

CONTRACT FOR CIVIL LEGAL SERVICES

This Contract for Civil Legal Services (the “Agreement”) is effective as of the 23rd day of January 2023 and is entered into by and between the City OF WEST ST. PAUL, a municipal corporation and political subdivision of the State of Minnesota (the “City”), and the law firm of Kennedy & Graven, Chartered. (the “Law Firm”), for the purpose of utilizing the Law Firm to provide civil municipal legal services to the City.

Section 1. Background and Findings. The City has determined that the firm of Kennedy & Graven, Chartered should be engaged as Attorney with Pamela Whitmore of that firm serving as primary legal counsel for the City.

Section 2. Terms and Conditions.

2.01. *Consideration*. In consideration of the mutual promises contained in this Agreement, the City and the Law Firm agree to the and conditions set forth herein.

2.02 *Compensation for Legal Services*. For legal services, the City agrees to compensate the Attorney for the following hourly rates for services indicated below:

	2023	2024	2025	2026	2027
General Hourly Rate for All Attorneys	\$180	\$185	\$190	\$195	\$200
General Hourly Rate for Paralegals	\$110	\$115	\$120	\$125	\$130
General Hourly Rate for Law Clerks on all matters	\$90	\$95	\$100	\$105	\$110
Matters Related to Charter Commission Hourly Rate for All Attorneys	\$180	\$185	\$190	\$195	\$200
Non-Routine Services Rate for All Attorneys <i>Labor & employment, civil litigation, administrative hearing representation, telecommunications, development (not pass through), redevelopment, tax abatement, TIF</i>	\$210	\$215	\$220	\$225	\$230
Development Pass Through for All Attorneys	\$250	\$255	\$260	\$265	\$270

2.03. *Reimbursable Costs and Expenses*.

- a. General Rule: The City will reimburse the Law Firm for actual, necessary, and reasonable costs and expenses incurred by the Law Firm in the performance of the legal services contained in this Agreement.

b. Specific Expenses:

Description of Costs	Rate
Mileage	No Reimbursement for general office hours and regular council meetings and workshops; then-current IRS business rate for meetings related to non-routine matters.
Parking	Actual Cost
Meals	No Reimbursement
Postage	Actual Cost
Messenger	Actual Cost
Court Costs	Actual Cost
Arbitration Costs	Actual Cost
Contested Case Costs	Actual Cost
Document Recording & Closing Fees	Actual Cost

2.04. *Usual and Customary Legal Services.* The Attorney agrees to perform all usual and customary legal services for the City in accordance with the terms of this Agreement, and at the direction of the City or its authorized representative. Such services may include, but are not limited to the following:

1. Attend regular or special City Council and City Board and Commission meetings as requested by the City Manager or Council.
2. Review Council and Planning Commission agenda items and minutes, as requested.
3. Availability for consultation with City Council, City Manager, department heads and authorized staff.
4. Draft and revise City ordinances, resolutions, and regulations, as requested.
5. Draft municipal contracts, joint powers agreements, and other similar agreements; review contractor/vendor bond and insurance documents, as requested.
6. Research and prepare legal opinions on municipal or other legal matters, including but not limited to open meeting law/data practices issues and general municipal employment matters.
7. Provide regular updates on significant developments in laws affecting the City to the City Manager, City Council, and staff.
8. Provide a yearly legislative update with ad hoc updates between the yearly update of items identified by Law Firm or League of Minnesota Lobbyists of significant impact.
9. Provide, upon request, regular in-service presentations to City staff and City officials on topics selected by the Law Firm and the City, with special emphasis on new

developments in the law (e.g., labor issues/data practices issues/land use issues). This includes Good Governance, Roles, Data and Open Meeting Law for elected officials but does not include non-routine trainings, examples of which include Conflict Management, Strategic Planning, or other high-level specialized training that City otherwise would hire an outside consultant to do the training.

10. Provide routine economic development services including general advice on development matters and attendance at EDA meetings or Planning Commission Meetings. Drafting of development agreements, assessments agreements, and other similar agreements related to TIF or closing on real state is considered non-routine and subject to amount indicated in the Recitals above. If such economic development representation is proposed to be partially or fully reimbursed by a private developer, the Law Firm may adjust its billing rate accordingly to pass through rate pursuant to the amount indicated in the Recitals above or may extend a flat fee billing scenario to cover the work, in consultation with the City Manager.

2.05. *Best Legal Practices.* In addition to the regular services outlined in this Agreement, throughout the period of its representation, the Law Firm is available, upon request, for overview of policies and offer “best legal practices” insight. Examples of these services include:

1. *Department Specific:* Periodic review of internal processes and procedures of City Departments upon request to furnish recommendations in order to reduce or avoid future liability and litigation and comply with any applicable state law or charter.
2. *Planning/Engineering:* Annual review of documentation related to any emerging Planning/Engineering issues to ensure that the documents are up to date, consistently utilized correctly and sufficiently protective of City financial and planning interests. Additionally, when the need is identified either by Law Firm or client, make regular recommendations for standardization of City documents, development agreements and contracts and processes using templates and checklists where advisable to improve efficiency and predictability.
3. *Zoning/Subdivision/Regulatory:* Regularly furnish examples of, and suggestions for, zoning, subdivision and regulatory ordinance improvements and modifications based upon needs identified by the Law Firm and the City, but also based upon legislative changes.

2.06. *Non-routine Legal Services:* The parties contemplate that the Law Firm may also provide civil legal services outside the scope of services covered by the general and best practices services described above. These services shall be handled as follows:

1. *Contested Case Matters:* The Law Firm will provide representation in contested cases, provided the City has the right to select different counsel in the contested case if they so choose, and provided the City determines, in its reasonable discretion, that the Law Firm has the skill and experience to represent the City in a fashion that the City deems to be in its best interests given the expertise, costs, and litigation service delivery available from other law firms in the area.

2. *Non-routine matters:* The parties agree to the following description of the nature of the legal services to be provided by the Law Firm, at the specific request of the City, as Non-Routine Services.
 - Litigation and appellate work.
 - Non-routine labor and employment matters.
 - Condemnations.
 - Non-routine Environmental.
 - Administrative hearing representation.
 - Specific redevelopment, development, tax abatement and TIF.
 - Recodifications.
 - Telecommunications.
 - Additional specialized development work beyond scope of services anticipated as routine.
 - Claims/Civil litigation not covered by insurance or as the City's insurance carrier's legal representative.
 - Other non-routine legal work agreed to by the parties.
3. *Agreement Not Exclusive.* The City retains the right to hire other legal representation for specific legal matters.
4. *Matters Covered by Insurance:* The Law Firm will assist the City in submitting claims for insurance coverage to various insurance carriers. Whenever a claim is made with an insurance carrier, which arises out of a legal issue within the scope of this Agreement, the City will recommend that the Law Firm be utilized by the insurance carrier in the matter for which the claim is made. The City may recommend the Law Firm to an insurance carrier for claims arising out of matters which are outside the scope of this Agreement. At the point in time when an insurance carrier admits coverage, and to the extent that they will provide retroactive payments for attorneys' fees, the Law Firm will receive its payments for services rendered from the insurance carrier and not the City. To the extent that an insurance carrier does not pay for legal services rendered by the Law Firm, including any deductibles, the City will pay the Law Firm for services rendered at the rates charged to the insurance company, subject to the billing and payment provisions herein.

2.07. *Conflict of Interest and Attorney/Client Privilege Issues.*

1. *Conflict of Interest:* The Law Firm will notify the City as soon as practicable if the Law Firm represents or has ever represented an opposing party to the City in a legal matter.
2. *Attorney/Client Privilege:* The Law Firm is authorized to utilize e-mail without encryption and use of cell phones to transmit and receive confidential client information. The City specifically acknowledges that it understands the confidentiality risks associated with inadvertent interception of such information.

2.08. *Billing Format, Cycle, Payment Expectations, and Interests.*

1. *Billing Format:* The Law Firm will submit monthly statements itemizing legal services rendered for the prior month broken down into categories.
2. *Billing Cycle:* The Law Firm will bill monthly for legal services rendered in the prior month. Generally, bills will go out approximately 10 days after the end of the prior month.
3. *Payment Expectations:* The City will pay the bill of the Law Firm routinely according to its internal payment procedures by forwarding a check to the Law Firm paying for both legal services and expenses shown on the Law Firm's bill.
4. *Disputes:* In the event that the City disputes any aspect of the Law Firm's bill, the appropriate City representative will contact Pamela J. F. Whitmore at the Law Firm stating the nature of the dispute.

2.09. *Term of Agreement.* The term of this Agreement will be effective January 24, 2023, and will run through December 31, 2027.

2.10. *Termination.* During the term of the Agreement, either party may terminate the Agreement upon 60 calendar days' written notice to the other party.

2.11. *Authorized Contact Person.* Pamela J. F. Whitmore will act as lead attorney for the City. However, the parties contemplate that other attorneys in the Law Firm will also be providing services to the City subject always to advance approval by the City.

2.12. *City Approval.* The Law Firm is authorized to commence performing services under this contract effective upon the execution of this Agreement.

2.13. *Entire Agreement.* This Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between the City and the Attorney and supersedes any other written or oral agreements between the City and the Attorney. This Agreement can only be modified in writing signed by the City and the Attorney.

2.14. *Independent Contractor Status.* All services provided by the Attorney pursuant to this Agreement shall be provided by the Attorney as an independent contractor and not as an employee of the City for any purpose, including but not limited to: income tax withholding, workers' compensation, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.

2.15. *Work Products.* All records, information, materials and other work products prepared and developed in connection with the provision of services pursuant to this Agreement shall become the property of the City.

2.16. *Insurance.* The Attorney shall maintain professional liability (malpractice) insurance in the minimum amount of \$1,000,000.

2.17. *Data Practices Act Compliance.* Data provided to the Attorney under this Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

2.18. *Choices of Law and Venue.* This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

2.19. *Non-discrimination.* Attorney will comply with all applicable federal and state laws, rules and regulations related to civil and human rights and will not discriminate against any employee or applicant for employment because of race, creed, color, religion, ancestry, national origin, sex, affectional preference, disability or other handicap, age, marital status, or status with respect to public assistance.

THE City OF WEST ST. PAUL

**KENNEDY & GRAVEN,
CHARTERED**

By: _____

By: _____

Date: _____

Date: _____

By: _____

Date: _____