

## **ORDINANCE NO. 06-100 AC CMS**

### **AN ORDINANCE APPROVING A CONTRACT WITH J.F. LENCEWICZ AND ASSOCIATES OF CHAGRIN FALLS, OHIO, FOR THE FURNISHING OF CONSULTATION AND NEGOTIATION SERVICES RELATIVE TO COLLECTIVE BARGAINING PROCEDURES AND DECLARING AN EMERGENCY**

**BE IT ORDAINED** by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

**SECTION 1.** That the City Manager is hereby authorized and directed to enter into a contract with J.F. Lencewicz and Associates of Chagrin Falls, Ohio, for the furnishing of consultation and negotiation services relative to collective bargaining procedures, upon the terms and conditions set forth in the proposed contract attached hereto as Exhibit A and incorporated herein by reference, and in an amount not to exceed \$70,000.

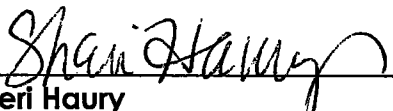
**SECTION 2.** It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

"to continue on-going negotiations for three collective bargaining agreements and to obtain services of a collective bargaining consultant at the earliest possible date", and shall take effect immediately upon passage.

**PASSED:**      1<sup>st</sup> Reading – December 4, 2006 (E)  
                    2<sup>nd</sup> Reading –  
                    3<sup>rd</sup> Reading -

**ATTEST:**

  
\_\_\_\_\_  
Sheri Haury  
INTERIM CLERK OF COUNCIL

  
\_\_\_\_\_  
Daniel Gardner  
PRESIDENT OF COUNCIL

**POSTED:** December 5, 2006

**EFFECTIVE DATE:** December 5, 2006

# **AGREEMENT**

This Agreement, by and between the City of Oberlin, hereinafter called the "City" and J.F. Lencewicz & Associates, hereinafter called the "Consultant" hereby agree to the following terms and conditions.

In consideration of these premises and the mutual covenants hereinafter set forth, it is agreed as follows:

## **Section 1 - Scope of Services**

The Consultant agrees to provide to the City consultation and negotiation services relative to collective bargaining procedures and employee relations, as directed by the City Manager.

## **Section 2 - Time of Performance**

The Work, as provided in Section 1, shall commence on November 1, 2006 and continue through December 31, 2007 unless earlier terminated in accordance with the provisions of this Agreement.

## **Section 3 - Payment**

For professional services, the City agrees to pay the Consultant a flat monthly payment / retainer in the amount of \$5,000 per month, not to exceed \$70,000 for the term of the contract.

When and if the City authorizes the Consultant to employ others to perform services in accordance with the terms of this Agreement, that fee paid to the Consultant by the City for such services by others shall be the actual cost invoiced by others to the Consultant.

## **Section 4 - Agency**

It is expressly understood and agree that in performance of services under this Agreement, Consultant shall act as agent of the City. In the performance of the work, the employees of Consultant shall be under the direction and control of Consultant.

## **Section 5 - Termination of Performance**

The City Manager with Council approval may terminate this Agreement during its term by written notice to Consultant specifying the termination date, which shall not be less than 30 days from the date such notice is given. In the event of such termination, Consultant shall be paid

such amount as shall compensate him for the portion of the work satisfactorily performed prior to the termination date.

## **Section 6 - Personal Services of Consultant**

It is the intent of this Agreement to secure the personal services of Consultant or a duly authorized and competent representative or representatives acceptable to the City Manager, in which case the hourly rate shall be negotiated, but in no event exceed \$100.00 per hour. Failure of Consultant for any reason to make the personal service of such person available to the City to the extent necessary to perform the services required skillfully and promptly shall be the grounds for termination of the Agreement.

## **Section 7 - Amendments**

Amendments, modifications, or changes to this Agreement shall not be effective unless in writing and approved by the City Manager and City Council.

## **Section 8 - Notices**

Except as otherwise provided herein, any notice, approval, acceptance, request, bill, demand or statement hereunder from either party to the other shall be in writing and shall be deemed to have been given when either delivered personally or deposited in a U.S. mailbox in a postage-prepaid envelope, addressed to the other party. Either party may at any time change such address by delivering or mailing, as aforesaid, to the other party a notice stating the change and the changed address.

## **Section 9 - Conflict of Interest**

Consultant covenants that he has no interest, nor shall he acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of this Agreement. No persons having such interest shall be employed by him.

## **Section 10 - Non-Discrimination**

Consultant agrees that in performance of this Agreement or any subcontract hereunder, neither Consultant nor any person acting on his behalf will refuse to employ or refuse to continue in any employment, any person on account of race, creed, color, national origin, gender, age, sexual orientation or handicap.

## **Section 11 - Effective and Binding**

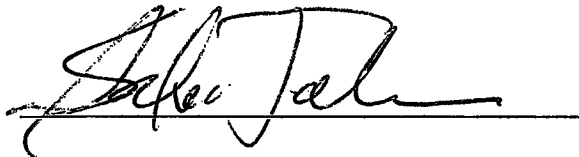
This Agreement shall not become effective or binding upon the City unless and until the Council shall have authorized the City Manager to execute the same.

IN WITNESS WHEREOF, the parties hereunto set forth their hand this 8<sup>th</sup> day of December, 2006.

Signed in the presence of:



Consultant:

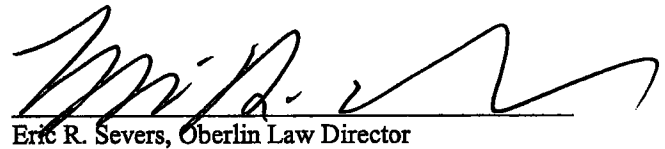
  
Joseph F. Lencewicz

City of Oberlin, Ohio

  
Robert DiSpirito, City Manager

### Certificate of Law Director

I hereby certify that I have reviewed and approved the form of the foregoing Agreement this 8<sup>th</sup> day of December, 2006.

  
Eric R. Severs, Oberlin Law Director

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**J. F. LENCEWICZ & ASSOCIATES****SUITE 303****45 EAST WASHINGTON STREET****CHAGRIN FALLS, OHIO 44022****(440) 247-3600****FAX (440) 247-3665**

November 27, 2006

Robert DiSpirito, City Manager  
City of Oberlin  
85 South Street  
Oberlin, Ohio 44074

Dear Mr. DiSpirito,

As you know the contracted amount for our consulting services of \$69,000 has been exceeded as of October 31, 2006. Additional funds for the remaining two (2) months of this year are estimated to be \$8,000 - \$10,000 in total. Reviewing the past three (3) years (2003, 2004, and 2005), indicates that in each of those years the appropriated amounts have been exceeded and "catch-up" payments have had to be made in the following fiscal years. Obviously, this has had a cumulative effect and has contributed to the shortfalls in each of the successive years. This coupled with the unanticipated labor relations issues that had to be addressed in those years exacerbated those consulting costs, and this is particularly the case for this fiscal year, 2006.

Additionally, it should be noted that our consulting hourly rate of \$100, which was the lowest for firms providing similar services four (4) years ago, has not changed in the past four (4) years.

Based on the foregoing we are recommending an alternative consulting fee arrangement for the City's consideration. In lieu of monthly invoicing based on an hourly rate, we are proposing a flat monthly payment / retainer in the amount of \$5,000 per month for the fourteen (14) month period commencing November 1, 2006 through December 31, 2007. This amount is based on the following: #1) The average annual amount of the consulting fees for the last four (4) years, 2003, 2004, 2005 and 2006 which is approximately \$56,000, and #2) The estimated consulting fees for 2007, \$59,400. (see attached Summary of Labor Relations Consulting Services for 2007).

We believe that this arrangement would be both practical and mutually beneficial for the following reasons:

- More accurately reflects the scope of the City's required labor relations services and resultant costs;

- Eliminates the need to pass additional legislation to deal with the shortfalls;
- The fixed amount assists the City's budgeting and cash flow management;
- Minimizes administrative time for invoice processing and payment;
- Establishes continuity for the administration. This is especially valuable for the City at this time due to the City Manager transition process.

I would like an opportunity to discuss this with you and City Council at your earliest convenience.

Very Truly Yours,



Joseph F. Lenciewicz

Cc: Mr. Sal Talarico, Finance Director

**J. F. LENCEWICZ & ASSOCIATES**

SUITE 303

45 EAST WASHINGTON STREET

CHAGRIN FALLS, OHIO 44022

(440) 247-3600

FAX (440) 247-3665

November 27, 2006

Robert DiSpirito, City Manager  
City of Oberlin  
85 South Main Street  
Oberlin, Ohio 44074

RE: Summary of Labor Relations Consulting Services for 2007

Full-Time Dispatcher Contract Negotiations – Preparation, coordination and documentation of City's issues; assist in preparation of financial data and conduct analysis with administration; conduct negotiations; finalize labor agreement revisions and coordinate with Union and SERB; preparation and conduct fact-finding hearing including research and documentation of pre-hearing briefs and position statements if required.

\$10,450

Part-Time Dispatcher Contract Negotiations – Preparation, coordination, and documentation of City's issues; assist in preparation of financial data and conduct analysis with administration; conduct negotiations; finalize labor agreement revisions and coordinate with Union and SERB; preparation and conduct fact-finding hearing including research and documentation of pre-hearing briefs and position statements if required.

\$10,450

Patrol Officers and Sergeants- Provide general labor relations counsel to Police Department management and administration regarding contract interpretations/applications; disciplinary matters; grievance investigation and responses at all steps of the grievance procedure; conduct 3<sup>rd</sup> step grievance and arbitration hearings on behalf of the City; represent the City in all matters related to SERB inquiries and charges; coordinate and interface with Union representatives on all matters requiring City representation.

\$11,000

Full-Time and Part-Time Dispatchers – Provide general labor relations counsel to Police Department management and administration regarding contract interpretations/applications; disciplinary matters; grievance investigation and response at

all steps of the grievance procedure; conduct 3<sup>rd</sup> step and arbitration hearings on behalf of the City; represent the City in all matters related to SERB inquiries and charges; coordinate and interface with Union representatives on all matters requiring City representation.

\$11,000

Contract Compliance/ Other)- Provide general labor relations counsel to administration regarding contract interpretations/applications, disciplinary matters, grievance investigation and response at all steps of the grievance procedure; conduct 3<sup>rd</sup> step grievance and arbitration hearings on behalf of the City; represent the City in all matters related to SERB inquiries and charges; coordinate and interface with Union representatives on all matters requiring City representation, as directed by the City.

\$16,500

TOTAL- \$59,400

Respectively Submitted, .

  
Joseph F. Lencewicz

# City of *Oberlin*

85 South Main Street, Oberlin, Ohio 44074  
(440) 775-1531

November 29, 2006

To: City Council & Appointees  
From: Robert DiSpirito, City Manager *RdD*  
Re: Ordinance No. 06-100, Proposed contract with Lencewicz & Associates

Please find attached a copy of a memorandum that I requested of Mr. Joe Lencewicz, our Collective Bargaining / Labor Relations Consultant, relative to the proposed contract for professional services envisioned in Ordinance No. 06-100. It provides what Mr. Talarico and I believe to be a more effective format for the provision and billing of these services. Mr. Lencewicz has also included a detailed account of the work that is proposed for 2007 by task, with corresponding cost data. Finally, I have attached a copy of the proposed new contract itself, for your review.

Ordinance No. 06-100 is scheduled for First Reading only at your meeting next Monday. Mr. Lencewicz will be present to help explain for you his proposal, and to help answer any of your questions.

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*"Ohio's Best College Town"*

—OHIO Magazine