

CONTRACT FOR LEGAL SERVICES

BETWEEN

CITY OF MILWAUKEE, WI

AND

THOMAS E. HAYES

THIS AGREEMENT is entered into pursuant to Sec. 304-23, of the Milwaukee Code of Ordinances, and resolutions of the Common Council of the City of Milwaukee authorizing the City Attorney to retain outside legal counsel to provide legal services to the City of Milwaukee.

GENERAL SERVICE DESCRIPTION – Thomas E. Hayes (“CONSULTANT”) hereby agrees to provide legal services and representation to the City of Milwaukee (“CITY”) as described in Section III of this contract.

TIME OF PERFORMANCE - To commence on the date of execution of this Contract, for a period of one year.

PAYMENT - The legal services and representation shall be provided in accordance with the terms and conditions and the rate stated in Section IV of this contract, unless a different rate or different terms and conditions are agreed upon by the parties.

WHEREAS, the CONSULTANT represents himself as being capable, experienced, and qualified to undertake and perform the services described under the terms and conditions of this Contract as an independent contractor, and not as an employee of the CITY, having practiced in the area of municipal law, finance, and government for over 36 years; and

WHEREAS, the Common Council of the City of Milwaukee, through Resolution File Number \_\_\_\_\_, adopted on \_\_\_\_\_, authorized the City Attorney to retain outside legal counsel to provide legal services as specified.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. RETENTION OF SERVICES. The CITY hereby agrees to engage the CONSULTANT and the CONSULTANT hereby agrees to personally perform, as an independent contractor and not as an employee of the CITY, the services hereinafter set forth, all in accordance with the terms and conditions of this Contract.

II. REQUIREMENTS. The CONSULTANT is required to:

A. do, perform, and carry out in a satisfactory, timely and proper manner, the services delineated in this contract.

B. comply with requirements listed with respect to insurance, billing, avoiding conflicts of interest and other matters relating to the performance of the services.

### III. SCOPE OF SERVICES.

The CONSULTANT shall provide legal services and consultation at the direction of the City Attorney as needed in reference to the following two areas: 1) pension issues relating to the Milwaukee Employee's Retirement System, the Firemen's Annuity and Benefits Fund, the Policemen's Annuity and Benefits Fund, and the Milwaukee Public School System; and 2) representation of the Deferred Compensation Board.

IV. SPECIFIC CONDITIONS OF PAYMENT. Payment will be made, to CONSULTANT according to the following schedules upon satisfactory performance:

1. The CONSULTANT shall submit an itemized bill for his services biweekly. CITY agrees to pay the bill upon review and approval by the City Attorney on the basis that the charges are reasonable and that the work was necessary to perform. If the work done is in reference to a specific case, the bill should state the case number in reference to which the costs, fees, or expenses were incurred.

2. The CONSULTANT shall be paid \$75 per hour, to be computed on the basis of the itemized invoices, which shall show work hours expended during the reported period of time. CONSULTANT shall be expected to work no more than 24 hours of every two-week period. In addition to legal fees, the CITY will pay CONSULTANT's out-of-pocket expenses for long-distance telephone charges, photocopying charges, document filing fees, mileage, transcript fees, facsimile transmission charges, parking, and other legitimate expenses. The CITY will not be responsible for costs associated with maintaining CONSULTANT's law license or membership in other organizations. The CITY will provide CONSULTANT with adequate work space, computer and telecommunications equipment, and support staff in the Milwaukee City Attorney's Office. To the extent possible, CITY will provide CONSULTANT with access from his residence to the City Attorney's Westlaw and other research resources. The CONSULTANT agrees that all out-of-pocket expenses will be itemized on the invoices.

3. Payments due the CONSULTANT for work completed shall be made promptly pursuant to the CITY's prompt-payment policy.

4. Payments under this contract may not to exceed \$25,000. The CITY may from time to time amend this amount in the event the City deems that additional funds are needed to complete the work described in the Scope of Services section of the contract.

V. NOTICES. Any and all notices shall be in writing and deemed served upon depositing same with the United States Postal Services as "Certified Mail, Return Receipt Requested," addressed to the CONSULTANT at:

Thomas E. Hayes, Esq.  
W 147 N10011 Emerald Lane  
Germantown, WI 53022

to the CITY at:

City Attorney's Office, Attn: Grant F. Langley, Esq.  
Room 800  
200 East Wells Street  
Milwaukee, WI 53202

All other correspondence shall be addressed as above, but may be sent "Regular Mail" and deemed delivered upon receipt by the addressee.

#### VI. DOCUMENTS.

A. The CONSULTANT agrees to submit reports as may be required by the CITY at such times as may be scheduled for submittal, unless otherwise agreed to in writing.

B. All reports, studies, analyses, memoranda, and related data and material as may be developed during the performance of this Contract shall be submitted to and be the exclusive property of the CITY, which shall have the right to use same for any purpose without any further compensation to the CONSULTANT other than hereinafter provided. All of the aforesaid documents and materials prepared or assembled by the CONSULTANT under this Contract are confidential and the CONSULTANT agrees that it will not, without prior written approval by the CITY, submit or make same available to any individual, agency, public body or organization other than the CITY, except as may be otherwise herein provided, subject to the provisions of the Wisconsin Public Records Law. The CONSULTANT shall assist the CITY in meeting its obligations under the Wisconsin Public Records Law.

C. If this Contract is terminated for cause or for any other reason, all finished or unfinished documents or materials prepared under this Contract shall be immediately transmitted to the CITY at the effective date of such termination.

VII. CONDITIONS OF PERFORMANCE AND COMPENSATION.

A. Performance. The CONSULTANT agrees that the performance of CONSULTANT's work, services and the results therefrom, pursuant to the terms, conditions and agreements of this Contract, shall conform to such recognized high professional standards as are prevalent in this field of endeavor and like services.

B. Additional Fringe or Employee Benefits. The CONSULTANT shall not receive nor be eligible for any fringe benefits or any other benefits to which CITY salaried employees are entitled to or are receiving.

C. Taxes, Social Security, and Government Reporting. Personal income tax payments, social security contributions, and all other governmental reporting and contributions required as a consequence of the CONSULTANT receiving payment under this Contract shall be the sole responsibility of the CONSULTANT.

D. The CONSULTANT shall not be required to provide professional liability insurance during the term of this Contract or any extension thereof. The CITY shall indemnify and hold harmless the CONSULTANT for any claims or liability that may arise as the result of CONSULTANT performing legal services under this Contract.

E. Subcontracting. The CONSULTANT shall not subcontract for the performance of any of the services herein set forth without prior written approval obtained from the City Attorney.

VIII. TERMINATION OF CONTRACT. The CITY, acting by its City Attorney, may terminate this Contract at any time for no reason by giving five days' notice in writing from the CITY ATTORNEY to the CONSULTANT.

If the CONSULTANT is terminated by the CITY as provided herein, the CONSULTANT will be paid for services actually and satisfactorily performed.

IX. CHANGES. The CITY may, from time to time, request changes in the scope of services of the CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of CONSULTANT's compensation that are mutually agreed upon by and between the CITY and the CONSULTANT, shall be incorporated in written amendments to the Contract.

X. ASSIGNABILITY. The CONSULTANT shall not assign any interest in this Contract and shall not transfer any interest in same (whether by assignment, novation, or any other manner), without the prior written consent of the City Attorney. Provided, however, that claims for money due or to become due the CONSULTANT from the CITY under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to the City Attorney.

XI. RECORDS.

A. Establishment and Maintenance of Records. Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years after receipt of the final payment under this Contract.

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to this Contract and shall be clearly identified and readily accessible.

XII. REPORTS AND INFORMATION. At such times and in such forms as the CITY may require, there shall be furnished the CITY such statements, records, reports, data and information as the CITY may request pertaining to matters covered by this Contract.

XIII. AUDITS AND INSPECTIONS. At any time during normal business hours and as often as the CITY, or if federal or state grants or aids are involved, as the appropriate federal or state agency may deem necessary, there shall be made available to the CITY or such agency for examination all of its records with respect to all matters covered by this Contract and will permit the CITY or such agency and/or representatives of the Comptroller General to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and other data relating to all matters covered by this Contract.

XIV. FINDINGS CONFIDENTIAL. All of the reports, information, data, etc., prepared or assembled by the CONSULTANT under this Contract are confidential, to the extent permitted by law, and the CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of the CITY, subject to the provisions of the Wisconsin Public Records Law.

XV. CONFLICT OF INTEREST.

A. Interest in Contract. No officer, employee or agent of the CITY who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

B. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Contract, shall have any personal interest, direct or indirect, in this Contract.

C. Interest of CONSULTANT and Employees. The CONSULTANT covenants that no person who exercises any functions or responsibilities in connection with the Contract has any personal financial interest, direct or indirect, in this Contract. The CONSULTANT further covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The CONSULTANT further covenants that in the performance of this Contract no person having any conflicting interest shall be employed. An interest on the part of the CONSULTANT or his employees must be disclosed to the CITY. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

D. The CONSULTANT agrees pursuant to Sec. 304-23, Milwaukee City Ordinance, that neither he nor any attorney who is advising or representing the CITY pursuant to the terms of this agreement shall undertake representation of any person in connection with any claim, proceeding, lawsuit or other matter against the CITY during the period in which the law firm is engaged in by the CITY under this agreement.

XVI. DISCRIMINATION PROHIBITED.

A. In all hiring or employment made possible by or resulting from this Contract there (1) will not be any discrimination against any employee or applicant for employment because of race, color, sex orientation, religion, sex or national origin, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex orientation, sex or national origin.

This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex orientation, sex or national origin.

B. No person in the United States shall, on the ground of race, color, sex orientation, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract. The CITY and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

C. The CONSULTANT will cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

XVII. WORKER'S COMPENSATION INSURANCE. The CONSULTANT, and all subcontractors, if any, shall provide to the CITY an affidavit or other satisfactory proof which the CITY may require evidencing that the CONSULTANT and all subcontractors have obtained Worker's Compensation Insurance for all persons performing any work or services under the Contract or subcontract as is required by the Worker's Compensation Act of the state of Wisconsin. No payments or disbursements under the Contract shall be made if such proof has not been furnished.

XVIII. OTHER PROVISIONS. Any and all information, plans, reports and conclusions derived or developed as a consequence or result of this Contract may be utilized by the City in such manner and purpose as the CITY desires or determines without permission or approval of the CONSULTANT or compensation to the CONSULTANT therefor other than herein provided.

IN WITNESS WHEREOF, the CONSULTANT and the CITY have caused this Contract to be executed for and on their respective behalves as of the dates hereinafter set forth.

Dated and signed this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

CITY OF MILWAUKEE,  
a municipal corporation

BY: \_\_\_\_\_  
CITY ATTORNEY  
GRANT F. LANGLEY

\_\_\_\_\_  
DATE

CONSULTANT

BY: \_\_\_\_\_  
THOMAS E. HA YES

\_\_\_\_\_  
DATE

COUNTERSIGNED:

BY: \_\_\_\_\_  
COMPTROLLER

\_\_\_\_\_  
DATE

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