

**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 between the City of Minot, North Dakota (“City”), a municipal corporation, and \_\_\_\_\_ (“\_\_\_\_\_”) (each a “Party” and collectively “the Parties”).

**RECITALS**

**WHEREAS**, The City sought to contract with legal counsel to provide municipal legal services pertaining to the City’s criminal prosecution portfolio;

**WHEREAS**, \_\_\_\_\_, by and through Attorney \_\_\_\_\_ (“Attorney \_\_\_\_\_”), has agreed to provide municipal legal services on a contract basis for the City;

**WHEREAS**, Compensation for \_\_\_\_\_’s municipal legal services will be at a rate of \_\_\_\_\_ per month for the legal services provided.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and agreements set forth herein, which covenants and agreements constitute good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Retention of Counsel.** The City hereby retains \_\_\_\_\_ to act as legal counsel for the benefit of the City with respect to the municipal legal services described in Scope of Services section.
2. **Independent Contractor.** \_\_\_\_\_ shall perform all municipal legal services required under this Agreement as an independent contractor, and shall remain at all times as to the City, a wholly independent contractor with only such obligations as are required under this Agreement.
3. **Scope of Services.** \_\_\_\_\_ shall provide municipal legal services to the City. For purposes of this Agreement, “municipal legal services” shall be defined, as follows:
  - a. Prosecuting all violations of the Minot Municipal Code of Ordinances in Minot Municipal Court, the North Central District Court, and the North Dakota Supreme Court.

- b. Reviewing cases forwarded to the City Attorney's Office for decisions as to the filing of criminal charges, with input from the Minot Police Department, and request additional investigation as required;
- c. Assisting with, reviewing, and/or preparing search warrants with the Minot Police Department, with the understanding that some of this work may occur outside of regular business hours;
- d. Preparing and providing discovery to Defendants charged with violations of Minot City Ordinances;
- e. Managing all cases concerning violations of Minot City Ordinances;
- f. Representing the City at all arraignments, pretrial hearings, status conferences, motions, bench and jury trials, bail bond hearings, sentencing and any other post-conviction hearings, such as restitution hearings, that concern violations of Minot City Ordinances;
- g. Examining, evaluating, and providing representation for all appeals to appellate courts from cases involving prosecution by the City;
- h. Conducting plea bargain negotiations and making appropriate plea offers consistent with Minot City Ordinances and the North Dakota Century Code as well as with the City Attorney's Offices regular standards and policies;
- i. Preparing and presenting legal memoranda, subpoenas, jury instructions, and other related materials as needed concerning violations of Minot City Ordinances;
- j. Making appropriate bail bond and sentencing recommendations to the Court;
- k. Advising the Minot Police Department on the conduct of investigations, trial preparation, seizures, and related matters;
- l. Providing legal research, training, and assistance to the Minot Police Department on criminal matters as needed, including statutory interpretation, enforcement issues, and case decisions;
- m. Meeting with witnesses and victims of crimes and answering their questions and concerns, especially in regard to their rights under Marsy's Law;
- n. Fulfilling the City's responsibilities under Marsy's Law;
- o. Assisting the City Attorney's Office with legal and policy issues concerning prosecution of Minot City Ordinances periodically;

- p. Creating and maintaining appropriate files; and
  - q. Performing other duties related to prosecution of Minot City Ordinances as required.
4. **Title.** For purposes of this Agreement, Attorney \_\_\_\_\_ of \_\_\_\_\_ will be recognized as a Special Assistant City Attorney and shall report to the City Attorney. Upon the request of the City Attorney, \_\_\_\_\_ shall provide a detailed report on the contract to appraise the City Attorney of the status of the criminal prosecution portfolio and any significant matters concerning the portfolio.
  5. **Compensation.** In exchange for, and in consideration of, the execution of this Agreement, \_\_\_\_\_ shall provide municipal legal services and, in exchange, the City shall compensate \_\_\_\_\_ at the rate of \_\_\_\_\_ per month.
  6. **Other Charges and Costs.** \_\_\_\_\_ may incur various costs and expenses in rendering the municipal legal services required by this Agreement, which, if customary and necessary for the performance of municipal legal services hereunder, shall be reimbursable. For purposes of this Agreement, “customary and necessary” costs and expenses means the cost of paper, postage, and certified documents.

The City agrees to reimburse \_\_\_\_\_ for other expenses such as expert or consultant fees or litigation expenses such as transcripts, but the expenses shall only be reimbursed if \_\_\_\_\_ received prior written consent from the City Attorney. If prior written consent was obtained, the expenses shall be reimbursed at the actual cost thereof.

All municipal legal services (as defined by the Scope of Services section), travel costs, and miscellaneous expenses are included is \_\_\_\_\_’s monthly compensation set forth in paragraph 4 of this agreement.

7. **Billing.** \_\_\_\_\_ shall prepare a monthly statement for compensation which shall include a brief description of the activities and hours worked. The statement shall also indicate any reimbursable charges and costs, which shall be separately itemized.



Service of notice by personal service shall be deemed to have been given as of the date of such personal service. Notice given by deposit with the United States Postal Service shall be deemed to have been given two (2) consecutive business days following the deposit of the same into the custody of said Postal Service. The City Attorney and \_\_\_\_\_ may, from time to time, by written notice to the other, designate a different address or person which shall be substituted for that specified above.

13. **Conflicts of Interest.** \_\_\_\_\_ has no present or contemplated employment which is adverse to the City and agrees she shall not represent clients in matters of either litigation or non-litigation against the City. In the event of a conflict of interest arising in the representation of the City, \_\_\_\_\_ shall seek, where available, waivers from each client with regard to such representation or legal services. If real conflicts exist, \_\_\_\_\_ will withdraw from representing both clients in the matter.
14. **Interpretation of Agreement and Forum.** This Agreement shall be construed and interpreted both as to the validity and performance of the Parties in accordance with the laws of the State of North Dakota. In the event of any dispute hereunder the forum shall be in District Court, Ward County, North Dakota.
15. **Complete Agreement.** This Agreement sets forth the full and entire understanding of the Parties regarding contract based municipal legal services and it supersedes any and all prior oral or written agreements or discussions.
16. **Modifications.** This Agreement may not be modified in any respect except in a writing which states the modifications and is signed by both Parties.

IN WITNESS WHEREOF, the Parties have hereto executed this Agreement as of the effective date of the Agreement.

**CITY OF MINOT, NORTH DAKOTA**

\_\_\_\_\_  
Shaun Sipma  
Mayor

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David Lakefield

Finance Director

**[CONTRACTING ATTORNEY/FIRM]**

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