City of Benson
City Council Communication

Regular Meeting **July 22, 2013**

To: Mayor and Council Agenda Item # 7

From: Jim Cox, Interim City Manager

Subject:

Discussion and possible action regarding the appointment of Christopher Wencker as the Interim City Attorney contract

Discussion:

This item has been placed on the agenda at the request of Councilmember Brooks and Councilmember Wangsness. The Interim City Manager has had no contact with Mr. Wencker. Attached is a resume and a proposed contract for Interim City Attorney services to be provided by Mr. Chris Wencker at the rate of $150/hr. Travel to and from the City will be billed at a flat rate of $150/trip. Mr. Wencker will not be a candidate for the permanent City Attorney.

Staff Recommendation:

Council pleasure

AGREEMENT FOR MUNICIPAL LEGAL SERVICES

This Agreement is entered this _____ day of July, 2013, by and between the City of Benson, an Arizona municipal corporation (hereinafter called the "City"), and the Law Office of Christopher Wencker, P.L.C. (hereinafter called the "Firm").

1. Scope of Engagement. The City wishes to engage the services of the Firm to serve as general counsel to the City. This engagement includes providing legal advice to the City as directed by the City Manager or the City Council, and any other litigation, appeal, or post-adjudication matters as the City Manager or the City Council may direct. Any change in this engagement must be set forth in writing. The parties anticipate that this engagement shall continue from the date listed above until such time as the City may retain the services of a permanent City Attorney.

2. Requested Waiver. The City is aware and acknowledges that the Firm represents many other clients. While the Firm currently has no clients who have dealings or disputes with the City, it is possible that some other present or future clients may have future dealings or disputes with the City that are unrelated to the City's business with the Firm. Therefore, as a condition of this engagement, the City agrees that the Firm may continue to represent other clients in any matter that is not related to the Firm's work for the City, unless as a result of such work the Firm has received sensitive, proprietary, or other confidential information of a non-public nature that, if known to any such other client, could be used in any way by that other client to the City's material disadvantage.

3. Fees. The City has agreed to pay the Firm $150.00 per hour for legal work performed by an attorney, and $75.00 per hour for legal work performed by a paralegal or law clerk. Time shall be computed in increments of 0.1 hour. Legal work shall not include travel time to or from meetings of the City Council, boards or commissions, for which the City shall pay the Firm a flat rate of $150 for each round trip to the City. At the end of each month, the Firm will send the City an invoice detailing the work performed for the City during that month, and the amount owed for that work. The City agrees to pay such invoices no later than ten (10) business days after they are delivered, unless such amounts are disputed. If the City disputes any such invoice, the City agrees to deliver notice of such dispute to the Firm no later than five (5) business days after the invoice is delivered.

4. Staffing. Christopher Wencker will provide the primary services for the City, will serve as the City Attorney, and will oversee the course and scope of representation. Circumstances may arise, however, requiring the Firm to use the services of other lawyers, paralegals, legal assistants, law clerks, file clerks, investigators, or other staff for temporary work. The City agrees that the Firm may make such use of other staff as is necessary to accomplish the goals of this engagement. The time spent by any such staff providing legal work shall be billed to the City pursuant to paragraph 3 above.

5. Client Expectations. The City's participation and cooperation with the Firm is essential to enable the Firm to advise the City. Accordingly, the City agrees to provide whatever reasonable assistance is requested by the Firm to provide legal advice to the City, including

providing information for the completion of documents and correspondence. Additionally, the City acknowledges that there may be mandatory deadlines for particular work performed by the Firm for the City, and that failure to provide information to meet those deadlines may negatively affect such work.

6. Due Diligence and Tax Advice Not Included. The Firm does not give tax advice. If the City's business involves any tax or accounting issues, please consult with the tax professional of the City's choice. If this matter involves real estate, the Firm is not responsible for the performance of due diligence.

7. Document Retention. The City's files will be kept primarily in electronic format, on a secured server. At any time, the City may receive a complete copy of any of the City's files in electronic or paper form. If the City does not request a copy of a file within seven years after the conclusion of this representation, it may be destroyed.

IN WITNESS WHEREOF, the parties have affixed their signatures below as of the dates indicated:

CITY OF BENSON

_____

By: _____

Its: _____

Date: _____

LAW OFFICE OF CHRISTOPHER WENCKER, P.L.C.

_____
By: Christopher B. Wencker
Its: Owner

Date: _____

Christopher Brian Wencker
Law Office of Christopher Wencker, P.L.C.
5025 North Central Avenue, Box No. 429
Phoenix, Arizona 85012-1520
chris@wenckerlaw.com

Education

University of Arizona, James E. Rogers College of Law, Tucson, Arizona
Juris Doctor, 2002
Arizona Law Review, Member and Case Notes Editor
Moot Court Board, Member
William T. Birmingham Trial Advocacy Award, 2001-2002
Named "Outstanding Oral Advocate" in First-Year Moot Court
Phi Alpha Delta Legal Fraternity International, Member
Student Animal Legal Defense Fund, Founder and President
Criminal Law Student Association, Member and First-Year Representative
Graduate and Professional Student Council, College of Law Representative and Chair of Council Administration Committee, 2000-2001

Thomas Edison State College, Trenton, New Jersey
Bachelor of Arts, Psychology, 1998

Community College of the Air Force, Maxwell-Gunter AFB, Montgomery, Alabama
Associate in Applied Science, Communications Applications Technology, 1993

Defense Language Institute, Monterey, California
Diploma, Chinese Mandarin, 1991
Faculty Book Award for Outstanding Achievement

Admissions

Arizona, 2002
United States District Court for the District of Arizona, 2002
United States Court of Appeals for the Ninth Circuit, 2004

Work Experience

Law Office of Christopher Wencker, P.L.C., Phoenix and Tucson, Arizona
Owner, January 2011 to Present
Manage and operate a full-service solo legal practice, specializing in civil and criminal litigation and municipal counsel. Responsible for all aspects of the legal practice, from client development and intake, through case preparation and litigation, to case resolution and payment. Investigate, evaluate and utilize technological advancements to improve case management.

Dimalanta Clark, LLP, Phoenix, Arizona

Managing Attorney (Arizona Office), January 2011 to Present

Serve as an independent contractor, operating this California-based law firm's Arizona office in Phoenix. Represent and provide general counsel to the firm's government clients in Arizona. Responsible for all aspects of managing cases for the firm's Arizona-based clients, including regular reports of activity to client contacts. Primarily tasked with developing additional clients for the firm, which specializes in construction defect defense and public entity representation.

Benavidez Law Group, P.C. (formerly Hochuli & Benavidez, P.C., and Daniel J. Hochuli & Associates, P.C.), Tucson, Arizona

Associate Attorney, October 2002 to January 2011

Law Clerk, December 2000 to October 2002

Managed a full-service civil litigation practice that covered a wide range of legal areas, including contracts, real estate, torts/personal injury, wrongful termination, claims against the government, civil rights, and animal law. Represented firm's civil and governmental clients in litigation matters. Prosecuted criminal matters in municipal clients' jurisdictions. Researched and drafted pleadings, motions, discovery and disclosure documents, and appellate briefs in civil litigation and appellate cases. Presented oral argument on motions and briefs before trial-level and appellate courts. Ensured the timely filing of pleadings, motions, discovery and disclosure documents, and legal briefs before expiration of limitations periods and response deadlines. Advised and represented members of three law enforcement unions in disciplinary proceedings, applications for retirement and disability benefits, and job-related criminal investigations, including appearances before administrative review boards. Managed a limited criminal practice, focusing primarily on misdemeanor offenses. Conducted bench and jury trials in civil and criminal cases. Attended meetings of governmental clients' governing bodies to provide legal advice and ensure compliance with open meeting laws. Performed legal research and wrote memoranda regarding legal issues important to both private and government clients. Reviewed and prepared drafts of agreements, resolutions and ordinances for signature by governmental clients. Supervised and directed the work of law clerks, paralegals, legal assistants, and other support staff to achieve client goals.

Town Attorney, Oro Valley, Arizona

Law Clerk, June 2000 to December 2000

Performed legal research and wrote legal memoranda concerning various issues important to the Town. Reviewed and prepared drafts of contracts, resolutions and ordinances for signature by Town authorities.

Hon. Jose Luis Castillo, Jr., Pima County Consolidated Justice Court, Tucson, Arizona

Student Clerkship, Summer 2000

Researched attorney's fees for a products liability case. Prepared a script for conducting jury selection and voir dire. Observed numerous bench and jury trials, forcible detainer actions, and criminal preliminary hearings.

Military Experience

United States Air Force, Songtan-Si, Korea and Okinawa, Japan

Staff Sergeant (final rank), September 1990 to December 1997

Served as a Cryptologic Linguist Specialist and Area Specialist, providing real-time intelligence and post-event analysis to unit, base, and theater-level operations and exercises, including live threat analysis and reports. Maintained a Top Secret security clearance with special accesses. Translated and prepared transcripts from Chinese (Mandarin) into English. Prepared intelligence reports for national intelligence consumers. Managed a special interoperability program designed to provide real-time intelligence support to other units, which included thirteen communications and intelligence operators. As manager of the interoperability program, staffed a position designated for a senior non-commissioned officer, while initially ranking three grades lower. Developed, drafted, and updated regulations, policies, operating instructions, training materials, and evaluation standards for program operators. Trained and evaluated other operators in various operational skills and job designations. Operated, maintained, and advised intelligence operators on datalink and graphical intelligence reporting technology, including Tactical Information Broadcast Service (TIBS) and Tactical Digital Information Links (TADIL). Served as a Subject Matter Expert for TIBS. Attended meetings with unit, base, and theater leadership and presented briefings on intelligence highlights and program progress. As Terminal Area Security Officer (TASO) for an office of approximately ten individuals, ensured the security of computer terminals connected to secure intelligence computer network.

Teaching Experience

Arizona State Bar, 2010 Annual Bar Convention, Glendale, Arizona, June 9, 2010

Chaired Continuing Legal Education panel regarding laws governing the use of animal subjects in scientific study and experimentation, intellectual property concepts as applied to products derived from animal testing, legal issues relating to marketing of animal-derived products, and ethical issues arising from the use of animals in research.

Arizona State Bar, 2009 Annual Bar Convention, Phoenix, Arizona, June 26, 2009

Chaired Continuing Legal Education panel regarding various aspects of property law governing animals. Lectured on various considerations regarding the measure of damages for injured or killed animals.

Arizona State Bar, "2008 Animal Law Year in Review & Animal Cruelty Prosecutions," Phoenix, Arizona, February 12, 2009

Chaired Continuing Legal Education panel regarding prosecution of animal cruelty crimes and lectured on several notable cases involving animals reported in the press and the legal issues involved in them.

Arizona State Bar, "Animal Law Year in Review," Tucson, Arizona, February 21, 2008

Chaired and lectured on Continuing Legal Education panel regarding notable cases involving animals reported in the press and the legal issues involved in those cases. This webcast lecture was also presented for CLE credit by the New Hampshire Bar Association.

Arizona State Bar, 2007 Annual Bar Convention, Phoenix, Arizona, June 29, 2007
Chaired and lectured on Continuing Legal Education panel regarding veterinary malpractice suits.

Arizona State Bar, "Topics in Animal Law 2007," Tucson, Arizona, February 28, 2007
Chaired Continuing Legal Education panel regarding varied animal law topics. Lectured on custody disputes over animals and properly measuring damages for injured or killed animals.

Jane Goodall Institute, 2006 ChimpanZoo Conference, Los Angeles Zoo, Los Angeles, California, September 30, 2006
Lectured to an audience of zoological and primate research professionals regarding statutes and regulations governing the custody and care of chimpanzees.

Arizona State Bar, 2006 Annual Bar Convention, Phoenix, Arizona, June 17, 2006
Chaired and lectured on Continuing Legal Education panel regarding the historical development and current state of animal control statutes and case law.

Arizona State Bar, "Topics in Animal Law 2006," Phoenix, Arizona, May 17, 2006
Chaired Continuing Legal Education panel regarding basic animal law topics and lectured on evidentiary issues in cases involving animals. This webcast lecture was also presented for CLE credit by the New Hampshire Bar Association.

Adjunct Associate Professor of Law, University of Arizona James E. Rogers College of Law, Spring 2005
Taught a three-credit graded survey course on Animal Law to second- and third-year law students.

Arizona State Bar, "Animal Law 101," Tucson, Arizona, January 28, 2005
Lectured on Continuing Legal Education panel regarding tort actions involving injuries to and caused by animals.

Eleventh Annual Animal Law Conference, Lewis & Clark Law School, Portland, Oregon, October 25 & 26, 2003
Lectured on Continuing Legal Education panel regarding building coalitions between attorneys and veterinary doctors.

Publications

Arizona Law Review
Case Note, *State v. Anderson*, 43 Ariz.L.Rev. 491 (2001).

Memberships

State Bar of Arizona, Animal Law Section
Chair, 2008 to 2010; Chair-Elect, 2007 to 2008; Secretary, 2005 to 2007; At-large Member of Executive Council, 2004 to 2005, 2010 to 2011
State Bar of Arizona, Public Lawyers Section

American Bar Association; Tort Trial and Insurance Practice Section, Animal Law Committee
Maricopa County Bar Association, Public Lawyers Section
Pima County Bar Association, Public Lawyers Section
North Phoenix Bar Association
Arizona Asian American Bar Association
Animal Legal Defense Fund

Additional Qualifications

Language skills

- Chinese (Mandarin): basic conversational functionality, some technical expertise
- French: basic conversational functionality

Computer skills

- Proficient with Microsoft Word, Excel, Outlook and PowerPoint, Corel WordPerfect, and Time Matters
- Proficient with computer-assisted legal research services, including LexisNexis and Westlaw

References

Thomas A. Benavidez, President and Shareholder
Benavidez Law Group, P.C.
7440 North Oracle Road, Building 7
Tucson, Arizona 85704
(520) 623-1461

Hon. Maria M. Avilez, Town Magistrate
Town of Sahuarita
360 West Sahuarita Center Way
Sahuarita, Arizona 85629
(520) 344-7150