

CITY ATTORNEY LEGAL SERVICES AGREEMENT

AGREEMENT, made this _____ day of _____, 2021, by and between THE CITY OF PRINCETON, a Minnesota Municipal Corporation, (“the City”); and Damien F. Toven & Associates, LLC, (“Firm”).

WHEREAS, the City desires to obtain professional legal services for purposes of handling the duties and responsibilities of City Attorney; and,

WHEREAS, FIRM desires to act as City Attorney for the City;

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the parties agree as follows:

I. **Civil Services Fixed by Retainer.** Except as specifically limited below, FIRM shall provide the following services to the City for a Fixed Retainer Fee set forth in paragraphs IV - B below.

A. **General**

1. Meetings and/or telephone conversations with and advising Mayor, Council Members, City Administrator, Department Heads and other staff on general legal matters.
2. Research and submission of legal opinions on municipal or other legal matters requested by City staff or City Administrator; availability to answer staff questions by telephone.

B. **Meetings**

3. Prepare for, attend, unless excused, regular city council meetings and advise the mayor, council members and city administrator on matters of parliamentary law and procedures of a general matter.
4. Attend such special city council meetings as the council or the city administrator directs.
5. Attend such meetings of boards or commissions as the city administrator directs.

6. Attend such other meetings, planning sessions, conferences and/or departmental meetings as requested by the city administrator.
 7. Attendance of all city council meetings during a calendar year shall be included in the retainer fee. Attendance of special city council meetings, department and boards or commission meetings as directed, shall be billed and paid at the hourly rate.
 8. Review of Council and Planning Commission agenda packets and minutes.
- C. Preparation and Review of Legal Documents (Unless Covered Under § II)**
9. Prepare such resolutions as the city administrator or the city council shall direct, except resolutions relating to the responsibility of the fiscal consultant or bond approving attorney.
 10. Review of municipal contracts, including contracts for public improvements, developments, joint powers agreements, construction, purchase of equipment, and the like for content, form, legality and execution as requested.
 11. Examine and advise regarding the legality of all proceedings and actions of the city council and other boards or commissions.
 12. Render written opinions on law when requested, including interpretation of statutes, ordinances, rules and regulations.
 13. Drafting of ordinances, ordinance amendments, resolutions, developer agreements, and correspondence as requested, including assistance in the maintenance of master city codebook as the city administrator shall direct.
 14. Review bonds, deeds, securities and insurance requirements required by or for City contracts or activities.
- D. Public Improvements (Unless Covered Under § II)**
15. Examine all petitions for improvements for validity.
 16. Assist the city engineer in preparing preliminary reports as to legal costs easement costs, assessment methods, and assessment area.
 17. Prepare or review such routine legal notices for posting, publishing or mailing as required by the statutory assessment process.

E. Real Estate Sale and Acquisition (Unless Covered Under § II)

18. Review acquisition requirements with appropriate departments, evaluate any special legal or cost problems, develop acquisition timetables, make preliminary cost estimates and obtain or develop proper legal descriptions.
19. Examine title, or arrange for the City to procure title insurance, as to each parcel as requested by the city administrator.
20. Prepare documents necessary for routine land purchases and/or sales. All such transactions shall be deemed to be routine unless the Attorney contacts the City in advance and obtains the City's approval that the transaction contemplated is non-routine. Any such non-routine transactions shall be billed at the hourly contract rate.

F. Zoning

21. Provide legal advice to Zoning Administrator, City Administrator, Planning Commission and City Council regarding zoning code matters.
22. Represent the City in matters related to the enforcement of minor violations of city building, subdivision, maintenance and zoning codes.

G. Labor Relations

23. Review and interpret collective bargaining agreements between the City and its employees.
24. Provide legal advice for City's negotiator and/or personnel officer.

H. Other Matters

25. Matters not specifically listed above or billed hourly as provided below, will be discussed in advance with City Staff and/or City Council to determine the billing to be applied considering the nature and scope of the services sought.

II. Civil Services Hourly Rate. FIRM shall provide the following services to the City at the hourly contract rate described in paragraph IV - C below, together with such other services not otherwise covered by this Agreement requested by the City and approved in advance by FIRM.

A. **Public Improvements.**

26. Represent the City in the acquisition of properties for public improvements, easements, parks and the like as needed.
27. Perform all legal work in connection with financing, not usually performed by the fiscal consultant or bond counsel.
28. Receive and evaluate all assessment appeals and try cases in District Court or recommend amendments to assessment if warranted.
29. Handle all legal matters under City construction contracts and any resulting litigation.

B. **Land Acquisition and Sale**

30. Represent the City in condemnation proceedings for public improvement projects, etc.
31. Prepare annexation documents, handle negotiations and initiate annexation proceedings at the direction of the City and follow through with all necessary documentation and presentation to the State Boundary Adjustments Division.

C. **Economic Development**

32. Representation of the City on Economic Development related issues, including developer agreements and tax increment document review as needed.

D. **Claims Against the City**

33. Where no insurance coverage is provided, make appropriate evaluation of claims for legality, investigate facts, and make recommendations to the council.
34. Defend in court all litigation where no insurance coverage is available. This includes but is not limited to: (1) human rights claims; (2) condemnation; (3) zoning and land use regulation matters; (4) permits and administrative actions; and (5) labor and employment matters.
35. Assist in resolving claims not resulting in litigation.

E. Claims By the City

- 36. Investigate and evaluate all claims by the City against others and recommend appropriate course of action.
- 37. Attempt collection of all proper claims including litigation where necessary and authorized by the City.

F. Intergovernmental Relations and Disputes

- 38. Provide such services as requested by the City regarding contractual dealings with Federal, State, County, Township, Municipal, and Special Districts by the City, including Joint Powers Act Public Improvements and contracts.
- 39. Handle disputes between the City and other governmental units, including litigation and annexation.

G. Zoning

- 40. Represent the City in litigation on zoning matters; i.e. rezoning, variances, special permits, subdivisions.
- 41. Represent the City in matters related to the enforcement of substantial violations of city building, subdivision, maintenance and zoning codes.

H. Public Utility Commission Matters

- 42. Provide services to the Public Utilities Commission, including but not limited to, the preparation and review of documents pertaining to easements, power purchases, bidding, agency agreements, bonds, contracts, etc.

I. Appeals

- 43. Examine, evaluate and provide representation for all appeals to Appellate Courts, both criminal and civil.

III. Criminal Prosecution Services: FIRM shall provide the following services for the Fixed Retainer Fee described in paragraph IV - A below.

- 44. Prosecution of all petty misdemeanor, misdemeanor and statutorily delegated gross misdemeanor offenses committed within the corporate limits of the City. This includes all such cases initiated by any law

enforcement agency and citizen complaints including but not limited to traffic violations, DUI cases, theft and City code violations.

45. Provide advice, consultation and training where required to the City's Police Department and to all other departments of the City in the interpretation and enforcement of statutes, ordinances and investigations of violations in connection with the prosecution of criminal cases.
46. Prepare criminal complaints where facts warrant.
47. Evaluate all cases where a plea of not guilty is entered and prosecute where warranted.
48. Prepare appropriate pre-trial notices as required.
49. Seek such additional investigation as required.
50. Negotiate and enter plea bargains where deemed advisable.
51. Represent the City at all pre-trials motions.
52. Pursue vehicle and contraband forfeiture awards.
53. Perform all legal research and prepare trial court briefs when required.
54. Try all jury and court cases.

IV. **Fees:**

- A. Effective January 1, 2022, City shall pay to Firm the sum of \$4,000.00 monthly for services described in section III of this Agreement.
- B. Effective January 1, 2022, City shall pay to Firm the sum of \$2,000.00 monthly services for services described in Section I.
- C. City shall pay to FIRM the sum of \$140.00 per hour for attorneys and \$75.00 per hour for paralegals and assistants for services described in Section II during the term of this Agreement.

V. **Responsible Attorneys:** Damien F. Toven shall be assigned to provide services to the City on behalf of FIRM provided that FIRM may utilize such other qualified attorneys as it deems appropriate and/or necessary to render quality legal services to the City.

VI. **Term:** The term of this Agreement shall commence January 1, 2022, and continue through December 31, 2024. This Contract may be extended or renewed by mutual agreement of the parties.

- VII. **Independent Contractor:** FIRM shall at all times be an independent contractor to the City and shall not be deemed to be an employee. Except as specified herein, FIRM shall not be entitled to any benefits provided by the City to its employees and shall be responsible for payment of all taxes, worker's compensation, unemployment, social security and other required withholdings.
- VIII. **Termination:** Either party may terminate this Agreement upon one hundred eighty days (180) days written notice to the other.
- IX. **Notices:** Any notices required under this Agreement shall be deemed given when personally delivered or three (3) calendar days after being sent by U.S. Certified Mail addressed as follows:

If to the City: The City of Princeton
Attn: City Administrator
705 Second Street North
Princeton, Minnesota 55371

If to FIRM: Damien F. Toven & Associates, LLC
Attn: Damien F. Toven
413 South Rum River Drive, Suite 6
Princeton, Minnesota 55371

- X. **Benefit:** This Agreement shall be binding upon and inure to the benefit of the parties hereto their successors and assigns.
- XI. **Entire Agreement:** This document contains the entire agreement between the parties and no changes hereto may be made unless in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above to be effective as of _____, 2021.

Damien F. Toven & Associates, LLC

By: _____
Damien F. Toven

THE CITY OF PRINCETON

By: _____
Thom Walker, Its Mayor

By: _____
Michele McPherson, Its City Administrator