



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** December 1, 2022

**Staff Contact:** Jason D. Woodbury, District Attorney

**Agenda Title:** For Possible Action: Discussion and possible action regarding a proposed amended and restated contract with the law firm of Lemons, Grundy & Eisenberg ("LGE") for legal services relating to The Travelers Indemnity Company's ("Travelers") provision of insurance to Carson City and Carson City's claims against Travelers for an additional amount of \$50,000.01, resulting in a new total not to exceed amount of \$100,000, and to authorize the City Manager and District Attorney to execute the contract. (Jason Woodbury, jwoodbury@carson.org)

Staff Summary: This item is for review and possible approval of an engagement letter to allow LGE to continue its representation of Carson City for the prosecution of claims against Travelers for failing to provide Carson City liability coverage as required by binding contracts for insurance with respect to certain claims by third-parties against Carson City that were litigated and settled in 2019-2020.

**Agenda Action:** Formal Action / Motion **Time Requested:** Consent

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### **Proposed Motion**

I move to approve the contract and authorize the City Manager and District Attorney to execute it.

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

October 21, 2021 (Item 14A): The Board of Supervisors ("Board") authorized the City Manager and District Attorney, through LGE, to initiate and prosecute litigation of the claims against Travelers.

November 19, 2020 (Item 17A): The Board approved a settlement in the amount of \$125,000 to resolve similar litigation threatened by another plaintiff.

November 21, 2019 (Item 17A): The Board approved a settlement to resolve litigation in a case entitled Jane Doe v. Carson City et al., case number 3:18-cv-428-LRH-WGC in the United States District Court for the District of Nevada that required Carson City to pay the plaintiff \$505,000.

### **Background/Issues & Analysis**

In 2019 and 2020, this Board authorized settlement of claims by third-parties relating to damages sustained by minors as a result of participation in a recreational program administered by Carson City. Carson City was insured by Travelers at the time. A dispute between Carson City and Travelers arose regarding the limits of liability coverage available with respect to the claims. On August 29, 2019, LGE was retained by the City

Manager as coverage counsel to represent Carson City in regard to its dispute with Travelers. In compliance with the limitation of the City Manager's authority to contract for services, the fees and costs incurred by Carson City pursuant to the August 29, 2019 engagement were limited to an amount not to exceed \$49,999.99. On October 21, 2021, the Board authorized the litigation of claims against Travelers. On December 19, 2021, LGE filed a Complaint on behalf of Carson City against Traveler's, and the case has been in litigation since. To date, a total of \$49,339.50 has been paid by Carson City to LGE pursuant to the August 29, 2019 engagement. The litigation is still pending, and the costs and fees required to pursue the litigation through adjudication will exceed the \$50,000 limit on the City Manager's authority.

LGE has prepared a new engagement letter dated September 12, 2022, which is presented in this item for the Board's review and possible approval. Through the engagement letter, Carson City will pay the rate of \$250 per hour for partners, \$200 per hour for associate attorneys and \$100 per hour for paralegals plus related legal expenses and court fees. The engagement letter may be terminated at any time. This item authorizes the payment of up to \$100,000 to LGE, of which \$49,339.50 has already been paid for legal services since 2019.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 244.165; and Carson City Charter § 1.070

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Insurance Fund, Professional Services 5900745-500309

**Is it currently budgeted?** No

**Explanation of Fiscal Impact:** Carson City will pay LGE at the rates of \$250 per hour for partners, \$200 per hour for associates and \$100 per hour for paralegals for legal representation in the above-referenced case. Carson City will also be obligated to reimburse LGE for costs incurred relating to the litigation. The current available budget is \$27,988, and if approved, an additional \$25,000 will be augmented from available working capital during the first round of budget augmentations.

**Alternatives**

Do not approve the proposed agreement and/or provide alternative direction.

**Attachments:**

[20190829 LGE Engagement Letter.pdf](#)

[20220912 LGE Engagement Letter.pdf](#)

**Board Action Taken:**

Motion: _____	1) _____	Aye/Nay
	2) _____	_____
		_____
		_____
		_____

\_\_\_\_\_  
(Vote Recorded By)

LEMONS,  
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experience • results

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Dane A. Littlefield

Sarah M. Molleck

\* OF COUNSEL



WWW.LGE.NET

August 29, 2019

Via E-Mail

Jason Woodbury  
Carson City District Attorney  
885 East Musser Street  
Suite 2030  
Carson City, NV 89701  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)

**Re: City of Carson re: Traveler's Insurance  
Our File No. 90.8832**

Dear Mr. Woodbury:

We are pleased to welcome the Carson City, a consolidated municipality, a political subdivision of the State of Nevada ("Carson City") as a client of Lemons, Grundy & Eisenberg, P.C. (the "Firm"). As we have discussed, this letter will confirm our discussions regarding your engagement of our firm.

**1. Legal Services and Scope of Work**

We appreciate the opportunity to serve you. Our goals are to provide you with legal services of the highest quality and efficiency and to help you accomplish your objectives. You have asked us to review and provide advice concerning coverage determinations made by Traveler's Insurance regarding two litigated matters involving the Carson City. That litigation is now pending in the United States District Court for the District of Nevada as case numbers 3:18-cv-428-LRH-WGC (*Doe v. Carson City et al.*) and 3:18-cv-00538-LRH-WGC (*Doe et al. v. Carson City*).

Our relationship should begin with a mutual understanding of expectations and should continue with full and candid communications between us throughout the course of our representation. Please let me know promptly if you have questions at any time regarding any aspect of our firm's work for you.

The scope of our work may evolve in accordance with discussions or correspondence with you from time to time. To the extent that additional services are requested by you and agreed upon by us, the terms in this letter will apply to such additional services, unless superseded by another written agreement between us.

Jason Woodbury  
August 29, 2019  
Page 2

Either of us may terminate the engagement at any time for any reason by written notice, subject on our part to applicable rules of professional responsibility. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interest in the above matter.

## **2. Persons Responsible**

Within our firm, Douglas R. Brown will be primarily responsible for this engagement. There may be occasions when your interests would best be served by involving other attorneys or paralegals within our firm. We will advise you of proposed staffing assignments involving other attorneys or paralegals and will work with you to decide on the staffing most appropriate to meet your needs and expectations.

Please let me know promptly if any questions arise about the services provided to you by anyone at our firm, or about any billing that you receive from us, so that we can act appropriately.

## **3. Rates, Fees and Charges**

Our fees are based primarily upon the time spent by our lawyers and paralegals on your behalf. Each lawyer and paralegal assigned to this matter will have an hourly billing rate, and the rate multiplied by the number of hours spent, measured in tenths of hours, will be the basis for determining our fee. The Firm will bill you for time incurred by myself and other partners at the rate of \$250 per hour, for associate attorneys at the rate of \$200 per hour, and paralegals at the rate of \$100 per hour.

We have not requested a retainer for payment in advance for any of our services. We will, however, provide you with monthly statements showing the charges and the current balance of the account in your name.

We may include on our bills charges for performing services such as photocopying, messenger and delivery service, computerized research, travel, long-distance telephone, facsimile and filing fees. Fees and expenses of others whom we might retain only with your permission (such as consultants, experts, appraisers, and local counsel) generally will not be paid by us, but will be billed directly to you.

Our billing rates and charges are usually revised annually, but we reserve the right to revise them at other times during the course of our representation. Following any such revision, our new rates and charges will be applied to your account and this letter constitutes written notice to you of our right to make such revisions.

Carson City will not be billed in excess of \$49,999.99 under this Engagement Letter. At such time as it appears reasonably likely that total charges in this matter will exceed that amount,

Jason Woodbury  
August 29, 2019  
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we will notify you. We understand that any contract exceeding \$49,999.99 must be approved by the Carson City Board of Supervisors.

**4. Roles of Attorney and Client**

Our responsibilities under this agreement are to provide legal counsel and assistance to you in accordance with this letter and with our ethical responsibilities under Nevada law and court rules.

We hope that you will be clear and complete in your communications with us and will extend your reasonable assistance and cooperation to us. We want you to keep us informed of developments related to this representation.

You will, of course, always be entitled to seek independent counsel regarding the terms of our engagement or any aspect of our retention. We emphasize that you remain completely free to seek independent counsel at any time, for any reason, even if you decide to sign the consent below.

**5. Client Files and Retention**

In the course of our representation we shall maintain a file. In such file we may place correspondence, administrative pleadings, deposition transcripts, exhibits, physical evidence, experts' reports, and documents you provide to us and other items reasonably related to your representation (the "Client File"). The Client File shall be and remain your property. We may also place in such file documents containing our attorney-work product, mental impressions or notes ("Work Product"). You agree that the Work Product shall be and remain our property.

At the conclusion of our representation, when our work on the project specified in this letter has been completed, your Client File (but not including our Work Product) will be available to you at your request, and you will have the right to take possession of the original file as your property. We will be entitled to make copies if we choose. You also agree at the conclusion of your representation (whether or not you choose to take possession of the Client File) to take possession of any and all original contracts or other important documents that may be in the Client File, and we will have no further responsibility with regard to such documents unless we agree to another arrangement for the storage of your documents. If you do not take possession of the Client File at the conclusion of the representation, we shall store such file for you for a period of seven (7) years. In the alternative, we may choose to make digital copies of all or part of the Client File and thereafter discard the paper version of the Client File, and store the Client file in either paper or electronic format, for a period of seven (7) years. During the entire time we store your Client File for you, you shall have the right to take possession of it at any time that you choose. If you do not take possession of the Client file within seven (7) years after the conclusion of our representation, you agree that we may dispose of the Client File without further notice to you.

Jason Woodbury  
August 29, 2019  
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**6. Entire Agreement**

You understand that this letter constitutes our entire agreement pertaining to the engagement of Lemons, Grundy & Eisenberg, P.C. and that it shall not be modified by any policies, procedures, guidelines or correspondence from you or your representative unless agreed to in writing by the firm.

**7. Approval and Return of Letter**

Please feel free to call me to discuss this matter. If the foregoing is acceptable, please sign the enclosed copy of this letter where indicated below and return it to me.

We appreciate the confidence in me and our firm by your request that we represent you. We look forward to working with you.

Sincerely,



Douglas R. Brown

DRB/DAL

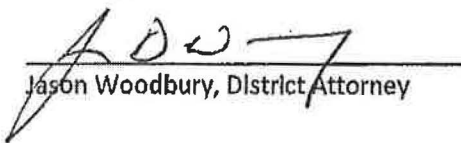
**Approval of Engagement**

I have read this letter and agree to its terms, effective as of the date on which Lemons, Grundy & Eisenberg, P.C. first provided services to Carson City.



Nancy Paulson, Carson City Manager

Approved as to form and content:



Jason Woodbury, District Attorney

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experience • results

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\* OF COUNSEL

September 12, 2022

Via E-Mail

Jason Woodbury  
Carson City District Attorney  
885 East Musser Street  
Suite 2030  
Carson City, NV 89701  
[jwoodbury@carson.org](mailto:jwoodbury@carson.org)

**Re: City of Carson re: Traveler's Insurance**  
**Case No. Case No. 3:22-cv-00006 LRH-CLB**  
**Our File No. 90.8832**

Dear Mr. Woodbury:

We are pleased to welcome the Carson City, a consolidated municipality, a political subdivision of the State of Nevada ("Carson City") as a client of Lemons, Grundy & Eisenberg, P.C. (the "Firm"). As we have discussed, this letter will confirm our discussions regarding your engagement of our firm.

**1. Legal Services and Scope of Work**

We appreciate the opportunity to serve you. Our goals are to provide you with legal services of the highest quality and efficiency and to help you accomplish your objectives. The original scope of our engagement involved the review and provision of advice concerning coverage determinations made by Traveler's Insurance regarding two litigated matters involving the Carson City. Litigation regarding Travelers' coverage determinations is now pending in the United States District Court for the District of Nevada. Accordingly, the scope of our engagement has since evolved to include representation of Carson City as the plaintiff in the above-referenced case, Case No. 3:22-cv-00006 LRH-CLB, involving claims asserted by Carson City against the Travelers' Indemnity Company for breach of contract and breach of the covenant of good faith and fair dealing.

Our relationship should continue to include a mutual understanding of expectations and should continue with full and candid communications between us throughout the course of our representation. Please let us know promptly if you have questions at any time regarding any aspect of our firm's work for you.

The scope of our work may evolve in accordance with discussions or correspondence with you from time to time. To the extent that additional services



Jason Woodbury  
September 12, 2022  
Page 2

are requested by you and agreed upon by us, the terms in this letter will apply to such additional services, unless superseded by another written agreement between us.

Either of us may terminate the engagement at any time for any reason by written notice, subject on our part to applicable rules of professional responsibility. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interest in the above matter.

## **2. Persons Responsible**

Within our firm, Douglas R. Brown will be primarily responsible for this engagement. There may be occasions when your interests would best be served by involving other attorneys or paralegals within our firm. We will advise you of proposed staffing assignments involving other attorneys or paralegals and will work with you to decide on the staffing most appropriate to meet your needs and expectations.

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We have not requested a retainer for payment in advance for any of our services. We will, however, provide you with monthly statements showing the charges and the current balance of the account in your name.

We may include on our bills charges for performing services such as photocopying, messenger and delivery service, computerized research, travel, long-distance telephone, facsimile and filing fees. Fees and expenses of others whom we might retain only with your permission (such as consultants, experts, appraisers, and local counsel) generally will not be paid by us, but will be billed directly to you.

Our billing rates and charges are usually revised annually, but we reserve the right to revise them at other times during the course of our representation. Following any such revision, our new rates and charges will be applied to your account and this letter constitutes written notice to you of our right to make such revisions.



#### **4. Roles of Attorney and Client**

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At the conclusion of our representation, when our work on the project specified in this letter has been completed, your Client File (but not including our Work Product) will be available to you at your request, and you will have the right to take possession of the original file as your property. We will be entitled to make copies if we choose. You also agree at the conclusion of your representation (whether or not you choose to take possession of the Client File) to take possession of any and all original contracts or other important documents that may be in the Client File, and we will have no further responsibility with regard to such documents unless we agree to another arrangement for the storage of your documents. If you do not take possession of the Client File at the conclusion of the representation, we shall store such file for you for a period of seven (7) years. In the alternative, we may choose to make digital copies of all or part of the Client File and thereafter discard the paper version of the Client File, and store the Client file in either paper or electronic format, for a period of seven (7) years. During the entire time we store your Client File for you, you shall have the right to take possession of it at any time that you choose. If you do not take possession of the Client file within seven (7) years after the conclusion of our representation, you agree that we may dispose of the Client File without further notice to you.

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Jason Woodbury  
September 12, 2022  
Page 4

**6. Entire Agreement**

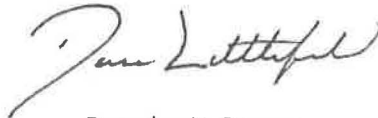
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**7. Approval and Return of Letter**

Please feel free to call us to discuss this matter. If the foregoing is acceptable, please sign the enclosed copy of this letter where indicated below and return it to our office.

We appreciate the confidence in our firm by your request that we represent you. We look forward to working with you.

Sincerely,



Douglas R. Brown  
Dane A. Littlefield

DRB/DAL

**Approval of Engagement**

I have read this letter and agree to its terms, effective as of the date on which Lemons, Grundy & Eisenberg, P.C. first provided services to Carson City.

---

Nancy Paulson, Carson City Manager

Approved as to form and content:

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Jason Woodbury, District Attorney