

## COMPREHENSIVE RETAINER AGREEMENT

This Comprehensive Retainer Agreement (hereinafter "AGREEMENT") is made and entered into this 20TH day of JUNE, 2023, by and between The Oklahoma City Municipal Facilities Authority (hereinafter "OCMFA"), a public trust, the City of Oklahoma City, and the Gary J. James & Associates law firm (hereinafter "FIRM");

### WITNESSETH:

In consideration of the mutual covenants and agreements hereinafter set forth, the OCMFA and FIRM agree as follows:

#### I.

### COMMENCEMENT AND TERMINATION

1. This AGREEMENT shall become effective retroactively to July 1, 2022 and shall remain in full force and effect through June 30, 2024.
2. This AGREEMENT may be terminated before the end of the term:
  - A. By mutual consent of PARTIES; or
  - B. Thirty (30) days from the date written notice is received by either PARTY from the other.

#### II.

### LEGAL SERVICES

1. FIRM agrees to provide qualified attorneys to serve on a panel of litigators. A list of ATTORNEYS on this panel will be furnished to Oklahoma City municipal employees. In the event a municipal employee is named as a defendant in an action brought pursuant to 42 U.S.C. §§1983 *et seq.*, wherein punitive damages are sought or in any civil action where the Municipal Counselor

determines that a conflict of interest between THE CITY of Oklahoma City (hereinafter "THE CITY") and the municipal employee may exist and recommends outside counsel, he or she may request representation by any attorney on the panel. That attorney is free to accept or reject such representation. If FIRM accepts the representation, it agrees that its attorneys will perform all necessary legal services on behalf of the Oklahoma City municipal employee subject to the following conditions:

- A. FIRM shall obtain prior approval of the Municipal Counselor of THE CITY for any travel expenses in excess of \$500.00 or other single item expense in excess of \$1,500.00.
- B. Whenever practicable, copying of depositions, transcripts or other case-related documents shall be performed by the Municipal Counselor and provided to FIRM or requesting party.
- C. FIRM and the Municipal Counselor shall share legal research and discovery materials, so long as the interests of THE CITY and any municipal employee represented under this AGREEMENT will not be prejudiced.
- D. FIRM shall maintain communication and coordinate with the Municipal Counselor all discovery and trial preparation regarding the defense of any municipal employee under this AGREEMENT, so long as the interests of THE CITY and any such municipal employee will not be prejudiced.
- E. Approval of a Resolution of the OCMFA that FIRM be retained to represent the municipal employee under this Agreement must be obtained. Upon receipt of such Resolution and accompanying memorandum to the Trustees of the OCMFA from

FIRM, the Municipal Counselor shall place the matter on the next available OCMFA docket. Absent such Resolution, OCMFA assumes no responsibility or liability to FIRM.

- F. FIRM shall furnish copies of all pleadings to the Municipal Counselor's Office if that office is not representing a party to the lawsuit.
- G. FIRM agrees to follow the procedures which have been established in cases where a municipal employee is named as a defendant in a civil rights lawsuit. Said procedures are attached to this AGREEMENT and made a part hereof.
- H. FIRM shall provide the actual trial counsel in all cases under this AGREEMENT which result in trial upon approval of the Municipal Counselor.
- I. In cases where FIRM represents more than one defendant, signed waivers as to such representation must be obtained from each defendant and a copy of the waiver must be submitted to the Municipal Counselor's Office.

2. Nothing contained in this AGREEMENT is intended to, nor shall it, waive or otherwise alter the statutory requirements imposed on a municipal employee as a condition to such employee's right to have legal representation provided by THE CITY.

3. In any other case in which an employee is named as a defendant, whether under state or federal law, the facts of the case will be reviewed by the Municipal Counselor's Office to determine if the employee was acting within the scope of employment, if a conflict of interest exists between THE CITY and a defendant municipal employee, and that outside counsel is appropriate. If so, counsel agrees to represent those employees pursuant to the terms and conditions of this agreement.

4. FIRM'S services with regard to any municipal employee being defended by FIRM under this AGREEMENT shall cease upon the happening of either of the following events:

- A. At any time the Council of THE CITY determines that such municipal employee was not acting in good faith and/or in the course of his employment pursuant to the mandatory requirement of 11 O.S. 2011, §§23-101 *et seq.*, and 51 O.S. 2011, §§151 *et seq.*, as amended, contingent upon court approval of FIRM'S withdrawal; or
- B. At any time the trial court determines that such municipal employee was not acting in good faith and/or in the course of his employment pursuant to the mandatory requirement of 11 O.S. 2011, §§23-101 *et seq.*, and 51 O.S. 2011, §§151 *et seq.*, as amended.

### III.

#### FEES AND EXPENSES

1. To the extent that FIRM performs necessary legal services for or on behalf of any above-described municipal employee, the OCMFA shall compensate FIRM for such services at the following billing rate of employees of FIRM as follows: (a) Gary J. James—Two Hundred Dollars (\$200.00) per hour; (b) Associates – One Hundred Seventy Five Dollars (\$175.00) per hour; (c) Paralegals – Ninety Dollars (\$90.00) per hour; and (d) Clerks and Interns -- Forty Dollars (\$40.00) per hour.

2. FIRM shall prepare and submit itemized statements to the OCMFA through the Municipal Counselor on a monthly basis for legal services provided during the preceding month. A separate monthly statement shall be submitted for each case.

3. The total cost of all legal services provided hereunder during the period beginning July 1, 2023, and ending June 30, 2024, shall not exceed Fifty Thousand Dollars (\$50,000.00), unless higher limits are provided in a supplemental agreement upon a showing of sufficient cause.

4. In addition to amounts to be paid under Paragraph 3 of this Section, the OCMFA shall reimburse FIRM in full for reasonable and necessary expenses such as court costs, travel and any other similar necessary expense items which are advanced by FIRM up to an amount not to exceed the total amount of Fifty Thousand Dollars (\$50,000.00), during the period beginning July 1, 2023, and ending June 30, 2024, and subject to the conditions hereof, unless higher limits are provided in a supplemental agreement upon a showing of sufficient cause. These expenses shall be separately itemized on FIRM'S monthly statements.

5. With respect to investigative services, FIRM agrees to obtain such services as are reasonable and necessary during the term of this AGREEMENT.

6. If it appears that the cost of legal services or necessary expenses, as defined herein, will exceed the above-stated monetary limits, it is the intent of the PARTIES that a supplemental agreement be negotiated and executed to cover such services or expenses.

7. No legal fees or expenses shall be paid by the OCMFA until a Resolution appointing FIRM to represent the defendant municipal employee has been approved.

#### IV.

#### INDEPENDENT CONTRACTOR

FIRM is an independent contractor and not an employee of THE CITY or OCMFA.

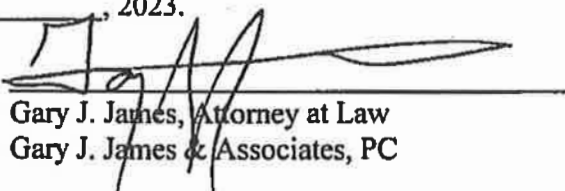
#### V.

**HOLD HARMLESS**

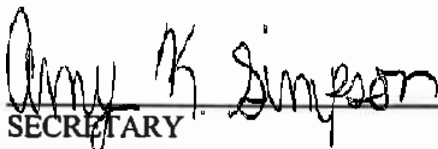
FIRM shall defend, indemnify and save harmless THE CITY and OCMFA from any and all claims and causes of action against THE CITY or OCMFA for damages or injury to any person or property arising solely out of, or in connection with, the negligent performance or negligent acts of FIRM or employees of same under the terms of this AGREEMENT.

IN WITNESS WHEREOF, the undersigned have executed this AGREEMENT this

14 day of March, 2023.

  
\_\_\_\_\_  
Gary J. James, Attorney at Law  
Gary J. James & Associates, PC

ATTEST:

  
\_\_\_\_\_  
SECRETARY

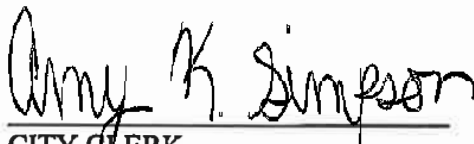


OKLAHOMA CITY MUNICIPAL  
FACILITIES AUTHORITY

  
\_\_\_\_\_  
CHAIRMAN

APPROVED:

ATTEST:

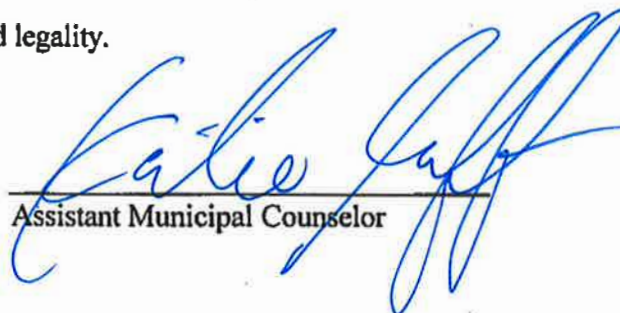
  
\_\_\_\_\_  
CITY CLERK



THE CITY OF OKLAHOMA CITY

  
\_\_\_\_\_  
MAYOR

**REVIEWED** as to form and legality.



Assistant Municipal Counselor