

STATE OF NORTH CAROLINA

CONTRACT

COUNTY OF CLEVELAND

This AGREEMENT is made and entered into this the 12th day of December, 2016, by and between CLEVELAND COUNTY WATER, a Sanitary District established under the laws of the State of North Carolina (hereinafter "Employer") and TIM MOORE and his firm, TIM MOORE, ATTORNEY AT LAW, P.A. (hereinafter collectively "Contract Employee").

WHEREAS, Contract Employee has been employed by Employer as Employer's Attorney since 2005, with the contract between the parties having been amended and modified by mutual agreement at various times since the initial agreement; and

WHEREAS, Employer has been and continues to be satisfied with the legal services provided by Contract Employee and wishes to continue to retain Contract Employee to serve as Attorney for Employer; and

WHEREAS, it is the desire of both parties to establish certain terms and conditions of employment as an independent contractor.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Duties

Employer hereby agrees to appoint said Contract Employee as Attorney for Cleveland County Water to perform the functions and duties specified herein, to include:

- a. Serve as chief legal counsel and attorney for Cleveland County Water and the Cleveland County Water Board of Commissioners;
- b. Attend meetings of the Board of Commissioners;
- c. Be available for routine consultation with Commissioners and with the General Manager, and other department heads as necessary;
- d. Advise the Board of Commissioners and General Manager on proposed action to be taken by the Board;
- e. Draft and review ordinances and resolutions as needed;
- f. Prepare and review legal documents and contracts;
- g. Provide advice and guidance on the necessity of seeking outside legal advice for unique matters requiring specialization from outside counsel;

- h. Represent Cleveland County Water in any legal actions against the Board of Commissioners;
- i. Attend professional meetings and legal education conferences as needed; and
- j. Perform other legal, permissible, and proper duties and functions as may reasonably be assigned by the Board of Commissioners.

## 2. Representation

a. The parties hereto acknowledge that it is their understanding that this Agreement is between Employer and Tim Moore as an individual Attorney, as well as the firm of Tim Moore, Attorney at Law, P.A. It is understood and agreed to that Tim Moore, or any other duly licensed attorney within the firm of Tim Moore, Attorney at Law, P.A., shall be responsible for carrying out the duties and obligations stated herein. Additionally, Employer shall be responsible for compensating Contract Employee at the same rate and manner stated herein regardless of which individual attorney actually completes the work.

b. The parties agree that, should the Board of Commissioners become unsatisfied with the services provided to Employer by any individual attorney within the firm of Tim Moore, Attorney at Law, P.A., Employer shall notify Tim Moore, individually and in his role as President of the firm, of its dissatisfaction and Tim Moore and the firm shall seek to rectify any problem stated to Tim Moore as soon as possible, including, if necessary, reassigning the duties to another attorney within the firm.

c. The parties also agree that, should neither Tim Moore nor a member of the firm of Tim Moore, Attorney at Law, P.A., be able to attend any Board of Commissioners meeting, Contract Employee will provide a suitable replacement attorney as shall be mutually agreed to by the parties, with Contract Employee compensating the replacement attorney from the retainer funds Contract Employee receives under this Agreement.

## 3. Term

a. Contract Employee shall begin his employment with Employer under the terms of this new Agreement December 13, 2016.

b. Contract Employee shall serve at the pleasure of the Board of Commissioners, and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Board of Commissioners to terminate the services of Contract Employee at any time, with or without cause, subject only to the provisions set forth in Section 4 of this Agreement.

## 4. Termination

a. The Contract Employee shall give the Employer sixty (60) days' notice in advance in the event that the Contract Employee resigns his position and appointment with the Employer, unless both parties mutually otherwise agree.

b. In the event Contract Employee is relieved of appointment by the Board of Commissioners without cause, and during such time Contract Employee is willing and able to perform its duties under this Agreement, then, and in that event, the Employer shall continue to pay to the Contract Employee, its then-existing retainer, for a sixty (60) day period of time.

c. In the event Contract Employee is relieved of appointment because of any illegal act involving personal gain to Contract Employee or any attorney therewith that is actively performing work for Employer under this Agreement, conviction of a felony or commission of any action which involves moral turpitude of Contract Employee or any attorney therewith that is actively performing work for Employer under this Agreement, the Employer shall have no obligation to pay the existing retainer designated in Section 3(b) of this Agreement.

#### 5. Compensation:

a. Employer agrees to pay the Contract Employee a monthly retainer in the amount of \$2,000.00, to cover all Board of Commissioners meetings and retreats.

b. Employer agrees to pay for additional billable hours at a rate of \$150.00 per hour. The Contract Employee shall provide invoices on a monthly basis documenting billable hours divided by subject issue.

#### 6. Contract Review:

a. The Board of Commissioners shall review the terms and conditions of the Agreement in conjunction with the annual budget process of the Employer.

#### 7. General Provisions:

a. This Agreement is not final, and the Contract Employee's appointment is not effective, until final action awarding the contract to the Contract Employee is taken by the Board of Commissioners at an open meeting of the Board.

b. Both parties agree to indemnify and hold each other harmless from all liability, loss, damage, claim, and expense of any kind, including costs of attorneys' fees, which result from negligent or willful acts or omissions by either party and their agents or employees regarding the duties and obligations of either party under this Agreement, including the duty to maintain the legal standard of care applicable to either party. In the event that the contract is terminated, by either party, this provision shall survive the termination, retrospective from termination date, of the contract regarding any liability for acts or omissions occurred.

c. Contract Employee agrees to provide a current and active North Carolina Law License for Tim Moore and any attorney of the firm Tim Moore, Attorney at Law, P.A. performing under this Agreement.

d. Contract Employee will establish and maintain professional malpractice coverage that meets or exceeds typical North Carolina standards.

e. Special provisions should be limited and listed as an attachment to the original Agreement.

f. This Agreement shall not be assignable by either party without the prior written consent of the other party.

g. This Agreement constitutes the entire agreement of the parties superseding prior drafts and discussions, and may be amended only in writing signed by both parties.

h. The laws of the State of North Carolina shall govern the validity, interpretation, construction, and performance of this Agreement and venue for any suit involving this Agreement shall be within Cleveland County, North Carolina.

i. The parties' obligations and duties stated herein shall run only to each other and shall in no event create any obligation to or duty toward any other party or any customer of Employer. This Agreement is for the sole and exclusive benefit of the parties, and shall not be construed to confer a benefit or right upon any third party.

IN WITNESS WHEREOF, the Board of Commissioners of Cleveland County Water has caused this contract to be signed and executed on its behalf by its Board Chairman, and duly attested by the Board Secretary; and the Contract Employee, both individually and as a firm, has signed and executed this Agreement, both in duplicate, this the 12<sup>th</sup> day of December, 2016.

CLEVELAND COUNTY WATER

TIM MOORE, ATTORNEY AT LAW, P.A.

By: Donald O. Melton  
Donald O. Melton  
Chairman, Board of Commissioners

By: Timothy K. Moore  
Timothy K. Moore, Attorney at Law  
President  
Tim Moore, Attorney at Law, P.A.

Attest: Bill Cameron  
Bill Cameron  
Secretary, Board of Commissioners