

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH DICAUDO, PITCHFORD AND YODER LLC FOR CITY SOLICITOR SERVICES, CONCURRING WITH THE APPOINTMENT OF MARSHAL M. PITCHFORD TO BE CITY SOLICITOR PURSUANT THERETO, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Hudson's former City Solicitor, Matthew J. Vazzana, resigned on December 31, 2021, and the City's appointed Special Legal Counsel, R. Todd Hunt, was designated as the "Interim City Solicitor", pending the appointment of a new City Solicitor;

WHEREAS, the Interim City Manager and this Council have determined to appoint a new City Solicitor, Marshal M. Pitchford, for a six (6)-month period through an agreement with Attorney Pitchford's law firm, DiCaudo, Pitchford and Yoder LLC, and Attorney R. Todd Hunt will retain his position as Special Legal Counsel to the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of Hudson, County of Summit, State of Ohio, that:

Section 1. The City Manager is authorized and directed to enter into an agreement with DiCaudo, Pitchford and Yoder LLC for legal services as City Solicitor, a copy of which proposed agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.

Section 2. This Council concurs with the Interim City Manager's appointment of Marshal M. Pitchford to be City Solicitor commencing May 1, 2022, pursuant to the terms set forth in the agreement authorized in Section 1 of this Resolution.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public welfare and for the further reason that it is immediately necessary in order to provide for continued essential City Solicitor legal services at the earliest possible time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage provided it receives the affirmative vote of five members of Council except that six affirmative votes shall be required if all members are present; otherwise, it shall be in full force and effect from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Jeffrey L. Anzevino, Mayor

ATTEST:

\_\_\_\_\_  
Aparna Wheeler, Clerk of Council

I certify that the foregoing Resolution No. 22-55 was duly passed by the Council of said Municipality on \_\_\_\_\_, 2022.

\_\_\_\_\_  
Aparna Wheeler, Clerk of Council

## **EXHIBIT A**

### **I. AGREEMENT FOR CITY SOLICITOR LEGAL SERVICES**

This Agreement for City Solicitor Legal Services (“Agreement”) is for legal services to be performed as the City Solicitor for the City of Hudson, Ohio, and is between the City of Hudson, Ohio, an Ohio municipal corporation, (“City”) at 1140 Terex Road, Hudson, Ohio 44236, and the law firm of DiCaudo, Pitchford and Yoder LLC (“Law Firm”), at 209 South Main Street, 3<sup>rd</sup> Floor, Akron, Ohio 44308, effective the 1<sup>st</sup> day of May, 2022. (City and Law Firm are collectively referred to herein as the “Parties” and each is a “Party”).

WHEREAS, the City wishes to engage the Law Firm to perform the general municipal legal services customarily performed by a municipal law director or solicitor in Ohio;

Whereas, pursuant to this Agreement and authorization by the City Council, the City wishes to appoint attorney Marshal M. Pitchford of the Law Firm to serve as the official Solicitor of the City of Hudson during the term set forth herein;

NOW, THEREFORE, intending to be bound by this Agreement, the Parties agree as follows:

#### **1. Appointment of City Solicitor**

- a. Pursuant to the appointment by the City Manager, and the confirmation of the appointment by a Resolution of the City Council, Marshal M. Pitchford (“Pitchford”) shall be designated as the City Solicitor under the terms and conditions of this Agreement.
- b. Neither Pitchford nor any member or employee of the Law Firm shall be considered to be an employee of the City and they shall not be entitled to any employee benefits. Pitchford shall be the Law Firm’s authorized representative for purposes of the Agreement.

#### **2. Term and Termination**

This Agreement shall be in effect from May 1, 2022, through October 31, 2022. The City may terminate this Agreement immediately upon written notice thereof to the Law Firm. The Law Firm may terminate this Agreement only upon at least thirty (30) days’ advance written notice to the City Manager. In either event, the Law Firm shall, within thirty (30) calendar days after termination of the Agreement, provide a written summary of all the City’s outstanding legal matters for which the Law Firm had responsibility.

#### **3. City Solicitor Legal Services.**

Pitchford shall be the responsible attorney at the Law Firm for the direct provision of the following legal services but may, at his discretion, utilize attorneys and other employees of the Law Firm to assist with the provision of the services as set forth herein:

- a. Pitchford's personal attendance at all regular and special meetings of City Council, except as excused by the City Manager or the President of Council or with their approval of the substitution of another attorney from the Law Firm;
- b. Pitchford's personal attendance at City Council committee meetings, City board and commission meetings, and any other meetings involving City business as directed by the City Manager, except when the City Manager approves the substitution of another attorney at the Law Firm;
- c. Drafting, reviewing and providing legal counsel regarding ordinances and resolutions as requested by the City Manager, the Mayor, and/or any member of City Council;
- d. Providing daily legal advice to City and its officials related to their official duties, as necessary and as requested, including but not limited to the drafting of legal opinions, memoranda, and status reports on legal matters, as requested by the City Manager or City Council;
- e. Reviewing, approving, and drafting of general contracts and any other written documents, as requested by the City Manager or the Manager's designee.

#### **4. Compensation and Reimbursement for Expenses**

- a. The Law Firm shall be paid the monthly amount of Twelve Thousand Dollars (\$12,000) for the provision of the legal services set forth in Section 3 above, which shall be paid on the first day of the month following the month that the services are rendered, unless the first day of the month is a Saturday, Sunday or legal holiday in the City.
- b. The Law Firm shall track the time spent on all legal services provided to the City in one-tenth of an hour increments and provide monthly reports to the City Manager of all such time spent that is itemized as to the date of service, a brief description of the service, the attorney providing the service, and the time spent for each service entry. The report shall be provided within thirty (30) days of the end of the calendar month in which the services were provided.
- c. In the event this Agreement is terminated pursuant to Section 2 herein and prior to the end of a calendar month, the monthly payment in this Section 4.a. shall be a pro rata amount calculated on a daily basis through the date of termination of the Agreement.
- d. The Law Firm shall also be reimbursed for out-of-pocket expenses incurred in the provision of the legal services in Section 3 above, including, but not by way of limitation, mileage and travel expenses (but not for mileage to and from the City and the Law Firm's attorneys' place of business or residences), extraordinary copying charges, and messenger/courier services. All requests for reimbursements shall be set forth in an itemized invoice and shall include proof of payment of each expense by the Law Firm, if requested by the City.

## 5. Special Legal Services

- a. The City Manager, at the City Manager's sole discretion, may engage attorneys, other than the attorneys of the Law Firm, to provide legal services to the City and its officials, including but not limited to the following matters: litigation, employment and labor, real estate, economic development and incentives, environmental, public finance, and public improvements.
- b. "Litigation" is defined as work performed in preparing or conducting: pleadings, written or oral discovery or any motion practice, and attendance at hearings or other events before judges, magistrates, arbitrators, court staff members or juries, and all post-judgment activities including all appellate work, whether in courts of law, in labor grievances, arbitrations or other SERB proceedings, or in administrative hearings (outside of City boards and commissions).

## 6. Miscellaneous Provisions

- a. **Malpractice Insurance.** The Law Firm shall carry legal malpractice insurance for all of its attorneys and personnel and provide proof of coverage to the City.
- b. **Other Employment and Practice.** Absent any conflicts of interest involving the City, the Law Firm and Pitchford may represent, perform services for, and be employed by any additional clients, persons or companies as attorneys, as the Law Firm shall in its sole discretion determine.
- c. **Assignment.** The rights and duties under this Agreement are personal and may not be assigned by the Law Firm without the prior written consent of the City Manager.
- d. **Applicable Laws.** The Law Firm shall comply with all applicable foreign, federal, state, and local laws, rules, regulations, orders, ordinances and government requirements in the performance of this Agreement, including all applicable non-discrimination requirements, which are incorporated herein by this reference.
- e. **Notices.** All notices and other communications hereunder must be in writing and will be deemed to have been duly given if delivered by hand, by electronic mail, or on the next business day if delivered by a recognized overnight courier to the Parties with written confirmation of receipt at the following addresses:

If to City:

City Manager  
City of Hudson  
1140 Terex Road  
Hudson, OH 44236

If to Law Firm:

Marshal M. Pitchford  
DiCaudo, Pitchford and Yoder LLC  
209 South Main Street, 3<sup>rd</sup> Floor  
Akron, Ohio 44308.

- f. **Waiver.** No delay or failure on the part of any Party hereto in exercising any right, power, or privilege under this Agreement or under any other instruments given in connection with or pursuant to this Agreement shall impair any such right, power, or privilege or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power, or privilege shall preclude the further exercise of such right, power, or privilege, or the exercise of any other right, power or privilege.
- g. **Severability.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, such provision shall be enforced to the greatest extent permitted by law and the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- h. **Parties in Interest.** This Agreement is enforceable only by the City and the Law Firm. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of the Law Firm's personnel assigned to City work, or any beneficiary of any such personnel, and no such personnel, or any beneficiary thereof, shall be a third-party beneficiary under or pursuant to the terms of this Agreement.
- i. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.
- j. **Entire Agreement.** This Agreement constitutes the entire understanding of the Parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the Parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers and authorities of the Parties hereto.
- k. **Personal Service Contract.** The Parties agree that this Agreement is, and is intended to be, a "personal service contract" as provided in Section 145.03, Ohio Revised Code and as interpreted in Section 145-1-42 (A) of the Ohio Administrative Code. This Agreement is, and is intended to be, a formal bilateral written contract between the Parties as required by Section 145-1-42 (A). The Parties further agree that since this is a personal service contract, no Public Employee's Retirement System of Ohio deductions will be made from the City Solicitor's or Law Firm's compensation hereunder nor paid to the Public

Employees Retirement System of Ohio on and in accordance with provisions of Section 145-1-42 (C) of the Ohio Administrative Code.

The Parties have executed this Agreement as follows:

**DiCAUDO, PITCHFORD AND YODER LLC**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

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

**CITY OF HUDSON, OHIO**

By: \_\_\_\_\_

Thomas J. Sheridan, Interim City Manager

Approved as to legal form and correctness:

\_\_\_\_\_  
R. Todd Hunt, Interim City Solicitor

**CERTIFICATE OF AVAILABILITY OF FUNDS**

I certify that the money required to meet this Agreement has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of this fund, free from any previous obligation or certification as required by Ohio Revised Code §5705.01 to §5705.47.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jeffrey F. Knoblauch, Finance Director  
City of Hudson, Ohio