

LEGAL SERVICES AGREEMENT

June 7, 2022

THIS AGREEMENT (this "Agreement") is made effective July 1, 2022, by and between the SANDY CITY, a municipal corporation of the state of Utah (the "City"), and the law firm of COWDELL & WOOLLEY, P.C. (collectively the "Firm").

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, mutual covenants, and undertakings, the parties hereby agree as follows:

1. Scope of Services to be Provided. Throughout the term of this Agreement, the Firm shall provide an attorney, Tracy Cowdell, to perform legal services as requested by the Sandy City Council ("Legal Services"). The Firm shall not delegate the performance of Mr. Cowdell's duties under this agreement, in whole, to an alternate attorney without the City Council's prior written approval. This shall not inhibit the Firm from utilizing its employees to provide legal services to the Sandy City Council as the Firm deems necessary. The Legal Services to be provided hereunder shall include, without limitation municipal attorney services. Performance of the Legal Services hereunder by the Firm shall be subject to the Utah Code of Ethics, all applicable laws (federal and/or state), rules, regulations, and professional standards, including, without limitation, the Rules of Professional Conduct adopted by the Utah Supreme Court, as the same may be amended from time to time during the term of this Agreement (collectively, "Scope of Services").
2. Attorney Client Relationship. The Firm shall represent the Sandy City Council as the client. The Firm anticipates working collaboratively with the Sandy City attorneys' office and the administration, but the attorney-client relationship only exists with the City Council and its professional staff. The Firm shall only accept requests from the council at large, individual council members, the Executive Director for the city council, and the Assistant Director for the city council. The Firm reports to the council at large, the council vice-chair (or the chair in the vice-chairs absence), and the Executive Director.
3. Fees for Legal Services and Reimbursement of Expenses. As full compensation for Legal Services performed beginning on July 1, 2022, the City shall pay the Firm the amount of \$6,500.00, billed monthly, which will be paid on or before the tenth day of the month following receipt of the invoice. Upon prior mutual agreement between the parties, the City may reimburse the Firm for actual expenses. In the future, the parties may also negotiate an hourly rate for legal services.
4. Effective Date and Termination. This Agreement shall become effective at 12:00:00 AM on July 1, 2022 and terminate at 11:59:59 p.m. on June 30, 2023. Contingent upon funding and attorney performance, this agreement may be renewed for up to three (3) additional twelve (12) month terms. Notwithstanding anything to the contrary, either party may terminate this Agreement without cause upon 30 days' prior written notice to the other party, or the City may terminate this Agreement for significant violation of the Rules of Professional Conduct upon notice to the Firm by the City.

5. Renewal and Non-funding. The City and the Firm acknowledge that funds are not presently available for the performance of this Agreement beyond June 30, 2022. The City's obligation for performance of this Agreement beyond June 30, 2022 is contingent upon funds being appropriated for payment due and providing the Legal Services under this Agreement. If no funds or insufficient funds are appropriated and budgeted, or if there is a reduction in appropriations due to insufficient revenue, resulting in insufficient funds for payments due or about to become due under this Agreement, then this Agreement shall create no obligation on the City as to such fiscal year (or any succeeding fiscal year), but instead shall terminate and become null and void on the first day of the fiscal year for which funds were not budgeted and appropriated, or in the event of reduction in appropriation, on the last day before the reduction becomes effective (except as to those portions of payments herein then agreed upon for which funds are appropriated and budgeted). Said termination shall not be construed as a breach of or default under this Agreement and said termination shall be without penalty, additional payment, or other changes of any kind whatsoever to the parties, and no right or action or damages or other relief shall accrue to the benefit of the other party as to this Agreement, or any portion thereof, which may so terminate and become null and void.
6. Assignment and Delegation. The Firm shall not assign or delegate the performance of its duties under this Agreement without the City Council's prior written approval.
7. Employment Status.
 - a) Official Status. The Firm shall have complete control and discretion over all attorneys, secretaries, runners, and other personnel assisting the Firm to provide the Legal Services hereunder and shall be considered independent contractors. All personnel providing Legal Services shall be independent contractors and not employees of the City.
 - b) Salary and Wages. Except as otherwise specified in section 2 above, the City shall not have any obligation or liability for the payment of any salary or other compensation to personnel providing, or assisting the Firm to provide, the Legal Services.
 - c) Employment Benefits. All personnel providing Legal Services are and shall remain employees of the Firm. All personnel providing Legal Services shall have no right to any City pension, civil service or any other City benefits pursuant to this Agreement or otherwise.
8. Public Information. The Firm understands and agrees that this Agreement and related invoices, etc., may be subject to the provisions of the Utah Government Records Access and Management Act, Utah Code Ann. § 630-2-101, *et seq.*
9. Confidentiality. The Firm agrees (1) to hold confidential information in strict confidence; (2) not to disclose confidential information to any third party except upon the City's prior consent; and (3) to use reasonable precautions and processes to

prevent unauthorized access, use, or disclosure of the City's confidential information. As used in this Agreement, confidential information means all information material that constitutes a private, controlled, or protected record or document, or is exempt from disclosure as referenced in Utah Code Ann. § 63G-2-101, *et seq.* The Firm also agrees to obligate their employees to the same obligations imposed on the Firm as provided in this section.

10. Equipment and Facilities. For purposes of performing the Services, the Firm shall furnish and supply at its sole cost all necessary labor and supervision necessary to perform the Services. As needed, the City shall provide access to copy machines, bandwidth, server space, file storage areas, and supplies necessary and incident to performing the Services. The city may also provide workspace for attorneys at the city from time to time.
11. Alcohol and Drug-free Workplace. All personnel during such time that they provide Legal Services shall not be under the influence of alcohol, any drug, or combined influence of alcohol or any drug to a degree that renders the person incapable of safely providing the Legal Services. Further, all personnel during such time that they provide Legal Services shall not have sufficient alcohol in his body, blood, or on his breath that would constitute a violation of UTAH CODE ANN. § 41-6a-502 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle) or any measurable controlled substance in his body that would constitute a violation of UTAH CODE ANN. § 41-6a-517 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle).
12. Agent Relationship. The City authorizes the Firm to act as its special agent to provide Legal Services within the Scope of Services. The special agency relationship shall remain in full force and effect during the term of this Agreement or any extensions or renewals of this Agreement. Provided, however, the authorization granted herein is limited to Legal Services with the Scope of Services.
13. Indemnification by The Firm and Insurance. The Firm shall defend, indemnify, save, and hold harmless the City, and its successor and assigns, from and against any and all damages, liabilities, and claims (including reasonable attorneys' fees) relating to the Scope of Services and claims related to workers' compensation. The Firm shall also maintain professional liability insurance for the duration of this Agreement.
14. Titles and Captions. All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend, or describe the scope, content, or intent of any part or parts hereof.
15. Pronouns and Plurals. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns, pronouns, and verbs shall include the plurals and vice versa
16. Force Majeure. Neither party to this Agreement will be held responsible for delay or default caused by fire, riot, acts of God, and/or war which is beyond that party's reasonable control.
17. Applicable Law. The provisions hereof shall be governed by and construed in accordance with the laws of the state of Utah.

18. Integration. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.
19. Time. Time is the essence hereof.
20. Survival. All agreements, covenants, representations, and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.
21. Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term, or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation, or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.
22. Rights and Remedies. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.
23. Severability. In the event that any condition, covenant, or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
24. Conflicts of Interest and Ethics. The Firm represents and certifies that it has not offered or given any gift or compensation prohibited by law to any officer or employee of the city to secure favorable treatment with respect to being awarded this Agreement. The Parties understand that the City Council is the client. A representative of the Firm shall report to the Council's designee and the Council's designee shall administer the terms of this Agreement and give direction regarding the Legal Services.

Unless the Council's designee is an attorney, all matters requiring legal work or judgment shall be performed by the attorneys of the Firm and the legal work shall not be unduly influenced by the City's designee pursuant to the Utah Rules of Professional Conduct.

The Firm also certifies that we do not have any conflict of interest with Sandy City. If, however an unforeseeable conflict does arise, the Firm will disclose it and not keep that confidential from either party. Before we can continue representing any party, each client must give informed consent to continue representation. We will not continue with the representation unless we can provide competent and diligent representation to each affected client. We will not continue unless it is permitted by law and the representation at issue does not include the same litigation or other proceedings that created the conflict. We also certify, that in the event that a conflict of interest does arise, we will not use any confidential information obtained to assist an adverse party.

IN WITNESS WHEREOF, the Sandy City Council caused this Agreement to be signed by its chair and attested by its clerk and delivered, and the Firm has caused the same to be signed and delivered.

SANDY CITY COUNCIL

MARCI HOUSEMAN, Chair

ATTEST:

WENDY DOWNS, City Recorder

COWDELL & WOOLLEY, PC

TRACY SCOTT COWDELL, Partner

APPROVED AS TO FORM:

LYNN PACE, City Attorney