

ORDINANCE NO. 182-2023(COTW),
First Reading

By President Hart

An Ordinance authorizing and directing the Mayor to execute an engagement letter with the law firm of McDonald Hopkins for the provision of legal services to assist and advise the City's Charter Review Commission; and declaring the necessity that this legislation become immediately effective as an emergency measure.

WHEREAS, Cleveland Heights City Council, through adoption of Resolution 176-2022, created a Charter Review Commission ("CRC") to review the City Charter and develop recommendations to City Council for such amendments to the Charter, if any, that the CRC may find to be in the best interests of the City; and

WHEREAS, Resolution 176-2022 provided that the CRC may request that a consultant be engaged to aid it in the discharge of its responsibilities, and that Council would give full and fair consideration to any such request; and

WHEREAS, the CRC has indicated that would like for the City to hire an experienced outside attorney to aid in the discharge of its duties; and

WHEREAS, Council has determined that outside counsel should be retained, as requested, to assist the CRC in its work; and

WHEREAS, following consultation with the City's Law Department and discussion by the CRC Chair and another member with qualified outside attorneys, Counsel desires to engage the law firm of McDonald Hopkins to aid the CRC in its work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cleveland Heights that:

SECTION 1. The Mayor shall be, and he is hereby, authorized and directed to execute an engagement letter with the law firm McDonald Hopkins for legal services in aid of the Charter Review Commission, substantially in accordance with the proposal attached hereto as Exhibit A and signed by attorney Kevin Butler of McDonald Hopkins.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. It is necessary that this Ordinance become immediately effective as an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the citizens of the City of Cleveland Heights, such emergency

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being the necessity to retain outside counsel to assist the Charter Review Commission at the earliest possible time. Wherefore, provided it receives the affirmative vote of five (5) or more members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.



MELODY JOY HART
President of the Council



ADDIE BALESTER
Clerk of Council

PASSED: 11/13/2023

Presented to Mayor: 11/14/2023

Approved: 11/23/2023



KAHLIL SEREN
Mayor

Direct Dial: 1.216.348.5770
Email: kbutler@mcdonaldhopkins.com

November 9, 2023

Via Email Only (WHanna@clevelandheights.gov)

City of Cleveland Heights
Hon. Kahlil Seren, Mayor
Members of City Council
c/o William R. Hanna, Esq., Director of Law
40 Severance Circle
Cleveland Heights, OH 44118

Dear Mayor Seren and Members of Council:

Thank you for the opportunity to work with the City of Cleveland Heights (“you” or the “client”) and, more specifically, your Charter Review Commission. We appreciate your confidence in us.

McDonald Hopkins LLC (“MH”) believes that an effective and successful attorney-client relationship is built on a mutual understanding of how we will work together with you to accomplish your objectives. MH customarily prepares an engagement letter using this format to memorialize our agreement concerning the identity of the client and the terms, scope, and nature of services MH will provide.

If you have any questions concerning this letter now or at any time during the engagement, do not hesitate to contact me. MH endeavors to provide quality services and we view quality communications as a key ingredient.

Identity of Client and Scope of Representation

MH’s client for this engagement will be you. The scope of our representation is to assist your Charter Review Commission with the following services:

- Provide the Commission a general overview of the charter review process and considerations for laws best suited for the charter versus those best suited for the ordinances
- Present an overview of the charter review process at a public meeting, allowing an opportunity for public input on areas in the charter that the Commission should consider for review

- Advise on approaches to certain charter provisions, in terms of what is typical or may be found within a range of charters of other cities
- Advise on whether particular language in the charter now should be updated in order that it be consistent with current law and best practices
- Assist with drafting charter amendments
- Attend Commission meetings on invitation of the Commission
- Provide other legal assistance as requested and approved by the Law Director

Legal Fees and Staffing

MH recognizes that I will be the attorney performing all or nearly all of the work for this engagement. If critical, I may assign certain tasks (such as research work) to others, consistent with any exception rates identified below. When MH forms a team for an engagement, MH strives to provide efficient, cost-effective services by involving attorneys and legal assistants with the experience appropriate to the task at hand.

Hourly Rate

We agree that notwithstanding firm's standard current hourly rates, we will offer you a rate for all attorneys involved in the matter, including myself, of \$375.00 per hour.

Not-to-Exceed Amount; Limited Scope

For this engagement, we will not bill in any amount greater than \$25,000.00 without your express permission. You agree that we are being retained for the limited scope of the engagement we identify above, and that this not-to-exceed amount is intended to assist you in formulating a budget for this work but that the time we spend on the engagement depends in large part how frequently and to what extent the Commission wishes to use our services. Please recognize that if we are requested or required to provide additional services, you agree that we may require that a new matter be opened or other fee arrangement be made.

Charges and Disbursements

Charges and expenses that MH incurs on your behalf will be passed on to you. These charges may include photocopying, messenger and delivery charges, computerized research, filing fees, and the like. MH will forward invoices for the services of others (such as consultants, expert witnesses, appraisers and local counsel, none of which are expected) to you for payment unless we have a different arrangement in writing.

Electronic Communication

MH communicates with clients by electronic and other means that are not completely secure against unauthorized access. There is some risk of disclosure and loss of attorney-client privilege in using these forms of communication because they do not ensure the confidentiality of their contents. If you are concerned about our use of any one or more of these forms of communication, please let me know immediately.

Billing

MH bills monthly for its services and costs advanced. MH often sends a monthly statement of account, itemizing amounts outstanding as of the date the statement is prepared.

MH invoicing is electronically generated. I will assume that invoices should be sent to this email unless otherwise instructed.

Payment

All invoices are due upon receipt, unless you make other arrangements with MH. MH reserves the right to withdraw as counsel if you fail to pay invoices in a timely manner.

Client Responsibilities

By agreeing to the engagement, you agree to cooperate fully with MH and to promptly provide all information known or available to you relevant to the engagement.

Term of Engagement

You or MH may terminate the engagement at any time for any reason by written notice, subject to applicable Rules of Professional Conduct (the “RPC”). If MH terminates the engagement, it will take such steps as are reasonably practical to protect your interests and, if you request, MH will suggest possible successor counsel and provide such counsel with whatever papers you have provided to us, upon payment of all outstanding invoices. If a court requires permission for withdrawal, MH will apply promptly for such permission and assist you as you desire to engage successor counsel.

Unless previously terminated, the engagement will terminate when MH sends you the final invoice for services. During the engagement and thereafter, MH will keep confidential any otherwise nonpublic information you have supplied in accordance with the RPC. At your request, MH will return your papers and property upon payment of all outstanding invoices. MH will retain its own files, including lawyer work product. MH will transfer any documents it retains to the person responsible for administering its records retention program. In order to minimize unnecessary storage costs, MH reserves the right to destroy or otherwise dispose of any such documents or other materials in accordance with MH’s retention policy or as we otherwise agree.

After the engagement ends, applicable laws or regulations may change in a manner that could impact your future rights and liabilities. Unless you actually engage MH to provide additional advice, MH has no continuing obligation to advise you with respect to future legal or other developments.

Conflicts

Before preparing this engagement letter, MH conducted an internal check of our records to determine whether a conflict might exist with one or more existing clients. Based on that check, it appears that no such conflict exists.

Under the RPC, MH must have undivided loyalty to its clients. This requirement means that a lawyer must refuse to accept or continue employment if the interests of another client may impair the lawyer's independent professional judgment. In this regard, MH represents many other companies and individuals. It is possible that during the engagement, some of our present or future clients may have disputes or transactions with you. As a result of these disputes or transactions, conflicts of interest may arise, and when they do, MH will address them with you in a manner consistent with the RPC.

When MH is not permitted to represent another client in a matter under the RPC, MH will not do so. When MH is permitted by the RPC to seek a waiver from you, MH may do so. For circumstances in which MH is granted the waiver, MH may represent the other client. MH will protect, however, your confidential information or documents entrusted to MH as required by the RPC.

Identification Number

MH's tax identification number is 34-1059058.

In Closing

If you are in agreement with the above terms of our engagement, please print this letter, sign and date this letter on its last page, and return it to me. We sincerely appreciate the opportunity to work with you and we welcome any questions you may have now, or throughout the engagement. As we noted at the outset, we view communications as a key ingredient to a successful attorney-client relationship.

Thank you for this opportunity to work with you.

Sincerely,



Kevin M. Butler

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City of Cleveland Heights
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Engagement letter agreed to and accepted:

THE CITY OF CLEVELAND HEIGHTS

Name: _____

Title: _____

Date: _____

E-billing information:

Name of individual to receive invoice

Email address of individual to receive invoice