



RESOLUTION 2024-07

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE DELAWARE, OHIO CITY PROSECUTOR'S OFFICE.

WHEREAS, the State of Ohio law authorizes local governments to contract with each other to provide services; and

WHEREAS, the City of Powell currently uses the service of the Delaware City Prosecutor's office to prosecute all cases coming before the Delaware Municipal Court arising out of alleged violations of the Codified Ordinances of Powell; and

WHEREAS, Council has determined that it is beneficial for the City of Powell to enter into an agreement with the Delaware, Ohio City Prosecutor's Office so they may continue to provide that service.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF POWELL, COUNTY OF DELAWARE, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Council of the City of Powell hereby authorizes the City Manager to execute an agreement with the Delaware, Ohio City Prosecutor's Office in a form substantially similar to the agreement attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of Council and that all deliberations of Council and any of the decision-making bodies of the City of Powell, which resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the City of Powell, Delaware County, Ohio.

Section 3: This Resolution shall be in full force and effect immediately upon adoption.

Handwritten signatures and dates for Tom Counts (Mayor) and Elaine McCloskey (City Clerk) on 1/16/24.

EFFECTIVE DATE: January 16, 2024

This legislation has been posted in accordance with the City Charter on this date 1/17/2024. Elaine McCloskey, City Clerk



December 6, 2023

City of Powell
47 Hall St.
Powell, OH 43065

Via Email

Dear Law Enforcement Partner:

Enclosed please find the proposed updated professional services contract through which the City of Delaware provides prosecution services to your agency.

As indicated last year, the City of Delaware reviewed its costs for prosecution services this year. This review revealed an increase of more than the previous five-dollar (\$5.00) annual increase was warranted. Over the next two years, the City of Delaware will increase the cost per case, incrementally, as follows: increase of ten dollars (\$10.00) beginning January 1, 2024, and an increase of fifteen dollars (\$15.00) beginning January 1, 2025. The total increase over the next two years will be \$25.00 per case. Another review will occur in 2025 to assess the cost for prosecution services beginning January 1, 2026.

Enclosed for your review and execution, please find the proposed professional services contract, which reflects the initial ten-dollar increase (\$10.00) per case, beginning January 1, 2024, as described above.

The information for the prospective \$15.00 increase per case in 2025 is provided so that you can budget accordingly should you wish to continue to contract with the City of Delaware for these professional services.

Feel free to reach out to me should you have any questions or wish to further discuss.

Thank you in advance for your understanding and cooperation with this matter.

Regards,



R. Thomas Homan
City Manager

Enclosure

cc: Natalia S. Harris, City Attorney
Amelia Bean-DeFlumer, City Prosecutor



PROFESSIONAL SERVICES AGREEMENT

This agreement is made this ____ day of _____, 20____ by and between the City of Powell, hereinafter referred to as "Powell", and the City of Delaware, Ohio Prosecutor's Office hereinafter referred to as the "Prosecutor." Powell being willing to engage the Prosecutor and the Prosecutor being willing to be engaged by Powell on the terms, covenants and conditions hereinafter set fourth; it is hereby agreed as follows:

1. NATURE OF EMPLOYMENT

The City of Powell does hereby contract with and engage the Delaware, Ohio City Prosecutor's Office, the address of which is 70 N. Union Street, Delaware, Ohio 43015, to prosecute all cases coming before the Delaware Municipal Court, Criminal Division, arising out of alleged violations of the Criminal, Traffic and Zoning Sections of the Codified Ordinances of the Municipality of Powell, Ohio, and the Criminal and Traffic Sections of the Ohio Revised Code which occur within the jurisdictional limits of Powell; provided however that the Delaware City Prosecutor reserves the right to decline to represent Powell under this contract in any specific case filed in or coming before the Delaware Municipal Court, upon giving written notice to the Powell Law Director at least seven days prior to a scheduled hearing in that specific case. Powell reserves the right under this contract to represent itself or obtain other representation in any specific case filed in or coming before the Delaware Municipal Court by giving written notice to the Delaware City Prosecutor at least seven days before a scheduled hearing in a specific case, that Powell intends to retain other counsel in that specific case, and other counsel so entering appearance.

Delaware City Prosecutor further agrees that she will consult with and advise the Powell Law Director, when necessary, concerning the prosecution and enforcement of the Codified Ordinances of Powell and perform such other duties as are customarily performed by one holding such position in other similar municipalities. However, nothing herein shall be construed to limit the reasonable prosecutorial discretion of the Delaware City Prosecutor.

2. TERM OF EMPLOYMENT

The term of this Agreement shall be for a period commencing on January 1, 2024, and ending December 31, 2024 subject, however, to prior termination as hereinafter provided. Cases that are commenced or concluded between these dates are subject to this contract.

3. PAYMENT AND REIMBURSEMENT

Powell shall pay the Prosecutor and the Prosecutor shall agree to accept from Powell compensation at the rate of \$260 per contested case prosecuted, with a minimum of \$300 dollars per year. The Prosecutor acknowledges receipt of the minimum for the period covered by this contract. A "contested case" for this document is one in which the defendant enters a plea of "not guilty" or its' equivalent, and thus requires further procedures after arraignment. There will be no separate charge for prosecutions terminated at or before arraignment. Provided however, Powell agrees that it will reimburse the Prosecutor for any and all necessary expenses incurred on behalf of Powell including mileage at the rate established by the Internal Revenue Service, but excluding materials, paper and secretarial expenses which the Prosecutor agrees to pay from the stated compensation. The prosecutor shall bill Powell quarterly, for cases terminated during the preceding quarter, and compensation shall be paid within 30 days of billing.

4. TERMINATION OF AGREEMENT

Notwithstanding anything to the contrary contained in this Agreement, both parties are hereby given the option to terminate this Agreement upon written notice presented to the other party thirty (30) days prior to termination. No other requirements are necessary to terminate this Agreement.

5. APPLICABLE LAW

The parties hereto agree that it is their intention that this Agreement and the performance hereunder be construed in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties have signed this Agreement on the day and year first above written:

CITY OF POWELL, OHIO

Approved as to Form:

City Attorney
City of Powell

By: _____

Its: _____

CERTIFICATION OF DIRECTOR OF FINANCE

Powell Director of Finance hereby certifies that the necessary funds are available as this is a continuing contract to be performed in whole or in part in an ensuing fiscal year and the amount required to meet the obligation in the fiscal year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

By: _____
Director of Finance

CITY OF DELAWARE

By: _____
R. Thomas Homan, ICMA-CM
City Manager

By: _____
Natalia Harris, City Attorney