

Action Request

Electronic Submission – Contract # 2508



Committee: FINANCE AND ADMINISTRATION
Meeting Date: 12/3/2024
Vendor/3rd Party: KALLMAN LEGAL GROUP, PLLC
Requesting Department: CORPORATE COUNSEL
Submitted By: JACK JORDAN
Agenda Item: SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES

Suggested Motion:

To approve and forward to the Board of Commissioners Kallman Legal Group, PLLC's Second Amendment to Agreement for Legal Services.

Summary of Request:

To amend Kallman Legal Group's Agreement for Legal Services with Ottawa County to reduce the term by three (3) months, thereby aligning the Agreement's end date with the dates of the County's budgetary fiscal year and reduce the amount of the contract by at least \$107,550.

Financial Information:

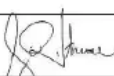
Total Cost: -\$107,550.00	General Fund Cost: -\$107,550.00	Included in Budget: Yes
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If not included in Budget, recommended funding source:

Action is Related to an Activity Which Is: Non-Mandated

Action is Related to Strategic Plan:

Administration:

Recommended by County Administrator:  12/2/2024 5:54:20 PM

Committee/Governing/Advisory Board Approval Date: 12/3/2024

SECOND AMENDMENT TO AGREEMENT FOR LEGAL SERVICES

Ottawa County ("County") and the law firm of Kallman Legal Group, PLLC ("the Firm") previously entered into a contract for the provision of legal services effective January 1, 2023 (including a First Amendment entered into in February of 2023, collectively referred to as the "Original Agreement"). The County and the Firm shall collectively be known herein as "the Parties." The Effective Date of this Agreement shall be the date of the signature of the Parties. If the Parties sign on different dates, then this Agreement commences and becomes effective on the latest date signed.

I. BACKGROUND

WHEREAS, the Parties hereby agree that this Second Amendment shall be a full restatement of the Original Agreement and the terms of this Second Amendment shall be considered and interpreted as the full and complete agreement between the Parties (this Second Amendment shall hereinafter be referred to as the "Agreement");

WHEREAS, Ottawa County desires to continue to contract with Kallman Legal Group, PLLC to provide corporate counsel and litigation legal services;

II. PURPOSE

Ottawa County is a body corporate and county organized under the Constitution and laws of the State of Michigan. The Firm is a Michigan Professional Limited Liability Company employing lawyers who are fully licensed to practice law in the State of Michigan and who are in good standing with the Michigan Bar Association.

In order to fulfill its responsibilities, the County must secure what are commonly known as "corporation counsel legal services" ("Corporate Legal Services") and "litigation legal services" ("Litigation"). The Parties recognize that one of the purposes of this Agreement is to facilitate the long-term delivery of legal services to the County for both day-to-day corporate counsel services and litigation legal services.

III. SCOPE OF SERVICES

The Firm agrees to provide Corporate Legal Services as requested and required by the County. In particular, the Firm will provide:

Corporation Counsel Legal Services:

These services include, but are not limited to, providing legal opinions to the County Board of Commissioners ("Board") and other County departments as directed by the County Administration and the Board; regularly attending Board meetings and such other meetings of committees, boards and commissions of the County as directed by the Board and County Administrator; assisting the County in compliance with statutes, including but not limited to the Freedom of Information Act, Open Meetings Act and HIPAA and, generally, all those services commonly understood among Michigan counties to be Corporate Legal Services.

Litigation Legal Services:

These services include, but are not limited to, providing legal counsel and representation as directed by the Board Chairperson regarding litigation where the County is a Party to a lawsuit, negotiation and the

proposed resolution of claims by or against the County, and providing counsel to the County in any way related to current or future litigation. These services include, but are not limited to: Advice regarding availability of alternative means to settle disputes; review of correspondence and court documents; preparation of documents to be given to the opposing Party; administrative proceedings; legal research and analysis; negotiation of a settlement agreement settling substantive issues; preparation of preliminary or other motion documents; mediation; postmediation, presigning, agreement review; representation at hearings and Court proceedings, all services related to the trial of a case, and all post-judgment issues and appeals.

To help the Firm represent the County effectively and to reduce the costs of representation, the County agrees to: make any County official or employee available to provide sworn testimony, e.g., in a deposition, affidavit, trial, or other proceedings, at Counsel's request; inform Counsel of any new developments or information material to the matter, e.g., court notices, letters from the opposing Party or counsel, new factual developments, etc.; respond promptly to Counsel's communications, including voice message, email message, letter, etc.; acknowledge that Counsel will not engage in offensive tactics and will treat all persons involved in the legal process with courtesy and consideration; not pursue a course of action through Counsel that Counsel reasonably believes to be illegal, fraudulent, frivolous, or imprudent; and keep Counsel advised of any change of addresses or phone numbers or other important changes and answer attorney requests for information promptly.

IV. DELIVERY OF SERVICES

The Firm agrees to be bound by the codes of professional responsibility of the State Bar of Michigan with respect to the delivery of all legal services pursuant to this Agreement. To facilitate this service, Kallman Legal Group, PLLC will be appointed by the Board as "Corporation Counsel" for Ottawa County, although all its attorneys' compensation, benefits and expenses, including their professional dues will be exclusively provided by the Firm.

The County will continue to provide the Firm with two offices in the County's Fillmore Administration building, and the Firm will attempt to have an attorney present for ongoing and arising legal needs at least three days per week out of those offices. The County will also continue to provide basic secretarial and other services to the attorneys working out of those offices as has been provided for the first two years of the Original Agreement, including, but not limited to, answering phones, making copies of documents, and providing printing services and other office services and other typical access to the County's facilities.

The County shall further provide a full-time paralegal to work in conjunction with, and under the direction of, the Firm. The hiring of the paralegal shall be approved by the Firm upon common employment terms and conditions as set by the County.

V. FEES

Subject to the provisions of Section VI entitled "Costs and Expenses," the County agrees to pay the Firm and the Firm agrees to accept compensation as follows:

Corporation Counsel Legal Services:

Kallman Legal Group, PLLC's standard hourly attorney rate is currently \$400.00. However, the Firm agrees to reduce its rate to \$240.00 per hour for all Corporation Counsel Legal Services. The Parties agree that the Firm shall provide a minimum of 1,248 hours of legal services per year (approximately 24 hours each week, or three 8-hour days each week). These minimum hours shall primarily be provided by

supplying an attorney or attorneys to be present and available at the County office for the County's Corporate Legal Services as outlined above.

Litigation Legal Services:

Kallman Legal Group, PLLC's standard hourly attorney rate is currently \$400.00. However, the Firm agrees to reduce its rate to \$290.00 per hour for all Litigation Legal Services. The Chairperson of the Board shall have the authority to instruct the Firm to represent the County as necessary related to all litigation as outlined above. Neither Party will settle any case without the other's knowledge and approval. The Firm has made and will make no promises or guarantees regarding the outcome of any litigation matter.

Terms Applicable to both Corporation Council and Litigation Legal Services:

The Firm shall bill the County on a monthly basis for all legal services provided. The County agrees to pay the bills in the regular course of its payment of expenses, but not later than sixty (60) days after a bill is submitted. If a bill is not paid within sixty (60) days, then a monthly late fee of 1.5% of the remaining balance shall be charged and added to the amount owed. If the County fails to pay the full legal fees, costs, expenses, and late fees when they become due under the terms of this Agreement, and legal action and/or collection agency activities are necessary to collect due and owing legal fees, costs, expenses, and late fees, then the County agrees to pay the Firm all costs and attorney fees incurred in collecting the due and owing legal fees, costs, expenses, and late fees.

The Firm's monthly bills shall be submitted to the County Administrator and the Fiscal Services Department for processing and payment.

VI. COSTS AND EXPENSES

The County agrees to pay out-of-pocket costs and expenses incurred by the Firm in rendering services under this Agreement. Notwithstanding the above, the Firm will not charge for mileage to and from any of the Firm's attorneys' homes to the Fillmore Administrative complex. Other expenses shall be charged at the rate customarily charged to other clients by the Firm and documentation for all expenses shall be provided upon request.

VII. NOTIFICATION

As a general matter, communications from the County to the Firm shall be made to Kallman Legal Group, PLLC at the following address:

KALLMAN LEGAL GROUP, PLLC
5600 W. Mount Hope Hwy.
Lansing, MI 48917
517-322-3207
517-322-3208 Fax

dave@kallmanlegal.com, steve@kallmanlegal.com, jack@kallmanlegal.com, lanae@kallmanlegal.com

The County contemplates that the Administrator or his or her designee shall be responsible for coordinating the County's responsibilities under this Agreement. Communications to the Administrator can be made as follows:

OTTAWA COUNTY, MICHIGAN
CO: Ottawa County Administrator
12220 Fillmore Street
West Olive, MI 49460

VIII. TERM/WAIVER

This Agreement for Legal Services shall be effective on the date of execution and conclude on September 30, 2025, which is a reduction of three (3) months from the original term of the Original Agreement ending on January 1, 2026. The bills from the Firm for October and November of 2024 shall be submitted and paid in their usual manner. As consideration for the three-month reduction of the term, the County hereby agrees to pay a lump-sum minimum fee of \$249,408.00¹ immediately upon the execution of this Agreement. The County shall receive a credit (\$24,940.80) in its monthly bills for the minimum 24 hours per week that have been paid with the minimum fee. If the County incurs a monthly bill for legal services under this Agreement greater than the monthly credit of \$24,940.80, then the County shall pay the remaining balance of the bill pursuant to the terms of this Agreement. Under all circumstances, any payments made under this Agreement, including, but not limited to, the lump-sum minimum fee, are non-refundable.

The Parties may agree to renew this Agreement for an additional term. Notwithstanding the foregoing, either Party may terminate this Agreement only for just cause during the term of the Agreement. For purposes of this Agreement and for analyzing the conduct of the Firm, "just cause" shall only mean the gross negligence or criminal misconduct of the Firm in the performance of its duties to the County that occurs after the effective date of this Second Amendment. For purposes of this Agreement and for analyzing the conduct of the County, "just cause" shall only mean a breach of the terms of this Agreement that occurs after the effective date of this Second Amendment. Additionally, the Parties may jointly agree to terminate this Agreement at any time during its term.

The Parties and their agents, attorneys, representatives, employees, officials, and assigns, hereby release and waive any and all claims of any kind against the other Party related to, or arising from, the services provided and terms of the Original Agreement between the Parties, including, but not limited to, actions, causes of actions, suits, debts, losses, damages, claims, malpractice, demands or other liability or relief, whether in law or in equity, or before administrative agencies or departments, that occurred or existed prior to the Effective Date, and hereby agree that the terms of this Agreement shall control.

IX. PROFESSIONAL LIABILITY INSURANCE

The Firm shall continue to maintain adequate professional liability coverage and shall provide proof of said coverage upon reasonable request by the County. Notwithstanding the above, the Firm shall maintain professional liability insurance of not less than \$1 million per occurrence.

X. ACKNOWLEDGEMENT AND COUNTERPARTS

By executing this Agreement, the County representative acknowledges that it has been duly approved by the Board of Commissioners. By executing this Agreement, the Firm representative acknowledges that the Firm has fully approved the Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and these counterparts shall constitute one and the same instrument and may be sufficiently evidenced by one or the other.

¹ December 1, 2024 to September 30, 2025 is 43.3 weeks. The minimum 24 hours per week for 43.3 weeks is 1,039.2 hours. 1,039.2 hours times \$240 per hour is \$249,408.00.

XI. MERGER

This Agreement shall be interpreted under, and in a manner consistent with Michigan law, including amendments and changes from time to time. This Agreement constitutes the complete understanding between the Parties and all prior or contemporaneous understandings, oral or in writing, are merged herein. This Agreement may only be modified by the mutual consent of the Parties expressed in writing and signed in like form.

XII. PARTIAL INVALIDITY

The partial invalidity of any portion of this Agreement shall not be deemed to affect the validity of any other part of this Agreement. In the event that any provision of this Agreement is determined to be invalid, the Parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by the Parties subsequent to the expunction of the invalid provision.

XIII. MISCELLANEOUS


Paragraph headings are for convenience only. In no event shall any such title or caption be deemed to be part of this Agreement or interpretive of any of its language or intent. Reference to the singular shall include the plural, and vice versa, when the context so suggests. No provision of this Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the Agreement or any of its provisions.

The Parties agree that the proper venue regarding any dispute between the Parties relating in any way to this Agreement shall be filed and heard in the Eaton County, Michigan, Circuit Court.

The Parties further acknowledge that the obligations imposed on each of them contained in this Agreement constitute adequate and sufficient consideration to support all of the provisions of this Agreement.

KALLMAN LEGAL GROUP, PLLC

OTTAWA COUNTY

By: 
David A. Kallman

By: _____
Chairperson
Ottawa County Board of Commissioners

December 2, 2024

December ____, 2024

ATTEST

Ottawa County Clerk/Register

FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES

Ottawa County ("County") and the law firm of Kallman Legal Group, PLLC ("the Firm") previously entered into a contract for the provision of legal services effective January 1, 2023. The County and the Firm shall collectively be known herein as "the Parties."

AMENDMENT

Pursuant to Article X of the Agreement, and for mutual consideration contained herein, the Parties hereby amend the Agreement as follows:

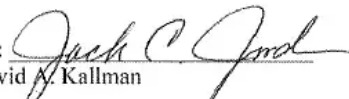
1. Article VII - TERM is hereby stricken and replaced with the following:

Article VII - TERM


"This contract shall be effective January 1, 2023, and have a three-year term ending on January 1, 2026. It may be renewed for another term of years by either party by giving the other party thirty (30) days notice before the end of the term. Notwithstanding the foregoing, either party may terminate the contract only for just cause during the term of the contract. For purposes of this Agreement, "just cause" shall mean the gross negligence or misconduct of the Firm in the performance of its duties to the County."

2. All other terms and conditions of the Agreement are unchanged and remain in full force and effect.


KALLMAN LEGAL GROUP, PLLC

By: 
David A. Kallman
February 14, 2023

OTTAWA COUNTY

By: 
Chairperson
Ottawa County Board of Commissioners

ATTEST


Ottawa County Clerk/Register

AGREEMENT FOR LEGAL SERVICES

Ottawa County ("County") and the law firm of Kallman Legal Group, PLLC ("the Firm") hereby enter into this contract for the provision of legal services. The County and the Firm shall collectively be known herein as "the Parties."

I. BACKGROUND

WHEREAS, Ottawa County desires to contract with Kallman Legal Group, PLLC to provide corporate counsel and litigation legal services;

II. PURPOSE

Ottawa County is a body corporate and county organized under the Constitution and laws of the State of Michigan. The Firm is a Michigan Professional Limited Liability Company employing lawyers who are fully licensed to practice law in the State of Michigan and who are in good standing with the Michigan Bar Association.

In order to fulfill its responsibilities, the County must secure what are commonly known as "corporation counsel legal services" ("Corporate Legal Services") and "litigation legal services" ("Litigation"). The parties recognize that one of the purposes of this Agreement is to facilitate the long-term delivery of legal services to the County for both day-to-day corporate counsel services and litigation legal services.

III. SCOPE OF SERVICES

The Firm agrees to provide Corporate Legal Services as requested and required by the County. In particular, the Firm will provide:

Corporation Counsel Legal Services:

These services include, but are not limited to, providing legal opinions to the County Board of Commissioners ("Board") and other County departments as directed by the County Administration and the Board; regularly attending Board meetings and such other meetings of committees, boards and commissions of the County as directed by the Board and County Administrator; assisting the County in compliance with statutes, including but not limited to the Freedom of Information Act, Open Meetings Act and HIPAA and, generally, all those services commonly understood among Michigan counties to be Corporate Legal Services.

Litigation Legal Services:

These services include, but are not limited to, providing legal counsel and representation as directed by the Board Chairperson regarding litigation where the County is a party to a lawsuit, negotiation and the proposed resolution of claims by or against the County, and providing counsel to the County in any way related to current or future litigation. These services include, but are not limited to: Advice regarding availability of alternative means to settle disputes; review of correspondence and court documents; preparation of documents to be given to the opposing party; administrative proceedings; legal research and analysis; negotiation of a settlement agreement settling substantive issues; preparation of preliminary or other motion documents; mediation; postmediation, presigning, agreement review; representation at hearings and Court proceedings, all services related to the trial of a case, and all post-judgment issues and appeals.

To help the Firm represent the County effectively and to reduce the costs of representation, the County agrees to: make any County official or employee available to provide sworn testimony, e.g., in a deposition, affidavit, trial, or other proceedings, at Counsel's request; inform Counsel of any new developments or information material to the matter, e.g., court notices, letters from the opposing party or counsel, new factual developments, etc.; respond promptly to Counsel's communications, including voice message, email message, letter, etc.; acknowledge that Counsel will not engage in offensive tactics and will treat all persons involved in the legal process with courtesy and consideration; not pursue a course of action through Counsel that Counsel reasonably believes to be illegal, fraudulent, frivolous, or imprudent; and keep Counsel advised of any change of addresses or phone numbers or other important changes and answer attorney requests for information promptly.

IV. DELIVERY OF SERVICES

The Firm agrees to be bound by the codes of professional responsibility of the State Bar of Michigan with respect to the delivery of all legal services pursuant to this Agreement. To facilitate this service, Kallman Legal Group, PLLC will be appointed by the Board as "Corporation Counsel" for Ottawa County, although all its attorneys' compensation, benefits and expenses, including their professional dues will be exclusively provided by the Firm.

The County will provide Kallman Legal Group, PLLC with an office in the County's Fillmore Administration building, and the Firm will attempt to have an attorney present for ongoing and arising legal needs at least three days per week out of that office. The County will also provide basic secretarial services to the attorneys working out of that office, including, but not limited to, answering phones, making copies of documents, and providing printing services and other office services.

The County shall further provide a full-time paralegal to work in conjunction with, and under the direction of, the Firm. The hiring of the paralegal shall be approved by the County Administrator and the Firm upon common employment terms and conditions as set by the County.

V. FEES

Subject to the provisions of Section VI entitled "Costs and Expenses," the County agrees to pay the Firm and the Firm agrees to accept compensation as follows:

Corporation Counsel Legal Services:

Kallman Legal Group, PLLC's standard hourly attorney rate is \$350.00. However, the Firm agrees to reduce its rate to \$225.00 per hour for all Corporation Counsel Legal Services for the first year of the agreement and \$240.00 per hour for the second year of this agreement. The parties agree that the Firm shall provide a minimum of 1,248 hours of legal services per year (approximately 24 hours each week, or three 8-hour days each week). These minimum hours shall primarily be provided by supplying an attorney to be present and available at the County office for the County's Corporate Legal Services as outlined above.

Litigation Legal Services:

Kallman Legal Group, PLLC's standard hourly attorney rate is \$350.00. However, the Firm agrees to reduce its rate to \$275.00 per hour for all Litigation Legal Services for the first year of the agreement and \$290.00 per hour for the second year of this agreement. The Chairperson of the Board shall have the authority to instruct the Firm to represent the County as necessary related to all litigation as outlined above. Neither party will settle any case without the other's knowledge and approval. The Firm has made and will make no promises or guarantees regarding the outcome of any litigation matter.

The Firm shall bill the County on a monthly basis for all legal services provided, and the County agrees to pay the bills in the regular course of its payment of expenses.

VI. COSTS AND EXPENSES

The County agrees to pay out-of-pocket expenses incurred by the Firm in rendering services under this Agreement. Notwithstanding the above, the Firm will not charge for mileage to and from any of the Firm's attorney's homes to the Fillmore complex. Other expenses shall be charged at the rate customarily charged to other clients by the Firm and documentation for all expenses shall be provided upon request.

VII. NOTIFICATION

As a general matter, communications from the County to the Firm shall be made to Kallman Legal Group, PLLC at the following address:

KALLMAN LEGAL GROUP, PLLC
5600 W. Mount Hope Hwy.
Lansing, MI 48917
517-322-3207
517-322-3208 Fax
dave@kallmanlegal.com, steve@kallmanlegal.com, jack@kallmanlegal.com

The County contemplates that the Administrator or his or her designee shall be responsible for coordinating the County's responsibilities under this Agreement. Communications to the Administrator can be made as follows:

OTTAWA COUNTY, MICHIGAN
CO: Ottawa County Administrator
12220 Fillmore Street
West Olive, MI 49460

VIII. TERM

This contract shall be effective January 1, 2023, and have a two-year term ending on January 1, 2025. It may be renewed for another term of years by either party by giving the other party thirty (30) days notice before the end of the term. Notwithstanding the foregoing, either party may terminate the contract at any time upon ninety (90) days prior written notice to the other.

IX. PROFESSIONAL LIABILITY INSURANCE

The Firm shall provide proof of adequate professional liability coverage to the County at the outset of this Agreement, and upon reasonable request at any time during its term. Notwithstanding the above, the Firm shall maintain professional liability insurance of not less than \$1 million per occurrence.

X. ACKNOWLEDGEMENT AND COUNTERPARTS

By executing this Agreement, the County representative acknowledges that it has been duly approved by the Board of Commissioners. By executing this Agreement, the Firm representative acknowledges that the Firm has fully approved the Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and

these counterparts shall constitute one and the same instrument and may be sufficiently evidenced by one or the other.

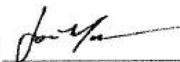
XI. MERGER

This Agreement shall be interpreted under, and in a manner consistent with Michigan law, including amendments and changes from time to time. This Agreement constitutes the complete understanding between the parties and all prior or contemporaneous understandings, oral or in writing, are merged herein. This Agreement may only be modified by the mutual consent of the parties expressed in writing and signed in like form.

KALLMAN LEGAL GROUP, PLLC

OTTAWA COUNTY

for By: 
David A. Kallman
January 23, 2023

By: 
Chairperson
Ottawa County Board of Commissioners

ATTEST


Ottawa County Clerk/Register