



MAYOR AND COUNCIL COMMUNICATION

DATE: May 3, 2016

CONSENT

ITEM #: 8

MOTION

AGENDA ITEM: Kevin Magnuson LLC Engagement Letter

SUBMITTED BY: Kristina Handt, City Administrator

BACKGROUND:

The Council previously met with Kevin Magnuson regarding a potential litigation matter.

ISSUE BEFORE COUNCIL:

Should the Council engage Kevin Magnuson LLC for services as outlined in the scope of work?

PROPOSAL DETAILS/ANALYSIS:

A copy of the engagement letter, scope of work and standard client billing policy is included in your packet. It has also been reviewed by the City's legal counsel.

FISCAL IMPACT:

Fee is \$200/hour

OPTIONS:

- 1) Approve Kevin Magnuson LLC Engagement Letter
- 2) Amend and then approve Kevin Magnuson Engagement Letter
- 3) Do not approve an engagement letter with Kevin Magnuson LLC

RECOMMENDATION:

Option 1

KEVIN M. MAGNUSON, LLC
3047 KLONDIKE AVE. N., LAKE ELMO, MN 55042

April 28, 2016

Lake Elmo City Council
c/o Ms. Kristina Handt
City Administrator
3800 Laverne Ave. N.
Lake Elmo, MN 55042

VIA EMAIL: khandt@lakeelmo.org

Re: Lake Elmo City Litigation Support and Resolution of Claims

Dear Lake Elmo City Councilmembers:

Thank you for selecting KEVIN M. MAGNUSON, LLC (the "Firm") to represent you in the above-referenced matter. I appreciate the opportunity to serve you. This letter and the enclosure describe the terms of our agreement.

The Firm agrees to represent the City of Lake Elmo ("Lake Elmo" or "you") for the purpose of advising you regarding matters related to certain claims for damages you may have as defined in the enclosed Scope of Work and Standard Client Billing Policy (the "Policy").

This representation may include but is not limited to factual investigation, legal research, verbal or written advice or opinions related to procedural and substantive issues that have arisen or may arise involving past litigation or current claims for damages, mediation and direct or indirect communication with representatives of adverse parties consistent with the Scope of Work. The Firm does not represent you in any other matters, related or otherwise. You and the Firm unilaterally may terminate the Firm's representation at any time for any reason. You and the Firm also agree that Lake Elmo may seek to retain Magnuson and Kelley, Wolter & Scott, P.A. under a separate engagement to represent you in the above referenced matter for services included in or that exceed the Scope of Work.

The Policy and the Scope of Work are incorporated as a part of the terms of our engagement. The Policy, Scope of Work and this letter comprise the Firm's entire legal services agreement with you. The hourly rate of Kevin Magnuson is \$200 (the "Fee") for the Firm's services outlined in the Scope of Work. The Firm may increase the Fee from time to time with written notice to you. The Fee includes reasonable administrative costs such as photocopies, domestic telephone charges, etc. The Fee does not include courier charges, photocopies by a vendor, electronic legal research,

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travel, long-distance telephone charges or postage, filing fees or mediation charges. The Firm may bill you for all disbursements incurred on your behalf and may request that you pay certain disbursements directly. The Firm ordinarily will render an invoice as of the end of each calendar month with payment due within 30 days of billing.

If you have any questions concerning the services, this agreement or the Policy, please call me at any time. To confirm your acceptance of these terms, please sign the enclosed copy of this letter where indicated and return it to me.

I look forward to serving as your counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "K. M. Magnuson", with a long horizontal flourish extending to the right.

Kevin M. Magnuson
Kevin M. Magnuson, LLC

Enclosure

ACCEPTED AND AGREED:

By

Date:

By

Date:

Scope of Work

1. Assist the City of Lake Elmo in exploring, evaluating and engaging in efforts to resolve certain legal claims for damages it may have as directed by the Lake Elmo City Council or its designee. This work may involve direct or indirect engagement of the potential defendant(s), including potential settlement discussions or mediation, and requires an understanding of:
 - a. the merits of Lake Elmo's legal claims and the courses of action available to it,
 - b. the cause and extent of the damage to Lake Elmo that can be linked to the conduct of the potential defendant(s) and the necessary remedies,
 - c. relevant past interactions and discussions with the potential defendant(s) regarding possible resolution of the dispute between the parties, and
 - d. the response of interested parties to potential legal action by Lake Elmo or attempts settle its claims.

The scope of work may include reviewing documents, interviews with involved parties or experts and drafting memorandum or legal documents as directed by the Lake Elmo City Council or its designee. Counsel will use every effort not to duplicate work and proceed in the most efficient and cost effective manner possible, in part by maintaining close contact with Lake Elmo's other legal counsel, particularly Kennedy & Graven, who have reviewed much of the relevant material and can provide necessary documents or summaries of information avoiding unnecessary research.

2. Assist Kennedy & Graven in developing and implementing litigation strategy as needed and as directed by the Lake Elmo City Counsel.

Kevin M. Magnuson, LLC

Agreement for Legal Services – Client Billing Policy

This Client Billing Policy, together with the engagement letter from Kevin M. Magnuson, L.L.C. (the “Firm”), contains the agreement (“Agreement”) under which the Firm will provide legal services to you, as the client (“Client”) named in that engagement letter. This Agreement describes the Firm’s billing policies and practices and will be applicable to the matter referenced in the engagement letter unless otherwise agreed in writing. The Firm may periodically modify its general billing policies and practices; if this happens you will be notified in advance of the changes.

Services. The Firm will provide you the legal services described in the engagement letter and other services agreed to between you and the Firm.

Fees. Unless otherwise agreed in writing, the cost of the legal services rendered is the fee set forth in the engagement letter. The Firm will designate the appropriate attorney, contract attorney, investigator or legal or staff assistant to render the services based on your request; the complexity of the matters involved; the skill and availability of the person to be assigned; and other relevant factors.

Billing. Unless otherwise agreed in writing, fees, services charges and disbursements will be billed at the conclusion of the Firm’s representation as delineated in the engagement letter or, at the discretion of the Firm, periodically. Periodic invoices are due within thirty (30) days after receipt.

Service Charges and Disbursements. Unless otherwise agreed in writing, the Firm’s charges that appear on fee statements for other incidental services are based on the Firm’s direct cost. The Firm passes through, without markup, itemized charges from outside vendors and may retain travel incentives and other vendor discounts and incentives. If you request that the Firm contract

on your behalf for additional services to be provided by a third party vendor, the Firm may request a purchase order or other authorization request from you. The firm will notify you of the terms of these arrangements and you will be responsible for payment either directly to the third party or through the Firm.

Termination. As the Client, you may terminate the Firm as your legal counsel at any time by written notice to the Firm. The Firm may also withdraw as your legal counsel or suspend or limit its services to you in compliance with applicable rules of professional responsibility.

Collection. Clients are responsible to reimburse the Firm’s collection costs and attorneys’ fees for nonpayment of invoices. If invoices are not timely paid, the Firm may obtain and perfect an attorneys’ lien against documents, property, money or other rights, in accordance with applicable law. Subject to applicable law and rules, A LATE PAYMENT CHARGE OF 8% PER YEAR (OR THE MAXIMUM ALLOWABLE RATE) MAY BE ADDED TO ANY UNPAID INVOICE PAST DUE.

Questions or Disputes. Questions or disputes concerning invoices should be brought to the attention of the attorney providing legal services within fifteen (15) days after receipt of the invoice.
