



## RESOLUTION 07-18

### RESOLUTION AUTHORIZING THE CITY'S PARTICIPATION IN THE LEAGUE OF OREGON CITIES' PILOT PROGRAM PROVIDING LIMITED FREE LEGAL ADVICE TO OREGON CITIES LOCATED IN EASTERN OREGON

WHEREAS, the League of Oregon Cities ("League") is an intergovernmental entity and comprises each of Oregon's 241 incorporated cities which was founded in 1925 to be, among other things, the go-to place for and about cities as a dynamic resource hub for advocacy, education and best practices; and

WHEREAS, the League has divided the State of Oregon into twelve regions, with Regions 11 and 12 are located in Eastern Oregon; and

WHEREAS, the City is in Region 11; and

WHEREAS, on June 15, 2018, the League's Board of Directors, at a public meeting, created a pilot program wherein the League's General Counsel and two Assistant General Counsels may provide direct legal advice, under certain conditions and parameters, to cities located in Regions 11 and 12, provided the city adopts a resolution agreeing to the terms and conditions of the pilot program; and


WHEREAS, the pilot program described herein is effective from July 1, 2018 to June 30, 2019;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF SENECA, OREGON, THAT:

SECTION 1. It is in the best interests of the citizens of Seneca, Oregon, to participate in the League's pilot program described herein, under the terms and conditions of that attached Pilot Program Agreement (Exhibit A).

SECTION 2. The City Council of Seneca, Oregon, as the fiscal and legislative body of the City of Seneca, Oregon, hereby approves the Pilot Program Agreement.

PASSED AND ADOPTED by the City Council of Seneca, Oregon, upon this 14<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
Brad Smith, Mayor

  
\_\_\_\_\_  
Attest: Raamin Burrell, City Manager/Recorder

**PERSONAL SERVICES AGREEMENT  
FOR PILOT PROGRAM**

This Agreement is made between:

**The League of Oregon Cities,  
an Oregon Municipal Corporation  
(League)**

and

**{insert your city's name}  
(City)**

as an engagement for the provision of  
**Limited Legal Advice**

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**INDUCEMENTS**

**WHEREAS**, the League has developed a pilot program, beginning July 1, 2018 and ending July 30, 2019, to provide limited free legal advice, under the terms and conditions described in this Agreement, to cities located in Eastern Oregon, specifically Regions 11 and 12 as those regions have been established by the League; and

**WHEREAS**, the City wishes to participate in the League's pilot program and receive free limited legal advice in accordance with the terms and conditions of this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the inducements, covenants, agreements and conditions herein contained, the parties (this term is used throughout the Agreement to mean the League and the City) agree as follows:

- 1. Purpose.** The purpose of this Agreement is for the League to provide professional, free and limited legal services to the City, as described herein.
- 2. Services to be Provided by the League.** The League shall provide professional, free and limited legal services to the City in accordance with the following:
  - A.** Between July 1, 2018 and June 30, 2019, the League shall provide the City no more than ten free hours of professional, free and limited legal advice.

- a. The League shall track the legal advice it gives to the City in fifteen-minute increments.
  - b. The League shall provide the City three accounting notifications of the legal services it has used to date and the number of available hours of free legal advice the City has left for the fiscal year. Notifications are expected to occur during the months of October, January and April.
- B. The League shall not assist or represent the City in any litigation, mediation, adjudication proceedings, administrative hearings, quasi-judicial hearings, appellate proceedings, or any other matter that is reasonably likely to result in or lead to one of the events described herein.
  - C. The League shall not assist, represent or provide advice to the City in any matter that involves another League member or has the potential to impact another League member.
  - D. The League shall not attend or represent the City, or any of its boards and commissions, at any public meeting or hearing. This provision does not impact or prevent the League from performing its normal representative duties before the State Legislature or State agencies as part of its overall lobbying efforts on behalf of all Oregon cities and the protection of home rule.
  - E. The League shall not provide the City any employment law advice, unless the advice is related to wage and hour matters. Any questions or inquiries received by the League that relate to employment law, with the exception of wage and hour advice, will be directed to CityCounty Insurance Services.
  - F. The League shall furnish all labor, materials, supplies, equipment, office space, shop space, reference and background data and information, and all other things necessary to the performance of the work described in this Agreement.
  - G. Work performed by the League shall meet or exceed the standard of professional quality of the municipal legal profession in the State of Oregon at the time such work was performed. Pursuant to the standard of professional care owed to the City, the League shall endeavor to keep the City fully informed about all material matters relating to the legal services provided under this Agreement.
  - H. The City acknowledges that information generated in the course of representation of a governmental body may be subject to the Oregon Public Records Law, Chapter 192 of the Oregon Revised Code. The League will exercise professional judgment and care when creating documents or other media intended to be confidential or privileged attorney-client communications that may be subject to disclosure under the

Oregon Public Records Law. The League should mark confidential or privileged attorney-client communications as confidential. The subsection shall not be interpreted to limit the League's duty to provide full disclosure to the City as necessary in the League's judgement to represent the City with due professional care or as required by applicable law or disciplinary rules.

- I. City shall begin work on the date this Agreement is executed by all parties, and complete all work under this Agreement on or before **June 30, 2019**. If the League is asked to provide legal advice that requires it to work past June 30, 2019, the League and the City will reach a mutually agreed upon time for the completion deadline.
- 3. Personal Services.** The parties agree that this is an agreement for personal services and that the League shall be the individual who will fulfill the services under this Agreement.
- 4. Independent Contractor.** The League shall perform the work required by this Agreement as an independent contractor. The League's duties will be performed with the understanding that it has special expertise as to the services which it is to perform.
  - A. Although the City reserves the right to determine and modify the work to be performed and to evaluate the quality of the completed work product, the City cannot control the means or manner of the League's performance.
  - B. The League is responsible for determining the appropriate means and manner of performing the work.
  - C. The League is not an "officer", "employee", or "agent" of the City, as those terms are used in ORS 30.265.
  - D. The League is not to be deemed an employee or agent of the City and has no authority to make any binding commitments or obligations on behalf of the City except to the extent expressly provided in this Agreement.
- 5. Compensation.** The League shall provide services to the City under and in accordance with this Agreement gratis.
- 6. Obligations of the City.** The City's obligations under this Agreement include:
  - A. The City shall notify its appointed City Attorney of this Agreement, as well as the Resolution that approved the Agreement, prior to utilizing the League's services under this Agreement. The City shall provide the League with the name and contact number of its City Attorney.

- B. The City shall designate no more than two people who are employed by or elected to represent the City that may communicate with the League regarding legal questions. The City shall provide the names of these two people to the League prior to utilizing the League's services under this Agreement.
- C. The City shall not ask the League to perform any services the League is specifically prohibited from providing under Section 2 of this Agreement.

**7. Records and Inspection.**

- A. All drawings, specifications, data, maps, photographs, renderings, documents, reports, recordings, computer files (including but not limited to programs), and other like materials furnished by the City whether the project is completed or not are the City's property. The League is granted a limited license to use such materials in conjunction with work under this Agreement only and shall not use them for any other purpose.
- B. All of the League's work product generated, created, compiled, or assembled in furtherance of this Agreement shall remain the property of the League.

- 8. Notices.** Any notice permitted or required by this Agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, and with return receipt requested, to the persons and addresses shown herein. Notices sent by certified mail will be deemed delivered three business days after placement in the mail.

City: {insert your city's name, contact person, and address}  
League: League of Oregon Cities, c/o General Counsel, 1201 Court Street SE,  
#200, Salem, Oregon 97301.

Parties are responsible for notifying one another of any change in the name or address to be used for delivery of notices.

- 9. Termination.** Notwithstanding any other provision to the contrary, this Agreement may be terminated as follows:

- A. Either party may terminate this Agreement at any time or for any reason, upon not less than ten days' notice in advance of the termination date.
- B. In the event of a termination, the League shall return all documents and work belonging to the City within ten days of the termination becoming effective.

- 10. Liability.** The parties will not be liable for incidental, consequential, or other indirect damages arising out of or related to this Agreement, regardless of whether the liability

claim is based in contract, tort (including negligence), strict liability, product liability or otherwise. The parties will not be liable for any damages of any sort arising solely from the termination of this Agreement in accordance with its terms.

11. **Assignment/Subcontracting.** Assignment and subcontracting, by either party, of any of the duties and responsibilities outlined in this Agreement is not permitted.
12. **Modification.** No modification of this Agreement is enforceable unless it is in writing and signed by both parties. If the City receives a communication from the League that it believes is a modification of this Agreement, it shall, within ten days after receipt, make a written request for modification to the League. The City's failure to submit such written request for modification in a timely manner may be the basis for refusal by the League to treat said communication as a basis for modification.
13. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Oregon. The provisions required by ORS 279 to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth.
  - A. Any claim, action, or suit between the League and City that arises out of or relates to performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for Marion County, for the State of Oregon.
  - B. If any such claim, action, or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
14. **Adherence to Law.** The League shall adhere to all applicable federal and state laws which may be applicable to this Agreement. The League shall maintain any certificates, licenses, or permits required by statute, administrative rule, or local ordinance throughout the term of this Agreement.
15. **Attorney Fees.** In the event of any action to enforce or interpret this Agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney fees incurred in the proceeding, as set by the court, at trial, on appeal or upon review.
16. **Force Majeure.** Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder to the extent such failure or delay both:
  - A. Is caused by any of the following:
    - a. Acts of war;

- b. Terrorism;
  - c. Civil riots or rebellions;
  - d. Quarantines, embargoes and other similar unusual governmental action;
  - e. Extraordinary elements of nature or acts of God; and
- B. Could not have been prevented by the non-performing party's reasonable precautions or commercially accepted processes, or could not reasonably be circumvented by the non-performing party through the use of substitute services, alternative sources, workaroud plans or other means by which the requirements of a buyer of services substantially similar to the services hereunder would be satisfied.

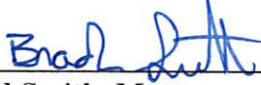
Events meeting both the criteria set forth above are referred to individually and collectively as "Force Majeure Events."

The parties expressly acknowledge that Force Majeure Events do not include vandalism, labor strikes, or the nonperformance of third parties or subcontractors relied on for the delivery of the services outlined in this Agreement, unless such failure or nonperformance by a third party or subcontractor is itself caused by a Force Majeure Event.


Upon the occurrence of a Force Majeure Event, the nonperforming party shall be excused from any further performance or observance of the affected obligation(s) for as long as such circumstances prevail, and such party continues to attempt to recommence performance or observance to the greatest extent possible without delay.

- 17. Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permitted the intent of City and the League as set forth in this Agreement.
- 18. Integration.** This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement. This Agreement shall supersede all prior communications, representations or agreements, either oral or written, between the parties.

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Patricia M. Mulvihill, General Counsel  
League of Oregon Cities

  
\_\_\_\_\_  
Brad Smith, Mayor  
City of Seneca

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Date