

**Employee Secondment Agreement between the Office of the New Mexico Attorney
General and the
State Energy & Environmental Impact Center at NYU School of Law**

This AGREEMENT ("Agreement") is entered into as of March 9, 2018 by and between NEW YORK UNIVERSITY ("NYU"), a New York not-for-profit education corporation, on behalf of the NYU School of Law's State Energy and Environmental Impact Center (the "State Impact Center"), and the Office of the New Mexico Attorney General.

WHEREAS, The State Impact Center seeks to provide a supplemental, in-house resource to state attorneys general and their senior staffs on clean energy, climate change and environmental matters of regional and national importance; and

WHEREAS, As part of its activities, the State Impact Center conducts a legal fellowship program ("Legal Fellowship Program"), which seeks to provide attorneys to act as fellows in the offices of certain state attorneys general ("Legal Fellows"); and

WHEREAS, The Office of the New Mexico Attorney General has been selected by the State Impact Center to participate in Legal Fellowship Program; and

WHEREAS, The Office of the New Mexico Attorney General has the authority consistent with applicable law and regulations to accept a Legal Fellow whose salary and benefits are provided by an outside funding source.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the State Impact Center and Office of the New Mexico Attorney General agree to the following:

A. Terms of Service for the Legal Fellowship Program at the Office of the New Mexico Attorney General:

1. The State Impact Center will provide the services of two attorneys to the Office of the New Mexico Attorney General to act as a Legal Fellows.
2. The specific start and end dates for services will be determined with the mutual agreement between the Legal Fellow, the Office of the New Mexico Attorney General, and the State Impact Center, provided, however, that the term of the fellowship will be for one year with the expectation that a second one-year term will follow after mutual agreement among the parties. (the "Fellowship Period").
3. During the Fellowship Period, the Legal Fellow will be under the direction and control of, and owe a duty of loyalty to, the Office of the New Mexico Attorney General, and will be subject to the Office of the New Mexico Attorney General's policies regarding employee conduct, including the policies regarding time and attendance, outside activities, conflicts of interests, and confidentiality. The Legal

Fellow will receive instruction and materials regarding these requirements from the Office of the New Mexico Attorney General at the commencement of his or her fellowship.

4. During the Fellowship Period, salary and benefits will be provided to the Legal Fellow by the NYU School of Law.
5. The Office of the New Mexico Attorney General may terminate the services of the Legal Fellow upon seven (7) days' written notice to the State Impact Center, provided that the Office of the New Mexico Attorney General will attempt to resolve any performance or other issues involving the Legal Fellow with the Legal Fellow and the State Impact Center before terminating the services of the Legal Fellow. The State Impact Center may terminate this Agreement for any reason upon seven (7) days' written notice to the Office of the New Mexico Attorney General.
6. The Office of the New Mexico Attorney General will indemnify, defend and hold NYU, its officers, directors, agents, and employees harmless from any claims, causes of action, or judgments arising out of (1) the negligent or intentional acts or omissions of the Office of the New Mexico Attorney General, its officers, agents or employees, and the Legal Fellow during the Fellowship Period and while the Legal Fellow is subject to the direction and control of the Office of the New Mexico Attorney General under this Agreement or (2) the Office of the New Mexico Attorney General's breach of this Agreement. The State Impact Center will indemnify, defend and hold the Office of the New Mexico Attorney General harmless from any claims, causes of action, or judgments arising out of the State Impact Center's breach of this Agreement.

B. Nature of the Fellowship Position at the Office of the New Mexico Attorney General

1. During the Fellowship Period, the Office of the New Mexico Attorney General will provide the Legal Fellow the title of commissioned Special Assistant Attorney General.
2. The Office of the New Mexico Attorney General will assign the Legal Fellow substantive work and responsibility matching that of other attorneys in the agency with similar experience and background. The Legal Fellow's substantive work will be primarily on matters relating to clean energy, climate change, and environmental matters of regional and national importance.
3. The Office of the New Mexico Attorney General will aim to include the Legal Fellow in the range of its work where possible, such as strategy discussions and court appearances.
4. The Office of the New Mexico Attorney General will afford the Legal Fellow the opportunity to partake in the extensive legal education, including CLEs, offered by

the Office of the New Mexico Attorney General to its attorneys.

5. During the Fellowship Period, the Legal Fellow will be an employee of NYU.

C. Prohibited Activity

1. The Office of the New Mexico Attorney General may not request or permit the Legal Fellow to engage in any activities that would constitute any of the following:
 - a. to carry on propaganda, or otherwise attempt to influence any specific legislation through (i) an attempt to affect the opinion of the general public or any segment thereof or (ii) communication with any member or employee of a legislative body, or with any other governmental official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a governmental body or to a committee or other subdivision thereof in response to a written request by such body, committee or subdivision), other than through making available the results of non-partisan analysis, study or research;
 - b. To engage in any other activity that may constitute lobbying under federal, state, or local laws or regulations;
 - c. to influence the outcome of any specific public election; or
 - d. to support the election or defeat of a candidate for public office, finance electioneering communications, register prospective voters or encourage the general public or any segment thereof to vote in a specific election.
2. The Office of the New Mexico Attorney General may not request or permit the Legal Fellow to participate in any matter that involves New York University or any of its affiliates; and, to the extent that the Office of the New Mexico Attorney General participates in a matter that involves New York University or any of its affiliates, the Office of the New Mexico Attorney General will create an ethical wall between the Legal Fellow and the Office of the New Mexico Attorney General with regard to the matter to ensure that the Legal Fellow has access to no information relating to the matter.
3. The Office of the New Mexico Attorney General has determined that NYU's payment of salary and benefits to the Legal Fellow and the provision of services by the Legal Fellow to the Office of the New Mexico Attorney General do not constitute an impermissible gift under applicable law or regulation. No part of this agreement is intended to induce Office of the New Mexico Attorney General to undertake or refrain from undertaking any action within the purview of Office of the New Mexico Attorney General. Office of the New Mexico Attorney General retains sole discretion to determine whether to undertake any action, including any actions relating to clean energy, climate change, and environmental matters of regional and national

importance or involving New York University or any of its affiliates.

D. Communications and Reporting

1. The State Impact Center will not have a proprietary interest in the work product generated by the Legal Fellow during the fellowship. The State Impact Center will not be authorized to obtain confidential work product from the Legal Fellow unless the Legal Fellow has obtained prior authorization from the Legal Fellow's supervisor at the Office of the New Mexico Attorney General.
2. Notwithstanding the above, the Office of the New Mexico Attorney General will provide periodic reports to the State Impact Center regarding the work of the Legal Fellow. These reports will include a narrative summary, subject to confidentiality restrictions, of the work of the legal fellow and the contribution that the legal fellow has made to the clean energy, climate change, and environmental initiatives of the Office of the New Mexico Attorney General. These reports will be provided pursuant to the following schedule:
 - a. Activity for the period from the beginning of the Fellowship Period until April 30, 2018 will be provided no later than May 1, 2018.
 - b. Activity for the period from May 1, 2018 through July 31, 2018 will be provided no later than August 1, 2018.
 - c. Activity for the period from August 1, 2018 through January 31, 2019 will be provided no later than February 1, 2019.
 - d. A final report for activity from the beginning of the Fellowship Period until the end of the Fellowship Period will be provided within five (5) business days of the end of the Fellowship Period.
3. The Office of the New Mexico Attorney General acknowledges that New York University may be required to make filings or disclosures that reference the Office of the New Mexico Attorney General, the Legal Fellow, or the Legal Fellowship Program, and that the Office of the New Mexico Attorney General is not required to review or approve any such filings except where New York University requests such review or approval.
4. In addition to the formal reporting requirements, the Office of the New Mexico Attorney General and the Legal Fellow will collaborate with the State Impact Center on clean energy, climate change, and environmental matters in which the Legal Fellow is engaged, including coordination on related public announcements.
5. Notifications to the Office of the New Mexico Attorney General relating to this agreement should be directed to Cholla Khoury, Consumer & Environmental Protection Director.

6. Notifications to the State Impact Center relating to this agreement should be directed to Elizabeth Klein, Deputy Director, State Energy & Environmental Impact Center, NYU School of Law, 1015 15th Street NW, Ste. 600, Washington, DC 20005, 202-641-8364, Elizabeth.klein@nyu.edu.

E. Miscellaneous

1. This Agreement constitutes the complete understanding of the parties and supersedes any other agreements between the parties. No amendment to this Agreement will be valid and binding unless reduced to writing and signed by the parties.
2. This agreement shall not be assigned by either party without the consent of the other party.
3. This Agreement may be executed in multiple counterparts, each of which will be fully effective as an original and all of which together will constitute the same document. The parties may exchange of copies of this Agreement and signature pages in electronic form.

Dated: March 9, 2018

New York University

By: 

David J. Hayes
Executive Director
State Energy & Environmental Impact Center
NYU School of Law
1015 15th Street NW Ste 600
Washington, DC 20005
david.hayes@nyu.edu

Dated: March 9, 2018

New Mexico - Office of the Attorney General

By: 

Name: Cholla Khoury
Title: Director, Consumer & Environmental Protection
Division

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

TANIA MAESTAS
Chief Deputy of Civil Affairs

SHARON PINO
Chief Deputy of Criminal Affairs

November 20, 2018

Robert F. Lundin, Esq.
6808 Brandywine Loop NE
Albuquerque, NM 87111

Re: Legal Fellow Special Commission

Dear Mr. Lundin:

Effective immediately, Attorney General Hector H. Balderas commissions you the authority to represent the Consumer and Environmental Protection Division ("CEPD") of the New Mexico Attorney General's Office in affiliation with your employment as a Research Scholar in the State Energy & Environmental Impact Center at New York University. Your responsibilities may include, but are not limited to, the following areas:

1. Conducting in-depth analysis and preparation of legal memoranda; interpreting laws and regulations; providing legal advice; and assisting in preparing legal notices, briefs, comment letters, and other associated litigation and regulatory documents.
2. Coordinate with relevant parties on legal, regulatory, and communications efforts regarding clean and affordable energy and other related environmental issues.
3. Advance clean energy and environmental legal and policy positions and defend environmental values.

This commission should be used only in connection with the aforementioned representations and for no other purpose and may be revoked at any time for failure to comply with the conditions described in this letter or as deemed appropriate by the Attorney General in his sole discretion. This commission shall automatically terminate on November 5, 2020, or the expiration of Attorney

Robert F. Lundin, Esq.
November 20, 2018
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General Balderas' term of office. Please refer to the enclosed Litigation Protocol specifying the Attorney General-agency relationship. Your commission is expressly conditioned upon adherence to the requirements of the protocol.

You will be expected to provide periodic reports of your activities and progress on our behalf. Also, please advise me and Cholla Khoury prior to initiating or responding to any unusual or significant matters that may arise. Upon notification, we will determine whether it is necessary to impart any authority beyond that granted to you by this commission.

Thank you for your cooperation and efforts to protect the best interests of New Mexico and its residents.

Sincerely,



Tania Maestas
Chief Deputy Attorney General for Civil Affairs

Enclosure: Litigation Protocol

cc: Cholla Khoury, Director
Consumer and Environmental Protection Division
New Mexico Attorney General's Office

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

TANIA MAESTAS
Chief Deputy of Civil Affairs

SHARON PINO
Chief Deputy of Criminal Affairs

November 20, 2018

Anne Minard, Esq.
1311 Rufina Lane, Apt. 4
Santa Fe, NM 87507

Re: Legal Fellow Special Commission

Dear Ms. Minard:

Effective immediately, Attorney General Hector H. Balderas commissions you the authority to represent the Consumer and Environmental Protection Division ("CEPD") of the New Mexico Attorney General's Office in affiliation with your employment as a Research Scholar in the State Energy & Environmental Impact Center at New York University. Your responsibilities may include, but are not limited to, the following areas:

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Anne Minard, Esq.
November 20, 2018
Page 2

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Sincerely,



Tania Maestas
Chief Deputy Attorney General for Civil Affairs

Enclosure: Litigation Protocol

cc: Cholla Khoury, Director
Consumer and Environmental Protection Division
New Mexico Attorney General's Office

**STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL**



**HECTOR H. BALDERAS
ATTORNEY GENERAL**

**ATTORNEY GENERAL'S OFFICE
PROTOCOL REGARDING ALL LITIGATION
INVOLVING STATE AGENCIES**

Pursuant to the authority of the Attorney General as the chief legal officer of the state to represent the New Mexico Office of the Attorney General in litigation, it is essential for all state agencies which employ or contract for their own legal counsel or counsel contracted to represent their agency, to submit to the Attorney General for review and coordination all appellate, district court, or any other significant litigation in which they become involved. To accomplish this with the minimum disruption to the agencies or contract counsel, the following procedures will be implemented in conjunction with our office's ongoing commissioning process:

- 1) Each state agency General Counsel or contract counsel will timely inform the Attorney General of all litigation in which the agency, its officers or contracted attorneys are or intend to become involved (in any capacity, whether as the initiator or respondent to the litigation or as *amicus curiae*):
 - a) in the state district court, state appellate court for agencies whose administrative decisions go directly to appellate courts (e.g., the Workers Compensation Administration, Taxation and Revenue Department) and federal bankruptcy court if the case:
 - i) has a significant impact on the state (including, but not limited to, representing a new or changed policy or legal position, having statewide applicability, or affecting more than one state agency),
 - ii) involves a challenge to the constitutionality of a state statute, or
 - iii) involves a claim of more than \$100,000 that has not been referred to and accepted by Risk Management;
 - b) in any federal district court, excluding bankruptcy court; and
 - c) in any state or federal appellate court; and

- d) in any other court case that presents potentially significant legal issues affecting the State's interests. In the circumstances described above, the Director of the Litigation Division of the Attorney General's Office must be provided with a copy of the relevant pleading or draft pleading and informed in writing of the nature of the case, the major legal issues, any constitutional issues, any issues of statutory interpretation and any major public policy issues:
- a) at least 10 working days prior to the filing of the complaint, notice of appeal, petition for certiorari or other initiating pleading when the state intends to become the plaintiff, appellant, petitioner or proposed *amicus*,
- b) no more than five working days after receipt by the agency of a complaint, appellate docketing statement, petition for certiorari or other initial pleading when the state is the defendant, appellee, respondent or proposed *amicus*, and
- c) immediately in the case of an emergency necessitating action in less than the time periods set forth above.

Except as provided below, the Attorney General must approve the state's instigation and defense of all such litigation and the state agency's or contract attorney's role in the litigation. The General Counsel or contract counsel will be responsible for obtaining timely Attorney General approval. If the Attorney General's Office does not respond to the agency's or contract counsel's request for approval within 10 working days of receipt of the request, the agency's legal counsel or contract counsel shall have the authority to undertake and will be responsible for all aspects of the litigation until the extent of involvement of the Attorney General's Office has been decided.

The Attorney General's Office, in consultation with the agency General Counsel or contract counsel, will determine on a case-by-case basis the level of the Attorney General's involvement in the litigation. If the Attorney General's Office will handle the litigation, on behalf of a state agency, the General Counsel will designate a liaison counsel at the agency for the case and research an agreement with the Attorney General's Office as to which agency will be responsible for the various costs of the litigation. The Attorney General's Office will work closely with the liaison counsel to limit the costs of litigation and consult on major litigation decisions. If the agency's counsel will handle the litigation, the agency's General Counsel will inform the Attorney General of the outcome of the litigation and comply with the procedure set forth in paragraph 2 of this Protocol at each stage of appellate review.

- 3) Settlement of any case described in paragraph 1 of this Protocol must be approved by the Attorney General. To facilitate this, the agency General Counsel or contract counsel will ensure that the Attorney General's Office is kept informed in a timely manner of the substance and progress of settlement discussions and the Attorney General's Office will make every reasonable effort to respond within five working days to any settlement authority requested by the agency. In evaluating a settlement proposal, the Attorney General's Office will consult with the agency's liaison counsel about the settlement.