

**ORDINANCE NO. 09- 47 AC CMS**

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH J.F. LENCEWICZ AND ASSOCIATES OF CHAGRIN FALLS, OHIO, TO PROVIDE LABOR RELATIONS CONSULTING SERVICES 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, for the period of time from July 1, 2009 through June 30<sup>th</sup>, 2011, 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 \$132,000.

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 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 – June 15, 2009 (E)  
2<sup>nd</sup> Reading –  
3<sup>rd</sup> Reading -

**ATTEST:**

  
\_\_\_\_\_  
Belinda B. Anderson  
CLERK OF COUNCIL

  
\_\_\_\_\_  
David E. Sommer  
PRESIDENT OF COUNCIL

POSTED:6/16/2009

EFFECTIVE DATE: 6/15/2009

## **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. And the Consultant agrees to provide the City with on-site meetings, conferences and training sessions with Directors, first-line supervisors, union/hourly representatives and/or joint meetings/training union representatives and supervisors, all with a goal of establishing and maintaining "proactive", "preventive" and "positive" labor relations practices with management, hourly employees and Union leadership, as directed by the City Manager.

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

The Work, as provided in Section 1, shall commence on July 1, 2009 and continue through June 30, 2011 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 \$5,500 per month, not to exceed \$132,000 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 agreed 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. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Signed in the presence of:

Consultant:

\_\_\_\_\_

\_\_\_\_\_  
Joseph F. Lencewicz

City of Oberlin, Ohio

\_\_\_\_\_

\_\_\_\_\_  
Eric Norenberg, City Manager

**Certificate of Law Director**

I hereby certify that I have reviewed and approved the form of the foregoing Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Eric R. Severs, Oberlin Law Director