

**COUNTY OF WAYNE
LEGAL SERVICES AGREEMENT**

THIS AGREEMENT (DAF #: 12-40-054) is between the WAYNE COUNTY BUILDING AUTHORITY a Michigan public corporation organized and existing pursuant to the **BUILDING AUTHORITIES Act**, PA 31 of the Michigan Public Acts of 1948, (the "Act") and **Dawda, Mann, Mulcahy & Sadler, PLC**, a Michigan Corporation ("Firm").

WITNESSETH:

WHEREAS, the Building Authority finds it necessary to secure assistance in providing legal services for the **Parlovecchio Building, Inc. v Wayne County Building Authority (the "Services")**; and

WHEREAS, the Building Authority desires the Firm to render the Services; and

WHEREAS, the Firm represents that it is qualified and ready and willing to perform the Services;

NOW, THEREFORE, it is agreed:

**ARTICLE 1
TERM OF AGREEMENT AND SCOPE OF SERVICE**

- 1.1** This Agreement shall have a term of one (1) year from **June 11, 2012 to June 10, 2013**. The parties may renew the Agreement for one (1) additional year.
- 1.2** The Firm shall provide the Services stated in Exhibit A, Scope of Service and Exhibit C Litigation Protocols for Outside Counsel.
- 1.3** The Firm recognizes and acknowledges that the Building Authority is a creation of the Charter County of Wayne ("County"). The Firm agrees and understands that the Building Authority, pursuant to Public Act 31 of the Michigan Public Acts of 1948, utilizes Wayne County staff and Wayne County facilities in furtherance of its duties. The Contractor agrees and understands that any and all duties, responsibilities, indemnification, or other benefits that may be afforded the Building Authority in this Contract shall also be given to the Charter County of Wayne.
- 1.4** The Firm also agrees and acknowledges that the Department of Corporation Counsel provides services to the Building Authority. In furtherance of this understanding the Firm agrees that the Department of Corporation Counsel will process the Firms invoices and shall provide oversight to the Services the Firm will be providing to the Building Authority.

**ARTICLE 2
COMPENSATION**

- 2.1** The Building Authority agrees to pay the Firm at the rates in Exhibit B, Compensation, attached. The compensation includes all remuneration to which the Firm may be entitled. The Building Authority will not pay the Firm for overtime, holiday or other premium charges or other benefits.
- 2.2** The Building Authority will pay for the proper performance of the Services, commensurate with the progress of the work as evidenced by the timely performance of the Services, and after it receives an invoice for payment. The invoice must certify the total cost of the Services rendered to the project to date and the cost of all Services for that billing period;

and must describe the Services rendered. If the invoice also requests reimbursement or payment for reimbursable expenses, the appropriate receipts must be attached. The invoice should be submitted monthly.

- 2.3 **The Firm must direct invoices to the attention of Linda Davis, by email to ldavis@co.wayne.mi.us.**
- 2.4 No payment shall be made until this Agreement until such invoices have been approved by the Building Authority's Chairperson.

ARTICLE 3 REPRESENTATIONS

- 3.1 **Qualifications** The Firm, by signing this Agreement, attests that it is qualified to perform the Services to be furnished.
- 3.2 **Notifications** The Firm shall inform the Building Authority as soon as the following types of conditions become known:
- A. Favorable developments or events which enable meeting time schedules and/or goals sooner than anticipated.
 - B. Delays or adverse conditions which materially prevent, or may materially prevent, the meeting of the objectives of the Services provided. This disclosure shall be accompanied by a statement of any remedial action taken or contemplated by the Firm.
- 3.3 **Conflict of Interest** The Firm covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner with the performance of the Services under this Agreement. The Firm further covenants that, in the performance of this Agreement, no person having any such interest shall be employed.
- 3.4 **Services to be Confidential** All Services, including reports, estimates, and information to be furnished are confidential and shall not be divulged, in whole or in part, to any person other than to duly authorized representatives of the Building Authority 's Corporation Counsel, to the Building Authority 's Executive Director or such individual as the Executive Director designates, in writing, to the Firm, except by testimony under oath in judicial proceedings or as otherwise required by law. The Firm shall take all necessary steps to ensure that no member of its staff or organization divulges any information concerning such Services.
- 3.5 **Facilities and Personnel**

To induce the Building Authority to enter into the Contract, the Contractor represents and warrants that the Contractor is authorized to do business under the laws of the State of Michigan and is duly qualified to perform the services as set forth in the Contract. The execution of this Contract is within the Contractor's authorized powers, and is not in contravention of federal, state, or local law.

The Contractor warrants that all employees of the Contractor assigned to the performance of the services are qualified and authorized to perform the services under the state and local laws and governing professional association rules where the employee is employed.

Whenever an employee assigned to this Contract must be replaced for any reason, the Contractor must supply an acceptable replacement as soon as possible and agrees not to substitute a lower classified employee to perform the services without obtaining prior Building Authority approval in writing.

ARTICLE 4 **ASSIGNMENT & SUBCONTRACTING**

- 4.1** The Firm shall not assign this Agreement, or any part of it, or subcontract any of the work or Services to be performed without the Building Authority's prior written approval. Such approval shall not constitute privity between the Building Authority and the subcontractor.
- 4.2** Approved subcontractors must adhere to the Building Authority's policy of non-discrimination.
- 4.3** Approval given in any one instance shall not relieve the Firm of its obligation to obtain the prior written consent of the Building Authority to any further assignment or subcontracting.

ARTICLE 5 **INDEMNIFICATION**

The relationship of the Firm to the Building Authority and the County is that of an independent contractor. No liability or benefits, such as workers' compensation, pension rights or liabilities, insurance rights or liabilities, or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agent, subcontractor or employee as a result of the performance of this Agreement. No relationship, other than that of independent contractor, shall be implied between the parties, or either party's agent, employee, or subcontractor. The Firm agrees to hold the Building Authority and the County harmless from any liabilities alleged to arise from such relationship.

The Firm agrees to save harmless the Building Authority, the County and their elected officials, officers, employees and agents against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by or asserted against the Building Authority and the County by reason of any of the following:

- A.** Any negligent or tortuous act or omission held by a court of competent jurisdiction to be attributable, in whole or in part to the Firm, or any of its employees, consultants, subcontractors, assigns, agents, or any entities associated, affiliated, or subsidiary to the Firm now existing, or hereafter created, their agents and employees for whose acts any of them might be liable.
- B.** Any failure by the Firm, or the parties specified in (A), to perform its obligations either expressed or implied by this Agreement.

The Firm agrees that it has the responsibility to safeguard the property and materials that the Firm's employees or its associates use in performing this Agreement.

ARTICLE 6 **INSURANCE**

- 6.1** The Firm, at its expense, must maintain during the term of this Agreement the following insurance:

- A. Commercial General Liability, limits of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate.
- B. Commercial Automobile Liability Insurance, including non-owned, combined single limits of One Million Dollars (\$1,000,000).
- C. Workers' Compensation that meets the Michigan statutory requirements with Five Hundred Thousand Dollars (\$500,000) Employer's Liability.
- D. Professional Liability Insurance, endorsed to include Errors & Omissions, Personal & Advertising Injury and Products-Completed Operations liability, of at One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate with three (3) years continuity of claim coverage.

6.2 Certificates evidencing such insurance shall be made available to the County Risk Management Division upon request and shall remain in full force and effect throughout the term of this Agreement. The policies shall not be canceled or materially changed without at least thirty (30) days prior notice by the Firm to the Building Authority and the County's Risk Management Division.

6.3 If, during the term of this Agreement, changed conditions should, in the judgment of the Building Authority or the County's Risk Management Division, render inadequate the insurance limits, the Firm will furnish on demand such additional coverage as may be required. All such insurance shall be affected at the Firm's expense, under valid and enforceable policies, issued by insurers of recognized responsibility which are acceptable to the County's Director of Risk Management.

ARTICLE 7

AGREEMENT CHANGES

7.1 Definitions Change Order: A written order signed and issued by the Building Authority's Chairperson, directing the Firm to make changes. Contract Modification: Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of the Agreement accomplished by mutual action of the parties to the Agreement.

7.2 The Building Authority may request changes to the scope of Services to be furnished or performed by the Firm under the Agreement, as well as changes in the time of performance of the Agreement. All such changes shall be authorized by either Change Order or Contract Modification, as those terms are defined in this Agreement.

7.3 If any such change request increases or decreases the Firm's cost of, or the time required for, performance of any part of the Services under this Agreement, an adjustment may be made and the Agreement modified in writing accordingly.

7.4 Firm shall provide Building Authority with a written proposal to Building Authority's change request within five (5) business days of receipt of any such request. Firm's proposal shall describe in reasonable detail the basis for any proposed price or time adjustment. All cost estimates shall include all completed Services, and cover all costs, expenses, overhead and profit of subcontractors, if any.

- 7.5** Firm acknowledges that any change in the Agreement price represents full compensation for all costs associated with the change request, including delay costs, impacts, acceleration, disruption, consequential damages and any other cost of any nature.
- 7.6** If the Building Authority does not accept the Firm's proposal, the Building Authority may:
- (a) withdraw its change request;
 - (b) modify its change request, in which case the procedures set forth above will apply to the modified change request; or
 - (c) issue a Change Order.
- 7.7** Any adjustment in the Agreement price shall be computed in accordance with the provisions of this Agreement. Failure of the parties to agree to an adjustment shall not excuse the Firm from proceeding with the Agreement as changed, provided the Building Authority promptly and duly makes provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the required Services under protest, the Firm shall not be deemed to have prejudiced any claim for additional compensation, or an extension of the time for completion.
- 7.8** No action, conduct, omission, prior failure or course of dealing by the Building Authority shall act to waive, modify, change or alter the requirement that Contract Modifications must be in writing and signed by the Building Authority and the Firm. Firm further acknowledges that Change Orders and Contract Modifications are the exclusive method for effecting any change to the Agreement.

ARTICLE 8

PRICING ADJUSTMENTS

- 8.1** Any adjustment in the Agreement price as a result of the Building Authority's exercise of its rights under this Agreement shall be made in one or more of the following ways:
- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
 - (b) by unit prices, if applicable, specified in the Agreement or subsequently agreed upon;
 - (c) by the costs attributable to the event or situation, plus appropriate profit or fee, if applicable, all as specified in the Agreement or subsequently agreed upon;
 - (d) in such other manner as the parties may mutually agree; or
 - (e) in the absence of agreement between the parties, by a unilateral determination of the Building Authority of the costs attributable to the event or situation, with adjustment of profit or fee, as computed by the Building Authority .

in accordance with generally accepted accounting principles. The Firm shall have a right to appeal the Building Authority's decision to the Building Authority 's Board of Directors or a court of competent jurisdiction.

- 8.2** Firm shall provide cost or pricing data for any price adjustments and agrees to utilize the parameters and provisions of section 120.43 (Cost or Pricing Data) of the Wayne County Code.

ARTICLE 9
EQUAL EMPLOYMENT OPPORTUNITY

9.1 The FIRM must comply with:

- A. Titles VI and VII of the Civil Rights Act (42 U.S.C. §2000d et. seq.) and the United States Department of Justice Regulations (28 C.F.R. Part 42) issued pursuant to those Titles.
- B. The Age Discrimination Act of 1985 (42 U.S.C. §6101-07).
- C. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).
- D. The Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and its associated regulations.
- E. The Michigan Civil Rights Act (P.A. 1976 No. 453) and the Persons With Disabilities Civil Rights Act (P.A. 1976 No. 220).
- F. Article XI of Chapter 120 of the Wayne County Code governing Equal Contracting Opportunity.
- G. Any other appropriate affirmative action provisions as may be required from time to time by the Director of Human Relations of the County. FIRM shall promptly give notice of any such provisions to County during the term of the Agreement.

9.2 The FIRM must not:

- A. Refuse to recruit, hire, employ, promote or to bar or discharge from employment an individual, or discriminate against an individual in compensation, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation, religion, familial status, height or weight.
- B. Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects the employment status of an employee because of race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation, religion, familial status, height or weight.
- C. Print or publish or cause to be printed or published a notice, application, or advertisement relating to employment by the FIRM indicating a preference, limitation, specification, or discrimination based upon race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation, religion, familial status, height or weight.
- D. Except as permitted by rules and regulations promulgated pursuant to section 120-191 of the Wayne County Code, or applicable state or federal law, make or use a written or oral inquiry or form of application that elicits or attempts to solicit information concerning the race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation, religion, familial status, height or weight, of prospective employees. FIRM also shall not make or keep a record of that information or disclose such information.
- E. Make or use a written or oral inquiry or form of application that expresses a preference, limitation or specification based on religion, race, color, creed, national origin, age, height, weight, marital status, handicap, sex, or sexual orientation.

9.3 The FIRM must notify any subcontractor of the obligations relative to non-discrimination under this Agreement when soliciting the subcontractor. The FIRM will include the provisions of this Article in any subcontract, as well as provide the County with a copy of any subcontract agreement.

9.4 The FIRM and its subcontractors must not discriminate against any employee or applicant for employment, training, education, or apprenticeship connected directly or indirectly with the performance of this Agreement, with respect to hire, promotion, job assignment, tenure, terms, conditions or privileges of employment because of race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation, religion, familial status, height or weight. This Section does not apply if it is determined by the Division of Human Relations that the requirements are bona fide occupational qualifications reasonably necessary to perform the duties required for employment. The burden of proof that the occupational qualifications are bona fide is upon the FIRM.

9.5 Breach of any of the covenants in this Article may be regarded as a material breach of this Agreement.

9.6 FIRM acknowledges the right of the Director of Human Relations to sue to enforce the provisions in this Article of the Agreement.

9.7 If the FIRM does not comply with the non-discrimination and affirmative action provisions of this Agreement, the County may impose sanctions, as it determines to be appropriate, including but not limited to:

- A. the withholding of payments to the FIRM under this Agreement until the FIRM attains compliance;
- B. cancellation, termination or rescission of this Agreement, in whole or in part; and/or
- C. disqualification from bidding on future contracts for a period of no more than 3 years;
- D. referral to Corporation Counsel for consideration of injunction, liquidated damages or other remedies.

9.8 If the Agreement is funded, in whole or in part, by federal funds:

- A. Contractor's breach of the affirmative action commitments set forth in this Article constitutes a material breach of the Agreement sufficient to warrant termination and the imposition of liquidated damages as set forth above, based upon the decision of the Director of Human Relations;
- B. FIRM must provide immediate notice to the County's Chief Executive Officer, the Director of Human Relations, and the Wayne County Commission when a subcontractor who was part of the FIRM's affirmative action commitment is terminated or substantially displaced by a subcontractor who does not qualify as a disadvantaged business enterprise, as that term is defined in section 120-251(21) of the Wayne County Code; and
- C. FIRM must establish and implement a good faith plan and goal to eliminate the continuing effects of past discrimination, which is determined by the Division of Human Relations to be appropriate for that purpose, provided the County has been authorized by the funding source to require such an affirmative action commitment from the FIRM.

9.9 In the event that this Agreement is or becomes subject to federal or state law which conflicts with the requirements of section Article XI of the Wayne County Code, the provisions of the federal or state law shall apply and the Agreement shall be interpreted and enforced accordingly.

ARTICLE 10 **TERMINATION**

10.1 Firm Right to Terminate This Agreement may be terminated by the Firm upon thirty (30) days written notice. Upon delivery of such notice, the Firm shall continue all work and Services until otherwise directed by the Building Authority. The Building Authority will pay

the Firm for the Services rendered prior to termination. The parties expressly agree that no payments under this section shall exceed the amount payable under Article 2.

10.2 Building Authority Right to Terminate The Building Authority may terminate this Agreement upon fifteen (15) days written notice by issuing a Notice of Termination to the Firm. The Firm acknowledges that the Building Authority is subject to Michigan Standards of Conduct and Ethics Act, MCLA §15.341 *et seq.* and the Wayne County Code, Chapter 120, ARTICLE XII, Ethics in Public Contracting. The Building Authority's Chairperson may terminate the Agreement for (a) an egregious breach of the terms and conditions hereof or (b) a violation of the ethics and anti-kickback provisions of Article 12 of Chapter 120 of the Wayne County Code and to debar the Firm from any further work for or sales to the County for up to three (3) years, pursuant to the terms of Article 6 of the Procurement Ordinance.

Upon receipt of a Notice of Termination and, except as otherwise directed by the Building Authority, the Firm shall:

- A. Stop work under the Agreement on the date and to the extent specified in the Notice of Termination.
- B. Obligate no additional Agreement funds for any costs beyond such date as the Building Authority shall specify.
- C. On the date termination is effective, submit to the Building Authority all records, reports, documents and pleadings as the Building Authority shall specify; all pertinent keys to files; and carry out such directives as the Building Authority may issue concerning the safeguarding or disposition of files and property.
- D. Submit within thirty (30) days a final activity report and invoice.

Upon termination of this Agreement, all finished or unfinished original (or copies when originals are unavailable) documents, data, studies, briefs, drawings, maps, models, photographs, files, intermediate materials, supplies, notes, reports, or other materials (herein collectively called the "Work Product") prepared by the Firm under this Agreement, shall at the option of the Building Authority, become its exclusive property, free from any claims on the part of the Firm except as herein specifically provided. The Work Product shall promptly be delivered to the Building Authority upon the Building Authority's request and the Building Authority shall return all the Firm's properties to it. The Firm acknowledges that any intentional failure or delay on its part to deliver the Work Product to the Building Authority will cause irreparable injury to the Building Authority not adequately compensable in damages and for which the Building Authority has no adequate remedy at law and the Firm accordingly agrees that the Building Authority may in such event seek injunctive relief in a court of competent jurisdiction. The Building Authority shall have full and unrestricted use of the Work Product for the purpose of completing the Services. In addition, each party will assist the other party in the orderly termination of this Agreement.

10.3 Rights The rights and remedies of either party provided by this Agreement are in addition to any other rights and remedies provided by law or equity.

ARTICLE 11 **APPLICABLE LAWS**

This Agreement, and all actions arising hereunder, shall be subject to, and construed according to the law of the State of Michigan. The Firm also agrees it will not commence any

action against the Building Authority or the County because of any matter whatsoever arising out of or relating to the validity, construction, interpretation and enforcement of the Agreement, in any courts other than those in the County of Wayne, State of Michigan, unless original jurisdiction can be had in the United States District Court for the Eastern District of Michigan, Southern Division.

ARTICLE 12 NOTICES

All notices, consents, approvals, requests and other communications, (herein collectively called "Notices") required or permitted under this Agreement shall be given in writing and mailed by first-class mail and addressed as follows:

If to the Firm:

Kenneth Flaska, Esq.
Tyler Tennent, Esq.
Dawda, Mann, Mulcahy & Sadler, PLC
39533 Woodward Avenue, Suite 200
Bloomfield Hills, MI 48304

If to the Building Authority :

Valerie Khoury
500 Griswold, 21th Floor
Detroit, Michigan 48226

With a copy to:

Zenna Elhasan, Esq.
Corporation Counsel
Wayne County
500 Griswold, 12th Floor
Detroit, Michigan 48226

All Notices shall be deemed given on the day of mailing. Either party to this Agreement may change its address for the receipt of notices at any time by giving notice to the other as provided. Any Notice given by a party must be signed by an authorized representative of such party. Notwithstanding the requirement above as to the use of first class mail, termination notices, change of address notices, or other notices of a legal nature, shall be sent by registered or certified mail, postage prepaid, return receipt requested.

ARTICLE 13 SERVICE OF PROCESS

It is agreed that person named by the Firm in Article 13 shall receive Service of Process for the Firm.

ARTICLE 14 RIGHT TO AUDIT FIRM RECORDS

- 14.1** The Firm shall maintain full and complete books, documents and/or ledgers, journals, accounts, or records. The records shall be kept in accordance with generally accepted accounting practices.

- 14.2** The Firm must make available to the Building Authority , or its authorized representatives, including the County's Legislative Auditor General, at any time Monday through Friday, inclusive, between the hours of 8:00 a.m. and 5:00 p.m., at the Building Authority 's election, at that location among its offices which the Agreement is principally performed or which is closest and most convenient for the Building Authority 's auditors, all records, books, statements, reports, or other pertinent information that the Building Authority deems necessary concerning the Firm's performance of Services under this Agreement, as may be required for audit purposes.

ARTICLE 15

ETHICS IN CONTRACTING

- 15.1** The Firm must comply with Article 12 of Chapter 120 of the Wayne County Code governing "Ethics in Public Contracting."
- 15.2** Firm's material misrepresentation or delinquency in the disclosures required by section 120.-225 of the Wayne County Code constitutes a material breach of this Agreement, sufficient to warrant immediate termination and the imposition of liquidated damages (not a penalty) of fifteen percent (15%) of the consideration made or due under the Agreement as of the date of termination.
- 15.3** If the Building Authority or the County's Corporation Counsel determines that the Firm has made a material misrepresentation or is willfully delinquent or knowingly evasive in the disclosures required by section 120-225, the Firm and any other business which has substantially the same principal beneficiaries (as defined in section 120.-238 of the Wayne County Code), may be debarred by the County's Purchasing Director, pursuant to Article 6 of Chapter 120 of the Wayne County Code, from competing for any further County contracts for up to three (3) years.
- 15.4** If the Agreement price is in excess of \$20,000, and the Firm knowingly collaborates in or induces a violation of any of the ethical standards that are set forth in sections 120.-223, 120-224, 120-225, 120-228, 120-229, 120-231, or 120-233 of the Wayne County Code, the County has the right to impose any one or more of the following sanctions:
- A. Immediately terminate the Agreement and require the Firm to pay the Building Authority liquidated damages, and not a penalty, of 15% of the total Agreement compensation;
 - B. Debar or suspend the Firm from consideration from competing for further County contracts; or
 - C. Recover the value transferred or received in breach of the ethical standards by a Building Authority employee or other person.
- 15.5** The Firm further covenants that no officer, member or employee of the Building Authority or the County and no other public official who exercises any functions or responsibilities in the review, approval or carrying out of the Agreement has any personal or financial interest, direct or indirect, in this Agreement.
- 15.6** The Firm will not and has not employed any person to solicit or secure this Agreement, directly or indirectly. If this condition is breached, the Building Authority may, at its option, terminate this Agreement.

ARTICLE 16
PROMPT PAYMENT

Should the Firm subcontract a part of its obligations under this Agreement to a business which has been certified by the County's Division of Human Relations as a small or disadvantaged business enterprise, the Firm shall provide, in each such subcontract, provisions which establish for that business prompt payment protection from the Firm such as that afforded to the Firm pursuant to section 120-121 of the County of Wayne, Michigan Code of Ordinances ("Wayne County Code").

ARTICLE 17
EXCUSABLE FAILURE

- 17.1** Neither party shall be liable for any default or delay in the performance of its obligations under the Agreement if and to the extent such default or delay is caused, directly or indirectly, by: any cause beyond the reasonable control of such party, provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions or reasonably circumvented by the non-performing party through the use of alternate sources, work around plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligations so affected for as long as (1) such circumstances prevail and (2) such party continues to use its best efforts to complete its Agreement obligations whenever and to whatever extent possible without delay. To obtain the benefit of this Article, the non-performing party must promptly notify the other party, in writing, of the inception of the excusable failure occurrence, and also of its abatement or cessation. In the event of a dispute between the parties with regard to what constitutes an excusable failure, the Building Authority's reasonable determination is controlling.
- 17.2** If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the Services necessary for the performance of the Building Authority's functions for more than fourteen (14) consecutive days, and the Building Authority determines that performance is not likely to be resumed within a period of time that is satisfactory to the Building Authority, in its reasonable discretion and at the Building Authority's option: (a) the Building Authority may procure the affected Services from an alternate source for so long as the delay in performance shall continue; in such case, the Building Authority shall not be liable to the Firm for payments for Services provided by others; (b) the Building Authority may cancel any portions of the Agreement so affected and the charges payable there under shall be equitably adjusted to reflect those Services canceled; or (c) the Agreement will be canceled without liability of the Building Authority to the Firm as of the date specified by the Building Authority in a written notice of cancellation to the Firm. The Firm will not have the right to any additional payments from the Building Authority as a result of any excusable failure occurrence or to payments for Services not rendered as a result of the excusable failure condition. The Building Authority also shall not be liable to the Firm for loss of anticipated profit, unabsorbed overhead, interest on claims, unamortized depreciation costs, and general and administrative burden if a termination of the Agreement is the result of an excusable failure occurrence.
- 17.3** Defaults or delays in performance by the Firm which are caused by acts or omissions of its subcontractors will not relieve the Firm of its obligations under the Agreement except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Firm cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, work around plans or other means.

ARTICLE 18
MISCELLANEOUS

- 18.1** The Firm shall comply with the Department of Corporation Counsel Litigation Protocol for Outside Counsel set forth in Appendix C.
- 18.2** Failure of a party to insist on the strict performance of this Agreement shall not constitute waiver of any breach of the Agreement.
- 18.3** It is understood that during the term of this Agreement, the Building Authority may contract with other firms providing the same or similar Services.
- 18.4** The Firm agrees that it is not, and will not become, in arrears to the County or the Building Authority upon any contract, debt, or other obligation to the County or the Building Authority, including real property and personal property taxes.
- 18.5** The singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
- 18.6** If any provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be judicially determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is invalid or unenforceable, shall not be effected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 18.7** The headings of the Sections in this Agreement are for the convenience only and shall not be used to construe or interpret the scope or intent of this Agreement.
- 18.8** The Firm is authorized to negotiate in order to accomplish the objectives set forth in the Agreement. It is understood that any Agreement negotiated must be approved by the Building Authority.
- 18.9** All documents drafted by the Firm which are to be submitted to the Building Authority's Executive Director or the Building Authority's Board of Directors for approval shall be directed to the Corporation Counsel for prior review and submission.
- 18.10** All proposed settlements are subject to the approval of the Building Authority's Chairperson, and to the Building Authority's Commission. All proposed settlements shall be directed to the Corporation Counsel for review.
- 18.11** The Building Authority shall not be obligated to make payments to the Firm prior to the Building Authority's receipt of information necessary to enable it to comply with its reporting or other legal obligations under the Internal Revenue Code and similar provisions of state or local law. Information required by the Building Authority may include, but is not limited to, Form W-9, Request for Taxpayer Identification Number, and other information or certifications determined by the Building Authority, in its sole discretion, to be reasonably necessary to evidence the Firm's legal status, address, taxpayer identification number, or other information relating to backup withholding pursuant to IRC Section 3406. The Building Authority will furnish information returns (including Forms 1099 or other returns, as appropriate) to the Firm and appropriate government entities by their required due dates and in accordance with applicable law. Any payment due the Firm shall be reduced by the amount of any required backup

withholding, and the Firm shall have no claim against the Building Authority for additional amounts or payments under this.

Agreement for the amount of any backup withholding required by applicable law to be paid over to any government authority.

ARTICLE 19

DEBARMENT AND SUSPENSION

19.1 The FIRM certifies to the best of its knowledge and belief, that:

- A. The FIRM and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal agency;
- B. The FIRM and its principals have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under public transaction; violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. The FIRM and its principals are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in 21.01 b above; and;
- D. The FIRM and its principals have not, within a three-year period preceding this Agreement, had one or more public transactions (Federal, State or local) terminated for cause or default.

19.2 The certification in this clause is a material representation of fact upon which reliance was placed. When the Building Authority determines that the FIRM knowingly rendered an erroneous certification, in addition to other remedies available to the Building Authority, the Building Authority may terminate this Agreement for cause or default.

19.3 The FIRM shall provide immediate written notice to the Building Authority if, at any time, FIRM learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

19.4 The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "Grantee", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.

19.5 The FIRM agrees that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Building Authority .

19.6 The FIRM further agrees that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction", provided by the Building Authority , without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

- 19.7 A FIRM may rely upon a certification of a participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A FIRM may decide the method and frequency by which it determines the eligibility of its principals. Each FIRM may, but is not required to, check the Non-procurement List (of excluded parties).
- 19.8 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a FIRM is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 19.9 If a FIRM is in a covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Building Authority, the Building Authority may terminate this transaction for cause or default.

BUILDING AUTHORITY OF WAYNE

By: 
EILEEN DEHART
Secretary

Dated: _____

By: 
ZENNA ELHASAN
Corporation Counsel

Dated: 6/18/12

283388

**DAWDA, MANN,
MULCAHY & SADLER, PLC**

By: 

Dated: 6-26-12

Federal Tax ID #: 38-3235321

EXHIBIT A
SCOPE OF SERVICE

The Building Authority engages the Firm and the Firm agrees to faithfully and diligently perform the Services set forth in this Agreement consistent with the standard of legal practice in the community. The Services are: as determined by Corporation Counsel related to this matter.

Specify Services

Included in the Services are any meetings with Building Authority staff required to accomplish the purpose of this Agreement as well as attendance at any Building Authority's Commission meeting related to the purpose of this Agreement. The Firm shall not make an initial contact with any Building Authority staff or any elected official or Building Authority personnel until the attorney designated by the Corporation Counsel has advised the Firm it is cleared to make the contact with the client. This will avoid confusion of the clients.

The Firm must, upon reasonable notice, be available to participate in any proceeding, whether legal, administrative or otherwise, or in any internal Building Authority preparatory meetings for the proceeding, in order to assist the Building Authority in any matter the Jail Project. The Building Authority will compensate the Firm under a separately negotiated agreement for any Services rendered pursuant to this section.

The Firm must also abide by the guidelines and rules set-forth in the Litigation Protocol for Outside Counsel attached as Exhibit C.

**EXHIBIT B
COMPENSATION**

- A. Under this Agreement, the Building Authority will pay the following attorney members of the Firm the hourly rate of \$175.00 per hour:

Kenneth Flaska, Esq. Tyler Tennent, Esq.

Such other persons as may be designated by the Firm, in writing, and accepted by the Building Authority, in writing, during the pendency of this Agreement.

The rates for a paralegal or law clerk under this Agreement shall be \$75.00 per hour.

- B. Unless otherwise specified in this Agreement, invoices for payment under this Agreement **MUST BE SUBMITTED WITHIN 45 DAYS OF THE DATE OF SERVICE OR PAYMENT WILL NOT BE MADE. ALL INVOICES MUST BE DETAILED AND SHOW ITEMIZED EXPENSES.** All invoices shall indicate for each attorney, law clerk and paralegal the hours billed and the hourly rate. All invoices shall include the following Agreement DAF number: 12-40-054. The total compensation under this Agreement cannot exceed \$45,000.00.
- C. Any substitution or addition of attorneys must be approved by the Corporation Counsel in advance; their hourly billing rates cannot exceed the agreed upon rates and must be discounted by 25% during the learning curve period.
- D. Reimbursement for attendance at depositions is limited to one attorney.
- E. Reimbursement for attendance at hearings and meetings is limited to two attorneys.
- F. Administrative, clerical, secretarial, word processing and time accounting activities are not reimbursable expenses. Office supplies are not reimbursable.
- G. Reimbursement is not allowed for the cost of meals and lodging when representation requires travel beyond fifty (50) miles of the corporate limits of the County of Wayne, unless such request is made in writing prior to the expense. Travel time is reimbursable at one-half the normal hourly rate.
- H. The following Services shall be invoiced at the rates which represent the actual costs to the Firm: necessary local deliveries, telephone, transcript costs, postage, express mail services, outside printing or copying, filing, notary, and miscellaneous like expenses directly related and necessary.
- I. Copying (in-house) rates shall not exceed \$0.25 per page.
- J. Any costs or reimbursable expenses not enumerated in this Agreement shall require the prior written approval of the Corporation Counsel or designee.
- K. Expert witnesses shall not be retained or paid without prior approval of the Building Authority.
- L. The Firm is responsible for notifying Corporation Counsel two (2) months prior to the time it is anticipated that the Agreement's cap will be reached to enable time for processing a renewal or a Contract Modification. The Firm will not be paid for work that is not authorized pursuant to a valid agreement.

M. Research. The Firm was selected to represent the Building Authority because of its expertise. Consequently, the Building Authority shall not be charged for basic research. Other research on specific issues must be billed at the agreed on hourly rate for the person performing the research. Computerized research will not be compensated unless specifically provided for by this Agreement.

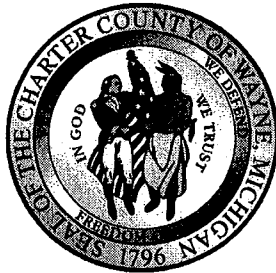
N. The following are excluded from this Agreement and are not compensable:

1. Reviewing/discussing legal service invoices.
2. Preparing invoices.
3. Reviewing and preparing responses to solicitation documents.
4. Preparation of monthly Case Management Report.
5. Attendance at Wayne County Commission meetings for the purposes of approval of this Agreement, or any modification/renewal thereto.
6. Preparation of required audit letters requested by the County or an affiliated accounting firm.
7. Other non-legal services as determined by the County.

EXHIBIT C

**See Department of Corporation Counsel Litigation Protocols for Outside Counsel.
(Attached)**

Wayne County
Department of
Corporation Counsel



Litigation Protocol
for
Outside Counsel

Addendum to All Legal Service Agreements

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I. GENERAL GUIDELINES

A. Assignment of a Lawsuit to Outside Counsel

1. Upon selection of Outside Counsel, Corporation Counsel will forward to Outside Counsel the Summons and Complaint, together with any service documents.
2. Corporation Counsel will also submit to Outside Counsel, by letter, the following information:
 - a. Relevant facts concerning service of the lawsuit, including information covering who was served, when service was effected, and how the service was received (i.e., process server, mail, etc.);
 - b. The names of the party or parties to be defended;
 - c. Work which may be done in-house by Corporation Counsel; and
 - d. Whether an extension to file and answer was requested and granted.

B. Conflict of Interest under the Michigan Rules of Professional Conduct

1. Upon receipt of the Summons and Complaint, Outside Counsel should immediately review the pleadings and respective parties and make a determination as to whether a conflict of interest exists under MRPC 1.7, 1.8 or 1.9. If a conflict exists, Outside Counsel should immediately telephone the Corporation Counsel and advise him/her of the conflict. A formal letter should follow advising the Corporation Counsel of the nature of the conflict. Corporation Counsel will then make a determination if Outside Counsel will continue its handling of the matter. All requests for conflict waivers must be confirmed in writing.
2. If a conflict of interest does not exist, Outside Counsel must send an acknowledgment letter to Corporation Counsel within five days of receipt of the suit stating:
 - a. Acknowledgment of the assignment and receipt of the lawsuit papers, and that a conflict of interest under the Michigan Rules of Professional Conduct does not exist;
 - b. Outside Counsel's agreement to conduct the defense of Wayne County and/or individual defendant(s), in accordance with the terms of the Wayne County Litigation protocol.

C. Legal Malpractice Insurance

1. Outside Counsel shall also include with the acknowledgment letter a copy of the declaration sheet of the current legal malpractice policy covering Outside Counsel. Should coverage change during the period of time representation is provided a new declaration sheet must be provided.

D. Initial Pleadings

1. Within the time permitted by court rule, or as modified by agreement with plaintiff's attorney and/or consent of the court, Outside Counsel shall file their Answer and Affirmative Defenses, or other appropriate responsive pleadings. A copy must be sent to Corporation Counsel.
2. Where any party to the suit is an estate, Outside Counsel shall obtain a copy of the estate's Letter of Authority.

E. Litigation Action Plan and Litigation Budget Plain

1. Within 30 days of Outside Counsel accepting the assignment, a Litigation Action Plan and a Litigation Budget Plan must be submitted to Corporation Counsel. The details for each of these Plans are set forth on pages 4 to 8, *infra*.

F. Dispositive Motions

1. As soon as statutory defenses are identified by Outside Counsel, dispositive motions should be brought so that unnecessary legal costs are not incurred. All other dispositive motions should be brought as soon as sufficient discovery has been conducted to establish the factual basis for the motion, again in an effort to terminate a case at the earliest possible opportunity so that legal costs may be minimized.
2. Unless approved by Corporation Counsel, all dispositive motions should be brought before case evaluation so that the evaluation will be an accurate reflection of the panels' opinion and will allow Corporation Counsel to consider the award without having to factor in the possibility of a future dispositive motion.

G. Case Evaluation and Settlement Negotiations

1. Case evaluation represents a valuable opportunity to settle a case. Outside Counsel should review the case with the Corporation Counsel before case evaluation so Corporation Counsel is in a position to accept or reject the award.
2. Settlement negotiations should be conducted by the Outside Counsel only after consultation with and the approval of the Corporation Counsel. This rule does not prohibit the Outside Counsel from requesting opposing counsel's view of the value of a case or soliciting a demand for settlement, and in fact, this is encouraged. Outside Counsel must advise opposing counsel that all proposed settlements are contingent upon Wayne County Commission approval.

H. Trials

1. Cases are to proceed to trial only with the approval of Corporation Counsel.

I. Appeals

1. Corporation Counsel approval is required before any appeal may be taken. An evaluation of any proposed appeal with Corporation Counsel must occur within the statutory appeal period.
2. When the Outside Counsel is notified of the filing of an appeal by an adverse party, Corporation Counsel shall be notified immediately so that selection of appellate counsel may be timely made by Corporation Counsel.

J. Retention and Storage of Closed Files

1. Outside Counsel shall retain and properly store all Corporation Counsel files for a minimum period of three years following the closing of the file and/or the expiration of the final appeals procedure deadline.
2. Prior to the destruction of any portion of the litigation file, Outside Counsel shall notify and obtain the approval of Corporation Counsel.

K. Definitions

1. Wayne County: When used in this litigation protocol, Wayne County includes all departments, divisions, elected officials and individual employees of Wayne County.
2. Corporation Counsel: When used in this litigation protocol, Corporation Counsel may include the assigned Assistant Corporation Counsel, Principal Attorney, Chief Assistant Corporation Counsel or Deputy Corporation Counsel that is specifically assigned to monitor the case.
3. Outside Counsel: When used in this litigation protocol, Outside Counsel refers to those attorneys and staff identified in the Wayne County Legal Services Contract Request Form.

II. Litigation Action Plan

Within 30 days of the assignment, Outside Counsel must provide Corporation Counsel with an initial report outlining a litigation plan. The importance of a Litigation Action Plan cannot be over-emphasized.

1. The report and plan should contain the following:
 - a. A description of what has been done to date by Outside Counsel and copies of any responsive pleadings which have been prepared and filed.
 - b. Outside Counsel's evaluation of the case with respect to both liability and damages based upon current knowledge. This report should specifically comment on the County's liability, plaintiff's comparative negligence, special damages, general damages, other possible culpable parties, the value of the case if appropriate and the content of any discussions with the opposing counsel.
 - c. Outside Counsel's theory of the defense of the case and an outline of the necessary steps to be taken to further the defense including an overall plan and proposed timetable for proceeding with discovery to bring the litigation to a conclusions. This section of the report should explain specifically what depositions, motions, pleadings, legal research and other legal activities are necessary, expected or recommended.
 - d. Address any possibility of indemnity, contribution, or subrogation including the basis for the recovery, the amount involved and the steps which should be taken by either Outside Counsel or Corporation Counsel to preserve these remedies. This would include issues such as joinder of parties, filing of counter-claims/cross-claims, and third- party complaints.
2. After Corporation Counsel receives and reviews the plan, it will be discussed as necessary with Outside Counsel. Thereafter, any need for changes to the plan must be discussed with and approved by Corporation Counsel unless Outside Counsel deems that the changes are immediately required to protect Wayne County.
3. In following the Litigation Action Plan, Corporation Counsel expects Outside Counsel to pro-actively pursue all legal avenues to reach disposition of the litigation as promptly as possible and not to merely react to opposing attorney's activity or inactivity or the court calendar.
4. Corporation Counsel relies on the judgment of Outside Counsel in Outside Counsel's decision to take depositions, file pleadings and retain experts. It is expected though that before these actions are taken, the Corporation Counsel will be advised, either in the initial Litigation Action Plan or in subsequent status reports as their necessity becomes known. When in the opinion of the Outside Counsel an expert witness needs to be retained, an informational report regarding the expert, his background and qualifications and the testimony needed, must be

A. Reporting Obligations of Outside Counsel

Case Management Reports ("Reports"-in the form included as Attachment B) are expected every thirty (30) days and due on the 25th of every month. In addition to the Reports, notice to Corporation Counsel shall be provided for the following events as noted:

- (1) Demands - All settlement demands made by plaintiff are to be reported immediately to Corporation Counsel.
- (2) Scheduling Order - A copy of the court's scheduling order is to be forwarded to Corporation Counsel as soon as it is received by the Outside Counsel. Outside Counsel shall promptly notify Corporation Counsel Staff of any adjournments and rescheduling of case evaluation and trial dates.
- (3) Depositions of parties and witnesses should be reported to Corporation Counsel in summary form within ten working days after being taken. Outside Counsel's impressions of deponents and the impact of their testimony on case should be discussed.
- (4) Case evaluation summaries must be provided to Corporation Counsel as soon as available. Corporation Counsel should always have the defense summary when it is prepared for filing, which should be by the filing deadline date established by the case evaluation clerk.
- (5) Results of case evaluation should be reported to Corporation Counsel immediately by e-mail followed by a written report within five days. The report should include the names of the mediators and the effect of the panel on the result. Corporation Counsel must be advised of the response of all parties within five days following notice to the Outside Counsel of those responses.
- (6) Expert's Deposition - The plaintiff and/or defendant expert's deposition should be reported to Corporation Counsel in summary form within 10 days of the conclusion of that deposition. Outside Counsel's impression of the expert and the impact of the testimony on the case should be discussed.
- (7) Dispositive Motions - A copy of all dispositive motions and briefs should be submitted for review and approval before filing.
- (8) Dispositive Motions- The court's decision along with any written opinion issued by the judge should be transmitted to Corporation Counsel within five days of receipt along with a narrative report evaluating the impact of the ruling.

B. Pre-Trial and Trial Reports

- (1) Pre-Trial Report - In advance of trial, preferably sixty days before the trial, a report should be prepared and the file should be reviewed in its totality, weighing the issues of liability, damages or possible jury award. This report should contain the following information:
 - a. A copy of the pretrial order, if required by the court, together with any other related dates set by the court;
 - b. Case evaluation information;
 - c. The report shall identify the court and the judge to whom the case is assigned and what impact it may have on the outcome of the case;
 - d. The plaintiff's attorney should be identified and, any impact on the jury selection or potential jury award;
 - e. The report should address and analyze the allegations which will reach the jury either from the original or amended complaints, as well as, commenting on counts which have been dismissed;
 - f. The analysis must address the legal principles associated with the allegation and those defenses that have been established during the course of discovery in defense of those allegations, the evidence the plaintiff does (or does not) have, or the evidence the defendants do (or do not) have in response to those allegations. This should also include reference to any applicable Court of Appeals and/or Supreme Court cases;
 - g. The report should address the various demands of the plaintiff and the history of any offers;
 - h. The report should summarize the plaintiffs damages discussing any unusual, aggravating or mitigating factors and estimate the value of plaintiff's damages if Wayne County is 100% liable.
 - i. The report should contain an estimate of plaintiff's chances of proving liability using a scale of 1 to 10 with 1 being a no cause and 10 being a clear case of liability.
 - j. Potential Jury Verdict Range - The report should contain your estimate of the potential range of jury verdicts.
 - k. The report should contain Outside Counsel's evaluation and recommendation regarding legal position and possible resolution.
- (2) Trial Reports - Outside Counsel should provide Corporation Counsel periodic verbal status reports, preferably at midday break and days end, as the trial progresses covering jury selection, witness testimony and case development.

- (3) **Post Trial Report** - A detailed trial report should be submitted to Corporation Counsel no later than five working days after conclusion of the trial. The trial report should include a summary of all testifying witnesses, discussions of all noteworthy objections as they may or may not relate for appeal purposes, all motions filed during the course of the trial (mistrial, directed verdict, etc.) evaluation of the jury, any unusual activities or events during the course of the trial, and the verdict and any calculated interest, case evaluation sanctions, fees, etc., that may apply.

III. Litigation Budget Plan

1. The Litigation Budget Plan has three basic purposes:
 - a. It calls attention to and clarifies the cost/benefit analyses that must be done from initial evaluation of an incoming lawsuit through trial. Outside Counsel costs must be factored into decisions on settlement value, timing of offers, and overall defense strategy.
 - b. It tracks the accuracy of cost projections through the course of litigation and will provide valuable information on assessing the Outside Counsel's performance.
 - c. It sets tentative limits beyond which settlement and expeditious defense become imperative.
2. Corporation Counsel requires that a Litigation Budget Plan accompany the Litigation Action Plan. The level of detail in the budget will depend on the size and complexity of the case, but the budget should have sufficient detail (timing, work to be done, expected results, probable expenses) to measure progress in the case against forecasts and to allow for corrections and adjustments. **(Litigation Budget Plan form attached as Attachment C)**
3. The Litigation Budget Plan is not necessarily a cap on legal fees and expenses. It is intended only as an estimate and is subject to adjustments as developments in the case warrant. Each phase of the case should be budgeted separately, but the budget will always represent the total legal cost of the case. Any adjustments to the budget will require the prior approval of Corporation Counsel.

IV. CORPORATION COUNSEL LEGAL

BILLING STANDARDS

Corporation Counsel expects Outside Counsel to prepare all legal billings in accordance with and in conformity to the guidelines, rules and opinions relating to billing as contained in the Code of Professional Responsibility of the Michigan Bar Association and the Rules of Professional Conduct of the American Bar Association.

1. Billing Format

Law firm billing shall contain the following information and any other information requested by Corporation Counsel for each case or time the County is charged for service:

- A. Wayne County Department served;
- B. Case name;
- C. Corporation Counsel Prolaw SE number;
- D. Date of service;
- E. Name of the specific attorney providing the service and his or her hourly billing rate;
- F. Specific description of services performed; and
- G. Time charged in tenth of an hour increments.

2. Legal Fees

- A. The County will compensate the retained law firm for services provided at the maximum rates set out in the LEGAL SERVICES CONTRACT.
- B. The following practices will not be accepted in statements/invoices presented to the Corporation Counsel;
 - 1. Vague descriptions of services performed;
 - 2. Bulk billing;
 - 3. Rounding off hours;
 - 4. Value billing;
 - 5. Standard time charges;

6. Unit billing;
 7. Unnecessary work;
 8. Duplicate billing;
 9. Any enhancements to expenses by the law firm such as service fees, surcharges, administrative charges, handling fees or "cost plus" add ons.
- C. Corporation Counsel disputes the benefits of using a "team" of lawyers on a specific case. Corporation Counsel believes the most effective use of legal counsel occurs when the "responsible" attorney personally handles key events in the lawsuits development. To this end, only attorneys named in the legal services contract may bill for time spent on the case. This increases effectiveness and reduces redundancy. Other areas of redundancy will not be accepted. These are:
1. Billing for interoffice conferences;
 2. Billing for training of new attorneys;
 3. Billing for file reviews that do not advance the cause;
 4. Billing for administrative matters, such as:
 - a. File creation and data entry
 - b. Preparation or review of billing by attorney
 - c. Supervisory attorneys file review
 - d. Secretarial work

3. Acceptable Costs and Expenses

Corporation Counsel shall reimburse the retained law firm for "out of pocket" expenses paid by the law firm on behalf of the County for the following:

- A. Court costs and expenses;
- B. Copying costs at the rate normally charged by the law firm to its clients but not to exceed \$.20 per page for documents provided to the court, other defendants, and plaintiffs, provided that office copying for correspondence, research and similar legal communications sent to the Corporation Counsel shall not be reimbursable;
- C. Out of state travel expenses when authorized in advance by Corporation Counsel;
- D. Fees and expenses for expert witnesses, investigators, and other related services, when authorized in advance by Corporation Counsel;

- E. Other expenses, when authorized in advance by Corporation Counsel; and
- F. Bills, statements, cancelled checks and other documentation supporting expenses paid by the law firm shall be retained by the firm for a minimum period of three years and be available for review by the County if requested.
- G. Certain charges will only be allowed when prior approval has been obtained from Corporation Counsel, such as:
 - 1. Out of state travel
 - 2. Expert witnesses
 - 3. Investigations
- H. Other expenses may be acceptable if incurred at the specific request of Corporation Counsel, such as:
 - 1. Overnight or priority mail
 - 2. Fax costs
 - 3. Delivery costs
- I. Research costs should be minimized by sharing results of research previously conducted. To that end, Corporation Counsel encourages the use of brief banks and requests that copies of all substantive research be forwarded to Corporation Counsel upon completion. Major research projects require prior review with Corporation Counsel.
- J. The cost of computerized research, including Westlaw, Lexis-Nexus, or BNA are considered by Corporation Counsel to be costs inherent in the firms overhead, and as such, should not be charged to Wayne County absent a specific request and approval by Corporation Counsel.
- K. All other expenses require prior approval of Corporation Counsel.

RETENTION OF EXPERT WITNESS

Case Name:

Prolaw SE number: (Supplied by Corporation Counsel)

Facts of case:

Reason Expert needed:

Attach Copy of Expert CV and

Fee Schedule

Estimated Time Expenditure

2012 WAYNE COUNTY CORPORATION CONSOLIDATED CASE MANAGEMENT FORM

CASE INFORMATION

Case Name	Case Number	Court	Judge/Magistrate	Opinion re Judge/Magistrate/Court
Related Case Name	Related Case Number	Related Case Court	Related Case Judge/Magistrate	Opinion re Related Case Judge/Magistrate/Court
Law Firm	Law Firm Address	Primary attorney and contact information	Secondary attorney and contact information	Other approved billing members of the firm and contact information
Co-counsel/Co-defendant Law Firm	Law Firm Address	Primary attorney and contact information	Secondary attorney and contact information	Other approved billing members of the firm and contact information
Opposing Law Firm	Law Firm Address	Primary attorney	Secondary attorney	Other people involved

ALLEGATIONS

--

SUMMARY OF MATTER

--

CASE STRATEGY

[Please outline your strategy for handling this matter]

--

CASE EVENTS

DISCOVERY

Title (Interrogatories, Requests to Produce, Requests to Admit)	Filed by whom	Date received	Date due	Anticipated issues (motions to compel, protective orders)

MOTIONS

Title of Motion	Filed by whom	Date received	Date due	Ruling(s) and subsequent effect

ORDERS

Title of Order	Signed by whom	Date filed	Date order in effect	Effect on case

DEPOSITIONS

Deponent name	Deponent title	Date and location scheduled	Length of deposition	Significant testimony

WITNESSES/DISCLOSURES (may be attached)

Witness name (including experts)	Witness title	Contact information	Days of testimony	Significant testimony

SCHEDULING ORDER

Discovery deadline	Witness list/expert list deadline	Dispositive motion deadline	Settlement conferences	Jury trial date
Other deadlines	Other deadlines	Other deadlines	Other deadlines	Other deadlines

SIGNIFICANT CASE DEVELOPMENTS

Date	Case Development

LEGAL FEES

Litigation Budget	Legal Fees and Costs to Date	Anticipated Legal Fees and Costs	Unanticipated Fees and Costs

LITIGATION BUDGET

Case Name:

Prolaw SE Number:

(ATTACH DETAILED EXPLANATION FOR EACH EXPENSE)

I. Discovery Phase (depositions, interrogatories, research, motions, travel expenses)

Legal expenses to date: _____

Projected cost: _____

II Case Evaluation Phase (preparation, travel, presentation)

Legal expenses to date:: _____

Projected cost: _____

III Experts (including deposition and trial costs)

Legal expenses to date: _____

Projected costs: _____

IV Trial Preparation

Legal expenses to date: _____

Projected costs: _____

V Trial

Legal expenses to date: _____

Projected costs: _____

VI TOTALS

Legal expenses to date: _____

Projected costs: _____

#266307

R'vd b;y ZE 3/7/2012