

**RESOLUTION NO. 4381**

**A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO AN ENGAGEMENT AGREEMENT WITH PARKER, HEITZ AND COSGROVE, PLLC, FOR FLOODPLAIN RELATED LEGAL SERVICES.**

*WHEREAS*, the City of Miles City desires to enter into an agreement with the law firm of Parker, Heitz and Cosgrove, PLLC, for legal services related to alleged floodplain violations on property owned by Eckart Trucking, Inc.;

*AND WHEREAS* the obligations of the parties related thereto have been reduced to writing in the form of an engagement letter and agreement;

**NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**

1. The engagement letter and agreement between Parker, Heitz and Cosgrove PLLC and the City of Miles City, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said agreement on behalf of the City of Miles City and bind the City of Miles City thereto; and

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 27<sup>TH</sup> day of OCTOBER, 2020.**

  
John Hollowell, Mayor

ATTEST:



Lorrie Pearce, City Clerk

MARK D. PARKER  
CASEY HEITZ  
SHAWN P. COSGROVE  
GEOFFREY T. CUNNINGHAM  
SAMANTHA A. HOWARD

401 North 31st St., Suite 805  
P.O. Box 7212  
Billings, MT 59103-7212  
(406) 245-9991  
FAX (406) 245-0971

October 16, 2020

City of Miles City  
Attn: Dan Rice  
City Attorney of Miles City, MT  
PO Box 728  
513 Main Street  
Miles City, MT 59301  
[drice@milescity-mt.org](mailto:drice@milescity-mt.org)

**Re: Eckart Flood Way Matter - Litigation**

Dear City of Miles City:

Thank you for considering Parker, Heitz & Cosgrove, P.L.L.C., to represent you concerning the above-referenced matter. Parker, Heitz, & Cosgrove, P.L.L.C., will be glad to assist you in trying to resolve this legal issue. We will review the matter, research the law, investigate the facts, and give you our best advice on how to proceed.

This engagement will cover the potential litigation regarding the flood way dispute between the City of Miles City and William Eckart/Eckart Trucking. This includes pre-litigation planning, drafting, attendance of meetings with city officials, as well as the entirety of the litigation process if a lawsuit is initiated.

We will charge you for all of the time we spend on this matter. This includes but is not limited to, telephone calls with you, co-counsel, opposing counsel or court personnel relating to your matter, and reviewing and responding to e-mails and messages. The legal personnel assigned to your matter will confer among themselves about the matter, as required. When they do confer, each person will charge for the time expended. Likewise, if more than one of our legal personnel attends a meeting, court hearing or other proceeding, each will charge for their time spent. We will charge for waiting time in court and elsewhere and for travel time, both local and out

of town.

In addition to our time, we will also charge you for costs and expenses which we incur on your matter. Those costs and expenses commonly include, but are not limited to, process servers' fees, fees fixed by law or assessed by courts and other agencies, court reporters' fees, long distance telephone calls, messenger and other delivery fees, postage, parking and other local travel expenses, photocopying and other reproduction costs, clerical staff overtime, word processing charges, charges for computer time and other similar items. If out of town travel is required, you will be charged transportation (*including first class airfare*), meals, lodging and all other costs of any necessary out-of-town travel by our personnel. You will also be charged the hourly rates for the time legal personnel spend traveling.

In order to effectively represent you, we may need to hire experts, consultants or private investigators. We will hire such persons and you agree to pay their fees and charges. We will select any expert witnesses, consultants or investigators to be hired.

Our office will provide you with a detailed and itemized statement each month showing the professional services performed and the costs and expenses incurred. We expect you to pay on receipt. If this ever becomes a problem for you, please call me immediately so that satisfactory arrangements for payment can be made.

While I will be the lawyer primarily responsible for your matter, other members of this firm may from time to time be called upon to assist. This is usually done on the premise that the least expensive, yet qualified, person should be performing each specific task. This should result in substantial cost savings to you over the life of your case.

If you have questions from time to time regarding the status of your case, please feel free to call me. If I am not available, please ask for my assistant, Abigail Blackburn. She maintains my deadline and matter docket and should be a ready source of information for you.

It is my policy to send you copies of each letter, document or pleading which I receive or generate on your case. I do so in order to maintain a good level of understanding on your part concerning the status of your case. If for any reason you would prefer not to receive these items, please let me know.

You have responsibilities to us, as well. We expect that you will be truthful with us, will cooperate, will keep us informed of developments, will abide by the

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financial terms of our representation by paying our bills on time and that you will keep us advised of your address, telephone number and whereabouts. By providing our office with your cell phone, you are giving our office permission to call that phone. You may discharge us at any time. We may withdraw with your consent or for good cause. Good cause may include your breach of the agreement, your refusal to cooperate with us or to follow our advice on a material matter or any fact or circumstance that would render our continuing representation unlawful or unethical. After our services are concluded, we will upon request, deliver your file or a copy thereof to you, along with any funds or property of yours in our possession.

Finally, if you agree to these terms, please sign the acceptance of representation line set forth below and return a copy of the signed document to our office. Do not hesitate to contact me with any questions or concerns. I look forward to working with you.

Very truly yours,

PARKER, HEITZ & COSGROVE



Geoffrey T. Cunningham

GTC:ap

*John Hollowell*  
I, ~~Dan Rice~~, on behalf of the City of Miles City, do agree to the terms of Parker, Heitz, & Cosgrove, PLLC's fee arrangement concerning my representation.

Date: 10-12-20



John Hollowell, Mayor

**Fee Schedule**

A. Hourly rates for attorneys:

Mark Parker	\$350.00/hour
Casey Heitz	\$300.00/hour
Shawn Cosgrove	\$300.00/hour
Geoffrey T. Cunningham	\$225.00/hour

B. Hourly rates for paralegal rates:

Dawn Squires	\$90.00/hour
Angela Penninger	\$90.00/hour
Debbie Oliver	\$90.00/hour

C. Standard Charges:

We charge for our time in minimum increments of .1 hours for reviewing documents/e-mails/messages/etc. Drafting e-mails/documents and responding to e-mails or correspondence is billed at a minimum of .3 hours.

D. Costs & expenses

Color photocopies  
In-office photocopying  
Mileage a the rate allowed by IRS  
Long distance charges  
Fax  
Research

E. Subject to change:

The rates on this schedule are subject to change on 30 days written notice. If you decline to pay any interest rates, we will have the right to withdraw as your lawyers.