



City of Dublin

Office of the City Manager

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Memo

To: Members of Dublin City Council

From: Dana L. McDaniel, City Manager

Date: June 23, 2016

Re: Resolution 38-16 – Authorizing the City Manager to Enter into an Amended Agreement for Law Director Services

Background

As you know, the City of Dublin has an existing agreement with Stephen J. Smith and the law firm of Frost Brown Todd to provide law director services. Mr. Smith has announced his intention to transition out of this role. Jennifer D. Readler, who is also with the law firm of Frost Brown Todd, will take over the position. The attached amended agreement was prepared to simply substitute the names to reflect this change. The remaining terms of the agreement will remain unaltered.

Recommendation

The City Manager recommends approval of Resolution 38-16, authorizing the City Manager to enter into an amended agreement with the firm of Frost Brown Todd, LLC.

RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. 38-16 Passed _____, 20____

A RESOLUTION AMENDING THE AGREEMENT FOR LAW DIRECTOR SERVICES

WHEREAS, Stephen J. Smith is designated as the Dublin Law Director in the existing Agreement for Law Director Services between the City of Dublin and Frost Brown Todd; and

WHEREAS, the City desires to amend the existing Agreement, to substitute Jennifer D. Readler as the Law Director, under the same terms and provisions contained in the existing Agreement with Frost Brown Todd.

NOW, THEREFORE, BE IT RESOLVED by Council for the City of Dublin, State of Ohio, ___ of the elected members concurring, that:

Section 1. The City Manager is hereby authorized to execute an amended Agreement to provide that Jennifer D. Readler and Frost Brown Todd LLP shall provide legal services for the City under the same terms and conditions as contained in the existing Agreement.

Section 2. Jennifer D. Readler is hereby designated as Law Director for the City of Dublin.

Section 3. This Resolution shall take effect upon adoption in accordance with Section 4.04(a) of the Revised Charter.

Passed this _____ day of _____, 2016.

Mayor – Presiding Officer

ATTEST:

Clerk of Council

**AGREEMENT BETWEEN THE CITY OF DUBLIN
AND FROST BROWN TODD, LLC
FOR SERVICES AS LAW DIRECTOR**

This contract for the services of Law Director between the City of Dublin, an Ohio Municipal Corporation, (“Dublin”) and Jennifer D. Readler/Frost Brown Todd, LLC, (“Law Director”), effective this 1st day of January 2016.

WITNESSETH:

WHEREAS, Dublin and the Law Director wish to continue their professional relationship until December 31, 2017.

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

1. **Routine Services.**

Except as otherwise provided herein, the Law Director agrees to provide and Dublin agrees to pay for the following “Routine Services” at the rate of \$68,000.00 per month.

- a. Attending all Council meetings.
- b. Attending all Planning and Zoning Commission meetings.
- c. Attending other routine board and commission meetings upon the request of the chair or upon request of the City Manager.
- d. Drafting ordinances and resolutions arising in the normal course of municipal operation upon request of the City Manager or Staff, or as requested by action of City Council.
- e. Representing the City in all administrative hearings and general litigation. General litigation shall be defined as administrative (Chapter 2506) appeals from Dublin boards and commissions to the common pleas court level.
- f. Drafting all other routine documents, legal memoranda, and legal opinions as requested by the City Manager, Staff and/or Council subject to prior approval of the City Manager.
- g. Providing legal advice relating to matters of public law to City officials as necessary or upon request, and attending meetings and/or conferences as requested by City officials.
- h. Responding to City Manager and Staff inquiries about legal matters.

- i. Reviewing, approving and/or preparing all contracts, ordinances, and legal documents.
- j. Representing the City in all matters related to annexation.
- k. Land acquisition shall be a part of Routine Services on matters defined as normal real estate contractual issues. However, other land acquisition matters of a special or more complex nature (for example those with more complex economic development terms embodied within the real estate agreement) will be handled on a case by case basis, and may be subject to separate billing, as provided under “Non-Routine Services”, with prior approval of the City Manager as to rates and staffing. Regarding ROW land acquisition being carried out under the City’s Eminent Domain authority, all steps in the ROW acquisition process through the presentation of an offer(s) to purchase, the receipt of counter offer(s), and all early negotiations up to the filing and prosecuting an appropriation case will be considered Routine Services.
- l. Termination counseling, FLMA, ADA, ADEA, FLSA, Title VII, PPACA, Workers’ Compensation statutes, Collective Bargaining statutes, USERRA, COBRA, and HIPAA related questions, and other general legal advice related to labor and human resource matters shall be included as Routine Services.
- m. Other normal City matters requiring legal input or involvement, not specifically described under “Non-Routine Services”.

2. Non-Routine Services

The following legal services shall be classified as “Non-Routine Services”, and will be separately billed, at rates as approved by the City Manager.

- a. Labor and Employment: Legal services provided for collective bargaining negotiations, fact finding, and conciliation, grievance arbitration, charges of discrimination, and lawsuits related to labor and employment issues.
- b. Telecommunications: Advisory and legal services related to Dublin’s telecommunications activities, including matters associated with Dublinlink, PUCO, leasing for space for cell towers, cable television negotiations, telephone and internet contracting, ROW management, Broadband Council.
- c. Eminent Domain: As provided under “Routine Services”, all steps in the ROW acquisition process through the presentation of an offer(s) to purchase, the receipt of counter offer(s), and all early negotiations up to the filing and prosecuting an appropriation case will be considered Routine Service. All legal services associated with filing and prosecuting of an appropriation case, including but not limited to written discovery, dispositions, mediation, and trial shall be billed separately as

“Non-Routine Services” at hourly rates, as approved in advance of the work by the City Manager.

- d. Litigation: Complex litigation is not included within “Routine Services” and will be billed separately. Complex litigation will be defined as major litigation that involves, for example purposes only, significant written or oral discovery, significant motion practice, and attendance at hearings before a judge and/or a jury. Complex litigation shall also include Chapter 2506 appeals that proceed past the common pleas level. All rates for complex litigation shall be pre-approved by the City Manager prior to the Law Department commencing work on any individual matter. Applicable rates will be negotiated at the time the complex litigation arises and will be based upon staffing needs and selection of legal expertise by the City Manager.
- e. Special Projects: Subject to agreement of both parties, the Law Director shall undertake specific projects on a flat fee basis. Such flat fee projects shall be as agreed upon by the Law Director, and the City Manager.
- f. Special Counsel: The Law Director may utilize the services of other attorneys both within her firm and outside her firm as Assistant Law Director, Prosecutor and/or Special Counsel, subject to the City Manager’s prior approval as to individual cases, attorneys and fee arrangements.

3. Mayor’s Court Services

The Law Director shall serve as the City’s prosecutor for cases before Mayor’s Court and for traffic and criminal matters in Franklin County Municipal Court. These services shall be provided at the rate of \$10,000 per month.

4. Term.

This contract shall take effect and be in force January 1, 2016 through December 31, 2017. However, at any point during the term of this Contract, either Party may terminate this Agreement upon providing sixty (60) days’ notice of its intent to terminate to the other Party.

5. Miscellaneous Provisions.

a. Indemnification:

- Professional Liability. Relative to any and all claims, losses, damages, liability and cost, the Law Director agrees to indemnify and save the City, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury arising from the negligent acts, errors or omissions by the Law Director or her employees.

- Non-Professional Liability (General Liability). To the fullest extent permitted by law, the Law Director shall indemnify, defend and hold harmless the City, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of the acts or omissions of the Law Director, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused by the negligent acts or omissions of the Law Director, any subconsultant(s) of the Law Director, her agents, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim damage, loss or expense is caused in part by a party indemnified hereunder. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.
- b. Insurance Requirements: The Law Director shall maintain the insurance coverage limits specified in Exhibit A throughout the term of this Agreement.
- c. Expenses and Disbursements: In addition to charges for professional services as described above, the Law Director may charge the City for expenses incurred on its behalf. These expenses may include but are not limited to the following examples: duplication and binding of documents; telecopy, telex, fax and long distance telephone calls; messengers, couriers and postal services; expenses for computerized legal research and other automated services; and other business expenses as approved by the City Manager. In addition, the Law Director's services frequently require engaging the services of third parties on the City's behalf. Generally, the City will be asked to pay such third parties directly, provided that, whenever possible, the City Manager shall approve in advance the third party service provider, and the cost of those third party services. Where relatively small amounts of money are involved (as determined by the City Manager), the Law Director may advance payments to third parties and include them in her periodic bills. These smaller disbursements include the following types of expenses: state agency filing fees; outside duplication of documents; fees for commencing lawsuits and service of process; deposition and court stenographer fees; expert witness and consultant fees; real estate recording fees and taxes; Uniform Commercial Code search fees; and, in general, any fees or charges the Law Director pays to governmental or quasi-governmental agencies.
- d. All invoices for legal services (including those for Routine Services, Non-Routine Services, Mayor's Court and prosecutorial services at Franklin County Municipal Court) shall include a detailed itemization of the work tasks performed during that billing period, the person performing the work, the billing rates (where applicable) and the time spent on each task. The invoice shall be organized by related work categories and/or projects, as specified by the City Manager.

- e. The Law Director shall provide an estimated budget for the projected costs (or cost range) associated with potential litigation, The City and the Law Director acknowledge the uncertainty and volatility associated with such estimates, which are intended for use in the City's budgeting and risk assessment purposes.
- f. It shall be the responsibility of the Law Director to pay for any and all municipal publications, services, updates, seminars, conferences, etc. that she or her office may utilize or attend on Dublin's behalf.
- g. In the event that the Law Director becomes incapacitated, unable to perform her duties, or no longer serves as Law Director, it is hereby agreed that her files and records shall become Dublin's property, except for information which would be classified as work product under Ohio law, which the Law Director shall release to an attorney designated by the City Manager.

IN WITNESS WHEREOF, the parties have executed this Agreement.

FROST BROWN TODD LLC

Jennifer D. Readler, Law Director

CITY OF DUBLIN

Dana L. McDaniel, City Manager