

PERSONAL SERVICES AGREEMENT FOR LEGAL ADVICE PROGRAM

This Agreement is made between:

The League of Oregon Cities,
an Oregon Municipal Corporation
(LOC)

and

The City of Boardman
(City)

as an engagement for the provision of
Limited Legal Advice and Services

INDUCEMENTS

WHEREAS, the LOC's developed a Legal Advice Program ("Program"), beginning July 1, 2024, to provide limited legal advice, under the terms and conditions described in this Agreement, to cities located in Eastern Oregon, specifically Regions 11 and 12 as those regions have been established by the LOC; and

WHEREAS, the City wishes to participate in the LOC's Program and receive free limited legal advice in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the inducements, covenants, agreements, and conditions herein contained, the parties (this term is used throughout the Agreement to mean the LOC and the City) agree as follows:

- 1. Purpose.** The purpose of this Agreement is for the LOC to provide professional, free, and limited legal services to the City, as described herein.
- 2. Term.** The term of this Agreement shall be effective July 1, 2024, or upon the signature of all parties, whichever date is later, and expire on June 30, 2027, unless terminated in accordance with Paragraph 10 of this Agreement. Upon mutual agreement of the parties, the term of this Agreement may be extended an unlimited number of times, with each term extension lasting no more than three years. Such extensions may be made subject to the terms and conditions hereunder and to any other terms and conditions as the LOC may determine to be necessary or advisable.

- 3. Services to be Provided by the LOC.** The LOC shall provide legal services to the City in accordance with the following:
- A. For each fiscal year within the term of this Agreement, fiscal year being defined to mean July 1 to June 30, the LOC shall provide the City 15 hours of free legal advice.
 - a. The LOC shall track the legal advice it gives to the City in thirty-minute increments.
 - b. Upon request by the City, the LOC shall provide the City an accounting of the legal services it has used to date and the number of available hours of free legal advice the City has left for the relevant fiscal year.
 - B. The LOC shall not assist or represent the City in any litigation, mediation, adjudication proceedings, administrative hearings, quasi-judicial hearings, appellate proceedings, or any other matter that is reasonably likely to result in or lead to one of the events described herein. This provision does not impact or prevent a city from requesting amicus assistance by the LOC via the LOC's Legal Advocacy Committee.
 - C. The LOC shall not assist, represent or provide advice to the City in any matter that involves another LOC member or has the potential to impact another LOC member.
 - D. The LOC shall not assist, represent or provide advice to the City on any intracity disputes. This provision does not impact or prevent the LOC from performing its normal training, facilitation or medication services.
 - E. The LOC shall not attend or represent the City, or any of its boards and commissions, at any public meeting or hearing. This provision does not impact or prevent the LOC from performing its normal representative duties before the State Legislature or State agencies as part of its overall lobbying efforts on behalf of all Oregon cities and the protection of home rule. However, at the LOC's sole discretion, if the LOC believes it has the staffing resources available to do so, the LOC may attend a city council meeting, via telephone or video conference, to provide answers to the council on work the LOC has performed on behalf of the city.
 - F. The LOC shall not provide the City any employment law advice, unless the advice is related to wage and hour matters. Any questions or inquiries received by the LOC that relate to employment law, except for wage and hour advice, will be directed to CityCounty Insurance Services.
 - G. The LOC shall not provide the City any advice related to franchises or telecommunication matters, including reviewing contracts, or potential contracts, between the City and any company or entity wishing to secure a franchise from the city or provide telecommunication services to, within or through the city.

- H. The LOC shall furnish all labor, materials, supplies, equipment, office space, shop space, reference and background data and information, and all other things necessary to the performance of the work described in this Agreement.
- I. Work performed by the LOC shall meet or exceed the standard of professional quality of the municipal legal profession in the State of Oregon at the time such work was performed. Pursuant to the standard of professional care owed to the City, the LOC shall endeavor to keep the City fully informed about all material matters relating to the legal services provided under this Agreement.
- J. The City acknowledges that information generated in the course of representation of a governmental body may be subject to the Oregon Public Records Law, Chapter 192 of the Oregon Revised Code. The LOC will exercise professional judgment and care when creating documents or other media intended to be confidential or privileged attorney-client communications that may be subject to disclosure under the Oregon Public Records Law. The LOC shall mark confidential or privileged attorney-client communications as confidential. This subsection shall not be interpreted to limit the LOC's duty to provide full disclosure to the City as necessary in the LOC's judgement to represent the City with due professional care or as required by applicable law or disciplinary rules.
- K. If the LOC is asked to provide legal advice that requires it to work past the fiscal years' relevant to this Agreement, the LOC and the City will reach a mutually agreed upon time for the completion deadline and use of available Program hours.
- L. LOC reserves the right to refuse to assist a City on a given project. The refusal is to be based on one of the following:
 - a. LOC attorneys determine that they are not qualified to provide legal advice on the project because the project requires an attorney with a particular specialty; or
 - b. LOC attorneys determine that given existing staffing schedules, project commitments, and other deadlines, the attorneys do not have adequate time to meet the City's needs.

4. Personal Services. The parties agree that this is an agreement for personal services and that the LOC shall be the entity who will fulfill the services under this Agreement.

5. Independent Contractor. The LOC shall perform the work required by this Agreement as an independent contractor. The LOC's duties will be performed with the understanding that it has special expertise as to the services which it is to perform.

- A. Although the City reserves the right to determine and modify the work to be performed and to evaluate the quality of the completed work product, the City cannot control the means or manner of the LOC's performance.
 - B. The LOC is responsible for determining the appropriate means and manner of performing the work.
 - C. The LOC is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.265.
 - D. The LOC is not to be deemed an employee or agent of the City and has no authority to make any binding commitments or obligations on behalf of the City except to the extent expressly provided in this Agreement.
- 6. Compensation.** The annual LOC membership dues the City pays the LOC shall cover the services the LOC provides the City under this Program.
- 7. Obligations of the City.** The City's obligations under this Agreement include:
- A. The City shall notify its appointed City Attorney of this Agreement, as well as the Resolution that approved the Agreement, prior to utilizing the LOC's services under this Agreement. The City shall provide the LOC with the name and contact number of its City Attorney.
 - B. The City shall designate no more than two people who are employed by or elected to represent the City that may communicate with the LOC regarding legal questions. The City shall provide the names of these two people to the LOC prior to utilizing the LOC's services under this Agreement.
 - C. The City shall not ask the LOC to perform any services the LOC is specifically prohibited from providing under Section 3 of this Agreement.
- 8. Records and Inspection**
- A. All drawings, specifications, data, maps, photographs, renderings, documents, reports, recordings, computer files (including but not limited to programs), and other like materials furnished by the City whether the project is completed or not are the City's property. The LOC is granted a limited license to use such materials in conjunction with work under this Agreement only and shall not use them for any other purpose.
 - B. All of the LOC's work product generated, created, compiled, or assembled in furtherance of this Agreement shall remain the property of the LOC.
- 9. Notices.** Any notice permitted or required by this Agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully

prepaid, certified, and with return receipt requested, to the persons and addresses shown herein. Notices sent by certified mail will be deemed delivered three business days after placement in the mail.

City: City of Boardman, c/o City Manager, PO Box 229, Boardman, OR 97818

LOC: League of Oregon Cities, c/o General Counsel, 1201 Court Street NE, #200, Salem, Oregon 97301.

Parties are responsible for notifying one another of any change in the name or address to be used for delivery of notices.

- 10. Termination.** Notwithstanding any other provision to the contrary, this Agreement may be terminated as follows:
- A. Either party may terminate this Agreement at any time or for any reason, upon not less than ten days' written notice in advance of the termination date.
 - B. In the event of a termination, the LOC shall return all documents and work belonging to the City within ten days of the termination becoming effective.
- 11. Liability.** The parties will not be liable for incidental, consequential, or other indirect damages arising out of or related to this Agreement, regardless of whether the liability claim is based in contract, tort (including negligence), strict liability, product liability or otherwise. The parties will not be liable for any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.
- 12. Assignment/Subcontracting.** Assignment and subcontracting, by either party, of any of the duties and responsibilities outlined in this Agreement is not permitted.
13. **Modification.** No modification of this Agreement is enforceable unless it is in writing and signed by both parties. If the City receives a communication from the LOC that it believes is a modification of this Agreement, it shall, within ten days after receipt make a written request for modification to the LOC. The City's failure to submit such written request for modification in a timely manner may be the basis for refusal by the LOC to treat said communication as a basis for modification.
- 14. Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon. The provisions required by ORS Chapter 279 to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully sets forth.
- A. Any claim, action, or suit between the LOC and City that arises out of or relates to performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon.

B. If any such claim, action, or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

15. Adherence to Law. The LOC shall adhere to all applicable federal and state laws which may be applicable to this Agreement. The LOC shall maintain any certificates, licenses, or permits required by statute, administrative rule, or local ordinance throughout the term of this Agreement.

16. Attorney Fees. In the event of any action to enforce or interpret this Agreement, the prevailing party shall be entitled to recover from the losing party, reasonable attorney fees incurred in the proceeding, as set by the court, at trial, on appeal or upon review.

17. Force Majeure. Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder to the extent such failure or delay both:

A. Is caused by any of the following:

- a. Acts of war;
- b. Terrorism;
- c. Civil riots or rebellions;
- d. Quarantines, embargoes, and other similar unusual governmental action;
- e. Extraordinary elements of nature or acts of God; and

B. Could not have been prevented by the non-performing party's reasonable precautions or commercially accepted processes or could not reasonably be circumvented by the non-performing party through the use of substitute services, alternative sources, workaround plans or other means by which the requirements of a buyer of services substantially similar to the services hereunder would be satisfied.

Events meeting both the criteria set forth above are referred to individually and collectively as "Force Majeure Events."

The parties expressly acknowledge that Force Majeure Events do not include vandalism, labor strikes, or the nonperformance of third parties or subcontractors relied on for the delivery of the services outlined in this Agreement, unless such failure or nonperformance by a third party or subcontractor is itself caused by a Force Majeure Event.

Upon the occurrence of a Force Majeure Event, the nonperforming party shall be excused from any further performance or observance of the affected obligation(s) for as long as such circumstances prevail, and such party continues to attempt to recommence performance or observance to the greatest extent possible without delay.

18. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permitted the intent of City and the LOC as set forth in this Agreement.

19. Integration. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This Agreement shall supersede all prior communications, representations or agreements, either oral or written, between the parties.

Jayme Pierce, General Counsel
League of Oregon Cities

Date

Brandon Hammond, City Manager
City of Boardman

Date