

LEGAL SERVICES AGREEMENT

This agreement (“Agreement”) is entered into by the City of Milwaukee (“City”) and Nathan & Kamionski, LLP (“Lead Counsel”) and MWH Law Group LLP (“Local Counsel”)(collectively “Counsel”). The Agreement is effective as of the date of final execution.

IT IS MUTUALLY AGREED BY THE PARTIES:

1. Identity of Client. Counsel shall represent and counsel City in the matters described below as well as to each of the current and/or former Milwaukee Police Department (“MPD”) police officers (each a “Client” and together the “Clients”) who were identified in the Notice of Claim of Ladarius Marshall or shall be named in the anticipated civil suit, and well as counsel to the City in connection with the same matter.
2. Scope of Work. Nathan and Kamionski LLP shall be lead counsel on this matter. The scope of the representation includes all preliminary matters, investigation, discovery, legal research, drafting and filing pleadings, representation in court and post-trial proceedings in this case for each of these Clients. MWH Law Group LLP shall serve as local counsel on this matter. The scope of the representation includes proving local legal process and support, assisting in communicating status updates, and assisting in obtaining necessary information to defend all claims. City may, from time to time, request changes to Services. Such changes, including any increase or decrease in the amount of Counsel’s compensation that are mutually agreed upon by and between City and Counsel, shall be incorporated in written amendments to the Agreement.
3. Term. This Agreement shall become effective upon final signature and shall terminate as of December 31, 2021 unless otherwise terminated as provided for herein or extended by mutual agreement of the parties.
4. Performance. Counsel 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. Counsel agrees to comply with all federal, state and local laws, regulations, rules, or court orders.
5. Personnel. Counsel shall secure at its own expense all personnel required to perform the Services. Counsel and its employees, agents, officers, subcontractors, and volunteers shall not receive nor be eligible for any fringe benefits or any other benefits to which City’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. Counsel shall be as fully responsible to City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by Counsel.
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 Counsel receiving payment under this Agreement shall be the sole responsibility of Counsel.

7. Insurance. During the period Counsel provides services pursuant to this Contract and for the number of years thereafter necessary to cover (i) any continued activities of Counsel to complete its representation under this Contract, and (ii) any claims made within the applicable statute of limitations, Counsel 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. Counsel 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. ----- Counsel 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 City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by City. A lapse in any required insurance coverage during the term of this Agreement shall constitute a material breach.

8. Compensation and Staffing.

a. City shall compensate Counsel as follows:

(1) For the services of partner-level attorneys: \$250.00 per hour to be billed in 1/10 hour increments.

(2) For the services of associate attorneys: \$230.00 per hour to be billed in 1/10 hour increments.

(3) For the services of paralegals: \$100.00 per hour to be billed in 1/10 hour increments.

b. Additional staffing. Counsel may utilize the services of other of its attorneys, paralegals, and legal support staff, provided that Counsel first receive written approval from City. Emailed approvals are sufficient for this purpose. Counsel shall contact Deputy City Attorneys Scott Brown at sfbrown@milwaukee.gov and Robin Pederson at rpederson@milwaukee.gov for such approvals. Counsel shall use the most cost-effective staffing structure possible, including the use of associates and paralegals, where appropriate.

c. Administrative and Other Costs: Counsel 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. Counsel may charge City the reasonable costs for necessary mail services. Counsel's firm is based in Chicago, Baltimore and New York, and anticipates periodic travel associated with this matter; however, it has indicated that it is cognizant of its service to the public in this case and therefore will not charge for travel and accommodations to or from Milwaukee. To the extent Counsel is required to otherwise travel at client request, Counsel will obtain prior authorization, and charge actual and reasonable costs of such travel to City.

d. If, as a result of the engagement, Counsel is required to produce documents or appear as a witness in connection with any litigation, arbitration, mediation, investigation, or regulatory proceeding involving City, City also agrees to pay the actual costs and expenses

(including attorney and staff time at the agreed hourly rates) reasonably incurred by Counsel in connection with such requirement.

e. Payments under this Agreement shall not exceed One Hundred Thousand Dollars (\$100,000.00) unless otherwise agreed to in writing by the parties.

f. Documentation of Costs. Counsel 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. Counsel shall submit an itemized bill for its services no less than monthly to sfbrown@milwaukee.gov and rpederson@milwaukee.gov. City 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.

b. Prompt Payment. Pursuant to Common Council File No. 101137, if City does not make payment within 45 days after receipt of the Invoice, City 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 City unless otherwise agreed in writing. The City 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 Counsel has been sent notice that the amount owed to Counsel is subject to a good faith dispute within 45 days of the receipt of the Invoice. City's failure to pay in a timely fashion does not relieve Counsel 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 Counsel. Consistent with Wis. Stat. § 66.0135(3), Counsel shall pay any of its subcontractors for satisfactory work within seven (7) days of Counsel's receipt of payment from City or seven (7) days from receipt of an invoice from the subcontractor, whichever is later. If Counsel fails to make timely payment to a subcontractor, Counsel shall pay interest to the subcontractor at the rate of 12 percent per year, compounded monthly, beginning with the 8th calendar day after Counsel's receipt of payment from City or receipt of an invoice from the subcontractor, whichever is later.

c. Tax Exemption. City 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. City is exempt from Wisconsin sales or use tax under Section 77.54(1) and (9a), Wisconsin State Statutes. City's Wisconsin Sales and Use Tax Exemption number is ES 44381. Invoices to City may not include costs for Federal excise and Wisconsin sales taxes.

10. Termination. City may, at any time and for any reason, instruct Counsel in writing to cease activities. Similarly, Counsel reserves the right to terminate its representation at any time upon 30 days' notice to City. City agrees to execute any documents reasonably necessary to permit Counsel to withdraw from representing City, 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, Counsel will promptly take the steps necessary to conclude Counsel'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 City and Counsel 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. Counsel 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 City and Counsel.

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:

Nathan & Kamionski, LLP
Attn: Robin Shoffner, Avi Kamionski, Shneur Nathan
33 W. Monroe, Suite 1830
Chicago, IL 60603

City of Milwaukee – Office of the City Attorney
City Attorney Tearman Spencer
Frank P. Zeidler Municipal Building
841 North Broadway, 7th Floor
Milwaukee, WI 53202-3653

With electronic copy to: Deputy City Attorney Scott Brown at sfbrown@milwaukee.gov and Deputy City Attorney Robin Pederson at rpederson@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 City or any of its officers, agents, or employees for the failure or neglect of Counsel 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 Counsel, its officers, agents or employees, Counsel shall indemnify and save harmless the City and any of its officers, agents, or employees from all losses, damages, costs, expenses, judgements, or decrees arising out of such action that result from Counsel's negligent acts or failure to act.

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

17. Reports and Information. Counsel 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 City 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 City, which shall have the right to use same for any purpose without any further compensation to Counsel other than hereinafter provided. All of the aforesaid documents and materials prepared or assembled by Counsel under this Agreement are confidential and Counsel agrees that it will not, without prior written approval by City, submit or make same available to any individual, agency, public body, or organization other than City, except as may be otherwise herein provided, subject to the provisions of the Wisconsin Public Records Law.

18. Audits and Inspections. Counsel shall make the Documents available to City to allow City 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 City may, in its sole discretion, deem necessary.

19. Nondiscrimination. It is City'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 City. 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 City 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 City enter a valid and enforceable order upon City 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 City 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 City.

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 City, 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. Counsel 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 Counsel from City 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 City.

