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|  <p>CITY OF ST. CHARLES ILLINOIS • 1834</p> | AGENDA ITEM EXECUTIVE SUMMARY | | Agenda Item number: IIA |
| | Title: | Recommendation from Mayor Vitek to Approve a Resolution to Execute an agreement with the Del Galdo Law Group and appoint K. Austin Zimmer to the Position of Ethics Advisor for the City of St. Charles. | |
| | Presenter: | Mayor Vitek | |
| Meeting: City Council | | Date: June 19, 2023 | |
| Proposed Cost: \$ | | Budgeted Amount: \$ | Not Budgeted: <input type="checkbox"/> |
| TIF District: None | | | |
| Executive Summary (if not budgeted, please explain): | | | |
| <p>Chapter 2.44.020 of the Municipal Code, entitled “Ethics Advisor,” indicates that the Mayor, with the advice and consent of the City Council, shall designate an Ethics Advisor for the City. The purpose for the advisor is to provide guidance to officers and employees of the City concerning the interpretation of and compliance with the provisions of the Municipal Code chapter 2.44, “Ethics,” and the State of Illinois ethics laws. For your information, the Mayor and Council may also perform other duties as directed.</p> <p>Nicholas S. Peppers, has collaborated with Attorney Zimmer in the past, and recommends Mr. Zimmer as the Ethics Advisor for the City of St. Charles.</p> <p>Mayor Vitek recommends the appointment of K. Austin Zimmer of the Del Galdo Law Group as the Ethics Advisor for the City of St. Charles.</p> | | | |
| Attachments (please list): | | | |
| Resolution, Agreement, Bio | | | |
| Recommendation/Suggested Action (briefly explain): | | | |
| Recommendation from Mayor Vitek to Approve a Resolution to Execute the agreement with the Del Galdo Law Group and appoint K. Austin Zimmer to the Position of Ethics Advisor for the City of St. Charles. | | | |

**City of St. Charles, Illinois
Resolution No. 2023-**

**A Resolution to Execute an agreement with the Del Galdo Law Group
and appoint K. Austin Zimmer to the Position of Ethics Advisor for the
City of St. Charles.**

**Presented & Passed by the
City Council on June 19, 2023**

WHEREAS, It is incumbent upon all City Council members and staff to act ethically and responsibly in carrying out their public duties; and

WHEREAS, The St. Charles City Council affirms its duty to abide by all rules and regulations regarding ethical behavior; and

WHEREAS, The St. Charles City Council seeks to ensure that its members and staff conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of the City government; and

THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, execute an agreement with the Del Galdo Law Group and appoint K. Austin Zimmer to the position of Ethics Advisor for the City of St. Charles.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 5th day of June, 2023

PASSED by the City Council of the City of St. Charles, Illinois, this 5th day of June, 2023

APPROVED by the Mayor of the City of St. Charles, Illinois, this 5th day of June, 2023

Lora Vitek, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:



DEL GALDO LAW GROUP, LLC

Attorneys & Counselors

June 13, 2023

Sent Via Email to:

Heather M. McGuire
City Administrator
City of St. Charles
c/o Nick Peppers
Storino, Ramello & Durkin

Re: Legal Representation/Fee Agreement

Dear Ms. McGuire:

First and foremost, thank you for choosing the Del Galdo Law Group, LLC (hereinafter or otherwise the “Firm”) to represent the City of St. Charles (the “Client”) in connection with the below detailed scope of representation. This letter, together with the attached Standard Terms of Engagement for Legal Services, constitutes the entire terms of our engagement. We would like to thank you for the opportunity to work with you on this matter and look forward to our future working relationship.

Scope of Representation. The Firm will represent the Client as Ethics Officer, and shall perform such legal services as directed by the City.

Fees and Expenses. Our fees are determined based on time spent providing services to the Client by our staff. In consideration of the legal services rendered and to be rendered under this Agreement, the Firm shall charge, and the Client agrees to pay \$225 per hour for all services rendered and to be rendered by Attorneys under this Agreement. The Firm shall additionally charge, and the Client agrees to pay \$75.00 per hour for services performed by paralegals and law clerks of the Firm. Our fees are billed in .25 of an hour increments on a monthly basis as set forth herein.

All of our time is fully itemized and documented in billing statements that will be mailed monthly to the Client at the above address. Each monthly bill for services includes the initials of the individual who performed the assigned task, the date on which the work was performed, a description of the work and the amount of time spent completing the assignment. Any expenses, disbursements and other charges incurred on the Client's behalf will be billed to the Client in addition to our charges for professional services in accordance with our regularly established procedures. With respect to any third-party charges, the Firm may recommend third-party vendors, such as appraisers, title companies and the like; however, the Client will have final approval authority with regard to any third-party contractors the Firm may hire to work on this matter. In all respects, the Firm's invoicing will be in accordance with the Standards.

On a monthly basis, the Firm shall submit an invoice to the Client for all services rendered by the Firm in connection with our representation of the Client (the "Invoice"). In addition to our services, the Invoice may include a request for reimbursement of costs, expenses and out-of-pocket advances incurred by the Firm in representing the Client. Examples of such costs and expenses include filing fees, certified mailings, overnight delivery fees, copying costs, court reporter fees, trial exhibit costs and other such expenses that may be reasonably incurred in the course of representing the Client. Furthermore, the Client will be directly responsible for payment of all costs to all third-party contractors including, but not limited to, expert witnesses. The Firm may suggest some third-party contractors to utilize, but the Client will have final approval authority with regards to any third-party contractors that are hired to aid in our defense of this matter.

The Firm's statements for services rendered and out-of-pocket costs incurred (the "Invoice") will be prepared and mailed to the address listed above during the month following the month in which services are rendered and costs advanced. We will make every effort to include the Firm's out-of-pocket disbursements in the next monthly statement. However, some disbursements are not immediately available to us and, as a result, may not appear on a statement until sometime after the charges were actually incurred. The Firm anticipates making advances to cover out-of-pocket costs incurred but reserves the right to forward the Client any third-party invoice with the request that such items be paid directly to the service providers.

The Client agrees to remit payment on the Invoices submitted by the Firm in a commercially reasonable time period, but in no event later than thirty (30) days after the Client's receipt of such Invoice.

While K. Austin Zimmer will have primary responsibility for the Client's matters, we will assign others to assist in representing the Client. We will assign other attorneys or legal assistants as appears appropriate to optimize the effectiveness and economy of our services.

Future Engagements. You further understand and acknowledge that the Firm acts as general and special counsel to a variety of Illinois municipalities and units of government. To the extent that the Client seeks in the future to retain the Firm beyond the scope of this engagement letter, the Firm will conduct a conflict of interest check and will thereafter notify the Client in writing of a potential conflict of interest and either decline representation or seek a waiver of potential conflict of interest, whichever is required under the Illinois Rules of Professional Conduct (“Rules”).

Terms of Engagement. This Agreement and the appointment of the Firm is on an at-will basis. If, upon such termination, the Client wishes to have any documents delivered to it, please advise us in writing. Otherwise, all such documents will be transferred to the person or entity responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents retained by us as permitted by law, absent any contrary written instructions from the Client.

If the foregoing fee arrangement meets with your approval, please sign and date below and return this letter to the Firm at your earliest convenience. Should you have any questions, however, please do not hesitate to contact us. We appreciate the opportunity to be of service to the City of St. Charles, and thank you for choosing Del Galdo Law Group, LLC to assist with this matter.

Very truly yours,
DEL GALDO LAW GROUP, LLC

By: _____
Michael T. Del Galdo

The foregoing agreement is accepted

HEATHER M. MCGUIRE

By: _____
Heather M. McGuire
City of St. Charles

Date: _____, 2023

Del Galdo Law Group, LLC

Standard Terms of Engagement For Legal Services

INTRODUCTION

Del Galdo Law Group, LLC is committed to providing legal services that combine technical accuracy, a timely response, accessibility and innovation, with a clear aim of assisting our clients to achieve their objectives.

This statement sets out the standard terms of our engagement as your lawyers and is intended as a supplement to the engagement letter that we have with you as our client. Unless agreed otherwise in writing by mutual agreement, these terms will be an integral part of our agreement with you as reflected in the engagement letter.

We ask that you read this statement carefully and contact us promptly if you have any questions. We suggest that you keep a copy of this statement in your file with the engagement letter.

SCOPE OF OUR WORK

You should have a clear understanding of the legal services that we will provide. Our legal services will only be those described in the engagement letter; our scope of work will exclude any other work not specifically agreed to in the engagement letter. Any questions that you have shall be dealt with promptly.

We will at all times act on your behalf to the best of our ability. Any statements on our part concerning the outcome of your legal matters are statements of our best professional judgment, but are not guarantees of any result. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed.

It is our policy that the person or entity that we represent is the person or entity that is identified in our engagement letter, and absent an express agreement to the contrary does not include any affiliates of such person or entity (*e.g.*, if you are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders or partners of the corporation or partnership, or commonly owned corporations or partnerships; or, if you are a trade association, any members of the trade association). If you believe this engagement includes additional entities or persons as our clients you should inform us immediately.

It is also our policy that the attorney-client relationship will be considered terminated upon our completion of any services that you have retained us to perform. If you later retain us to perform further or additional services, our attorney-client relationship will be revived subject to the terms of engagement that we agree on at that time.

This engagement shall be subject to the Illinois Disciplinary Rules of Professional Conduct.

WHO WILL PROVIDE THE LEGAL SERVICES

Customarily, each client of the Firm is served by a principal attorney contact. The principal attorney should be someone in whom you have confidence and with whom you enjoy working. You are free to request a change of principal attorney at any time. Subject to the supervisory role of the principal attorney, your work or parts of it may be performed by other lawyers and non-lawyers (e.g., legal assistants) in the firm. Such delegation may be for the purpose of involving lawyers or non-lawyers with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis. Whenever practicable, we will advise you of the names of those attorneys and non-lawyers who work on your matters.

REVIEW FOR CONFLICT OF INTEREST

To protect both of us and to comply with our professional obligations, we conducted an internal search of our clients files to determine if there is any potential conflicts of interest with present or former clients of our firm that need to be resolved. We will inform you of any potential conflicts, which we may discover prior to commencing work for you, if possible, so that you can evaluate whether engaging our firm, is appropriate. Moreover, we assume that if, during the course of our firm's services, we become aware of potential conflicts of interest that may arise, we will immediately provide you with all necessary information.

HOW OUR FEES WILL BE SET

Generally, our fees are based on the time spent by the lawyers and non-lawyers who work on the matter. We will charge for all time spent in representing your interests, including, by way of illustration, telephone and office conferences with you and your representatives, consultants (if any), opposing counsel, and others; conferences among our legal and non-lawyer personnel; factual investigation; legal research; responding to your requests for us to provide information to your auditors in connection with reviews or audits of financial statements; drafting letters and other documents; and travel. We will keep accurate records of the time we devote to your work in units of quarters of an hour, and will bill on a quarter of an hour basis.

The hourly rates of our lawyers and non-lawyers are, from time to time, reviewed and adjusted and may be changed with or without notice to reflect current levels of legal experience, changes in overhead costs, and other factors. Our hourly rates are listed in the engagement letter.

Although we may from time to time, at the client's request, furnish estimates of legal fees and other charges that we anticipate will be incurred, these estimates are by their nature inexact (due to unforeseeable circumstances) and, therefore, the actual fees and charges ultimately billed may vary from such estimates.

With your advance agreement, the fees ultimately charged may be based upon a number of factors, such as:

- The time and effort required, the novelty and complexity of the issues presented, and the skill required to perform the legal services promptly;

- The fees customarily charged in the community for similar services and the value of the services to you;
- The amount of money or value of property involved and the results obtained;
- The time constraints imposed by you as our client and other circumstances, such as an emergency closing, the needs for injunctive relief from court, or substantial disruption of other office business;
- The nature and longevity of our professional relationship with you;
- The experience, reputation and expertise of the lawyers performing the services;
- The extent to which office procedures and systems have produced a high-quality product efficiently.

For certain well-defined services, we will (if requested) quote a flat fee. It is our policy not to accept representation on a flat-fee basis except in such defined-service areas or pursuant to a special arrangement tailored to the needs of a particular client. In all such situations, the flat fee arrangement will be expressed in a letter, setting forth both the amount of the fee and the scope of the services to be provided.

We also will, in appropriate circumstances, provide legal services on a contingent fee basis. Any contingent fee representation must be the subject of a separate and specific engagement letter.

ADDITIONAL CHARGES

In addition to our fees, there will be other charges for items incident to the performance of our legal services, such as graphics, couriers, travel expenses, some long distance telephone calls, facsimile transmissions, postage, specialized computer applications such as computerized legal research, media services and practice support, records retrieval, and filing fees. The current basis for these charges is set forth below. Charges for similar services in the Firm's foreign offices may vary from those shown below. The Firm will review this schedule of charges periodically and adjust them to take into account changes in the Firm's costs and other factors.

Graphics and Production Services

The Firm charges \$0.10 per page for non-color duplicating, including printing electronic and scanned images, and printing for duplication purposes that is performed within our office. There are special charges for other production services, which are available on request.

Courier Services

Charges, which may vary based on the service provider used and the service provided, are billed at the Firm's actual cost.

Computer Aided Legal Research (CALR)

Charges for services are billed at the Firm's actual cost.

Telephone

The Firm does not charge for local or domestic long distance calls. Other long distance calls, including international long distance calls, audio conferencing services, and calling card calls are charged at the Firm's actual cost for the call or conference.

Travel-Related Expenses

Airfare, hotel, meals, ground transportation and other travel related costs are billed at the Firm's actual costs.

All Other Costs

The Firm charges actual disbursements for third-party services such as court reporters, expert witnesses, etc., and may recoup expenses reasonably incurred in connection with services performed in-house, such as postage, non-legal staff overtime, file retrieval, media services and practice support, etc. A current schedule of these charges is available on request.

Unless special arrangements are otherwise made, fees and expenses of others (such as experts, investigators, consultants and court reporters) will be the responsibility of, and billed directly to, the client. The client should not expect the Firm to advance such costs.

BILLING ARRANGEMENTS AND TERMS

Our billing rates are based on the assumption of prompt payment. Consequently, unless other arrangements are made, fees for services and other charges will be billed monthly and are due upon receipt of our billing statement.

In the event it is necessary for the Firm to file suit to recover any unpaid fees and costs associated with your matter(s), the Firm shall also be entitled to any attorney's fees and costs incurred as a result of those efforts. Moreover, any suit brought by the Firm or the client relating to the fees charged by this Firm shall be filed in the Circuit Court of Cook County and shall be tried without a jury.

Waiver of Jury Trial. Each party hereby irrevocably waives its rights to trial by jury in any Action or proceeding arising out of this agreement or the transactions relating to its subject matter.

ADVANCES

Clients of the Firm are sometimes asked to deposit funds as an advance payment or retainer with the Firm. The advance payment will be applied first to payment of charges for such items as photocopying, messengers, travel, etc., as more fully described above, and then to fees for services. The advance will be deposited in our client advance account and we will charge such other charges and our fees against the advance and credit them on our billing statements. In the event such other charges and our fees for services exceed the advance deposited with us, we will bill you for the excess monthly or may request additional advances. Any unused portion of amounts advanced will be refundable at the conclusion of our representation, unless our engagement letter provides that the advance or retainer is non-refundable, deemed earned when paid, in which case there will not be a refund.

HOW CAN YOU HELP US REPRESENT YOU

Your assistance on the following points will enable us to deliver our service in a more timely manner and reduce the possibility of the need for work: give us clear instruction, if possible in writing; provide information or documentation promptly; inform us if you have any important time limits; inform us if you have changed your address, telephone or facsimile number or email address; make sure we have understood each other correctly, ask if you are not sure about anything; deal promptly with any important questions that arise; keep in regular contact with us; and ask for a progress report if you are worried about anything, or do not hear from us when expected.

DISCLAIMER

Nothing in this Agreement or our statement will be construed as a promise or guarantee about the outcome of any matter. The Firm makes no such promises or guarantees. Our attorneys' comments about the outcome of any matter are expressions of opinion only. You agree that you have relied only on the statements or representations set forth in this Agreement, and not on any other statements or representations.

THIRD PARTY CONTRACTORS

Like many law firms and other organizations, our Firm from time to time uses or deals with third parties in connection with certain areas of our practice or operations. For instance, these third parties may include vendors, consultants, advisors, or other service providers in areas such as litigation support, storage, document management, hardware and software systems, law firm practice management, information technology, accounting and financial matters, and the like. Additionally, the Firm may use temporary lawyers and non-lawyers in certain matters. In performing their services, these parties may have some access to confidential client information, and the Firm accordingly has appropriate confidentiality arrangements with them obligating them to preserve the confidentiality of any such information. Your consent to the Firm allowing non-employee contractors access to such information as described. We take our confidentiality obligations very seriously; do not hesitate to contact us with any questions.

COOPERATION

In order to enable our Firm to effectively represent you, we ask that you as our client agree to disclose fully and accurately all pertinent facts and keep us informed of all documents relating to matters within the scope of our engagement. We necessarily must rely on the accuracy and completeness of the facts and information you as our client and your agents provide to us. You agree to cooperate fully with us and to make your personnel available to attend meetings, discovery proceedings and conferences, hearings, and other proceedings. We will attempt to schedule depositions, hearings, and other important events to serve the convenience of those involved, but it is the nature of litigation that these schedules are often not within our control.

We will undertake our professional efforts to achieve a result that is satisfactory to you. However, because the outcome of negotiations or litigation is subject to the vagaries and risks inherent in the litigation process and in the actions of third parties, you understand that we make no promises or guarantees concerning the outcome and cannot do so.

CONCLUSION OF SERVICES AND CLIENT & FIRM DOCUMENTS

When our services conclude, all unpaid charges will become immediately due and payable. After our services conclude, we will, upon your request, deliver your file to you, along with any funds or property of yours in our possession. Your file shall be deemed to include only client papers and property itemized in Rule 3-700(d), Rules of Professional Conduct, and, if applicable, Code of Civil Procedure Section 2018. We shall not be obliged to provide you with a copy of any paper or documents previously provided during the course of our representation. The Firm shall have no obligation to provide you with copies of computer programs, the programming techniques employed in connection with the relevant data, the principles governing the structure of the stored data and the operation of the data processing system, the underlying data used to compose materials, the methods used to select, categorize and evaluate materials, any computer outputs, or other electric materials or devices.



DEL GALDO LAW GROUP, LLC

Attorneys & Counselors

(708) 222-7000 (tel:708-222-7000)

[Office Locations \(/contact-us\)](/contact-us)



K. Austin Zimmer - Senior Partner

Austin Zimmer is a Senior Partner at Del Galdo Law Group, LLC and serves as the Chairman of the Firm's Litigation Department. Mr. Zimmer focuses his litigation practice on insurance defense and municipal litigation. He also defends clients in complex commercial matters.

Mr. Zimmer, a trial lawyer since 2001 is a prominent federal litigator and has been the lead lawyer in more than 1000 federal civil rights cases. Further, he focuses his state practice on defending insurance carriers in extra-contractual lawsuits. Before joining Del Galdo Law Group, LLC, Mr. Zimmer was employed as an Assistant State's Attorney with the Cook County State's Attorney's Office. During his time as an Assistant State's Attorney, Mr. Zimmer worked in the Special Prosecutions Unit and tried over 100 cases to a verdict. At Del Galdo Law Group, LLC, Mr. Zimmer has become a seasoned litigator and has been successful in securing countless defense



verdicts in federal and state jury trials.

Phone: (708) 222-7000 Ext. 236

Moreover, Mr. Zimmer has argued many

Email: zimmer@dlglawgroup.com (mailto:zimmer@dlglawgroup.com)

cases before the United States Court of

Appeals for the Seventh Circuit and the Illinois Appellate Court. Also, he has served as an expert witness in the area of municipal litigation. Further, Mr. Zimmer regularly lectures in the areas of civil rights, litigation avoidance and municipal liability to insurance companies and police departments.

Throughout the litigation process, he is widely regarded for his hyperresponsiveness to his clients and using his experience to keep them thoroughly informed so they can understand their choices.

SAMPLE REPRESENTATIONS

- *Loza v. Lewandowski* – Represented an insured in an automobile fatality case and secured defense verdict.
- *Kainrath v. Grider* – Represented defendants in defamation trial and received a defense verdict.
- *Taylor v. Milford* - Represented defendants in wrongful death case and secured summary judgment.
- *Dominick v. Dominick* - Federal jury trial and secured a judgment in favor of a local elected official.
- *Delgadillo v. Steinhagen et al* – Federal jury trial; Secured 100% defense verdict in employment discrimination case.
- *Reed v. Ogle County* – Represented County and was successful in having all claims dismissed against Defendants in wrongful death lawsuit.
- *Soriano v. Vitalo* – Secured a judgment for Defendants and successfully argued case on appeal before the United States Court of Appeals for the Seventh Circuit.
- *Moore v. City of Chicago Heights* – Represented City and secured summary judgment in its favor in wrongful death lawsuit.

EDUCATION

- J.D., DePaul University, College of Law
- Member, DePaul Law Review
- B.S., Arizona State University

ADMITTED TO PRACTICE

- Illinois
- Arizona
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Northern District of Illinois, Trial Bar Certified
- U.S. District Court for the Central District of Illinois

MEMBERSHIPS

- DRI - Defense Research Institute
- LM - Claims & Litigation Management Alliance
- IDC – Illinois Association of Defense Trial Counsel
- ISBA – Illinois State Bar Association

OTHER

- Recognized by the AELE Academic Committee as a Litigation Professional in Police Litigation
- Tokio Marine HCC Attorney Claims Seminar, Guest Lecturer
- York Risk Services IPARKS educational workshop, Guest Lecturer
- Municipal Clerks of Illinois, Guest Lecturer

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