

## **LEGAL SERVICES AGREEMENT: CITY ATTORNEY SERVICES**

This Agreement made and entered into this 14th day of February 2023, by and between the City of Stevenson, a municipal corporation, under the laws of the State of Washington (hereinafter referred to as "City"), and Robert C. Muth of Kilmer, Voorhees & Laurick, PC (hereinafter referred to as "Attorney"), whose address is: 2701 Vaughn Street, Suite 780, Portland, Oregon 97210.

**WHEREAS**, the City is a non-charter code city and a municipal corporation in the State of Washington; and

**WHEREAS**, Attorney is licensed to practice law in the State of Washington and is an experienced municipal attorney; and

**WHEREAS**, the City desires to engage Attorney to provide City Attorney services, and Attorney has agreed to offer his professional services to perform said legal work; and

**WHEREAS**, Attorney has represented by entering into this Agreement that he is fully qualified to perform the legal work to which he will be assigned in a competent and professional manner, and to the standards required by the City.

### **NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

The City hereby appoints Robert C. Muth as its City Attorney, and Robert C. Muth hereby agrees to accept this appointment. Attorney agrees to provide legal and other services as hereafter set forth in connection with this appointment and Agreement in a satisfactory and proper manner, as determined by the City.

#### **1. Scope of Services and Payment:**

a. Attorney shall be responsible for performing all legal services for the City, except as set forth in Section 13 of this Agreement.

b. The City hereby agrees to pay to Attorney as compensation for these legal services as follows:

(1) Seven Hundred Fifty Dollars (\$750.00) per month on the 1<sup>st</sup> day of each and every month as a retainer fee, and

(2) One Hundred Fifty Dollars (\$150.00) per hour for legal services performed by a legal assistant on the City's behalf, and

(3) Three Hundred Fifty Dollars (\$350.00) per hour for legal services performed by Attorney on the City's behalf, excluding Attorney's preparation for, attendance and travel to one regular monthly meeting of the Stevenson City Council, except as provided herein. Attorney may be excused from one (1) meeting per calendar year for personal reasons

and may accumulate up to two (2) such excused meetings.

- c. In addition to the compensation set forth above, the City shall reimburse Attorney for all reasonable and necessary expenses which may be paid or incurred by him on behalf of the City in the bringing of any action, suit or proceeding or in the transaction of any and all City business. Such expenses include, but are not limited to: all filing fees, deposition expenses, service of process fees, and other expenses or third party costs incurred by Attorney in representation of the City or its duly elected or appointed officers. The City shall further reimburse Attorney for his transportation, food, lodging and registration costs of attendance for two WSAMA conferences per year, shared proportionally with Attorney's other municipal clients, which expenses shall be reimbursed in accordance with City policy.

## **2. Relation of Parties:**

Attorney, its sub-Contractors, agents and employees are independent Contractors performing professional services for the City and are not employees of the City. Attorney, its sub-Contractors, agents and employees shall not, as a result of this Agreement, accrue leave, retirement, insurance, bonding or any other benefits afforded to City employees. The Attorney, sub-Contractors, agents and employees shall not have the authority to bind the City in any way except as may be specifically provided herein.

## **3. Time of Performance:**

The service of Attorney shall be of indefinite duration, subject to termination with or without cause, by either party upon 90 days written notice to the other party.

## **4. Conflict of Interest:**

Attorney shall devote all the time necessary to perform the services herein but shall not be prevented or barred from taking on other employment in his independent law practice, whether or not that employment is similar in nature to the services to be performed herein. However, Attorney shall not represent or advise employees of the City where the interest of the employee may be in conflict with that of the City. Attorney shall also not perform services for others where a conflict of interest or an ethical violation, as defined in the Washington State Bar Rules of Professional Conduct, may exist pursuant to Attorney's representation of the City herein. When such a conflict of interest or ethical violation may exist, Attorney shall immediately notify the City of such potential conflict or violation. Attorney shall then withdraw as counsel for the opposing party, as required to avoid any further conflict of interest or ethical violation, unless the City agrees to waive such conflict at its sole discretion.

## **5. Compensation and Schedule of Payments:**

City shall pay Attorney at the rates indicated in Section 1 for work performed under the terms of this Agreement. This is the maximum amount to be paid under this Agreement and it shall not be exceeded without City's prior written authorization in the form of a negotiated

and executed supplemental agreement. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment and incidentals necessary to complete the work as set forth herein. Attorney shall submit monthly invoices to City covering both professional fees and reimbursable expenses, if any. Payments to Attorney shall be made within thirty (30) days from submission of each invoice.

City reserves the right to correct any invoices paid in error according to the rates set forth in this Agreement. City and Attorney agree that any amount paid in error by City does not constitute a rate change in the amounts agreed upon herein.

**6. Ownership of Records and Documents:**

All materials, writings and products produced by Attorney in the course of performing this Contract shall immediately become the joint property of City and Attorney. In consideration of the compensation provided for by this Agreement, Attorney hereby further assigns all copyright interests in such materials, writing and products to City. Attorney may retain a copy.

**7. Suspension and Termination:**

This Agreement may be terminated by either party pursuant to Section 3.

**8. Evaluation and Compliance with the Law:**

Attorney shall have the authority to control and direct the performance and details of the services to be performed herein. Attorney agrees to comply with all relevant federal, state and municipal laws, rules and regulations.

**9. Liability and Hold Harmless:**

Attorney shall take all precautions necessary and shall be responsible for the safety of his employees, agents, and sub-contractors in the performance of the work hereunder. All work shall be done at Attorney's risk. Attorney shall defend, indemnify, save and hold harmless the City, its officers, agents, employees and assigns from any claims, damages, losses, liability, expenses and attorney's fees to the extent they arise from Attorney's negligent performance of this Agreement, except those which arise from the sole negligent acts or omissions of the City, its officers, agents, employees or assigns. The City shall defend, indemnify, save and hold harmless Attorney, its officers, agents, employees and assigns from any claims, damages, losses, liability, expenses and attorney's fees to the extent they arise from the City's negligence or claims (in contract, tort or otherwise) asserted based on Attorney's performance of the duties under this Agreement, except those which arise from the sole negligent acts or omissions of Attorney, its officers, agents, employees or assigns. If both the City and Attorney are concurrently negligent, the parties shall be required to indemnify and defend only in proportion to their separate negligence. The City shall also defend, indemnify, save and hold harmless Attorney, its officers, agents, employees and assigns from any and all claims arising out of the good faith performance of his duties for

services provided within the scope of this Agreement, and within the confines of applicable ethical rules and in compliance with existing law, but not arising out of acts performed outside of the scope of Attorney's requested services, or for any acts of misconduct or alleged violations of existing law.

**10. Liability Insurance:**

- a. Commercial General Liability, Professional Liability and Malpractice Insurance. Attorney shall obtain and keep in force Commercial General Liability insurance with a limit not less than \$2,000,000.00 for each occurrence, Professional Liability (errors and omissions), to include malpractice coverage, not less than \$300,000.00 for each attorney for each occurrence, and a \$5,000,000.00 General Aggregate Limit, for the entire term of this Agreement.
- b. Worker's Compensation. Attorney shall take out and maintain during the life of this Agreement, worker's compensation insurance for all its employees engaged in work under this Agreement who are required to be so covered by the laws of the State of Washington.
- c. Employment Security. Attorney shall comply with all employment security laws of the state in which services are provided and shall timely make all required payments in connection therewith.

**11. Confidentiality:**

Attorney agrees to keep all of the information provided by City in the context of this Agreement confidential for the term of this Agreement and thereafter, unless the Attorney-Client privilege is specifically waived, in writing, by an individual authorized to waive this privilege. This applies to all information and communications, including electronic communications, unless available to the public through a public records request and otherwise not subject to a specific exemption.

**12. Qualifications:**

Throughout the term of this Agreement, the Attorney shall be an attorney licensed by the State of Washington and a member in good standing of the Washington State Bar.

**13. Non-Exclusive Contract and Excluded Services:**

This is a non-exclusive contract. This Agreement does not include the provision of the following services: (1) Prosecution of crimes, which shall be provided by the City's Prosecuting Attorney under a separate Agreement; (2) Code enforcement matters, unless specifically requested by City. The parties acknowledge that it may be necessary from time to time for the City to retain other legal counsel. Legal matters requiring other counsel may include, but are not limited to bond issues, pension and deferred compensation matters, labor negotiations, employment matters, complex litigation, cases referred to attorneys selected

by City's insurers, and matters involving specialized areas of practice, such as land use issues, where the City's interest would be best served by retaining other counsel. In addition, other counsel may be required if Attorney has a conflict of interest, which precludes his representation of the City. The City may also employ an Assistant City Attorney through a separate Agreement, to assist the City and Attorney as needed.

**14. Notices:**

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed first-class mail, postage paid, as follows:

City:

City of Stevenson  
7121 E. Loop Rd, PO Box 371  
Stevenson, WA 98648

Attorney:

Robert C. Muth, PC Attorney at Law  
2701 NW Vaughn St., Suite 780  
Portland, OR 97210

**15. Amendments/Non-Assignment:**

This Agreement shall not be altered, changed, or amended, except by an instrument in writing executed by both parties hereto. Any changes in the scope of services or compensation shall be mutually agreed upon between City and Attorney and shall be incorporated in written amendments to this Agreement. Attorney shall not assign or subcontract any portion of this Agreement without prior written consent of the City.

**16. Scope of Agreement:**

This Agreement incorporates all the agreements, covenants and understanding between the parties hereto and are merged into this written Agreement. No prior agreement or prior understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless set forth in this Agreement.

**17. Ratification:**

Acts taken pursuant to this Agreement, but prior to its effective date, are hereby ratified and confirmed.

**18. Governing Law/Venue:**

This Agreement shall be deemed to have been executed and delivered within the State of Washington and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with and governed by the laws of the State of Washington without regard to the principles of conflict of laws. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Skamania County, Washington.

[Signatures appear on next page]

DATED this \_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF STEVENSON, a Municipal  
Corporation:

KILMER, VOORHEES & LAURICK, PC

\_\_\_\_\_  
SCOTT ANDERSON, MAYOR

\_\_\_\_\_  
ROBERT C. MUTH, WSBA#49468

ATTEST:

\_\_\_\_\_  
City Clerk Treasurer