

Town of Windham
Barry Tibbetts, Town Manager
8 School Road
Windham, ME 04062
By e-mail delivery to batibbetts@windhammaine.us

Benjamin T. McCall
Admitted in ME

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RE: Engagement Letter—Legal Representation of the Town of Windham

Dear Barry,

Thank you for selecting Drummond Woodsum as the Town of Windham general municipal legal counsel. This letter, together with the enclosed Standard Terms of Engagement, set forth the terms on which you have engaged us as counsel.

Scope of Work

The scope of the work we have been asked to undertake is to handle all legal matters relating to the operation of the Town of Windham (the “Town”) as a municipal government, in the capacity of Town Attorney. These duties include the following general and specialty municipal legal services:

GENERAL MUNICIPAL LEGAL SERVICES
Advising the Town Manager or Town Council or, at their direction, any of the Town’s committees, boards, officers, and staff, on legal questions arising in the conduct of the affairs of the Town
Providing legal opinions on matters or questions submitted by the Town
Responding to audit inquiries
Preparing or reviewing Town Meeting warrants, returns, ballots, and other election documents
Preparing or reviewing ordinances, policies, and warrants
Preparing or reviewing contracts and instruments (except those associated with complex real estate and contract transactions)
Economic development work, including franchise agreements and municipal broadband
Preparing or reviewing notices of violation, stop work orders, enforcement letters, and administrative consent agreements
Administrative appeals
Representing the Town in municipal (Rule 80B, Rule 80K) litigation, unless insurance defense counsel is appointed or independent claims are asserted
Defending claims made against the Town before administrative or adjudicatory boards, agencies, or courts (including the Maine Board of Arbitration and Conciliation and County Commissioners)
Maintaining a complete record of all suits in which the Town has an interest
Attending, participating, and traveling to and from in-person meetings with the Town Council, Planning Board, Board of Appeals, or Town staff related to general municipal legal services

SPECIALTY MUNICIPAL LEGAL SERVICES
Labor and employment matters, including personnel and employment law advice and labor arbitrations, negotiations, and grievances, and defending claims made against the Town before the Maine Labor Relations Board, Maine Worker's Compensation Board, and Maine Human Rights Commission
Complex real estate matters; title work
Public finance transactions, including bond counsel services (such as reviewing and approving bonds and providing bond opinions, TIF-related work, and lease purchase financings)
Matters in U.S. Bankruptcy Court
Representing the Town in litigation except as provided above
Matters in which the Town will be paid or reimbursed by a third party (e.g., applicant, state or federal grant, or court judgment) for legal fees incurred, including land use enforcement (Rule 80K) litigation where the Town seeks to recover its legal fees and costs
Matters before the State of Maine Board of Property Tax Review
Legislative lobbying activities
Extraordinary or complex matters requiring specialized legal skills (e.g., solar, energy work)
Attending, participating, and traveling to and from in-person meetings with the Town Council, Planning Board, Board of Appeals, or Town staff related to specialty municipal legal services
Services provided by paralegals, legal assistants, or the firm's librarian

Fees

I will be the principal attorney serving as the Town Attorney. I may also engage the services of other lawyers, consultants, and paralegals in the firm when appropriate.

For the above-identified general municipal legal services, we are pleased to provide you with an introductory discounted hourly rate of \$250 for calendar year 2025.

While specialty municipal legal services will be billed at our standard hourly rates, which currently range between \$295 and \$445 for lawyers and between \$160 and \$215 for paralegals, we manage these fees to reduce costs to the Town through various methods, such as seeking reimbursements using third-party agreements, recovering legal fees by court order, incorporating fees in the costs of borrowings, applying flat fees, and other methods.

Please note that we increase our hourly rates annually based on the rates customarily charged for the type of services we are providing and other appropriate criteria. These adjustments are usually made on an annual basis and will take effect on January 1 unless agreed to otherwise. We will provide you with an annual notice of the adjustments by email.

Advance Payment

Although it is generally our policy to require an advance payment for fees and charges as a condition to undertaking legal representation for a new client, in this case we are waiving this policy. We reserve the right to request such a payment in the future, however, to maintain a positive balance in your account. The use of any advance payment will be governed by the attached Standard Terms of Engagement.

Conflicts of Interest

I am required to disclose any conflicts of interest that may exist with respect to Drummond Woodsum's current representation of other clients. As you know, our firm provides legal services to numerous Maine municipalities, school districts (including the RSU 14 School Committee), and other governmental entities. As a general practice firm, we also represent businesses and individuals throughout the region. In the event that a matter arises where there is a potential conflict of interest between the Town and any of our existing clients (including an existing affordable housing, development, and/or school district client), we may ask the Town Manager to consider granting a consent that would allow us to represent that existing client while the Town retains special counsel to represent the Town on that matter. In situations where such a potential conflict exists, if the conflict cannot be resolved by consents, under the Maine Rules of Professional Responsibility we may not be able to represent either client.

Beyond this, we have identified three current client conflicts with the Town: Nexamp, Inc., Nexamp Solar Development, LLC, Pinehurt Development, LLC, and Westbrook Development Corporation/Westbrook Housing Authority. We have received mutual conflict waivers from the Town and each client, and as such, Drummond Woodsum will continue to represent both the Town and these clients in their respective, unrelated matters. And in particular, Jensen Baird will continue to represent the Town with regard to the sale of the Andrews School property to Westbrook Development Corporation.

Standard Terms of Engagement

All other aspects of our business relationship with the Town will be governed by the attached Standard Terms of Engagement. We will keep you reasonably informed of the progress and developments with respect to the legal services we are providing to you. If you nonetheless have questions about our work, please do not hesitate to contact me at any time.

If you have any questions or concerns regarding our invoices, please contact me or our billing department within 30 days of your receipt of the invoice. If your account with us becomes delinquent, we reserve the right to stop doing any further work until your account has been brought current and we may request payment of an advance for fees and charges before resuming work.

If you agree with the terms of engagement in this letter and the attachment, please indicate so by having an authorized official of the Town sign and date below as having "Seen and Agreed To" all terms contained herein and by emailing me the countersigned copy of this letter. Please keep the original of this letter and attachment in your file as a permanent record of our agreement.

Thank you again for selecting Drummond Woodsum as your municipal legal counsel. I very much look forward to continuing to work with you in this new capacity.

Sincerely,



Benjamin T. McCall

Seen and Agreed to:

Town of Windham

By: Barry Tibbetts, Town Manager

Dated

Standard Terms of Engagement for Legal Services

These standard terms supplement our engagement letter with you. Unless modified in writing by mutual agreement, these terms will be an integral part of our agreement with you. Therefore, we ask that you review these terms carefully and contact us promptly if you have any questions. We suggest that you retain this statement of terms in your file along with the engagement letter.

Identity of Clients – Scope of Work

For the matters described in the engagement letter, we represent only the person(s) or entity identified as clients in our engagement letter and not any relatives, affiliates, officers, or employees of the identified client(s) unless we otherwise agree in writing (including by email or other electronic communications). Our legal representation is limited to the performance of the services described in the engagement letter unless we otherwise agree in writing (including by email or other electronic communications). One of the purposes of the engagement letter and this attachment is to provide you and this office with a clear and understandable statement of the scope and terms and conditions of your engagement of this office and to foster a cooperative and professional relationship between attorney and client. If you have any questions about the limits of our representation or the scope of our services, please contact us.

How Fees Are Established

In most instances, our fees are based on our hourly rates and the time we devote to your work. We record our time in units of tenths of an hour. Our rates are usually adjusted annually. In appropriate cases, we may quote you a flat fee or provide legal services on a contingent fee or other alternative fee basis. Any flat fee or alternative arrangement will be expressed in a letter setting forth both the amount of the fee and the scope of the services to be provided. Any contingent fee arrangement must be reflected in a separate written contingent fee agreement.

Additional Charges

We also charge our clients for ancillary costs and services. Costs for long-distance telephone calls, postage, computerized research services, facsimiles, as well as routine copying and scanning, are charged as a percentage of our fees. Costs for courier and expedited delivery services, court filing fees, deposition transcripts, videography, property title searches, surveys and title insurance, as well as travel expenses will be itemized and included in our bills.

Estimates

While we recognize your interest and concern in what our representation will cost you, at best, we can give you a range of what the fees and disbursements may be. Each case, no matter how similar it may be to another, is unique enough that we are unable to predict the costs of our representation with any accuracy. The cost of representation is a function of the complexity of the case, your approach to the case and the demeanor and actions of the others involved in this matter and whether the other persons and attorneys involved are unreasonable or adversarial, and so on. If requested, and when feasible, we will provide you with an estimate of our fees and the cost of our services. When estimates are given, please understand that they are not a maximum, minimum or a fixed quotation – the final cost may be more or less than the estimate.

Advance Deposits by Clients

Clients are commonly asked to make an advance deposit of funds with the firm. You hereby grant us a security interest in any advance deposit of funds you make. Funds paid as advances for fees and charges

will be placed in our client prepaid fee account and held by us in pledge and as security for your past, present and future obligations to us, including your obligations to pay for our services and disbursements promptly upon your receipt of our statements. We will draw against these funds to satisfy our monthly statements, unless we have agreed in writing that you will pay our monthly statements and we will hold the advance deposit as security for our final invoices. If requested, you will replenish these funds as they are used. You agree to pay promptly any balance on our statements after application of the advance deposit. If balances remain unpaid, we may require that additional advance deposits be paid. If there is any balance of these funds remaining at the time our representation of you terminates and all of our statements have been paid, the balance will be returned to you.

Escrow Deposits

Any escrow deposits we receive from you will be placed in a trust account for your benefit. Unless we otherwise agree, your deposit will be placed in a pooled account, and you will not be paid interest on it. By court rule in each jurisdiction where we have an office, interest earned on the pooled account is payable to a charitable foundation established in accordance with such court rule. If, however, your funds on deposit are of a sufficient sum and/or will be held for an extended period of time and you would therefore like to discuss an alternative deposit arrangement (such as a segregated account), please discuss this with us.

Billing Arrangements and Terms of Payment

Unless otherwise stated in the engagement letter, we will bill you monthly. All amounts owed to us for fees and costs are due, and you agree to pay all such amounts, within thirty (30) days of receipt of our invoice. We accept payment by credit card. We reserve the right to assess a late fee of one and one-half percent (1.5%) per month on all overdue balances. You agree to notify us within thirty (30) days of receipt of your invoice if you have any disagreement with respect to the balance due or the itemized statement. Please inform us, in writing, of any changes to your name, address, telephone number, contact person, and/or e-mail address.

Inquiries

Any attorney-client relationship is one of mutual trust and confidence. We do our best to see that our clients are satisfied not only with our services but also with the reasonableness of the fees and disbursements charged for those services. Whenever you have any questions or comments regarding our services, or the status of your file(s), or whenever any new facts or considerations come to your attention, you should contact me or any other attorney with whom you are working. We also encourage you to inquire about any matter relating to our fee arrangements or monthly statements that are in any way unclear or appear unsatisfactory.

Termination of Representation; Disposition of Documents

You may terminate our representation at any time, with or without cause, by notifying us in writing. Subject to the rules of professional responsibility for the jurisdictions in which we practice, we may terminate our representation of you, in which case we will give you written notice of our withdrawal. Unless previously terminated, our representation will terminate upon the conclusion of our work for you in this matter, but in no event later than our sending you our final invoice in this matter. We may send you informational emails or mailings following the termination of our representation and we may retain original documents in your file following termination of our representation. These activities do not create an on-going attorney-client relationship. Termination of our services will not affect your responsibility for payment of legal services rendered and additional charges incurred before termination and in connection with an orderly transition of the matter. Upon termination of our representation, your papers and other

data will be returned to you promptly, if you request their return or if our professional obligations require their return without a request. Otherwise, we will retain them for a period of eight (8) years and then destroy them, unless otherwise required by the Professional Rules of Conduct. We will not provide further notice of our intended destruction of these documents. At our discretion, we may retain the files in either hard copy or electronic form. Our own files pertaining to the matter will be retained by the firm. These firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records and internal lawyers' work product, such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. After completion of a matter, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after completion of the matter to provide additional advice on issues arising from the matter, the firm has no continuing obligation to advise you with respect to future legal developments.

If we agree to undertake additional work for you during or following our current engagement, we will confirm that representation in writing (including by email or other electronic communications) and these Standard Terms of Engagement will apply to that additional representation.

Your Right to Arbitrate

If you disagree with the amount of our fee, please take up the question with your principal lawyer contact or with the firm's managing director. Typically, such disagreements are resolved to the satisfaction of both sides with little inconvenience or formality. In the event of a fee dispute which is not readily resolved, you have the right to request arbitration under supervision of the state or district bar associations for the jurisdictions in which we practice, and we agree to participate fully in that process.