

PROPOSAL FOR THE ORGANIZATION OF A NONPROFIT ENTITY IMPLEMENTING THE UNIFIED CARRIER REGISTRATION PLAN

About Bradley Arant Boult Cummings LLP (BABC). BABC is one of the largest firms in the Southeast, with offices strategically located in Alabama, Florida, Mississippi, North Carolina, Tennessee, and the District of Columbia. The firm has more than 470 attorneys serving regional, national, and international companies as well as state and local governmental entities. Clients rely on BABC for innovative legal services that reflect an in-depth understanding of their business realities.

Relevant Experience. Alex Leath's and Dave Cooper's practice has historically included the representation of nonprofit organizations, large and small.

Alex and Dave have organized numerous nonprofit entities, and have each served on the boards of nonprofits, acted as secretaries to nonprofits, and have served as general counsel to multiple nonprofit entities. The activities of these nonprofits have ranged from economic development to education and from urban revitalization to the provision of elephant habitats. As such, many of these entities serve to facilitate public-private partnerships.

Our most relevant experience involves our work for the Alabama Line Location Center (ALLC). There, we authored the state law that required underground facility providers to "call before you dig" to avoid underground facility disruption. As part of the enabling act we authorized the creation of a nonprofit corporation to administer the program. The ALLC handles registration of all underground facility providers in Alabama, maintains the database of underground facilities and audits program compliance. Although the ALLC oversees a state program (as opposed to a federal program), many of the issues presented are the same. Proudly, the ALLC has been routinely held up as the national model for "call before you dig" program administration.

Representative Clients. The following is a list of nonprofit entities that we have organized and/or represented:

- Alabama Business Charitable Trust
- Alabama Line Location Center
- Alabama Power Foundation
- Applied Research Center of Alabama
- Association of Zoos and Aquariums
- Birmingham Urban Revitalization Partnership
- Daniel Foundation
- Economic Development Partnership of Alabama
- Electric Power Research Institute
- Harris Early Learning Center
- National Hydropower Foundation
- Nuclear Decommissioning Trust
- The National Elephant Center

Unified Carrier Registration (UCR) Plan Proposal.

Overview. You have requested that we provide a proposal for performance of the following services:

- Provide general guidance related to the best options for carrying out the UCR Plan;
- Organize a nonprofit corporation if it is determined to be the best option;
- Provide advice on the state of incorporation, location of headquarters, exempt entity type, and related matters;
- Structure and memorialize the relationship between the new entity and the UCR Board through a services contract;
- Draft and file documents with appropriate agencies as needed to effectuate this arrangement; and
- Provide ongoing corporate secretarial and general counsel duties.

Proposal. Dave and Alex typically work on an hourly basis with Dave's rate being \$400 per hour and Alex's rate being \$525 per hour. It is anticipated that Dave would perform the majority of the work with advice and participation from Alex as needed. We estimate that the cost to determine the state of incorporation, form the nonprofit corporation, obtain tax-exempt status, and draft the agreement between the UCR Board and the nonprofit would be in the range of \$25,000. The cost for providing general advice and handling the other requested matters will vary depending upon the actual services requested.



In Conclusion. We are excited about the opportunity to perform this work for you and are committed to providing excellent client service throughout the process. Please let us know if you intend to retain BABC for this matter and we will prepare a formal engagement letter that further specifies our engagement.

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Gutierrez, Avelino A., PRC

From: Kakar, Shveta [ShvetaKakar@dwt.com]
Sent: Sunday, September 13, 2015 12:45 PM
To: Morris, Scott
Cc: Gutierrez, Avelino A., PRC; Leitner, J.J.; Korrell, Harry; Kurtz, Daniel
Subject: RE: UCR Documents and scope of work
Attachments: Bio.Colleen.9.15 (2).doc; Bio.Dan.9.2015 (2).doc; Bio.JJ.9.15 (2).doc; Bio.Shveta.9.15.1 (2).doc

Hi Scott,

Harry Korrell passed on the materials you sent. Based on our preliminary review of the documents you sent, here's how we propose this be structured and our cost estimate.

Pursuant to 49 USC 14504a(d)(6), the Unified Carrier Registration Plan Board, "may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities". Accordingly, the UCRP Board can contract with a nonprofit entity to administer the program. The nonprofit would be a non-stock Delaware corporation, which is the state of choice generally, given the well-developed corporate law of the State. It would be set up as a (c)(3) organization, as it "relieves the burden of government" which is a fundamental charitable purpose.

Under DE law, the nonprofit would have to be a member organization, so directors of the UCRP Board would serve as ex-officio members (that way, it would be based on designations as opposed to individuals themselves) of the nonprofit DE entity. The ex-officio members would then elect a board of directors for the nonprofit profit. It wouldn't have to be large -- say 5 -7 people. The nonprofit board would then oversee the administration of the program and can hire employees etc. This way, the UCRP Board would ultimately retain control over the nonprofit entity to ensure that it functions as envisaged.

We would therefore need to: (i) prepare all documents to form the DE nonprofit corporation; (ii) prepare all documents to obtain (c)(3) tax-exempt status; and (3) prepare a contract between the UCRP Board and the nonprofit entity. Our estimate is that it would cost approximately \$30,000 to do this.

Please let us know if you have any questions/comments.

Our tax-exempt practice is unrivaled in providing sophisticated multidisciplinary advice to nonprofit organizations. Here is a link to the overview of the practice, so you have a sense of the extraordinary breadth of our practice and the dedication of our lawyers to the nonprofit sector.
<http://www.dwt.com/practices/taxexemptorganizations/?op=overview>. Also attached are our biographies, as well as those of the other members of our group in New York. We serve as general outside counsel to many of our clients and therefore handle issues of corporate governance, tax, regulatory compliance, investigation and litigation, management of tax-exempt assets, charitable fundraising, intellectual property, employment, and real estate. We are also experienced transactional lawyers, and we regularly draft contracts and structure corporate relationships, in connection with both extraordinary and day-to-day arrangements. We have advised on and orchestrated the creation of hundreds of tax-exempt organizations of all types over our years of practice, many of which have complex, multi-entity structures, both national and international, and deal regularly with the IRS in connection with obtaining and maintaining tax exempt status. We also regularly counsel clients facing all manner of challenging public relations and regulatory enforcement issues.

We look forward to the opportunity to work with you.

Best,

Shveta and J.J.

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From: Korrell, Harry
Sent: Friday, September 11, 2015 4:26 PM
To: Morris, Scott
Cc: 'Gutierrez, Avelino A., PRC'; Kakar, Shveta; Leitner, J.J.; Korrell, Harry
Subject: RE: UCR Documents and scope of work

Scott, thanks again for the opportunity. I've been talking with our tax exempt organizations practice, and two of my colleagues in NY seem like the right fit for this (J.J. and Shveta, copied on this email). We will get a formal response to you as early as we can next week. I hope that will work with your timing. Please let us know if you have any questions in the meantime.

Cheers,
Harry.

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From: Morris, Scott [<mailto:Scott.Morris@psc.alabama.gov>]
Sent: Wednesday, September 02, 2015 3:22 PM
To: Korrell, Harry
Cc: 'Gutierrez, Avelino A., PRC'
Subject: UCR Documents and scope of work

Harry,

I have attached several documents that should give you enough background about the Unified Carrier Registration (UCR) program to be able to give us a proposal. As we discussed, the Board is considering forming a nonprofit corporation with which the Board would contract to administer the program. In particular, we are looking for guidance as to whether this would be the best option or are there other options (i.e., could the Board hire employees directly to administer the program), which state would be best for incorporation and/or location of a headquarters, under which provision would the corporation file for tax exempt status (501c3, 501c4, 501c6), and any other related issues affecting these decisions. In addition, once these decisions are made, we would need counsel to draft and file the appropriate documents with the various agencies. We would also need a contract/agreement to govern the relationship between the UCR Board and the nonprofit.

We would specifically want your proposal to include performing the following tasks:

1. Prepare all documents to form a nonprofit corporation to include articles of incorporation and bylaws,
2. Prepare all documents to obtain tax exempt status (assuming 501(c) 3, 4 or 6 status), and

3. Prepare a contract/agreement that would govern the relationship between the UCR Board and the nonprofit corporation.

Also, we would not want to incorporate in a state that does not participate in the UCR program:

Arizona
District of Columbia
Florida
Hawaii
Maryland
Nevada
New Jersey
Oregon
Vermont
Wyoming

I realize that it may be speculative at this point, but please give us your best estimate of the work involved and anticipated costs. Please let me know if you need any additional information. As I mentioned in our telephone conversation, our next Board meeting is September 17-18 and we expect the Board to consider the proposal at that meeting.

I have copied our Board Chair, Avelino Gutierrez, on this email.

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Administrative Law Judge
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