

PROPOSAL FOR CITY ATTORNEY
FOR THE CITY OF DELTONA

Submission Due Date: September 27, 2024



SCOTT E. SIMPSON, P.A.
OF
KOREY, SWEET, MCKINNON AND SIMPSON
*A Partnership including Professional Associations
Attorneys and Counselors at Law*

595 WEST GRANADA BLVD
SUITE A
ORMOND BEACH, FLORIDA 32174
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Scott.ScottSimpsonlaw@gmail.com

Contact: Scott E. Simpson

SCOTT E. SIMPSON, P.A.
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595 West Granada Boulevard
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Website: ormondlegal.com
Email: scott.scottsimpsonlaw@gmail.com*

September 24, 2024

City of Deltona
Mayor & City Council
2345 Providence Blvd.
Deltona, FL 32725

Re: Letter of Interest in Providing City Attorney Services to the City of Deltona

Dear Mayor and City Council:

The undersigned is submitting this response to the Request For Proposal for legal services of the City of Deltona (City).

The proposal is being submitted by Scott E. Simpson, PA and I will be providing the legal services to the City. Other attorneys I work with have substantial experience in representation of local governmental entities, specifically Abe McKinnon and Noah McKinnon. Attached are resumes for myself, Abe McKinnon and Noah McKinnon. The firm consists of six attorneys, with twelve support staff, providing a variety of legal services, including local government representation, litigation, real estate sale and purchase. All attorneys are available to provide legal services to the City as needed.

I started providing legal services to the City of South Daytona in 1992 and to the City of Holly Hill in 1993 however, other attorneys with the firm were representing both cities before I joined the firm. Our firm has represented the City of Holly Hill since the early 1970s. I became the City Attorney for Oak Hill in 2006 and Lake Helen in 2015. In addition, Abe McKinnon and Noah McKinnon currently serve as defense council for personal injury and other claims and development matters for the City of Ormond Beach. Noah McKinnon has a long history of representing local governmental entities in the Volusia and Flagler County area.

I am very well versed with the laws and regulations applicable to the City, including but not limited to the Sunshine Law, Public Records Law, Access to Public Officials Law, Code of Ethics for Public Officials and Employees (Florida Statute Chapter 112, Article III), The Bert J. Harris Act, Municipal Home Rule Powers Act (Florida Statute Chapter 166), the Community Planning Act, the Community Redevelopment Act of 1969, and the right of the public to participate in public meetings.

I have enjoyed representing cities throughout my career. As a City Attorney I have experienced and provided assistance on a wide-ranging variety of legal issues. I have had the privilege of meeting and working with many different people over the years because although the City is a single client, it is a client that changes and evolves with each election, new board appointments and the hiring of new staff. I am proud of having long term relationships with our government clients, as is evident from our resumes. I believe that demonstrates that we can work with varying individuals with different goals, objectives and personalities, while also providing good legal services at a reasonable cost. I hope to develop such a relationship with the City of Deltona.

Thank you for the opportunity to present my proposal to represent the City of Deltona.

SCOTT E. SIMPSON, P.A.



By: SCOTT E. SIMPSON, President

SCOTT E. SIMPSON

595W Granada Blvd
Suite A
Ormond Beach, FL
(386) 299-5130

EDUCATION

- Graduated Mainland High School, 1984
- Daytona Beach Community College, 1984 to 1986
- Stetson University, 1986 to 1989
- Graduated May 1989 with Bachelor of Administration degree in accounting plus fifth year requirement for Certified Public Accountants' exam qualification
- Price Waterhouse Scholarship and Character Award (1987)
- Peat, Marwick, Mitchell Scholarship Award (1988)
- Stetson University College of Law from 1989 to 1991
- Graduated with Juris Doctorate Degree in December 1991
- Class rank 11 of 78; graduated with honors

LICENSES

- Certified Public Accountant since May 1990
- Member Florida Bar since April 1992 – Specialty Sections:
 - City, County & Local Government Law,
 - Real Property
 - Probate & Trust
 - Tax

FIRM INFORMATION

Korey, Sweet, McKinnon and Simpson is a law firm located in Ormond Beach Florida consisting of 6 Attorneys and 12 staff members

RELEVANT AREAS OF PRACTICE

- 1992 to 2020, City Attorney, City of South Daytona
- 1993 to present, City Attorney, City of Holly Hill
- 1997 to present, Attorney for ACT Corporation / SMA Healthcare
- 2006 to present, City Attorney, City of Oak Hill
- 2015 to present, City Attorney for City of Lake Helen
- 2020 to present, Attorney for Brown Riverfront Esplanade
- 2021 to present Attorney for United Brethren in Christ Academy

REFERENCES

- Joe Forte, City Manager, City of Holly Hill
 - (386) 248-9425 jforte@hollyhillfl.org
- Jim Gleason, City Administrator, City of Lake Helen
 - (386) 228-2358 jgleason@lakehelen.org
- Jerome Adams, City Administrator City of Oak Hill
 - (386) 345-3522, AdamsJ@oakhillfl.gov
- Commissioner John Penny, City of Holly Hill
 - (386) 248-9425 jpenny@hollyhillfl.org
- Joe Yarbrough, Manager of Brown Riverfront Esplanade and former City Mgr of South Daytona
 - F.S.119.071(4)2.h Jwysdaytonqfl@gmail.com
- Randy Hayes, City Attorney for Ormond Beach
 - (386) 676-3217 Randy.Hayes@ormondbeach.org

ABRAHAM C. McKINNON, ESQ.
of
McKINNON & McKINNON ATTORNEYS AT LAW, P.A.
Attorneys and Counselors at Law

Abraham C. McKinnon
Noah C. McKinnon, Jr.

Suite A, Granada Oaks Professional Building
595 West Granada Boulevard
Ormond Beach, Florida 32174
(386) 677-3431- Telephone
(386) 673-0748- Telefax

ABRAHAM C. McKINNON

Abraham McKinnon was born in Daytona Beach, Florida, September 10, 1971. He graduated from Flagler Palm Coast High School and attended college at Florida State University obtaining a Bachelor of Science degree in December 1994. In 1995, he became a Certified Law Enforcement Officer and worked as a Police Officer for the City of South Daytona and as an Investigator with the State Attorney's office, Seventh Judicial District until 1999. In August of 1999, he attended Law School at Regent University College of Law obtaining a Juris Doctor Degree in December 2002. He was admitted to the Florida Bar in 2003 and began practicing law at the law firm of McKinnon & McKinnon, P.A., 595 W. Granada Boulevard, Suite A, Ormond Beach, Florida 32174. His practice areas include Construction Law, Corporate and Business Law, Administrative and Government Law, Commercial and Civil Litigation, Trial and Appellate Practice, Environmental and Land Use Law, Personal Injury and Wrongful Death.

Admitted

The Florida Bar 2003
U.S. District Court, Middle District of Florida 2004
U.S. District Court, Northern District of Florida 2011
U.S. Court of Appeals for the Eleventh Circuit 2019
Supreme Court of the United States 2019

Memberships

Volusia County Bar Association (2007-2008 Board of Directors and 2011-2014 Board of Directors)
Volusia Civil Trial Attorneys Association
Dunn-Blount Inn of Court (2011-2023 Board of Directors)
Daytona Regional Chamber of Commerce (2010 Board of Directors)
Volusia Building Industry Association

Positions Held

Volusia Building Industry Association, Legal Counsel (2006-2011)
Daytona Regional Chamber of Commerce, Bike Week Litigation Chairman (2010-2011)
Miami Corporation, Legal Counsel
The Bert Fish Foundation, Legal Counsel (2003 to present)
Special Counsel for Flagler County (2003 to present)
Special Counsel for City of Ormond Beach (2015 to present)

NOAH C. McKINNON, JR., ESQ.
of
McKINNON & McKINNON ATTORNEYS AT LAW, P.A.
Attorneys and Counselors at Law

Abraham C. McKinnon
Noah C. McKinnon, Jr.

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NOAH C. McKINNON, JR.

Mr. McKinnon was raised and attended school in Daytona Beach from elementary school through graduation from Daytona Beach Junior College. He received a Bachelor of Arts Degree from Florida State University and attended Law School at Stetson University. He was admitted to practice in Florida in 1968 and remains in active practice today at McKinnon & McKinnon Attorneys at Law, P.A., 595 W. Granada Boulevard, Suite A, Ormond Beach, Florida 32174. His practice areas include Corporate and Business Law; Administrative and Government Law; Commercial and Civil Litigation; Trial and Appellate Practice; Personal Injury; Wrongful Death; Environmental and Land Use Law.

Admitted

Florida Bar 1968
U.S. District Court, Middle District of Florida 1969
U.S. Supreme Court 1972
District of Columbia Bar 1981
U.S. Court of Appeals, Fifth and Eleventh Circuits 1981
Colorado Bar 1986

Positions Held

Assistant Public Defender (1968); Assistant County Solicitor, Brevard County (1968 – 1969); Assistant City Attorney for City of Daytona Beach (1970 - 1972); Assistant State Attorney, Seventh Judicial Circuit (1972 – 2009); County Attorney for Flagler County (1975-1998); Attorney for Board of Tax Adjustment of Flagler County (1975-1998); Special Counsel Flagler County (2002 to present); City Attorney for Town of Pierson (1988 – 2014); General Counsel Bert Fish Foundation (1980 – present); Special Counsel City of Ormond Beach (2015 to present); Private practice (1970 to present)

Memberships

The Florida Bar; The Colorado Bar; The District of Columbia Bar; Volusia County Bar Association; Volusia Civil Trial Attorneys Association; Dunn-Blount Inn of Court



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

State of Florida)

County of Leon)

In Re: 0936080
Scott Simpson
Korey, Sweet, McKinnon & Simpson
595 W Granada Blvd Ste A
Ormond Beach, FL 32174-5181

I CERTIFY THE FOLLOWING:

I am the custodian of membership records of The Florida Bar.

Membership records of The Florida Bar indicate that The Florida Bar member listed above was admitted to practice law in the state of Florida on **May 8, 1992**.

The Florida Bar member above is an active member in good standing of The Florida Bar who is eligible to practice law in the state of Florida.

Dated this 24th day of **September, 2024**.

Cynthia B. Jackson, CFO
Administration Division
The Florida Bar

PG:R10
CTM-307267



SPECIFIC AREAS OF MUNICIPAL LAW PRACTICE

GENERAL MUNICIPAL LAW – As a city attorney for several Volusia County cities for 30 plus years, I have probably been involved in every aspect of municipal law. Normally the legal services involve drafting and reviewing ordinances, resolutions and agreements and providing legal advice to staff on how to address issues. Some significant issues that I have been involved in include the following:

- a) Lake Helen elected to opt out of the Volusia Fire District because its millage rate when combined with the millage rate of the Fire District would exceed 10 mills. As City Attorney I provided legal services in the negotiating and drafting of a contract with Volusia County to provide fire services to Lake Helen. I also provided legal services to establish a special assessment for fire services to fund the fire service contract.
- b) I provided legal services for projects in Holly Hill and South Daytona to bury underground the overhead utility lines along US 1.
- c) I Provided legal services to South Daytona in the acquisition of a cell tower located on City property and to enter into colocation agreements for users of the cell tower.
- d) I have provided legal services concerning the creation of Community Redevelopment Areas (CRA) in South Daytona and Holly Hill and the operation of the CRAs including drafting redevelopment plans and agreements.
- e) I have provided numerous Charter Reviews for Holly Hill, Oak Hill, Lake Helen and South Daytona.
- f) On behalf of the cities I represented in Volusia County, I have met and worked with Larry Bartlett, Volusia County Property Appraiser, to develop an acceptable program whereby local governments can establish a non-ad valorem assessment to collect costs incurred by local governments in correcting code violations. The program ultimately developed allows local governments a means of collecting actual expenditures incurred in dealing with code enforcement cases.
- g) On behalf of the cities I represented in Volusia County, I worked with the Volusia Growth Management Commission (VGMC) to draft new operating procedures. The VGMC is an organization created in the Volusia County Charter that was created to help facilitate the intergovernmental coordination element of Comprehensive Plans required by State law. If a local government proposed a change to its Comprehensive Plan that an adjacent local government believed would adversely impact its jurisdiction, the VGMC would provide a venue to resolve the dispute without resorting to litigation. However, the VGMC was not being used for just that purpose, but also as a board that would give citizens or groups who opposed a development approved by the local government an alternate venue to challenge the development even if there was no dispute between local governmental entities. Also, the VGMC staff would raise objections to a proposed Comprehensive Plan amendment even though there was no objection filed by an adjacent local governmental entity. As part of a Volusia County Charter Review, I worked with the VGMC board and staff to develop new rules that limited the role of the VGMC to its original purpose. This preserved the local government's authority to create and interpret its Comprehensive Plan to control development and growth within its jurisdiction, while facilitating intergovernmental coordination and providing a venue for resolving disputes between

local governmental entities over the impact of a proposed Comprehensive Plan amendment.

- h) On behalf of the City of South Daytona I was involved in assisting the City in obtaining authority to provide advanced life support within its jurisdiction. Volusia County must issue a certificate of public convenience and necessity (COPCN) pursuant to Florida Statute Section 401.25(6) before a local government can provide advanced life support. In 2014 South Daytona had an interlocal agreement with Volusia County to provide fire and basic life support services to unincorporate areas adjacent to South Daytona in exchange for a certain amount of compensation. When South Daytona requested a COPCN to provide advanced life support, the County placed a condition on the issuance of the COPCN that the City also had to provide advanced life support services in the unincorporated, adjacent areas. Volusia County was trying to avoid having an interlocal agreement with South Daytona to provide said services and having to compensate South Daytona for those services. I was concerned that Volusia County was conditioning the COPCN on South Daytona exercising an extraterritorial power (i.e., providing advanced life support service outside its jurisdictional limits) which the law restricts. I requested an Attorney General's Opinion and received an Informal Opinion which agreed that South Daytona could not provide advanced life support services outside the City's jurisdiction without an interlocal agreement. This allowed South Daytona to receive the COPCN for advanced life support without the condition of providing said service in the adjacent, unincorporated areas. Furthermore, South Daytona could request an interlocal agreement with Volusia County to provide advanced life support services to these unincorporated areas and negotiate a fair compensation for said services.
- i) I have advised the cities I represent on how to deal with animal control issues, including dangerous dog issues and the removal of neglected animals from their owners.

ETHICS AND PUBLIC RECORDS – I have advised the cities I represent on ethics issues including Florida Statute Section 112. In addition to providing my advice, I usually recommend that public officials contact the Florida Commission on Ethics for an opinion. I have also advised the cities I represent on compliance with the Florida Public Records Law and public records request. Lastly, I have advised the cities I represent on compliance with the Sunshine Law. Currently I am defending Oak Hill for an alleged violation of the Sunshine Law.

WORKERS COMPENSATION – I have some experience dealing with aspects of workers compensation. However, workers compensation claims are covered by insurance and handled by insurance counsel.

LAND USE – I have extensive experience in adopting and amending comprehensive plans and land development regulations, including zoning regulations. Land use and zoning issues involve both legislative and quasi-judicial decisions by the local government and the distinction between the two types of decisions is very important. I have defended legal challenges to land use and rezoning decisions. Recently I represented the City of Oak Hill on an appeal of the approval of a rezoning to allow a residential subdivision. The Circuit Court upheld Oak Hill's rezoning approval and the challenger appealed the Circuit Court's ruling to the 5th District Court of Appeals, which was ultimately upheld. I also recently represented Oak Hill in an appeal of a variance approval and the Circuit Court upheld the variance approval.

CODE ENFORCEMENT – I have advised city staff on the procedures for pursuing code violations and have advised code enforcement boards. However, the cities I represent have opted to create a special magistrate process for code enforcement instead of utilizing a code enforcement board. I have drafted ordinances for the cities I represent to create a special magistrate code enforcement process. I have foreclosed code fines when it is lawful and prudent under the circumstances. I have also advised the cities I represent on declaring properties to be public nuisances and taking corrective action to eliminate the nuisance.

UTILITIES – I have extensive experience dealing with public utilities, including water and wastewater, including the items below.

a) South Daytona contracts with Daytona Beach for water and sewer services. I represented South Daytona in negotiating its water and sewer contract and amendments thereto. I have also represented South Daytona in disputes with Daytona Beach regarding water and sewer service.

b) I represented South Daytona in pursuing the acquisition of the FPL electric distribution system in the City, which involved planning for establishing an electric utility.

c) Oak Hill is currently installing a sewer collection system as Oak Hill only has septic tanks. The City has also considered installing potable water system. I have been involved in negotiating contracts with Edgewater and Volusia County for the utility service and advising Oak Hill on State law for installing a sewer system and the process for requiring connection and the removal of existing septic tanks.

LABOR – I have advised the cities I represent on labor issues, represented these cities in collective bargaining negotiations with unions and represented these cities in arbitrations. However, the cities I represent have also retained labor attorneys as well.

FORFEITURES – I have conducted forfeitures pursuant to the Florida Civil Forfeitures Act for the cities I represent. However due to changes in the law, my clients rarely pursue civil forfeitures anymore. Although technically not a forfeiture, I have represented my clients in hearings to obtain Risk Protection Orders to temporarily remove guns from individuals under certain circumstances.

MUNICIPAL BONDS – I have served as City Attorney for the cities I represent for bond issues and other debt obligations. The City Attorney has a specific role in bond issues. Local governments will also retain bond counsel to represent the City as well as the lender or buyer of the bonds will have legal representation.

WORKING RELATIONSHIP WITH CITY COMMISSION AND CITY MANAGER

Based on my review of Deltona's City Charter, Deltona has a city manager form of government. Basically, this means that the City Commission establishes policies and the City Manager is responsible to manage the City's operations consistent with those policies. As City Attorney I am hired by and responsible to the City Commission. However, I believe for the City to properly function, the City Attorney must work with the City Manager and the rest of the City staff as a team. The only time I would go to the City Commission with an issue is if the City is operating in violation of the law and the City Manager is not correcting the violation.

I also believe it is very important for all information to flow through the City Manager's office. I always advise the elected officials to first communicate with the City Manager prior to contacting the City Attorney. The City Manager will have more facts about a particular situation than the City Attorney and may be able to answer the question without incurring the expense of contacting the City Attorney. The City Manager is responsible for all operations of the City and therefore should be kept informed on all issues regarding the City. That is why I think it is very important for communication to flow from the City Commission through the City Manager, who can then determine how the City should respond and the City staff that needs to respond. The one caveat is if the Mayor or a Commissioner has an issue with the City Manager and wants to discuss it with the City Attorney only.

Every City Manager operates differently and as City Attorney I need to adjust how I provide legal services to the City as requested or needed by the City Manager and City staff. I will need to work with the City Manager to determine which City staff members have the authority to contact me as City Attorney and ask for legal services to be provided. This is important because the City has a professional, experienced staff and those individuals should be consulted before the City incurs the cost of contacting the City Attorney for advice.

NEED FOR EXPERT LEGAL SERVICES

Based on my historical representation of cities, the expert legal services that have been retained by the cities I represent are the following:

- Bond counsel
- Labor attorney (more a decision of the City than a true need)
- An attorney who specializes in establishing new assessments

A City can get involved in many unique legal issues that I cannot foresee. The above are the times that the cities I represent have retained outside legal counsel.

CONFLICTS

There are no known legal or ethical conflicts of interest if Scott E. Simpson, PA represents the City of Deltona.

CURRENT LOCAL GOVERNMENT CLIENTS

Other municipalities who are currently clients of Scott E. Simpson, PA:

1. City of Holly Hill
2. City of Oak Hill
3. City of Lake Helen

COMPLAINTS, DISCIPLINARY ACTION, MALPRACTICE CLAIMS

There have been no bar complaints, disciplinary actions or malpractice claims against Scott E. Simpson, PA or Scott E. Simpson.

FEE PROPOSAL

I propose an hourly rate of \$200.00 per hour. This will be billed in increments of 1/10th an hour (6 minute increments) with the date of the service and a description of the legal service provided. All costs will be pre-approved by Client except for postage.



City of Ormond Beach
22 S. Beach Street, Room 104
Ormond Beach, FL 32174
btonline@ormondbeach.org

BUSINESS TAX RECEIPT

Business Name:	KOREY, SWEET, MCKINNON	Mailing Address:	595 W GRANADA BLVD A ORMOND BEACH, FL 32174-5190
Business Location:	SIMPSON 595 W GRANADA BLVD., SUITE A ORMOND BEACH, FL 32174	License Type:	Non-Residential
Owner:	Scott Simpson	Classification:	Business/Professional Offices
License Number:	12282	Fees Paid:	\$78.75
Issued Date:	9/30/2024		
Expiration Date:	9/30/2025		

Attention commercial locations, the following certification applies to all new and renewed business tax receipts:

I certify under oath with a penalty of perjury, that all of the information contained herein is true and correct. If any portion is found to be false or misrepresented, such fact may be just cause for immediate revocation of any business tax receipt/registration issued to me and may subject me to prosecution. I acknowledge that the issuance of this business tax receipt is contingent upon complying with the building and fire prevention requirements of the City. I consent to inspection of the property by the City at any time between 9:00 a.m. and 5:00 p.m. Inspections will be performed, and should deficiencies be found that are in conflict with the City code, I understand that the City will not issue the business tax receipt until I (or the owner of the building, if leased) make the required corrections. I understand That should corrections be necessary, I am not permitted to operate this business until those corrections have been made. It is further understood that I must comply with the code of the City of Ormond Beach and failure to correct conditions which are in violation is punished under the code or sufficient cause for revocation of my business tax receipt/registration. I understand that if I engage in a business under a fictitious name, I must comply with the fictitious name statute.

Subject to Code of Ordinances Chapter 12 - This receipt must be posted conspicuously in your place of business. Penalty for failure to do so

TO BE POSTED IN A CONSPICUOUS PLACE