



MAGNOLIA PUBLIC SCHOOLS

Board Of Directors

Board Agenda Item	II B
Date:	09.10.2015
To:	Magnolia Board of Directors
From:	Caprice Young, Ed.D., CEO & Superintendent
Staff Lead:	Caprice Young, CEO & Superintendent
RE:	Legal Counsel to the Board

Proposed Board Recommendation

I move that the Board approves retainer agreement with the Law Offices of William M. Nassar & Associates in the likely event that expenses exceed \$25,000.

Background

In 2014-15, Magnolia established a contract with the Law Offices of William M. Nassar & Associates to provide legal advice to the board regarding governance and other issues associated with the leadership of the not-for-profit organization operations. This revised arrangement allows Magnolia to continue to receive services at a rate \$75 per hour lower (\$310 versus \$385) in exchange for maintaining a \$10,000 retainer. Because legal services are accumulated on an as needed basis, this contract is not set at an amount certain. Given the board's use of legal services over the previous six-month period, it is likely that this arrangement will exceed the signature authority of the CEO requiring board approval.

Budget Implications

None. Already included in the Board approved budget.

Staff Originator

Caprice Young, CEO and Superintendent

LAW OFFICE OF WILLIAM M. NASSAR & ASSOCIATES

1461 Ford Street, Ste. 203

Redlands, CA 92373

(909) 307-2000

August 11, 2014

Dear Doctor Caprice Young:

The following represents the new contract effective September 1, 2015 that you and I discussed regarding my fees and discounts afforded to Magnolia Schools. This has been in offered in the spirit of cooperation on the basis the current bill would be brought current by September 4, 2015 and Magnolia would maintain \$10,000.00 on deposit with the Nassarlaw IOLTA account, by September 18, 2015.

WILLIAM M. NASSAR (“Attorney”) and **UMIT YAPANEL** and **Dr. Caprice Young** on behalf of **MAGNOLIA FOUNDATION** (“Client”) hereby agree that Attorney will provide legal services to Client on the terms set forth below.

1. CONDITIONS. This Agreement will not take effect, and Attorney will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the initial deposit called for under Paragraph 4.

2. SCOPE OF SERVICES. Client hires Attorney to provide legal services in the following matter: to serve as advisory counsel for the Magnolia Schools dealing with governmental agencies and overseeing internal review of operations, counsel to the Board of directors and CEO of Magnolia Schools. Attorney will provide those legal services reasonably required to represent Client. Attorney will take reasonable steps to keep Client informed of progress and to respond to Client’s inquiries. This Agreement does not cover litigation services of any kind, whether in court, arbitration, administrative hearings, or government agency hearings. Separate arrangements must be agreed to for those services. Services in any matter not described above will require a separate written agreement.

3. CLIENT’S DUTIES. Client agrees to be truthful with Attorney, to cooperate, to keep Attorney informed of any information or developments which may come to Client’s attention, to abide by this Agreement, to pay Attorney’s bills on time and to keep Attorney advised of Client’s address, telephone number and whereabouts. Client will assist Attorney in providing information and documents necessary for the representation in the described matter.

4. DEPOSIT. Client agrees to pay Attorney an initial deposit of \$10,000.00 upon signing of this Retainer.

The hourly charges will be charged against the deposit. The initial deposit, as well as any future deposit, will be held in a trust account. Client authorizes Attorney to use that fund to pay the fees and other charges as they are incurred. Payments from the fund will be made upon remittance to Client of a billing statement. Client acknowledges that the deposit is not an estimate of total fees and costs, but merely an advance for security.

The client shall always maintain \$10,000.00 in the Attorney's trust account in order to receive the substantial discounts that Attorney is providing.

Client agrees to pay all deposits after the initial deposit within **10** days of Attorney's demand. Unless otherwise agreed in writing, any unused deposit at the conclusion of Attorney's services will be refunded.

5. LEGAL FEES AND BILLING PRACTICES. Client agrees to pay by the hour at Attorney's prevailing rates for all time spent on Client's matter by Attorney's legal personnel. Current hourly rates for legal personnel are as follows:

Senior partners-----	385/hour reduced rate	\$310.00
Partners-----	385/hour reduced rate	\$285.00.
Associates-----	225/hour reduced rate	\$200.00
Paralegals-----	160/hour	
Law clerks-----	110/hour	

The rates on this schedule are subject to change on 30 days' written notice to client. If Client declines to pay any increased rates, Attorney will have the right to withdraw as Attorney for Client.

The time charged will include the time Attorney spends on telephone calls relating to Client's matter, including calls with Client and other parties and attorneys. The legal personnel assigned to Client's matter may confer among themselves about the matter, as required and appropriate. When they do confer, each person will charge for the time expended, as long as the work done is reasonably necessary and not duplicative. Likewise, if more than one of the legal personnel attends a meeting or other proceeding, each will charge for the time spent. Attorney will charge for waiting time and for travel time, both local and out of town.

Time is charged in minimum units of one tenth (.1) of an hour. The following have higher minimum charges:

Telephone calls:	.20
Letters:	.50
Other:	N/A

6. COSTS AND OTHER CHARGES.

(a) In general, Attorney will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include fees fixed by law or assessed by public agencies, long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses and consultants' fees and other similar items. Except for the items listed below, all costs and expenses will be charged at Attorney's cost.

In-office photocopying	.25 page
Facsimile charges	.50 page
Mileage	.56.5 mile

(b) Out of town travel. Client agrees to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by Attorneys personnel. Client will also be charged the hourly rates for the time legal personnel spend travelling.

(c) Consultants and Investigators. To aid in the representation in Client's matter, it may become necessary to hire consultants or investigators. Client agrees to pay such fees and charges. Attorney will select any consultants or investigators to be hired, and Client will be informed of persons chosen and their charges.

7. **BILLING STATEMENTS.** Attorney will send Client periodic statements for fees and costs incurred. Each statement will be payable within 10 days of its mailing date. Client may request a statement at intervals of no less than 30 days. If Clients requests, Attorney will provide one within 10 days. The statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount.

8. **LIEN.** Client hereby grants Attorney a lien on any and all claims or causes of action that are the subject of Attorney's representation under this Agreement. Attorney's lien will be for any sums owing to Attorney for any unpaid costs, or attorneys' fees, at the conclusion of Attorney's services. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. The effect of such a lien is that Attorney may be able to compel payment of fees and costs from any such funds recovered on behalf of Client even if Attorney has been discharged before the end of the case. Because a lien may affect Client's property rights, Client may seek the advice of an independent lawyer of Client's own choice before agreeing to such a lien. By initialing this paragraph, Client represents and agrees that Client has had a reasonable opportunity to consult such an independent lawyer and—whether or not Client has chosen to consult such an independent lawyer—Client agrees that Attorney will have a lien as specified above.

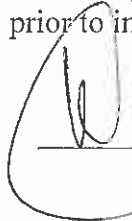
_____ (Client initials here)  _____ (Attorney initials here)

9. **ARBITRATION.** Any dispute between the parties [Attorney and Client] regarding the construction, application or performance of any services under this Agreement, and any claim arising out of or relating to this Agreement or its breach, including, without limitation, claims for breach of contract, professional negligence, breach of fiduciary duty, misrepresentation, fraud and disputes regarding attorney fees and/or costs charged under this Agreement (except as provided in paragraph B below) shall be submitted to binding arbitration upon the written request of one party after the service of that request on the other party. The parties shall appoint one person to hear and determine the dispute. If the parties cannot agree, then the Superior Court of San Bernardino County shall choose an impartial arbitrator whose decision shall be final and conclusive on all parties. Attorney and Client shall each have the right of discovery in connection with any arbitration proceeding in accordance with Code of Civil Procedure Section 1283.05. The cost of the arbitration, excluding legal fees and costs, shall be

borne by the losing party or in such proportion as the arbitrator shall decide. The sole and exclusive venue for the arbitration and or any legal dispute shall be San Bernardino County, California.

By initialing below, Client and Attorney confirm that they have read and understand subparagraphs A above, and voluntarily agree to binding arbitration. In doing so, Client and Attorney voluntarily give up important constitutional rights to trial by judge or jury, as well as rights to appeal. Client has the right to have an independent lawyer of Client's choice review these arbitration provisions, and this entire agreement, prior to initialing this provision or signing this Agreement.

 CY (Client Initial Here)


____ (Attorney Initial Here)

10. DISCHARGE AND WITHDRAWAL. Client may discharge Attorney at any time. Attorney may withdraw with Client's consent or for good cause. Good cause includes Client's breach of this Agreement, refusal to cooperate or to follow Attorney's advice on a material matter or any fact or circumstance that would render Attorney's continuing representation unlawful or unethical. When Attorney's services conclude, all unpaid charges will immediately become due and payable. After services conclude, Attorney will, upon Client's request, deliver Client's file, and property in Attorney's possession, whether or not Client has paid for all services.

11. DISCLAIMER OF GUARANTEE AND ESTIMATES. Nothing in this Agreement and nothing in Attorney's statements to Client will be construed as a promise or guarantee about the outcome of the matter. Attorney makes no such promises or guarantees. Attorney's comments about the outcome of the matter are expressions of opinion only. Any estimate of fees given by Attorney shall not be a guarantee. Actual fees may vary from estimates given.

12. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

13. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

14. MODIFICATION BY SUBSEQUENT AGREEMENT. This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.

15. EFFECTIVE DATE. This Agreement will govern all legal services performed by Attorney on behalf of Client commencing with the date Attorney first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Attorney the reasonable value of any services Attorney may have performed for Client.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE ATTORNEY FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. THE CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

DATED: 8/31/2015

Caprice Young, Ed.D.

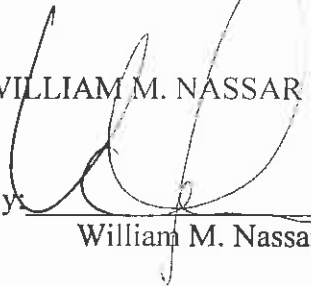
Umit Yapanel
Board President
Or

Dr. Caprice Young
Magnolia Public Schools

Address: 13950 Milton Ave Suite 200B
Westminster, Ca 92683
Telephone: 714-892-4192

DATED: 8/31/15

WILLIAM M. NASSAR & ASSOCIATES

By 
William M. Nassar