

Agreement for Legal Services

The following Agreement sets forth the terms pursuant to which **CRAIG LABADIE** ("Labadie"), and the **CITY OF ST. HELENA** ("Client") agree that Labadie will provide legal services to Client.

1. **CONDITIONS.** This Agreement will not take effect until Client and Labadie execute and return a copy of this Agreement. The effective date of this Agreement will be December 12, 2017.

2. **SCOPE OF SERVICES.** Client hires Labadie to provide legal services in the matters set forth in Attachment "A" to this Agreement. No representation outside of the matters set forth in Attachment "A" to this Agreement shall be provided by Labadie to Client. No representation of any officers, employees, Council members, City staff or any other persons or entities affiliated with Client shall be provided unless such representations is expressly included in Attachment "A" to this Agreement. Labadie will provide those legal services reasonably required to represent Client. Labadie will take reasonable steps to keep Client informed of progress and to respond to Client's inquiries. Services in any matter not described above will require a separate written agreement or a written modification to this Agreement.

3. **CLIENT'S DUTIES.** Client agrees to be truthful with Labadie, to cooperate, to keep Labadie informed of any information or developments which may come to Client's attention, to abide by this Agreement, to pay Labadie's bills on time, and to keep Labadie advised of Client's address, telephone number and whereabouts. Client will assist Labadie in providing necessary information and documents.

4. **CONFLICTS OF INTEREST.** Before accepting representation of Client, Labadie has undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest or adversity of positions between Client and any other person or entity that would bar Labadie from representing Client in general or in any of the specific matters listed in Attachment "A". Labadie has reviewed this issue in accordance with the Rules of Professional Conduct adopted in California. Labadie believes that those rules, rather than the rules of any other jurisdiction, are applicable to Client's representation. Client's execution and return of the enclosed copy of this letter represents an express agreement to the applicability of the Rules of Professional Conduct adopted in California to any and all representation arising under this Agreement.

Labadie has identified no potential conflicts between Client and Labadie's existing clients.

5. **DISCLOSURE.** Pursuant to the requirements of California Business & Professions Code Section 6148, Labadie hereby discloses that it maintains professional errors and omissions insurance.

6. **LEGAL FEES AND BILLING PRACTICES.** Client agrees to pay by the hour at Labadie's rate for all time spent by Labadie on Client's matter. Labadie's hourly rate for this Agreement shall be \$225.00, and Labadie shall charge in increments of one tenth of an hour (.1). Total fees under this Agreement shall not exceed \$10,000 without further written amendment of this Agreement.

The time charged will include the time Labadie spends on telephone calls relating to Client's matter, including calls with Client, witnesses or opposing counsel. Labadie will charge for waiting time and for travel time, both local and out-of-town.

7. **COSTS AND OTHER CHARGES.** Labadie will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for reasonable costs, disbursements and expenses in addition to the hourly fees. The costs and expenses commonly include: long distance telephone charges, messenger and other delivery fees, postage, photocopying and other reproduction costs, travel costs including parking, mileage, transportation, meals and other similar items. All costs and expenses will be charged at, and shall not exceed, Labadie's cost.

8. **BILLING STATEMENTS.** Labadie will send Client periodic statements for fees and costs incurred. Statements shall include the amount, rate, basis of calculation or other method of determination of the fees and costs, which costs will be clearly identified by item and amount. Each statement shall include the amount left on the contract. Each statement will be payable within 30 days of its mailing date.

9. **DISCHARGE AND WITHDRAWAL.** Client may discharge Labadie, and Labadie may withdraw, at any time. When Labadie's services conclude, all unpaid charges will immediately become due and payable. After services conclude, Labadie will, upon Client's request, deliver Client's file, and property in Labadie's possession, whether or not Client has paid for all services.

10. **DOCUMENT RETENTION POLICY.** Client is entitled upon written request to any files in Labadie's possession relating to the legal services performed by Labadie for Client, excluding Labadie's internal accounting records and other documents not reasonably necessary to Client's representation, subject to Labadie's right to make copies of any files withdrawn by Client. Once this matter is concluded, Labadie will close the file, and Client will receive notice thereof.

All client-supplied materials and all attorney end product (referred to generally as "client material") are the property of Client. Attorney end product includes, for example, finalized contracts, pleadings, and trust documents.

After the close of a matter, Labadie will notify Client of any client materials that remain in Labadie's possession. Client will be invited to retrieve these client materials

within 45 days of notice, or Client may direct Labadie to forward the client materials to Client, at Client's expense.

11. MEDIATION/ARBITRATION; WAIVER OF JURY TRIAL. If a dispute arises out of or relating to any aspect of this Agreement between Client and Labadie, or the breach thereof, and if the dispute cannot be settled through negotiation, Labadie and Client agree to discuss in good faith the use of mediation before resorting to arbitration, litigation, or any other dispute resolution procedure. Nothing herein shall limit or otherwise affect Client's right under Sections 6200-6206 of the California Business and Professions Code to request arbitration of any fee dispute by an independent, impartial arbitrator or panel of arbitrators through a bar association program created solely to resolve fee disputes between lawyers and clients. However, should discussions, mediation or the non-binding arbitration provided through a local bar association program not resolve the dispute, the dispute shall be determined by binding arbitration before the American Arbitration Association under its then prevailing commercial arbitration rules, except that discovery may be taken in that arbitration pursuant to the California Code of Civil Procedure. The claims or controversies subject to this provision shall include, without limitation, any claim of professional negligence or malpractice. The arbitration shall be held in Napa County, California, unless we mutually select another venue, and judgment may be entered upon the arbitrator's award by any court having jurisdiction.

12. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

13. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. 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.

14. MODIFICATION BY SUBSEQUENT AGREEMENT. This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them, or an oral agreement only to the extent that the parties carry it out.

15. EFFECTIVE DATE. This Agreement will govern all legal services performed by Labadie on behalf of Clients commencing with the date Labadie first performed services. The date at the beginning of this Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Labadie the reasonable value of any services Labadie may have performed for Clients.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LIBOW FIRST PROVIDED SERVICES.

DATED: 12/12/17

CITY OF ST. HELENA

By: ML-1

Name: Mark Prestwich

Title: St. Helena City Manager

DATED: December 8, 2017 CRAIG LABADIE

By: Craig Labadie

Name: CRAIG LABADIE

Title:

Attachment "A"

As directed by the City's Director of Planning and Community Improvement ("Director"), Labadie shall represent, confer with and advise the Director, and other staff if necessary, in the investigation, and if the Director determines the investigation warrants, any administrative enforcement proceedings, of the code enforcement complaint ("Complaint") against the Beringer Winery and any related and/or affiliated entities or persons. Such representation shall include, without limitation:

- review of the written code enforcement complaint and, as determined by the Director, all related materials, records, documents, resolutions, and code provisions relating to the Complaint;
- meetings and telephone conferences with the Director and staff as determined by the Director;
- attendance at all hearings and meetings for the administrative enforcement of the Complaint;
- provision of legal advice to the City Council as to procedural and substantive matters raised in connection with the Complaint and related administrative code enforcement proceedings; and
- assistance, at the Director's direction, in drafting any memoranda and staff reports in connection with the Complaint and any administrative code enforcement proceedings.

In performing his duties under this Agreement, Labadie shall not communicate with the City Manager, City Council or City Attorney on any matters relating to his substantive advice and representation set forth above. This provision shall not limit Labadie from communicating with respect to non-substantive matters such as scheduling, processing payments under this Agreement or similar matters.