PW062612-18

CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Office of the Mayor
300 Sixth Street
605-394-4110
Fax: 605-394-6793
E-mail: mayor@rcgov.org

MEMORANDUM

To: Public Works Committee
From: Mayor Sam Kooiker
Date: Tuesday, June 26, 2012
Subject: Mountain View/Mount Calvary Cemetery

PURPOSE:

As the Council is aware, the City has been investigating concerns of burials in the wrong plots at the Mountain View/Mount Calvary Cemetery. Recently, allegations were also brought forward that in the early 1980s, cemetery employees were observed placing human remains in gravesites prepared for other individuals instead of in the designated areas.

I asked Attorney General Marty Jackley to investigate the matter, at which point the South Dakota Division of Criminal Investigation conducted an inquiry. The Attorney General's conclusion is that, although the allegations are disconcerting, South Dakota law places a seven-year statute of limitation on this matter, meaning no criminal charges will be brought (see attached).

The City has engaged Casey Peterson & Associates to conduct an audit of cemetery records to determine the accuracy of cemetery lot ownership (see attached). Some of these issues are attributed to lack of available records from a portion of the cemetery the City acquired in 1970.

In addition, we are evaluating hiring an outside consulting firm specializing in cemetery management to review our processes and to assist in developing a more effective record-keeping system. We will use the findings from the audit and the consultant's report to develop a reliable system and oversight of our processes at the City-owned cemetery.

Although this situation is concerning, rest assured we are working to address the issues and to ensure public confidence in our cemetery operations.

Attachments:
Letter from South Dakota Attorney General
Contract with Casey Peterson & Associates

EQUAL HOUSING OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

PW062612-18

RECEIVED

MAY - 2 2012

MAYOR'S OFFICE

STATE OF SOUTH DAKOTA

OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
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www.state.sd.us/atg

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

April 29, 2012

Sam Kooiker
Mayor of Rapid City
300 Sixth Street
Rapid City, South Dakota 57701

RE: **Mountain View/Mount Cavalry Investigation**

Dear Mayor Kooiker:

Pursuant to our discussion, the South Dakota Division of Criminal Investigation has conducted an investigation into the Rapid City Mountain View/Mount Cavalry Cemetery concern regarding buried body parts and aborted babies. Under South Dakota law, no person may dispose of a dead human body or permit the same without authority of a burial or removal permit. See SDCL 34-25-57(1). South Dakota law further defines "dead body" to include a lifeless human body or parts thereof from the state of which it may reasonably be concluded that death recently occurred. See SDCL 34-25-1.1. South Dakota law further provides that every person who makes or procures to be made any dissection of the body of a human being, except by authority of law or in pursuance of a permission given by the decedent, is a criminal misdemeanor. See SDCL 34-26-13.

The allegations that we have been presented with at this time occurred more than seven years ago, in large part between 1980 through 1983. Although this information remains concerning, South Dakota law places a seven year statute of limitation upon bringing actions for the above statutory scheme. See SDCL 23A-42-2. Accordingly, absent further information within the seven year statute of limitation, the concerns remain civil in

nature for your office and the city attorney to consider addressing. If I may be of further assistance on this matter, please don't hesitate to contact me.

Sincerely,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/lde

cc: Robert Mayer, Assistant Attorney General
Glenn Brenner, State's Attorney

Request for Authorization to Sign Contract without Council Approval
(Attach this cover sheet to the contract and forward to the City Attorney)

Requestor Mayor Department Director Jerry Cole

Cost Center 0860-1225

Date 6/12/12 Vendor Casey Peterson Amount $10,500

City Attorney's Office

Reviewed by Allison Date 6/13/12 Quotes ___ Yes No ✓

✓ Approved Rejected _____

Changes necessary for approval: _____

For contracts exceeding $500 but less than the bid limit:

Approved by:

Mayor

Purchasing Agent
(Finance Officer)

Returned to Department Director for signature on _____

After execution by Department Director, contract must be returned to the Finance Office.

CASEY PETERSON & ASSOCIATES, LTD.
CPAs & FINANCIAL ADVISORS

June 11, 2012

Mr. Jerry Cole
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Dear Mr. Cole:

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of Rapid City.

We will apply the agreed-upon procedures which the City of Rapid City has specified, listed in Attachment A, to a random sample of 378 cemetery burial sites located in the Mt View and Calvary Cemetery, which is owned by the City of Rapid City. The 378 burial sites will be selected from the four decades of 1970 through 2000 as determined by the burial date documented in the "Master Record Book." Based on an estimated population of 22,236 burial sites, a sample size of 378 will provide a 95 percent confidence level with a margin of error of plus or minus 5%.

This engagement is solely to assist the City of Rapid City in determining the accuracy of cemetery lot ownership and the proper burial of owners in their respective lots. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached schedule either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in Attachment A do not constitute an examination, we will not express an opinion on the accuracy of cemetery lot ownership or proper burial of owners in their respective lots. In addition, we have no obligation to perform any procedures beyond those listed in Attachment A.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the City of Rapid City, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for the accuracy of cemetery records documenting lot ownership and proper burial; and for selecting the criteria and determining that such criteria are appropriate for your purposes. Because this engagement requires us to maintain our independence, should we provide other accounting related services to the City of Rapid City you will also be responsible for making all management decisions and performing all management functions; for designating an individual with suitable skill, knowledge, and/or experience to oversee those services; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Mark Lyons is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We plan to begin our procedures in late June 2012 and, unless unforeseeable problems are encountered, the engagement should be completed no later than August 2012.

Our fees for these services will be $10,500. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 45 days or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-or-pocket expenditures through the date of termination.

In connection with this engagement, we may communicate with you or others via e-mail transmission. As e-mails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that e-mails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure or communication of e-mail transmissions, or for the unauthorized use or failed delivery of e-mails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of e-mail transmissions, including any consequential, incidental, direct, indirect or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

We want you to be aware of our record retention policy with respect to your files and related documentation. Based on our present policies, we will maintain this information either in hard copy or electronic format for a period of seven years, after which it will be destroyed. We may modify our record retention policies from time to time in accordance with our professional obligations. It is, therefore, important for you to keep the copies of reports and related supporting data in your files.

This engagement shall be subject to, interpreted and enforced according to the laws of the State of South Dakota, without regard to any conflicts of law provisions. If any dispute arises, the parties agree to submit to the exclusive venue and jurisdiction of the State of South Dakota, Circuit Court, Pennington County.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Very truly yours,

Casey Peterson & Associates, Ltd.

Casey Peterson & Associates, Ltd.

RESPONSE:

This letter correctly sets forth the understanding of City of Rapid City.

By: _____

Title: Director P&R

Date: 6-16-12

ATTACHMENT A

1. From the "Master Record Book," we will select a sample of 378 burial sites from the four decades of 1970 through 2000 and perform the following procedures:
   a. We will trace the name of ownership indicated in the "Master Record Book" to a deed and other documentation available noting agreement. If a deed or other satisfactory ownership information cannot be located, we will have City management determine if correspondence letters should be sent to family members to confirm the ownership of the lot.
   b. We will compare the name indicated on the "Master Record Book" to the headstone located on the corresponding gravesite. Gravesites will be located by using the "Master Record Book" and by measuring out each selected gravesite.
2. We will review the results of these tests with management to determine if additional work is necessary within the individual decades covered by our sample. Upon evaluating the results of these tests, if management determines additional testing is necessary, we will adjust our fees based on the scope of work. We will issue an addendum to our contract to cover these additional services.