

MEMORANDUM

TO: Board of Trustees

FROM: Tim Callicrate
Board Chairman

Josh Nelson
General Counsel

SUBJECT: Case No. CV18-01564 Mark E. Smith v. IVGID
Review, discuss and possibly approve a \$10,000 retainer to
Erickson, Thorpe & Swainston, Ltd.

DATE: March 31, 2021

I. RECOMMENDATION

That the Board of Trustees makes a motion to authorize a \$10,000 retainer to Erickson, Thorpe & Swainston, Ltd. for legal services in Mark E. Smith v. IVGID, Case No. CV18-01564, under the rates and other terms and conditions set forth in the parties' existing engagement agreement.

II. BACKGROUND

Erickson, Thorpe & Swainston, Ltd. provides special counsel litigation services to IVGID in Mark E. Smith v. IVGID, Case No. CV18-01564. The Board of Trustees recently resolved outstanding balances owed to ETS. When requesting Board approval of a portion of these balances, Staff indicated that it would be bringing requests for future spending approval to the Board for consideration.

This item seeks an additional \$10,000 retainer for ETS. This ensures that IVGID can defend itself in the litigation going forward. Consistent with prior discussions, IVGID will continue to prioritize exploring ways to settle this case with the plaintiff. Any future spending requests will be brought to the Board for consideration and approval.