

## **AGREEMENT FOR CRIMINAL PROSECUTION SERVICES**

This Agreement, entered into between the CITY OF RAMSEY, a Minnesota municipal corporation (City) and the law firm of ECKBERG LAMMERS P.C., (Criminal Prosecution Attorney) as of January 1, 2018, provides as follows:

### **ARTICLE I:** **BACKGROUND: FINDINGS**

- 1.1 Authority. The appointment and removal of the Criminal Prosecution Attorney are made by the City Council.
- 1.2 Council Determination. At a duly called regular meeting of the City Council held on December 12, 2017, the City Council determined that the law firm of Eckberg Lammers, P.C. be engaged as Criminal Prosecution Attorney, with Joseph Van Thomme of that firm serving as chief prosecutor for the City. This agreement between the firm and the City sets forth the terms and conditions of the engagement.

### **ARTICLE II:** **TERMS AND CONDITIONS**

- 2.1 Consideration. In consideration of the mutual promises and conditions contained in this Agreement the City and the Criminal Prosecution Attorney agree to the terms and conditions set forth herein.
- 2.2 Criminal Prosecution Attorney Appointment. The City appoints the firm of Eckberg, Lammers P.C. as Criminal Prosecution Attorney, with Joseph Van Thomme acting as primary chief prosecutor for the City.
- 2.3 Usual and Customary Criminal Prosecution Services. The Criminal Prosecution Attorney agrees to perform all usual and customary criminal prosecution services for the City in accordance with the terms of this Agreement, including, but not limited to the following primary responsibilities for the criminal prosecution services:

#### **General Responsibilities:**

Represent and prosecute all criminal law matters within the City's jurisdiction, included but not limited to scheduling, and attending all necessary hearings, trials, arraignments, and post-conviction hearing as required, coordinating officer and witness appearances, reviewing all criminal cases presented for purposes of prosecution, determine technical compliance with criminal code and other state statutes, writing complaints, making recommendations to the Court for alternatives to prosecution where appropriate, act as a resource to the Police Department in the development of criminal cases, and provide training sessions for Police and other City staff as needed.

Provide timely pursuit of disposition of criminal cases in advance of actual Court cases to avoid unnecessary officer court time.

Process and prosecute forfeiture cases on behalf of Police Department.

The criminal prosecution attorney is required to be knowledgeable in a variety of legal areas, including but not limited to:

- Criminal Prosecution
- Trial activity
- General municipal laws
- City Code issues
- General state and federal laws relating to prosecution matters
- General Government Data Practices
- Crime-Free Multi-Housing Program and enforcement Specific Responsibilities:

The criminal prosecution services that are required by the City and covered by a fixed retainer fee include, but are not limited to, the following areas:

1. Meetings and/or telephone conversations with and advising City Administrator and Police Chief, police officers and other authorized staff on general criminal legal matters.
2. Research and submission of legal opinions on criminal legal matters requested by City Administrator, Police Chief or other authorized staff; availability to answer staff questions by telephone.
3. Legal consultation and general support for City Administrator and Police Chief and other authorized staff on general criminal legal matters.
4. Provide a high level of customer service by responding in a prompt manner.
5. Prosecute all petty misdemeanor, misdemeanor and statutorily delegated gross misdemeanor offenses committed within the corporate limits of the City. This includes all such cases initiated by any law enforcement agency and citizen complaints including, but not limited to, traffic violations, DUI cases, theft, City Code violations and crime-free multi-housing enforcement.
6. Provide advice, consultation and training where required to the City's Police Department and to all other departments of the City in the interpretation and enforcement of statutes, ordinances and investigations of violations in connection with the prosecution of criminal cases.
7. Prepare criminal complaints where facts warrant.
8. Evaluate all cases where a plea of not guilty is entered and prosecute where warranted.
9. Prepare appropriate pre-trial notices as required.
10. Seek such additional investigation as required.
11. Negotiate and enter plea bargains where deemed advisable.

12. Represent the City at all pre-trial motions.
13. Perform all legal research and prepare briefs when required.
14. Try all jury and court cases as necessitated.
15. Review ordinances as requested.
16. Render written opinions on criminal prosecution matters when requested, including interpretation of statutes, ordinances, rules and regulations.
17. Ensure proper notification and preparation of police officers and staff for trial.
18. Assist in resolving criminal prosecution matters not resulting in litigation.
19. Assist the City and law enforcement in efficient disposition of DWI-related forfeitures arising from cases handled by the criminal prosecution-attorney.
20. Examine, evaluate and provide representation for all appeals to Appellate Courts.

As part of the firm's comprehensive flat fee prosecution services, no charges are ever imposed for phone calls. The firm encourages police officers and staff to contact any of our prosecuting attorneys. If a phone call evolves into a project or work item, that item shall be covered by the flat fee retainer agreement. The firm has found this approach is welcomed by its law enforcement clients, as it provides for unfettered legal advice without imposing financial pressure on the given department.

- 2.4 Compensation for Criminal Prosecution Services. For criminal prosecution services in the year 2018, the City agrees to compensate the Criminal Prosecution Attorney as follows:

	2018	2019	2020	2021
Retainer Fee (annual amount, to be paid in 12 equal monthly installments)	\$68,000	\$70,380	\$72,843	\$72,843
Hourly Attorneys*	\$250	\$250	\$250	\$250

\*The hourly rates for all attorneys will be the same and shall only apply to matters not related to or covered by this agreement. Such fees will be specifically agreed to by the City prior to any undertaking of legal services by the criminal prosecution attorney.

- 2.5 Compensation for Expenses. The City will compensate the Criminal Prosecution Attorney for the following actual and necessary expenses incurred by the Criminal Prosecution Attorney on behalf of the City:

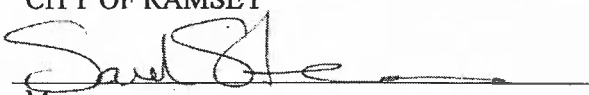

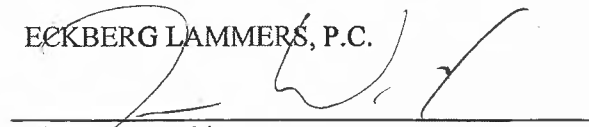
The following charges are passed through by the criminal prosecuting attorney to the City at cost:

- Process Server Fees
- Court Filing Fees
- Document Recording & Closing Fees
- Court Reporter Transcription Fees

- 2.6 **Billing Statements.** Billings by the Criminal Prosecution Attorney to the City for services will be on a monthly basis, except as may otherwise be agreed upon by the parties. The billing statement shall be of sufficient detail to adequately inform the City concerning the services performed and the nature and extent of costs and disbursements. The statement shall also contain a summary that shows the total fees, charges and disbursements.
- 2.7 **Term of Agreement.** The term of this Agreement shall be for four years. The rates specified in this Agreement will remain in effect for the term of this Agreement.
- For legal services in the year 2022 and beyond, the City reserves the right to extend this Agreement and to compensate the Criminal Prosecution Attorney as determined and negotiated by the City.
- 2.8 **Chief Prosecutor.** It is the intention of the parties and it is hereby agreed by the Criminal Prosecution Attorney, that the term "chief prosecutor" as used herein means and refers to Joseph Van Thomme who will supervise and be responsible to the City for the criminal prosecution services to be provided.
- 2.9 **Entire Agreement.** This Agreement, any attached exhibits and any addenda or amendments signed by the parties shall constitute the entire agreement between the City and the Criminal Prosecution Attorney, and supersedes any other written or oral agreements between the City and the Criminal Prosecution Attorney. This Agreement can only be modified in writing signed by the City and the Criminal Prosecution Attorney.
- 2.10 **Termination.** This Agreement may be terminated by the City at any time or by the Criminal Prosecution Attorney upon 60 days written notice.
- 2.11 **Conflict of Interest.** The Criminal Prosecution Attorney shall use best efforts to meet all professional obligations to avoid conflicts of interest and appearances of impropriety in representation of the City. In the event of a conflict, the Criminal Prosecution Attorney shall arrange for suitable alternative legal representation. It is the intent of the Criminal Prosecution Attorney to refrain from handling legal matters for any other person or entity that may pose a conflict of interest.
- 2.12 **Agreement Not Assignable.** Except as provided in Paragraph 2.11 of this Agreement relating to conflicts of interest, the rights and obligations created by this Agreement may not be assigned by either party.
- 2.13 **Agreement Not Exclusive.** The City retains the right to hire other legal representation for specific legal matters.
- 2.14 **Independent Contractor Status.** All services provided by the Criminal Prosecution Attorney pursuant to this Agreement shall be provided by the Criminal Prosecution Attorney as an independent contractor and not as an employee of the City for any purpose, including but not limited to: income tax withholding, workers' compensation, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.

- 2.15 Work Product. All records, information, materials and other work product prepared and developed in connection with the provision of services pursuant to this Agreement shall become the property of the City.
- 2.16 Insurance and Indemnification. Criminal Prosecution Attorney agrees to maintain a valid policy of Professional Liability Insurance for the duration of this Agreement. The value of the policy shall not be less than the cap for municipal tort liability as established by Minnesota Statutes. Criminal Prosecution Attorney further agrees to defend, indemnify, and hold harmless the City, its agents and employees against all causes of actions against the City or any of its agents or employees that arise from or as a result of the Criminal Prosecution Attorney's negligent actions or advice under the terms of this Agreement.
- 2.17 Data Practices Act Compliance. Data provided to the Criminal Prosecution Attorney under this Agreement shall be administered in accordance with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.
- 2.18 Choices of Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their proper officers and representatives as of the day and year first above written.

Dated: <u>12/22/2017</u>	CITY OF RAMSEY  _____ Mayor
Dated: <u>12/12/17</u>	 _____ City Administrator
Dated: <u>12-28-17</u>	ECKBERG LAMMERS, P.C.  _____ Thomas J. Weidner, Criminal Prosecution Supervisor