

**AGREEMENT BETWEEN THE CITY OF MARSHALL, MINNESOTA  
AND {HEARING OFFICER NAME}**

THIS AGREEMENT is made on January 5, 2024, ("Effective Date"), between the City of Marshall, a Minnesota municipal corporation located at 344 West Main Street, Marshall, Minnesota 56258 ("City"), and Michael Freske, 975 Creekwood Drive North, Champlin, Minnesota ("Hearing Officer").

**WITNESSETH**

WHEREAS, the City desires to hire an administrative hearing officer; and

WHEREAS, the Hearing Officer represents that the person has the professional expertise and capabilities to provide the services of a hearing officer for the City as set forth in City Code; and

WHEREAS, the City desires to have the Hearing Officer provide these hearing officer services.

NOW, THEREFORE, in consideration of the terms and conditions expressed herein, the parties agree as follows:

**I. TERM AND TERMINATION**

- A. The term of this Agreement is from the Effective Date to END DATE.
- B. Either party may terminate this Agreement, for any reason or no reason at all, upon giving thirty (30) days' advanced written notice to the other party.

**II. HEARING OFFICER DUTIES**

- A. The Hearing Officer shall provide the services of an administrative hearing officer for the City on an as-needed basis. The Hearing Officer shall attend remote hearings set up by the City at a time convenient for the Hearing Officer, take testimony from the relevant parties, and provide a written recommendation or decision, as applicable, to the City in the time frame required by the applicable City ordinance, state law or other time frame as specified by the City.
- B. The Hearing Officer agrees to provide these services for the sum of ONE HUNDRED FIFTY AND NO/100 DOLLARS (\$150.00) per hour, inclusive of all travel and other related expenses, not to exceed SEVEN HUNDRED DOLLARS AND NO/100 (\$700.00) per hearing assignment. Secretarial services are not provided by the City, but City will make its recording equipment available during the hearings and provide the Hearing Officer with any requested audio recordings.

- C. For any month in which the Hearing Officer provides services under this Agreement, the Hearing Officer agrees to provide the City with a monthly invoice detailing the hours services were provided to the City under this Agreement.
- D. The Hearing Officer must perform the services in a fair and impartial manner. The Hearing Officer agrees to comply with the standards established by the following rules in the Minnesota Code of Judicial Conduct, as such rules may be amended from time to time: Rule 2.2 [Impartiality and Fairness]; Rule 2.3 [Bias, Prejudice, and Harassment]; Rule 2.4 [External Influences on Judicial Conduct]; Rule 2.5 [Competence, Diligence and Cooperation]; Rule 2.6 [Ensuring the Right to be Heard]; Rule 2.8 [Decorum, Demeanor, and Communication]; Rule 2.9 [Ex Parte Communication]; Rule 2.10 [Judicial Statements on Pending and Impending Cases]; and Rule 2.11 [Disqualification]. The City staff that administers the City's hearing officer program are considered "court officials" for purposes of applying the above-referenced rules to the services provided under this Agreement.
- E. The Hearing Officer agrees to provide these services in accordance with state law and city code.
- F. It is agreed that nothing in this Agreement is intended or should be construed as creating or establishing the relationship of copartners between the parties or as constituting the Hearing Officer as the agent, representative or employee of the City for any purpose except for liability as provided in Article III., Section B below. The Hearing Officer is to be and shall remain an independent contractor with respect to all services performed under this Agreement. The Hearing Officer agrees that the City will not be responsible for any Worker's Compensation claims.

### **III. DUTIES OF THE CITY**

- A. The City agrees to pay the Hearing Officer for the Hearing Officer's services at the rate specified in Article II, Section B above. The City shall pay the Hearing Officer within thirty (30) days after receipt of the Hearing Officer's invoice for services provided.
- B. The City shall defend, indemnify and hold harmless the Hearing Officer from any and all claims, causes of action, lawsuits, damages, losses, or expenses, including attorney fees, arising out of or resulting from the decisions rendered by the Hearing Officer, provided that the Hearing Officer was acting in the performance of this Agreement and was not guilty of malfeasance, willful misconduct or bad faith.

### **IV. MISCELLANEOUS**

- A. This Agreement represents the entire Agreement between the Hearing Officer and City and supersedes and cancels any and all prior agreements or proposals, written or oral, between the parties relating to the subject matter hereof. Any amendments, addenda, alterations, or modifications to the terms and conditions of this Agreement shall be in writing and signed by both parties.

- B. The Hearing Officer and the City agree to comply with the Americans with Disabilities Act ("ADA") and Section 504 of the Rehabilitation Act of 1973 and shall not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The parties agree to comply with the Minnesota State Human Rights Act, Minnesota Statutes, Chapter 363A.
- C. Pursuant to Minn. Stat. § 13.03, subd. 11, the Hearing Officer is subject to the requirements of the Minnesota Government Data Practices Act, (Minn. Stat., ch. 13, the "MGDPA"), and the Hearing Officer must comply with the MGDPA as if he/she/they were a government entity, including the remedies in Minn. Stat. § 13.08. The Hearing Officer agrees to comply with all applicable local, state and federal laws, rules and regulations in the performance of the duties of this Agreement.
- D. This Agreement shall not be assignable except at the written consent of the City.
- E. Under Minn. Stat. § 16C.05, subd. 5, the Hearing Officer's books, records, documents, and accounting procedures relevant to this Agreement, are subject to examination by the City and either the legislative or state auditor as appropriate, for a period of six years after termination of this Agreement.
- F. This Agreement is governed by the laws of the State of Minnesota, without regard to conflict of law provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.


CITY OF MARSHALL, MINNESOTA

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
 Mayor

Reviewed and approved by the City Clerk

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HEARING OFFICER

DATE: 1/5/2024 BY:   
 Michael Freske