

AGREEMENT

THIS AGREEMENT is made this _____ day of March, 2026, between the CITY OF DICKINSON, a North Dakota municipal corporation (hereinafter, the “City”), and MACKOFF KELLOGG KIRBY & KLOSTER, P.C., a North Dakota professional corporation (hereinafter “Mackoff Kellogg”).

1. City Attorney.

The City hereby retains Mackoff Kellogg as its city attorney on a full time basis. The City Attorney shall coordinate with the City Administrator and various department heads regarding direction, goals, plans and policies for the City, which shall include but is not limited to negotiating, drafting and reviewing contracts, ordinances and annexation matters. The City shall be considered a client of Mackoff Kellogg.

The City Attorney may, on occasion, provide reports or make presentations regarding various City matters to the Board of City Commissioners, city staff, or other city boards or commissions. Timeliness of response and accessibility to the City Attorney is an important aspect of the service. The City Attorney shall be generally available to attend meetings in person on short notice and to be reached by telephone or email during regular business hours. The City further acknowledges that Mackoff Kellogg’s designated representatives will maintain their own private practices. Mackoff Kellogg acknowledges that it will work with the City to ensure a designated representative is readily available for consultation. On occasion, City matters may occur with little or no lead-time, and the City Attorney may be required to attend these meetings on an unscheduled, urgent basis.

In addition to attending requested meetings, the City Attorney may hold office hours at City Hall, if requested by the City. If requested, Mackoff Kellogg will hold office hours at City Hall up to two days per week, and up to two hours on each requested day. These hours will be in addition to any hours spent at City Hall by the City Attorney in regularly scheduled meetings. The parties acknowledge that availability of the city attorney is an important component of this arrangement, but acknowledge that the City Attorney will also be maintaining a private practice which may interfere with these scheduled hours from time to time.

In addition to any requested office hours, the City Attorney will meet with City Staff at the Mackoff Kellogg office, as requested by the City.

2. Designation of Attorneys.

While all attorneys of Mackoff Kellogg will be available to the City, Mackoff Kellogg shall designate Christina M. Wenko, as its principal attorney representing the City. Christina M. Wenko would be the primary point of contact between the City and Mackoff Kellogg. Mackoff Kellogg shall designate Stephen A. Fetch as the second representative in the event that Christina M. Wenko is unavailable for consultation or unable to attend meetings. In addition, Morgan M. Jacobs shall serve as an additional backup attorney, if needed.

3. Limitations

Conflicts of Interest.

Mackoff Kellogg agrees that it will not take any position that is adverse to the City or to the City's interests, and will avoid any conflicts of interest with the City; provided, however, that Mackoff Kellogg shall not represent the City with respect to:

- Matters that would violate or run a substantial risk of violating the North Dakota Rules of Professional Conduct, specifically including, but not limited to, matters on which Mackoff Kellogg has a conflict of interest.
- Matters on which Mackoff Kellogg and the City mutually agree that Mackoff Kellogg does not have or cannot reasonably obtain the necessary expertise to accomplish the legal work.

In the event that Mackoff Kellogg is unable to provide City Attorney services to the City, Mackoff Kellogg shall timely notify the City, consult with the City with respect to obtaining alternative counsel. Consistent with the North Dakota Rules of Professional Conduct, Mackoff Kellogg shall not represent parties adverse to the City or to the interests of the City.

4. Compensation.

The City will pay to Mackoff Kellogg a monthly flat fee as follows:

March 1, 2026 through December 31, 2026 – A flat fee of \$15,000.00

January 1, 2027 through December 31, 2028 – A flat fee of \$16,000.00

January 1, 2029 through December 31, 2030 – A flat fee of \$17,000.00

The fee amount shall cover all legal services to be provided by Mackoff Kellogg, except the municipal prosecution services already provided by Mackoff Kellogg under a separate contract and also excepting litigation matters, as addressed below.

5. Services Provided.

Such municipal legal services to be provided by Mackoff Kellogg shall include the following:

- Attend all regular meetings of the City of Dickinson, including but not limited to: City Commission meetings, City Planning and Zoning Board meetings, Board of Adjustment Meetings, Leadership Team meetings, and Executive Team meetings.
- Draft all municipal ordinances, amendments, resolutions, procedures, rules and regulations.

- Conduct such research and investigations as may be necessary in order to determine statutory and legal compliance.
- Confer with and advise city officials on legal and administrative matters, and issue binding legal opinions for the City and its officers.
- Serve as the primary legal advisor to the Board of City Commissioners, City Administrator, and the various department heads.
- Conduct legal research, drafts documents and opinions, and presents conclusions and recommendations for review.
- Draft and review contracts, leases, and other legal agreements binding the City.
- Direct and oversee litigation to which the City may be a party.
- Coordinate with outside counsel for the City, if retained.
- Initiate appropriate legal action to protect and preserve the City's property and interests, and provide or coordinate the defense of the city in all legal claims.
- Coordinate with the City Administrator with respect to inter-governmental relations and development of the City's legislative strategy; attend legislative sessions and committee meetings on behalf of the City and represent the City's position with respect to legislative issues; build relationships with legislators, state government officials, and other potential partners of the City.
- Represent the City and presents at various community events, public meetings and gatherings, committees, and conferences.
- Exercise authority over Legal and Human Resources departmental budgets, revenues, and expenditure authority.
- Coordinate with the City Administrator and various department heads regarding risk management.
- Perform other duties of a similar nature or level.
- Perform all other duties that may be prescribed by the Board of City Commissioners or by the ordinances of the City (Section 2.12.070) or the statutes of the State of North Dakota (NDCC 40-20-01).

In the event there is a litigated matter that arises for which Mackoff Kellogg provides legal services, the City shall compensate Mackoff Kellogg at the discounted rate of \$300 per hour for the legal services required for the litigation matter. City Attorney shall coordinate with outside counsel for the City, if retained.

Mackoff Kellogg shall present an invoice for legal services to the City on a monthly basis. The fees shall be due from the City to Mackoff Kellogg in the month following Mackoff Kellogg's provision of services under this Agreement.

6. Term and Termination.

The term of this Agreement shall be for a period of four (4) years, commencing as of March 1, 2026 and terminating on December 31, 2030. In the event the primary attorney named in this contract should cease to serve in such role, either party may terminate this agreement with thirty (30) days notice.

7. Independent Contractor.

Mackoff Kellogg is an independent contractor for all purposes, and is not an employee of the City. Mackoff Kellogg is free to contract for similar services to be performed for other persons or entities while this Agreement is in effect. The City of Dickinson shall have no responsibility to Mackoff Kellogg, or any attorney or employee of Mackoff Kellogg providing services under this Agreement, to pay or contribute to any employee benefit programs, employment taxes, or other ancillary costs of employment.

8. Liability.

Each party shall be liable for its own acts and omissions with respect to all claims of any nature, including all costs, expenses and attorney's fees, which may in any manner result from or arise out of this Agreement, and shall not hold or seek to hold the other party liable for such acts or omissions. Mackoff Kellogg shall maintain professional liability and malpractice insurance in the amount of no less than \$2 million per occurrence.

9. Governing Law.

This Agreement shall be governed by North Dakota law and any question arising hereunder shall be construed or determined according to such law.

10. Counterparts.

This Agreement may be executed by the parties in any number of counterparts.

CITY OF DICKINSON

By: _____

Scott Decker, President
Board of Commissioners

ATTEST:

Dustin Dassinger
Dickinson City Administrator

MACKOFF KELLOGG LAW FIRM

By:

Christina M. Wenko, President