



Contract # _____

RETENTION AGREEMENT

THIS AGREEMENT (“Agreement”) is effective as of the **XX** day of **XXXX** 2024 (the “Effective Date”), and is made by and between the City Attorney, acting for the City of Colorado Springs (the “City Attorney”), a home rule city and Colorado municipal corporation, and **XXXX** (the “Contract Attorney”).

A. The City Attorney has requested that Contract Attorney provide professional legal services described in the attached Scope of Services, Exhibit A.

B. Colorado Springs’ City Charter § 13-90 and City ordinances require that the City Attorney retain and supervise all attorneys that provide legal services or advice to the City Attorney on behalf of the City of Colorado Springs or its enterprises.

C. Contract Attorney wishes to provide professional legal services to the City Attorney upon the terms and conditions contained in this Agreement.

Agreement

Now, therefore, in consideration of the Recitals which are incorporated in this Agreement by reference and of the mutual benefits to the City and the Contract Attorney, the receipt and sufficiency of which are mutually acknowledged, the parties agree as follows:

1. **Authorized Legal Services**

A. Contract Attorney shall provide professional legal services to the City Attorney as set forth in the Scope of Services, which is attached as Exhibit A and incorporated by reference (the “Services”). Contract Attorney is not authorized to provide legal services other than the Services described in the current Scope of Services for this Agreement and will not be paid for

those provided in excess of the Scope of Services agreed upon.

B. The term of this Agreement shall be from the Effective Date through January 2, 2025, unless earlier terminated or extended as provided for in this Agreement. This Agreement may be renewed for up to four (4) option years at the City's sole discretion by providing written notice to the Contract Attorney of the City's intent to renew the Agreement.

C. Contract Attorney shall provide the Services to the City Attorney faithfully and with due diligence in accordance with the professional standard of care applicable to those services. It is acknowledged that there are no guarantees as to the outcome of any matter handled by the Contract Attorney. However, Contract Attorney shall ascertain all necessary filing dates or other deadlines regarding the matters for which Contract Attorney is providing Services under this Agreement and make sure that all filing dates or deadlines are complied with or sufficient extensions obtained so that the City's rights are not prejudiced or lost in any way. All court orders must be sent to the City Attorney, as well as the assigned staff attorney, and the designated Division Chief or Deputy City Attorney.

D. For purposes of this Agreement, the City Attorney, and any Division Chief/Deputy City Attorney and/or staff attorney(s) assigned to the matter are the City's representative for the Services and shall be considered the Contract Attorney's client. Contract Attorney will direct all communication pertaining to the Services and this Agreement to the City Attorney and any Division Chief/Deputy City Attorney and/or staff attorney(s) so assigned.

E. The City Attorney or the designated Division Chief/Deputy City Attorney may assign another staff attorney to provide coordination or direction regarding particular matters assigned to the Contract Attorney. Full and regular communications between Contract Attorney and the City Attorney, the designated Division Chief/Deputy City Attorney, or another staff

attorney where one is assigned, are essential. Any developments or issues, which could significantly affect any matters for which the designated Division Chief/Deputy City Attorney or another staff attorney is assigned, should be actively addressed and managed between Contract Attorney and the designated Division Chief/Deputy City Attorney and staff attorney. Except in exigent circumstances, no significant decision as to the direction or strategy of these matters should be made by Contract Attorney without prior communication and discussion with the assigned staff attorney, designated Division Chief/Deputy City Attorney and the City Attorney, as appropriate to the circumstances.

F. At the request of the designated Division Chief/Deputy City Attorney or the assigned staff attorney, Contract Attorney shall develop a written plan of action with respect to the matters. The plan shall include a discussion of the City's objectives and priorities for the matter; the strategies and resources to be utilized; and the staffing requirements and reporting relationships established for the matter. Contract Attorney will review and update the written plan periodically after discussion with the staff attorney or designated Division Chief/Deputy City Attorney as appropriate.

G. Contract Attorney will provide the results of all significant legal research projects generated concerning the matters to a staff attorney where one is assigned or to the designated Division Chief/Deputy City Attorney if another attorney is not assigned. No formal legal opinions are to be issued without direct discussion between the City Attorney and Contract Attorney and written authorization by the City Attorney. Final versions of authorized legal opinions shall be provided directly to the City Attorney, designated Division Chief/Deputy City Attorney, and assigned staff attorney. Additionally, Contract Attorney shall provide periodic reports and assessments of assigned matters as necessary to keep the City Attorney's Quarterly Report current,

to identify and report on Strategic Legal Issues, and to keep the City Attorney and the designated Division Chief/Deputy City Attorney properly informed of any significant developments (i.e., no surprises).

H. Contract Attorney will provide a written status report as soon as practicable, preferably within twenty-four (24) hours, when involved in any significant legal proceedings regarding an active litigation matter to the City Attorney, designated Division Chief/Deputy City Attorney, and assigned staff attorney. In the case of litigation, Contract Attorney will produce a concise quarterly summary of the status of the case.

I. The City consists of its Municipal Government, its Colorado Springs Utilities Enterprise, its Memorial Health System, its Colorado Springs Airport, its Patty Jewett and Valley Hi Golf Enterprise, its Pikes Peak Highway Enterprise, its Evergreen and Fairview Cemeteries Enterprise, its Development Review Enterprise, its Stormwater Enterprise, and other related authorities and organizations. Before spending time on any matters described in the Scope of Services, Contract Attorney will review their professional records to determine that no conflict, or potential conflict, exists that would prevent Contract Attorney from fully representing the City and its enterprises regarding these matters. Contract Attorney shall also review their professional records to identify any other existing matters in which they represent clients adverse to the City, including its enterprises. The City considers Contract Attorney's representation of private clients in regulatory matters (such as land use, zoning, business licenses, as well as non-litigation property transactions), stemming from a City Board, Commission, or Council to be a conflict or adverse to the City under this paragraph that would require disclosure to and consent of the City. If Contract Attorney has reason to believe that any potential conflict, adverse representation, or differing interest exists or is likely to arise, the Contract Attorney will promptly contact the City Attorney

and advise of the circumstances in writing. To ensure loyalty and confidentiality by Contract Attorney, the City's policy is not to consent to representation adverse to the City, including its enterprises, by Contract Attorney. Prior to undertaking representation that the City may consider to be adverse, Contract Attorney will directly disclose such matter(s) and request written consent from the City before proceeding.

J. To the maximum extent permitted by law, Contract Attorney shall keep absolutely private, confidential, and privileged any confidential and privileged information or data communicated to Contract Attorney by the City and from Contract Attorney to the City for the purpose of obtaining or providing professional legal services under this Agreement. All private and confidential information shall be kept as part of the privileged records of the Contract Attorney and shall not be divulged to any other firm, individual, or institution unless the written consent of the City Attorney is obtained or unless ordered to do so by a court of competent jurisdiction. Further, upon termination of this Agreement for any cause, Contract Attorney agrees that they will continue to treat all information or data in their possession as private, confidential, and privileged. Contract Attorney shall not release any such information to any person, firm, or institution, either by statement, deposition, or as a witness unless written consent of the City Attorney is obtained or unless ordered to do so by a court of competent jurisdiction.

2. Compensation

A. The City shall pay Contract Attorney for the Services furnished, and Contract Attorney shall accept as full payment for the Services rendered, the amounts of money computed by multiplying the number of hours of professional legal services rendered each month to the City times the applicable hourly fee for Contract Attorney performing professional legal services for the City Attorney. The approved fee schedule for Contract Attorney is included in Exhibit B

attached to this Agreement and incorporated by reference.

B. Contract Attorney shall endeavor to provide Services in the most efficient and effective manner possible while endeavoring to minimize the overall cost and expense to the City consistent with the City Attorney's Office Policy on Retaining of and Billing by Outside Counsel (the "Policy"), which is attached as Exhibit C and incorporated by reference. If Contract Attorney believes an exception to the Policy is warranted, the matter will be discussed in advance with the City Attorney, who, for good cause, may grant written exceptions to the Policy. Any exceptions must be approved in advance, in writing, by the City Attorney.

C. Monthly itemized invoices for professional services rendered will be presented by the 15th of every month to the City itemizing the work performed and expenses incurred as provided in the Policy. Contract Attorney will email all invoices to the City Attorney's Office, at city.billing@coloradosprings.gov. The City Attorney or designee will review all invoices for compliance with this Agreement and the Policy. Upon written approval of the City Attorney, payment of approved invoices will be issued to Contract Attorney through the City.

D. The City shall reimburse Contract Attorney for any necessary meals, lodging, and other travel related expenses in accordance with the Policy and only if the expenses are reasonably incurred in connection with Services. In accordance with the policies of the City and its enterprises, the cost for any alcoholic beverage is not a reimbursable expense.

E. Contract Attorney will be responsible for all taxes, FICA, and other payments to federal, state, and local taxing authorities that result from income derived from this Agreement. The City shall not withhold any federal, state, or local taxes from payments to Contract Attorney, except as specifically required by law. The City is responsible for providing Contract Attorney with appropriate tax documents reflecting compensation paid.

F. The City shall have no liability for payment of fees for legal services rendered to the City Attorney by Contract Attorney which are not authorized under this Agreement.

G. Any billing errors found in monthly invoices or other adjustments required will be treated as credits or debits and directly applied to the invoice after discovery.

H. If the "not to exceed" amount of this Agreement is greater than \$35,000 and the Contract Attorney maintains an office in the State of Colorado, at no additional cost, Contract Attorney shall provide, in Colorado Springs, to the City Attorney's Office, at least one (1) hour of continuing legal education ("CLE") instruction per year under this Agreement at the request of the City Attorney unless otherwise negotiated with the City Attorney. The topic for the course shall be coordinated with the City Attorney's Office. The CLE course will be held on a date and time agreed to by the City Attorney and Contract Attorney. The CLE shall be accredited by the State of Colorado Supreme Court Board of Continuing Legal Education for the benefit of the City Attorney's Office and other public attorneys and staff as appropriate.

3. General Conditions

A. All of the Services contemplated under this Agreement are personal and shall not be assigned, subcontracted, or transferred to any third party without the prior written consent of the City Attorney.

B. This Agreement shall be construed and governed by the laws of the State of Colorado and the Charter, ordinances, and policies of the City of Colorado Springs.

C. Contract Attorney understands and agrees the City will be primarily responsible for all required payments.

D. During the term of this Agreement, each attorney employed by Contract Attorney to provide Services shall maintain in good standing their license to practice law. In the event an

attorney employed by Contract Attorney enters their appearance in a Colorado court or administrative proceeding as part of the provision of Services, the attorney shall either be licensed in the State of Colorado or obtain permission to appear in accordance with the Rules of the Colorado Supreme Court.

E. Contract Attorney shall maintain accurate records of all amounts invoiced to and payments made by the City or its enterprises under this Agreement in accordance with recognized accounting practices and in a format that will permit audit, for a period of three (3) years after payment of the last invoice related to this Agreement. Such records shall be open to reasonable inspection and subject to audit and/or reproduction, during normal working hours, by the City or its authorized representative. The City shall give Contract Attorney advance notice of planned audits.

F. Insurance Requirements: Contract Attorney shall procure and maintain, at its own expense and without charge to the City, the following types of insurance. The policy limits required are to be considered minimum amounts:

(1) Contract Attorney shall maintain professional liability insurance conforming to C.R.C.P. Rule 265(a)(3).

(2) Workers' Compensation and Employers Liability Insurance shall cover the obligations of Contract Attorney in accordance with the provisions of the Workers Compensation Act as amended, by the State of Colorado.

(3) Subcontractor's insurance shall be the responsibility of Contract Attorney to ensure that Subcontractors are properly insured to meet the above requirements before Contract Attorney permits them to commence work on any project.

Proof of insurance, demonstrating Contract Attorney's compliance with these requirements

shall be provided to the City Attorney before providing services under this Agreement.

G. All legal service files of Contract Attorney relating to the matters assigned under this Agreement shall be the property of the City. Contract Attorney shall periodically close inactive files and return them to the City for archiving. All legal service files shall be returned to the City upon termination of representation, except copies may be retained by Contract Attorney, if required, for legal or financial compliance purposes. If requested by the City, copies of closed or terminated files, including work product, shall be provided in electronic format to the City Attorney's Office within thirty (30) days of request. If Services are terminated and a file is still active, the information will be provided within five (5) business days.

H. Contract Attorney shall observe and comply with all federal and state laws and regulations, the Charter of the City of Colorado Springs, and all applicable City ordinances, tariffs, policies, rules and regulations issued pursuant thereto, which in any manner affect the work authorized under this Agreement.

I. The City is committed to equal employment opportunity for all and maintains and implements equal opportunity and affirmative action where necessary in all of its daily operations. The City's policy is that no person shall be discriminated against because of race, color, national origin, ancestry, sex, age, pregnancy status, religion, creed, disability, sexual orientation, genetic information, spousal or civil union status, veteran status, or any other status protected by applicable law. Contract Attorney shall comply with all Federal and State nondiscrimination laws and have an equal employment opportunity policy.

J. Termination by the City Attorney: The City Attorney may terminate this Agreement with or without cause by notifying Contract Attorney in writing of the City's desire to terminate the Agreement and specifying the effective date thereof. In the event of termination, the City agrees

to pay Contract Attorney for all legal services performed and costs or disbursements incurred in accordance with the Policy while the Agreement is in effect.

K. Termination by Contract Attorney: Contract Attorney may terminate this Agreement at any time by giving written notice to the City Attorney. If Contract Attorney has been retained to handle litigation matters, Contract Attorney must obtain a court order to terminate Contract Attorney's representation of the City and notify the City Attorney. Provided, however, in the event of termination, Contract Attorney must provide the City with reasonable advance notice and must take reasonable steps to avoid any foreseeable prejudice to the rights of the City including allowance of reasonable time for employment of other counsel by the City, complying with any and all deadlines and matters pending, and promptly delivering all legal service files as directed by the City Attorney.

L. During the term of this Agreement, Contract Attorney shall act at all times as an independent contractor. Contract Attorney acknowledges it has the duty to provide continuous, adequate supervision of its personnel, consultants, and experts, if any. Nowhere in this Agreement shall it be construed or implied that Contract Attorney or any of its consultants, employees, agents, experts, or representatives are employees of the City or its enterprises. Contract Attorney shall not make any commitment nor incur any charge or expense in the name of the City or its enterprises without the prior written approval of the City Attorney.

M. This Agreement is expressly made subject to the limitations of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs or any other constitutional, statutory, or charter debt limitation.

Notwithstanding any other provision of this Agreement, with respect to any financial obligations of the City or its enterprises which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Agreement at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Agreement, including any sub-agreement, attachment, schedule, or exhibit thereto, by City or its enterprises.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

[Remainder of Page Left Blank; Signature Page to Follow]

XXXX

By: _____
XXXX

Address: **XXXX**

City of Colorado Springs, Colorado

By: _____
Wynetta Massey
City Attorney

By: _____
Division Chief/Deputy City Attorney

EXHIBIT A

SCOPE OF SERVICES

Contract Attorney will provide professional legal services to the City Attorney on the matters and/or subjects described below, in accordance with the terms of the Agreement and the Policy.

XXXX

EXHIBIT B

FEE SCHEDULE

Total fees and expenses for this assignment billable to the City will not exceed **XXXXX** without the prior written consent of the City Attorney.

Hourly Rates

Time Keeper	Hourly Rates
XXXX	\$XX

Prior to invoicing the City for additional attorneys/paralegals providing legal services related to this matter(s), please email an approval request that includes the name and hourly rate to csu.billing@coloradosprings.gov.

COSTS AND EXPENSES

In addition to hourly rates and fees for travel allowed as set forth herein, the City agrees to pay for costs and expenses incurred in connection with the Services, such as fees fixed by law or assessed by courts, court reporters' fees, process servers' fees, expert service fees, messenger fees, delivery fees, postage, parking, and other similar items, as well as transportation, lodging and all

other costs of any necessary out-of-town travel, provided that the fees comply with the Policy and the original itemized receipts are submitted. Meals will be reimbursed based upon the GSA per diem rates. All experts or vendors retained by Contract Attorney will be asked to follow the same requirements for billing, fees, travel, and expenses as outside counsel. Upon request, Contract Attorney will provide copies of all expert or vendor agreements to the City Attorney's Office.

The City has master agreements with several hotels which provide discounted lodging rates. Please contact the City Attorney's Office for a list of those vendors. Contract Attorney agrees and understands the City will not pay for long distance telephone calls, copying costs, fax costs, fuel costs, or any computerized legal research expenses. Unless otherwise agreed, costs and expenses will be billed at cost.

EXHIBIT C

CITY ATTORNEY'S OFFICE

POLICY ON RETAINING OF AND BILLING BY OUTSIDE COUNSEL

This policy ("Policy") is intended to benefit the City of Colorado Springs (the "City") and its enterprises in planning, budgeting, and controlling expenses incurred in connection with retention of outside legal services. At the same time, it is also intended to benefit retained law firms by permitting prompt payment of statements submitted in accordance with this Policy.

1. Selection of Outside Counsel. In general, the City and its enterprises retain outside counsel for assistance in litigation or other specialized matters where such engagement is warranted due to the particular circumstances involved and is approved by the City of Colorado Springs City Attorney. In selecting outside counsel, the City takes into account the demonstrated competence and experience of such counsel in handling the same or similar matters, as well as actual or potential conflicts of interest and the proposed costs of the services.

2. Basis of Billing. In general, the City and its enterprises will not reimburse outside counsel for general overhead expenses, such as secretarial services, office supplies, word processing, or for services by paralegals which are secretarial or clerical in nature. Billing for legal services rendered on the City's and its enterprises' behalf should be computed solely on the basis of the application of counsel's agreed hourly rates for the individual timekeepers or categories of partners and associates and, wherever appropriate, paralegals, to the actual time spent by each such person in rendering legal services for the City and its enterprises. Further, the amount of time spent in rendering legal services by all personnel should be appropriate to the requirements of the engagement in light of the experience and competence of the counsel and other staff members retained for that project, subject to the following:

(a) The City and its enterprises expect counsel to keep to a minimum, and only when necessary, the involvement of more than one attorney in reviewing documents, researching, briefing, attending meetings, witness interviews, depositions, hearings, etc. Unless necessity is demonstrated and approved in advance by the City Attorney or the staff attorney assigned to a particular matter, the City and its enterprises will not reimburse counsel for time spent by more than one attorney attending meetings, witness interviews, depositions, mediations, hearings, trial, etc.

(b) The City expects counsel to make as much productive use of travel time as possible. If travel out of town is required, the City will reimburse counsel for a maximum of eight hours billing time for each regular business day spent out of town unless actual time worked while out of town exceeds that amount. If counsel is out of town for less than eight hours during any regular business day, the amount billed for that day shall be reduced to the actual time spent out of town unless actual time worked exceeds that amount. Airfare, transportation and lodging expenses will be reimbursed only after prior approval by the City Attorney. Counsel will attempt

to minimize disbursements for airfares and transportation and lodging expenses. No first-class travel expenses or seat upgrades to first class will be reimbursed by the City and its enterprises.

(c) In addition to hourly rates and fees for travel allowed as set forth above, the City agrees to pay for costs and expenses incurred in connection with the Services, such as fees fixed by law or assessed by courts, court reporters' fees, process servers' fees, messenger fees, expert service fees, delivery fees, postage, parking, and other similar items, provided that the fees comply with this Policy and the original itemized receipts are submitted. Meals will be reimbursed based upon the GSA per diem rates. All experts or vendors retained by outside counsel will be asked to follow the same requirements for billing, fees, travel, and expenses as outside counsel. Upon request, outside counsel will provide copies of all expert or vendor agreements to the City Attorney's Office.

(d) The City of Colorado Springs has master agreements with several hotels which provides discounted lodging rates. Please contact the City Attorney's Office for a list of those vendors. Contract Attorney agrees and understands the City will not pay for long distance telephone calls, copying costs, fax costs, fuel costs or any computerized legal research expenses. Unless otherwise agreed, costs and expenses will be billed at cost.

3. Use of Prior Work Product. In the event counsel is able to utilize prior research, pleadings, or briefs from other matters, or other existing work product, in accomplishing work on the project assigned, the City and its enterprises expect that counsel will charge the City and its enterprises only for the actual amount of time involved in retrieving the prior research, pleadings, briefs or work product and adapting it for use on the particular project for which counsel now has been retained by the City and its enterprises.

4. Budget Planning. Budget planning should take place at the outset of the project. At the very least, the City and its enterprises expect outside counsel's best written estimate of the total cost of the project, including breakdown of the division of work among partners, associates, and paralegals. Such written estimates should be promptly submitted after counsel is assigned a new engagement and should be periodically updated as necessary to keep the City and its enterprises reasonably advised of the expected cost of the project. In litigation matters, outside counsel shall promptly provide a written estimate of litigation, revise it as necessary, and submit it to the City Attorney, the designated Division Chief/Deputy City Attorney, and the staff attorney assigned to the case.

5. Hourly Rates. The hourly rates applicable to legal services performed for the City and its enterprises by outside counsel will be established in writing at the time of engagement. Such rates may be adjusted periodically with prior consent of the City Attorney.

6. Monthly Billing. An invoice for legal services and disbursements for each matter handled should be submitted to the City Attorney within fifteen days after the close

of each calendar month in which services have been rendered or disbursements have been paid on behalf of the City and its enterprises.

7. Billing Format. Each invoice should provide the following information for each matter:

(a) A summary page which includes the matter name, invoice number, total cost of legal services rendered, total cost of expenses and disbursements, and the grand total for both;

(b) A brief description of each matter and detailed itemization of services performed, including reference to the specific issue(s) upon which work was performed;

(c) The actual time spent by each attorney or paralegal (by category of partner or associate and by name), increments, for each matter;

(d) The billing rate charged for each attorney or paralegal; and

(e) A concise description of the expenses and disbursements paid for each matter.

(f) A summary of each attorney/paralegal' s hours worked, their hourly rate and the total for the services provided. Please see the example below:

Attorney/Paralegal	Number of Hours	Hourly Rate	Legal Fee Total (hours x hourly rate)
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8. Payment of Bills: Invoices submitted in accordance with this procedure and otherwise in order will be paid promptly by the City and/or its enterprises. Statements which are not submitted in conformance with this Policy will be returned to outside counsel to be revised to conform to this Policy. Any questions concerning this Policy or procedure or payment of bills should be directed to the City Attorney or staff attorney assigned to that particular matter.

9. Failure to submit bills prior to the date specified to meet the City's year end fiscal budget may result in a modified payment or denial of payment.