

EMERGENCY RESOLUTION NO. 60-2014

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES BY AND BETWEEN THE CITY OF MONROE AND SCOTT D. BERGTHOLD P.L.L.C. AND DECLARING AN EMERGENCY.

WHEREAS, regulations related to sexually oriented businesses have not been updated since 2006; and

WHEREAS, Council deems it in the best interest of the City to have the current regulations analyzed for any amendments or additions that may be necessary.

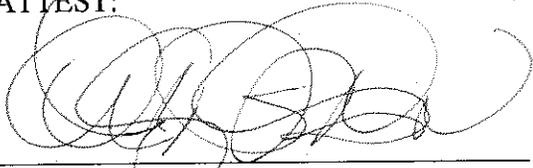
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into an agreement for professional legal services by and between the City of Monroe and Scott D. Bergthold P.L.L.C. pursuant to the scope of services set forth in Exhibit "A attached hereto and made a part hereof.

SECTION 2: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that Council desires to proceed with analyzing the City's existing regulations at the earliest possible date to promote morals and general welfare of the citizens of Monroe. Therefore, this measure shall take effect and be in full force from and after its passage.

PASSED: September 9, 2014

ATTEST:



Clerk of Council

APPROVED:



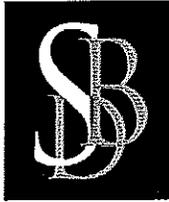
Mayor

"I, the undersigned Clerk of Council of the City of Monroe, Ohio, hereby certify that the foregoing (ordinance or resolution) was published as Required by Section 7.16 of the Charter of the City of Monroe.



Clerk of Council
City of Monroe, Ohio"

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.



LAW OFFICE OF SCOTT D. BERGTHOLD, P.L.L.C.

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August 18, 2014

William Brock
City Manager
233 South Main Street
P. O. Box 330
Monroe, Ohio 45050-0330

Dear Bill:

RE: Sexually Oriented Business – Ordinance Development Project

This letter of Agreement confirms the retention of the Law Office of Scott D. Bergthold, P.L.L.C., a Tennessee professional limited liability company (the "Firm"), to provide services to the City of Monroe (the "City"), through consultation with the Law Director's office, in regard to the City's regulation of sexually oriented businesses. As the Firm employs attorneys licensed in states other than Ohio, its attorneys intend to provide services subject to the direction, supervision, and control of the City's Law Director. This agreement is predicated upon the belief that the Firm is particularly qualified to provide such services and that the services are professional and noncompetitive in nature. Our agreement therefore is as follows:

SCOPE OF SERVICES

Ordinance Development Project. The Firm will review and analyze the provisions of the City Code relating to zoning, licensing, and regulating sexually oriented businesses (the "Legislation"). The Firm will advise the Law Director as to any provisions of the Legislation for which amendments or additions should be considered in order to enhance the City's ability to defend the Legislation, or in order to enhance the City's goals of reducing the secondary effects of sexually oriented businesses. The Firm will provide any necessary amendments to the Legislation, in the form of a draft licensing ordinance and zoning amendment, and related materials, to the Law Director within forty-five (45) days of the commencement of this Agreement. **Consulting.** If requested by the City Manager or Law Director, the Firm will provide consulting services related to the Legislation, which services may include, but are not limited to, meeting with the City Council or City staff, making presentations, drafting memoranda and, subject to any required pro hac vice admission, providing services such as strategy advice, memoranda, and oral argument.

It is agreed that the Firm reserves the right to represent existing or new clients, except that the Firm shall not represent any other client, private or public, in the City during the term of

this agreement. It is agreed that the Firm does not guarantee any priority in servicing requests for assistance, but will perform its obligations in good faith and with due diligence.

It is further agreed and understood that the Firm does not serve in the capacity of general counsel on behalf of the City or any division thereof and acceptance of this engagement does not involve representation of, or consultation with, the City or any division or agent thereof in any civil or criminal lawsuit other than those involving the subject matter set forth herein. It is agreed that since the result of any lawsuit is subject to the vagaries and risks inherent in judicial review, the Firm makes no promises or representations concerning the outcome of any suit.

COMPENSATION AND METHOD OF PAYMENT

Ordinance Development Project. The City agrees to pay to the Firm a flat fee of five thousand dollars (\$5000), plus actual expenses, as full and complete compensation for the Firm's Ordinance Development Project services described above. **Consulting.** In the event that the Law Director requests consulting services from the Firm, the City agrees to pay the Firm two hundred fifty dollars per hour (\$250/hr.) for such services.

In discharging its responsibilities hereunder, it may be necessary for the Firm to incur costs and expenses for various items such as legal research, travel, and delivery services. These items will be charged at the actual cost to the Firm and shall be separately itemized on our statements. The firm does not charge for long distance telephone calls, faxes, or copy jobs less than 100 pages. Expenses shall not exceed a total of seven hundred fifty dollars (\$750) absent separate authorization from the City.

The City will make periodic payments to the Firm upon submission of an invoice in a manner approved by the Law Director. The Firm's invoices will be forwarded directly to the Law Director on a monthly basis. Invoices will reflect charges for reimbursement of actual expenses noted above.

REPORTS, INFORMATION, AND CONFIDENTIALITY

The Firm, at such times and in such form as the Law Director may require, shall furnish the Law Director such reports as may be requested pertaining to the services undertaken per this Agreement. The Firm shall retain all financial and administrative records for a period of three years after the expiration or termination of this Agreement, and shall permit the Law Director or any of his or her representatives access to such records.

The Firm and its agents and employees will keep and retain any and all information, reports and records generated under this Agreement in confidence, regarding all such matters as subject to all applicable privileges provided by law, and will neither use such information nor disclose such information to anyone without the permission of the City.

OHIO LAW TO GOVERN

In the performance of services under this Agreement, the Firm shall comply with all applicable statutes, ordinances, and laws of the Federal Government, the State of Ohio, and City of Monroe. The law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

TERM AND TERMINATION

The term of this Agreement shall commence on the day executed by the last executing party and will continue for two years thereafter. Either party may terminate this Agreement at any time by giving notice in writing to the other party. If this Agreement is terminated by the City other than for default by the Firm, the Firm will be paid for services performed and expenses incurred up to the effective date of termination.

If you have any questions concerning this letter of Agreement, please feel free to call me at 423-899-3025. Otherwise, please sign the original below and return a copy to me for my file.

Sincerely,

SCOTT D. BERGTHOLD, P.L.L.C.



Scott D. Bergthold

I have read the foregoing letter of Agreement and accept its terms on behalf of the City.

By: _____

Name: _____

Title: _____

Date: _____