

RESOLUTION NO. 10 , 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTRACT WITH FROST BROWN TODD, LLC TO PROVIDE SPECIAL COUNSEL SERVICES

WHEREAS, the City does desire to engage Special Counsel to assist in negotiating Collective Bargaining Agreements and to handle labor and employment issues; and

WHEREAS, the Law Director and the Administration recommend the City continue to retain the services of Frost Brown Todd, LLC as such Special Counsel.

NOW THEREFORE, Be It Resolved by the Council of the City of Montgomery, Ohio, that:

SECTION 1. The City Manager is authorized to enter into a contract with Frost Brown Todd, LLC according to the terms in the Letter of Engagement attached to this Resolution and incorporated herein by reference. The Administration is authorized to pay Frost Brown Todd, LLC according to the schedule of fees outlined in the Letter of Engagement for the purposes of providing assistance to the City in labor negotiations and other labor/employment related matters.

SECTION 2. This Resolution shall take effect the earliest opportunity as allowable by law.

PASSED: June 5, 2024

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Ronald G. Messer
Ronald G. Messer, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director



W. Joseph Scholler
Partner
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May 7, 2024

Mr. Brian Riblet, City Manager
City of Montgomery
10101 Montgomery Road
Montgomery, Ohio 45242

Re: General Labor and Employment

Dear Mr. Riblet:

We are pleased that you have asked Frost Brown Todd (“FBT” or “Firm”) to serve as your counsel in this matter. This letter will confirm the terms of our representation. If you have any questions about these terms, do not hesitate to contact us.

Client; Scope of Representation. Our client in this matter will be the City of Montgomery (the “City”). We will represent the City in connection with general labor and employment matters, including negotiations. You may limit or expand the scope of our representation from time to time, provided that any substantial expansion must be agreed to by us. While we would be interested in assisting you in other matters, unless we are specifically engaged for some other future matter this will confirm that our representation of you is limited to the foregoing matter and will end when it is concluded. Should you engage us for one or more other future matters, those matters will also be governed by the terms in this engagement letter unless the Firm issues to the Client a new engagement agreement or letter for one or more future matters.

Fees. Our fees are based primarily upon the time expended by our attorneys and paralegals on the engagement, including attorney and paralegal travel time which is charged at regular hourly rates. Attorneys and paralegals have been assigned hourly rates based upon their experience and level of expertise. The rates of those attorneys likely to work on this matter range from \$255.00 in the case of Jasmine Corrie, and \$480.00 in the case of myself. It may be necessary to add to or change the team working on your behalf. Our hourly rates are reviewed periodically and may be increased from time to time, typically at the beginning of each calendar year.

Parent/Subsidiary/Affiliate Relationships. The Firm’s representation of the Client does not give rise to an attorney-client relationship between the Firm and any parent, subsidiary, or affiliate of the Client. Accordingly, our representation of the Client will not create a conflict of interest in the event other clients of the firm are or become adverse to any parent, subsidiary, or affiliate of the Client.

Waiver of Future Conflicts. Our firm represents many other entities and individuals. Some may have business or legal interests that are contrary to your interests. It is therefore possible that during the time we are working for you, an existing or future client may seek our assistance in

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connection with a transaction, pending or potential litigation, or another matter or proceeding in which that client's interests are or could become adverse to your interests. This can create situations in which work for one client on a matter might preclude us from assisting other clients on unrelated matters.

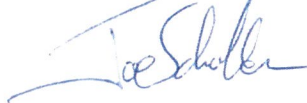
To avoid the potential for this kind of restriction on our practice, you agree that Frost Brown Todd may represent any existing or future client in any matter (including litigation, arbitration, or other dispute resolution proceedings), even if the interests of that client in the other matter are directly adverse to the interests of Client, as long as that other matter is not substantially related to our Firm's work on behalf of Client. You also agree that FBT may represent Client in any matter, even if your interests in the matter are directly adverse to the interests of another FBT client, as long as the matter for you is not substantially related to our Firm's work on behalf of the other client. We encourage you to consult with other counsel about this prospective conflicts waiver.

Additional Terms. Our engagement is also subject to the additional terms and conditions that follow this letter.

We appreciate the opportunity to represent you. Please return a signed version of this letter to confirm your agreement to these terms of our engagement. Our representation of you will begin when you accept the terms of our engagement. However, please note that your instructing us on this matter will also constitute your acceptance of the terms in this letter and those that follow it.

Sincerely,

FROST BROWN TODD LLP



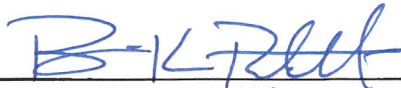
W. Joseph Scholler

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The foregoing is understood and accepted:

CITY OF MONTGOMERY

By: 
Print Name: Brian K. Riblet
Print Title: City Manager

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Approved as to form:

Director of Law

FROST BROWN TODD LLP

ADDITIONAL TERMS AND CONDITIONS OF CLIENT ENGAGEMENTS

1. **Expenses.** Expenses we incur on the engagement are charged to the Client's account. Expenses include such items as court costs, hard copy document reproductions, travel expenses, messenger service charges, overnight mail or delivery charges, extraordinary administrative support, filing fees, fees of court reporters and charges for depositions, fees for expert witnesses, and other expenses we incur on your behalf. Our charges for these services reflect our actual out-of-pocket costs based on usage, and in some areas may also include our related administrative expenses.

2. **Monthly Statements.** Unless a different billing period is agreed upon with the Client, the Firm will render monthly statements indicating the current status of the account as to both fees and expenses. The statements shall be payable upon receipt. If statements are not paid in full within 30 days, we reserve the right to add a late charge of 1% per month of the amount due. If it becomes necessary for the Firm to file suit or to engage a collection agency for the collection of fees or expenses, the Client shall pay all related costs and expenses, including reasonable attorneys' fees.

3. **Retainers.** Any retainer payment will normally be less than the Firm's ultimate fees and expenses, which must be kept current irrespective of your retainer payment(s). Such a payment or series of payments is not intended as a limitation upon the Firm's fees and expenses. Retainer payments will be deposited into a client trust account (which you agree may be maintained outside the state of the engagement letter signatory's office), and we may draw against it to satisfy any of your invoices that are more than 60 days past due. We may require that the retainer be replenished as a condition of continuing work on your behalf. In addition, we may request additional retainer payments if you request additional services and we agree to provide them, or if we determine that the cost of the required services and expenses to be incurred on the engagement may exceed any retainer balance. Additional retainer payments must be made within 15 days of the dates we request them. We reserve the right to discontinue our representation until you make such requested payments. The Firm may apply the advance payment toward any unpaid fees and expenses, in which event the Client shall make an additional deposit to restore the advance payment to its original level. Additional advance payments must be made within fifteen days of the date the request is made. Any unexpended balance of advance payments will be refunded to the Client, without interest, at the end of this engagement.

4. **Litigation Matters.** If this engagement involves litigation, the Client may be required to pay the opposing party's court costs. Such costs include filing fees, witness fees, and fees for depositions and documents used at trial. We will not settle litigated matters without the Client's express consent. We require the Client's active participation in all phases of the case.

5. **Waiver of Future Conflicts.** In deciding whether to consent to future conflicts as described in the engagement letter, the Client should consider how you might be affected by our Firm being adverse to you in another matter, or by our representing you in a matter in which the adverse party is also a client of the Firm (albeit in other matters). Because we would not be adverse

to the Client on the same matter on which we represented the Client (or one substantially related to such matter), we do not believe that there is any material risk that our commitment and dedication to the Client's interests will be adversely affected. Furthermore, your waiver of future conflicts does not waive your right to have our Firm maintain the confidentiality of client information obtained by us in representing you. If our representation of another client in a matter is directly adverse to you, our lawyers who have had significant involvement in our work for you will not work on the matter for such other client. We will take appropriate measures to ensure that your proprietary or other confidential information will not be made available to lawyers or others in our Firm involved in such matter. On the other hand, in our representation of other clients pursuant to this waiver of future conflicts, we may obtain confidential information of interest to you that we cannot share with you.

6. Generative AI. Unless you expressly instruct us otherwise, we may use on your matters applications that incorporate generative artificial intelligence that meet the Firm's security protocols, are not open-source applications, and are otherwise approved by the Firm. We may also train such applications using our information-management systems, which may include work product we created for you. We will comply with applicable ethics and court rules in any use of generative artificial intelligence.

7. Insurance coverage. Unless we have been explicitly retained to address insurance coverage issues (as documented in this engagement letter), we have no responsibility or obligation to (a) identify any potentially applicable insurance coverage, (b) provide notice to any carrier, or (c) advise the Client on issues relating to insurance coverage at any point during our representation.

8. Corporate Transparency Act. Unless we have been explicitly retained to advise on compliance with the federal Corporate Transparency Act or any similar state statute (collectively "CTA"), we have no responsibility to advise the Client on compliance with the CTA or applicability of CTA exemptions. When our work on behalf of the Client involves creating a new legal entity, we will provide to the Client any Firm-specific information required for a CTA filing. We will not be responsible for making any initial or updated filing required under the CTA, which shall remain the responsibility of the Client.

9. Termination. The Client has the right to terminate our representation at any time by notifying us of your intention to do so in writing. We will have the same right, subject to an obligation to give the Client reasonable notice to arrange alternative representation. If either party should elect to terminate our relationship, our fees and expenses incurred up to that point still will be due to us.

10. Withdrawal. Under the rules of professional conduct by which we are governed, we may withdraw from our representation of the Client in the event of, among other reasons, (a) nonpayment of our fees and expenses; (b) misrepresentation or failure to disclose material facts concerning the engagement; (c) action taken by the Client contrary to our advice; and (d) in situations involving a conflict of interest with another client. If such a situation occurs, which we do not expect, we will promptly give the Client written notice of our intention to withdraw.

11. Post-Engagement Services. The Client is engaging our Firm to provide legal services in connection with a specific matter. After completion of that matter, changes may occur in the applicable laws or regulations that could have an impact on the Client's future rights and obligations. Unless the Client engages us after completion of the matter to provide additional advice on issues arising from the matter, the Firm has no continuing obligation to advise the Client with respect to future legal developments.

12. Retention and Disposition of Documents. At the Client's request, its documents and property will be returned to the Client upon conclusion of our representation in the matter described above, although the Firm reserves the right to retain copies of any such documents as it deems appropriate. Our own files pertaining to the matter will be retained by the Firm. These firm files include, for example, administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records. All documents and property, including those belonging to the Client, that are retained by the Firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, and consistent with professional conduct rules, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us *within a reasonable time after the termination of the engagement* without further notice to the Client.

13. Audit letters. We will comply strictly with, and not go beyond, the terms of the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975) in any response that you request we make to your auditors regarding "loss contingencies" affecting you.

14. Consultation with Firm Counsel. From time to time, issues arise that raise questions as to our duties under the professional conduct rules that apply to lawyers. These might include conflict of interest issues and could even include issues raised because of a dispute between us and a client over the handling of a matter. The Firm has in-house counsel who advise the Firm's lawyers in such matters. We believe that it is in our clients' interest, as well as the Firm's interest, that in the event issues arise about our duties and obligations as lawyers, we receive candid and confidential advice from counsel versed in these subjects. Accordingly, the Client agrees that if we determine in our own discretion during the course of the representation that it is either necessary or appropriate to consult with our Firm's counsel (either the Firm's internal counsel or, if we choose, outside counsel), we have the Client's consent to do so and that our representation of the Client shall not waive any attorney-client privilege that the Firm may have to protect the confidentiality of our communications with our internal or outside counsel.

15. Retirement Plan Advice. If the Client engages the Firm to provide legal services with respect to a retirement plan that is subject to the Employee Retirement Income Security Act, the Client should be aware that certain "covered service providers" must disclose some very specific information to the Client as a responsible fiduciary before the Client engages those services. While the Firm would not usually be serving as a "covered service provider," there are some situations in which it might be. A description of the disclosures required in those situations can be located at [final-regulation-service-provider-disclosures-under-408b2.pdf \(dol.gov\)](https://www.dol.gov/eis/whistleblowers/final-regulation-service-provider-disclosures-under-408b2.pdf).

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16. Authorization. By the Client's agreement to these terms of our representation, the Client authorizes us to take any action we deem advisable on the Client's behalf on this matter. We will, whenever possible, discuss with the Client in advance any significant actions we intend to take.