

AGREEMENT FOR LEGAL SERVICES

This Agreement for Legal Services (the “Agreement”) is entered into as of the 16th day of February, 2023 (“Effective Date”) by the BASSETT CREEK WATERSHED MANAGEMENT COMMISSION, a Minnesota joint powers organization (the “Commission”), and the law firm of KENNEDY & GRAVEN, CHARTERED (the “Commission Attorney”).

SECTION 1. Background; Findings.

1.01. *Commission Determination.* At a duly called regular meeting of the Commission held on January 19, 2023, the Commission reappointed the law firm of Kennedy & Graven, Chartered to be engaged as Commission Attorney, with David T. Anderson of that firm serving as primary legal counsel for the Commission.

SECTION 2. Terms and Conditions.

2.01. *Consideration.* In consideration of the mutual promises and conditions contained in this Agreement, the Commission and the Commission Attorney agree to the terms and conditions set forth herein.

2.02. *Attorney Appointment.* The Commission desires to continue its relationship with the law firm of Kennedy & Graven, Chartered as Commission Attorney, with David T. Anderson acting as primary legal counsel for the Commission.

2.03. *Usual and Customary Legal Services.* The Commission Attorney agrees to perform all usual and customary civil legal services for the Commission in accordance with the terms of this Agreement. Such services may include, but are not limited to, the following:

- a) Attend monthly Commission meetings and, as requested, any other meetings.
- b) Draft agreements, resolutions, and correspondence.
- c) Review Commission agenda packets prior to meetings and provide email comments and suggestions regarding the same.
- d) Communicate with and advise the Commission and/or designated staff on general legal matters.
- e) Review Commission contracts as requested, including, but not limited to, joint powers agreements, agreements for construction projects, professional services agreements, agreements related to the purchase of equipment, and grant agreements.
- f) To any extent necessary, represent the Commission in the acquisition of real property interests.
- g) Render legal opinions on any legal matters requested by the Commission.
- h) Meet with the Commission to review the status of any pending legal matters, as necessary or requested.
- i) Provide legal briefings to the Commission and staff regarding new or proposed legislation affecting its operations and activities.
- j) Defend the Commission in litigation, except in those cases where insurance

- companies provide defense.
- k) Review bonds and insurance requirements required by or for Commission contracts or activities.
- l) Perform other legal duties as assigned and at the direction of Commission and its staff.

2.04. *Compensation for Legal Services.* For all legal services provided by the Commission Attorney, the Commission agrees to compensate the Commission Attorney at the rate of \$215/hour.

2.05. *Compensation for Expenses.* The Commission will compensate the Commission Attorney for the following actual and necessary expenses incurred by the Commission Attorney on behalf of the Commission:

Out-of-pocket costs for such things as postage for large projects, mileage, photocopying for large projects, filing fees, recording fees, and similar items.

Photocopying:	\$.10 per page (only for large projects)
Mileage:	IRS-approved business reimbursement rate
Other charges such as:	
Messenger service	
Express mail	Actual cost charged
Filing/recording fees	

The Commission Attorney’s monthly billing statements will provide an itemized detail for all fees and costs included.

2.06. *Billing Statements.* Billings by the Commission Attorney to the Commission 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 Commission concerning the tasks performed, the attorney performing them, the time spent on each task and the nature and extent of costs and disbursements. The statement shall also contain a summary that shows the total time spent for each category and the total fees, charges and disbursements for each category.

2.07. *Term of Agreement.* The term of this Agreement shall be from the Effective Date until April 30, 2025, unless it is otherwise terminated in accordance with Section 2.10, and the hourly rates specified in this Agreement will remain in effect through said term.

2.08. *Primary Legal Counsel.* It is the intention of the parties and it is hereby agreed by the Commission Attorney, that the term “primary legal counsel” as used herein means and refers to David T. Anderson who will, except in the case of extraordinary circumstances involving disability, unavoidable conflict or other good and substantial reasons, perform, supervise and be responsible to the Commission for the civil legal services to be provided.

2.09. *Entire Agreement.* This Agreement shall constitute the entire agreement between the Commission and the Commission Attorney, and supersedes any other written or oral agreements between the Commission and the Commission Attorney. This Agreement can only be

modified in writing signed by the Commission and the Commission Attorney.

2.10. *Termination.* This Agreement may be terminated by the Commission at any time or by the Commission Attorney upon 60 days' written notice and in accordance with the Rules of Professional Responsibility.

2.11. *Conflict of Interest.* The Commission Attorney shall use best efforts to meet all professional obligations to avoid conflicts of interest and appearances of impropriety in representation of the Commission. In the event of a conflict, the Commission Attorney, with the consent of the Commission, shall seek appropriate waivers or arrange for suitable alternative legal representation. It is the intent of the Commission 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.* The rights and obligations created by this Agreement may not be assigned by either party.

2.13. *Agreement Not Exclusive.* The Commission retains the right to hire other legal representation for specific legal matters.

2.14. *Independent Contractor Status.* All services provided by the Commission Attorney pursuant to this Agreement shall be provided by the Commission Attorney as an independent contractor and not as an employee of the Commission 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 Products.* All records, information, materials and other work products prepared and developed in connection with the provision of services pursuant to this Agreement shall become the property of the Commission.

2.16. *Insurance.* The Commission Attorney agrees to maintain a valid policy of Professional Liability Insurance for the duration of this Agreement in the minimum amount of \$2,000,000.

2.17. *Data Practices Act Compliance.* Data provided to the Commission 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.

2.19. *Non-Discrimination.* Commission Attorney will comply with all applicable federal and state laws, rules and regulations related to civil and human rights and will not discriminate against any employee or applicant for employment because of race, creed, color, religion, ancestry,

national origin, sex, affectional preference, disability or other handicap, age, marital status, or status with respect to public assistance.

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.

THE COMMISSION:

By: _____
Its: Chair

By: _____
Its: Secretary

KENNEDY & GRAVEN, CHARTERED:

By: _____
David T. Anderson
Shareholder