

**AMENDED AND RESTATED AGREEMENT FOR LEGAL SERVICES  
TOWN OF MEAD, COLORADO**

**THIS AMENDED AND RESTATED AGREEMENT FOR LEGAL SERVICES** (“Agreement”) is made by and between **MICHOW GUCKENBERGER MCASKIN LLP**, a Colorado limited liability partnership with its principal place of business at 5299 DTC Boulevard, Suite 300, Greenwood Village, Colorado 80111 (the “Firm”), and the **TOWN OF MEAD**, a statutory town of the State of Colorado, with offices at 441 Third Street, Mead, CO 80542 (the “Town”) (each, a “Party” and together, the “Parties”). Following mutual execution hereof by the Parties, this Agreement shall be effective March 1, 2024 (“Effective Date”).

**WITNESSETH:**

WHEREAS, the Town retained the law firm of Michow Cox & McAskin LLP, a Colorado limited liability partnership, pursuant to that certain Agreement for Legal Services approved by the Town Board of Trustees (“Town Board”) by Resolution No. 41-R-2018 dated May 14, 2018 (“Original Agreement”); and

WHEREAS, Marcus McAskin was appointed as Town Attorney by Resolution No. 40-R-2018, and has been reappointed as Town Attorney by Resolutions No. 54-R-2020 dated April 27, 2020 and Resolution No. 91-R-2022 dated November 28, 2022; and

WHEREAS, effective October 1, 2023, Michow Cox & McAskin LLP began doing business under a new name, to wit: Michow Guckenberger McAskin LLP; and

WHEREAS, the Town wishes to continue to retain the Firm for the purpose of providing legal representation for the Town, and the Firm wishes to continue to provide such representation,

NOW, THEREFORE, for the consideration herein expressed, it is agreed as follows between the Town and the Firm:

**1. APPOINTMENT OF GENERAL LEGAL COUNSEL**

- A. The Firm is engaged and appointed as general legal counsel to represent and advise the Town with respect to all legal matters. The Parties specifically intend that this Agreement shall replace and supersede the Original Agreement in its entirety, including any amendments thereto, as of the Effective Date.
- B. Marcus McAskin is hereby designated and appointed as the Town Attorney for the Town of Mead and Kathie Guckenberger is designated and appointed as the Deputy Town Attorney for the Town. The Firm may change the designation of the attorney to serve as the Town Attorney only

with the express written consent of the Town. The Firm may represent to third parties and identify in Firm advertising and other Firm-sponsored materials that the Firm serves or represents the Town as the Town Attorney unless the Town specifically directs the Firm not to make such representation on a particular matter or to a particular party.

- C. The Firm may use other qualified attorneys to assist the Town Attorney and provide legal services to the Town as deemed appropriate by the Town Attorney after advising the Town Manager and the Town Board. Such additional attorneys may be deemed “Assistant Town Attorneys” for such purposes. The Town has the right to reasonably reject the assignment of any Firm-selected assisting attorney.
- D. The Town grants to the Town Attorney and the Assistant Town Attorneys the power to execute documents connected with the representation of the Town, including pleadings, applications, protests, contracts, commercial papers, settlement agreements and releases, verifications, dismissals, orders, and all other documents, and to represent the Town in matters associated with providing legal services to the Town.
- E. Town Designated Representatives. The Town Board hereby designates the Mayor and Town Manager to serve as the primary points of contact with the Town Attorney to coordinate the provision of legal services to the Town.

## 2. **SCOPE OF GENERAL LEGAL SERVICES**

- A. The Firm shall provide general legal services (“General Legal Services”) to the Town, including but not limited to:
  - i. Reviewing and preparing staff reports, ordinances, resolutions, agreements, deeds, leases, easements and other routine Town documents;
  - ii. Attending all regular and special meetings and study sessions of the Town Board and other board and commission meetings and staff meetings as requested and scheduled;
  - iii. Enforcing and providing legal advice regarding enforcement of Town ordinances, zoning and building standards through administrative or judicial proceedings;
  - iv. Legal work pertaining to property acquisition (excluding eminent domain) and disposal, right-of-way vacations and other issues, easements, construction and maintenance of public improvements and other real property matters;
  - v. Monitoring and advising the Town of new legislation and court decisions affecting municipalities;

- vi. Providing legal advice on personnel matters and employment law;
  - vii. Providing legal advice and support to The Town Board, Town administrative personnel, Town departments, boards and commissions; and
  - viii. Coordinating outside legal counsel services on behalf of the Town.
- B. The Firm shall provide services outside of the scope of General Legal Services only upon pre-authorization from the Town Manager or Mayor. Legal services excluded from General Legal Services include:
- i. Planning/land development legal review for which the Town will receive reimbursement from developers or applicants;
  - ii. Litigation;
  - iii. Administrative hearings before state and other agencies or entities; and
  - iv. Specialized legal services such as eminent domain or special projects requiring substantial legal resources of the Firm.
- C. The Town reserves the right to engage special legal counsel on any matter deemed appropriate by the Town, following consultation with the Firm, to advise the Town or to assist the Firm.
- D. The Firm may recommend hiring special legal counsel with special knowledge and expertise to represent the Town or assist the Firm when it deems reasonable and in the best interest of the Town and in cases where a conflict of interest precludes involvement of the Firm.
- E. Although the Firm actively seeks to avoid potential for conflicts, the Town understands and recognizes that unanticipated conflicts may arise that could impair the ability of the Town Attorney and the Firm to represent the Town on specific legal matters. In such event, the Town Attorney shall comply with the requirements of the Colorado Rules of Professional Conduct in addressing such conflict with the Town. The Parties understand that the Town is not obligated to waive any conflict, and where a waiver by the Town is not granted or the Town Attorney is otherwise legally precluded from representing the Town, the Town Attorney shall, in consultation with the Town Manager and the Mayor, assign such matter to outside legal counsel.

### 3. COMPENSATION

- A. Commencing on the Effective Date of March 1, 2024, the Town shall compensate the Firm at a base rate of Eighteen Thousand Five Hundred Dollars (\$18,500.00) per calendar month for General Legal Services (“Base Amount”), prorated for any partial months of service. Such monthly compensation represents an approximate total hourly commitment of between seventy-five (75) to ninety (90) hours each calendar month for the Town Attorney and other Firm attorneys. For services performed outside the scope of General Legal Services, the Town shall pay the Firm for such legal services at the Firm’s then standard hourly billing rates, subject to pre-authorization as set forth in Section 2(B) above. Legal services pertaining to specific planning and land development applications for which the Town passes through its consultant and legal review fees to an applicant/developer for payment, are charged at different billing rates as identified in the Firm’s 2024 billing rates, as set forth and included in **Exhibit A** attached hereto.
- B. In addition to the Base Amount, the Town shall compensate the Firm for out-of-pocket fees and costs incurred on the Town’s behalf, including but not limited to database access charges for electronic legal research, court filing fees, service of process, expert witness fees (only as pre-authorized by the Town), court reporter fees, transcript fees, recording fees, title company’s fees for reports of title, and publication fees. Such fees will be billed to the Town at the Firm’s cost without mark-up.
- C. In addition to the Base Amount, the Town shall compensate the Firm for mileage expenses for personal use of private vehicles used by the Town Attorney, other Firm attorneys and paralegals for travel incurred in the direct and exclusive performance of services for the Town. Mileage shall be charged at the Firm’s standard mileage rate (not to exceed U.S. Internal Revenue Service published business travel mileage allowance).
- D. The Firm shall submit monthly invoices to the Town for General Legal Services in the Base Amount and for any additional legal services performed outside the scope of General Legal Services, plus any fees and costs incurred as specified in Section 3(A), 3(B) and 3(C) above.
- E. The Town shall pay all undisputed invoices submitted by the Firm within thirty (30) days of receipt of the invoice.
- F. The Firm shall maintain the Base Amount and other billing rates set forth in this Agreement without increase until December 31, 2024. The Firm evaluates its billing rates annually and may adjust the Base Amount or the

Firm's hourly rates set forth in **Exhibit A** no more than once annually, unless otherwise agreed to between the Town Board and the Firm. The Firm shall provide the Town with at least ninety (90) days' prior written notice of any such rate or Base Amount adjustment. Such written notice shall contain a new **Exhibit A** that will supersede the rates and Base Amount set forth herein as of the effective date of the rate adjustment.

4. **AVAILABILITY**

- A. The Town Attorney shall routinely attend all regular and special Town Board meetings and study sessions, unless otherwise excused from attendance.
- B. The Deputy Town Attorney shall be available to render the services whenever the Town Attorney is unavailable.
- C. The Town Attorney or Deputy Town Attorney shall assign one or more Assistant Town Attorneys to be available to render the services whenever the Town Attorney or Deputy Town Attorney are unavailable.
- D. Upon written request of the Town Manager, the Town Attorney shall cooperate with the Town to establish office hours at Town Hall (or Town offices) no less than eight (8) hours per week, pursuant to a schedule to be mutually agreed upon by the Town Attorney and the Town Manager. The Parties agree that the eight (8) hour per week schedule will normally consist of two (2) four-hour on-site periods per week (the "On-Site Office Hours"), unless otherwise agreed to by the Town Attorney and Town Manager. The Parties agree that if the On-Site Office Hours are established, the Base Amount set forth in Section 3(A) will be increased by one thousand dollars (\$1,000.00), prorated for any partial months of service, unless a different amount is agreed to by the Parties in writing.

5. **INDEPENDENT CONTRACTOR**

In performing the services specified herein, the Firm is acting as an independent contractor. Its attorneys will adhere to the Colorado Rules of Professional Conduct as approved and adopted by the Colorado Supreme Court, as they may be changed or revised from time to time. The following disclosure is provided in accordance with Colorado law:

**THE FIRM ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE FIRM OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. THE FIRM FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION**

**BENEFITS. THE FIRM ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.**

**6. TERM AND TERMINATION**

- A. This Agreement shall be effective on the Effective Date and shall expire when terminated by either Party in accordance with this Section 6.
- B. This Agreement may be terminated by either Party, upon written notice, without cause or reason upon thirty (30) days written notice to the non-terminating Party. During such period following notice and prior to termination, the Parties shall coordinate the transition of legal services and transfer of Town files held by the Firm. In the event the Town gives notice of unilateral termination of this Agreement, the Firm shall be entitled to compensation as provided in this Agreement for legal services performed during the notice period prior to termination.
- C. Nothing in this Section shall preclude or prevent the Parties from modifying any notice requirement or term of notice or negotiating other terms for a mutually acceptable termination.

**7. MISCELLANEOUS PROVISIONS**

- A. Document Retention. The Town acknowledges that files created and compiled by the Firm for work on the Town's matters, including notes, correspondence, pleadings, research, and documents prepared by the Firm, will not be kept indefinitely. The Firm's Document Retention Policy is attached to this Agreement as **Exhibit B**.
- B. Arbitration. Although the Parties do not expect that any dispute will arise between them, in the unlikely event of any dispute under this Agreement, including a dispute regarding the amount of legal fees or costs owed to the Firm or the quality of the Firm's services, including any claim of malpractice, such dispute shall be subject to binding arbitration. The Town and the Firm acknowledge that they are waiving their right to seek remedies in court, including the right to a jury trial. This clause does not prevent the Town and the Firm from trying to resolve any dispute through voluntary mediation, but there is no requirement to do so.

Any dispute concerning fees or costs or concerning the quality of the Firm's services, including malpractice claims, shall be submitted to a single arbitrator and the decision of the arbitrator shall be final and binding on both parties. A final judgment can be entered on the arbitration award by a court of competent jurisdiction. The arbitrator shall be selected from the Judicial

Arbiter Group, Denver, Colorado, unless the parties agree otherwise. If the parties do not agree on the selection of a single arbitrator within ten days after a demand for arbitration is made, then the arbitrator shall be selected by the Judicial Arbiter Group from among its available professionals.

All arbitrations shall be held in Denver, Colorado, unless the parties mutually agree on some other location. All arbitrations shall proceed under the Commercial Arbitration Rules of the American Arbitration Association, except as modified in this Agreement, unless otherwise agreed by the parties. The arbitrator shall have the discretion to order that the costs of arbitration, fees (including expert witness and reasonable attorneys' fees), and other costs shall be borne by the losing party. Any filing fees or other administrative costs of arbitration shall be divided equally between the Town and the Firm. Arbitration of all disputes, and the outcome of the arbitration, to the extent legally permissible, shall remain confidential between the parties.

- C. Privacy Policy. The Firm's "Privacy Policy Notice" is attached to this Agreement as **Exhibit C**. The Firm will conduct its representation of the Town in accordance with this policy.
  
- D. Non-Discrimination. During the performance of this Agreement, the Firm shall:
  - i. Not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, age, military service, veteran status, marital status, national origin, or disability.
  - ii. Comply with all state and federal laws, regulations and executive orders regarding non-discrimination applicable to the Town and its programs.
  
- E. Assignment. This Agreement for services is personal to the Parties hereto and shall not be assigned by either Party.

*[signature page follows]*

*[signature page to Amended and Restated Agreement for Legal Services]*

**TOWN OF MEAD**

By: \_\_\_\_\_  
Colleen G. Whitlow, Mayor

Date executed: \_\_\_\_\_, 2024

ATTEST:

\_\_\_\_\_  
Mary E. Strutt, MMC, Town Clerk

**MICHOW GUCKENBERGER MCASKIN  
LLP**, a Colorado limited liability  
partnership

By: \_\_\_\_\_  
Marcus McAskin, Partner

Date executed: \_\_\_\_\_, 2024

**EXHIBIT A**

**MICHOW GUCKENBERGER MCASKIN LLP**

**ATTORNEY RATES FOR LEGAL SERVICES**

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Base Rate for General Legal Services (*on and after 03.01.2024*): \$ 18,500.00

**GENERAL COUNSEL LEGAL SERVICES (2024)**

Partner	\$250.00
Senior Associate/Of Counsel	\$225.00
Associate	\$200.00
Paralegal/Research Professional	\$100.00

**PLANNING LEGAL SERVICES (2024)**

For development/land use applications for which the Town passes through consultant and legal review fees to the applicant/developer for payment, the Firm charges the following hourly billing rates:

Partner	\$300.00
Senior Associate/Of Counsel	\$290.00
Associate	\$260.00
Paralegal/Research Professional	\$110.00

## **EXHIBIT B**

### **MICHOW GUCKENBERGER MCASKIN LLP**

#### **DOCUMENT RETENTION POLICY**

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The Town of Mead ("Client") is advised that the files created and compiled by the Firm for work on Client matters, including notes, correspondence, pleadings, research, and any other documents prepared by the Firm, will not be retained indefinitely. Upon the Client's request, we will return Client files to the Client or its designee once a matter is concluded, so long as the Client has paid all fees and costs owed to the Firm and reasonably necessary to transfer such files. We may retain copies of all or any portion of the Client's file duplicated at our expense. If the Client does not request Client files, we will keep the files and information therein for a minimum of thirty (30) days after the conclusion or termination of representation, after which we may retain, destroy, or otherwise dispose of them as we deem appropriate.

The Firm generally keeps Client records electronically. As a general matter, once documents are part of our electronic records, we will destroy all paper documents provided to us, unless the Client provides express written instructions otherwise. Notwithstanding the foregoing, we will not destroy: (i) original documents entrusted to us for continued representation as part of our services; or (ii) any documents that the Client is obligated by law to retain.

## EXHIBIT C

### MICHOW GUCKENBERGER MCASKIN LLP

#### PRIVACY POLICY NOTICE

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Attorneys, like other professionals, who advise on certain personal matters, are required by federal law to inform their clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by federal law. Maintaining your trust and confidence is a high priority to our law firm. The purpose of this notice is to comply with the federal law by explaining our privacy policy with respect to your personal information.

#### **NONPUBLIC PERSONAL INFORMATION WE COLLECT:**

In the course of providing services to our clients, we collect personal and financial information about our clients that is not available to the public and which is provided to us by our clients or obtained by us with their authorization or consent.

#### **PRIVACY POLICY:**

As a current or former client of Michow Guckenberger McAskin LLP, please be assured that all nonpublic personal information that we receive from you is held in confidence, and is not released to people outside the firm, except as agreed to by you, or as is permitted or required by law and applicable ethics rules.

#### **CONFIDENTIALITY AND SECURITY:**

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. We restrict access to nonpublic, personal information about you to those people in the firm who need to know that information to provide services to you (and their support personnel). In order to guard your nonpublic personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards as well as federal regulations.

Please call the attorney you work with if you have any questions. Your privacy, our professional ethics, and the ability to provide you with quality service are very important to us.