing City administrators before the City civil service commission in support of their employment decisions
- Representing the City in litigation in state and federal court as directed by the City
- Advising and representing the City administration on various employment matters including civil rights complaints and workers' compensation issues.

Experience of the Firm:

The Firm provides general representation in the area of labor and employment law to clients which include cities, counties, municipal utilities, school districts, area education agencies, and community colleges. The Firm has substantial experience in representing clients in administrative proceedings and state and federal court proceedings.

One of the Firm's primary goals is to communicate with our clients regarding the status of the proceedings and to provide options to our clients regarding possible resolutions to the dispute that meet our clients' expectations.

III. General Capabilities

As a firm, we:

- Have a reputation across the State as experts and leaders in public sector labor relations
- Have advised and counseled public entities and private employers regarding a full range of employment-related issues
- Make every reasonable effort to achieve voluntary agreements on acceptable terms while avoiding unnecessary conflicts for our public clients
- Provide 24-hour, on-call availability for any labor relations issue
- Maintain strong working relationships with various state and national public employment associations
- Have authored many handbooks, special reports and technical assistance manuals used by municipalities across the state
- Have represented public employers in hundreds of negotiations for collective bargaining agreements
- Represented employers in grievance arbitrations, interest arbitrations, fact-finding hearings, civil service hearings and PERB hearings
- Have made numerous presentations to employers regarding a wide variety of employment-related issues
- Litigated issues for public employers in federal and state courts including claims arising under Title VII, the Civil Rights Act of 1964, Iowa's Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family Medical Leave Act, OSHA, the Fair Labor Standards Act, the Iowa Employment Security Law, Workers Compensation, and the Public Employment Relations Act, as well as claims alleging First Amendment issues, breach of express and implied contracts, violations of public policy, defamation, intentional infliction of emotional distress, promissory estoppel, interference with contract, invasion of privacy and other related claims.
- Publish "client alerts" on individual topics related to changes in state and federal employment law.
- Host seminars to inform our clients and their administrative personnel of compliance requirements and train on preventative measures.

IV. RATE PROPOSAL

Hourly Rate Proposal

This proposal would include all of the services set forth in the "Description of Services" and travel time billed at the standard hourly rate for the attorney performing the work. The hourly rate for James Hanks is currently $300 per hour; Michael Galloway's current rate is $275 per hour; the current hourly rate for Ann Smisek is $220; and the current hourly rate for and Aaron Hilligas is $210. The charge for the services of other attorneys at the Firm who may assist the City in labor and employment matters will be their standard hourly rate. These rates are billed in increments of 1/10 an hour. Expenses such as mileage and copying would be billed in addition to the hourly rates. We bill our clients the first of each month for services provided through the 19th of the preceding month. We can also make monthly flat-fee arrangements if the City is interested in an alternative fee approach.

V. BIOGRAPHIES (see ahlerslaw.com for additional details)

James C. Hanks

Education: J.D. (High Distinction), University of Iowa (1975); B.A., University of Iowa (1972)
Bar Admissions: Iowa (1975)

As a member of the firm's Education Law Practice Area, which represents over 250 Iowa K-12 school districts, area education agencies, community colleges, colleges and universities, Jim works with clients on a wide range of complex issues. Jim combines extensive education knowledge with a public/private sector employment and traditional labor practice and served as the Chief Negotiator in State collective bargaining for former Iowa Governors Tom Vilsack and Chet Culver.

Jim's employment and labor practice includes: representing, advising, and counseling school districts in their labor negotiations and labor relations, including negotiating contracts and representing the districts in mediation, fact finding, and arbitration; working with administrators in investigating and responding to allegations of employee misconduct; representing school districts in grievances filed under the collective bargaining agreements with the district's organized employees; advising school districts regarding discipline and discharge of employees in the organized units as well as other employees; preparing personnel policies and administrative procedures; and representing school districts in all matters involving claims of discrimination filed with the EEOC and the Iowa Civil Rights Commission.

Jim was born in Chicago, Illinois. He was nominated for a Rhodes Scholarship in 1972 by the University of Iowa.

Representative Projects include:

- Successfully negotiated multiple collective bargaining agreements for the State of Iowa in each of the negotiations for 1999, 2001, 2003, 2005, 2007 and 2009 while serving as the chief labor negotiator for former Governors Tom Vilsack and Chet Culver. The bargaining agreements cover more than 15,000 employees in the Executive Branch of state government.

- Successfully served as chief negotiator for the Iowa Department of Human Services and successfully bargained a Memorandum of Understanding with the American Federation of State, County and Municipal Employees covering more than 2,000 home health care providers. Also, successfully bargained a Memorandum of Understanding with the American Federation of State, County and Municipal Employees covering more than 6,000 day care providers. Both Memoranda were negotiated to comply with Executive Orders issued by Governor Tom Vilsack.
- Negotiated over 800 collective bargaining agreements, including bargaining agreements for school districts, area education agencies, community colleges, cities, counties, libraries, airports, and for private sector clients.
- Negotiated numerous separation and last chance agreements on behalf of public employers, including agreements with chief executive officers, superintendents, and union-represented employees.
- Successfully represented clients in Fair Labor Standards Act audits and compliance proceedings before the United States Department of Labor.

Michael M. Galloway

Education: J.D. (with Honors), Drake University (1996); B.B.A. (with Distinction), Iowa State University (1993)

Bar Admissions: Iowa, 1997

As a member of the firm's Public Law and Private Law Practice Areas, Mike represents public sector employers, including cities, counties, municipal utilities, community colleges, and school districts, and private employers in the areas of labor relations and employment law. He has participated in the negotiation or impasse resolution of over 400 collective bargaining agreements. Mike has represented employers in every aspect of collective bargaining including the formation, amendment, and decertification of bargaining units, all aspects of table negotiations, resolution of negotiability disputes, mediation, arbitration, and related proceedings such as prohibited practice complaints.

Mike's experience also includes assisting employers in contract administration, civil service hearings, the processing and arbitration of grievances, the development and implementation of personnel policies, the preparation of employee handbooks, the conduct of workplace investigations, and early retirement plans and severance agreements.

Prior to his employment with the firm, he was employed by the Iowa Department of Personnel as General Counsel and Division Administrator of Labor Relations and Legal Services. He was responsible for the overall administration of labor relations functions for approximately 20,000 employees. He was also employed as the Labor Relations Manager for Polk County, Iowa, with responsibility for all labor relations functions.

While in law school, Mike clerked for the Honorable Ross Walters and practiced in the Drake University Legal Clinic.

Representative Projects include:

- Thorough knowledge of the state and federal laws governing labor relations, including the Public Employment Relations Act, the National Labor Relations Act, the Fair Labor Standards Act, the

Family and Medical Leave Act, Constitutional law as it applies to public employment, the Iowa Wage Payment Collection law, the Iowa Civil Rights Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, state and federal drug testing laws, state and federal polygraph testing laws, and state and federal laws pertaining to employee privacy and workplace investigations.

- Worked with various unions including the American Federation of State, County, and Municipal Employees; fire fighter unions (some of which are affiliated with the International Association of Firefighters); independent police unions; the Communication Workers of America; Chauffeurs, Teamsters, and Helpers Union; the International Union of Operating Engineers; the Municipal Laborers Local #353; the Public Professional and Municipal Employees Union; the Steelworkers Union; the International Union of Painters and Allied Trades; the Carpenters Union; and the United Food and Commercial Workers Union.

Ann M. Smisek

Education: J.D. (With Distinction), University of Iowa (2007); B.A., University of Iowa (1999)

Bar Admissions: Iowa (2007)

Ann Smisek joined the firm in 2014 and works in the firm's Government Law and Education Law Practice Areas. Ann counsels clients on various personnel matters regarding hiring, disciplining, and terminating employees, as well as how to conduct workplace investigations. She advises on compliance with applicable state and federal regulations, and reviews handbooks to provide recommendations on legal compliance and best practices. Ann also advises clients on labor issues, representing employers in collective bargaining agreement negotiations, in cases before the Public Employment Relations Board, and in grievance arbitrations.

Prior to Ahlers & Cooney, she served as an Administrative Law Judge for the Iowa Public Employment Relations Board (IPERB). She conducted prehearing conferences and presided at contested case hearings concerning labor and employment disputes. She performed legal research and issued proposed rulings on pre-hearing motions and on the merits of cases. She handled administrative appeals before the district court, Iowa Court of Appeals and Iowa Supreme Court regarding negotiability disputes. She also acted as a mediator to help settle cases and assist in the negotiation of collective bargaining agreements.

Prior to the IPERB and upon graduation from law school, she worked 3-1/2 years as a Judicial Law Clerk for former Chief Judge Rosemary Shaw Sackett at the Iowa Court of Appeals. Before law school, Ann started her career in scientific publishing where she oversaw and managed the editorial review and publication process of academic medical research articles. Ann grew up in Mitchellville, Iowa and while at the University of Iowa College of Law, served on the Iowa Law Review.

Representative Projects include:

- Negotiated first year contract with newly formed bargaining unit on behalf of school district.
- Performed workplace investigations and advised employer on issuing and carrying out discipline.
- Advised employers through employee termination process and negotiated resignation and release agreements.

- Represented employers in prohibited practice complaints and unit determination proceedings before the Public Employment Relations Board.
- Provide trainings to employers on sexual harassment, discipline and discharge, workplace investigations, and open meetings law.

Aaron Hilligas

Education: J.D., University of Wisconsin (2002); B.A., University of Nebraska-Lincoln (1998)

Bar Admissions: Iowa (2017); District of Columbia (2007)

Aaron Hilligas joined the firm in 2017 and is a member of the firm's Public Law Practice Area, serving municipalities, higher education and K-12 educational institutions. He advises clients on a variety of labor and employment related matters and represents employers in collective bargaining agreement negotiations, in cases before the Public Employment Relations Board, and in grievance arbitrations.

Prior to Ahlers & Cooney, Aaron worked in the Office of the General Counsel for the National Labor Relations Board (NLRB) for the Division of Advice (which includes the Regional Advice and Injunction Litigation branches) in Washington, DC. With the NLRB, he developed legal theories pursued by General Counsel, advised regions on litigation strategy, and represented the agency in injunction cases on appeal.

He has also worked in-house as an attorney with labor organizations covering a variety of industries in the public and private sectors, including K-12 and higher education. In these roles, he was involved in collective bargaining, contract enforcement and strategic campaigns, arbitrated and litigated disputes, and advised on policies, internal employee issues, regulatory compliance, organizing, employee benefits and internal governance.

While at the University of Wisconsin, Aaron served as Articles Editor for the Wisconsin International Law Journal, was a judicial intern with the Wisconsin Supreme Court, and got his start in labor and employment law by working as a law clerk with the employment law division of the University of Wisconsin-Madison's Office of Legal Affairs.

VI. REFERENCES

We currently represent several cities across the state of similar size and operation as the City of Carroll. The approach taken by all of the attorneys in our Firm is consistent. We believe in working very closely with our clients to understand their needs and their concerns and then formulating a plan to address these needs/concerns. Based upon our substantial experience in the public sector, we are also very frank with our clients as to what the reasonable expectations should be whether it is in collective bargaining or dealing with employee disciplinary matters. Our philosophy is to provide the best legal services possible at the most reasonable price. As a result, our clients are pleased with our preventative, as well as reactive, solutions.

The following are some references we encourage you to contact:

Employer:	***City of Des Moines***
Contact:	James Wells, Human Resources Director
Telephone:	(515) 283-4213
Employer:	***City of West Des Moines***
Contact:	Jane Pauba Dodge, Human Resources Director
Telephone:	(515) 222-3602
Employer:	***City of Webster City***
Contact:	Beth Chelesvig, Administrative Services Director
Telephone:	(515) 832-9151

Additional references available on request.

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LAWYERS PROFESSIONAL LIABILITY POLICY
DECLARATIONS

Agency:	Branch:	Policy Number:
738814	912	425486583

Insurance is provided by Continental Casualty Company,
333 S. Wabash Ave. Chicago IL 60604
A Stock Insurance Company.

1. NAMED INSURED AND ADDRESS:
Ahlers & Cooney, P.C.
100 Court Ave.
Suite 600
Des Moines, IA 50309

NOTICE TO POLICYHOLDERS:
This is a Claims Made and Reported policy. It applies only to those claims that are both first made against the insured and reported in writing to the Company during the policy period. Please review the policy carefully and discuss this coverage with your insurance agent or broker.

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2. POLICY PERIOD:
Inception: 01/01/2018 — Expiration: 01/01/2019
at 12:01 A.M. Standard Time at the address shown above

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3. LIMITS OF LIABILITY:
Inclusive of Claims Expenses

Each Claim: $10,000,000
Aggregate: $10,000,000

Death or Disability and Non-Practicing Extended Reporting Period Limit of Liability:
Each Claim: $1,000,000
Aggregate: $2,000,000

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4. DEDUCTIBLES:
Inclusive of Claims Expenses

Aggregate: $50,000

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5. POLICY PREMIUM:

Annual Premium:	$117,467.00
Total Amount:	$117,467.00
Includes CNA Risk Control Credit of	$-8,699.00

Includes Lawyers Data Breach and Network Security Premium, see coverage endorsement if applicable

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6. FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION:
G-118011-A (Ed. 06/2015), G-118012-AC (Ed. 03/1999), G-118016-ACC (Ed. 12/2011), G-118024-A (Ed. 04/2008), G-118039-A14 (Ed. 04/2008), G-121011-AC (Ed. 04/2008), GSL-3014-XX (Ed. 12/2011), GSL-34306-IA (Ed. 06/2015)

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7. WHO TO CONTACT:

To report a claim:
CNA – Claims Reporting
P.O. Box 8317
Chicago, IL 60680-8317
Fax: 866-773-7504 / Online: www.cna.com/claims
Email: SpecialtyProNewLoss@cna.com
Lawyers Claim Reporting Questions: 800-540-0762

Authorized Representative — 12/19/2017 **Date**