

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 10/18/2023

Weekly Agenda Date: 10/24/2023

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Supervisor Jeremy Taylor & Keith Radig

WORDING FOR AGENDA ITEM:

Information Related to Actions Taken by the Woodbury County Board of Supervisors Related to the Law Enforcement Center and the Engagement of Legal Services by the LEC Authority

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

The Woodbury County Board of Supervisors has heard from our public during the last five weeks since it became apparent that the proposed date of the Law Enforcement Center is now April of 2024 due to a multitude of issues not least of which are necessary fire dampers required by code. It has been a frustration to not receive more timely information to be able to share from the Board of Supervisors to our public and some shared . However, we are moving forward with commitment to a balanced approach that works proactively and cooperatively to finish the LEC Project as soon as possible. At the same time we must do so with safeguards representing taxpayers so as to be responsible stewards.Regarding the Law Enforcement Center, the #1 priority of this Board is to help ensure the project is completed as soon as possible. However, we must insist on the quality that taxpayers demand while opening the LEC as soon as possible. This will allow us to safely transition for law enforcement a dilapidated and aging 1987 LEC with its host of problems. Toward that end, the Board of Supervisors recently took the following actions:

1. De-obligated \$941,000 of ARPA funding that was already funded for FF&E and therefore duplicative, resisted a \$2.5 million expense for a Building Services relocation, and insisted that information be given as to a \$250,000 maintenance building in contract
2. Chairman Ung discussed the situation on KSCJ's Open Line taking calls & sharing as much information possible.

BACKGROUND:

3. The Board of Supervisors placed current supervisor Mark Nelson on the Authority in order to gain more county interest/representation and increase communication back to the Board. The information flow has improved with regular updates.
4. The BOS has sent an extra supervisor to LEC Authority Meetings (Dan Bittenger), participated in two separate closed joint sessions to discuss legal strategy including a potential way forward, and finally had two supervisors do a comprehensive tour of the facility (Ung/Nelson with the other 3 supervisors pending their request to being allowed to go.)
5. Dennis Butler/Jeremy Taylor placed an agenda item on 10-10-2023 discussing the annual taxation of \$400,000 and the issue of the legality of maintenance fund provisions and the absence of a 2021 list of \$8 million in expenditures. We gave direction that we needed to align actual expenses from 2021-2041 as no expenses are even forecast until 2031 and the county takes over in 2041 with the building paid off and a revenue stream to actually cover maintenance expenses free and clear of a bond payment.
6. LEC Authority Member Mark Nelson shared at the 10-17-23 meeting that he would ask for meetings to be videotaped and recorded to Youtube. Commissioner/Supervisor Nelson also asked that every other week an update be placed on the agenda and that Chairman Ron Wieck recuse himself from votes regarding the Baker Group who employs a family member.
7. Supervisor Jeremy Taylor asked that an engagement letter for legal services (including a conflict waiver) be made available to the public.

As regards the information request from last meeting, we learned the following:

A. The engagement letter between Jodie McDougal, legal counsel from Fredrikson & Byron, P.A. and the LEC Authority was submitted to LEC Authority Chairman Ron Wieck on 8-24-23 and signed by him that same day. It is included as an attachment and references that Baker Mechanical, Inc. d/b/a Baker Group, is a current client of Jodie McDougal and asks "the Client waives any actual or potential conflict of waiver that may arise from the Firm's current representation of Baker Group on various matters." On 8-29-23 Shane Albrecht of The Baker Group introduced the item at the LEC Authority Meeting. I confirmed that the LEC Authority members were given this letter ahead of time and the vote carried 3-0. It is now posted on the LEC Authority's website.

B. On 10-18-2023, Jodie McDougal had a cordial visit with us relating that she does not feel it would be best to represent the LEC Authority and the Woodbury County Board of Supervisors given the hesitation and concerns raised at the 10-17-2023 meeting.

FINANCIAL IMPACT:

IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Information Only

ACTION REQUIRED / PROPOSED MOTION:

Information Only

August 24, 2023

Via Email

**PERSONAL AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION**

Woodbury County Law Enforcement Center
Authority
Attn: Ron Wieck
620 Douglas Street
Sioux City, IA 51101

Re: Engagement Letter for Woodbury County Law Enforcement Center Authority

Dear Ron:

Thank you for selecting Fredrikson & Byron, P.A. to represent the Woodbury County Law Enforcement Center Authority (“you” or “Client”) in this matter. We appreciate this opportunity to be of service.

Scope of Firm’s Representation.

You have retained us to provide legal services regarding the Law Enforcement Center Project. If we mutually agree to provide additional legal services to you beyond those described above, then the terms of this letter and attached Agreement will apply to those additional services unless we enter into a new written agreement.

We look forward to representing the Woodbury County Law Enforcement Center Authority. It is important to note that when we represent an organization such as you, we represent only the organization and are not undertaking to represent its individual officers, directors, shareholders or employees, or affiliated organizations, unless we have a separate agreement to do so. This means we will have no conflict of interest in the event our other clients are adverse to such parties.

Responsible Attorneys.

I will be primarily responsible for handling and supervising the firm’s legal services to you in this matter. My direct telephone number is 515.242.8971 and my email address is jmcdougal@fredlaw.com. If you cannot reach me at my office number, please feel free to call me on my cell phone at 515.720.4888. Also, feel free to contact my assistant, Jamie Davidson at jdavidson@fredlaw.com, if you cannot reach me directly. She will be able to schedule meetings, find another attorney to respond to your inquiry or assist you in other ways.

Confidentiality and Communication.

We will protect and preserve the information you disclose to us, and not disclose or use any confidential information except as necessary during our representation, as mandated by law, or as required or permitted by ethics rules. You have initially designated Ron Wieck to receive communications from us. We will keep Ron Wieck informed of the status of the matter and will consult where appropriate. Copies of significant correspondence and documents will be provided to Ron Wieck and any other designated personnel. Unless you tell us otherwise, you agree that it is appropriate to use mail, fax machines and emails in the course of our representation without encryption or other special measures. Please let us know if you have special requests or requirements for the methods of communication or persons to be included in such communications.

Cooperation and Assistance.

You understand and agree that in order for us to represent you effectively, it is necessary for you to assist and cooperate with us. You agree to make yourself, and your employees, available to discuss issues as they arise in this matter; attend and participate in meetings, preparation sessions, court proceedings and other activities; and provide complete and accurate information and documents to us on a timely basis.

Fees and Expenses.

Attached is our Agreement For Legal Services — Standard Client Billing Policy (“Agreement”) which, along with this letter, establishes our agreement with you. The terms set forth in the attached Agreement apply to our relationship with you except to the extent modified by this letter. Please review the Agreement carefully.

Currently, my billing rate is \$415.00 per hour. We encourage you to review our bill each month promptly upon receipt and contact me if there are any questions or concerns.

Time is recorded in one-tenth hour increments; time increments less than six minutes may be rounded up to the nearest one-tenth hour. Our billing rates change on or about January 1 of each year. Services rendered after the date of any rate change will be billed at the new rates.

Conflict Waiver RE: Baker Group.

The Client acknowledges and agrees as follows: Baker Mechanical, Inc. d/b/a Baker Group, is a current client of Jodie McDougal and this firm (“Firm”); the Client waives any actual or potential conflict of waiver that may arise from the Firm’s current representation of Baker Group on various matters; there is no dispute or adversity between the Client and Baker Group in regard to the Law Enforcement Center Project or any other project; in the event a dispute or adversity would arise between the Client and Baker Group, the Firm’s representation of the Client shall necessarily cease; and the Firm’s representation of the Client is limited to the Law Enforcement Center Project and is conditioned upon there being no dispute or adversity between the Client and Baker Group.

Other Provisions.

The lawyers working on this matter may wish to consult with the Firm's in-house counsel, including its General Counsel, or with outside counsel, concerning our own rights and responsibilities in connection with our representation of you. As a condition of this engagement, you consent to any conflict of interest that might arise out of any such consultations. Any such communications and advice are protected by our own attorney-client communication, will remain confidential within the Firm, and you will not seek to discover or inquire into them. Of course, nothing in the foregoing will diminish or otherwise affect our obligation to keep you informed of material developments in our representation, including any conclusions arising out of consultations to the extent they affect your interests.

The Firm sometimes identifies clients in presentations to prospective clients and in various public communications, including press releases, our website, and other publications used to describe our Firm, our lawyers, and our capabilities. We may describe the representation in general terms or use language similar to what our clients have already publicly released. If you do not wish us to refer to you or our representation in this fashion, please notify us in writing upon receipt of this letter. Otherwise, we will treat your retention of us as consent to reveal your name and the general nature of our work for you, as described above.

Please sign and return to us the enclosed copy of this letter in order to confirm that it accurately reflects the scope, terms and conditions with respect to this engagement. However, please note that you're instructing us or continuing to instruct us on this matter will constitute your full acceptance of the terms set out above and attached.

Again, thank you for the opportunity to assist you. Please do not hesitate to contact me if you have any questions or if I can be of further assistance.

Sincerely,

/s/ Jodie C. McDougal

Jodie C. McDougal
Direct Dial: 515.242.8971
Email: jmcdougal@fredlaw.com

JCM:JD

Agreed: **The Woodbury County Law Enforcement Center Authority**

By: *Ron Wieck*
Ron Wieck

Date: *08/24/2023*

Its: _____

FREDRIKSON & BYRON, P.A.

Agreement for Legal Services—Standard Client Billing Policy

This Standard Client Billing Policy, together with the engagement letter, contains the agreement (“Agreement”) under which Fredrikson & Byron will provide legal services to you, as the client named in that engagement letter. This Agreement describes our standard billing policies and practices and will be applicable to all of your client matters unless otherwise agreed in writing.

Services. We will provide you the legal services described in the engagement letter and other legal services mutually agreed to in writing. In the event of a conflict between this Agreement and the engagement letter, the engagement letter will control. We only provide legal services. We do not provide, and you should not rely on us for, other services including but not limited to investment, finances, accounting, engineering, scientific, independent investigation (unless specifically agreed in the engagement letter), or business consulting services. We cannot, and you should not rely upon us to, express any opinion regarding financial statements or other financial information.

Fees. Unless otherwise agreed in writing, the cost of the legal services rendered will be based primarily on the amount of time expended and the applicable hourly rates of the person(s) rendering the services. Time is recorded in one-tenth hour increments; time increments less than six minutes may be rounded up to the nearest one-tenth hour. We may periodically adjust our hourly rates.

Service Charges and Disbursements. Except as provided below and unless otherwise agreed in writing, we will charge you, without markup, itemized charges from outside vendors (e.g. filing fees, expert witness fees, telephone toll charges, postage and courier charges, travel, etc.).

We will bill certain specific charges according to the following schedule, which is subject to periodic adjustment without prior notice: \$.20/page for copying charges; \$1.50/book for velo and spiral binding; and \$1.00/page (plus any long distance telephone charges) for outgoing faxes. We will bill online computer research based on a schedule available upon request. We bill for responding to audit letter requests based on a fixed administrative processing fee (schedule available upon request) plus hourly rates for actual time spent by attorneys and paralegals.

If we contract on your behalf for additional services to be provided by a third party vendor, you will be responsible for payment either directly to the third party or through us. We may request a retainer from you to cover such costs. To provide efficient and effective service, we may use technologies, including third-party hosted tools and services. Although we engage only reputable vendors in this regard, we cannot guarantee the security or availability of their tools or services.

Billing. Unless otherwise agreed in writing, we generally bill fees, service charges and disbursements monthly. Invoices are due and payable within thirty (30) days after receipt. If you pay a retainer or other advance payment, other than a flat fee, we will deposit that amount in and make withdrawals from a trust account as required under applicable rules of professional conduct. Communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt are to be sent to: Fredrikson & Byron, P.A., Attn: Credit Department, 60 South Sixth Street Suite 1500, Minneapolis, MN 55402-4400. Subject to applicable law A LATE PAYMENT CHARGE UP TO 8% PER YEAR (OR THE MAXIMUM ALLOWABLE RATE, IF LOWER) MAY BE ADDED TO ANY UNPAID INVOICE OVER 30 DAYS PAST DUE.

Organizational Clients. With respect to all organizational clients, unless the engagement letter provides otherwise, our client is the organization identified in the engagement letter, and not any of its incorporators, promoters, organizers, shareholders, partners, members, directors, officers, employees, subsidiaries, parents or other affiliates. This means we will have no conflict of interest in the event our other clients are adverse to such parties who are not specifically identified as the client in the engagement letter.

Records. The Firm’s Records and Information Management policy and Records Retention Schedule governs the storage and handling of client files. Once a matter is concluded, we will close the file and return all original documents supplied by you. Upon written request, we will provide to you the records in our possession relating to legal services we performed for you, excluding internal financial records and emails, attorney notes and work papers, and other such documents not reasonably necessary to the representation. We also may be required to produce your records in response to a court order or otherwise as required by law. If you request, or we are required to produce, your records (in whatever format, including electronic), you agree to promptly reimburse us for all fees and expenses, including attorney, paralegal, and administrative time, at our standard billing rates, incurred in connection with retrieving, identifying, copying, producing, or transferring the records. You further agree to reimburse us for all fees and expenses we incur in preparing for, participating in, or responding to any action, claim, suit, or proceeding brought by or against any third party that relates to our legal services, including but not limited to responding to document subpoenas, and preparing for and testifying at depositions and trials. We reserve the right to retain copies of any documents or files provided to or created by the Firm.

Termination. Unless terminated earlier, our representation of you will end when our services on the matter identified in the engagement letter (or any additional legal services to which we may mutually agree) have ended, whether or not we notify you that we are closing your file. You are free to terminate our services, with or without cause, upon written notice. We may also terminate our representation if you do not cooperate in the representation or pay our fees and expenses in a timely manner, or if we determine in our discretion that continuing to provide services would be unethical or impractical. If our representation terminates, all fees, service charges and disbursements incurred to that time will be due and payable. All records stored by us relating to the legal services performed for you are subject to retention and destruction according to our records retention policy.

Collection. You agree to promptly pay our invoices. If you do not, you agree to pay collection costs and attorneys’ fees incurred to collect payment of overdue invoices and interest allowed by law. We may obtain and perfect an attorneys’ lien against documents, property, money or other rights, in accordance with applicable law.

Questions or Disputes. You should bring questions or disputes concerning our invoices to the attention of the attorney responsible for the legal services or our Finance Department promptly after receipt of the invoice.

Outcomes. We cannot guarantee a particular outcome. We may express our opinions periodically, but these are only our opinions and not guarantees or promises.

Confidentiality. We will protect your confidences and secrets. We will not disclose or use any confidential information we receive from you unless mandated by law or ethics rules.

Entire Agreement. This Agreement and the engagement letter represent the entire understanding between us and supersede and replace any and all prior agreements and negotiations concerning this engagement, including any outside counsel guidelines. This agreement and the engagement letter can be modified by writing signed by both you and us; provided, however, that we may periodically modify our Standard Client Billing Policy and our billing practices without prior notice.

Revised 06.08.23