

**AN ORDINANCE
AUTHORIZING THE MAYOR TO ENTER INTO AN
AGREEMENT WITH WALTER & HAVERFIELD LLP,
EFFECTIVE FROM SEPTEMBER 1, 2012, THROUGH
DECEMBER 31, 2012.**

WHEREAS, the Mayor and Council of the Village of Chagrin Falls ("Village") wish to engage the firm of Walter & Haverfield LLP ("Walter & Haverfield") to perform general legal services for a twelve (12) month period beginning September 1, 2012, and ending December 31, 2012; and

WHEREAS, the Village wishes to engage Stephen L. Byron as Director of Law as a partner at Walter & Haverfield.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, STATE OF OHIO:

SECTION 1. (a) That the Mayor be and is hereby authorized and directed to enter into an agreement to engage the law firm of Walter & Haverfield LLP, in substantially the form as attached hereto as Exhibit A, to represent the Village in connection with various routine matters, for a retainer of Five Thousand Eight Hundred Thirty-Six and 25/100 Dollars (\$5,836.25) per month, beginning September 1, 2012 and ending December 31, 2012. Such routine matters shall include:

- (i) Attending all regular and special Council meetings, except as otherwise directed by the Mayor;
- (ii) Attending other board and commission meetings upon the request of the Mayor;
- (iii) Drafting ordinances and resolutions upon request of the Mayor, Council, or Village Directors;
- (iv) Researching and drafting legal memoranda as requested by the Mayor or Council;
- (v) Providing legal advice to Village officials as necessary;
- (vi) Responding to Village inquiries;
- (vii) Attending meetings and discussions with Village, County, State, and Federal officials and other governmental officials; and
- (viii) Reviewing and approving contracts and any other written documents, as requested by the Mayor, Council, or other Directors. This shall not encompass significant revision of such documents.

(b) That for work outside the scope of routine matters, as outlined above, the hourly rate therefor and reimbursement for out-of-pocket expenses, shall be approved by the Village.

(c) That for work outside the scope of routine matters, the firm of Walter & Haverfield LLP shall also be reimbursed for out-of-pocket expenses incurred in connection with complex litigation and additional projects, including but not by way of limitation, long-distance telephone and cellular phone charges, computer-assisted research, copying charges, telegrams, messenger services, and long-distance travel.

(d) That the firm of Walter & Haverfield LLP shall, on a monthly basis, provide the Mayor and the Finance Director with a written accounting of all time spent by members of its firm on Village business. Such accounting shall include an itemization of time spent on Village matters, a description of the work performed, and an identification of the person performing the work.

SECTION 2. That this ordinance be and is hereby is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that the legal services provided herein are needed for the current operation of the Village; therefore, this ordinance shall take effect and be in force immediately upon its enactment and approval by the Mayor

PASSED: August 13, 2012



Council President

Submitted to the Mayor for
approval on this 14 day of August, 2012

Approved by the Mayor this

14 day of August, 2012

ATTEST:



Clerk of Council



Mayor

**AGREEMENT BETWEEN THE VILLAGE OF CHAGRIN FALLS
AND WALTER & HAVERFIELD LLP FOR LEGAL SERVICES**

This Agreement is for legal services between the Village of Chagrin Falls, an Ohio Municipal Corporation, ("Chagrin Falls") and Walter & Haverfield LLP ("Walter & Haverfield"), effective the 1st day of September, 2012.

WITNESSETH:

WHEREAS, Chagrin Falls wishes to engage Stephen L. Byron, as Law Director, and the firm of Walter & Haverfield to perform general legal services.

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

1. **Routine Services.** Except as otherwise provided herein, Walter & Haverfield agrees to provide and Chagrin Falls agrees to pay for the following Routine Services at the rate of \$5,836.25 per month:

- a. Attending all regular and special Council meetings, except as otherwise directed by the Mayor.
- b. Attending other board and commission meetings upon the request of the Mayor.
- c. Drafting ordinances and resolutions upon request of the Mayor, Council, or Village Directors.
- d. Researching and drafting legal memoranda as requested by the Mayor or Council.
- e. Providing legal advice to Village officials as necessary.
- f. Responding to Village inquiries.
- g. Attending meetings and discussions with Village, County, State and Federal officials and other governmental officials.
- h. Reviewing and approving contracts and any other written documents, as requested by the Mayor, Council, or Directors. This shall not encompass significant revision of such documents.

2. **Litigation.** 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, arbitration panels, court staff members or juries, and all post judgment activities including all appellate work. "Litigation" includes all work performed in response to Ohio Revised Code Chapter 2506 appeals. "Litigation" shall not include services performed in anticipation of the initial filing of any eminent domain actions, nor does litigation include routine services regarding worker's compensation matters. All rates for litigation shall be pre-approved by Walter & Haverfield and the Village prior to Walter & Haverfield commencing work on any individual mater. The fee arrangement set forth below in "Additional Projects" shall also apply to "Litigation."

3. **Billing.** Walter & Haverfield shall bill Chagrin Falls monthly for all Routine Services, Litigation and Additional Projects, which billings shall set forth the date the services were rendered, the attorney performing such services, and a brief description of the services provided.

4. **Term.** The rates set forth in this Agreement shall take effect and be in force from September 1, 2012 through December 31, 2012. Either Party may terminate this Agreement, however, upon providing thirty (30) days' notice of its intent to terminate to the other Party.

5. **Miscellaneous Provisions.**

- a. **Additional Projects.** Subject to agreement of both Parties, Walter & Haverfield may undertake Additional Projects on a flat fee or hourly basis which are outside the scope of Routine Services. For projects that are billed hourly, Walter & Haverfield will offer a discounted blended hourly rate of \$245 per hour, unless a different rate is agreed upon by Walter & Haverfield and the Village and is approved by the Village.
- b. **Expenses.** For work outside the scope of routine matters, Walter & Haverfield shall also be reimbursed for out-of-pocket expenses incurred in connection with litigation and additional projects, including but not by way of limitation, long-distance telephone and cellular telephone charges, computer-assisted research, copying charges, telegrams, messenger services, and long-distance travel.
- c. **Applicable Laws.** Walter & Haverfield 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, including without limitation the provisions of Presidential Executive Order 11246 and the rules and regulations issued thereunder, which are incorporated herein by this reference.
- d. **Notices.** All notices and other communications hereunder must be in writing and will be deemed to have been duly given if delivered by hand, or on the next business day if delivered by a recognized overnight courier, or on the third

business day if mailed (by certified mail, return receipt requested, first class postage prepaid), to the Parties with written confirmation of receipt at the following addresses:

If to Chagrin Falls:

Mayor Tom Brick
Village of Chagrin Falls
21 West Washington Street
Chagrin Falls OH 44022

If to Walter & Haverfield:

Stephen L. Byron
Walter & Haverfield LLP
4230 State Route 306, Suite 240
Willoughby OH 44094

- e. **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.
- f. **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.
- g. **Parties in Interest.** This Agreement is enforceable only by Walter & Haverfield and Chagrin Falls. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of Walter & Haverfield's personnel assigned to Chagrin Falls's 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.
- h. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law principles.

- i. **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 of the Parties hereto.

- j. **Assignment.** This Agreement may not be assigned or transferred in whole or in part by either Party without the written consent of the other. Any purported assignment without the express written consent of the other is void.

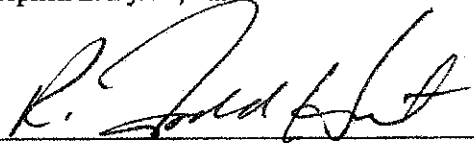
- k. **Personal Service Contract.** The Parties agree that this Agreement is, and is intended to be, a "personal service contract" as provided in Section 145.03, Ohio Revised Code and as interpreted in Section 145-1-42 (A) of the Ohio Administrative Code. This Agreement is, and is intended to be, a formal 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 deductions will be made from Walter & Haverfield's compensation nor paid to the Public Employee's Retirement System of Ohio on and in accordance with provisions of Section 145-1-42 (C) of the Ohio Administrative Code.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

WALTER & HAVERFIELD LLP




Stephen L. Byron, Partner



R. Todd Hunt, Partner

VILLAGE OF CHAGRIN FALLS

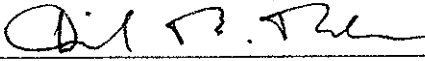


Thomas G. Brick, Mayor

CERTIFICATE OF AVAILABILITY OF FUNDS

I certify that the money required to meet this proposal has hereby 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 an previous obligation or certification as required by Ohio Revised Code §5705.01 to §5705.47.

8/13/12
Date


Finance Director