

**ATTACHMENT C**  
**City of Scappoose, Oregon**  
**Attorney Services Contract**

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of Scappoose, a municipal corporation of the State of Oregon, hereinafter called City, and \_\_\_\_\_, hereinafter called Legal Counsel.

**RECITALS**

WHEREAS, the City's 20\_\_\_\_ -20\_\_\_\_ Fiscal Year budget provides for services related to \_\_\_\_\_; and

WHEREAS City has need for the services of an attorney or attorney firm with a particular training, ability, knowledge, and experience possessed by Legal Counsel, and

WHEREAS City has determined that Legal Counsel is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

THEREFORE the Parties agree as follows:

**1. LEGAL SERVICES TO BE PROVIDED**

Legal Counsel shall initiate services immediately upon receipt of City's notice to proceed together with an executed copy of this Agreement. Legal Counsel agrees to complete work that is detailed in Exhibit A and by this reference made a part hereof. Any and all work assigned by the City will be contained in subsequent scope of work as needed

**2. EFFECTIVE DATE AND DURATION**

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, on \_\_\_\_\_, 20\_\_\_\_. This Agreement may be extended at the written agreement of both parties, with sixty (60) days notice, for up to four (4) additional one (1) year terms. All work under this Agreement shall be completed prior to the expiration of this Agreement. In accordance with the City's best practice, the total duration of this agreement may not exceed five (5) years.

**3. COMPENSATION**

A. The City agrees to pay Legal Counsel in accordance with this section for performance of services described herein. Payment shall be based upon a detailed monthly billing showing work performed and identifying specific legal matters worked on.

**B. Hourly Rates**

Partners/Of Counsel	\$
Senior Associates	\$
Associates	\$
Law Clerks/Legal Assistants	\$
Secretarial	\$

The Parties may, by mutual agreement, adjust these rates each year upon written mutual acceptance of an extension year. Any proposed new price must be in writing sixty (60) days prior to a new contract year.

- C. The direct cost for such items as long distance charges, messenger services, printing, mileage (at the contract year's IRS approved rate), copy charges, faxes, and the like will be billed to the City with no markup or overhead charge added. Mileage for trips between Legal Counsel's office(s) and the City offices shall not be charged to the City.
- D. Payment will be made in installments based on Legal Counsel's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- E. Payment by City shall release City from any further obligation for payment to Legal Counsel, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- F. Legal Counsel shall make payments promptly, as due, to all persons supplying labor or materials for the prosecution of this work.
- G. Legal Counsel shall not permit any lien or claim to be filed or prosecuted against the City on any account of any labor or material furnished.
- H. Legal Counsel shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- I. If Legal Counsel fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Legal Counsel or a subcontractor by any person as such claim becomes due, City's Finance Administrator may pay such claim and charge the amount of the payment against funds due or to become due the Legal Counsel. The payment of the claim in this manner shall not relieve Legal Counsel or their surety from obligation with respect to any unpaid claims.
- J. Legal Counsel shall pay employees at least time and a half pay for all overtime worked in excess of 40 hours in any one week except for individuals under the contract who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 209 from receiving overtime.
- K. Legal Counsel shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Legal Counsel or all sums which Legal Counsel agrees to pay for such services and all moneys

and sums which Legal Counsel collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

- L. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

**4. OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Legal Counsel which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Legal Counsel prior to termination of this Agreement by Legal Counsel or upon completion of the work pursuant to this Agreement.

**5. ASSIGNMENT/DELEGATION**

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Legal Counsel shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractors nor anything contained herein shall be deemed to create any contractual relation between the subcontractors and City.

**6. STATUS OF LEGAL COUNSEL AS INDEPENDENT LEGAL COUNSEL**

Legal Counsel certifies that:

- A. Legal Counsel acknowledges that for all purposes related to this Agreement, Legal Counsel is and shall be deemed to be an independent Legal Counsel as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Legal Counsel is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Legal Counsel under the terms of this Agreement, to the full extent of any benefits or other remuneration Legal Counsel receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Legal Counsel or to a third party) as a result of said finding.
- B. The undersigned Legal Counsel hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Legal Counsel, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Legal Counsel certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Legal Counsel and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Legal Counsel certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Legal Counsel is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

**7. INDEMNIFICATION**

City has relied upon the professional ability and training of Legal Counsel as a material inducement to enter into this Agreement. Legal Counsel warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Legal Counsel's work by City shall not operate as a waiver or release.

Legal Counsel agrees to indemnify and defend the City, its officers, agents and employees and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except liability arising out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal worker's compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

**8. INSURANCE**

Legal Counsel and any subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Legal Counsel's activities or work hereunder, including the operations of its subcontractors of any tier.

The policy or policies of insurance maintained by the Legal Counsel and its subcontractors shall provide at least the following limits and coverages:

**A. Commercial General Liability Insurance**

Legal Counsel shall obtain, at Legal Counsel's expense, and keep in effect during the term of this contract, Comprehensive General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form (1996 ISO or equivalent). This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	3,000,000
Products-Completed Operations Aggregate	2,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	2,000,000
Fire Damage (Any one fire)	50,000

**B. Legal Errors & Omissions/Lawyers Professional Liability Insurance**

Legal Counsel shall obtain, at Legal Counsel's expense, and keep in effect during the term of this contract, Legal Errors & Omissions/Lawyer's Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. This coverage shall include Annual Aggregate & Per Occurrence limits of \$3,000,000 per attorney.

**C. Commercial Automobile Insurance**

Legal Counsel shall also obtain, at Legal Counsel's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$2,000,000.

**D. Workers' Compensation Insurance**

The Legal Counsel, its subcontractors, if any, and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Legal Counsels who perform work without the assistance or labor of any employee need not obtain workers' compensation coverage. All non-exempt employers shall provide Employer's Liability Insurance with coverage limits of not less than \$1,000,000 each accident.

**E. Additional Insured Provision**

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, and employees as additional insureds with respect to this contract.

**F. Extended Reporting Coverage**

If any liability insurance required by this contract is arranged on a “claims made” basis, Extended Reporting coverage will be required at the completion of this contract to a duration of 24 months or the maximum time period the Legal Counsel’s insurer will provide if less than 24 months. Legal Counsel will be responsible for furnishing certification of Extended Reporting coverage for 24 months following contract completion. Continuous “claims made” coverage will be acceptable in lieu of Extended Reporting coverage, provided its retroactive date is on or before the effective date of this contract.

**G. Notice of Cancellation**

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The 30 days’ notice of cancellation provision shall be physically endorsed on to the policy.

**H. Insurance Carrier Rating**

Coverages provided by the Legal Counsel must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

**I. Certificates of Insurance**

As evidence of the insurance coverage required by the contract, the Legal Counsel shall furnish a Certificate of Insurance to the City. No contract shall be affected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

**J. Independent Legal Counsel Status**

The service or services to be rendered under this contract are those of an independent Legal Counsel. Legal Counsel is not an officer, employee or agent of the City as those terms are used in ORS 30.265.

**K. Primary Coverage Clarification**

The parties agree that Legal Counsel’s coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

**L. Cross-Liability Clause**

A cross-liability clause or separation of insureds clause will be included in all general liability, professional liability, pollution and errors and omissions policies required by this contract.

Legal Counsel’s insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Scappoose  
Attn: City Recorder  
33568 E Columbia Ave  
Scappoose, OR 97056

Such policies or certificates must be delivered prior to commencement of the work. The procuring of such required insurance shall not be construed to limit Legal Counsel’s liability hereunder. Notwithstanding said insurance, Legal Counsel shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**9. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

CITY OF SCAPPOOSE	
Attn: Alexandra Rains, City Manager	Attn:
Address: 33568 E Columbia Ave, Scappoose, Oregon 97056	Address:
Phone: 503-543-7146, ext. 226	Phone: (     )
Email Address: <a href="mailto:arains@cityofscappoose.org">arains@cityofscappoose.org</a>	Email Address:

and when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

**10. MERGER**

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

**11. PROFESSIONAL SERVICES**

The City requires that services provided pursuant to this agreement shall be provided to the City by a Legal Counsel that does not represent clients on matters contrary to City interests. Further, Legal Counsel shall not engage services of an attorney and/or other professional who individually, or through members of his/her same firm, represents clients on matters contrary to City interests.

Should the Legal Counsel represent clients on matters contrary to City interests or engage the services on an attorney and/or other professional who individually, or through members of his/her same firm, represents clients on matters contrary to City interests, Legal Counsel shall consult with the appropriate City representative regarding the conflict.

After such consultation, the Legal Counsel shall have seven (7) days to eliminate the conflict to the satisfaction of the City. If such conflict is not eliminated within the specified time period, the agreement may be terminated pursuant to Section 13 (B) (3) of this agreement.

**12. TERMINATION WITHOUT CAUSE**

At any time and without cause, City shall have the right in its sole discretion, to terminate this Agreement by giving notice to Legal Counsel. If City terminates the contract pursuant to this paragraph, it shall pay Legal Counsel for services rendered to the date of termination.

**13. TERMINATION WITH CAUSE**

A. City may terminate this Agreement effective upon delivery of written notice to Legal Counsel, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Legal Counsel, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Legal Counsel becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Legal Counsel, if a receiver or trustee is appointed for Legal Counsel, or if there is an assignment for the benefit of creditors of Legal Counsel.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Legal Counsel, may terminate the whole or any part of this Agreement:



- 1) If Legal Counsel fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
- 2) If Legal Counsel fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.
- 3) If Legal Counsel fails to eliminate a conflict as described in Section 11 of this agreement.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Legal Counsel shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph B, Legal Counsel shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Legal Counsel bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Legal Counsel. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

**14. ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Legal Counsel as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

**15. BAR MEMBERSHIP/OCAA MEMBERSHIP REQUIREMENTS**

Legal Counsel is responsible for maintaining Legal Counsel's professional standing as a member of the Oregon State Bar Association and the Oregon City Attorney's Association.

**16. FORCE MAJEURE**

Neither City nor Legal Counsel shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subLegal Counsel or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to

remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**17. NON-WAIVER**

The failure of City to insist upon or enforce strict performance by Legal Counsel of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

**18. NON-DISCRIMINATION**

Legal Counsel agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Legal Counsel also shall comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

**19. ERRORS**

Legal Counsel shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

**20. EXTRA (CHANGES) WORK**

Only the City's Project Manager for this Agreement, Michael Sykes may authorize extra (and/or change) work. Failure of Legal Counsel to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Legal Counsel thereafter shall be entitled to no compensation whatsoever for the performance of such work.

**21. WARRANTIES**

All work shall be guaranteed by Legal Counsel for a period of one year after the date of final acceptance of the work by the owner. Legal Counsel warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Legal Counsel from liability under warranties contained in or implied by this Agreement.

**22. ATTORNEY FEES**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

**23. GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

**24. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES**

Legal Counsel shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and contractors and income tax withholding contained in ORS Chapter 279B, the provisions of which are hereby made a part of this agreement.

**25. CONFLICT BETWEEN TERMS**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**26. AUDIT**

Legal Counsel shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Legal Counsel agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

**27. SEVERABILITY**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

**28. CONDITIONS OF SUPPLYING A PUBLIC AGENCY**

Where applicable, seller must make payment promptly as due to persons supplying Legal Counsel labor or materials for the execution of the work provided by this order. Legal Counsel must pay all contributions or amounts due from Legal Counsel to the Industrial Accident Fund incurred in the performance of this order. Legal Counsel shall not permit any lien or claim to be filed or prosecuted against Buyer or any subdivision of City on account of any labor or material to be furnished. Legal Counsel further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

**29. HOURS OF LABOR**

If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279C.540. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for

all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.

**30. MEDICAL CARE AND WORKERS' COMPENSATION**

Legal Counsel shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury, to the employees of such Legal Counsel, of all sums which the Legal Counsel agrees to pay for such services and all moneys and sums which the Legal Counsel collected or deducted from the wages of the employees pursuant to any law, Legal Counsel agreement for the purpose of providing or paying for such service.

**31. REPRESENTATIONS AND WARRANTIES**

Legal Counsel represents and warrants to the City that:

- A. Legal Counsel has the power and authority to enter into and perform this Agreement.
- B. This Agreement, when executed and delivered, is a valid and binding obligation of Legal Counsel, enforceable in accordance with its terms.
- C. Legal Counsel (to the best of Legal Counsel's knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm's inception if less than that) preceding the effective date of this Agreement, faithfully has complied with:
  - 1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
  - 2) Any tax provisions imposed by a political subdivision of this state that applied to Legal Counsel, to Legal Counsel's property, operations, receipts, or income, or to Legal Counsel's performance of or compensation for any work performed by Legal Counsel;
  - 3) Any tax provisions imposed by a political subdivision of this state that applied to Legal Counsel, or to goods, services, or property, whether tangible or intangible, provided by Legal Counsel; and
  - 4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
- D. Any intellectual property rights or such delivered to the City under this Agreement, and Legal Counsel's services rendered in the performance of Legal Counsel's obligations under this Agreement, shall be provided to the City free and clear of any and all restrictions on or conditions of use, transfer, modification, or assignment, and shall be free and clear of any and all liens, claims, mortgages, security interests, liabilities, charges, and encumbrances of any kind.

**32. COMPLIANCE WITH TAX LAWS**

- A. Legal Counsel must, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of the State of Oregon. For the purposes of this Section, "tax laws" includes all the provisions described in subsection 25.C. 1) through 4) of this Agreement.
- B. Any violation of subsection A of this section shall constitute a material breach of this Agreement. Further, any violation of Legal Counsel's warranty, in subsection 25.C of this Agreement that the Legal Counsel has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle the City to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:
- 1) Termination of this Agreement, in whole or in part;
  - 2) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Legal Counsel, in an amount equal to State's setoff right, without penalty; and
  - 3) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The City shall be entitled to recover any and all damages suffered as the result of Legal Counsel's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing a replacement Legal Counsel.

These remedies are cumulative to the extent the remedies are not inconsistent, and the City may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**33. COMPLETE AGREEMENT**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Legal Counsel, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Legal Counsel has executed this Agreement on the date hereinabove first written. Authorized by Scappoose's Local Contract Review Board: \_\_\_\_

**City of Scappoose**

\_\_\_\_\_  
By: Alexandra Rains, City Manager

\_\_\_\_\_  
By: Authorized Agent of Legal Counsel

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

SAMPLE