

March 14, 2025

**Via Email** ([pbriseno@cityofbrookings-sd.gov](mailto:pbriseno@cityofbrookings-sd.gov))

City of Brookings  
Attn: Paul Briseno, City Manager  
520 3<sup>rd</sup> St., STE 230  
Brookings, SD 57006

FROM THE DESK OF  
NATHAN S. SCHOEN

CUTLER LAW FIRM, LLP  
140 N Phillips Avenue  
4<sup>th</sup> Floor  
Sioux Falls, SD 57104  
(605) 335-4950 main  
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*RE: City Attorney Services Proposal*

Greetings,

It is with great pleasure that Cutler Law Firm, LLP, submits this proposal to serve as the city attorney for the City of Brookings. In addition to my serving as the city attorney, if you choose to accept this proposal, you also receive the benefit of having the entire Cutler Law Firm, LLP, available to assist with the legal service needs of Brookings.

#### EXPERIENCE AND QUALIFICATIONS

I have over 17 years of experience as a city attorney. Although I will be primarily responsible for serving as you as city attorney, our entire firm will be able to assist the City of Brookings. Cutler Law Firm, LLP, is a full-service law firm, located at 140 N. Phillips Ave., in Sioux Falls, with broad experience in matters important to the City of Brookings. We have 20 attorneys in our firm focused in areas that will be of benefit to the City of Brookings.

Our representation of municipalities is a collaborative effort where we utilize the resources of the entire firm. The advantages of working with our firm is that we have attorneys with backgrounds in many areas that municipalities deal with on a regular basis such as human resources, bid laws, general contract law, governmental relations, public safety, utilities, zoning, state government, construction, real estate, planning and zoning, public finance, and as bond counsel. Additional information on those attorneys that will be most involved is attached hereto and available at [www.cutlerlawfirm.com](http://www.cutlerlawfirm.com).

We work on a collaborative basis to address the needs of our clients. Outside of my involvement, and of particular use to the City of Brookings, will be the experience of Ryan Taylor and Meredith Moore on utilities matters, Nichole Mohning on personnel matters, and Eric Erickson's involvement with the South Dakota Municipal League as one of its lobbyists.

All of our firm's 20 attorneys have active licenses to practice and are in good standing with the State Bar of South Dakota. Meredith Moore and I are members in good standing with the South Dakota Municipal Attorneys Association. None of our attorneys have had disciplinary complaints filed against them.

Specifically to municipal representation, our firm currently represents the cities of Garretson, Harrisburg, Chamberlain, and Oacoma as city attorney. Our representation of Garretson, Harrisburg, and Chamberlain are all longer than ten years. Contact information for our municipal clients are as follows:



The following is a brief summary of our firm's experience in the areas set forth in the RFP. Upon request we look forward to discussing this experience in greater detail.

1. Business contracts and agreements.

Our firm has a long history of providing legal assistance to business-related legal services with ten of our firm's attorneys primarily focused on business and real estate matters.

2. Ordinances and resolutions.

We have assisted our other municipal clients with drafting and review of ordinances and resolutions for more than 17 years.

3. Real estate matters, including deeds, easements, annexations, and condemnations.

Our firm has a broad range of experience in all manner of real estate matters representing municipal and other clients. This includes all of the matters addressed in the RFP including annexation and condemnation proceedings.

4. Open meetings and open records.

We have assisted our other municipal clients with open meeting and records matters for more than 17 years.

5. State law as it pertains to municipalities.

We regularly provide our clients with guidance on South Dakota statutory and case law on matters specific to municipalities. In addition, Eric Erickson is involved with the legislative process as a lobbyist for the South Dakota Municipal League.

6. Personnel matters.

Nichole Mohning in our office focuses her practice on employment law and assists our firm's municipal, utility, business, and nonprofit clients with employment law matters. Without limiting the generality of the foregoing, this includes EEOC matters, OSHA, union relations, and other matters.

7. Zoning and development processes.

I have over 17 years of assisting municipalities in zoning and development matters. In addition, Erik Nyberg from our office serves on the Sioux Falls Planning Commission.

8. Public Safety.

I am familiar with public safety matters through my city attorney work, particularly as city attorney for the City of Chamberlain, which has a police force. In addition, Eric Erickson serves as Executive Director and lobbyist for the South Dakota State's Attorneys Association.

9. Public Utilities.

Our firm has extensive experience representing public utility companies, including representation of Swiftel and Brookings Municipal Utilities in certain matters. Ryan Taylor, Meredith Moore, and Eric Erickson have represented multiple clients involved with telecommunications, electric utilities, and rural water organizations.

10. Prosecutorial Duties.

Meredith Moore in our office has experience as the Garretson City Attorney and in prosecuting violations of municipal ordinances and handling code enforcement. In this representation we would anticipate Ms. Moore as the lead attorney in this prosecutorial role but she would also oversee other attorneys in these matters. We would also work with the city to explore alternative methods of prosecution such as outsourcing to a third party if more efficient.

11. Specialized Knowledge.

We have worked with cities on home rule governance. Eric Erickson serves on the Sioux Falls Charter Commission and has familiarity with the South Dakota Municipal League through his role as one of its lobbyists. Meredith Moore and I are also active within the South Dakota Municipal Attorney Association. Our involvement with the Municipal Attorney Association and Eric's role with the South Dakota Municipal League keep us updated on changed in laws and regulations impacting municipal operations.

**CONFLICT OF INTEREST STATEMENT**

Our firm has not participated in any litigation in the last 5 years against the City of Brookings or its employees within the past 5 years. Our firm has represented Interstate Telecommunications Cooperative in occasional matters before the Brookings City Council or other business matters that could otherwise be of potential conflict. In the event of a conflict between clients we would follow the South Dakota Rules of Professional Conduct for attorneys.

If both clients are unwilling to waive conflict we would need to withdraw as attorney for both clients and alternative representation obtained for each client.

COMPENSATION

[REDACTED]

PROFESSIONAL LIABILITY INSURANCE

Our firm carries professional liability insurance coverage from ALPS [REDACTED]

REFERENCES

Please feel free to contact any of the other municipalities referenced listed above regarding our firm's ability to serve the City of Brookings as City Attorney. We will provide additional references upon request.

I look forward to further discussing this with you. Please do not hesitate to contact me if you have any questions or if I can be of other assistance. You can reach me on my direct line at 605-335-4965. We look forward to your response and, if you choose our firm, negotiating the specific details of our representation.

Best regards,

CUTLER LAW FIRM, LLP



Nathan S. Schoen  
For the Firm

## GENERAL PROVISIONS OF ENGAGEMENT LETTER

Except as modified by the accompanying engagement letter, the following provisions will apply to the relationship between Cutler Law Firm, LLP and our clients:

**1. FEES.** Fees for services rendered will be based on the reasonable value of those services as determined in accordance with the American Bar Association and South Dakota Rules of Professional Conduct. Such fees will be based primarily on our hourly billing rates; billing rates differ, depending generally on the attorney's experience and years of practice, and the firm adjusts these rates from time to time. The time for which a client will be charged will include, but will not be limited to, telephone and office conferences with a client and counsel, witnesses, consultants, court personnel and others; conferences among our legal personnel; factual investigation; legal research; responding to clients' requests for us to provide information to their auditors in connection with reviews or audits of financial statements; drafting of letters, pleadings, briefs and other documents; travel time; waiting time in court; and time in depositions and other discovery proceedings. In an effort to reduce legal fees, we use paralegal personnel. Time devoted by paralegals to client matters is charged at hourly billing rates, which also are subject to adjustment from time to time by the firm. Other factors may be taken into consideration in determining our fees, including the responsibility assumed, the novelty and difficulty of the legal problem involved, the benefit resulting to the client and any unforeseen circumstances arising in the course of our representation.

**2. COSTS AND EXPENSES.** In addition to our fees, we will be entitled to payment or reimbursement for costs and expenses incurred in performing services such as photocopying, delivery service, computerized research, travel (including mileage, parking, airfare, lodging, meals and ground transportation), long distance telephone, telecopying, court costs and filing fees. Certain of such items may be charged at more than our direct cost to cover our overhead. Unless special arrangements are made at the outset, fees and expenses of others will not be paid by us and will be the responsibility of, and billed directly to, the client.

**3. ESTIMATES.** Although we may from time to time for a client's convenience furnish estimates of fees or costs that we anticipate will be incurred, these estimates are subject to unforeseen circumstances and are by their nature inexact.

**4. STATEMENTS.** Fees and expenses will be billed once this matter is complete and are payable upon presentation. We expect prompt payment. We reserve the right to postpone or defer providing additional services or to discontinue our representation if billed amounts are not paid when due. [REDACTED]

**5. TERMINATION.** A client shall have the right at any time to terminate our services and representation upon written notice to the firm. Such termination shall not, however, relieve the client of the obligation to pay for all services rendered and costs or expenses paid or incurred on behalf of the client prior to the date of such termination.

**6. WITHDRAWAL.** We reserve the right to withdraw from our representation if, among other things, the client fails to honor the terms of the engagement letter, the client fails to cooperate or follow our advice on a material matter, or any fact or circumstance that would, in

our view, render our continuing representation unlawful or unethical. If we elect to withdraw, the client will take all steps necessary to free us of any obligation to perform.

**7. INDEMNITY.** If any claim or action is brought against us or any personnel of the firm and such claim arises from the client's negligence or misconduct, the client will hold us harmless and indemnify us for all damages incurred.

**8. CONCLUSION OF SERVICES.** When our services conclude, all unpaid charges shall become immediately due and payable. After our services conclude, we will, upon your request, deliver a copy of your file to you, along with any of your funds or property in our possession.

**9. DISCLAIMER OF GUARANTEE.** Nothing in our engagement letter agreement and nothing in our statements to you will be construed as a promise or guarantee about the outcome of your matter. We make no such promises or guarantees. Our comments about the outcome of your matter are expressions of opinion only.

**10. REPRESENTATION OF MULTIPLE CLIENTS.** If more than one person executes our engagement letter agreement as Client, then each of you, jointly and severally, shall be responsible for payment of all fees, costs, expenses and late fees pursuant to this agreement. Each of you hereby waives any conflict of interest that may exist or hereafter arise between you in the representation by us, except that this waiver shall not apply after written notice from one of you objecting to continued representation.

## ATTORNEY PROFILES:

### **Nathan S. Schoen Overview:**

Nathan Schoen joined the firm as an associate in 2004 and became partner in 2010. A native of Sioux Falls, Nathan attended South Dakota State University where he received his B.S. in business economics. Nathan earned his law degree from the University of Nebraska College of Law and his LL.M. in taxation from the University of Missouri – Kansas City. Nathan is licensed to practice law in South Dakota, Minnesota, Iowa and Nebraska. In 2010, Nathan was certified as designated closing counsel for the US Small Business Association 504 Loan Program. Nate is also listed in Bond Buyer's Muni Marketplace "Red Book" as Bond Counsel.

Nathan's areas of practice are focused in municipal law, public finance, banking, SBA lending, business organizations and transactions, and real estate law. Nathan has undergone specialized training and is licensed in 4 states in order to provide clients with assistance and guidance in SBA lending and public finance.

### **Eric E. Erickson Overview:**

Eric Erickson grew up on a farm near Summit, South Dakota. He graduated from South Dakota State University in 2004 with a Bachelor of Science degree in Political Science and a minor in Business Administration. Following graduation, Eric worked for Daktronics, Inc. as a salesman to the large sport venue market in Florida which included universities, municipal stadiums and arenas, and spring training baseball facilities. In 2007, Eric moved back to South Dakota to serve as the Executive Director of the South Dakota Association of County Officials. In that position, Eric represented South Dakota's Auditors, Treasurers, and Registers of Deeds to the state and federal governments.

Eric graduated from the University of South Dakota School of Law in 2013 with High Honors. While in law school, Eric was active in the Trial Team, served as president of the Moot Court Board, served as a graduate assistant to the Government Research Bureau during his second year in law school and as graduate assistant to the General Counsel for the South Dakota Board of Regents during his third year. He interned with the Lincoln County State's Attorney in 2011 and with Cutler Law Firm, LLP in 2012. Eric joined Cutler Law Firm, LLP as an associate in 2013. Eric became a partner in January, 2018.

### **Meredith A. Moore Overview:**

Meredith Moore joined the firm in 2002. Meredith graduated cum laude from St. Olaf College in Northfield, Minnesota, in 1998, with degrees in both history and political science. She earned her law degree in 2001 from the University of South Dakota School of Law. Following law school, Meredith clerked for the Honorable Richard W. Sabers of the South Dakota Supreme Court before joining Cutler Law Firm.

Meredith's practice involves counseling clients in matters of administrative laws and civil litigation, in varied areas from municipal laws, administrative rules, civil trials and appeals. Meredith is a great resource in reviewing legislation for potential unintended consequences.

### **Ryan J. Taylor Overview:**

Ryan Taylor joined the firm in 2001. He is a native of Mellette, South Dakota, and a 1993 graduate of the University of South Dakota with a degree in business administration/accounting. Following graduation, Ryan worked as a Certified Public Accountant and Audit Senior

specializing in public utilities and small business with Eide Helmeke & Co. (now Eide Bailly, LLP).

Ryan returned to the University of South Dakota in 1996 and graduated from the University of South Dakota School of Law in 1999. He was admitted to the South Dakota Bar in 1999 and practiced in Rapid City, South Dakota, where he served as outside counsel to Black Hills Corporation until joining Cutler Law Firm, LLP.

Ryan's practice includes significant regional and local companies in the banking, telecommunication and utilities industry and has substantial experience in renewable energy and emerging industries.

**Nichole J. Mohning Overview:**

Nichole J. Mohning joined Cutler Law Firm, LLP in 2008. Nichole primarily practices in the area of employment law providing advice and counsel to both public and private employers on issues such as human resource policies and practices, federal and state equal employment opportunity and wage and hour laws, employee benefits and leave, and non-compete agreements. She also assists clients in defending employment-related claims in the courts and administrative agencies. Nichole has served as counsel to a human rights commission advising the commission on the investigation of complaints and litigating claims on behalf of the commission. Along with her employment practice, Nichole is also actively involved in litigating commercial disputes.

Nichole has presented numerous seminars regarding public and private sector employment matters, as well as providing related training to management and supervisors.

Nichole is originally from Le Mars, Iowa. She graduated from the University of Kansas with a B.A. in history and American studies. Following graduation, Nichole was involved in secondary and higher education where she served as a teacher and administrator. In 1998, Nichole returned to school at the University of Kansas School of Law where she received her law degree in December, 2001, and was the co-recipient of the W. Ross Hutton Award given by the University of Kansas law school faculty for superior performance in the Legal Aid Clinic. Prior to joining Cutler Law Firm, LLP, Nichole practiced with the law firm of Clark, Mize & Linville, Chtd. in Salina, Kansas.

**Matthew J. Pesicka Overview:**

Matthew Pesicka, a native of Sioux Falls, South Dakota, graduated from Washington High School in 2018 before attending the University of South Dakota. Through the University's 3+3 Law School Fast-track program, he earned his Bachelor of Arts in Political Science degree in just three years.

Matthew continued his education at the University of South Dakota's Knudson School of Law, earning his Juris Doctor (J.D.) in 2024. During law school, he also pursued and completed a Master of Public Administration (M.P.A.) degree. His academic accomplishments include winning First Place and the Best Advocate award in a negotiation competition during his first year of law school. In his second and third years, Matthew served as a Staff Writer and Associate Editor for the South Dakota Law Review, and as President of both the Environmental Law Society and the Family Law and Children's Advocacy Club.