

Howard & Howard

law for business®

Ann Arbor

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direct dial: 702.667.4842

Mark J. Gardberg
Member

email: mg@2law.com

October 7, 2022

By Email: BrettW@silverlakeconstruction.com

R. Brett Willis
Chairperson, Board of Directors
Southern Nevada Trades High School
4495 W Hacienda Ave., Suite 9
Las Vegas, NV 89118

RE: **Engagement for Performance of Legal Services**

Dear Brett:

We recognize that the selection of a law firm is a critical and important decision. We are honored that Southern Nevada Trades High School (the “*Client*”) has asked us to serve as its legal counsel. We appreciate the trust and confidence you have shown in us with this decision, and we assure you that we will continue to be worthy of that trust and confidence.

We find that there is no substitute for candor in our attorney-client relationships. This need for candor begins even before our formal relationship and continues throughout our attorney-client relationship. Accordingly, the purpose of this letter is to set forth and confirm our understanding with you of the terms and conditions under which Client engages and retains Howard & Howard Attorneys PLLC (“*Howard & Howard*”) to perform—and under which Howard & Howard agrees to perform—legal services for Client, including the scope of our engagement and the financial arrangements for payment of the services we provide.

1. **The Parties.** Client engages Howard & Howard to perform legal services for them set forth in this Engagement Letter and the Standard Terms of Engagement enclosed with this Engagement Letter, which are incorporated and made a part of this Engagement Letter.

2. **Scope of Engagement.** For the term of this engagement, Howard & Howard agrees to provide the Client with the requested legal services relating to *general charter school needs and matters* (as communicated to our firm from time to time).

Please note that in instances in which we represent a legal entity, our attorney-client relationship is with the entity alone, and, unless otherwise stated in this engagement letter, is not with its employees or other staff (including, for example, the Executive Director or Board Chairperson). Here, we represent the charter school, acting through its Board of Directors, but as a practical matter we will principally take direction from the school’s Board Chairperson and Executive Director.

The scope of the legal services we provide to you may be changed from time-to-time by our mutual agreement.

3. **Designation of a Responsible Contact Person; Communications.** We recommend that you designate the following attorney to be your principal contact: Mark Gardberg, Esq. (702) 667-4842, mg@h2law.com. As your principal contact, Mr. Gardberg will be responsible for the relationship between Howard & Howard and Client.

It is our policy to respond to e-mails, voicemails and faxes you, as a client, send or leave for us as soon as reasonably possible. If you are dissatisfied with our promptness in doing so, please feel free to contact Jon D. Kreucher, our Chief Executive Officer, to discuss this or any concerns you have.

4. **Payment of Our Fees.** As consideration for our obligations and other agreements in this Engagement Letter and our Standard Terms of Engagement, including the performance of legal services for you, you agree to pay Howard & Howard for our performance of legal services for you as set forth below and in the Standard Terms of Engagement.

5. **Legal Fees.** Unless otherwise agreed to by you and us in writing, our fees for services rendered will be based upon hourly charges. The amount charged for time expended will be at the prevailing Howard & Howard hourly rates in effect from time-to-time, and such rates will vary with the particular lawyer involved. Our hourly rates range from \$290-425 for Associates to \$325-695 for Members/Partners and Senior Attorneys, and \$175-250 for Legal Assistants/Paralegals. My current hourly rate for commercial clients is \$530 per hour, but as per my email correspondence:

- my agreed-upon rate for Client will be **\$325/hour** during the first school year (2022-23);
- each school fiscal year (i.e., on July 1st), that rate will then increase by \$25/hour; and
- my rate will never cross the \$400/hour threshold, meaning in year four and thereafter, it will remain capped at \$395/hour, which is my maximum rate for charter school clients.

6. **No Retainer.** As of now, we are not requiring the Client to provide us with a retainer as a deposit against future legal fees. However, if there is a material expansion of the scope of our representation in the future, we may require you to provide us with a retainer. In that event, Client understands and consents that those monies will be deposited in our accounts (and not held in any trust or fiduciary capacity) and will be considered as having been earned by us as legal services are performed for you (i.e., the fees for those services will be credited against the retainer amount paid). Any unused amounts may be refunded without any obligation to pay interest.

7. **Multijurisdictional Law Firm.** It is our practice to have a Nevada licensed attorney review all work that is performed on your file. However, you should be aware that Howard & Howard is a multijurisdictional law firm with offices in Nevada, California, Illinois and Michigan (and Mr. Gardberg is personally a member of the Bars of Nevada, California, Florida, and New York). Some of the work on your file may be performed by an attorney, paralegal or staff member who is not located in and is not licensed to practice law in Nevada. In the event an attorney who is not licensed in Nevada works on your matter, we will inform you of that fact.

8. **Termination of this Engagement.** You may terminate our services at any time upon advance written notice to us. Likewise, we reserve the right to resign as counsel at any time, upon advance written notice to you, and to the full extent permitted by the applicable Rules of Professional Conduct (“RPCs”) and other applicable court rules. If we resign as counsel of record for you in a litigation or administrative proceeding matter, we will request that you agree to any such withdrawal. Of course, confidential information gained by us in our representation of you will continue to be held in confidence pursuant to the applicable RPCs.

If you do not meet your obligations of timely payments of our legal fees and advanced expenses under this Engagement Letter and our Standard Terms of Engagement, we reserve the right to withdraw from this representation on that basis alone, subject, of course, to the applicable RPCs and any required judicial or administrative approvals. We also reserve the right to withdraw from our representation of Client if Client requests that Howard & Howard take any position or action that in our good-faith opinion requires or permits our withdrawal because of professional duties imposed upon us by the applicable RPCs or applicable court rules.

Upon termination of Howard & Howard’s representation of the Client, whether by the Client or Howard & Howard, you will remain liable for any unpaid legal fees and costs, and we reserve the right to request from you any past due amounts and additional fees and expenses in advance that may be incurred by Howard & Howard in transferring or transitioning any of your legal matters to new legal counsel before doing so.

9. **Future Services.** Normally, our relationship and this engagement will end when we have completed services on your matter and we send you a final bill for the matter. However, the above agreements and arrangements set forth in this Engagement Letter will also apply to services rendered for such future matters as we may mutually agree with you, in writing, will be handled by us.

If this Engagement Letter and the enclosed Standard Terms of Engagement, which are attached and are hereby incorporated as part of this Engagement Letter, are acceptable to you as your agreement to engage us as your attorneys, please execute the enclosed copy of this letter, and return it to us. Please note that unless we hear from you immediately to the contrary, we will assume we are entitled to proceed to represent you under the terms of this Engagement Letter and the enclosed Standard Terms of Engagement and that you agree to them.

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Southern Nevada Trades High School

October 7, 2022

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We appreciate the opportunity to serve as your attorneys. Please call us if you have any questions about this letter or its terms.

Very truly yours,

HOWARD & HOWARD ATTORNEYS PLLC



Mark Gardberg, Esq.

THE UNDERSIGNED HAS READ THE FOREGOING AND HOWARD & HOWARD'S STANDARD TERMS OF ENGAGEMENT, AND AGREE THAT THEY ACCURATELY SET FORTH OUR UNDERSTANDING.

Client

Client's Contact Details for Invoices (if different than on the first page of this letter):

By: _____
Name: _____
Title: _____
Date: _____

**PLEASE READ THIS DOCUMENT CAREFULLY.
IT IS PART OF YOUR AGREEMENT TO ENGAGE
HOWARD & HOWARD**

**HOWARD & HOWARD ATTORNEYS PLLC
STANDARD TERMS OF ENGAGEMENT**

As used below, the phrases “we”, “our”, and “us” refer to Howard & Howard Attorneys PLLC and its attorneys and employees. “You”, “your”, and “yours” refer to the entity or entities, school or schools, or person or persons, to which or whom Howard & Howard Attorneys PLLC is providing legal services as set forth in the Engagement Letter of which these Standard Terms of Engagement are a part of, and are incorporated by reference.

1. Legal Fees. Our rates are reviewed periodically and are subject to adjustment not more than annually, normally December 1 of each year, to account for increases in our cost of delivering legal services and for augmentation of a particular lawyer’s legal skill, expertise and experience. Any changes in hourly rates are applied prospectively and will be reflected in our statements of services rendered.

2. Budget Estimates and Cost Containment. We are sensitive to our clients’ interest in containing legal fees and costs. From time-to-time, we are asked to estimate the amount of legal fees and costs it will take to complete a matter. When we do so, you should understand that it is just an estimate we arrive at based on our past experience and professional judgment, is not a guarantee or a cap on fees or expenses. The final cost of a matter is quite often more or less than the estimated amount.

3. Expenses. We are not permitted to underwrite your expenses incurred in our representation of you. Therefore, you are responsible for reimbursing us for out-of-pocket expenses that we advance in our representation of you (such as, filing fees, recording, government certificates, travel etc.) and our internal charges (such as long distance telephone, facsimile transmissions, overnight or other courier service, photocopying, etc.). You are also responsible directly for the expense of third party service providers hired by us to render services on your behalf (such as court reporters, consulting or testifying experts, investigators, etc.), whether invoiced to us or to you. If we anticipate that we will incur substantial costs and expenses of this type in our representation, we may notify you and require you to make an advance cost deposit in addition to any advance fee deposit required of you.

4. Statements. Statements will be provided to you monthly for services rendered by us and costs incurred on your behalf by us during the preceding calendar month. Except for fixed fee arrangements, our monthly statements will include itemized descriptions of all work performed by us and expenses incurred or advanced by us on your behalf during the applicable billing period.

If you have any question about a statement or our fees, you should raise it promptly with us for discussion. If your question relates to only to a portion of a statement, we ask that you pay the remainder, which will not constitute a waiver of your questions or concerns about the portion not paid or in dispute.

5. Payment of Account. Our statements for services rendered and costs incurred are due and payable upon receipt. If a statement remains unpaid for more than forty-five (45) days, we reserve the right upon notice to you to withhold further services until the statement is paid and, in addition, we may decline further services following payment unless a satisfactory deposit is made by you towards the payment of future services and costs. You agree that unpaid fees and disbursements/costs will accrue interest at the maximum rate permitted under the laws of the State of Nevada, not to exceed one percent (1%) per month from the beginning of the second month in which they become overdue.

6. Attorney's Lien. If a monetary judgment or award is made in your favor, you agree that we shall have a lien on the proceeds to the extent of any unpaid fees, disbursements or other charges. All payments by way of recovery, award, settlement or the like to you from third parties shall be made jointly payable to you and us.

7. Inquiries. Any questions concerning the terms of your account, statements received, or line items for legal services rendered or costs incurred should be directed promptly to the principal attorney handling your matter, or to our Chief Executive Officer. We will seek to provide the billing information you require and in a format that best suits your needs.

8. Retention of Client Files. After our engagement as to this or any matter ends, we will return the file materials provided by you to us upon your request. You agree that we may retain at your expense copies of the file materials. You also agree that any materials left with us after the engagement ends may be retained or destroyed, at our discretion, consistent with our document retention policies. To the extent that you request us to retain any materials, and we agree to do so, you agree to pay all storage costs we incur to retain the files. If you request documents from those files, copies that we generate may be made at your expense.

If we receive a subpoena for your files in any matter in which you are a party, you agree to pay our reasonable and necessary costs and attorneys' fees for compliance, and that such attorneys' fees also shall include attorneys' fees computed by multiplying the time incurred by the hourly rate regularly charged by Howard & Howard for each Howard & Howard attorney who performs services in connection with complying with the subpoena.

Our own files pertaining to your matter will be retained or destroyed at our discretion. For a number of reasons, including minimizing storage space, we reserve the right to destroy or otherwise dispose of documents, files, or other materials we keep after seven (7) years, unless we give you notice in advance that we are going to destroy them after a shorter period of time.

9. Relationship. Substantive aspects of our representation will be discussed with you and documents will be provided to you in advance, except in cases of emergency or your

unavailability. Your communications with us are protected by our ethical obligation of confidentiality, as well as by the evidentiary rule of attorney-client privilege. Hence, you should be open and forthright with us so that we have all information relevant to our representation. Please note that in instances in which we represent a legal entity (corporation, limited liability company, partnership, etc.), our attorney-client relationship is with the entity alone and, unless otherwise stated in our accompanying engagement letter, is not with its officers, directors, shareholders, partners, members or affiliates. Similarly, when we represent a party on an insured claim, our attorney-client relationship is with the insured, and not the insurance company, even though we may be approved or paid by the insurance company.

In order for Howard & Howard to effectively represent your interests, it is important for you to understand that you have an affirmative obligation to assist and to cooperate with Howard & Howard during this engagement and representation. Thus, to the extent Howard & Howard needs certain information and documents to represent you effectively, you agree that you have an obligation to provide necessary information and requested documentation promptly to the appropriate firm representative, whether an attorney, paralegal, or secretary. You and your representatives must be available to work with Howard & Howard attorneys in preparation for meetings and other events and to discuss issues as they arise throughout this matter. You agree that your noncooperation will be grounds for Howard & Howard's withdrawal, and thus it is essential that we maintain open communication. Hence, you should be open and forthright with us so that we have all information relevant to our representation of you.

10. Electronic Communications. Facsimile transmission, electronic mail (e-mail), and cellular telephones are commonly used in our communications with clients. It is possible that those means of communication could be misrouted or intercepted and thereby result in an inadvertent disclosure of confidential information to third parties. We will assume that, because of the speed and efficiency of such electronic communications, you consent to our utilizing them unless you instruct us not to do so.

Please be advised that, to the extent you use another person or entity's email system, hardware, server or other system, telephone, smartphone, tablet or other device to communicate with us, confidentiality of our communications and the protections of the attorney-client privilege or other privileges may be lost. For example, employers often have policies reserving a right of access to employees' e-mail correspondence via the employer's e-mail account, computers or other devices, such as smartphones and tablet devices, from which their employees may correspond. The employer's policies may allow the employer to access and obtain an employee's communications from the employer's e-mail server if the employee uses a business e-mail address, or from a workplace computer or other employer-owned telecommunications device on which the e-mail is stored, even if the employee has used a separate, personal e-mail account. The confidentiality of electronic communications between you and us may also be jeopardized, or the attorney-client privilege lost as to our communications, in other settings as well. Third parties may have access to your attorney-client e-

mails when you receive or send e-mails via a public computer, such as a library or hotel computer, or via a borrowed computer. Third parties also may be able to access our confidential communications when you use a computer or other device available to others. So, we caution you against using these other email systems, hardware, servers or other systems, telephones, smartphones, tablet or other device to communicate with us.

Please contact us if, at any time, you have questions or concerns about confidentiality and the protections of the attorney-client privilege or other privileges, or how they may be lost.

11. Relationship with Other Clients. We are a full-service firm with multiple offices. From time-to-time a lawyer in one of our offices may be asked to represent a client in a matter that involves another client we represent in an unrelated matter. The situation occurs, for example, if one of our lawyers represents a borrower in a commercial loan transaction, and another one of our lawyers is asked to represent a client in negotiating a contract with the borrower that is unrelated to the loan transaction. You agree that we are permitted to represent both clients in such situations (whether they are clients as of the date of your engagement letter with us or new clients) as long as we are satisfied we can provide independent professional judgment to each client in their distinct matters, the clients' interests in the matter between them are not antagonistic and adversarial, and we do not have any confidential or privileged information related to the new matter. From time-to-time, too, we may be asked to represent clients who are competitors of each other in the same industry or field of business, such as banks, retail merchants, land developers, charter schools, etc. Just as you may refer a matter to a law firm that competes with us, we are permitted to represent clients (including private schools, charter schools, and other educational organizations) who are competitors as long as they are not directly adverse to or opposing each other in the matters in which we represent them, and we are satisfied we can provide independent professional judgment to each client.

12. Forum for Litigation of Disputes, Collection of Fees. You and we agree that the litigation of any dispute or disagreement between you or us arising under, out of, in connection with, these terms, our Engagement Letter, our provision of legal services to you (including malpractice claims), or the relationship between you and us will be brought solely in the state or federal court for Clark County, Nevada. You and we also unconditionally and irrevocably agree to the personal jurisdiction of such courts, and agree not to bring any claim in any other forum and not to plead or otherwise attempt to defeat the litigation of such a matter in such court whether by asserting that such court is an inconvenient forum, lacks jurisdiction (personal or other) or otherwise. You further agree that in the event that we are required to institute legal proceedings to collect any unpaid legal fees and or expenses owed by you to us, we will be entitled to collect our costs and attorney fees incurred by us in collecting these unpaid amounts, and that such attorneys' fees shall include attorneys' fees computed by multiplying the time incurred by the hourly rate regularly charged by us for each of our attorneys who performs services in connection with collecting the amounts owed.

13. Audit Letter Responses. If you request that we provide your auditors certain information in connection with the auditors' examination of your financial statements, you agree that we can charge for our services in doing so. Our responses will only be made in accordance with the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975), including all of the limitations contained therein. You agree not to request information in addition to that provided for in the ABA Statement of Policy, and consent to our providing responses only in accordance with this ABA Statement of Policy.

14. Confidentiality of Protected Health Information (HIPAA). If our representation of you requires us to receive and use health information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA), we shall protect this information as required of business associates under the HIPAA privacy and security standards.

15. Federal Tax Advice. Unless specifically requested by you and agreed by us in writing, we will not provide any advice that is intended or written to be used, and without such a specific request or agreement, it cannot be used, for the purpose of (a) avoiding federal tax penalties that may be imposed on a taxpayer; or (b) promoting, marketing, or recommending to another party any tax-related matters addressed by us.