

Sponsor: Lemaster

**RESOLUTION NO. 2023-13**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT TO EMPLOY THE LAW FIRM OF COLE, KIRBY & ASSOCIATES, LLC., AS ATTORNEYS FOR THE CITY OF WELLSTON, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City has been without legal counsel since the resignation of its Law Director upon being appointed the County Prosecutor;

**WHEREAS**, it is necessary that the City have an attorney to advise the City and represent it on various legal matters and in criminal prosecutions of the City criminal code and probation violations;

**WHEREAS**, the legislative authority determines that it is necessary to preserve the public safety, health and welfare that there immediately be hired an attorney to represent the City in certain legal matters and to prosecute the violations of the City Codified Resolutions; and

**WHEREAS**, the legislative authority has determined it to be in the best interest of the City that the law firm of Cole, Kirby & Associates, LLC. be retained as its legal counsel at the hourly rate and terms contained within the Legal Services Agreement attached hereto as Exhibit "A"; and

**NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE AUTHORITY OF THE POLITICAL SUBDIVISION OF THE CITY OF WELLSTON THAT:**

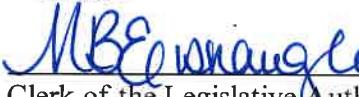
1. The Mayor is authorized to enter into an Agreement between the City of Wellston, Ohio and Cole, Kirby & Associates, LLC to represent the City in civil legal matters and to prosecute the violations of the City Codified Resolutions and to appear on behalf of the City for criminal violations of City Code. A copy of the Agreement is attached hereto as Exhibit A and is incorporated herein.
2. This Resolution is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health and safety of the City. Therefore, this Resolution shall go into effect upon passage and approval by the Mayor, as provided in Ohio Revised Code section 731.30.
3. In the event this Resolution receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then it shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.
4. It is hereby found and determined that all formal acts of this council concerning and relating to adoption of this Resolution were adopted in an open meeting of this council and that the deliberations of the council and any of its committees resulted

in such formal action, were in meeting open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 2<sup>nd</sup> day of March, 2023.

  
President of Council

ATTEST:

  
Clerk of the Legislative Authority



Approved this 2<sup>nd</sup> day of March, 2023.

  
Mayor

## **Hourly Fee Agreement**

The City of Wellston, Ohio (hereinafter known as City) hereby requests the legal services of Cole, Kirby & Associates (hereinafter known collectively as Attorney) for legal services including prosecuting and defending suits, prosecuting violations of the City Codified Resolutions and criminal matters, preparing legislation and advising the City and its various supervisors and officers. If at any time, Attorney is unable, for any reason, to provide legal representation on any matter, Attorney will notify the City administration and assist, as appropriate, in locating separate counsel for that matter.

City shall pay Attorney for Legal services that will be billed on an hourly basis, with time being charged in tenths of an hour, at the rate of \$160.00 per hour. Attorney will use his discretion in staffing, to provide services in the most economical manner possible. Please note that all time spent on behalf of the City in this matter, including time spent in telephone conversations, will be charged. The initials of the person performing the services will be noted on the invoice.

In addition to fees for legal services, Attorney will be entitled to payment or reimbursement for costs and expenses incurred for services, including but not limited to: delivery/postage service; fees for computerized research services; travel expenses; depositions; court costs, recording and filing fees; and other miscellaneous expenses. City agrees that City is responsible for such expenses relating to representation by this firm. Attorney is hereby authorized to charge such expenses and have such expenses billed to City and City agrees to pay them promptly. Unless other arrangements are made at the outset, fees and expenses of others will not be paid by Attorney and will be the responsibility of and billed directly to the City.

The City and Attorney agree there may be matters that Attorney cannot provide representation to the City. In such case, the City shall retain other counsel and pay that counsel pursuant to a separate agreement. Attorney maintains professional liability insurance. If it is determined that Attorney's policy of insurance does not cover claims made against Attorney by third parties, the City shall defend and hold Attorney harmless on said claims.

Invoices for legal services rendered and costs advanced or incurred are issued monthly and are payable upon receipt.

Attorney reserves the right to withdraw from representation for any reason, including, among other things, City fails to honor the terms of this Fee Agreement by failing to pay Attorney's invoices, by failing to cooperate or follow Attorney's advice on a material matter, or if any fact or circumstance arises or is discovered that would, in Attorney's view, render our continuing representation unlawful or unethical.

The outcome of negotiations and litigation is subject to factors that cannot always be foreseen; therefore, it is understood that Attorney has made no promises or guarantees to City concerning the outcome of this representation and cannot do so. Nothing herein shall be construed as such a promise or guarantee.

Date: \_\_\_\_\_  
City \_\_\_\_\_

Date: \_\_\_\_\_  
Attorney \_\_\_\_\_