

RESOLUTION NO. 17-24
CITY OF CENTERVILLE, OHIO

19th SPONSORED BY COUNCILMEMBER Bill Serr ON THE
DAY OF February, 2024.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY
MANAGER TO ENTER INTO A FEE ENGAGEMENT
AGREEMENT WITH SUBASHI, WILDERMUTH & JUSTICE
FOR LEGAL COUNSEL SERVICES.

WHEREAS, the City of Centerville desires to engage legal counsel to assist
the City with litigation related to a pending 2506 Administrative Appeal; and

WHEREAS, Subashi, Wildermuth & Justice has the ability to provide such
legal counsel services; and

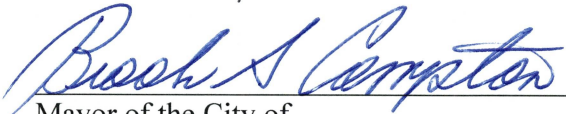
WHEREAS, it is the desire of the City to retain Subashi, Wildermuth &
Justice for this litigation.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE
HEREBY RESOLVES:

Section 1. That the City Manager is hereby authorized to execute a
contract or engagement with Subashi, Wildermuth & Justice to provide legal counsel
services to the City of Centerville upon the basis of its Engagement Letter dated
 , 2024 and attached hereto as exhibit "A".

Section 2. That this Resolution is to take effect at the earliest date
allowed by law.

PASSED THIS 19th day of February, 2024.



Mayor of the City of
Centerville, Ohio

ATTEST:

Denna Siri
Clerk of Council (Acting)
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 17-24, passed by the Council of the City of Centerville, Ohio on the 19th day of February, 2024.

Denna Siri
Clerk of the Council (Acting)

Approved as to form, consistency
with existing ordinances, the
charter & constitutional provisions
Department of Law
Scott A. Liberman
Municipal Attorney

Subashi | Wildermuth | Justice

February 14, 2024

Client: The City of Centerville, Ohio

Scope of Representation: Representation of the City of Centerville, Ohio and the City Council of the City of Centerville, Ohio in the Ohio Revised Code Chapter 2506 Appeal filed by Appellants, Morse Road Development LLC, d/b/a Silk and Gold, Sheetz Inc., and Hemmert Far Hills Properties LLC and docketed to case no. 2023 CV 06256 in the Montgomery County Court of Common Pleas.

Agreement: Client hereby retains the attorneys of Subashi, Wildermuth & Justice (SWJ) to represent Client in the above-specified matter. Client understands and agrees that the firm's legal representation and obligations to him/her/it are limited to the above-referenced matter. No promises, representations, or guaranties have been made to Client regarding the outcome of said matter.

Attorneys shall use their best efforts in representing Client. In order to ensure the best possible representation under the circumstances, Client shall cooperate with Attorneys. This includes providing all information requested by Attorneys and following Attorneys' advice. Client shall also keep Attorneys informed of a current address and a direct telephone number whereby Client can be reached within 24 hours.

Billable Rate: Legal services will be billed on an hourly basis, with time being charged in tenths of an hour, at the following rates:

Partners: \$210.00 per hour
Associates: \$200.00 per hour
Paralegals: \$86.00 per hour

The primary attorney will use his/her discretion in staffing, to provide services in the most economical manner possible. Please note that all time spent on Client's behalf in this matter, including time spent in telephone conversations, will be charged to Client.

Other Potential Costs: In addition to our fees, Client agrees to pay, or reimburse SWJ for certain costs and expenses incurred in the course of performing services, including but not limited to, messenger and delivery charges, travel expenses (including automobile mileage), court costs, and filing fees. Unless an unusual volume is involved, SWJ does not charge for the cost of photocopies, facsimile transmissions, local or long-distance telephone calls, first class postage, or office supplies consumed in the scope of the engagement.

Billing: SWJ's statements for services rendered and costs advanced or incurred are issued monthly and payable upon receipt. If a balance due shown on the statement is not paid within 30 days after the statement date, Client will be assessed finance charges at the rate of 1.5% per

| SW&J |

Subashi, Wildermuth & Justice
The Greene Town Center 50 Chestnut Street, Suite 230 Dayton, Ohio 45440

swjohiolaw.com
phone 937-427-8800
fax 937-427-8816

month (18% per annum). Client agrees to review our billings carefully when received. If Client has any issues with the billing, he/she will agree to raise those issues with SWJ immediately, but in no event, later than 45 days after the mailing of the bill to which Client has objections. If Client fails to object within that 45-day period, all objections are waived, and the amount billed is final, due, and owing.

Termination: Client may terminate this engagement at any time by giving SWJ reasonable notice. If we withdraw from your representation or you terminate our engagement, (1) you agree to take all steps necessary or appropriate, including, but not limited to, executing any documents, effecting our withdrawal and eliminating any obligation on our part to perform further services; and (2) you agree that we will be entitled to payment for all services rendered and costs and expenses paid or incurred on your behalf through the date of withdrawal or termination.

We reserve the right to withdraw from our representation if, among other things, (1) Client fails to honor the terms of this engagement letter, including, but not limited to, your failure to pay our statements; (2) Client fails to cooperate with or follow our advice on a material matter; or (3) any fact or circumstance arises or is discovered that would, in our view, render our continuing representation unlawful or unethical.

Disputes: Should any controversy or claim arise out of or relate to this contract, or the breach thereof, it will first be submitted to mediation. If the matter cannot be settled by mediation, it shall be submitted to arbitration in accordance with the rules promulgated by the Dayton Bar Association. The prevailing party, in any legal action, arbitration or proceedings between the parties shall be entitled to recover actual attorney fees and actual costs incurred relating to the matter. If any mediation, arbitration or legal action is instituted regarding this Agreement, the venue shall be that of the Greene County Court of Common Pleas. This instrument contains the entire agreement of the parties hereto and supersedes any and all agreements, either oral or written, between the parties hereto.

Approved as to form:

Scott Liberman, Municipal Attorney
For the City of Centerville, Ohio (Print)

Scott Liberman, Municipal Attorney
For the City of Centerville, Ohio (Signature)

Date

Signatures:

Wayne Davis, City Manager of the
City of Centerville, Ohio (Print)

Wayne Davis, City Manager of the
City of Centerville, Ohio (Signature)

Date

Attorney (Print)

Attorney (Signature)

Date