

# Santaquin City Resolution 12-02-2015

## A RESOLUTION APPROVING AN ATTORNEY CONSULATION AGREEMENT WITH ALLAN & EASTON, LLC.

**WHEREAS**, Santaquin City is a municipality and political subdivision of the State of Utah and operates a police department with law enforcement officers who provide a variety of law enforcement services on behalf of the City, its residents and the public; and

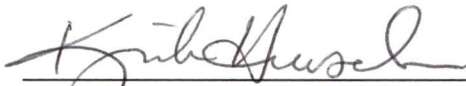
**WHEREAS**, Santaquin City desires to provide professional legal services for initial consulation and representation, to its police officers involved in certain incidents; and

**WHEREAS**, Allan is a law firm, with knowledge and expertise in law enforcement operations and procedures; and

**WHEREAS**, the parties now desire to enter into an agreement to provide the aforementioned professional legal services set forth in the attached;

**NOW, THEREFORE, BE IT RESOLVED**, that Santaquin City shall approve an attorney consulation agreement with Allan & Easton, LLC (See Attached).

Approved and adopted by the Santaquin City Council this 16<sup>th</sup> day of **December**, 2015.

  
\_\_\_\_\_  
Kirk Hunsaker, Mayor, Santaquin City

Attest:   
\_\_\_\_\_  
Susan Farnsworth, City Recorder



**ATTORNEY CONSULTATION AGREEMENT**

THIS AGREEMENT, is made and entered into, this ~~16th~~ <sup>December</sup> day of ~~November~~, 2015, by and between the CITY OF SANTAQUIN, UTAH, a municipality and political subdivision of the State of Utah, located at 275 W. Main Street, Santaquin, Utah 84655, hereinafter (“City”) and ALLAN & EASTON, LLC, a Utah limited liability company, located at 1892 North 1120 West, Provo, Utah 84604, hereinafter referred to as (“Allan”).

**WITNESSETH:**

WHEREAS, Santaquin City is a municipality and political subdivision of the State of Utah and operates a police department with law enforcement officers who provide a variety of law enforcement services on behalf of the City, its residents and the public; and

WHEREAS, Santaquin desires to provide professional legal services for initial consultation and representation, to its police officers involved in certain incidents; and

WHEREAS, Allan is a law firm, with knowledge and expertise in law enforcement operations and procedures; and

WHEREAS, the City desires to retain Allan’s services and Allan desires to provide initial legal services to the City’s police officers; and

WHEREAS, the parties now desire to set forth the terms and conditions of their agreement concerning the aforementioned professional legal services.

NOW, THEREFORE, in consideration of mutual covenants, agreements and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Allan agrees to perform the following services for City:
  - a. To provide competent, professional legal primary representation to certain peace officers of Santaquin City, who are full-time, part-time, or reserve sworn peace officers, whether on-duty or off-duty and acting actually, apparently, or purportedly for a law enforcement purpose at the time of an “officer involved incident.”
  - b. To provide legal representation to those officers only when the officer is involved in an “officer involved incident,” defined as an incident which occurs within Santaquin City, or within another jurisdiction if the officer is acting in his official capacity as an officer of Santaquin City in that other jurisdiction, and is:
    - i. Any intentional or accidental shooting, whether or not a fatality results.
    - ii. Any intentional or accidental use of any other dangerous or deadly weapon against another person, if a fatality results.

iii. Any fatal injury, whether intentionally or accidentally caused, which results from the use of a motor vehicle by an officer while on-duty.

iv. Any fatality of any person who is in police custody excluding deaths which are the result of disease, natural causes, or conditions which have been diagnosed prior to death.

v. Any fatality which results from the efforts of an officer attempting to affect an arrest or otherwise gain physical control of another while the employee is on-duty or acting in an official capacity as an officer of Santaquin City.

c. The legal representation to be provided shall only include an initial consultation with the affected officer and representation and advice during the interviews of the affected officer by the peace officer(s) investigating the officer involved incident.

d. The legal representation to be provided shall not include any representation of the affected officer for any internal, disciplinary, or fitness for duty investigations, any criminal court action involving the officer, or for any matter or issue not specifically addressed in this Agreement.

e. The legal representation shall be provided only if requested by the Santaquin City Police Chief or his designee. Response shall be made within two hours after receipt of the request.

## 2. COMPENSATION

City agrees to pay Allan as consideration for the services listed in paragraph one hereof, as follows:

The rate of \$200 per hour spent by an attorney for legal services during normal office hours and \$250 per hour after normal office hours. Said rate shall include and cover all direct and indirect costs of Allan's services, except mileage for travel associated with representation, which shall be billed at the standard IRS rate. Allan may include time traveled one-way in compensable hours for compensation.

Allan will provide an after-hours phone number and will be available 24 hours a day for response. Payment shall be made within 30 days after City's receipt of an invoice from Allan, which identifies the officer or officers represented.

## 3. PRIMARY REPRESENTATION AND BACK UP.

John Allan shall be the attorney primarily responsible to provide the services pursuant to the Agreement. In the event John Allan is unavailable due to illness, or absence from the county, John Easton shall act as backup and shall perform the

same services identified in this Agreement at the same rate of compensation. All of the responsibilities, obligations, and opportunities of this contract are binding on Mr. Easton if he is called upon to act as backup to Mr. Allan. Both attorneys shall provide the police with current after-hours phone numbers.

4. INDEPENDENT CONTRACTOR

Both parties agree that Allan shall be deemed an independent contractor in the performance of this Contract. As such, Allan shall have no authorization, express or implied, to bind City to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any act as agent for the City except as expressly set forth herein. The compensation provided for herein shall be the total compensation payable hereunder by the City.

City is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Allan. Allan is not to be considered an agent or employee of City for any purpose, and the employees of Allan are not entitled to any of the benefits that Santaquin City provides for its employees. This Agreement is not an exclusive contract for either party.

5. INDEMNIFICATION AND INSURANCE

Allan agrees to indemnify and hold City harmless from any and all liability whatsoever, which may arise from Allan's performance of his obligations under this Agreement. This obligation to indemnify shall include reasonable attorneys' fees and all other reasonable costs which may arise from Allan's actions.

Allan agrees that it will carry and maintain, for the full term of this Agreement, Professional Liability Insurance with limits of not less than five hundred thousand dollars (\$500,000.00) per occurrence insuring against any and all liability of City which may arise from Allan's actions or omissions. Allan shall furnish a Certificate of Insurance to City evidencing that Allan has such insurance.

6. CONFLICT OF INTEREST

Allan agrees that it will provide representation to an affected peace officer only if doing so would not result in a conflict of interest with City.

7. TERM AND TERMINATION

Until terminated under the provisions of this paragraph, this Agreement shall continue on a year to year basis. The parties agree that either party shall have the right at any time after the effective date of the Agreement to terminate the same for any reason, by giving the other party thirty (30) days written notice sent by United States Postal Service, first class mail, postage prepaid to the address given at the beginning of this Agreement. If notice is so given, this Agreement shall terminate upon the expiration of the thirty (30) calendar days and the liability of the parties hereunder for the further performance of the terms of this Agreement

shall thereupon cease, but neither party shall be relieved of the duty to perform its obligations up to the date of termination.

8. DEFAULT

In the event either party shall institute any action or proceeding against the other relating to the provision of this Agreement, or any default hereunder, then, and in that event, the unsuccessful party in such action or proceeding agrees to reimburse the successful party for reasonable attorneys' fees and costs incurred by the successful party.

9. NON-ASSIGNMENT

This Agreement shall not, nor shall any interest in this Agreement, be assignable, as to the interest of Allan by either party.


10. MODIFICATION OF AGREEMENT

This Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of the Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.


Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in a writing signed by each party.

IN WITNESS WHEREOF the parties have caused this Agreement to be duly executed on the date listed above.

SANTAQUIN CITY

  
Kirk F. Hunsaker, Mayor

ATTEST:

  
Susan B. Farnsworth, City Recorder



ALLAN & EASTON, LLC

  
John Allan, Member