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June 2, 2022

Via Email  
Tim Gropp, Town Manager  
Town of McCordsville  
6280 W 800 N  
McCordsville, IN 46055

Re: Police Station BOT Lease Financing

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Dear Tim:

Thank you for selecting Hall Render to represent The Town of McCordsville (“**McCordsville**” or “**Client**”). The purpose of this Engagement Letter Agreement (“**Agreement**”) is to ensure that we have a clear understanding of our working relationship. Please feel free to contact me if you have any concerns.

### **Scope of Engagement**

This letter will confirm the scope of our engagement. We will represent McCordsville in connection with the financing and delivery of a new Police Station (the “**Project**”) (“**Matter**”). If McCordsville retains Hall Render for other subsequent matters beyond those identified herein, then the specifics of this Agreement will apply to that work as well, although the attorney working on that matter may be different. I will have primary responsibility for the Matter, but will use other Hall Render attorneys and paraprofessionals when that is appropriate and cost effective. We will keep you informed of our progress. You agree to keep us informed of any changes or developments that could affect the Matter.

We understand the Project will be financed through (i) the issuance of lease rental revenue (the “**Bonds**”) or (ii) the monetization of obligations under a BOT Agreement (the “**BOT Obligations**”).

As counsel with respect to any Bonds or BOT obligations we will provide the following services as and when requested by McCordsville:

1. Assist McCordsville in the application of and compliance with Ind. Code .§5-23.
2. Assist McCordsville and its financial advisor, if any, in structuring the financing.

3. Prepare or assist in the preparation of the basic documentation for the Matter, including authorizing resolutions of McCordsville, BOT agreement, bond indenture, building corporation leases, bond purchase agreements and the like, together with notices and certifications related thereto.
4. Assist McCordsville in preparing for and attending any required public hearings and meetings.
5. Attend any meetings as requested by McCordsville.
6. Coordinate the scheduling and supervise the closing of the transaction, including preparation of required closing documents.
7. Undertake such additional duties as McCordsville may reasonably request.

Subject to the completion of proceedings to our satisfaction, we will render our legal opinion to the effect that: (i) the Bonds or BOT Obligations are valid and binding obligations of McCordsville, enforceable against McCordsville in accordance with their terms, and (ii) the interest on any tax-exempt Bonds or BOT Obligations is excludable from gross income for federal income tax purposes and is exempt from income taxation in the State of Indiana (all subject to certain limitations which will be expressed in the opinion).

The opinions will be executed and delivered by us in written form upon the issuance of the Bonds and will be based on facts and law existing as of such date. In rendering the opinions, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us, without undertaking to verify the same by independent investigation.

Upon rendering such opinion, our representation of McCordsville in this Matter will be concluded.

### **Fees and Billing**

The fees and costs for the Matter are not entirely predictable. Thus, we cannot promise, with certainty, what fees or expenses will be necessary to resolve or complete the Matter. Generally, we accrue fees for our services based on each individual's standard hourly rate, which may be adjusted from time to time, usually on October 1 of each year. With respect to the BOT Agreement we expect our fees to range from \$20,000 to \$40,000. With respect to the issuance of the Bonds, we expect to provide a fee range prior to commencement of the bond issuance proceedings. Such estimates are and will be based upon our best professional judgment but are not maximum or fixed fee quotations. Our estimate of fees may change based upon a number of factors as the Matter progresses and we will update you if we anticipate our total fees to exceed our estimate.

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In addition to our legal fees, we will bill costs for certain support services, such as messenger and delivery services. We will also bill costs related to any third party payments, such as filing or application fees or payments made to third party consultants or advisors engaged in connection with the Matter, or other advances we make on your behalf.

Our expectation for this Matter is that our fees and costs will be due and payable upon the closing of the Matter (which generally entails the closing of any financing which is part of the Matter). However, we reserve the right to invoice our fees and costs on a monthly basis and will ask you to pay our fees and costs current in the event the closing of the Matter is substantially delayed beyond the currently estimated closing date. In the event the Matter is abandoned or terminated for any reason, we will bill you our fees accrued at our standard hourly rates as well as any costs incurred to such date. Payment is due promptly upon receipt. We will assess a late charge of 1% per month on any outstanding balance older than 30 days. In addition, subject to our rules of professional responsibility, we may also cease performing services for McCordsville until satisfactory arrangements have been made for payments of amounts outstanding in excess of 60 days and the payment of future amounts.

Please confirm your approval of this Agreement, including the Additional Terms and Conditions governing our engagement set forth in Attachment A, by returning a signed copy. Please also note that while it would be ideal to have a signed copy in our file before we begin work on this Matter, we will begin work earlier if we determine it is in McCordsville's best interest to do so. Our performance of services with your knowledge will be considered your consent to these terms unless we hear otherwise. If you have any questions, or if this Agreement does not accurately set forth our arrangement, then please let me know.

We look forward to working with you on this Matter.

Sincerely,

HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C.

A handwritten signature in black ink, appearing to read "J. Ullom", written in a cursive style.

Jerimi J. Ullom

Cc: Jen Shoup

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AGREED AND ACCEPTED:

**TOWN OF MCCORDSVILLE, INDIANA**

By: \_\_\_\_\_  
(Authorized Signature)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**  
**ADDITIONAL TERMS AND CONDITIONS**  
**TO ENGAGEMENT LETTER AGREEMENT**

**1. Conflicts of Interest**

Except as may be set forth in the Agreement, we have determined that there is no present conflict of interest that prevents us from working on the Matter. Still, as a large law firm, there may be times when we are asked to represent Client in a matter that involves another existing or new client of Hall Render. Also, Hall Render may be asked during our representation of Client to represent another existing or new client in a matter that involves Client. In either instance, if the other client's interests and Client's interests in the matter are directly adverse, then Hall Render may not handle the matter without Client's consent and the consent of the other client(s).

The Rules of Professional Conduct governing lawyers generally prohibit a lawyer or law firm from representing one client in a matter directly adverse to another client unless the affected clients provide informed consent confirmed in writing. Along with the terms of this Agreement, this letter explains how Hall Render will resolve future conflicts issues so that Client can decide whether to be represented by Hall Render in this engagement. In other words, the purpose of these Terms and Conditions is to seek a waiver of future conflicts but to do so subject to the conditions and limitations noted herein. Hall Render seeks a waiver only for work that is entirely factually and legally unrelated to our Engagement with Client. Thus, Hall Render requests no waiver that would allow it at any time to:

- attack the work that Hall Render performs for Client under this engagement;
- disclose or use adversely to Client any of Client's confidential or nonpublic information; or
- to allow lawyers who work for Client simultaneously to work adversely to Client.

Outside these limitations, if the other client's interests and Client's interests in the matter are not directly adverse, then you consent to Hall Render's representation of the other client. This may include

representation of other clients in negotiations, business transactions, litigation, alternative dispute resolution, administrative proceedings, discovery disputes, or other legal matters even if those matters are adverse to you. The goal of this is to preserve our ability to represent Client, and we include such an agreement in similar engagement letters with many of our other clients.

You should consider that your consent authorizes Hall Render to represent other parties or entities adversely to you in other matters, transactions, or disputes unrelated to the engagement under this Agreement.

Although Client may revoke this waiver for future matters at any time, that revocation will not affect any legal work undertaken by Hall Render before receipt of notice of the revocation. In addition, and to the extent permitted by the applicable rules of professional conduct, Client must consent to Hall Render's withdrawal from Client's matters if withdrawal is necessary for Hall Render to keep representing other clients. If Hall Render does withdraw from a matter, however, we will help Client transfer the matter to other counsel of Client's choice and will not bill Client for legal fees, expenses, or other charges arising from the need to assist successor counsel with the transition.

Hall Render's representation does not extend to Client's affiliates unless specifically identified by name in this Agreement. For any affiliates specifically named, Hall Render may represent other clients in matters that are directly adverse to those affiliates. If Client request and Hall Render agrees to represent an affiliate, then Client agrees that the affiliate is bound by the terms set forth in this Agreement.

**2. Fees**

Unless otherwise set forth in the Agreement, our fees will be based mainly on the time worked by lawyers, paralegals, and certain others. Each lawyer in our Firm has an hourly billing rate, and the rate multiplied by the number of hours spent on a matter is the initial basis for determining our fee. We may, however, adjust the charge downward or upward based on other factors such as the novelty or complexity of the issues and problems encountered,

the extent of the responsibility involved, the results achieved, the efficiency of our work, the customary fees for similar legal services, and other factors that will enable us to arrive at a fair fee under the circumstances.

In our experience, representation, engagements can often require the use of outside vendors including FMV consultants, eDiscovery vendors, and other outside experts. Our representation of Client is conditional upon your agreement to allow Hall Render to engage these vendors—with your consent—when they are required. Whether we agree to engage the vendor directly with Hall Render or directly with Client, Client agrees that all costs and fees associated with the engagement of any third party will be Client's responsibility. Such costs and fees will be payable upon invoicing under this Agreement, if the arrangement is through Hall Render or through the terms of a separate and direct agreement between Client and the third party when appropriate. At times, Hall Render may recommend the use of experts with which it has an ownership relationship, such as Hall Render Advisory Services and NTRACTS but Client retains the right to refuse the use of such a vendor, revoke previous consent to the use of such a vendor, and to require the use of another, unrelated vendor.

If access to any of the materials in our possession relating to this engagement, or any other work performed by us for Client, is sought by a third party; or if we are requested or compelled to testify as a witness in any legal proceeding related to our work for Client, by subpoena or otherwise; or if for any reason we are made a party to any litigation related to our work for Client, then we will promptly notify Client of such action. After notification, we will either tender to Client our defense responding to such request, and cooperate with Client on our response thereto or, at our discretion, retain counsel for our defense. Client also agree to compensate us at our standard billing rates for our professional fees and expenses, and agree to pay the reasonable attorneys' fees incurred by us in our response to such action.

### **3. Files and Records**

At the end of the Matter, we will maintain the confidentiality of any of Client's information provided us in accordance with applicable rules of professional conduct. We will retain the relevant and appropriate files pertaining to the Matter (which files may be electronic) for an appropriate minimum period after the Matter ended.

Unless Client requests return of this file material before the expiration of the retention period, Hall Render reserves the right to destroy it at the end of the defined retention period without further notice to Client.

### **4. Communication**

We often send our clients information about Hall Render or legal matters we think might interest them. Client agrees that we may send Client this material, either by electronic mail or other means. Client also agrees that we may communicate with Client about this Matter by electronic mail on an unencrypted basis.

Either at the beginning or during representation, we might express opinions or beliefs about the Matter and the results that might be anticipated. Any such statement made by us is an expression of opinion only and is not a promise or guarantee of results.

Changes in law or circumstances that could impact Client may occur during or after representation. We may inform Client of these changes from time to time but such communications do not create a new attorney-client relationship once the engagement has terminated.

Client agrees that Hall Render may list Client on publicly disclosed lists and other materials as clients that Hall Render represents. In doing so, we will not identify work we provided to you without your consent.

### **5. Joint Representation**

If Hall Render's representation of Client in a matter involves joint representation with other parties, unique rules will apply to that representation due to attorneys' ethical requirements under certain Rules of Professional Conduct. Joint representations are those that involve representing multiple parties in the same matter and the Rules of Professional Conduct therefore treat Client and the other parties as joint clients for purposes of the attorney-client privilege. Thus, all information that Client communicate to us is privileged from disclosure only as to third parties. This information is not privileged among the parties as joint clients.

In the context of joint representation, each client is privy to the facts and information gained by any one client in pursuit of the common goal or defense. Information that Client communicate to us

will be available to all other clients, as necessary for us to adequately defend both of Client's interests. By waiving any conflicts that may arise out of our joint representation, Client also waives the ability to assert the attorney-client privilege against each other for confidential communications related to your common defense. If at any point one individual determines that material information must be kept confidential from the other represented individuals, this will create a conflict of interest and require our immediate withdrawal as outlined in section 1 above.

### **5.1 Conflicts Related to Joint Representation**

In any instance in which Hall Render represents several parties in the same action, it is our practice in compliance with the Rules of Professional Conduct to obtain consent in writing to the joint representation and the waiver of any conflict of interest that presented as a result of that joint representation.

Thus, if during Hall Render's representation of you we engage in a joint representation and if at any time an individual's interests become adverse to another individual's interests, Hall Render will need to withdraw representation from all individuals. While we do not believe such a conflict is likely to arise, if it does, it is important that we inform Client of our obligation to withdraw immediately. As outlined above, if we must withdraw from this Matter, we will assist in such a transition at no charge.

### **6. Governmental Program Participation**

Hall Render represents and warrants that neither it nor any of its employees have been excluded from participation, and are not otherwise ineligible to participate in a "Federal Health Care Program" as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program. If Hall Render or Hall Render's employees should be excluded from participation, or become otherwise ineligible to participate in any such program during the term of this engagement letter, Hall Render will immediately notify Client of the event.

### **7. Termination of Representation**

Client may terminate this Agreement at any time for any reason by written notice. Hall Render may terminate this Agreement and withdraw from any representation of Client for failure to assist us in our representation, for noncompliance with this Agreement or for any other reason permitted under the applicable rules of professional conduct. This includes

the right for Hall Render to terminate this Agreement at its own discretion if at any time:

- Client fails to make required payments within 30 days after billing;
- Client misrepresented, refused or failed to disclose material facts;
- Hall Render or Client discover a conflict with another client of Hall Render with Client;
- A dispute arises between Client and Hall Render that cannot be resolved in a good faith and amicable way; or for any other reason as deemed appropriate by Hall Render and permitted under the applicable rules of professional conduct.

If we terminate the engagement, then Hall Render will take all reasonable steps to protect Client's interests in the Matter and, upon request from Client, will suggest possible new counsel. If Client requests, then Hall Render will provide new counsel with any files or documents Client have given us.

Unless previously terminated or otherwise set forth in the Agreement, our representation of Client in the Matter will end on the last date of services in the last invoice for a matter, or 60 days after final work product on a component of a matter has been delivered. After the Matter ends, there might be changes in laws or regulations that might affect Client's future rights and liabilities, but Hall Render does not have an obligation to continue to advise Client about future legal developments, unless Client engage us to do so.

Our engagement will terminate upon the earlier of either party terminating the relationship by written notice, or the passage of one year since Hall Render last provided services.

### **8. Mandatory Arbitration**

Unless prohibited by law, any dispute (a "Dispute") arising out of or relating to this Agreement or the subject matter of it, or any breach of this Agreement, including any dispute about the scope of this clause, will be resolved through arbitration administered by the American Health Law Association Dispute Resolution Service and conducted under the AHLA Rules of Procedure for

Arbitration. Judgment on the award may be entered and enforced in any court having jurisdiction.

**8.1. Jurisdiction-Specific Modifications for Binding Adjudication**

The above arbitration procedures will be required in all jurisdictions unless state law or state Rules of Professional Conduct require a different process for binding, out-of-court adjudication. If the law controlling this Agreement requires such modifications, then the Parties agree and consent to following such modifications to resolve any disputes about this Agreement—including fee disputes, legal malpractice claims, or both.

**8.2. Arbitration Procedures**

Whether conducted under the AHLA Rules of Procedure for Arbitration or other binding rules required by law in controlling jurisdiction (the Rules), Arbitration must be held in the county in which Client reside or the county in which the Dispute arose, before an arbitrator selected under the Rules who will have no personal or pecuniary interest, either directly or indirectly, from any business or family relationship with either of the parties. All decisions of the arbitrator will be final, binding, and conclusive on the parties.

The parties agree to equally share the costs of the arbitrator and the arbitration fee (if any). Each party will bear that party's own attorneys' fees and costs, and the prevailing party will not be entitled to reimbursement by the other party of any of its fees or costs incurred in connection with the arbitration under this Agreement, regardless of any rule to the contrary in the applicable arbitration rules. Either party may seek enforcement of the arbitration award in the state or federal court of proper jurisdiction, and each party

consents to the exclusive jurisdiction and venue of said courts in any claim or action arising under or otherwise in connection with this Agreement.

**8.3. Informed Consent**

It is important that Client understand the advantages and disadvantages to mandatory arbitration. Agreeing to Mandatory Arbitration waives your right to a jury trial, limits appeal rights, and, in some cases the broad discovery otherwise allowed by litigation—including if Client are dissatisfied with the arbitrator's judgment. Arbitration can also include upfront costs unlike traditional litigation and may be confidential. Yet Arbitration can provide parties a more streamlined resolution process that can prove less costly than protracted litigation and can allow the Parties to maintain confidentiality on the outcome. Nothing in this Mandatory Arbitration provision limits the liability or types of claims which would otherwise be available to either party under applicable law.

By signing this Agreement containing this Mandatory Arbitration provision, Client agree to submit any Disputes to arbitration as outlined above and thus waive any and all rights to a jury trial for any Dispute and to resolve any issues related to this Agreement—including fee disputes, legal malpractice claims, or both—through mandatory arbitration. Client also agree that you have had the opportunity to consult with independent counsel regarding this Agreement prior to execution.

**9. Severability**

If any part of this Agreement is held to be unenforceable or inapplicable in a court of law, such provision will be severed and the remainder of the Agreement will remain in full force and effect.