AGENDA
Special Council/Manager Meeting
Golden Valley City Hall
7800 Golden Valley Road
Council Conference Room
June 5, 2018
5:45 pm

1. City Attorney (30 minutes)
   1. Consideration of Appointment of City Attorney
   2. Consideration of Amendment to the General Fund Budget
   3. First Consideration of Ordinance to amending the 2018 Fee Schedule for Legal Review

Council/Manager meetings have an informal, discussion-style format and are designed for the Council to obtain background information, consider policy alternatives, and provide general directions to staff. No formal actions are taken at these meetings. The public is invited to attend Council/Manager meetings and listen to the discussion; public participation is allowed by invitation of the City Council.

This document is available in alternate formats upon a 72-hour request. Please call 763-593-8006 (TTY: 763-593-3968) to make a request. Examples of alternate formats may include large print, electronic, Braille, audiocassette, etc.
Executive Summary
Special Golden Valley Council/Manager Meeting
June 5, 2018

Agenda Item
6. B. City Attorney
   1. Consideration of Appointment of City Attorney
   2. Consideration of Amendment to the General Fund Budge
   3. First Consideration of Ordinance amending the 2018 Fee Schedule

Prepared By
Tim Cruikshank, City Manager

Summary
For many years, the City of Golden Valley has contracted with an outside law firm to provide civil legal services. The City is currently receiving these services from Best and Flanagan. The Agreement is attached.

Due to an upcoming change in attorneys, an opportunity to discuss how and from who the City receives these services is presented. There are several options to consider.

1. The City could stay with our current legal service provider and be assigned a new attorney from their offices,

2. The City could go through an RFP process to determine if there is an advantage for the City to change law firms,

3. The City could hire an in-house, staff attorney.

There are pros and cons to each. Staff is asking City Council to discuss these options (and others if desired) and direct staff how to proceed.

In the event the Council decides to hire an in house attorney, all of the necessary action items are included on the regular Council agenda. Actions that would need to be taken would be to appoint a city attorney, amend the budget, and amend the fee schedule to allow for collection of fees for legal review of documents such as new liquor license applications, development documents and TIF applications.
Attachments:
- Agreements (9 pages)
- Resolution Appointing the City Attorney (2 page)
- Resolution amending the 2018 Budget of the General Fund (2 page)
- Ordinance #639 amending the 2018 Master Fee Schedule for Legal Review (1 page)
March 22, 2017

VIA EMAIL ONLY
(TCruikshank@goldenvalleymn.gov)

Tim Cruikshank, City Manager
City of Golden Valley
7800 Golden Valley Rd
Golden Valley, MN 55427

Re: Amendment to Legal Services Agreement between
the City of Golden Valley and Best & Flanagan LLP

Dear Tim:

As we have discussed, I am sending you this letter to serve as an amendment of the Legal Services Agreement between the City and Best & Flanagan LLP.

The Legal Services Agreement between the City and Best & Flanagan LLP, entered into on September 8, 2010, amended by letter agreements dated August 13, 2015 and July 8, 2016, respectively ("Agreement"), is hereby further amended as follows:

1. The term of the Agreement is extended through December 31, 2018.

2. Section III. "Compensation and Expense Reimbursement" is amended by reducing the hourly rate for partner attorneys to $175 per hour, effective as of March 22, 2017. The hourly rate for associate attorneys remains $145 per hour and for paralegals remains $120 per hour. The "pass through" work rate also remains $350 per hour. These rates will remain in effect through December 31, 2018.

All other terms of the Agreement remain the same and are ratified by the City and Best & Flanagan LLP.
LEGAL SERVICES AGREEMENT

BETWEEN

THE CITY OF GOLDEN VALLEY

AND

BEST & FLANAGAN, LLP

THIS LEGAL SERVICES AGREEMENT (the "Agreement") is entered into this 8th day of September, 2010 by the City of Golden Valley (the "City") and the Best & Flanagan LLP (the "Firm").

WHEREAS the City seeks legal advice and services related to municipal matters;

and

WHEREAS after careful review and consideration the City Council has chosen to reappoint the firm of Best & Flanagan LLP to provide this service.

NOW, THEREFORE, the parties mutually agree as follows:

I. TIME OF PERFORMANCE

This Agreement shall be in effect for a period of five years from January 1, 2011 through December 31, 2015; however, the City may terminate it at the end of three years upon giving the Firm 60 days written notice.

II. SCOPE OF SERVICE

The Firm will perform and provide legal services for the City including, but not limited to, the following matters:

1. Attendance at all City Council meetings and other City boards, commissions, or committee meetings, as requested by the City Council or City Manager.

2. Draft ordinances, resolutions, developer agreements, and correspondence as requested, including assistance in the maintenance of the master City Code book.

3. Review Council and Planning Commission agenda items and minutes as requested.

4. Participate in meetings and/or telephone conversations with and advise the Mayor, Council members, City Manager, and other staff on general legal matters.
5. Prepare and review municipal contracts, including contracts for public improvements, development agreements, joint powers agreements, construction, purchase of equipment, and similar contracts.

6. Represent the City in the acquisition of properties for public improvements, special assessment appeals, easements, parks and the like.

7. Represent the City in condemnation proceedings for public improvement projects, etc.

8. Represent City in matters related to the enforcement of City building, subdivision, and zoning codes.

9. As directed, represent the City in employment related issues, administrative hearings, and in litigation involving the same.

10. Research and submit legal opinions on municipal or other legal matters requested by the City Manager and be available to answer staff questions by telephone.

11. Participate in meetings or discussions with the City Manager and staff, as needed, to review Council agenda items or the status or legal matters before the City. Provide a written status report on current litigation and unresolved matters as requested.

12. Provide legal briefings, as requested, to the City staff and Council regarding new or proposed legislation affecting municipal operations and activities.

13. Provide, as requested, written updates and/or training on new State or Federal legislation or judicial holding impacting upon the City, and suggest action or changes in operations or procedures to assure compliance.

14. Defend the City in all litigation, except in those cases where insurance companies are required to exclusively provide defense, or where the City chooses to hire specialized or other legal services. This includes, but is not limited to: (1) human rights claims, (2) condemnation, (3) zoning and land use regulation matters, (4) permits and administrative actions, and (5) labor and employment matters.

15. Work cooperatively with insurance companies on litigation cases, as needed.

16. Review bonds, deeds, securities, and insurance requirements required by or for City contracts or activities.

17. Review documents submitted by bond counsel involving the issuance of debt or debt related instruments and provide options as requested/required.
III. COMPENSATION AND EXPENSE REIMBURSEMENT

The Firm will be compensated under this Agreement at an hourly rate of $155.00 for partners, $115.00 for associates and $90.00 for paralegals from January 1, 2011 through December 31, 2011 for all work except developer "pass-through" work. Pass-through work shall be billed at the Firm's established low rates for attorneys and paralegals. In each of the following calendar years of this Agreement the hourly rates for partners, associates and paralegals will be increased an additional $5.00 for each such calendar year.

Attendance at City Council meetings shall be provided at the hourly rates to a maximum of 2.75 hours per meeting.

Compensation and reimbursable expenses shall be paid monthly upon submission of itemized invoices to the City Manager. The City agrees to pay for reimbursable expenses only if they are reasonably and necessarily incurred. Any expenses that are anticipated to be of a substantial cost and any reimbursement for travel outside of the Minneapolis-St. Paul metropolitan area must be approved in advance by the City Manager.

The Firm shall monitor all expenditures incurred and shall promptly notify the City Manager in writing of any unanticipated level of work activity that greatly exceeds the average monthly work level.

IV. CONFLICT OF INTEREST

During the term of this Agreement, the Firm agrees to divulge to the City all actual or potential conflicts of interest within the meaning of the City's Code of Ordinances and Minnesota Rules of Professional Conduct. During the term of this Agreement, without the express written agreement of the City Manager, the Firm shall not represent any current or future clients in any matter if such representation is or may be adverse to the City. The Firm will immediately divulge to the City Manager any actual or potential conflict of interest of which it becomes aware during the term of this Agreement.

The Firm certifies that to the best of its knowledge no City employee has any interest in the business of the Firm or with this Agreement and no person associated with the Firm has any interest that would conflict in any manner with the Firm's performance of this Agreement.

V. COMPLIANCE REQUIREMENTS & NON-DISCRIMINATION

During the term of this Agreement, the Firm will not discriminate against any of its employees or applicants for employment because of race, color, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status, status with regard to public assistance, or status as a veteran. Such
prohibition against discrimination shall include, but is not limited to, decisions and actions of the Firm regarding hiring, promotion, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation, or selection for training.

During the term of this Agreement, the Firm agrees to post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the City, setting forth the above-stated non-discrimination clause. In addition, in all solicitations or advertisements for applicants, the Firm will state that all qualified applicants will receive consideration without regard to race, color, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status, status with regard to public assistance, or status as a veteran. During the term of this Agreement, the Firm agrees to comply in all other aspects with the requirements of the Americans with Disabilities Act, the Minnesota Human Rights Act, Title VII, and Golden Valley Code of Ordinances, Section 2.53.

In the event of questions from the Firm concerning these requirements, the City agrees to promptly supply all necessary clarifications. In the event of the Firm's non-compliance with the non-discrimination clauses of this Agreement, the Agreement may be partially or totally terminated or suspended. In addition to other remedies provided by law, the Firm may be declared ineligible by the Golden Valley City Council from any further participation in City contracts.

VI. INSURANCE

The Firm shall secure and maintain sufficient insurance to the Firm against claims for legal malpractice.

VII. PERFORMANCE MONITORING

The City Manager will monitor the performance of the Firm against goals and performance standards required herein. The City Manager will prepare a yearly report for the City Council regarding the performance of the Firm. Substandard performance as determined by the City Council will constitute non-compliance and shall require corrective action. If action to correct such substandard performance is not taken by the Firm within a reasonable period of time after being notified by the City Council, the City may terminate this Agreement.

VIII. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Firm agrees that it is an independent contractor with respect to the services to be performed under this Agreement. Because the Firm is an independent contractor, the City shall be exempt from payment of all
Reemployment Compensation, FICA, retirement, life, and/or medical insurance, Workers' Compensation insurance, or other benefits normally offered to employees of the City. The Firm agrees that none of its employees will accrue any employment rights normally accrued by City employees, including tenure, seniority, or civil service protection.

IX. **HOLD HARMLESS**

The Firm agrees to defend, indemnify, and hold harmless the City, its officers and employees, from any liabilities, claims, damages, costs, judgments, and expenses, including attorney's fees, resulting directly or indirectly from an act or omission of the Firm, its agents, employees or subcontractors, in the performance of the services described in this Agreement.

X. **TERMINATION**

Either party may terminate this Agreement at any time by giving written notice to the other party of such termination. Such notice shall specify the effective date of the termination. In no event shall the effective date be less than 120 days from the date of the written notice. The parties agree that termination by the Firm also is subject to the Firm's obligations to the City as a client under the Minnesota Rules of Professional Conduct. If this Agreement is terminated, all documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Firm under this Agreement shall become the property of the City. The Firm shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the effective date of the termination.

XI. **CONFIDENTIALITY**

Any Information, data, reports, records, or other materials given to or prepared or assembled by the Firm under this Agreement shall be kept confidential and the Firm shall not make any of this material available to any individual or organization without prior approval of the City.

XII. **AUDIT DISCLOSURE**

The Firm shall allow the City or its duly authorized agents reasonable access to the Firm's books and records as are pertinent to all services provided under this Agreement. The Firm shall provide the City access to any books, documents, papers and records which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcriptions for three years after final payment and all other pending matters related to this Agreement are closed.
XIII. AMENDMENTS

The City may enter into written amendments to this Agreement when the City Manager or Council determines such amendments are necessary to meet the City's legal services needs.

THE PARTIES NOW EXECUTE this Legal Services Agreement as of the date first written above.

CITY OF GOLDEN VALLEY

By: Thomas D. Burt, City Manager

BEST & FLANAGAN LLP

By: Allen D. Barnard
July 8, 2016

VIA EMAIL ONLY
(JNally@goldenvalleymn.gov)

Tim Cruikshank, City Manager
City of Golden Valley
7800 Golden Valley Rd
Golden Valley, MN 55427

Re: Amendment to Legal Services Agreement between the City of Golden Valley and Best & Flanagan LLP

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The Legal Services Agreement between the City and Best & Flanagan LLP, entered into on September 8, 2010, amended by letter agreement dated August 13, 2015, is hereby further amended in the following particulars:

1. The term of the Agreement is extended for an additional year from January 1, 2017 through December 31, 2017 ("Additional Year").

2. Section III. "Compensation and Expense Reimbursement" is amended by changing for the Additional Year the hourly rate for partners to $185 per hour, for associates to $145 per hour and for paralegals to $120 per hour. The "pass through" work remains at the rate of $350 per hour.

All other terms of the Agreement remain the same and are ratified by the City and Best & Flanagan LLP.
March 22, 2017

VIA EMAIL ONLY
(TCruikshank@goldenvalleymn.gov)

Tim Cruikshank, City Manager
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1. The term of the Agreement is extended through December 31, 2018.

2. Section III. "Compensation and Expense Reimbursement" is amended by
reducing the hourly rate for partner attorneys to $175 per hour, effective as of
March 22, 2017. The hourly rate for associate attorneys remains $145 per
hour and for paralegals remains $120 per hour. The "pass through" work rate
also remains $350 per hour. These rates will remain in effect through
December 31, 2018.

All other terms of the Agreement remain the same and are ratified by the City
and Best & Flanagan LLP
Member introduced the following resolution and moved its adoption:

RESOLUTION APPOINTING CITY ATTORNEY

WHEREAS, the City of Golden Valley, Minnesota (the “City”) is a statutory Plan B City organized pursuant to Minnesota Statutes Chapter 412.681; and

WHEREAS, the Appointing Authority of City Attorney is the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Golden Valley that the City Council appoints Maria Cisneros as sole City Attorney, effective July 16, 2018.

_______________________________
Shepard M. Harris, Mayor

ATTEST:

_______________________________
Kristine A. Luedke, City Clerk

The motion for the adoption of the foregoing resolution was seconded by Member and upon a vote being taken thereon, the following voted in favor thereof: and the following voted against the same: none whereupon said resolution was declared duly passed and adopted, signed by the Mayor and his signature attested by the City Clerk.
412.651 CITY MANAGER; POWERS AND DUTIES.

Subdivision 1. Generally. The city manager shall have the powers and duties set forth in the following subdivisions.

Subd. 2. Enforcement. The city manager shall see that statutes relating to the city and the laws, ordinances and resolutions of the city are enforced.

Subd. 3. Appointment of personnel. The city manager shall appoint upon the basis of merit and fitness and subject to any applicable civil service provisions and, except as herein provided, remove the clerk, all heads of departments, and all subordinate officers and employees; but the appointment and removal of the attorney shall be subject to the approval of the council.

Subd. 4. Control. The city manager shall exercise control over all departments and divisions of the administration created under Optional Plan B or which may be created by the council.

Subd. 5. Council meetings. The city manager shall attend all meetings of the council with the right to take part in the discussions but not to vote; but the council may in its discretion exclude the city manager from any meetings at which the manager's removal is considered.

Subd. 6. Recommend ordinances and resolutions. The city manager shall recommend to the council for adoption such measures as the city manager may deem necessary for the welfare of the people and the efficient administration of the affairs of the city.

Subd. 7. Advise; annual budget. The city manager shall keep the council fully advised as to the financial condition and needs of the city and the city manager shall prepare and submit to the council the annual budget.

Subd. 8. Administrative code. The city manager shall, when directed to do so by the council, prepare and submit to the council for adoption an administrative code incorporating the details of administrative procedure, and from time to time the city manager shall suggest amendments to such code.

Subd. 9. Additional duties. The city manager shall perform such other duties as may be prescribed by the statutes relating to Optional Plan B cities or required by ordinance or resolutions adopted by the council.

History: 1949 c 119 s 81; 1973 c 123 art 2 s 1 subd 2; 1986 c 444
Member introduced the following resolution and moved its adoption:

RESOLUTION AMENDING THE 2018 BUDGET OF THE GENERAL FUND

WHEREAS, in 2017, Resolution 17-77 approved the 2018 General Fund Budget, was amended with Resolution 18-24; and

WHEREAS, a new position of City Attorney was created to replace the outside contractual legal firm starting July 16 with the specific pay range below; and

WHEREAS, this amendment allocates 2018 general fund expenditures to legal services from fund balance.

BE IT RESOLVED by the City Council of the City of Golden Valley that it hereby adopts the following amendment to Resolution 18-24, modifying the general wages and salaries for the new personnel named herein effective July 16, 2018.

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Shepard M. Harris, Mayor

ATTEST:

Kristine A. Luedke, City Clerk

The motion for the adoption of the foregoing resolution was seconded by Member and upon a vote being taken thereon, the following voted in favor thereof: and the following voted against the same: whereupon said resolution was declared duly passed and adopted, signed by the Mayor and his signature attested by the City Clerk.
### CITY OF GOLDEN VALLEY

**DIVISION: Legal (006)**

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ORDINANCE NO. 639, 2ND SERIES
AN ORDINANCE AMENDING THE CITY CODE
Amending 2018 Master Fee Schedule for
Legal Review Fees

The City Council for the City of Golden Valley hereby ordains:

Section 1. The 2018 Master Fee Schedule in Chapter 25 of the City Code is hereby amended by adding the following new Legal Review Fee:

Legal Review $100 per hour

Section 2. City Code Chapter 1 entitled “General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation” is hereby adopted in its entirety, by reference, as though repeated verbatim herein.

Section 3. This ordinance shall take effect from and after its passage and publication as required by law.

Adopted by the City Council this 5th day of June, 2018.

/s/Shepard M. Harris
Shepard M. Harris, Mayor

ATTEST:

/s/Kristine A. Luedke
Kristine A. Luedke, City Clerk