

RESOLUTION NO. 2019-08

A RESOLUTION APPROVING THE PROFESSIONAL SERVICES AGREEMENT FOR ATTORNEY SERVICES

WHEREAS, the City is desirous of entering into a professional services agreement for attorney services to be provided by Daines & Jenkins; and

WHEREAS, Daines & Jenkins is desirous of providing attorney services, both prosecutorial and civil, to the City;

Now, Therefore be it resolved by the Sunset City Council that the attached Agreement be approved and that the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

Approved and adopted by the Sunset City Council this 21st day of March, 2019.

D. Howard Madsen, Mayor

Attest:

Susan R. Hale, Recorder

SUNSET CITY
PROFESSIONAL SERVICES AGREEMENT FOR ATTORNEY SERVICES

THIS AGREEMENT (hereinafter referred to as the "Agreement") for professional services is made by and between Sunset City, a body corporate and politic of the State of Utah (hereinafter referred to as "City"), and Daines & Jenkins, LLP, a Utah Limited Liability Partnership, (hereinafter referred to as "Daines & Jenkins"). The City and Daines & Jenkins shall be collectively referred to herein as the "Parties".

WHEREAS, the City is desirous of entering into a professional services agreement for attorney services to be provided by Daines & Jenkins; and

WHEREAS, Daines & Jenkins is desirous of providing attorney services, both prosecutorial and civil, to the City; and

WHEREAS, the City Council of Sunset, through vote of the council, authorized the Mayor of Sunset City to enter into a professional services agreement with Daines & Jenkins; and

WHEREAS, Dustin D. Ericson is a Partner in the law firm of Daines & Jenkins and legally authorized to sign on Daines & Jenkins' behalf.

NOW, THEREFORE, in consideration of the promises contained herein, the Parties agree as follows:

1. Services Rendered. Daines & Jenkins agrees to provide all attorney services to the City. Said services shall include, but be not limited to, prosecutorial services, land use, civil defense, employment, and general municipal government services. Attorney services for any City bonding projects/issues shall be specifically excluded from the Agreement.

2. Term of Agreement. The Agreement shall have a term beginning May 21, 2019, and shall terminate on May 31, 2020. The term shall automatically be extended by an additional twelve (12) months, unless terminated, in writing, by either party. Absent written termination by either party, the Agreement may be automatically renewed for ten (10) additional twelve (12) month periods, with a final termination date of May 31, 2030.

a. The Parties hereby agree that, with or without cause, the Agreement may be terminated at any time by either Party. Termination shall be effected by written notice and given by the terminating Party not less than thirty (30) days prior to termination date.

1. Notice as required in Section 2(a), shall be sent by City to Daines & Jenkins, at the following address, certified mail, return receipt requested:

DAINES & JENKINS
108 North Main
Logan, Utah 84321

2. Notice as required in Section 2(a), shall be sent by Daines & Jenkins to City, at the following address, certified mail, return receipt requested:

Sunset City
200 West 1300 North
Sunset, Utah 84015

3. Compensation and Billing. The City hereby agrees that Daines & Jenkins shall be compensated at an annual rate of twenty-eight thousand, eight hundred dollars (\$28,800) for prosecutorial services, which shall be paid monthly by the City at a rate of two thousand, four hundred dollars (\$2,400). The City hereby agrees that Daines & Jenkins shall be compensated at an annual rate of three thousand, six hundred dollars (\$3,600) for civil attorney services, which shall be paid monthly by the City at a rate of three hundred dollars (\$300). Daines & Jenkins shall send an electronic invoice to the City within ten (10) days of the completion of a month for which prosecutorial and civil attorney services have been rendered. The City shall pay said invoice within twenty-one (21) days of receipt of the invoice. For the month of May, 2019, the City shall pay Daines & Jenkins a pro-rated amount of eight hundred dollars (\$800) for prosecutorial services and one hundred dollars (\$100) for civil attorney services. Said compensation rates shall be all inclusive, including all of Daines & Jenkins' clerical and support staff rates. Any change to said compensation rates, shall require written approval by both Parties.

4. Indemnity/Insurance Coverage. Daines & Jenkins agrees to indemnify and hold harmless the City from all liability arising from any and all services provided by Daines & Jenkins and/or its agents, including, but not to, criminal wrongdoing on the part of Daines & Jenkins and/or its agents, negligent acts by Daines & Jenkins and/or its agents, and intentional acts by Daines & Jenkins and/or its agents. Daines & Jenkins further agrees to maintain professional malpractice insurance at all times.

5. Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the subject matters stated herein and supersedes any prior or contemporaneous oral and/or written agreements or representations, if any, between the Parties; that the terms of this Agreement are contractual and not mere recitals; and the Parties acknowledge that no promise or agreement not included in this Agreement has been made, but that they are relying solely upon their own judgment after consultation with their respective attorney or attorneys.

6. Counterparts, Duplicate Copies, and Facsimile Copies. This Agreement may be executed in counterparts such that an Agreement with a complete set of signatures, whether or not on different copies of the page on which the signatures appear, shall constitute a fully-executed agreement; all executed copies of this Agreement shall constitute duplicate originals; and a copy or facsimile signature shall be treated for all purposes as an original signature.

7. Applicable Law, Jurisdiction, and Venue. The Agreement shall be interpreted in accordance with the laws of the state of Utah, and the Second District Court of the State of Utah,

in and for Davis County shall have jurisdiction and be the proper venue for any suit arising here from.

8. *Modification.* The Agreement may not be modified in any manner except in writing signed by each of the Parties.

9. *Authority.* The undersigned each represents that they have full authority to sign this Agreement and to enter into this Agreement on behalf of the Party to the Agreement so reflected by each signature.

10. *Workers' Compensation Coverage.* Daines & Jenkins hereby agrees to carry sufficient Workers' Compensation coverage to cover any claims forwarded by the services contemplated in the Agreement. In the event Daines & Jenkins makes use of the services of Independent Contractors, including consultants and/or experts, to perform any services contemplated herein, Daines & Jenkins hereby agrees to indemnify and hold harmless the City from any Workers' Compensation Claims made by Independent Contractors contracted by Daines & Jenkins.

11. *Incorporation of Recitals.* All recitals contained herein and/or attached hereto are hereby incorporated into the Agreement.

12. *Severability.* In the event that any portion of this Agreement is nullified or voided by a Court of competent jurisdiction, that portion shall be severed from the remainder of the Agreement, and all other portions of the Agreement shall remain in full force.

13. *Attorney's Fees and Costs.* In the event of any litigation arising here from, the prevailing Party shall be entitled to collect from the non-prevailing Party, all costs of litigation and collection including, but not limited to, attorney's fees and costs of suit and collection.

14. *No Interference with Other Agreements of the Parties.* The Parties hereby acknowledge and agree that additional agreements outside of the scope of this Agreement may exist between the Parties. This Agreement does not interfere with previous or future agreements between the Parties, unless said previous or future agreements make specific reference to this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the dates herein shown below.

SUNSET CITY, CORP.

Howard D. Madsen, Mayor (Date)

Attest:

Susan R. Hale, City Recorder (Date)

DAINES & JENKINS, LLP

Dustin D. Ericson, Partner (Date)