

**PROFESSIONAL SERVICES ENGAGEMENT AGREEMENT BETWEEN
THE VILLAGE OF COMMERCIAL POINT AND DINSMORE & SHOHL LLP**

This Professional Services Engagement Agreement ("Agreement") made between the Village of Commercial Point, an Ohio municipal corporation (the "Village"), and Dinsmore & Shohl LLP ("Dinsmore") is made this 16th day of March, 2020. In consideration of the mutual promises contained herein, the Parties agree as follows:

1. PURPOSE OF REPRESENTATION

Pursuant to the laws of the State of Ohio, the Village hereby retains Joshua M. Cartee, an attorney with Dinsmore & Shohl LLP, to serve as Village Solicitor for the Village and its elected and appointed officials. In exchange for Five Thousand Dollars (\$5,000.00) per month, Mr. Cartee and Dinsmore agree to provide the following Routine Services:

- A. Attendance at all Regular and Special Council Meetings;
- B. Attendance at Regular Planning Commission, Board of Zoning Appeals, and Board of Building Appeal Meetings, as requested by the Mayor or Village Administrator;
- C. Reviewing and/or drafting all ordinances and resolutions;
- D. Attendance at all other board and commission meetings upon the request of the Mayor, Village Administrator, or their designee(s);
- E. Drafting, reviewing, and approving all contracts, agreements, leases, legal documents, and non-routine ordinances, resolutions, and proclamations;
- F. Providing legal advice to Village officials as necessary or upon request, including drafting legal memoranda and/or written legal opinions as requested by the Mayor, the Village Administrator, staff, or Council;
- G. Attend meetings and discussions with County, Township, State, and Federal officials and other governmental officials, as requested by the Mayor or Village Administrator;
- H. Provide prosecution services for the Village Mayor's Court; and
- I. Attend meetings with the development community, as requested by the Mayor or Village Administrator.

2. COSTS AND EXPENSES

Court costs and all reasonable expenses incurred by the Village Solicitor and his law firm shall be billed to the Village. Such expenses include, without limitation, funds advanced on behalf of the Village, deposition and discovery costs, and court costs. The Village shall in no circumstance be responsible for any expenses incurred for travel to and from the Village in furtherance of Village business.

3. **COMPLEX LITIGATION**

Complex Litigation is defined as major litigation that involves, for example, significant written or oral discovery, significant motion practice, and/or attendance at evidentiary hearings before a judge or jury. Complex Litigation shall be separate and apart from the Routine Services provided under Section 1. Complex Litigation shall also include Ohio Revised Code Chapter 2506 appeals. The Mayor shall pre-approve rates for complex litigation prior to Dinsmore commencing work on any individual matter.

4. **SPECIAL PROJECTS**

Special Projects are defined as non-routine legal work requiring substantial time, effort, and attention. Subject to agreement of both the Village and Dinsmore, Dinsmore may undertake special projects that are outside the scope of Routine Services on a flat fee or hourly basis as agreed upon the Village Solicitor and the Mayor or Village Administrator. By way of example, in the event the electors of the Village decide to adopt a Charter, a Special Project may include advice rendered and attendance at meetings in relation to any Charter Review Commission or similar activity.

5. **ASSISTANT VILLAGE SOLICITOR(S)**

The Village Solicitor, at his discretion, shall utilize the services of other attorneys both within and outside Dinsmore as Assistant Village Solicitor and/or Special Counsel.

6. **CONFLICTS OF INTEREST**

- A. The Village Solicitor and Dinsmore will make every reasonable effort to recognize and disclose to the Village any potential conflicts or the appearance of conflicts of interest as to all matters, particularly with respect to economic and development issues. In the event a non-waivable conflict of interest arises, the Village Solicitor will be responsible for arranging alternate representation with a disinterested law firm.
- B. Dinsmore presently represents M/I Homes in matters that are not directly related to the Village. Due to Dinsmore's continuing representation of M/I Homes in unrelated matters, there is the potential for a conflict of interest in the future. The Ohio Rules of Professional Conduct require that Dinsmore disclose certain matters to M/I Homes and the Village and obtain consent from both to engage in representation of both entities. Such consent must be obtained by both M/I Homes and the Village, and confirmed in writing. Dinsmore believes that it can provide competent and diligent representation to both M/I Homes and the Village in unrelated matters. However, the Village must consent to Dinsmore's representation of the Village. Dinsmore understands that it will not (a) use any information gained in Dinsmore's current or prior representation of M/I Homes to the detriment of the Village of Commercial Point, or (b) represent or advise M/I Homes with respect to (i) any dispute, claim, or litigation against the Village, or (ii) any proceeding in which M/I Homes or any of its affiliates has an adverse interest to the Village. Dinsmore has already advised M/I Homes of the matters contained herein. By executing this Agreement, the Village hereby voluntarily waives Dinsmore's potential conflict of interest and consents to Dinsmore representing both M/I Homes and the Village.

7. **TERM OF AGREEMENT**

This Agreement shall be in full force and effect from May 1, 2020 through December 31, 2021. Either Party may terminate this Agreement upon providing thirty (30) days' prior notice of its intent to terminate to the other Party. All notices hereunder must be in writing and will be deemed to have been duly given if delivered by hand, or 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 the Village of Commercial Point:

Wendy Hastings, Fiscal Officer
Village of Commercial Point
10 W. Scioto St., P.O. Box 56
Commercial Point, Ohio 43116

If to Dinsmore:

Joshua M. Cartee, Esq.
Dinsmore & Shohl LLP
191 W. Nationwide Blvd., Suite 300
Columbus, Ohio 43215

It is the Parties' intent to re-assess the appropriate monthly retainer fee for Routine Services at the end of each calendar year. Such re-assessment may result in the increase or decrease of the monthly retainer fee the Village pays to Dinsmore, depending on the amount of work performed for Village Solicitor services in the prior calendar year and anticipated work to be performed by Dinsmore for Village Solicitor services in the coming calendar year.

8. **INDEPENDENT CONTRACTOR STATUS**

The Parties agree that services provided under this Agreement are provided by an independent contractor and that the Village shall make no contributions to the Public Employees Retirement System for the services provided hereunder. This Agreement shall serve as acknowledgement of Dinsmore's independent contractor status per Ohio Revised Code § 145.038.

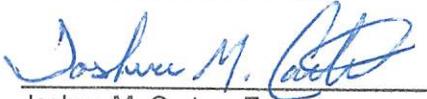
9. **MISCELLANEOUS PROVISIONS**

- A. **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.
- B. **Parties in Interest.** This Agreement is enforceable only by Dinsmore and the Village. The terms of this Agreement are not a contract of assurance regarding compensation, continued employment, or benefit of any kind to any of Dinsmore's personnel assigned to the Village'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.

- C. 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 Party is void.
- D. 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.
- E. 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.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

DINSMORE & SHOHL LLP


Joshua M. Cartee, Esq.

04/22/2020
Date

VILLAGE OF COMMERCIAL POINT


Mayor Allan D. Goldhardt

4/16/20
Date