

ORDINANCE NO. 2021-2

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH STEPHEN L. BYRON AND SINGERMAN MILLS DESBERG & KAUNTZ, CO. L.P.A., FOR LEGAL SERVICES BEGINNING JANUARY 1, 2021, AND ENDING DECEMBER 31, 2021, CONFIRMING THE APPOINTMENT OF STEPHEN L. BYRON AS LAW DIRECTOR, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the Village of Waite Hill wishes to engage Stephen L. Byron and the law firm of Singerman, Mills, Desberg & Kauntz Co. L.P.A. to perform general legal services for a one-year period beginning January 1, 2021, and ending December 31, 2021; and

WHEREAS, the Council also wishes to confirm the Mayor's appointment of Stephen L. Byron as Law Director for that same period of time.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAITE HILL, LAKE COUNTY, STATE OF OHIO:

SECTION 1. (a) That the Mayor is hereby authorized and directed to enter into an agreement to engage Stephen L. Byron and the law firm of Singerman, Mills, Desberg & Kauntz Co., L.P.A. ("Singerman Mills"), in substantially the form as attached hereto as "Exhibit A," to represent the Village in connection with various routine matters, for a retainer of Two Thousand Fifty-Eight and 42/100 Dollars (\$2,058.42) per month, from January 1, 2021, through December 31, 2021. 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;
- (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) For work outside the scope of routine matters as outlined above, the hourly rate therefor, and reimbursement for out-of-pocket expenses shall as be approved by the Village.

(c) Singerman Mills shall also be reimbursed for out-of-pocket expenses incurred in connection with services performed, 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) Singerman Mills shall, on a monthly basis, provide the Mayor and the Clerk-Treasurer with a written accounting of all time spent by members of its firm on Village business pursuant to this section. 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 in addition to the Agreement for Routine Services set forth above, Stephen L. Byron shall be employed as the Law Director for the Village at a salary of One Thousand Five Hundred Twenty-Two and 50/100 Dollars (\$1,522.50) per month, which shall be earnable salary for PERS purposes and reported as W-2 (or equivalent) wages, payable to Byron or his designee. Five hours per month of Routine Services, as described above, shall be provided by the Law Director.

SECTION 3. That this ordinance is hereby 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 and, therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

PASSED: _____, 2021

Council President

Submitted to the Mayor for
his approval on this
_____ day of _____, 2021

Approved by the Mayor

ATTEST:

_____, 2021

Clerk-Treasurer

Mayor

EXHIBIT A

**AGREEMENT BETWEEN AND AMONG THE VILLAGE OF WAITE HILL
STEPHEN L. BYRON AND SINGERMAN MILLS DESBERG & KAUNTZ CO. L.P.A.
FOR LEGAL SERVICES**

This Agreement is for legal services between and among the Village of Waite Hill, an Ohio Municipal Corporation, (“Waite Hill”), Stephen L. Byron, and Singerman Mills Desberg & Kauntz, Co. L.P.A., a legal professional association (“Singerman Mills”), effective January 1, 2021.

WITNESSETH:

WHEREAS, Waite Hill wishes to engage Stephen L. Byron, as Law Director, and the firm of Singerman Mills to perform legal services on behalf of Waite Hill.

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

1. **Routine Services.**

Except as otherwise provided herein, Stephen L. Byron and Singerman Mills agree to provide the following Routine Services:

- 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, ordinances, resolutions and any other written documents, as requested by the Mayor, Council, or Directors. This shall not encompass significant revision of such documents.

2. **Compensation for Routine Services:** Waite Hill shall pay to Singerman Mills a retainer of Two Thousand Fifty-Eight and 42/100 Dollars (\$2,058.42) per month, beginning January 1, 2021, and ending December 31, 2021 and shall issue an annual 1099 or equivalent tax document. Stephen L. Byron shall be employed as the Law Director for

the Village at a salary of One Thousand Five Hundred Twenty-Two and 50/100 Dollars (\$1,522.50) per month, which shall be earnable salary for PERS purposes and reported as W-2 (or equivalent) wages, payable to Byron or his designee. Byron shall work an average of five hours per month for the salary identified herein.

3. **Complex Litigation.** Complex litigation is 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 Ohio Revised Code Chapter 2506 appeals beyond the level of the Common Pleas Court. Complex litigation shall not include Chapter 2506 appeals to the Common Pleas Court, services up to and including the initial filing of any eminent domain actions or routine services regarding worker's compensation matters. All rates for complex litigation shall be pre-approved by Singerman Mills and the Village prior to Singerman Mills commencing work on any individual matter. The fee arrangement set forth below in "Additional Projects" shall also apply to "Complex Litigation."
4. **Billing.** Singerman Mills shall bill Waite Hill monthly for all Routine Services, Complex 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.
5. **Term.** The rates set forth in this Agreement shall take effect and be in force from January 1, 2021, through December 31, 2021. However, either Party may terminate this Agreement upon providing thirty (30) days' notice of its intent to terminate to the other Party.
6. **Miscellaneous Provisions.**
 - a. **Additional Projects.** Subject to agreement of both Parties, Singerman Mills may undertake Additional Projects that are outside the scope of Routine Services, on a flat fee or hourly basis. For projects that are billed hourly, Singerman Mills will offer a discounted blended hourly rate of \$250 per hour, unless a different rate is agreed upon by Singerman Mills and the Village and is approved by the Village.
 - b. **Expenses.** Singerman Mills shall also be reimbursed for out-of-pocket expenses incurred in connection with the performance of legal services, 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.** Singerman Mills shall comply with all applicable foreign, federal, state, and local laws, rules, regulations, orders, ordinances and government requirements in the performance of this Agreement.
 - 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 Waite Hill:

Office of the Mayor
Village of Waite Hill
7215 Eagle Road
Waite Hill, Ohio 44094

If to Byron or Singerman Mills:

Stephen L. Byron
Singerman Mills Desberg & Kauntz, Co. L.P.A.
3333 Richmond Road, Suite 370
Cleveland, Ohio 44122

- 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 Singerman Mills and Waite Hill. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of Singerman Mills' personnel assigned to Waite Hill'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. The employment relationship documented herein has been created at the request and for the benefit of Stephen L. Byron. To the extent permitted by law, Stephen L. Byron waives any and all claims that may arise from said employment relationship.
- 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.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

**SINGERMAN MILLS DESBERG & KAUNTZ,
CO. L.P.A.**

Stephen L. Byron, Individually and on behalf of
Singerman Mills Desberg & Kauntz, Co. L.P.A

VILLAGE OF WAITE HILL

Robert A. Ranallo, 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.

Date

Clerk-Treasurer