

OCT 15 2007

ORDINANCE NO. 2595


City Clerk

AN ORDINANCE TO AUTHORIZE AN ENGAGEMENT AGREEMENT TO HIRE HEPLER, BROOM, MACDONALD, HEBRANK, TRUE & NOCE, LLC TO PROVIDE LEGAL SERVICES TO THE CITY OF COLUMBIA, ILLINOIS RELATING TO THE PROPOSED COLUMBIA CROSSING DEVELOPMENT

WHEREAS, the City Council of the City of Columbia, Illinois (the "City") has found and determined and does hereby declare that it is necessary and appropriate the City employ a legal services firm to advise and provide legal defense for the City in regard to the proposed Columbia Crossing development; and,

WHEREAS, the City Council of the City has determined the City should employ Hepler, Broom, MacDonald, Hebrank, True & Noce, LLC of Edwardsville, Illinois to provide the legal services aforesaid; and,

WHEREAS, it is necessary and appropriate this Ordinance be enacted for the use and purpose of authorizing the employment of Hepler, Broom, MacDonald, Hebrank, True & Noce, LLC to provide the aforementioned legal services.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City Council of the City of Columbia, Illinois does hereby authorize and direct the Mayor to employ Hepler, Broom, MacDonald, Hebrank, True & Noce, LLC to provide the legal services described above in the preamble of this Ordinance (and as is more particularly described in the September 17, 2007 Proposal for Legal Consultation Services prepared by Hepler, Broom, MacDonald, Hebrank, True & Noce, LLC attached hereto).

Section 3. The Mayor is hereby authorized and directed to make and enter into said Engagement Agreement to employ Hepler, Broom, MacDonald, Hebrank, True & Noce, LLC to provide the legal services aforesaid, in the form attached hereto, which is hereby approved as to form, and in as many counterparts as the Mayor shall determine; and, the City Clerk is hereby authorized and directed to attest the same and affix thereto the corporate seal of the City.

Section 4. This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, as provided by law.

Alderman Row moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Oberkfell, and the roll call vote was as follows:

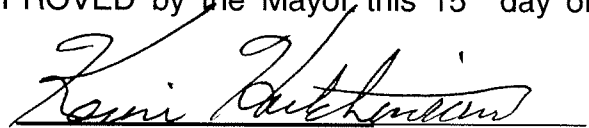
YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf and Mayor Hutchinson.

NAYS: None.

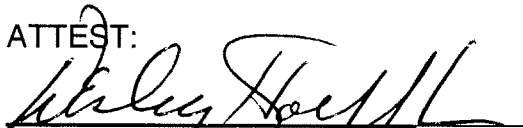
ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor, this 15th day of October, 2007.



KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEFFKEN, City Clerk

(SEAL)



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October 11, 2007

Mr. Anthony Traxler
City Administrator
City of Columbia
P.O. Box 467
208 R. Rapp Avenue
Columbia, IL 62236

By Electronic Mail

RE: Columbia Crossing, LLC v. City of Columbia/Professional Services Contract

Dear Mr. Traxler:

Hepler Broom is pleased that we have been requested to submit this engagement agreement to the City of Columbia ("the City"). This letter agreement sets forth the terms and conditions on which Hepler Broom would represent the City in the lawsuit filed by Columbia Crossing, LLC in the United States District Court for the Southern District of Illinois ("the Litigation").

I will oversee the services rendered on the City's behalf and will serve as lead counsel in the Litigation. We will utilize other attorneys in the firm when we deem such to be appropriate, cost effective or otherwise in the City's best interest. I anticipate that my associates, Jason Johnson and Eric Rosser, will assist on this matter. Jason, Eric and I are admitted to practice in the Southern District of Illinois, as are the majority of Hepler Broom's attorneys.

Our fees will be billed monthly at the following hourly rates: My hourly rate is \$250.00 per hour, as is that of other partners; senior associates are billed at \$210.00 per hour; associates, including Jason Johnson and Eric Rosser, are billed at \$175.00 per hour; junior associates are billed at \$140.00 per hour; and, paralegals are billed at \$90.00 per hour. While we generally review and increase our rates yearly, we propose to maintain the above-quoted rates through the end of 2008.

We will bill for expenses we incur in connection with our representation, such as court costs, filing fees, travel costs (currently at the rate of 48.5 cents per mile for automobile travel, but only for trips in excess of 100 miles round-trip; mileage for shorter automobile trips will not be charged), copying and fax charges, long distance telephone costs, postage, expert consultant and witness fees, witness appearance fees and other out-of-pocket expenses.

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Our invoices are due upon receipt. Interest at the rate of 1.5% per month from the invoice date is payable on any amount not paid within 60 days after the date of the invoice. We may resign as counsel if any of our invoices are not timely paid, and it should be understood that this could adversely impact the client's position in any litigation, negotiation, or other matter in progress. Our fees are based on the amount of time we expend rendering our services and are not contingent upon the outcome of the lawsuit or any other matter. Our invoices may include charges for services performed prior to the execution of this letter agreement.

The City may terminate our representation by written notice, in which case the City would be billed only for services rendered and expenses incurred prior to our receipt of the notice, except, if we are providing representation in any pending lawsuit, our services and the related fees and expenses may continue until the court grants our motion to withdraw, which we would file promptly upon receipt of notice to discontinue our representation.

Please do not hesitate to contact me if you or other City representatives have any questions. If the terms of this engagement letter are agreeable to the City, please have an authorized representative sign one copy of this letter on the City's behalf and return it to us, as soon as practicable. We truly appreciate this opportunity to be of service and look forward to working on the City's behalf.


Very truly yours,

Wayne D. Skigen

WDS/mjr

ACCEPTED AND AGREED:

City of Columbia, Illinois

By: 

Name: KEVIN HUTCHINSON

Title: MAYOR

Date: October __, 2007