

June 23, 2020

**By Email**

Leigh K. Currie

Peter N. Surdo

**Minnesota Attorney General's Office**

445 Minnesota Street Suite 900

Saint Paul, MN 55101

**Re: Consulting Agreement Regarding Climate Change Litigation**

Dear Leigh and Peter:

This letter states the terms of an agreement ("Agreement") reached between the Minnesota Attorney General's Office (the "Office") and Sher Edling LLP (the "Contractor") (Contractor and the Office are collectively referred to as the "Parties") for Contractor to perform free preliminary legal services for the client, the State of Minnesota (the "State"), related to the matter described below, commencing as of June 23, 2020 and continuing until the Office retains Contractor under a separate contract, which the Office anticipates negotiating with the Contractor in the next several weeks.

This Agreement establishes the relation of attorney-client between the Parties hereto. Contractor shall hold all property of the State in trust for the State's benefit, shall not divulge the State's confidences, and shall be entitled to the candid cooperation of all the State's employees in all matters related to the assigned files and any related actions. All work product generated by Contractor on behalf of the State belongs to the State.

**I. Scope of Services:**

The Office requests, and Contractor wishes to perform, the activities within the following scope:

- Assisting the State's investigation of claims that the State, by and through the Office and in consultation with the Contractor, might, in its discretion, decide to pursue against individuals and entities related to the impacts of climate change and related deception by members of the fossil fuel industry ("Future Climate Change Action").
- Advising the State on all legal and related matters necessary for preparing to prosecute any such Future Climate Change Action.
- This Agreement includes all work performed by Contractor in connection with the Future Climate Change Action up to the time, if any, that the Parties enter into a Legal Services Agreement that will govern Contractor's future work to support the Office's Future Climate Change Action (the "Final LSA") or agree in writing to terminate this Agreement. The Parties intend that the Office and Contractor shall negotiate a Final LSA that will govern Contractor's future work to support the Office's Future Climate Change Action.

All work performed by the Contractor shall be at the direction of, and supervised by, the Office.

**II. Fees and Costs:**

This Agreement does not require the payment of or reimbursement for attorney's fees or costs. Fees and costs shall be addressed under the Final LSA. Even if the Parties do not enter into a later legal service agreement (or Final LSA), the Contractor will not be entitled to any fees or costs under this Agreement. Reimbursement or recovery of any costs incurred by the Parties as part of the Future Climate Change Action but before the Final LSA is in place will be negotiated on a case-by-case basis.

**III. Conflicts of Interest:**

The Office understands that currently, and from time to time, the Contractor represents other municipalities, governmental agencies, governmental subdivisions, or other public or private individuals and/or entities in similar litigation involving climate change-related injuries and where the defendants may be the same or similar to the defendants in a Future Climate Change Action, and that such work is a focus of Contractor's practice. The Office understands that Contractor would not take on this engagement if it required Contractor to forego representations like those described above. The Contractor agrees not to take on any cases adverse to the State, and to otherwise abide by the Rules of Professional Responsibility.

**IV. Confidentiality:**

a. Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the non-public reports, information, and data, furnished to, or prepared, assembled or used by, Contractor under this Agreement. Contractor agrees that such reports, information, and data shall not be disclosed to any person or entity without the prior written approval of the Office, unless such disclosure is required by law or order of a court or administrative body. Notwithstanding the foregoing, the Office may authorize Contractor to use or disclose any such reports, information, or data in connection with potential Future Climate Change Actions provided that such authorization is consistent with applicable law.

b. Contractor agrees to maintain the confidentiality of such reports, information, and data by using a reasonable degree of care, and using at least the same degree of care that Contractor uses to preserve the confidentiality of its own confidential information.

c. Contractor shall restrict access to such reports, information, and data to persons who have a legitimate work-related purpose to access such reports, information, or data. Contractor agrees that it will instruct its employees and agents to maintain the confidentiality of any such reports, information, and data.

**V. Miscellaneous:**

a. If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire agreement will be severable and

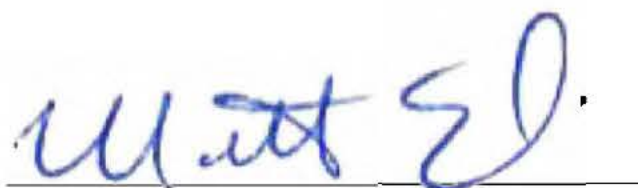
remain in effect.

b. This Agreement may be modified by subsequent agreement of the Parties only by an instrument in writing, approved and executed in the same manner as the initial Agreement.

c. Each of the signatories to this Agreement warrants that he or she has the authority to enter into and execute this Agreement and to bind the entity or entities on whose behalf each signs.

d. This Agreement may be executed in counterparts.

Very truly yours,



MATTHEW K. EDLING

Partner

SHER EDLING LLP

**AGREED TO AND ACCEPTED:**

MINNESOTA ATTORNEY GENERAL'S OFFICE

Very truly yours,



LIZ KRAMER

Solicitor General

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