

## **AGREEMENT FOR OUTSIDE COUNSEL SERVICES**

This Agreement is entered into this \_\_\_\_\_ day of December, 2015 between the City of Saint Paul, a municipal corporation, 400 City Hall, 15 W. Kellogg Blvd., Saint Paul, MN 55102, ("City" on behalf of the Saint Paul City Attorney's Office, (CAO) and Lockridge Grindal Nauen, PLLP, 100 Washington Avenue South, Suite 2200, Minneapolis, MN 55401-2179 ( "LGN" )

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

### **SECTION 1. Scope of Services.**

LGN shall be appointed as outside counsel for the Board of Water Commissioners of the City of Saint Paul, a/k/a Saint Paul Regional Water Services ("SPRWS") for the purpose of participating in a class action lawsuit on behalf of SPRWS against the sellers of Liquid Aluminum Sulfate. Services under this agreement shall be provided by Brian Clark and Charles Nauen, or by associates of LGN under their direction.

All information and communications between the SPRWS staff, the CAO and LGN will be considered confidential attorney work product. All information and communications by LGN shall be handled in accordance with applicable rules of professional responsibility for attorneys, attorney-client privilege, and work-product.

### **SECTION 2. Time For Completion.**

This agreement shall become effective on the date first written above, and will remain in effect for one year from that date, unless: 1) terminated earlier in accordance with the termination provisions of this Agreement; 2) all services contracted for have been completed; or 3) parties mutually agree to extended the term.

### **SECTION 3. Billings and Payment.**

1) Payment of Attorneys' Fees shall be as follows:

- (i) If there is a recovery of any kind in this matter for SPRWS pursuant to a class action, LGN and its co-counsel shall be entitled to attorneys' fees as awarded by the Court.
- (ii) If there is a recovery of any kind in this matter for SPRWS outside of that obtained as a member of the class, LGN and its co-counsel shall be jointly paid one-third of the total amount of such recovery or its monetary equivalent.
- (iii) If no recovery is made for SPRWS through class action or outside of such action, LGN will not be entitled to any attorneys' fees.

2) Costs and Expenses:

LGN will pay necessary costs and. out-of-pocket disbursements and expenses for this litigation. If there is a recovery of any kind for SPRWS and other members of the class pursuant to a class action, LGN's out-of-pocket costs will be separately awarded by the court or paid by defendants. If there is a recovery of any kind for SPRWS outside of any class action, LGN's out-of-pocket costs will be paid from said recovery before the contingent fee is calculated. If no recovery is made for SPRWS, LGN shall not be entitled to any reimbursement of the amounts expended.

**SECTION 4. Project Management.**

In order to coordinate the services of LGN with the activities of the Saint Paul City Attorney's Office so as to accomplish the purposes of this Agreement, Samuel Clark, Saint Paul City Attorney, or his designee (Contract Administrator), shall manage this Agreement on behalf of the SPRWS and CAO and serve as liaison between the parties.

LGN shall comply with all applicable rules of professional responsibility for attorneys in performing services under this agreement.

**SECTION 5. Work Products, Records, Dissemination of Information.**

LGN agrees to maintain all files and records in such a manner as will readily conform to the terms of this Agreement and to make such materials available at its office at all reasonable times during this Agreement period and for six (6) years from the date of the final payment under the contract for audit or inspection by the City, the Auditor of the State of Minnesota, or other duly authorized representative.

**SECTION 6. Compliance With Applicable Law.**

LGN agrees to comply with all federal, state, and local laws or ordinances, and all applicable rules, regulations, and standards established by any agency of such governmental units, which are now or hereafter promulgated insofar as they relate to the performance of the provisions of this Agreement. It shall be the obligation of LGN to apply for, pay for, obtain and keep in effect all permits and/or licenses required.

**SECTION 7. Conflict of Interest.**

LGN agrees that it will not contract for or accept employment for the performance of any work or services with any individual, business, corporation, or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the City.

LGN agrees that, should any conflict or potential conflict of interest become known, it will advise the City of the situation so that a determination can be made as to whether LGN is able to continue performing services under the Agreement.

#### **SECTION 8. Indemnification and Hold Harmless.**

LGN shall indemnify and hold harmless the City, its officers, agents, and employees from all liability, claims, actions, judgments, damages, losses, costs or expenses, including reasonable attorney's fees, resulting directly from and to the extent of breach of the professional standard of care, but only to the extent covered and payable by its professional liability insurance.

#### **SECTION 9. Insurance.**

LGN shall be required to carry insurance of the kind and in the amounts shown below for the term of this Agreement. Insurance certificates should state that the City of Saint Paul, its officials, employees, agents and representatives are named as Additional Insureds.

##### **1. General Liability Insurance**

- a)      Bodily Injury                      \$ 1,500,000 each occurrence  
    \$ 2,000,000 aggregate
- b)      Property Damage              \$ 1,500,000 each accident  
    \$ 2,000,000 aggregate
- c)      Policy must include an "all services, products, or completed operations@ endorsement.

##### **2. Automobile Insurance**

- a)      Bodily Injury                      \$ 750,000              per person  
    \$1,000,000              per accident

- b) Property damage not less than \$50,000 per accident

##### **3. Worker's Compensation and Employer's Liability**

Worker's Compensation per Minnesota Statute

Employer's Liability shall have minimum limits of \$500,000 per accident;  
\$500,000 per employee; \$500,000 per disease policy limit.

##### **4. Professional Liability Insurance**

\$1,500,000 per occurrence

\$3,000,000 aggregate

#### 5. General Insurance Requirements

- a) The policy is to be written on an occurrence basis or as acceptable to the City. Certificate of insurance must indicate if the policy is issued on a claims-made or occurrence basis. Agent must state on the certificate if policy includes errors and omissions coverage.
- b) LGN shall not commence work until a Certificate of Insurance covering all of the insurance required for this project is approved and the project manager has issued a notice to proceed. Insurance must remain in place for the duration of the original contract and any extensions periods.
- c) The City reserves the right to review the insurance policies at any time, to verify that City requirements have been met.
- d) Satisfaction of policy and endorsement requirements for General Liability and Auto Insurance, of each occurrence and aggregate limits, can be met with an umbrella or excess policy with the same minimum monetary limits written on an occurrence basis, providing it is written by the same insurance carrier.

#### **SECTION 10. Independent Contractor.**

It is agreed by the parties that, at all times and for all purposes within the scope of this Agreement, the relationship of LGN to the City is that of independent contractor and not that of employee. No statement contained in this Agreement shall be construed so as to find LGN, its employees, agents or officers to be an employee of the City, and LGN shall be entitled to none of the rights, privileges, or benefits of Saint Paul employees.

#### **SECTION 11. Termination.**

- A. This Agreement will continue in full force and effect until completion of the services to be provided have been completed herein unless either party terminates it at an earlier date.
- B. Either party may terminate the agreement with or without cause upon fifteen days written notice.
- D. In the event of termination, LGN will deliver all files and work product to the City prior to submitting the final invoice for payment.

#### **SECTION 12. Amendment or Changes to Agreement.**

City or LGN may request changes that would increase, decrease, or otherwise modify the Scope

of Services. Such changes and method of compensation must be authorized in writing in advance by the City.

Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when reduced to writing and duly signed by the parties.

Modifications or additional schedules shall not be construed to adversely affect vested rights or causes of action which have accrued prior to the effective date of such amendment, modification, or supplement. The term "this Agreement" as used herein shall be deemed to include any future amendments, modifications, and additional schedules made in accordance herewith.

### **SECTION 13. Notices.**

Except as otherwise stated in this Agreement, any notice or demand to be given under this Agreement shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

To City:

To LGN:

Samuel Clark  
Saint Paul City Attorney  
400 City Hall/County Courthouse  
15 W. Kellogg Avenue  
Saint Paul, MN 55105

Charles N. Nauen  
Lockridge Grindal Nauen  
100 Washington Avenue South  
Suite 2200  
Minneapolis, MN 55401-2179

### **SECTION 14. Interpretation of Agreement, Venue.**

This Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation related to this Agreement shall be venued in the District Court of the County of Ramsey, Second Judicial District, State of Minnesota.

### **SECTION 15. Entire Agreement.**

It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

IN WITNESS WHEREOF, the parties hereto are authorized signatories and have executed this Agreement, the day and year first above written.

CITY OF SAINT PAUL:

LOCKRIDGE GRINDAL NAUEN, PLLP

\_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Its

Approved as to Form:

\_\_\_\_\_  
Director, Office of Financial Services

\_\_\_\_\_  
Assistant City Attorney

