

SPONSOR: _____

ORDINANCE NO. 129-06

AN ORDINANCE PROVIDING FOR AND ENTERING INTO AN AGREEMENT AND RETAINING SHOEMAKER, HOWARTH & TAYLOR, LLP, ATTORNEYS AT LAW, 471 EAST BROAD STREET, SUITE 2001, COLUMBUS, OHIO 43215, FOR ALL OUTSIDE LEGAL SERVICES FOR THE PERIOD FROM MAY 1, 2006 THROUGH APRIL 30, 2007, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Jackson, Ohio and Shoemaker, Howarth & Taylor, LLP, has previously entered into an agreement whereby Shoemaker, Howarth & Taylor, LLP, provided legal services to assist the City in providing legal representation in various issues; and

WHEREAS, Jackson City Council believes it is in the best interests of the City to continue to use employ Shoemaker, Howarth & Taylor, LLP, to handle all extraneous legal issues of the City; and

WHEREAS, Jackson City Council desires to employ Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, to provide the City legal service on all extraneous legal matters.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Jackson, Ohio, that:

Section One. The City retains the law firm of Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, 471 East Broadway Street, Suite 2001, Columbus, Ohio 43215, to provide the City legal services on all extraneous legal matters. A copy of the Agreement is attached hereto as Exhibit "A". The Agreement shall be effective retroactively from May 1, 2006, and shall run through April 30, 2007.

In providing these legal services, as an independent contractor and in an attorney-client relationship, Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, shall not exercise any administrative discretion in the formation of public policy, expenditure of funds, enforcement of laws, rules and regulations of the State or any political subdivision, or execution of public trusts. This Agreement is accepted and approved on the further condition that, in the event it is determined by Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, that any of the legal services should be subcontracted to another legal service provider, then Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, shall notify Jackson City Council and obtain prior approval of Jackson City Council before subcontracting out any work to any other legal service provider.

Any and all signatures which may have been affixed to the Agreement are hereby ratified and approved.

Section Two. The Auditor is hereby authorized and directed to make appropriate certification as to the availability of funds for those fees and any reimbursement and to issue an appropriate order for their timely payment to Shoemaker, Howarth & Taylor, LLP, Attorneys at Law, in accordance with this Agreement. This contract shall be paid from line item 110-7750-53022 – General – General Government (Legal Services).

Section Three. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law.

Section Four. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of this City, and for the further reason that this Ordinance is required to be immediately effective so the City may be immediately represented to prevent any adverse consequences to the interests of the City; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Section Five. In the event this Ordinance receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Ordinance shall be deemed to have passed but with no emergency clause, and shall take effect at the earliest time permitted by law.

Date: JUNE 12, 2006


PRESIDENT OF COUNCIL


CLERK OF COUNCIL

Approved:

Date: 6-16-06


MAYOR

CERTIFICATE

As the Fiscal Officer of the City of Jackson, Ohio, I certify that the money required to meet the obligations of the City of Jackson under the attached ordinance during the year 2005 has been lawfully appropriated by the Council of the City for those purposes and is in the treasury of the City or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This certificate is given in compliance with Section 5705.41 of the Ohio Revised Code.

Date

Auditor
City of Jackson, Ohio

EXHIBIT "A"

AGREEMENT TO PROVIDE LEGAL SERVICES BETWEEN THE CITY OF JACKSON, OHIO AND SHOEMAKER, HOWARTH AND TAYLOR, LLP

Term of the Agreement

The term of this agreement is from May 1, 2006 through April 30, 2007. Either The City of Jackson, Ohio (hereinafter, the "City") or Shoemaker, Howarth and Taylor (hereinafter, the "Firm") may cancel this agreement by providing the other party thirty (30) days written notice of cancellation.

Scope of Work

The Firm will represent the City in its day-to-day legal matters as we have done for the past year with the continuing exception of Mayor's Court and the drafting of ordinances and resolutions to come before City Council. Additionally, the Firm will represent the City in other, more extraordinary matters, including bond representation and state governmental matters.

Fees for Services

The Firm will represent the City for an annual fee of \$160,000, payable monthly, for twelve (12) consecutive months, commencing on the first day of the first month following our agreement. In the event that the agreement is signed other than the first of the month, that month's payment will be pro rated. The above fee will include all matters not of an adversarial nature.

Matters of an adversarial nature will be billed separately, on an hourly basis of \$150 per hour. Our services will be set forth in detailed billings so that you may know the specific substance of our work.

As used in this agreement, the determination of a matter's "adversarial nature" shall be made as follows:

- Any lawsuit filed in any court by or against the City shall be considered adversarial in nature at the time of the filing of the lawsuit.
- Matters coming before administrative boards, arbitrations and mediations shall be considered adversarial in nature when both the Firm and the City's Legal Director, Jack Detty, agree that the matter is adversarial.

The total fees for services, as set forth above, shall not exceed \$250,000 for the term of this agreement.

Reimbursable Expenses

The firm will be reimbursed for necessary expenses incurred in the performance of this agreement. Any expense of an extraordinary nature will be pre-approved by the City. All reimbursable expenses will be itemized and submitted on a monthly basis to the City.

Client Contact

The Firm will follow the two-tier approach which it presented to Mayor Goodman and President Humphreys by our letter of March 3, 2006. As you will note, the Auditor also has been included.

QUESTIONS NEEDING EXPEDITED ANSWERS

If a Council person, a member of the Administration or the Auditor has a question that needs an *immediate* answer, the Council person, Mayor or the Auditor will call the Firm to present the question. During the call, the question will be stated as clearly and concisely as possible. The Firm will be given as many of the related facts as are known. The Firm will then consider the matter on an expedited basis and provide an answer as quickly as possible. The question and answer will be written and provided to both the Mayor and the Council President. The Auditor will only receive answers to his questions.

QUESTIONS NOT NEEDING EXPEDITED ANSWERS

If the question does not need an immediate answer, then the Council person will present the question to the Legal Committee of Council. Thereafter, the Legal Committee will consult with Mr. Detty to determine if the question is appropriate for Mr. Detty to answer. If not, then the question, with all known facts relating to it, will be concisely written and presented to Firm for consideration and answer.

If a member of the Administration has a question that does not need an expedited answer, the question will be presented to the Mayor who will determine if the question is appropriate for Mr. Detty's consideration. If not, the Mayor will write the question and present it to the Firm with all relevant facts.

If the Auditor has a question that does not need an expedited answer, the Auditor will provide the Firm with a concise written statement of the question together with all relevant facts.

The questions and the Firm's answers will be written and provided to both the Mayor and the President of City Council. The Auditor will receive only answers to his questions.

Conflicts of Interest

It is not anticipated that there will be any conflicts of interest between the City and any clients who are represented by the Firm. In the event that there appears to be a conflict, the Firm would immediately contact the City and attempt to resolve the issue in a manner that would

allow the Firm to represent the City. In any event, the Firm would contact the City as soon as possible so that any possible issues can be discussed and resolved.

AGREED:

THE CITY OF JACKSON, OHIO

By: _____

Date: _____

Title: _____

SHOEMAKER, HOWARTH AND TAYLOR, LLP

By: _____

Date: _____

Title: _____

RANDY HEATH
Chairman
Jackson City Council Legal Committee
199 Portsmouth Street
Jackson, Ohio 45640

May 3, 2006

Robert Howarth
Shoemaker, Howarth & Taylor
Attorneys at Law
471 East Broad Street
Suite 2001
Columbus, Ohio 43215

RE: City of Jackson, Ohio
Procedure for requesting legal opinions

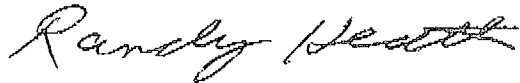
Dear Mr. Howarth:

After reviewing the proposed procedure for requesting legal opinions from your firm we would suggest the following procedure:

1. If a Council person or member of the Administration has a question that needs an immediate answer, the Council person or Mayor should first make attempts to contact Mr. Detty, the City's law director. If the law director is contacted and agrees, then the law director should call your law firm to present the question, making every effort to state the question as clearly and concisely as possible and give as many of the relevant and related facts as known. In the event the law director is not available, or cannot be contacted for some reason, then the Council person or the Mayor should call your law firm to present the question, making every effort to state the question as clearly and concisely as possible and give as many of the relevant and related facts as known. Your law firm will then consider the matter on an expedited basis and provide an answer as quickly as possible. The question and the answer will be written and provided to the City Council Legal Committee, the Mayor, and the Law Director.

2. If the question does not need an immediate answer, then the Council person or the Administrative person should present the question to the City Council Legal Committee. The Legal Committee will consult with the Law Director to determine if the question is appropriate for the Law Director to answer. If not, then the question, with all known facts relating to it, will be concisely written and presented to your law firm for consideration and answer.

Sincerely,



Randy Heath, Chairman
Jackson City Council Legal Committee

John L. "Jack" Detty
City Law Director

Cc: Jim Humphreys, Council President
Mayor Shane A. Goodman
All members of Jackson City Council

