

AGREEMENT FOR MUNICIPAL PROSECUTION SERVICES

THIS AGREEMENT (“Agreement”) is made by and between **AUSMUS LAW FIRM, P.C.**, a Colorado corporation, having a principal office address of 6020 Greenwood Plaza Boulevard, Suite 100, Greenwood Village, CO 80111 (the “Prosecutor”) and the **TOWN OF MEAD**, a municipal corporation of the State of Colorado (the “Town”).

RECITALS AND REPRESENTATIONS

WHEREAS, the Town desires to contract with the Prosecutor to serve as municipal prosecutor in the Town of Mead Municipal Court on the terms established in this Agreement; and

WHEREAS, the Prosecutor desires to serve as the municipal prosecutor in the Town Municipal Court.

NOW, THEREFORE, in consideration of the mutual undertakings set forth in this Agreement, the Town and the Prosecutor agree as follows:

- 1. COMPENSATION.** The Prosecutor’s compensation shall be paid at a flat rate of one thousand dollars (\$1,000.00) per month for all months during which the Prosecutor attends Municipal Court or is otherwise providing municipal prosecution services to the Town in accordance with this Agreement. Additional services beyond regularly scheduled court dockets and cases (such as jury trials, appeals, liquor hearings or training sessions for Town staff) will be billed at a rate of one hundred dollars (\$100.00) per hour. Within this compensation structure, Prosecutor shall perform all associated duties including but not limited to those described in Paragraph 2 of this Agreement.
- 2. SCOPE OF SERVICES.** The parties currently anticipate holding one (1) municipal court each month at which the Prosecutor’s attendance is necessary. In addition to attending court, the Prosecutor shall be responsible for all facets of prosecution for the Town, including pre-trial conferences, arraignments, interviewing witnesses, and such bench or jury trials as may be required by the Town, subject to the terms of this Agreement. Discovery requests will not be processed by the Prosecutor, except to the extent of referring requests to the municipal court clerk, and the Prosecutor shall not be responsible for handling appeals, except as directed by the Town Manager in consultation with the Town Attorney. The Prosecutor may be required to undertake enforcement of Town code violations from time to time. The Prosecutor may also be required to attend meetings and conferences with Town staff, as directed, to be available to answer inquiries from police officers about pending or potential cases and to conduct occasional training sessions for Town staff as directed by the Town. The role of the Prosecutor under this Agreement shall be non-exclusive, and the Town retains the right to contract with additional prosecutors and/or to perform prosecution services through the Town Attorney.

The Prosecutor shall at all times during the term of this Agreement comply with the Colorado Rules of Municipal Court Procedure, the constitutions and applicable laws of the United States and the State of Colorado, and the Ordinances, Resolutions and Regulations of the Town. The Prosecutor shall consult with the Town as needed, including attending meetings as requested, to support the Town in the ongoing development of the

Municipal Court. All attorneys working as the Prosecutor shall be currently licensed to practice law by the Colorado Supreme Court and shall remain in good standing during the term of this Agreement.

3. **REPORTING.** The Prosecutor shall keep the Town Manager and Town Attorney informed of any unusual or noteworthy events or cases. Items that should be reported include, but shall not be limited to, threatened appeals, cases with multiple witnesses, cases for which witnesses failed to appear, cases with belligerent or uncooperative defendants, non-traffic cases in which the defense involved a credible allegation of officer misconduct, and cases in which the plea-bargained disposition was outside of the normal guidelines. The Prosecutor and the Town Attorney shall meet as needed to discuss issues related to the services provided by the Prosecutor pursuant to this Agreement.
4. **ANNUAL BUDGET/APPROPRIATION.** Notwithstanding any provision of this Agreement to the contrary, the Town is not obligated by this Agreement to make any payments in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or to make payments from any funds of the Town other than funds appropriated for the payment of current expenditures. All payment obligations of the Town under this Agreement are from year to year only and do not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the Town.
5. **INDEPENDENT CONTRACTOR.** This Agreement is one for independent contractor services. The Prosecutor is an independent contractor and shall not be considered an employee of the Town for purposes of any federal or state law. The Town shall not be obligated to secure and shall not provide any employment benefits of any kind or type to or for the Independent Contractor, including but not limited to worker's compensation, disability insurance, errors and omissions insurance, vacation or sick leave, retirement contributions, or other benefits. The Prosecutor shall be responsible for any federal and state income tax withholding on moneys earned pursuant to this Agreement. The Prosecutor's services shall be supervised by the Town Attorney.
6. **INSURANCE.** The Prosecutor shall maintain professional liability insurance with minimum combined single limits of five hundred thousand dollars (\$500,000.00) per claim and one million dollars (\$1,000,000.00) annual aggregate. A certificate of insurance naming the Town as an additional insured shall be provided to the Town Manager no later than thirty (30) days following the effective date of this Agreement and no later than January 30th of each year beyond 2023 during which the Prosecutor continues to provide prosecution services to the Town.
7. **EXPENSES AND MATERIALS.** The Prosecutor will not be reimbursed for any incidental expenses incurred by the Prosecutor in the performance of services for the Town, including but not limited to mileage reimbursement.
8. **EFFECTIVE DATE.** This Agreement shall be effective on the date of mutual execution hereof by Prosecutor and the Town. This Agreement shall remain in effect unless and until terminated by either party as authorized below.
9. **TERMINATION WITHOUT CAUSE OR REASON.** This Agreement may be terminated by either party without cause or reason at any time by giving thirty (30) days written notice to the other party. In such event of termination, the Prosecutor shall continue services during such thirty day period and shall reasonably assist the Town in the transfer of

services to a new prosecutor in accordance with the rules governing professional responsibility for attorneys practicing in the State of Colorado.

10. **ENTIRE AGREEMENT/TERMINATION OF PRIOR AGREEMENTS.** This Agreement shall constitute the entire agreement between the parties and is binding upon and inures to the benefit of the Prosecutor's successors, heirs at law and executors. This Agreement supersedes any and all prior agreements between the parties.
11. **SEVERABILITY.** If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in full force and effect.
12. **AMENDMENTS.** The terms and conditions of this Agreement may be modified only by the mutual written consent of the Prosecutor and the Town.
13. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Weld County, Colorado.
14. **NO WAIVER.** A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
15. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing in this Agreement shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the Town, its officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
16. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement.

IN WITNESS WHEREOF, the Town has caused this Agreement to be signed and executed on its behalf and the Prosecutor has signed and executed this Agreement, as of the date(s) set forth below.

[signature pages follow].

[signature page to Agreement for Municipal Prosecution Services]

TOWN OF MEAD, a municipal corporation
of the State of Colorado

By: _____
Colleen G. Whitlow, Mayor

Date: _____, 2023

ATTEST:

REVIEWED BY:

By: _____
Mary Strutt, MMC, Town Clerk

By: _____
Marcus McAskin, Town Attorney

[signature page to Agreement for Municipal Prosecution Services]

PROSECUTOR:

AUSMUS LAW FIRM, P.C., a Colorado corporation

By: _____
J. Andrew Ausmus, President

Date: _____, 2023

Address: AUSMUS LAW FIRM, P.C.
6020 Greenwood Plaza Boulevard, Suite 100
Greenwood Village, CO 80111