

LEGAL SERVICES AGREEMENT

This agreement (“Agreement”) is entered into by the City of Milwaukee, by and through it’s Ethics Board, (“The Board”) and Boardman & Clark, LLP (“Law Firm”). The Agreement is effective as of the date of final execution.

IT IS MUTUALLY AGREED BY THE PARTIES:

1. Identity of Client. Law Firm shall represent and counsel The Board in the matters described below.
2. Scope of Work. Law Firm shall, as an independent contractor, provide legal services and representation to The Board as needed, in association with request for a confidential advisory opinion #21-1. The Board, may, from time to time, request changes to services. Such changes, including any increase or decrease in the amount of Law Firm’s compensation that are mutually agreed upon by and between The Board and Law Firm, shall be incorporated in written amendments to the Agreement.
3. Term. This Agreement shall become effective upon final signature and shall terminate after three months unless otherwise terminated as provided for herein or extended by mutual agreement of the parties.
4. Performance. Law Firm agrees that the performance of the Services and the results therefrom shall be satisfactorily carried out in a timely manner and shall conform to such highly recognized professional standards as are prevalent in the industry by personnel fully qualified to perform the Services. Law Firm agrees to comply with all federal, state and local laws, regulations, rules, or court orders.
5. Personnel. Law Firm shall secure at its own expense all personnel required to perform the Services. Law Firm and its employees, agents, officers, subcontractors, and volunteers shall not receive nor be eligible for any fringe benefits or any other benefits to which The Board’s employees are entitled to or are receiving. None of the Services shall be subcontracted without the prior written approval of the City Attorney. If any Services are subcontracted, it shall be specified by written contract or agreement and shall be subject to each provision of this Agreement. Law Firm shall be as fully responsible to The Board for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by Law Firm.
6. Taxes, Social Security, Insurance, and Government Reporting. Personal income tax payments, social security contributions, insurance, and all other governmental reporting and contributions as required as a consequence of Law Firm receiving payment under this Agreement shall be the sole responsibility of Law Firm.
7. Insurance. During the period Law Firm provides services pursuant to this Contract and for the number of years thereafter necessary to cover (i) any continued activities of Law Firm to complete its representation under this Contract, and (ii) any claims made within the applicable statute of limitations, Law Firm shall carry fully comprehensive professional liability insurance

with annual, aggregate limits of no less than Two Million Dollars (\$2,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate. Law Firm currently has professional liability insurance with annual, aggregate limits of no less than Two Million Dollars (\$2,000,000) per claim and Five Million Dollars (\$5,000,000) in the aggregate. ----- Law Firm agrees to have and maintain the policies set forth in Exhibit A entitled “Insurance Requirements.” All policies, endorsements, certificates, and/or binders shall be subject to approval by The Board as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by The Board. A lapse in any required insurance coverage during the term of this Agreement shall constitute a material breach.

8. Compensation and Staffing.

a. The Board shall compensate Law Firm at a rate not to exceed \$300.00 per hour, billed in 1/10 hour increments. Law Firm shall bill The Board for no more than thirty hours a week and all hours worked shall only be during hours specified by The Board during the term of the Agreement.

b. Administrative and Other Costs: Law Firm will not charge for copies, printing, long distance telephone, conference call services, legal research databases such as Westlaw or Lexis, or similar overhead costs in the ordinary course. Law Firm may charge The Board the reasonable costs for necessary mail services. To the extent Law Firm is required to travel at client request, Law Firm will obtain prior authorization, and charge actual and reasonable costs of such travel to The Board.

c. If, as a result of the engagement, Law Firm is required to produce documents or appear as a witness in connection with any litigation, arbitration, mediation, investigation, or regulatory proceeding involving The Board, The Board also agrees to pay the actual costs and expenses (including attorney and staff time at the agreed hourly rates) reasonably incurred by Law Firm in connection with such requirement.

d. Payments under this Agreement shall not exceed Fifteen Thousand Dollars (\$15,000.00) unless otherwise agreed to in writing by the parties.

e. Documentation of Costs. Law Firm shall ensure that all fees and costs it incurs pursuant to this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, 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 Agreement and shall be clearly identified and readily accessible.

9. Billing.

a. Invoices. Law Firm shall submit an itemized bill for its services no less than monthly to ethics@milwaukee.gov. The Board agrees to pay the bill upon approval of the City Attorney that the charges are reasonable and that the work was necessary to perform. Itemized invoices shall show work hours spent by each individual staffed under this Agreement as well as

any costs and expenses arising out of the same unless the services are otherwise agreed to be billed on a flat fee basis.

b. Prompt Payment. Pursuant to Common Council File No. 101137, if The Board does not make payment within 45 days after receipt of the Invoice, The Board shall pay simple interest beginning with the 31st calendar day after submission of the Invoice at the rate of one percent per month. No attorney's fees, expenses, or other collection costs may be billed to The Board unless otherwise agreed in writing. The Board may dispute any incorrect charges, charges disallowed by this Agreement, or charges for work, services, or deliveries that were incomplete, incorrectly done, defective, damaged, or the like. No interest shall be applied to any outstanding amounts where Law Firm has been sent notice that the amount owed to Law Firm is subject to a good faith dispute within 45 days of the receipt of the Invoice. The Board's failure to pay in a timely fashion does not relieve Law Firm of its obligation to perform the services for which it has been retained. In the event that the 45th day after receipt of the Invoice is a Saturday, Sunday, or national holiday payment may be made on the following business day without interest being owed to Law Firm. Consistent with Wis. Stat. § 66.0135(3), Law Firm shall pay any of its subcontractors for satisfactory work within seven (7) days of Law Firm's receipt of payment from The Board or seven (7) days from receipt of an invoice from the subcontractor, whichever is later. If Law Firm fails to make timely payment to a subcontractor, Law Firm shall pay interest to the subcontractor at the rate of 12 percent per year, compounded monthly, beginning with the 8th calendar day after Law Firm's receipt of payment from The Board or receipt of an invoice from the subcontractor, whichever is later.

c. Tax Exemption. The Board is exempt from the payment of all federal taxes. Registration No. A-245518 for tax-free transactions is on file with the Milwaukee Office of the Internal Revenue Service. The Board is exempt from Wisconsin sales or use tax under Section 77.54(1) and (9a), Wisconsin State Statutes. The Board's Wisconsin Sales and Use Tax Exemption number is ES 44381. Invoices to The Board may not include costs for Federal excise and Wisconsin sales taxes.

10. Termination. The Board may, at any time and for any reason, instruct Law Firm in writing to cease activities. Similarly, Law Firm reserves the right to terminate its representation at any time upon 30 days' notice to The Board. The Board agrees to execute any documents reasonably necessary to permit Law Firm to withdraw from representing The Board, and to promptly pay all fees, costs, and disbursements incurred through the date of termination after receipt of a final invoice. In the case of termination by either party, Law Firm will promptly take the steps necessary to conclude Law Firm's representation. Those steps include preparing the materials appropriate for transferring the matter to another counsel, if requested.

11. Electronic Communications. It is likely that during the course of this engagement both The Board and Law Firm will use electronic devices and Internet services (which may include unencrypted wired or wireless e-mail, cellular telephones, voice over Internet, electronic data and document web sites, and other state of the art technology) to communicate and to send or make available documents. Law Firm will maintain policies, procedures, and technological and licensing infrastructure sufficient to secure its communications as is considered reasonable in its industry.

12. Amendment. This agreement shall not be altered, changed, or amended except by written instrument executed by both parties hereto. As to the scope of representation of this Agreement, this Agreement supersedes any previous engagement letter or agreement between The Board and Law Firm.

13. Notices. Except as otherwise specified herein, notices shall be in writing and deemed served upon the same with the United States Postal Service. Notices shall be addressed to:

Law Firm

Attorney Michael P. May
Boardman & Clark LLP
1 S. Pinckney St., Suite 410
P.O. Box 927
Madison, WI 53701-0927

City of Milwaukee – Ethics Board

Chairwoman Patricia A. Hintz
Milwaukee City Hall
200 E. Wells St., Room 205
Milwaukee, WI 53202-3653

With electronic copy to: ethics@milwaukee.gov.

14. Jurisdiction, Venue, and Choice of Law. This Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties agree that for any claim or suit or other dispute relating to this Agreement that cannot be mutually resolved, jurisdiction and venue shall be in Milwaukee County, Wisconsin, for matters arising under state law or, should federal courts have jurisdiction, the eastern district of Wisconsin. The parties agree to submit themselves to the jurisdiction of said courts, to the exclusion of any other court that may have jurisdiction over such a dispute according to any other law.

15. Indemnification and Defense of Suits. In case any action in court or proceeding before an administrative agency is brought against The Board or any of its officers, agents, or employees for the failure or neglect of Law Firm in whole or in part to perform any of the covenants, acts, matters or things by this Agreement undertaken, or for injury or damage caused by the alleged negligence of Law Firm, its officers, agents or employees, Law Firm shall, to the extent covered by its insurance, indemnify and save harmless The Board and any of its officers, agents, or employees from all losses, damages, costs, expenses, judgments, or decrees arising out of such action that result from Law Firm's negligent acts or failure to act. The Board shall tender the defense of any claim or action at law or in equity to the Law Firm or the Law Firm's insurer, and upon such tender it shall be the duty of the Law Firm, to the extent covered by its insurance, and Law Firm's insurer to defend such claim or action without cost or expense to The Board or its officers, agents or employees.

16. Public Records and Records Retention. Law Firm understands that The Board is bound by the Wisconsin Public Records Law, Wis. Stat. §19.21, et. seq. Pursuant to Wis. Stat. §19.36(3), The Board may be obligated to produce, to a third party, the records of Law Firm that are “produced or collected” by Law Firm under this Agreement (“Records”). Law Firm is further directed to Wis. Stat. §19.21, et. seq., for the statutory definition of Records subject to disclosure under this paragraph, and Law Firm acknowledges that it has read and understands that definition. Irrespective of any other term of this Agreement, Law Firm is (1) obligated to retain Records for seven years from the date of the Record’s creation, and (2) produce such Records to The Board if, in The Board’s determination, The Board is required to produce the Records to a third party in response to a public records request. Law Firm’s failure to retain and produce Records as required by this paragraph shall constitute a material breach of this Agreement.

17. Reports and Information. Law Firm shall furnish the City Attorney with such statements, records, reports, data, studies, analysis, memorandum, records, information, and related data and materials created as a result of this Agreement (collectively “Documents”) as The Board may reasonably request pertaining to matters covered by the Agreement. All reports, studies, analyses, memoranda, and related data and material as may be developed during the performance of this Agreement shall be submitted to and be the exclusive property of The Board, which shall have the right to use same for any purpose without any further compensation to Law Firm other than hereinafter provided. All of the aforesaid documents and materials prepared or assembled by Law Firm under this Agreement are confidential and Law Firm agrees that it will not, without prior written approval by The Board, submit or make same available to any individual, agency, public body, or organization other than The Board, except as may be otherwise herein provided, subject to the provisions of the Wisconsin Public Records Law.

18. Audits and Inspections. Law Firm shall make the Documents available to The Board to allow The Board to audit, examine, excerpt or transcribe the Documents and audit, examine, excerpt or transcribe all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement any time during normal business hours and as often as The Board may, in its sole discretion, deem necessary. If federal or state grants or aids are involved in this Agreement, Law Firm shall make the Documents available to the appropriate federal or state agency or the United States Comptroller General to allow the appropriate federal or state agency or Comptroller General to audit, examine, excerpt or transcribe the Documents and audit, examine, excerpt or transcribe all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement any time during normal business hours and as often as the appropriate federal or state agency or Comptroller General may, in their sole discretion, deem necessary. Law Firm shall not charge any additional fees to The Board, appropriate federal or state agency, or Comptroller General by virtue of any additional work or costs associated with the performance of Law Firm’s duties under this section.

19. Nondiscrimination. It is The Board’s policy not to discriminate against any qualified employee or qualified applicant for employment because of an individual’s sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership,

genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories ("Protected Classes"), pursuant to Milwaukee Code of Ordinances ("MCO") Section 109-9. Contractors and their subcontractors employing any resident of City of Milwaukee may not discriminate against any member of the Protected Classes, and such contractors must insert this clause into any subcontracts of subcontractors employing any resident of City of Milwaukee for work under this Agreement.

20. Severability. If any term of this Agreement is, to any extent, held invalid or incapable of being enforced, such term shall be excluded only to the extent of such invalidity or unenforceability. All other terms hereof shall remain in full force and effect and, to the extent possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term as determined by The Board. If such invalid and unenforceable term has a material and adverse effect on a party and a valid and enforceable replacement that comes closest to expressing the intention of such invalid or unenforceable term as determined by The Board cannot be created, the party materially and adversely impacted shall be allowed to terminate the Agreement pursuant to the section entitled "Termination." Should any local, state or national regulatory authority having jurisdiction over The Board enter a valid and enforceable order upon The Board which has the effect of changing or superseding any term or condition of the Agreement, such order shall be complied with, but only so long as such order remains in effect and only to the extent actually necessary under the law. In such event, the Agreement shall remain in effect and be modified or terminated in the manner provided for by this Section.

21. Remedies and No Waiver. Nothing in this Agreement shall be construed to waive any privilege, right of recovery, cause of action, defense, remedy, category of damages, or immunity to which The Board is entitled under common law, or federal, state, or local law; waiver of any of the foregoing may only be accomplished in writing by an individual with the authority to bind The Board.

22. Survival. Any section which by its/their meaning is implied to survive termination shall continue in force and effect following the termination or expiration of the Agreement including but not limited to Sections 8(d), 13-18, 20-22, & 24.

23. Slavery Disclosure Affidavit. All vendors in existence during the "slavery era" (prior to 1865), contracting with The Board, shall complete an affidavit prior to entering into a contract verifying that it has searched any and all company records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any enslaved persons or slaveholders described in those records must be disclosed in the affidavit.

24. Assignment. Law Firm shall not assign any interest in this Agreement and shall not transfer any interest in the same in any manner without the written consent of the City Attorney provided, however, that claims for money due or to become due Law Firm from The Board under this Agreement 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 Board.

Title: