

**CITY OF REDMOND
RESOLUTION NO. 1480**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, AUTHORIZING THE MAYOR OR HIS DESIGNEE TO NEGOTIATE AND EXECUTE A CONTRACT WITH THE LAW FIRM OF WINTERBAUER & DIAMOND, PLLC, TO PERFORM LEGAL WORK ON BEHALF OF THE CITY

WHEREAS, the City needs to retain counsel for defense of an Unfair Labor Practice Charge before the Public Employment Relations Commission as well as a related grievance, both filed by the Redmond City Hall Employees Association; and

WHEREAS, both the Unfair Labor Practice charge and the related grievance arise from the January 4, 2016 implementation of the City's new performance evaluation form; and

WHEREAS, trial on the unfair labor practice charge is set for November 2017; and

WHEREAS, the parties have been unsuccessful in negotiating the disputed matters through collective bargaining; and


WHEREAS, Steve Winterbauer has a proven track record of success in litigating labor and employment matters and has obtained good results for the City of Redmond in the past.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Authority to Contract. The City Council authorizes the Mayor or his designee to negotiate and contract with attorney Steve Winterbauer of Winterbauer & Diamond, PLLC, to defend both the unfair labor practice charge and the associated grievance, as set forth in Exhibit 1 in this resolution. To the extent necessary under state law or the City's purchasing policies, the City Council waives any and all competitive bidding requirements that may apply to the procurement of Mr. Winterbauer's services and declares Mr. Winterbauer's services to be exempt from bidding as a sole source based on Mr. Winterbauer's unique qualifications to perform the specific work for which the City intends to contract.

ADOPTED by the Redmond City Council this 15th day of August,
2017.

APPROVED:



JOHN MARCHIONE, MAYOR

ATTEST:



MICHELLE M. HART, MMC, CITY CLERK

(SEAL)

FILED WITH THE CITY CLERK: August 1, 2017
PASSED BY THE CITY COUNCIL: August 15, 2017
RESOLUTION NO: 1480

YES: BIRNEY, CARSON, MYERS, PADHYE, SHUTZ, STILIN

WINTERBAUER & DIAMOND, P.L.L.C.

July 5, 2017

Via Electronic Mail
Attorney-Client Privileged Communication

Mr. Mark A. Anderson
City of Redmond
15670 NE 80th Street
MS: 3NHR
Redmond, WA 98052

Re: City of Redmond--RCHEA ULP & Grievance/1374.16
Terms for Engagement of Services

Dear Mark:

Thank you for choosing us to represent the City of Redmond against the unfair labor practice charge and grievance filed by the Redmond City Hall Employees Association (RCHEA). We appreciate your business and anticipate that you will find our representation to be vigorous, cost-effective and responsive. This letter briefly outlines the general terms of our engagement. Please read it carefully and call us if you have any questions or comments. We understand that the City will likely require us to sign its own form of engagement letter as well. In the event of any conflicts between a term in that document and a term set forth here, we understand that the former will control.

1. Scope of Work/Staffing/Contract Counsel.

I will be generally responsible for your representation and, unless you request someone else, will be your primary contact. Other lawyers and legal assistants in our office may perform work on your behalf as well. These persons may include contract counsel, which we may retain from time to time to assist in handling litigation. We screen contract counsel carefully and, with some exception, only use persons who we have previously retained and who have proven track records with us. We bill our contract counsel's time at hourly rates below those we charge for our regular legal staff. We do not permit contract counsel to conduct or defend depositions, make court appearances or make substantive decisions regarding the administration of a case. Our practice is to retain and deploy contract counsel whenever we believe doing so is in our clients' best interests. If, at any point, you have any questions or concerns regarding our use of contract counsel, please contact me. Of course, if at any time you become dissatisfied with the work of any person on our team or any aspect of our representation, please notify us and the situation will be addressed immediately.

2. Communication.

The cornerstone of an effective attorney-client relationship is clear and frequent communication. Accordingly, we will keep you informed of our activities on your behalf

on a regular basis and involve you in all decisions regarding any matter on which we are working. In return, it is imperative that you and your colleagues be as candid as possible with us. Our legal advice is determined in large part by the facts of the case, good, bad or other. If we do not receive a complete picture of the factual situation at issue, our advice will not be as useful and may even be wrong.

Sometimes clients are not completely candid because they fear disclosure of a particular fact to a third person. In that regard, you should understand that all communications between a client and his or her counsel are privileged. Our attorneys and staff have an obligation to maintain the confidentiality of our discussions. This privilege is broad. It protects any communications between us, whether oral or written, as long as neither of us discloses those communications to anyone else. Our privileged communications cannot be used in court without your consent. To preserve the confidentiality of our communications, you should not show our written communications or discuss any oral communications between us with anyone in the company who does not have a need to know them. Furthermore, certain communications and documents prepared in anticipation of litigation are also privileged even if no attorney is involved.

3. Billing, Fees and Costs.

The cost to you of our representation is divided between professional fees and expenses. We generally charge professional fees in increments of tenths of an hour. My current hourly rate is \$410.00. My partner, Ken Diamond, bills at the same hourly rate. Our associates bill their time at \$275.00-\$310.00 per hour, and our legal assistants bill their time at \$165.00 per hour. We adjust our rates annually, effective January 1 of each calendar year.

In addition to our hourly fees, you will be responsible for paying certain costs and expenses, including express mail or courier services, travel expenses, conference call charges, photocopying, scanning, computerized legal research, filing fees, and fees and expenses of independent professionals such as appraisers, accountants, investigators and court reporters, as needed. Often, due to the nature of the service, these expenses must be paid in advance. We will forward the charge to you for direct payment or obtain advance funds from you to cover the cost. Alternatively, while we have no obligation to do so, we may advance payment of these expenses and incorporate the advance into your bill.

We bill monthly. The billing statement will briefly describe the legal services performed, identify the person who performed the services, state the corresponding fee and itemize expenses, if applicable. Payment is due within 30 days of the billing date. Any past due amounts will bear interest at the rate of 12 percent per year. Please understand that unpaid bills may jeopardize our continued representation of you.

Upon request, we will work with you to produce a written estimate of the anticipated legal fees and costs for a particular representation. Any estimate will be based on our prior experience with similar representations as well as information you give us about your particular needs. Unless you and we reach a clear, written understanding that the fee

will be for a fixed amount, any estimate we give may be subject to future revision based upon the facts and circumstances we encounter in your representation.

4. **Archival Fee.**

Please note that we will charge a fixed fee in the amount of \$500 to archive this matter once it concludes.

5. **Record Maintenance, Automation and Disposal.**

Litigation and other legal matters often involve our acquisition, review and storage of many files, records and other documents. We understand that these materials often contain information that is highly confidential and/or proprietary. The fact that you produce documents to us does not mean that they automatically will be disclosed to the other party or parties. We will disclose no confidential, proprietary or private information or documents to a third-party without your prior knowledge and consent. Under appropriate circumstances, such as when we are required to produce sensitive documents or information to the adverse party in litigation, we will seek the additional protection of a court order that specifically regulates the adverse party's subsequent use and/or disclosure of that material.

When a legal matter requires review of a large volume of documents, our practice is to scan the documents into our computer system so that they may be electronically sorted and searched. The fees and costs associated with this step are charged to the client. In our experience, the initial expense of this type of upfront automation results in significant savings in subsequent attorney time and fees as the records are thereafter repeatedly accessed, re-organized and otherwise managed.

Unless needed for verifying authenticity, our practice is not to accept or retain original documents. Unless we specifically instruct you otherwise, all documents that you produce to us should be copies. We will retain the files in our archives for the number of years prescribed by the Local Core Government Retention Schedule. Thereafter, we will either destroy or transfer the files to Washington State archives for appraisal and selective retention.

6. **Termination/Withdrawal.**

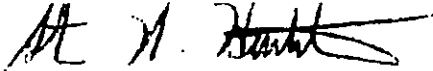
You may terminate our representation at any time and for any reason upon notification. Conversely, we may choose to withdraw from our representation, but only under the appropriate Rules or Codes of Professional Conduct in effect in the jurisdiction where our client relationship exists. If we choose to withdraw as your lawyers, we will notify you in writing. At termination or withdrawal, you remain obligated to pay us promptly for all charges for legal services rendered as well as charges incurred as a result of termination or withdrawal including dealing with any successor counsel. We will cooperate with any successor counsel to accomplish a smooth transfer of representation. We reserve the right to make withdrawals against any advance fee payments or retainers we may hold.

Mark A. Anderson
July 5, 2017
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Again, we are very pleased you have retained us and we look forward to working with you. If you have any questions regarding this letter or any other aspect of our representation, please do not hesitate to call. Once your questions or concerns, if any, are adequately addressed, please sign the original below to acknowledge your understanding and approval of the terms and conditions of our representation and return it to us as soon as possible. We suggest you retain a copy for your records as well.

Sincerely,

WINTERBAUER & DIAMOND PLLC



Steven H. Winterbauer

SHW:km

cc: Kenneth J. Diamond

My signature indicates my understanding of and agreement to the above terms of representation.

Authorized Representative for City of Redmond

Signature

Printed Name

Date