

**AGREEMENT BETWEEN THE VILLAGE OF WAITE HILL  
AND ICE MILLER LLP FOR LEGAL SERVICES**

This Agreement is for legal services between the Village of Waite Hill, an Ohio Municipal Corporation, (“Waite Hill”) and Ice Miller LLP (“Ice Miller”), effective January 1, 2012.

**WITNESSETH:**

**WHEREAS**, Waite Hill wishes to engage Stephen L. Byron, as Law Director, and the firm of Ice Miller 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, Ice Miller agrees to provide and Waite Hill agrees to pay for the following Routine Services at the rate of \$3,800.00 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, 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. **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 Ice Miller and the Village prior to Ice Miller commencing work on any individual matter. The fee arrangement set forth below in "Additional Projects" shall also apply to "Complex Litigation."

3. **Billing.** Ice Miller 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.
4. **Term.** The rates set forth in this Agreement shall take effect and be in force from January 1, 2012, through the organizational meeting to be held in January 2013. However, either Party may terminate this Agreement 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, Ice Miller 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, Ice Miller will offer a discounted blended hourly rate of \$230 per hour, unless a different rate is agreed upon by Ice Miller and the Village and is approved by the Village.
  - b. **Expenses.** For work outside the scope of routine matters, Ice Miller 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 telephone charges, computer-assisted research, copying charges, telegrams, messenger services, and long-distance travel, excluding travel of Ice Miller lawyers between Cleveland and Columbus.
  - c. **Applicable Laws.** Ice Miller 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 Waite Hill:

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

If to Ice Miller:

Stephen L. Byron  
Ice Miller 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 Ice Miller 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 Ice Miller's 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.
- 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 Ice Miller’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.

**ICE MILLER LLP**

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Stephen L. Byron, Ice Miller

**VILLAGE OF WAITE HILL**

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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.

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Date

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Clerk-Treasurer