



State of New Hampshire

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Banking Department

63 Regional Drive, Suite 200
 Concord, New Hampshire 03301
 Telephone: (603) 271-3561
 FAX: (603) 271-1090 or (603) 271-0750

June 2, 2021

His Excellency, Governor Christopher T. Sununu
 And the Honorable Council
 State House
 Concord, NH 03301

REQUESTED ACTION

The New Hampshire Banking Department (the "NHBD") respectfully requests authorization to enter into a Memorandum of Understanding ("MOU") with the New Hampshire Department of Justice (the "DOJ") for \$280,053 to fund an existing attorney position budgeted in the Civil Bureau at the DOJ based on the NHBD's budgeted appropriations. The MOU is effective upon Governor and Council approval for the period July 1, 2021 through June 30, 2023. NHBD is a self-funded agency (100% Other Funds).

Funds are anticipated to be available in account 02-72-72-720510-2043, NHBD, Consumer Credit Division for Fiscal Year 2022 and Fiscal Year 2023, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust encumbrances between fiscal years within the price limitation through the Budget Office, if needed and justified, as follows:

| <u>Account #</u> | <u>Description</u> | <u>FY 2022 Amount</u> | <u>FY 2023 Amount</u> |
|------------------|-----------------------------|-----------------------|-----------------------|
| 049-584920 | Transfers to other agencies | \$137,213 | \$142,840 |

EXPLANATION

Currently, the NHBD and DOJ have a Memorandum of Understanding in place which provides that NHBD will fund an attorney position in the Consumer Protection and Antitrust Bureau at the DOJ. That Memorandum of Understanding has been in effect since approximately 2009. The attorney filling the position in the Consumer Protection and Antitrust Bureau retired in the winter of 2021. In reviewing the volume and type of work assignments, the two agencies agreed that NHBD should switch to funding a position in the Civil Bureau at the DOJ. In the last few years, the NHBD has been utilizing the services of an attorney in the Civil Bureau on a regular basis for client counseling and enforcement support. Therefore, switching the funding to a position in the Civil Bureau is timely and aligns best with workload.

Respectfully submitted,

Gerald H. Little

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Gerald H. Little
 Bank Commissioner

Memorandum of Understanding

A. Purpose

This Memorandum of Understanding ("MOU") between the New Hampshire Department of Justice (the "DOJ") and the New Hampshire Banking Department (the "Department") sets forth the terms and conditions under which, commencing July 1, 2021, the Department will fund an attorney position in the Civil Bureau at DOJ based on the Department's budgeted appropriations. This MOU does not affect the DOJ's continuing obligation to represent and to provide legal services to the Department as a state agency consistent with RSA 7:8.

B. Hiring and Appointment

The Department and the DOJ will jointly agree upon the attorney to provide services to the Department under this MOU. The DOJ shall consult with the Department prior to the DOJ providing an employment offer if the applicant will fill the attorney position that is the subject of this MOU. In the event of any vacancy in the position that is the subject of this MOU, the DOJ will immediately take steps to recommend to the Department another attorney to provide services to the Department on either a permanent or temporary basis until the DOJ can hire another candidate subject to the terms of this MOU.

C. Work Assignment

The attorney shall be available to provide legal advice and support the Department. ~~However,~~ to the extent that the attorney has availability, he or she may work on other projects as assigned and directed by the DOJ. The attorney's work product related to the Department will be jointly reviewed by the Department and the DOJ. The attorney's ongoing work related to the Department will be supervised by the DOJ's Chief of the Civil Bureau and the Department's General Counsel.

D. Payment for Services

Payment of salary and benefits for the attorney shall be funded based on the budgeted appropriation to the DOJ by a quarterly transfer of funds from the Department to the DOJ. Office space and administrative support shall be provided by the DOJ.

Reasonable expenses for travel, meals, and lodging incurred by the attorney while on assignment for the Department will be paid by the Department.

The Department also agrees to pay for training directly related to issues of importance to the Department attended by the attorney, provided this training is at the request of, or with the prior approval of, the Department.

The attorney shall track time worked on projects assigned by the Department, including details about specific work performed in connection with each assignment. Records of time worked on behalf of the Department shall be provided to the Department upon request.

E. Evaluation

The DOJ and the Department will coordinate their evaluation of the attorney. The legal services provided by the attorney must be satisfactory to the Department and the DOJ. In the event that the Department determines that the services are not provided in a satisfactory manner, the Department shall report its concerns to the DOJ and the DOJ shall take appropriate action to address the Department's concerns.

F. Modification and Duration


Neither party may further modify or amend the terms of this MOU except by a written agreement signed by both parties. This MOU is effective upon Governor and Council approval and shall continue until terminated, subject to appropriation of sufficient funds by the General Court. This MOU may be terminated by either party with 90 days' written notice.

Gerald H. Little

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Gerald H. Little
Commissioner
New Hampshire Banking Department

Date



John M. Formella
Attorney General
New Hampshire Department of Justice

5/15/21

Date