

LEGAL SERVICES AGREEMENT BETWEEN CITY OF HEMET AND COLE HUBER LLP

THIS AGREEMENT for legal services is entered into by and between the City of Hemet (hereinafter referred to as "City") and Cole Huber LLP (hereinafter referred to as "Law Firm"), effective as of October 1, 2023 (the "Effective Date").

SECTION 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Law Firm shall provide to City the services described in the Scope of Work attached hereto and incorporated herein as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. This Agreement shall begin on the Effective Date and shall continue unless the Agreement is otherwise terminated as provided for in Section 7.

1.2 Standard of Performance. Law Firm shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Law Firm is engaged in the geographical area in which Law Firm practices its profession. Law Firm shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Law Firm's profession.

1.3 Assignment of Personnel. Law Firm shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons for any reason other than a characteristic protected under state employment laws and the California Rules of Professional Conduct, Law Firm shall, immediately upon receiving notice from City of such desire, reassign such person or persons.

1.4 Time. Law Firm shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.2 above and to satisfy Law Firm's obligations hereunder.

SECTION 2. COMPENSATION. City agrees to pay Law Firm in accordance with the Compensation Schedule provided in Exhibit B for services to be performed and reimbursable costs incurred under this Agreement. The rates and charges outlined in the Compensation Schedule shall be valid through at least July 1, 2025. Law Firm may adjust the rates and charges under this Agreement effective July 1, 2025 and every two years thereafter if: (i) the adjustment to rates and charges does not exceed the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the Riverside Area and (ii) Law Firm has provided the City at least 90 days' notice of its intent to adjust rates and charges. City shall pay Law Firm for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Law Firm for services rendered pursuant to this Agreement. Law Firm shall submit all invoices to City in the manner specified herein. Except as specifically authorized by the City, Law Firm shall not bill City for duplicate services performed by more than one person.

Law Firm and City acknowledge and agree that compensation paid by City to Law Firm under this Agreement is based upon Law Firm's invoices only, and City has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Law Firm shall submit invoices within forty-five (45) days of the end of each month during the term of this Agreement (unless requested otherwise by City), based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- A Task Summary containing the amount of any prior billings, the total due for the period being billed for, and any outstanding sums remaining unpaid; and
- The applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed and for authorized reimbursable costs incurred. City shall have thirty (30) days from receipt of an invoice to pay Law Firm.

2.3 Reimbursable Expenses. Reimbursable expenses are specified in Exhibit B, and expenses not listed in Exhibit B are not chargeable to City.

2.4 Payment of Taxes. Law Firm is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.5 Payment upon Termination. In the event that City or Law Firm terminates this Agreement pursuant to Section 7 of this Agreement, the City shall compensate the Law Firm for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Law Firm shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

2.6 Authorization to Perform Services. Law Firm is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization (written or verbal) from City.

SECTION 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Law Firm shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Law Firm only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Law Firm's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall the City be obligated to furnish any facility that may involve incurring

any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

SECTION 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Law Firm, at its own cost and expense, shall procure and maintain professional malpractice insurance in the amount of not less than \$2 million per occurrence throughout the term of this Agreement. Law Firm shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City, and that such insurance is in effect prior to commencing work under this Agreement. Law Firm shall maintain the insurance policy required by this section throughout the term of this Agreement. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

4.1 Variation. City may approve a variation in the insurance requirements upon a determination that the coverage, scope, limit, and form of such insurance is either not commercially available, or that the City's interests are otherwise fully protected.

4.2 Notice of Reduction in Coverage. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Law Firm shall provide written notice to City at Law Firm's earliest possible opportunity, and in no case later than five (5) days after Law Firm is notified of the change in coverage.

4.3 Remedies. In addition to any other remedies City may have if Law Firm fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Law Firm's breach:

4.3.1. Order Law Firm to stop work under this Agreement or withhold any payment that becomes due to Law Firm hereunder, or both stop work and withhold any payment, until Law Firm demonstrates compliance with the requirements hereof; and/or

4.3.2 Terminate this Agreement.

SECTION 5. STATUS OF LAW FIRM.

5.1 Independent Contractor. At all times during the term of this Agreement, Law Firm shall be an independent contractor and shall not be an employee of the City. City shall have the right to control Law Firm only insofar as the results of Law Firm's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, City shall otherwise not have the right to control the means by which Law Firm accomplishes services rendered pursuant to this Agreement. Notwithstanding any other city, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Law Firm and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City, and entitlement to any contribution to

be paid by City for employer contributions and/or employee contributions for PERS benefits.

5.2 Law Firm Not Agent. Except as City may specify in writing or as provided by law, Law Firm shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent. Law Firm shall have no authority, express or implied, pursuant to this Agreement to bind the City to any obligation whatsoever.

SECTION 6. LEGAL REQUIREMENTS.

6.1 Governing Law. The laws of the State of California shall govern this Agreement.

6.2 Compliance with Applicable Laws. Law Firm and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

6.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Law Firm and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

6.4 Licenses and Permits. Law Firm represents and warrants to the City that Law Firm and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Law Firm represents and warrants to City that Law Firm and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals legally required to practice their respective professions. In addition to the foregoing, Law Firm and any subcontractors shall obtain and maintain during the term of this Agreement any required business licenses from City.

6.5 Nondiscrimination and Equal Opportunity. Law Firm shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Law Firm under this Agreement. Law Firm shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement.

Law Firm shall include the provisions of this subsection in any subcontract approved by the City.

SECTION 7. TERMINATION AND MODIFICATION.

7.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Law Firm. Such written notification must provide an effective date of cancellation.

Law Firm may cancel this Agreement upon sixty (60) days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Law Firm shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Law Firm delivering to City copies of any or all reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Law Firm prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder. Originals of attorney work product shall remain the property of Law Firm.

7.2 Amendments. The parties may amend this Agreement only by a writing signed by all the parties.

7.3 Assignment. City and Law Firm recognize and agree that this Agreement contemplates personal performance by Law Firm and is based upon a determination of Law Firm's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Law Firm. Law Firm may not assign this Agreement or any interest therein without the prior written approval of the City Manager.

7.4 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Law Firm shall survive the termination of this Agreement.

7.5 Options Upon Breach by Law Firm. If Law Firm materially breaches any of the terms of this Agreement, City's remedies shall include but not be limited to the following:

7.5.1 Immediate termination of the Agreement;

7.5.2 Retention of the plans, reports, documents, and any other work product prepared by Law Firm pursuant to this Agreement; and/or

7.5.3 Retention of a different law firm to complete any work described in Exhibit A remaining unfinished by Law Firm.

SECTION 8. KEEPING AND STATUS OF RECORDS.

8.1 Records Created as Part of Law Firm's Performance. Law Firm hereby agrees to deliver copies of all reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Law Firm prepares or obtains pursuant to this Agreement to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Law Firm agree that, until final approval by City, all data, plans, specifications, reports and other

documents are confidential and will not be released to third parties without prior written consent of both parties.

8.2 Law Firm's Books and Records. Law Firm shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Law Firm pursuant to this Agreement.

SECTION 9. MISCELLANEOUS PROVISIONS.

9.1 Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees (including reasonable costs and disbursements) in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

9.2 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the Superior Court for the County of Riverside.

9.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

9.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

9.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

9.6 Conflict of Interest. Law Firm may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Law Firm in a "conflict of interest," as that term is defined in the rules of professional responsibility governing Law Firm's profession, unless such conflict may be waived by City and City chooses to waive such conflict in writing.

Law Firm shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code section 1090 *et seq.*

Law Firm hereby warrants that although it has previously performed, and is currently performing, legal services for the City as an independent contractor, it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Law Firm were an employee, agent, appointee, or official of the City in the previous 12 months, Law Firm warrants that it did not participate in any manner in the forming of this Agreement. Law Firm understands that, if this Agreement is made in

violation of Government Code section 1090 *et seq.*, the entire Agreement is void and Law Firm will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Law Firm will be required to reimburse the City for any sums paid to the Law Firm. Law Firm understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code section 1090 and, if applicable, will be disqualified from holding public office in the State of California.

9.8 Solicitation. Law Firm agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

9.9 Notices.

Any written notice to Law Firm shall be sent to:

Cole Huber LLP
Attn: Steven Graham
2855 E. Guasti Road, Suite 402
Ontario, CA 91761

Any written notice to City shall be sent to:

City of Hemet
Attn: Mayor
445 East Florida Avenue
Hemet, CA 92543

9.10 Integration. This Agreement, including attachments, represents the entire and integrated agreement between City and Law Firm and supersedes all prior negotiations, representations, or agreements, either written or oral.

9.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

9.12 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

[Signature Page Follows]

**LEGAL SERVICES AGREEMENT BETWEEN
CITY OF HEMET AND COLE HUBER LLP**

The parties have executed this Agreement as of the Effective Date.

CITY

LAW FIRM

CITY OF HEMET

COLE HUBER LLP

DocuSigned by:
Joe Males
By: _____
Joe Males, Mayor

DocuSigned by:
Derek Cole, Managing Partner
By: _____
Derek Cole, Managing Partner

ATTEST:
CITY CLERK

DocuSigned by:
John Paul
By: _____
John Maier, City Clerk

DocuSigned by:
Steven Graham, City Attorney
By: _____
Steven P. Graham, Partner

EXHIBIT A – SCOPE OF WORK

The following services shall be provided under this Agreement:

CITY ATTORNEY SERVICES

Law Firm shall provide all general counsel services customarily provided to public agencies such as the City, which include the following:

Advise the City Council, Commissions, other City officials, and staff on legal matters pertaining to municipal government, including the Brown Act and parliamentary procedures for running meetings;

Attend all City Council and other meetings as requested by the City Council and City Manager;

Provide legal advice, consultations and opinions to the City Council, City Manager, and staff;

Prepare and/or review all ordinances, resolutions, municipal contracts, and other contracts and agreements entered into by the City;

Alert the City in a timely manner on new State or Federal legislation or judicial decisions that may impact the City and propose appropriate action(s) to assure compliance;

Inform the City Council and recommend changes to City ordinances and policies as needed;

Research and submit legal opinions on municipal or other legal matters as requested by the City Council or City Manager;

Review memorandums of understanding and provide guidance on personnel matters, labor relations and policies and procedures affecting employees, including employee discipline or procedures to assure compliance;

Provide legal work pertaining to land use issues including, but not limited to, property acquisitions, property disposals, public improvements, easements, dedications, the California Environmental Quality Act and public utilities;

Enforce City codes, zoning regulations, and building standards through administrative and judicial actions;

Initiate and prosecute any necessary criminal actions required to enforce municipal ordinances;

Review documents, policies, and forms to ensure compliance with current laws;

Coordinate and monitor the work and cost of special legal counsel;

Promptly respond to calls, e-mails, and correspondence from the City Council, City Officials and staff; and

Perform other non-litigation or non-specialized legal duties as requested by the City Council or City Manager.

LITIGATION SERVICES

Upon authorization by the City, Law Firm shall represent the City in any judicial action or any administrative proceeding. Representation of the City shall include:

Preparation for and attendance at court hearings (except for hearings relating to work performed on behalf of the City to prosecute code violations and perform enforcement code functions);

Drafting of pleadings, motions, memoranda, court forms, and other litigation documents;

Research and analysis of claims, defenses, and remedies;

Drafting and responding to discovery;

Coordinating, reviewing, and summarizing discovery and document productions;

Preparing for, attending and summarizing depositions, including witness preparation and preparation of post-deposition summaries or reports;

Preparation of administrative records;

Meetings with client representatives, opposing counsel, and others concerning the litigation;

Trial and trial preparation; and

Other tasks as may be necessary to the successful completion of the litigation.

EXHIBIT B**COMPENSATION SCHEDULE AND REIMBURSABLE EXPENSES**

Retainer Rates: City shall pay Law Firm \$40,250 per month based on the parties' understanding that Law Firm shall, on average, devote 175 hours of attorney time to the City Attorney Services described in Exhibit A (and assuming an average hourly rate of \$230.00). The parties shall review the hours spent per month at each annual anniversary after the effective date of this contract to determine whether 175 hours is an accurate measure for setting the monthly retainer. If the parties determine a different number should be utilized, they shall attempt to agree upon a mutual decrease or increase of the monthly retainer and shall reflect their resolution in writing.

Exceptions from Retainer:

Any land use, environmental, or other work that the City is being reimbursed for by a third-party shall not be subject to the retainer and will be invoiced to the City at the Firm's market rates set by Law Firm. Such work will be tracked on a per-project basis and the City shall only be responsible for payment of funds reimbursed to the City by the third-party.

Labor and personnel issues are exempt from the retainer, including: reviewing memorandums of understanding, labor relations and policies and procedures affecting employees, including employee discipline or procedures to assure compliance. Any work assigned will be invoiced to the City at rates agreeable to the City Manager.

Litigation Services shall be provided at the following rates:

LITIGATION SERVICES: RATES	
Attorneys (Blended):	\$260.00/hour
Paralegals/Law Clerks:	\$175.00/hour

Costs shall be paid as follows:

COSTS	
Duplication/reproduction fees (50 pages or more)	Actual cost if performed by outside service; \$0.15 if performed in-house
Vehicle travel originating from Firm's Ontario office (Litigation Only)	Applicable IRS rate per mile x number of miles
Extraordinary postage or overnight delivery costs	Actual Cost

Costs incurred in the course of investigation, research, negotiation or litigation will also be invoiced monthly. The following list of charges is included by way of example:

Parking and toll fees	Actual Cost
Extraordinary postage or overnight delivery costs	Actual Cost
Court filing fees	Actual Cost

Attorney services (includes service of process fees, arbitrators, and mediators)	Actual Cost
Messenger services	Actual Cost
Witness fees	Actual Cost
Expert fees	Actual Cost
Westlaw research	Prorated so the City would pay its proportionate share
Accurint or other database research fees	Actual Cost
Data conversion costs and forensic IT work	Actual Costs
FedEx, OnTrac Overnight, or other one-day delivery services	Actual Cost
Duplication/reproduction fees (50 pages or more)	Actual cost if performed by outside service; \$.15/copy if in-house
Any other expense not listed above that becomes necessary for the successful resolution of a client matter	Actual Cost