

CONTRACT FOR CRIMINAL PROSECUTION LEGAL SERVICES

This Agreement is entered into by and between The City of Blaine (hereinafter "City"), 10801 Town Square Drive, Blaine, MN 55449 and the law firm of Berglund & Berglund, Ltd. of counsel with Michael Scott, Lead Prosecuting Attorney (hereinafter "Law Firm"), for the purpose of utilizing the Law Firm to provide legal services to the City.

I. RECITALS

1. By Request for Proposal dated September 23, 2014, (the "RFP"), the city solicited proposals for criminal prosecution legal services and is attached to this contract as an addendum.

2. By Berglund & Berglund, Ltd. of Counsel Michael Scott, Lead Prosecuting Attorney, the Law Firm submitted a proposal for criminal prosecution City Attorney legal services and is attached to this contract as an addendum.

3. Compensation: The total compensation shall be as follows:

Year 1 (September 1, 2015 –August 31, 2016)	\$264,000 per year, \$22,000 per month
Year 2 (September 1, 2016 – August 31, 2017)	\$271,920 per year, \$22,660 per month
Year 3 (September 1, 2017–August 31, 2018)	\$280,080 per year, \$23,340 per month

Criminal appellate work and all time spent to prepare for and attend training and legal update for police officers and personnel as well as attendance at all special meetings or training sessions as requested by the police department, Community Standards (code enforcement, inspections and licensing personnel), or other City staff including monthly roll call meeting for education purposes, upon approval by the Police Chief, will be billed at the rate of \$100 per hour for attorney time and \$50 per hour for paralegals and secretaries.

DWI forfeiture work, upon approval by the Police Chief to be billed at the rate of \$125 per hour for attorney time and \$50 per hour for paralegals and secretaries; this is in lieu of the statutory-mandated 30% compensation for prosecutorial forfeiture fees as long as the fees minimally meet the statutory requirement.

The City will also reimburse the Law Firm for all out-of-pocket costs and disbursements including, but not limited to photocopies (not reimbursed by defense counsel), service of process, transcripts, certified copies of documents and court filing fees.

NOW THEREFORE, IN CONSIDERATION OF the mutual promises contained herein and other good and sufficient consideration, the parties agree to the following:

II. TERMS

1. **Scope and Nature of Retainer Prosecution Services:** The parties agree to the following description of the nature of the legal services to be provided by the Law Firm to the City:

- a) Preparing gross misdemeanor and misdemeanor formal complaints to establish probable cause and define charges;
- b) As required, prepare and appear at arraignments, pretrial hearings, probation revocation hearings, omnibus hearings, Rasmussen hearings, Florence hearings, court trials, jury trials, bail motions, in-custody arraignments, expungement hearings, motion hearings, and sentencings as required;
- c) Obtain certified documents required for criminal prosecution, including subpoenas, drivers' records, motor vehicle records, prior convictions, orders for prosecution, bank records, police reports, transcripts from prior hearings, plea petitions from prior hearings, and other information that may be required for prosecution as required;
- d) Comply with all discovery requests from defendants, including gathering records with regard to breath test instruments, criminal records or witnesses, recorded Miranda warnings, copy of 911 calls, copy of digital evidence, and the like. Notices of hearings, trial dates, including change of dates;
- e) Maintain communication with involved agencies including law enforcement agencies, courts, Minnesota correctional facilities, victim/witnesses, defendants/defense attorneys, social workers, child protection personnel, psychiatrists, victim advocate representatives, hospitals, banks, insurance companies, probation officers, Bureau of Criminal Apprehension, Alexandra House personnel as required;
- f) Prepare reports of prosecution activities as requested by City Council.
- g) Prepare reports of prosecution activities as requested by the police department.
- h) Other than the work and documents completed and managed by police department personnel, the Firm will prepare complaints, notices, orders, settlement agreements and other pleadings related to vehicle forfeitures, and attend all necessary court appearances regarding the same.
- i) Notify victims of status of cases as required by law or otherwise requested.

- j) Maintain records including: court calendars, formal complaint requests, records regarding criminal history requests for the BCA, officer vacation schedules and court assignment schedules of prosecutors.
- k) Comply with all requirements required to maintain access to systems such as: eCharging, DVS and criminal history data.
- l) Comply with the Minnesota Data Practices Act and Blaine Police Department data access requirements.
- m) Be available for communications with officers, detectives, records staff and other City Staff.

2. Conflict of Interest and Attorney/Client Privilege Issues:

- a) Conflict of Interest: The Law Firm will notify the City if the Law Firm represents or has ever represented an opposing party in a legal matter, whether within or outside of any of the retainers. In the event of a conflict, the Law Firm shall arrange for a suitable alternative representation. The City will not be responsible for any conflict of interest expenses accrued.
- b) Attorney/Client Privilege: The Law Firm is authorized to utilize e-mail without encryption to transmit and receive confidential client information. While digital cordless and cellular telephones within a digital service area would be best to be used to transmit and receive confidential client information and may be used by the Law Firm to transmit and receive confidential client information. The City specifically acknowledges that it understands the confidentiality risks associated with inadvertent interception.

3. Prosecution Services Billing Format, Cycle, Payment Expectations and Interests.

- a) Billing Format: The Law Firm will submit monthly billing statements, for monthly retainer amount.
- b) Payment Expectations: The City will pay the bill of the Law Firm routinely according to its internal payment procedures by electronic funds transfer to the Law Firm paying for both legal services and expenses shown on the Law Firm's bill.
- c) Work Product: Pursuant to Rule 1.16(d) of the Minnesota Rules of Professional Responsibility, upon termination of the professional relationship all retained records, information and materials prepared or developed in connection with the services provided shall be provided to the City.

- d) Insurance: The Law Firm shall maintain general liability insurance in the amount of \$1,000,000.00 per claim and \$2,000,000.00 aggregate as well as workers' compensation and professional liability (malpractice) insurance coverage.
- e) Disputes: In the event that the City disputes any aspect of the Law Firm's bill, the appropriate City representative will contact Mark Berglund at the Law Firm stating the nature of the dispute. Any unresolved disputes, controversies or claims arising out of this Agreement shall be heard in state or federal courts of Minnesota, and all parties to the Agreement waive any objection to the jurisdiction of these courts.
- f) DWI forfeiture billing will be submitted to the Police Chief on a monthly basis, separate from other legal fee billing.

4. Term of Agreement and Contacts.

- a) Term: The term of this Agreement will be from September 1, 2015 to August 31, 2018.
 - 1. During the term of the Agreement, either party may terminate the Agreement upon 60 calendar days' written notice to the other party.
 - 2. The parties agree to mutually evaluate the usage of legal services during the prior year of this Contract in order to evaluate usage and identify areas where modification(s) in the parties' relationship may be mutually beneficial.
- b) Michael Scott will serve as lead prosecutor for the City. Michael Scott will be the primary contact for the police department administrative staff. Mark Berglund, Robert Howard, and John Berglund will act as assistant prosecutors. However, the parties contemplate that other attorneys in the Law Firm may also be providing services to the City, always subject to advance approval by the City. Michael Scott will be consulted by the assistant prosecutors for purposes of major charging decisions and jury trials.
- c) City Approval: The Law Firm is authorized to commence performing services under this contract on September 1, 2015.
- d) In order to minimize errors related to data exchange, one of the Firm's offices should be responsible for information and data exchange and have one primary office staff person as a point-of-contact for daily operations.

GENERAL MATTERS

The Firm shall not assign any interest in this contract and shall not transfer any interest in the same without the prior written consent of the City.

The Firm certifies that it will comply with all affirmative action/equal employment opportunity requirements of the City and shall not discriminate under the contract against any person in accordance with federal, state, and local regulations.

The Firm acknowledges and agrees that the City is not bound to employ the services of the Firm on an exclusive basis, but may seek supplemental representations at its absolute discretion.

Berglund & Berglund, Ltd. of Counsel Michael Scott, are independent contractors and not affiliated with the City and are not City employees.

THE CITY OF BLAINE

PROSECUTOR

BY: _____
Tom Ryan, Mayor

BY:  _____
Mark Berglund
Berglund & Berglund, Ltd.

BY: _____
Clark Arneson, City Manager

DATED: _____

DATED: 5/28/15