

Attachment B

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this 10th of May (“Effective Date”) by and between David Drown Associates Inc., a Minnesota corporation with a Minnesota registered office at 5029 Upton Avenue South Minneapolis, MN 55410 (“Consultant”), and the City of Maple Grove located at 12800 Arbor Lakes Parkway Maple Grove, MN 55369 (the “Client”):

RECITALS

- A. Consultant is engaged in the business of providing professional human resources consulting services.
- B. The Client desires to hire Consultant to perform the following work:
 - The Consultant will perform the following services:
 - a. Full Classification and Compensation Study

NOW, THEREFORE, in consideration of the terms and conditions expressed in this Agreement, the Client and Consultant agree as follows:

AGREEMENT

1. **Services to be Provided.** Consultant agrees to provide the Client with professional human resources consulting services as described in the attached **Exhibit A and B** (the “Services”). **Exhibits A and B** shall be incorporated into this Agreement by reference. All Services shall be provided in a manner consistent with the level of care and skill ordinarily exercised by professionals currently providing similar services.
2. **Time for Completion.** This Agreement shall remain in force and effect commencing from the effective date and continuing until the completion of the project, unless terminated by the Client or amended pursuant to the Agreement. The Services shall be completed according to the deadlines set forth in the attached **Exhibit B**, provided that the parties may extend the stated deadlines upon mutual written agreement.
3. **Consideration.** The consideration, which the Client shall pay to Consultant, shall not exceed \$23,500. The consideration shall be for both the Services performed by Consultant and the expenses incurred by Consultant in performing the Services. The Client shall make progress payments to Consultant as follows:
 - a. \$51,250 upon completion of the implementation stage, as described in Exhibit B

The Client shall pay Consultant within thirty (30) days after Consultant’s statements are submitted.

4. **Expense Reimbursement.** Consultant shall not be compensated separately for necessary incidental expenses. All expenses of Consultant shall be built into Consultant's fixed compensation rate, unless reimbursement is provided for an expense that received the prior written approval of the Client, which approval may be provided via electronic mail.

5. **Approvals.** Consultant shall secure the Client's written approval before making any expenditures, purchases, or commitments on the Client's behalf beyond those listed in the Services. The Client's approval may be provided via electronic mail.

6. **Termination.** Notwithstanding any other provision hereof to the contrary, this Agreement may be terminated as follows:

- a. The parties, by mutual written agreement, may terminate this Agreement at any time;
- b. Consultant may terminate this Agreement in the event of a breach of the Agreement by the Client upon providing thirty (30) days' written notice to the Client;
- c. The Client may terminate this Agreement at any time at its option, for any reason or no reason at all; or
- d. The Client may terminate this Agreement immediately upon Consultant's failure to have in force any insurance required by this Agreement.

In the event of a termination, the Client shall pay Consultant for Services performed to the date of termination and for all costs or other expenses incurred prior to the date of termination.

7. **Amendments.** No amendments may be made to this Agreement except in a writing signed by both parties.

8. **Remedies.** In the event of a termination of this Agreement by the Client because of a breach by Consultant, the Client may complete the Services either by itself or by contract with other persons or entities, or any combination thereof. These remedies provided to the Client for breach of this Agreement by Consultant shall not be exclusive. The Client shall be entitled to exercise any one or more other legal or equitable remedies available because of Consultant's breach.

9. **Records/Inspection.** Pursuant to Minnesota Statutes § 16C.05, subd. 5, Consultant agrees that the books, records, documents, and accounting procedures and practices of Consultant, that are relevant to the contract or transaction, are subject to examination by the Client and the state auditor or legislative auditor for a minimum of six years. Consultant shall maintain such records for a minimum of six years after final payment. The parties agree that this obligation will survive the completion or termination of this Agreement.

10. **Indemnification.** To the fullest extent permitted by law, the Consultant agrees to defend, indemnify, and hold-harmless the Client and its employees, officials, and agents from and against all claims, actions, damages, losses, and expenses, including reasonable attorney fees, arising out of the Consultant's negligence or the Consultant's performance or failure to perform its obligations under this Agreement. The Consultant's indemnification obligation shall apply to the Consultant's subcontractors,

or anyone directly or indirectly employed or hired by the Consultant, or anyone for whose acts the Consultant may be liable. The Consultant agrees this indemnity obligation shall survive the completion or termination of this Agreement.

11. **Insurance.** Consultant shall maintain reasonable insurance coverage throughout this Agreement. Consultant agrees that before any work related to the approved project can be performed, Consultant shall maintain at a minimum: Worker's Compensation Insurance as required by Minnesota Statutes, section 176.181; Business Auto Liability in an amount not less than \$1,000,000.00 per occurrence; Professional Liability in an amount not less than \$1,000,000.00 per occurrence; and Commercial General Liability in an amount of not less than \$2,000,000.00 per occurrence for bodily injury or death arising out of each occurrence, and \$2,000,000.00 per occurrence for property damage. To meet the Commercial General Liability and Business Auto Liability requirements, Consultant may use a combination of Excess and Umbrella coverage. Consultant shall provide the Client with a current certificate of insurance including the following language: "The City of Maple Grove is named as an additional insured with respect to the commercial general liability, business automobile liability and umbrella or excess liability, as required by the contract. The umbrella or excess liability policy follows form on all underlying coverages." Such certificate of liability insurance shall list the Client as an additional insured and contain a statement that such policies of insurance shall not be canceled or amended unless 30 days written notice is provided to the Client, or 10 days written notice in the case of non-payment.

12. **Subcontracting.** Neither the Client nor Consultant shall assign, or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in the Agreement without the written consent of the other except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates, and subcontractors, as it may deem appropriate to assist it in the performance of the Services required by this Agreement. Any instrument in violation of this provision is null and void.

13. **Assignment.** Neither the Client nor Consultant shall assign this Agreement or any rights under or interest in this Agreement, in whole or in part, without the other party's prior written consent. Any assignment in violation of this provision is null and void.

14. **Independent Contractor.** Consultant is an independent contractor. Consultant's duties shall be performed with the understanding that Consultant has special expertise as to the services which Consultant is to perform and is customarily engaged in the independent performance of the same or similar services for others. Consultant shall provide or contract for all required equipment and personnel. Consultant shall control the manner in which the services are performed; however, the nature of the Services and the results to be achieved shall be specified by the Client. The parties agree that this is not a joint venture and the parties are not co-partners. Consultant is not an employee or agent of the Client and has no authority to make any binding commitments or obligations on behalf of the Client except to the extent expressly provided in this Agreement. All services provided by

Consultant pursuant to this Agreement shall be provided by Consultant as an independent contractor and not as an employee of the Client for any purpose, including but not limited to: income tax withholding, workers' compensation, unemployment compensation, FICA taxes, liability for torts and eligibility for employee benefits.

15. **Compliance with Laws.** Consultant shall exercise due professional care to comply with applicable federal, state and local laws, rules, ordinances and regulations in effect as of the date Consultant agrees to provide the Services. Consultant's guests, invitees, members, officers, officials, agents, employees, volunteers, representatives, and subcontractors shall abide by the Client's policies prohibiting sexual harassment and tobacco, drug, and alcohol use as defined on the Client's Tobacco, Drug, and Alcohol Policy, as well as all other reasonable work rules, safety rules, or policies, and procedures regulating the conduct of persons on Client property, at all times while performing duties pursuant to this Agreement. Consultant agrees and understands that a violation of any of these policies, procedures, or rules constitutes a breach of the Agreement and sufficient grounds for immediate termination of the Agreement by the Client.

16. **Entire Agreement.** This Agreement, any attached exhibits, and any addenda signed by the parties shall constitute the entire agreement between the Client and Consultant and supersedes any other written or oral agreements between the Client and Consultant. This Agreement may only be modified in a writing signed by the Client and Consultant. If there is any conflict between the terms of this Agreement and the referenced or attached items, the terms of this Agreement shall prevail. If there is any conflict between Exhibits A and B, the terms of Exhibit B shall prevail.

17. **Third Party Rights.** The parties to this Agreement do not intend to confer any rights under this Agreement on any third party.

18. **Choice of Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Hennepin County, Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

19. **Conflict of Interest.** Consultant shall use reasonable care to avoid conflicts of interest and appearances of impropriety in representation of the Client. In the event of a conflict of interest, Consultant shall advise the Client and, either secure a waiver of the conflict, or advise the Client that it will be unable to provide the requested Services.

20. **Work Products and Ownership of Documents.** All records, information, materials, and work product, including, but not limited to the completed reports, data collected from or created by the Client or the Client's employees or agents, raw market data, survey data, market analysis data, and any other data, work product, or reports prepared or developed in connection with the provision of the Services pursuant to this Agreement shall become the property of the Client, but Consultant may retain reproductions of such records, information, materials and work product. Regardless of when such information was provided or created, Consultant agrees that it will not disclose for any purpose

any information Consultant has obtained arising out of or related to this Agreement, except as authorized by the Client or as required by law. Notwithstanding the foregoing, nothing in this Agreement shall grant or transfer any rights, title or interests in any intellectual property created by Consultant prior to the effective date of this Agreement; however, to the extent Consultant generates reports or recommendations for the Client using proprietary processes or formulas, Consultant shall provide the Client (1) factual support for such reports and recommendations; (2) a detailed explanation of the method used and data relied upon to arrive at the recommendation; and (3) a detailed explanation of the rationale behind the methodology used. All of the obligations in this paragraph shall survive the completion or termination of this Agreement.

21. **Agreement Not Exclusive.** The Client retains the right to hire other professional human resources consultant service providers for this or other matters, in the Client's sole discretion.

22. **No Discrimination.** Consultant agrees not to discriminate in providing products and services under this Agreement on the basis of race, color, sex, creed, national origin, disability, age, sexual orientation, status with regard to public assistance, or religion. Violation of any part of this provision may lead to immediate termination of this Agreement. Consultant agrees to comply with Americans with Disabilities Act as amended ("ADA"), section 504 of the Rehabilitation Act of 1973, and the Minnesota Human Rights Act, Minnesota Statutes, Chapter 363A. Consultant agrees to hold harmless and indemnify the Client from costs, including but not limited to damages, attorneys' fees and staff time, in any action or proceeding brought alleging a violation of these laws by Consultant or its guests, invitees, members, officers, officials, agents, employees, volunteers, representatives and subcontractors. Upon request, Consultant shall provide accommodation to allow individuals with disabilities to participate in all Services under this Agreement. Consultant agrees to utilize its own auxiliary aid or service in order to comply with ADA requirements for effective communication with individuals with disabilities.

23. **Authorized Agents.** The Client's authorized agent for purposes of administration of this contract is Heidi Nelson, the City Administrator of the Client, or **designee**. Consultant's authorized agent for purposes of administration of this contract is Mark Goldberg, or designee who shall perform or supervise the performance of all Services.

24. **Notices.** Any notices permitted or required by this Agreement shall be deemed given when personally delivered or upon deposit in the United States mail, postage fully prepaid, certified, return receipt requested, addressed to:

CONSULTANT
David Drown Associates, Inc.
5029 Upton Avenue South
Minneapolis, MN 55410

THE CLIENT
City of Maple Grove
12800 Arbor Lakes Parkway
Maple Grove, MN 55369

or such other contact information as either party may provide to the other by notice given in accordance with this provision.

26. **Waiver.** No waiver of any provision or of any breach of this Agreement shall constitute a waiver of any other provisions or any other or further breach, and no such waiver shall be effective unless made in writing and signed by an authorized representative of the party to be charged with such a waiver.

27. **Headings.** The headings contained in this Agreement have been inserted for convenience of reference only and shall in no way define, limit or affect the scope and intent of this Agreement.

28. **Publicity.** At the Client's request, the Client and Consultant shall develop language to use when discussing the Services. Consultant agrees that Consultant shall not release any publicity regarding the Services or the subject matter of this Agreement without prior consent from the Client. Consultant shall not use the Client's logo or state that the Client endorses its services without the Client's advanced written approval.

29. **Severability.** In the event that any provision of this Agreement shall be illegal or otherwise unenforceable, such provision shall be severed, and the balance of the Agreement shall continue in full force and effect.

30. **Signatory.** Each person executing this Agreement ("Signatory") represents and warrants that they are duly authorized to sign on behalf of their respective organization. In the event Consultant did not authorize the Signatory to sign on its behalf, the Signatory agrees to assume responsibility for the duties and liability of Consultant, described in this Agreement, personally.

31. **Counterparts and Electronic Communication.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. This Agreement may be transmitted by electronic mail in portable document format ("pdf") and signatures appearing on electronic mail instruments shall be treated as original signatures.

32. **Recitals.** The Client and Consultant agree that the Recitals are true and correct and are fully incorporated into this Agreement.

IN WITNESS WHEREOF, the Client and Consultant have caused this Professional Services Agreement to be executed by their duly authorized representatives in duplicate on the respective dates indicated below.

DDA HUMAN RESOURCES, INC:

Mark Goldberg

Name:

Title : _____Principal Consultant_____

Date: _____5/10/22_____

CITY OF MAPLE GROVE_____:

By: _____

Date:

Rewrite Job Descriptions (For 25-30 jobs)

- **Review of Current System:** DDA HR will review current job descriptions and provide any comments on any recommended changes.
- **Position Analysis Questionnaire (PAQ)-** DDA will work with you to design a PAQ that reflects your needs. This document is critical to the process as DDA will use it to create the job descriptions and to evaluate all positions.
- We will distribute a position analysis questionnaire (PAQ) to all employees and their supervisors, asking them to outline all the important requirements for and duties of the job.
- Based upon the information on the PAQs, the job description for each position will be updated or rewritten in standardized format developed with and approved by the Project Team.
- Employees and supervisors will be asked to review the new job descriptions, and we will guide a controlled process for employees to appeal the content of descriptions before they are finalized.
- Additional job descriptions may be added to provide for internal promotional opportunities, or jobs may be consolidated to make administration easier.
- Final job descriptions will be submitted for final approval by department heads, the Project Team and governing board.
- **Job Description Appeal Process:** Once jobs descriptions are completed, employees and supervisors will review. If changes are needed, they will complete a Job Description Appeal form.
- DDA will review appeals and work with Project Team and employees to create consistent results.

Job Evaluation

Job classification is a series of decisions about how a position is valued within an organization. Each factor requires a decision as to how the job under consideration will be rated using levels that are increasingly complex and of great impact, frequency, or quantity. We look at the job rather than the employee. Jobs are evaluated as they exist, or as the management plan says that they should exist, to meet the needs of the organization.

DDAHR is unique in our willingness and ability to utilize a variety of job evaluation systems used by the various compensation consultants to classify and score your jobs. If you are committed and satisfied with the system you have, we will work with you using your system.

- **We will assign each position a numeric score, which reflects the relative importance of the job to the organization.**
- **We will work with the Project Team to organize jobs with similar point totals into a series of Grades.**
- **We will provide staff with materials to communicate results to employees.**
 - **Our Job Evaluation Tool (JET) identifies and examines the following aspects of all job positions**
 - **Experience and Education needed for the position. This includes licenses and certifications.**
 - **Decision Making and its impact on the job, division, department, and organization.**
 - **Problem Solving and its impact on the organization and budget. We also include 14 aspects of supervision.**
 - **Mental and Physical Effort of the Job**
 - **Relationships and Communications**
 - **Conditions and Hazards of the job**
- **Our Decision Authority Ranking (DAR) is a decision-based model that looks at a job from a different perspective:**
 - **This system states that every job, from a mayor to a custodian, needs to make decisions in his/her role and those decisions can be quantified**
 - **DAR then examines the complexity of the duties performed compared to other substantially similar positions.**
 - **Aspects of the job such as working conditions or certifications can increase the complexity of the evaluation.**
- **In the ongoing maintenance plan, we will review 1/3 of the jobs each year over the 3-year period.**
- **DDA HR will partner with the City to design a structure that aligns internally. However, we strongly recommend an appeal process should an employee feel that their position was assigned an incorrect grade. We will provide forms and a process for the City to use for these appeals with all appeal decisions reviewed by Council.**
- **DDA HR will conduct analysis of existing classifications and provide recommendations on any changes to current classification plan, to include recommendation of standard classification and titling conventions.**
- **DDA HR will review exempt and non-exempt designations to ensure they are appropriate for classifications and make recommended changes,**

where appropriate.

Market Analysis

- **MN Data:** DDA HR, in collaboration with the Project Team, will (1) confirm the labor market, (2) identify comparable organizations and gather data from various sources including the League of MN Cities, the Association of MN Counties and our roster of data from previous clients. We will work with the Project Team to select a group of benchmarks who you compete for talent, organizations that are similar to your services, and organizations that have similar factors including population, tax capacity, budget, number of employees and others as directed by the Project Team.
- We will collect detailed wage information on all jobs that you have in common with these communities – not just a selected list. We plan to utilize the wage survey data that is annually collected in the LMC/AMC wage data base, supplemented by other sources as needed to provide a meaningful set of comparison data. We will organize the results of this analysis using a series of graphs and charts that are designed to clearly show how your current pay ranges and wages compare to those of benchmark entities. This is the information needed to develop of a pay structure that balances both internal and external equity and assures compliance with State Pay Equity Compensation Standards.
- For the benefits information, we will either contact the organizations directly or go through publicly available data to gather information on such areas as holidays, annual vacation leave, sick leave, retirement, medical insurance, life insurance, and deferred compensation,
- We will work with you to design and administer a targeted benefit review to address specific benefit areas of interest/concern to you and your employees. Often a survey of employee attitudes and interests can be helpful in designing a benefit package – benefits need not necessarily be expensive to be effective and valuable to your employees.

Pay Grid Calibration

- **Data Analysis:** DDA HR will perform the following activities on all data: (1) perform a competitive analysis, (2) conduct a diagnostic review of the current salary structures to identify opportunities for simplification and reduction in pay compression and (3) recommend updates to the existing pay structures or develop pay structures.
- We will provide recommendations and options for either an adjustment of your

existing compensation plan, or a replacement plan that produces a better match with your compensation philosophy.

- We will fine tune the plan to establish fair and equitable compensation relationships within and outside the organization that are workable within a union and non-union environment.
 - We will provide system testing to assure that any option proposed will comply with the State's pay equity standards and Federal requirements.
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Predict Payroll Cost Implementation

- We will outline transition options and next steps/costs.
 - We will evaluate the cost/budget implications of up to two (2) alternative implementation strategies that consider your current budget constraints. The objective of this work is to provide you with meaningful, employee-by-employee level information that is useful for your detailed budgeting use.
 - We will prepare final documents for the plan, including presentation, policy, guidelines, and procedures for administration. Any written and computerized data and supporting information will be submitted as appropriate or requested.
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Final Report

- **Draft Report and Communications Plan:** DDA HR develops draft report and communications plan and discusses report elements with the Project Team
 - **Quality Assurance:** DDA HR conducts quality assurance reviews and provides the draft report to the City for review and feedback.
 - **Final Report:** DDA HR discusses consolidated feedback from the City and finalizes the report and communications plan.
 - **Guidelines and Policies:** DDA HR provides the Project Team with compensation administrative guidelines and policies (Including future requests for classification additions, deletions, and changes to a position) aligned with the updated/new system for review.
 - **Final Presentation:** DDA HR presents study findings and recommendations to officials.
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**EXHIBIT B
TIMELINE OF DELIVERABLES**

Introduction and Project Orientation; collect organizational information (roster, org charts, policies, etc.)	5/23/2022
Discuss compensation philosophy	5/23/2022
Creation of communication strategy	5/23/2022
Develop list of comparable organizations	5/23/2022
Finalize list of comparable organizations	6/6/2022
Kickoff Presentation to Staff	6/13/2022
Collection and verification of data	6/20/2022
Competitive analysis performed	6/20/2022
Initial Review of market data	6/20/2022
Finalization of market data	7/4/2022
Begin discussion of existing job evaluation method and alternative options	5/23/2022
In depth review of options for job evaluation methods	6/6/2022
Selection of appropriate job evaluation method for the City	6/20/2022
DDA evaluates jobs using structured job evaluation tool	6/27/2022
Finalization of job evaluation with review from organization	7/11/2022
Development of new structure of grades and ranges	7/25/2022
Transition options and next steps/costs outlined	8/1/2022
Finalization of new structure	8/29/2022
System testing for equity and fairness	9/5/2022
Presentation to staff and Council	9/19/2022
System Adoption/Presentation to Full Board	9/26/2022