

CITY OF SWEET HOME
PERSONAL SERVICES AGREEMENT
CITY PROSECUTOR SERVICES

This Personal Services Agreement (“Agreement”) for City Prosecutor Services is made and entered into on this _____ day of _____ 2026 (“Effective Date”) by and between the City of Sweet Home, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and Miller, Castleton & Flinn, a limited liability company (hereinafter referred to as “Consultant”).

RECITALS

WHEREAS, the City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that Consultant is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Consultant is prepared to provide such services as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Scope of Work

Consultant shall diligently perform City Prosecutor Services according to the requirements

identified in the Scope of Work for City Prosecutor Services, attached hereto as Exhibit A and incorporated by reference herein (the “Services”).

Section 2. Term

The term of this Agreement shall be from the Effective Date until August 30, 2028, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City.

This Agreement may be extended, by Amendment, up to three (3) one-year extensions.

Section 3. Confidentiality

3.1. Consultant shall maintain the confidentiality of any confidential information that is exempt from disclosure under state or federal law to which Consultant may have access by reason of this Agreement. Consultant warrants that Consultant’s employees

assigned to the Services provided in this Agreement shall be clearly instructed to maintain this confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.

Section 4. Compensation

4.1. Except as otherwise set forth in this Section 4, the City agrees to pay Consultant a flat fee of FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500) each month for legal services rendered by Consultant attorney Catherine Pratt and her legal assistant. In addition, the City agrees to pay Consultant for hours actually worked for appeals to Linn County Circuit Court of cases tried by Consultant at a rate of TWO HUNDRED DOLLARS (\$200.00) per hour for Ms. Pratt and ONE HUNDRED DOLLARS (\$100.00) per hour for legal assistants.

4.2. Consultant retainer shall be subject to a Cost-of-Living Adjustment (COLA) implemented at the same time as it is implemented by the City to its non-represented employees' compensation and in the same percentage amount as to its non-represented employees.

4.3. Except for amounts withheld by the City pursuant to this Agreement, Consultant will be paid for Services for which an itemized invoice is received by the City within thirty (30) days of receipt, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Consultant as promptly as is reasonably possible.

Section 5. City's Rights and Responsibilities

5.1. The City Attorney will facilitate day-to-day communication between Consultant and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the City Prosecutor Services.

5.2. Award of this contract is subject to budget appropriation. Funds are approved for Fiscal Year 2026-27. Funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this contract early, as described in Section 13.

Section 6. Point of Contact

Consultant's point of contact with the City is the City Manager. Consultant shall report to the City Manager as to the status of City Prosecutor Services on at least a quarterly basis. The City Manager maintains the ability to set policy direction for such City Prosecutor Services.

Section 7. Public Information

No information, news, or press releases related to City Prosecutor Services, whether made to representatives of newspapers, magazines, or television and radio stations, shall be made without the written authorization of the City Manager.

Section 8. Subcontractors and Assignments

Consultant shall not subcontract with others for any of the Services prescribed herein. Consultant shall not assign any of Consultant's rights acquired hereunder without obtaining prior written approval from the City, which approval may be granted or denied in the City's sole discretion.

Section 9. Consultant Is Independent Contractor

Consultant is an independent contractor for all purposes and shall be entitled to no compensation other than the Compensation Amount provided for under Section 4 of this Agreement. Consultant will be solely responsible for determining the manner and means of accomplishing the end result of Consultant's Services. The City does not have the right to control or interfere with the manner or method of accomplishing said Services. The City, however, will have the right to specify and control the results of Consultant's Services so such Services meet City's expectations and policies for City Prosecutor Services.

Section 10. Consultant Responsibilities

10.1. Consultant must comply with all applicable Oregon and federal wage and hour laws. Consultant shall make all required workers compensation and medical care payments on time. Consultant shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees.

Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall defend, indemnify, and hold the City harmless from claims for payment of all such expenses.

10.2. No person shall be discriminated against by Consultant in the performance of this Agreement on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Agreement, in whole or in part, by the City.

Section 11. Indemnity

11.1. The City shall defend, hold harmless and indemnify Consultant to the full extent provided by Oregon Revised Statutes related to any claim in tort, professional liability, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the Services or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities as City Prosecutor, unless the act or omission involved malfeasance in office or willful or wanton neglect of duty. Contractor may request and the City shall not unreasonably refuse to provide defense and indemnification, and independent legal representation of contractor's choosing of which the City may not unreasonably withhold approval. Such legal representation, provided by City or its insurer for contractor, shall extend until a final determination of the legal action including any appeals brought by either party.

11.2 Consultant recognizes that the City shall have the right to compromise and settle unilaterally on terms which do not prejudice contractor, however, if contractor in their personal capacity is a party to the suit then contractor shall have a veto authority over any settlement.

Further, the City shall pay all reasonable litigation expenses of Consultant throughout the pendency of any litigation to which the Consultant is a party, witness or advisor to the City. Such expense payments shall continue beyond Consultant's service to the City as long as litigation is pending. The City agrees to pay contractor reasonable consulting fees and travel expenses when Consultant serves as a witness, advisor or consultant to the City regarding pending litigation to which the City is a party.

11.3 Consultant shall defend, indemnify, and hold harmless the City, its officers, agents, and employees from any and all claims, actions, costs, judgments, damages, and other expenses resulting from injury to any person (including injury resulting in death) or damage to property (including loss or destruction), arising out of or incident to malfeasance, willful and wanton neglect of duty, or knowing and intentional violation of law. Consultant shall not be responsible for any claims, actions, costs, judgments, damages, or other expenses caused by the actions of the City or City staff. The purpose of this section is to allocate risk for claims between City and Consultant consistent with public policy as defined by the Oregon Tort Claims Act. Nothing in this Agreement is intended to waive any limitations on liability established by the Oregon Tort Claims Act.

Section 12. Insurance

12.1. Insurance Requirements. Consultant shall maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Agreement. Such insurance shall cover all risks arising directly or indirectly out of Consultant's activities or work hereunder. The amount of insurance carried is in no way a limitation on Consultant's liability hereunder. The policy or policies maintained by Consultant shall provide at least the following minimum limits and coverages at all times during performance under this Agreement:

12.1.1. Professional Errors and Omissions Coverage. Consultant agrees to carry Professional Errors and Omissions Liability insurance on a policy form appropriate to the professionals providing the Services hereunder. Consultant shall carry coverage with a limit no less than \$75,000 per occurrence and \$300,000 aggregate. Coverage shall increase to a limit of no less than \$2,000,000 per claim at the earliest time that Consultant qualifies for coverage with the Oregon State Bar's Professional Liability Fund. Consultant shall maintain this insurance for damages alleged to be as a result of errors, omissions, or negligent acts of Consultant. Such policy shall have a retroactive date effective before the commencement of any work by Consultant on the Services covered by this Agreement, and coverage will remain in force for a period of at least three (3) years after termination of the Agreement.

12.1.2. Automobile Liability Insurance. Any Personnel of the Consultant that operates a motor vehicle in connection with the performance the terms of this contract must have a valid license and must have insurance at the levels set forth in ORS 806.070.

12.1.3. Workers Compensation Insurance. Consultant and all employers providing work, labor, or materials under this Agreement that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Consultants who perform work without the assistance or labor of any employee need not obtain such coverage.

12.1.4. Insurance Carrier Rating. Coverages provided by Consultant must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

12.1.5. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Contractor's liabilities hereunder in insurance coverages. Additional Insured coverage under Consultant's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of Sweet Home, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder.

12.1.6. Certificates of Insurance. As evidence of the insurance coverage required by this Agreement, Consultant shall furnish a Certificate of Insurance to the City. This Agreement shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Consultant agrees that it will not terminate or change its coverage during the term of this Agreement without giving the City at least thirty (30) days' prior advance notice and Consultant will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

12.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Consultant will be required to maintain such policies in full force and effect throughout any warranty period.

Section 13. Early Termination; Default

13.1. This Agreement may be terminated prior to the expiration of the agreed upon terms:

13.1.1. By mutual written consent of the parties;

13.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; or

13.1.3. By Consultant, for any reason, effective upon sixty (60) days' prior written notice to City.

13.2. If the City terminates this Agreement, in whole or in part, due to default or failure of Consultant to perform Services in accordance with the Agreement, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Consultant shall be liable for all costs and damages incurred by the City as a result of the default by Consultant, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Agreement. This Agreement shall be in full force to the extent not terminated by written notice from the City to Consultant. In the event of a default, the City will provide Consultant with written notice of the default and a period of ten (10) days to cure the default. If Consultant notifies the City that it wishes to cure the default but cannot, in good faith, do so within the ten (10) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Agreement and seek remedies for the default, as provided above.

13.3. If the City terminates this Agreement for its own convenience not due to any default by Consultant, payment of Consultant shall be prorated to, and include, the day of termination and shall be in full satisfaction of all claims by Consultant against the City under this Agreement.

13.4. Termination under any provision of this section shall not affect any right, obligation, or liability of Consultant or the City that accrued prior to such termination. Consultant shall surrender to the City items of work or portions thereof, referred to in Section 16, for which Consultant has received payment or the City has made payment.

Section 14. Modification/Addendum

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both the City and Consultant. A modification is a written document, contemporaneously executed by the City and Consultant, which increases or decreases the cost to the City over the agreed Compensation Amount in Section 4 of this Agreement, or changes or modifies the Scope of Work or the time for performance. No modification shall be binding or effective until executed, in writing, by both Consultant and the City. If Consultant incurs additional costs or devotes additional time on City Prosecutor Services, the City shall be responsible for payment of only those additional costs for which it has agreed to pay under a signed Addendum to this Agreement.

Section 15. Access to Records

The City shall have access, upon request, to such books, documents, receipts, papers, and records of Consultant as are directly pertinent to this Agreement for the purpose of

making audit, examination, excerpts, and transcripts during the term of this Agreement and for a period of four (4) years after termination of this Agreement, unless the City specifically requests an extension.

This clause shall survive the expiration, completion, or termination of this Agreement.

Section 16. Property of the City

All documents, reports, and research gathered or prepared by Consultant under this Agreement shall be the exclusive property of the City and shall be delivered to the City prior to final payment.

Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to the City upon request without additional compensation.

Section 17. Notices

Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City:

City of Sweet Home
Attn: Cecily Pretty, Deputy City Manager
3225 Main Street
Sweet Home, OR 97326

To Consultant:

Attn: _____

Section 18. Miscellaneous Provisions

18.1. Integration. This Agreement, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these documents, the provisions of this Agreement shall control.

18.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives,

successors, and assigns. This Agreement may be enforced by an action at law or in equity.

18.3. No Assignment. Consultant may not assign this Agreement, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

18.4. Adherence to Law. In the performance of this Agreement, Consultant shall adhere to all applicable federal, state, and local laws (including the Sweet Home Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Consultant is required by law to obtain or maintain in order to perform the Services described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

18.5. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

18.6. Jurisdiction. Venue for any dispute will be in Linn County Circuit Court.

18.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Agreement, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

18.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Agreement shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

18.9. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

18.10. Modification. This Agreement may not be modified except by written instrument executed by Consultant and the City.

18.11. Time of the Essence. Time is expressly made of the essence in the performance of this Agreement.

18.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Agreement, the first day from which the designated period of time begins to run shall not be included.

18.13. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

18.14. Number, Gender and Captions. In construing this Agreement, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

18.15. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Agreement gives the City "sole discretion" or the City is allowed to make a decision in its "sole judgment."

18.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

18.17. Interpretation. As a further condition of this Agreement, the City and Consultant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the Agreement, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

18.18. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the parties.

18.19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

18.20. Authority. Each party signing on behalf of Consultant and the City hereby warrants actual authority to bind their respective party. The Consultant and the City hereby agree to all provisions of this Agreement.

CONSULTANT:

CITY:

CITY OF SWEET HOME

By: _____

By: _____

Print Name: _____

Print Name: _____

As Its: _____

As Its: _____

EXHIBIT A SCOPE OF WORK

Prosecutor will undertake to perform the following standard prosecutorial duties:

- Case reviewing and issuing – Review all criminal cases referred to the City Prosecutor's office and make a timely issuing decision. For cases where prosecution is declined, draft a brief memo outlining the reason(s) for declining the case.
- Pretrial negotiations – Draft and provide a pretrial offer on all criminal cases and on violation cases where the defendant has retained counsel. Participate in any additional pretrial negotiations beyond the drafting of the initial offer.
- Court appearances – Appear as the City Prosecutor at court proceedings every day that court is in session on all criminal matters and on violation matters where the defendant has retained counsel.

- Trials – Prepare and try all criminal cases and all violation matters where the defendant has retained counsel.
- Interfacing with crime victims, witnesses, and members of the public – Respond appropriately to inquiries from victims, case witnesses, and members of the public.
- Prosecutorial services other than court appearances and trials may be completed remotely. The City of Sweet Home will agree to facilitate remote access to any computer systems belonging to the City that are necessary to carry out the this scope of work.

Prosecutor will also undertake to perform the following non-standard prosecutorial duties:

- Appeals – Prepare and present criminal misdemeanor cases on appeal from Municipal Court.
- Law enforcement advice – Assist the City Attorney in providing legal advice to the City's Police Department personnel related to criminal investigations, arrests, searches and seizure, and related criminal enforcement matters.
- Policy review and advice – Assist the City Attorney in providing legal advice to the City and in drafting ordinances related to criminal laws and public safety.

Prosecutor will undertake to perform the following administrative duties:

- General receptionist duties – Receive and respond to inquiries from individuals or entities seeking information about the operations of the City Prosecutor's office.
- Interfacing with Police Department – Create contact with Sweet Home Police Department to facilitate the transferring of police reports and digital and physical evidence, the scheduling and subpoenaing of officers for court matters, assisting in the writing or reviewing of warrant affidavits, and coordination with officers for the subpoenaing of civil witnesses.
- Interfacing with Municipal Court and other jurisdictions – Respond to inquiries from municipal court staff, including assistance with Staff Reports, Grant Writing, etc. Facilitate information exchange between City Prosecutor and Linn County District Attorney's office or any other applicable law enforcement agency.
- Interfacing with crime victims, witnesses, and members of the public – Assist with necessary document creation and mailing of victim communication forms and notifications to maintain compliance with applicable victim contact laws. Respond appropriately to inquiries from victims, cases witnesses, and members of the public. Process and track restitution requests.

- Responding to discovery demands – Ensuring prompt delivery of discovery materials to defendants and defense attorneys to maintain compliance with relevant discovery laws.
- Create and maintain prosecutorial case files – Create and maintain prosecutor files to track compliance with discovery and victim notification issues, keep a record of documents filed in each case, and maintain a record of case facts and defendant criminal history. These files may be kept electronically or in a hard copy format at the election of Prosecutor and will be kept for the length of time required by law and remain the property of the City of Sweet Home.
- Processing motions to set aside – Assist in the processing of motions to set aside, including interfacing with members of the public or attorneys, drafting correspondence, and completing any associated data entry tasks.
- Administrative duties of the City Prosecutor services may be completed remotely. The City of Sweet Home will agree to facilitate remote access to any computer systems belonging to the City that are necessary to carry out these functions.
- Keep accurate records of and transmit to City quarterly, a summary of the number of monthly hours worked by City Prosecutor's staff carrying out the administrative duties of the Prosecutor, and the average actual hourly cost of such administrative staff incurred by Prosecutor in the performance of such Administrative duties.