

LEGAL SERVICES AGREEMENT

THIS Agreement is made and entered into by and between the North Carolina Department of Transportation, an agency of the State of North Carolina (hereinafter, "Agency") and **Hartsell & Williams, P.A. 71 McCachern Blvd, PO Box 368 Concord, North Carolina 28026, 704-786-5161 tel, 704-788-8058 fax.**

WITNESSETH

- 1) WHEREAS, Agency agrees to hire the services of **Hartsell & Williams, P.A. 71 McCachern Blvd, PO Box 368 Concord, North Carolina 28026**, law firm (hereinafter, "Outside Counsel"), and utilize the legal services of said firm and staff, as outside legal counsel and to provide representation in the "Cases" which are identified in **Attachment A**, herein.
- 2) WHEREAS, Agency is authorized to retain Outside Counsel pursuant to N.C.G.S. § 136-103.1 and related session laws, and has received approval of the Governor's office to retain Outside Counsel and provide the services described in this Agreement.

NOW THEREFORE, the Agency and Outside Counsel, for consideration of the mutual promises and covenants contained hereinafter, mutually agree as follows:

- 1) The Outside Counsel agrees to perform the required professional legal services in connection with said "Cases." If Agency desires Outside Counsel to represent Agency in additional cases not referenced in **Attachment A**, then Agency and Outside Counsel shall enter into a Supplemental Agreement for Legal Services to cover representation of the additional cases.
- 2) Outside Counsel shall perform work under this Agreement in accordance with direction provided by the Agency's General Counsel and its designated attorney, hereinafter "Designee."

SCOPE AND DESCRIPTION OF WORK

- 3) The scope of Outside Counsel's work will be to assist with all aspects of litigation involving claims filed against NCDOT and NCTA that relate to the North Carolina Transportation Corridor Official Map Act, "Map Act," N.C.G.S. § 136-44.50 et seq. The scope of the work includes, but is not limited to, the following:

- a) Performing due diligence investigation and research in order to answer complaints and respond to motions and other documents filed with the court regarding the Cases.
- b) Researching factual and legal issues related to Cases.
- c) Interviewing witnesses, performing site inspections, consulting with Agency and its Designee as needed.
- d) Timely filing necessary court pleadings, motions, briefs and other documents.
- e) Timely responding to and serving discovery requests, and deposing necessary lay and expert witnesses.
- f) Satisfying all other deadlines as they relate to the Cases, including court filings, discovery, mediations, and other matters.
- g) Consulting with Agency, its Designee, witnesses, and consultants.
- h) Representing Agency at depositions, hearings, trials and other proceedings.
- i) Appearing on behalf of Agency in court.
- j) Assisting with appellate litigation, as requested.
- k) Providing case status updates to Designee regarding representation of the Cases.
- l) Performing all other tasks that would reasonably be expected of legal counsel in North Carolina courts.

[REDACTED]

4) [REDACTED]

5) [REDACTED]

6) [REDACTED]

7) [REDACTED]

8) [REDACTED]

9) [REDACTED]

10) [REDACTED]

11) [REDACTED]

12) [REDACTED]

[REDACTED]

13)

[REDACTED]

FEES AND COSTS

14) The hourly fee rates to be paid Outside Counsel for work performed under this agreement are set out in **Attachment B** herein. Hourly rates shall be billed in 15-minute increments.

15) Outside Counsel shall deliver to Agency's **General Counsel** on a monthly basis, one itemized invoice covering all legal services performed for all Cases during the relevant billing period. The invoice shall list, at minimum, the case name and docket number, the tasks performed and dates thereof, time spent on each task, identification of staff performing said tasks, and hourly rates.

a)

[REDACTED]

b) All reasonable out-of-pocket expenses incurred by Outside Counsel in the course of performing the legal services described in this Agreement that are reasonably related to representation of Agency in this matter shall be reimbursed by Agency. These expenses include, but are not limited to, costs such as photocopying, long distance telephone charges, attorney travel expenses (which include transportation, accommodations, and meals at the State rate), telecopying expenses, computer-assisted research charges, printing costs, and secretarial overtime when required by the urgency of the matter. Outside Counsel shall forward to Agency for direct payment any expense charges that exceed \$250. The charges shall be included or attached to the monthly invoice stated above.

c) Payment of Outside Counsel's invoices will be processed for payment by Agency upon submission of said itemized invoice accompanied by proper supporting documentation and upon approval by General Counsel.

16) Travel expenses, such as hotel accommodations, parking, and mileage reimbursement shall be reimbursed as direct expenses, assuming these expenses are at the allowable government rate in compliance with State financial guidelines.

CONTACTS AND CONFLICTS OF INTEREST

17) Outside Counsel agrees that the firm's following attorneys shall constitute its primary counsel in this matter and serve as the main contact for Agency or its Designee, though other attorneys may assist in the representation as needed:

- i) Todd Phillips, partner, tphillips@hwpalaw.com*
- ii) Andrew Cornelius, partner, acornelius@hwpalaw.com*

18) [REDACTED]

19) [REDACTED]

20) [REDACTED]

[REDACTED]

21)

[REDACTED]

22)

[REDACTED]

[REDACTED]

23)

[REDACTED]

24)

[REDACTED]

25)

[REDACTED]

26)

[REDACTED]

27)

[REDACTED]

28) Section § 133-32 of the General Statutes and Executive Order 24 prohibits the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement and contract, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.


29) It is understood that execution of this agreement creates an attorney-client relationship between Agency and Outside Counsel and all rules of professional conduct for the practice of law in North Carolina shall apply.

AGREED TO BY:

By: Todd Phillips

Date: April 13, 2015

Todd Phillips, Esq.
Hartsell & Williams, P.A.
71 McCachern Blvd
PO Box 368 Concord
North Carolina 28026
tphillips@hwpalaw.com
704-786-5161 tel
704-788-8058 fax

Law Firm's Federal Tax ID Number: 

By: Shelley R. Blake
Shelley R. Blake

Date: April 15, 2015

General Counsel
North Carolina Department of Transportation
1 South Wilmington Street
Raleigh, North Carolina 27601
srblake@ncdot.gov
919.707.2800

ATTACHMENT A

"Cases" for which Outside Counsel shall provide Agency legal representation are set out below:

Cleveland County, Shelby Bypass
WBS 34497.1.FSATTY1 Project R-2707

<u>Plaintiff Name</u>	<u>CVS</u>
1 Walker Cassidy v. NCDOT	14-cvs-620
2 John Lemuel Rachels, and wife Tina Rachels	14-cvs-1531
3 Strickland & Blanton Rentals, Inc.	14-cvs-1534
4 Shipp, Essie	14-cvs-1631
5 Ledbetter, James R.	14-cvs-1616
6 Church, Ronald K.	14-cvs-1911
7 Leatherman, J. Scott and wife, Tonya Leatherman	14.cvs-1910
8 Overman, John M.	14-cvs-1912
9 Queen, Stan Hal	14-cvs-1879
10 Norman, Michael James and wife, Connie H. Norman	15-cvs-264
11 Carrigan, Charles and wife, Betty Carrigan	15-cvs-265
12 Gary L. Mangum & Mazie S. Mangum	15-cvs-447
13 Julie J. Harmon	15-cvs-444
14 Owl's Eye Land and Timber, LLC	15-cvs-443
15 Robert H. Dixon, Susan W. Dixon and Ann W. Tria	15-cvs-441
16 Emile L. Gebel and wife Barbara Gebel	15-cvs-442
17 Michael R. Strickland and Mary Madigan	15-cvs-445
18 Elsie Logan	15-cvs-447

ATTACHMENT B

- 1) Outside Counsel shall bill Agency at the following rates for the following services:

Hartsell and Williams:

- 2) From \$275 to \$250 per hour for partners.
- 3) \$200 per hour for associate attorneys.
- 4) \$110 per hour for paralegals.