

**INTRODUCED BY ALDERMAN TOBEN**

**BILL NO. 23-2523**

**ORDINANCE NO. 23-2407**

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AN ORDINANCE APPOINTING KEITH K. CHEUNG AS PROSECUTING ATTORNEY FOR THE CITY OF MANCHESTER AND ESTABLISHING A RATE OF COMPENSATION FOR THE POSITION.

WHEREAS, the Prosecuting Attorney shall prosecute all cases in the Manchester Municipal Court on behalf of the City and any appeals of a decision of the Manchester Municipal Court; and,

WHEREAS, the Prosecuting Attorney shall attend all sessions of the Manchester Municipal Court; and,

WHEREAS, the Mayor wishes to appoint Interim Prosecuting Attorney, Keith K. Cheung, as the Prosecuting Attorney of the City of Manchester, and to establish the rate of compensation for his service as Prosecuting Attorney

THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MANCHESTER, STATE OF MISSOURI, AS FOLLOWS:

Section One: Pursuant to Section 115.110 of the Manchester Code of Ordinances, the Mayor, with the consent and approval of a majority of the members of the Board of Aldermen, hereby appoints Keith K. Cheung as the Prosecuting Attorney for the City of Manchester and Mr. Cheung shall serve at the pleasure of the Mayor and Board of Aldermen until terminated by the City or by Mr. Cheung and pursuant to the terms and conditions set forth herein and in Section 115.110 of the City of Manchester Code of Ordinances. The City Administrator is hereby authorized to execute the Agreement for Prosecuting Attorney Services in substantially the form of Exhibit A.

Section Two: The compensation of Keith K. Cheung as the Prosecuting Attorney shall be Two Thousand Five Hundred Dollars (\$2,500.00) per month as set forth in the engagement letter, Exhibit A, attached hereto, which is hereby approved and incorporated herein by reference. This initial compensation is subject to annual review and adjustment in accordance with the annually approved fiscal budget of the City of Manchester.

Section Three: As the City's Prosecuting Attorney Keith K. Cheung shall have all powers and duties of the Prosecuting Attorney set forth in the Code of Ordinances of the City of Manchester and as otherwise provided by the Mayor and Board of Aldermen.

Section Four: The term of office of Keith K. Cheung as the City of Manchester Prosecuting Attorney shall commence on December 19, 2023.

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Section Five: This ordinance, having been read in full or by title two times prior to passage, shall be in full force and effect on and after its passage and approval as provided by Law.

PASSED AND APPROVED THIS 18<sup>th</sup> DAY OF DECEMBER 2023.

CITY OF MANCHESTER, MISSOURI

By   
Mayor

ATTEST:

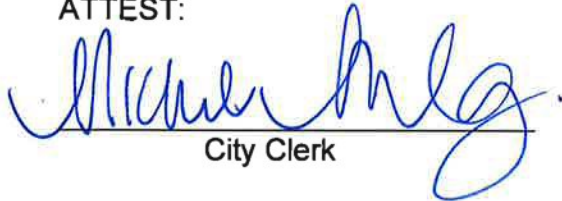
  
City Clerk

EXHIBIT A

AGREEMENT FOR PROSECUTING ATTORNEY SERVICES

The City of Manchester, Missouri ("City") and Curtis, Heinz, Garrett & O'Keefe, P.C. ("Firm") and Keith K. Cheung ("Attorney") enter into this agreement for the Firm and Attorney to provide Prosecuting Attorney Services to the City in accordance with the following terms, this 11 day of December, 2023.

I. REPRESENTATION

A. Attorney and Firm agree to provide legal services as City Prosecuting Attorney to the City on the terms and conditions set forth herein beginning \_\_\_\_\_, \_\_\_\_\_ on a month-to-month basis until otherwise agreed. The parties reserve the right to terminate the relationship at any time upon reasonable notice and consistent with applicable law and ethical standards.

B. Attorney shall be primarily responsible for the provision of legal services to the City as its prosecutor, but Attorney is authorized to delegate responsibilities to other Firm attorneys in the event Attorney is not available or circumstances so require, in the Attorney's professional discretion. In such circumstances the City shall retain the final authority to determine which of the Firm's attorneys provides service to the City. In the event alternate prosecution services are required due to any conflict of interest, the City shall obtain such services by separate arrangement.

C. Attorney and Firm shall keep a record of all time expended for legal services rendered to City, in one-tenth of an hour increments, and shall provide said information to the City through monthly billing statements. Time devoted to City matters shall include all efforts, including but not limited to court appearances, document preparation, planning, coordination, supervision, meetings, telephone calls, correspondence, email, and travel. City shall pay Firm invoices on a timely basis. Neither Firm nor City shall be entitled to any interest earned on funds held in the Firm's trust account, but rather both consent to the payment of any such interest to the Missouri Lawyer Trust Account Foundation.

II. RETAINER SERVICES:

A. The following legal services will be rendered to the City for the fee of \$2,500.00 per month:

1. Attendance and representation at Municipal Court proceedings.
2. All related preparation, research, and communication.
3. Availability for consultation by telephone or in person with the City Administrator, Building Department and Police Department.

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B. All matters in Circuit Court and Appellate Court as well as any other services requested by City not within the scope of II.A. above will be subject to additional fees of \$175 per hour.

**III. OUT-OF-POCKET EXPENSES:**

In addition to the fees set forth above, Attorney and Firm shall be reimbursed for all direct out-of-pocket expenditures incurred in the rendering of such services as follows:

A. Travel expenses including transportation, food and lodging while on City business away from the St. Louis metropolitan area and upon approval of such travel in advance by the City Administrator.

B. Special courier or messenger service when required by the City.

C. External photocopy or document reproduction costs when required by the City for use in legal proceedings and out-of-pocket litigation costs such as depositions.

D. Other direct out-of-pocket expenditures as may be approved by the City Administrator.


**IV. OTHER SERVICES:**

It is anticipated that this Agreement will cover all required legal services associated with the position of City Prosecuting Attorney. In the event there is a need for services not described, or specifically excluded, the fees for such services shall be reviewed with the City prior to such undertaking.

**V. OVERHEAD AND RELATED COSTS:**

No general overhead costs incurred by Attorneys or Firm in rendering such services shall be billed to the City.

CITY OF MANCHESTER, MISSOURI

By:   
Justin Klocke,  
City Administrator

CURTIS, HEINZ, GARRETT  
& O'KEEFE, P.C.

By:   
Carl J. Lumley, President

  
Keith K. Cheung