



ORDINANCE 2020-01

OF THE VILLAGE OF ASHVILLE

AN ORDINANCE AUTHORIZING THE VILLAGE ADMINISTRATOR AND FISCAL OFFICER TO EXECUTE A PERSONAL SERVICE AGREEMENT FOR LEGAL SERVICES WITH MARK LANDES, AND DECLARING AN EMERGENCY



WHEREAS, on January 26, 2018, the Village of Ashville retained the law firm of Isaac Wiles Burkholder & Teetor, LLC, and in particular, attorney Mark Landes, to serve as its Village Solicitor; and

WHEREAS, the personal services contract for legal services expires January 28, 2020; and

WHEREAS, Council for the Village of Ashville understands and recognizes its need to retain an individual and law firm with a peculiar skill and aptitude to serve as Village Solicitor; and

WHEREAS, Council for the Village of Ashville is pleased with the level of service and work being performed currently by its Village Solicitor, and wants to continue this professional relationship; and

WHEREAS, Council for the Village of Ashville now wants to retain again the services of attorney Mark Landes to serve as Village Solicitor.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ASHVILLE, PICKAWAY COUNTY, OHIO THAT:

SECTION I

The Village Administrator and Fiscal Officer are hereby authorized and directed to enter into an Agreement for Legal Services, in substantially the same format and content, as the document attached hereto as Exhibit "A" and incorporated herein by reference, on behalf of the Village of Ashville.

SECTION II

It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of Council and any of the decision making bodies of the Village of Ashville which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

SECTION III

All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

SECTION IV

Council declares this to be an emergency measure immediately necessary for the preservation of the public peace, health, and safety of this municipality and the further reason that Village Council needs to approve and enter into this Agreement as soon as possible in order to continue providing the Village with uninterrupted legal services. Wherefore, provided this Ordinance receives the required affirmative votes of Council, this Ordinance shall take effect and be in force immediately upon passage by Council and approval by the Mayor.

Offered by: Nelson R. Embrey

Seconded by: Tracie N. Sorvillo

Upon roll call on the adoption of the ordinance, the vote was as follow:

Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No
Roger L. Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nelson R. Embrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Randy S. Loveless	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Brad B. Lutz	<input type="checkbox"/>	<input type="checkbox"/>	R. David Rainey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tracie N. Sorvillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Excused Absence

PASSED THIS 27th DAY OF JANUARY, 2020

ATTEST:

April D. Grube, Clerk-Fiscal Officer

DATE: 2/3/2020

APPROVED:

Charles K. Wise, Mayor

DATE: 3 Feb 2020



Prepared: 01/02/2020

Revised Date:

Review Date:

1 of 1 | Page with Exhibit

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of the ordinance adopted by the Village of Ashville Council held on 27th day of January 2020, and that I am duly authorized to execute this certificate.

(Original signature of April D. Grube)

Clerk-Fiscal Officer

(TITLE)



AGREEMENT FOR LEGAL SERVICES

This Agreement for Legal Services (“Agreement”), is entered into and effective this 7th day of January, 2020, by and between Mark Landes and the Village of Ashville (the “Village”), pursuant to Ordinance No. 2020-01, passed by Village Council on January 6, 2020.

In consideration of the mutual promises contained herein, Mark Landes and the Village agree as follows:

1. **Purpose of Representation.** Pursuant to the laws of the State of Ohio, the Village hereby retains Mark Landes to serve as Village Solicitor for the Village and its elected and appointed officials. As Solicitor, Mark Landes shall be responsible for performing any and all duties pursuant to all Village Ordinances and laws of the State of Ohio.
2. **Scope of Representation.** Mark Landes shall from time when called upon by members of Village Council or any other Village Official (elected or appointed), render any and all such legal services as Village Solicitor as may be requested, including, but not limited to: ordinance and document preparation; initiate and defend litigation (administrative, state, or federal actions); draft and review contracts or other written documents; respond to inquiries; draft legal memoranda; provide legal representation in conjunction with specific transactions; advise the Village on legal issues as may be specifically requested; and perform any other duties as requested by the Village, its Council, or Officials, elected or appointed.

Mark Landes shall attend any and all regular and special meetings of Village Council, and other public, regular, or special meetings, when requested to do so by the Village.

General direction on all legal matters shall be given to Mark Landes through Village Council, the Mayor, Village Administrator, and/or Fiscal Officer. Mark Landes will perform only such legal services for the Village that are authorized and requested.

3. **Compensation.** Mark Landes shall compile a monthly itemized statement of services rendered, funds advanced, and expenses incurred and shall submit same to the Village Administrator immediately following the month in which such services were rendered and funds advanced and expenses incurred for and on behalf of the Village.

The Village shall pay Mark Landes for all legal services rendered at an hourly rate. Time devoted by attorneys will be charged at a rate of \$170.00 per hour and time devoted by paralegals will be charged at a rate of \$85.00 per hour, payable monthly. All time will be invoiced in .10/hour intervals. The Village shall reimburse Mark Landes for any and all costs advanced on behalf of the Village. The Village also shall reimburse Mark Landes for expenses incurred for large copy projects and any necessary courier charges.

Payment is due by the Village upon receipt of the statement. In the event the Village should disagree with, dispute, or question the amount stated to be due under any statement which was issued, the Village agrees to communicate such disagreement, dispute, or question to Mark Landes in writing within 30 days following receipt of such statement. In the absence of such written communication regarding the amount stated to be due under any statement within such time, Mark Landes shall be entitled to assume the Village has agreed to the amount of such statement and will pay the same amount within 30 days following receipt of such statement.

4. **Designation of Village Solicitor.** Mark Landes shall be designated as Village Solicitor and shall be the primary attorney and contact person for the Village. All other attorneys at his firm are Assistant Solicitors when acting on behalf of the Village.
5. **Terms of Agreement.** Is it agreed and understood by and between the Village and Mark Landes that the term of this Agreement shall be for two years beginning **January 28, 2020**, and may be terminated by either Mark Landes or the Village upon thirty (30) days written notice.
6. **Settlement Authority.** No settlement of any nature shall be made for any Village claim or suit without approval of Village Council.
7. **Professional Liability Insurance.** The Solicitor, as well as all Mark Landes attorneys providing services on behalf of the Village, shall at all times maintain professional liability insurance in an amount satisfactory to the Village and shall provide evidence of such coverage upon request of the Village.
8. **Conflicts of Interest.** Given the fact that Mark Landes represents other Ohio municipalities and non-municipal clients, in addition to the Village, Mark Landes will take reasonable efforts to recognize and disclose to the Village, any potential conflict. Mark Landes and the Village acknowledge and understand conflicts of interest between the Village and other clients of Mark Landes could occur from time to time. If possible that during the time Mark Landes is serving as Village Solicitor, some of Mark Landes' present or future clients will have disputes or transactions with the Village. The Village agrees Mark Landes may continue to represent or may undertake in the future to represent existing or new clients in any matter not substantially related to Mark Landes' work for the Village. Mark Landes agrees, however, the Village's prospective consent to conflicting representation shall not apply in any instance where, as a result of its representation the Village, Mark Landes has obtained propriety or other confidential information of information of a nonpublic nature, that, if known to such other clients, could be used in any such other matter by such client to the Village's material disadvantage.
9. **Applicable Laws.** Mark Landes shall comply with all applicable foreign, federal, state and local laws, rules, regulations, orders, ordinances, and government requirements in the performance of the Agreement.

10. **Notice.** All notice and other communication mandated hereunder shall be in writing and will be deemed to have been given if delivered by hand, or on the next business day if delivered by hand, or on the next business day if delivered by a recognized overnight courier, or when actually delivered if mailed by certified mail, return requested at the following addresses:

If to the Village of Ashville:
Franklin Christman, Administrator
VILLAGE OF ASHVILLE
200 East Station Street
PO Box 195
Ashville, Ohio 43103

If to Mark Landes:

Mark Landes, Esq.
ISAAC WILES BURKHOLDER
& TEETOR, LLC
Two Miranova Place, Suite 700
Columbus, Ohio 43215

11. **Severability.** If any provision of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, such provision shall be enforcement to the greatest extent permitted by law and the remainder of the Agreement and the application of such provisions to the other persons or circumstances shall be affected thereby and shall be enforced to the greatest extent of the law. The intent of this Section is that if any provisions are found invalid, void, or unenforceable, they are to be severed from the Agreement, and the remaining provisions shall be considered independent, valid, and enforceable.
12. **Governing Law.** The Agreement will be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflict of law principles.
13. **Entire Agreement.** The Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings, and agreements between the Village and Mark Landes. The Agreement may be amended or modified only in writing and executed by the Village and Mark Landes.
14. **Assignment.** The Agreement may not be assigned or transferred in whole or part by either the Village or Mark Landes without the written consent of the other. Any purported assignments without the express written consent of the other Party is void.

15. **Personal Service Contract.** The Village and Mark Landes agree the Agreement is, and is intended to be, a "personal service contract" as recognized in R.C. 145.012, and as identified in the Ohio Administrative Code. The Agreement is, and is intended to be, a formal bilateral written contract between the Village and Mark Landes, as required by the Ohio Revised Code. The Village and Mark Landes agree that since this is a personal service contract, no Public Employee's Retirement System deductions will be made from Mark Landes' compensation nor paid to the Public Employee's Retirement System of Ohio.

VILLAGE OF ASHVILLE

By: Franklin Christman
Franklin Christman
Village Administrator

By: April Grube
April Grube
Fiscal Officer

By: _____
Mark Landes Esq.

CERTIFICATE OF AVAILABLE FUNDS

I certify that the money required to meet this contract has hereby been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of this fund, free from any previous obligation or certification as required by Ohio Revised Code § 5705.01 to § 5705.47.

2/3/2020
Date

April Grube
April Grube, Fiscal Officer

15. **Personal Service Contract.** The Village and Mark Landes agree the Agreement is, and is intended to be, a "personal service contract" as recognized in R.C. 145.012, and as identified in the Ohio Administrative Code. The Agreement is, and is intended to be, a formal bilateral written contract between the Village and Mark Landes, as required by the Ohio Revised Code. The Village and Mark Landes agree that since this is a personal service contract, no Public Employee's Retirement System deductions will be made from Mark Landes' compensation nor paid to the Public Employee's Retirement System of Ohio.

VILLAGE OF ASHVILLE

By: Franklin Christman
Franklin Christman
Village Administrator

By: April Grube
April Grube
Fiscal Officer

By: Mark Landes
Mark Landes Esq.

CERTIFICATE OF AVAILABLE FUNDS

I certify that the money required to meet this contract has hereby been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of this fund, free from any previous obligation or certification as required by Ohio Revised Code § 5705.01 to § 5705.47.

2/3/2020
Date

April Grube
April Grube, Fiscal Officer