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January 23, 2014

The Honorable David Gorecki
Mayor, City of St. Leo
100 Washington Street
St. Leo, Minnesota 56264-9012

Dear Mayor Gorecki:

The Office of the State Auditor (OSA) reviewed the City of St. Leo's (City) handling of City checking accounts. This letter will provide the City with recommendations to bring the City's handling of the accounts into compliance with Minnesota law.

The City has a number of checking accounts. The City maintains checking accounts for the City's General Fund, for each of the City's utility funds (water, sewer, and garbage), and for the City's Community Center. The checks for the City's General Fund account require three signatures. Until just recently, the checks for the City's three utility accounts required only two signatures.¹ The checks for the Community Center require only one signature.²

The City Council does not approve in advance most of the expenditures made from the Community Center checking account. Expenditures from the account have included supplies for the Community Center, such as vending machine supplies, coffee, and napkins; costs for the maintenance of the Community Center; and a donation to the City's first responders.³

Minnesota law requires city checks to be signed by the mayor, the clerk, and the treasurer.⁴ As a general rule, a check must not be issued until the claim to which the check relates has "been

¹ After discussing the matter with the OSA, the City's bookkeeper informed the OSA that she will be obtaining three signatures on the utility checks.

² The City Clerk and a City Council Member are authorized as signatories on the Community Center account. As of January 2, 2014, the Community Center checking account balance was almost \$2,000. The City Council meeting minutes for January 10, 2011, authorize the creation of a checking account for the Community Center. The minutes are silent regarding the number of signatures that would be required on the checks for the Community Center account. See City Council Meeting Minutes for January 10, 2011.

³ The OSA was informed that the City Council approved a donation of \$2,132.75 in August 2012 to the City's first responders for a defibrillator. A city council has the authority to make a grant to an emergency medical services agency that serves the city. See Minn. Stat. § 465.037. The OSA was also informed that the City Council approved a payment of \$1,239.48 in October 2012 for painting and cleaning at the Community Center.

⁴ See Minn. Stat. § 412.271, subs. 1 and 3 ("No disbursement of city funds, including funds of any municipal liquor dispensary operated by the city, shall be made except by an order drawn by the mayor and clerk upon the treasurer." "Each order shall be so drawn that when signed by the treasurer in an appropriate space, it becomes a check on the city depository.").

audited and allowed by the council.”⁵ The signatures of the mayor and clerk are normally obtained at the city council meeting where the payments are approved. Once these two signatures are obtained, the treasurer signs the checks.

If a city has annual audited financial statements prepared and attested to by an independent certified public accountant or the state auditor, the city council may adopt a resolution delegating its authority to pay certain claims against the city to a city administrative official, such as the city clerk.⁶ If the payment of claims is delegated, the city must have implemented “internal accounting and administrative control procedures to ensure the proper disbursement of public funds.”⁷ In addition, a list of all claims paid under the established procedures must be presented to the city council for informational purposes at the next regularly scheduled meeting after payment of the claim.⁸

The City of St. Leo does not prepare annually audited financial statements. As a result, the City may not delegate the payment of claims to the City Clerk. The OSA knows of no authority for the City to maintain checking accounts that do not comply with the statutory requirements for the expenditure of City funds.

Minnesota law provides a number of ways that expenditures may be made when it is difficult to obtain prior city council approval for the expenditures. For example, a city council may establish one or more imprest funds for the payment in cash of any proper claim against the city which is impractical to pay in any other manner.⁹ These funds are often referred to as petty cash funds. However, these funds are cash funds, not separate checking accounts. For further guidance on imprest funds, a copy of the OSA’s Statement of Position on Petty Cash (Imprest) Funds is enclosed.¹⁰

Cities also have the authority to make purchases using credit cards issued to the city.¹¹ For further guidance on this purchasing option, a copy of the OSA’s Statement of Position on Credit Card Use and Policies is enclosed.

In addition, a city may reimburse an employee for city expenses made with an employee’s personal funds. To do so, the city should require the employee to complete an expense report and to submit supporting documentation (receipts) for the purchases. The employee’s request for reimbursement is then reviewed and approved, if appropriate, at the next city council meeting.

⁵ See Minn. Stat. § 412.271, subd. 1.

⁶ See Minn. Stat. § 412.271, subd. 8.

⁷ *Id.*

⁸ *Id.*

⁹ See Minn. Stat. § 412.271, subd. 5.

¹⁰ The OSA’s Statements of Position are also available on the OSA’s website, www.auditor.state.mn.us.

¹¹ See Minn. Stat. § 471.382.

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As a result, necessary Community Center purchases can be made without a separate Community Center checking account requiring only one signature. For additional guidance on paying City claims, a copy of the League of Minnesota Cities' (LMC) Information Memo on Procedures for Paying City Claims is enclosed.¹²

The OSA is also aware that, on occasion, one or more of the three signatures required on City checks have been obtained before the payee or the amount of the check was written on the checks. The pre-signing of checks has apparently occurred when one or more of the three signatories were not going to be available to sign the checks following approval by the City Council.

The signing of blank checks is not a good practice. When more than one person signs a check, each person is confirming that the claim was approved for payment. Pre-signing checks defeats this statutorily-mandated safeguard.

There is also no need to pre-sign checks. Minnesota law requires a city council to choose an acting mayor at its first meeting each year.¹³ The law authorizes the acting mayor to perform the duties of mayor in the mayor's absence. Therefore, if the mayor is unavailable to sign a check, the acting mayor would be able to act in the mayor's absence.¹⁴ Similarly, the law authorizes the appointment of a deputy clerk and a deputy treasurer who may serve in the absence of the clerk or treasurer.¹⁵

The OSA recommends that the City bring its checking accounts into compliance with Minnesota law. The OSA also recommends that the City stop the practice of pre-signing checks.

If you have any questions, or if the OSA can provide you with additional assistance, please feel free to contact me at 651-297-5853 or Nancy.Bode@osa.state.mn.us.

Sincerely,

/s/ Nancy J. Bode

Nancy J. Bode
Assistant Legal Counsel

Enclosures

¹² The Information Memo is also available on LMC's website, www.lmc.org. The City may also want to review Chapter 23 (Expenditures, Purchasing, and Contracts) in LMC's Handbook for Minnesota Cities, available on LMC's website.

¹³ See Minn. Stat. § 412.121.

¹⁴ The signature cards at the bank will need to include the acting mayor as an authorized signatory on the account.

¹⁵ See Minn. Stat. §§ 412.141 (deputy treasurer) and 412.151, subd. 1 (deputy clerk).

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cc. The Honorable Timothy Antony, City Council Member
The Honorable Anna Berghorst, City Council Member
The Honorable Seth DeVos, City Council Member
Ms. Shirley Jelen, City Clerk
Ms. Kayla Antony, City Treasurer
Ms. Nancy Borman, City Bookkeeper