RESOLUTION NO. 12 , 2015

A RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTRACT WITH FROST BROWN TODD, LLC TO PROVIDE SPECIAL COUNSEL SERVICES

WHEREAS, the City does desire to engage special counsel to assist in negotiating Collective Bargaining Agreements and to handle labor and employment issues; and

WHEREAS, the Law Director and the Administration recommend the City retain the services of Frost Brown Todd, LLC as such special counsel.

NOW THEREFORE, Be It Resolved by the Council of the City of Montgomery, Ohio, that:

SECTION 1. The City Manager is authorized to enter into a contract with Frost Brown Todd, LLC according to the terms in the Letter of Engagement attached to this Resolution and incorporated herein by reference. The Administration is authorized to pay Frost Brown Todd, LLC according to the schedule of fees outlined in the Letter of Engagement for the purposes of providing assistance to the City in labor negotiations.

SECTION 2. This Resolution shall take effect the earliest opportunity as allowable by law.

PASSED: June 3, 2015

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Todd A. Steinbrink, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon, Law Director

Frost Brown Todd LLC
ATTORNEYS

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May 11, 2015

Mr. Wayne Davis, City Manager
City of Montgomery
10101 Montgomery Road
Montgomery, Ohio 45242

Re: General Labor and Employment

Dear Mr. Davis:

We are pleased that you have asked Frost Brown Todd to serve as your counsel in this matter. This letter will confirm our discussion with you regarding your engagement of our firm and will describe the basis upon which our firm will provide legal services to you. Accordingly, we submit for your approval the following provisions governing our engagement. If you are in agreement, please sign the enclosed copy of this letter in the space provided below. If you have any questions about these provisions, do not hesitate to call. Again, we are pleased to have the opportunity to serve you.

Client; Scope of Representation. Our client in this matter will be the City of Montgomery (the "City"). We will be engaged to advise the City in connection with general labor and employment matters, including negotiations. You may limit or expand the scope of our representation from time to time, provided that any substantial expansion must be agreed to by us. While we would be interested in assisting you in other matters, unless we are specifically engaged for some other future matter this will confirm that our representation of you is limited to the foregoing matter and will end when it is concluded.

Fees. Our fees are based primarily upon the time expended by our attorneys and paralegals on the engagement, including attorney and paralegal travel time which is charged at regular hourly rates. Attorneys and paralegals have been assigned hourly rates based upon their experience and level of expertise. The rates of those attorneys likely to work on this matter range from $200.00 in the case of Jack Hemenway, and $330.00 in the case of myself. Our hourly rates are reviewed periodically and may be increased from time to time. It may be necessary to add or change attorneys working on your behalf.

Consent to Future Conflicts. You are aware that our firm is a relatively large law firm and represents many other companies and individuals. Some may be direct competitors of yours or otherwise may have business or legal interests that are contrary to your interests. It is therefore possible that during the time we are working for you, an existing or future client may seek our assistance in connection with a transaction, pending or potential litigation, or another matter or proceeding in which such a client's interests are, or potentially may become, adverse to your interests. This can create situations where work for one client on a matter might preclude us from assisting other clients on unrelated matters.

To avoid the potential for this kind of restriction on our practice, we ask you to agree, and you hereby do agree, that Frost Brown Todd may continue to represent, or may undertake in the future to represent, any existing or future client in any matter (including but not limited to transactions, litigation or other dispute resolution proceedings), even if the interests of that client in the other matter are directly adverse to the interests of the **City of Montgomery**, as long as that other matter is not substantially related to this or our firm's other engagements on behalf of the **City of Montgomery**. We do not, however, intend for you to waive your right to have our firm maintain the confidentiality of client information obtained by us in the course of representing you. Thus, if our representation of another client in a matter is directly adverse to you, our lawyers who have had significant involvement in our work for you will not work on the matter for such other client, and appropriate measures will be taken to assure that proprietary or other confidential information of a non-public nature concerning you which we acquire as a result of representing you will not be made available to lawyers or others in our firm involved in such matter. You are hereby advised, and have had the opportunity, to consult with other counsel about this prospective waiver. You also understand and acknowledge that, in the course of our representation of other clients pursuant to this prospective waiver, we may obtain confidential information of interest to you that we cannot share with you.

ABA Statement of Policy. We wish to inform the City, and the City acknowledges, that it is our firm's policy to comply strictly with the terms of the ABA Statement of Policy Regarding Lawyers' Responses to Auditors' Requests for Information (December 1975) in any response that the City requests we make to the City's auditors regarding "loss contingencies" affecting the City.

Additional Standard Terms. Our engagement is also subject to the policies included in the enclosed memorandum.

We appreciate the opportunity to represent you. If these terms of our engagement are acceptable to you, please return a signed copy of this letter to me in the enclosed envelope. Our representation of you will commence upon receipt of the signed engagement letter. We look forward very much to working with you on this matter.

Very truly yours,

FROST BROWN TODD LLC

W. Joseph Scholler/ALF

W. Joseph Scholler

The foregoing is understood and accepted:
CITY OF MONTGOMERY

By: _____

Print Name: Wayne S. Davis

Print Title: City Manager

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FROST BROWN TODD LLC

ADDITIONAL TERMS AND CONDITIONS OF CLIENT ENGAGEMENTS

1. Expenses. Expenses we incur on the engagement are charged to the Client's account. Expenses include such items as court costs, charges for computerized research services and hard copy document reproductions, long distance telephone, travel expenses, messenger service charges, overnight mail or delivery charges, extraordinary administrative support, filing fees, fees of court reporters and charges for depositions, fees for expert witnesses and other expenses we incur on your behalf. Our charges for these services reflect our actual out-of-pocket costs based on usage, and in some areas may also include our related administrative expenses.

2. Monthly Statements. Unless a different billing period is agreed upon with the Client, the Firm will render monthly statements indicating the current status of the account as to both fees and expenses. The statements shall be payable upon receipt. If statements are not paid in full within 30 days, we reserve the right to add a late charge of 1% per month of the amount due. If it becomes necessary for the Firm to file suit or to engage a collection agency for the collection of fees or expenses, the Client shall pay all related costs and expenses, including reasonable attorneys' fees.

3. Advance Payments. Any advance payment to be paid by the Client will normally be less than the Firm's ultimate fees and expenses. Such a payment or series of payments is not intended as a limitation upon the Firm's fees and expenses. The Firm may apply the advance payment toward any unpaid fees and expenses, in which event the Client shall make an additional deposit to restore the advance payment to its original level. Additional advance payments must be made within fifteen days of the date the request is made. Any unexpended balance of advance payments will be refunded to the Client, without interest, at the end of this engagement.

4. Litigation Matters. If this engagement involves litigation, the Client may be required to pay the opposing party's trial costs. Such costs include filing fees, witness fees, and fees for depositions and documents used at trial. We will not settle litigated matters without the Client's express consent. We require the Client's active participation in all phases of the case.

5. Insurance coverage. Unless we have been explicitly retained to address insurance coverage issues (as documented in this engagement letter), we have no responsibility or obligation to (a) identify any potentially applicable insurance coverage, (b) provide notice to any carrier, or (c) advise the Client on issues relating to insurance coverage at any point during our representation.

6. Termination. The Client has the right to terminate our representation at any time by notifying us of your intention to do so in writing. We will have the same right, subject to an obligation to give the Client reasonable notice to arrange alternative representation. In the event that either party should elect to terminate our relationship, our fees and expenses incurred up to that point still will be due to us. Upon payment to us of any balance due for fees and expenses,

we will return to the Client, or to whomever the Client directs, any property or papers of the Client in our possession.

7. Withdrawal. Under the rules of professional conduct by which we are governed, we may withdraw from our representation of the Client in the event of, for example: nonpayment of our fees and expenses; misrepresentation or failure to disclose material facts concerning the engagement; action taken by the Client contrary to our advice; and in situations involving a conflict of interest with another client. If such a situation occurs, which we do not expect, we will promptly give the Client written notice of our intention to withdraw.

8. Post-Engagement Services. The Client is engaging our Firm to provide legal services in connection with a specific matter. After completion of that matter, changes may occur in the applicable laws or regulations that could have an impact on the Client's future rights and liabilities. Unless the Client engages us after completion of the matter to provide additional advice on issues arising from the matter, the Firm has no continuing obligation to advise the Client with respect to future legal developments.

9. Retention and Disposition of Documents. At the Client's request, its documents and property will be returned to the Client upon conclusion of our representation in the matter described above, although the firm reserves the right to retain copies of any such documents as it deems appropriate. Our own files pertaining to the matter will be retained by the firm. These firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records. All documents and property, including those belonging to the Client, that are retained by the firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, and consistent with professional conduct rules, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement without further notice to the Client.

10. Parent/Subsidiary/Affiliate Relationships. The Client may be a subsidiary of a parent organization or may itself have subsidiary or affiliated organizations. The Client agrees that the Firm's representation of the Client in this matter does not give rise to an attorney-client relationship between the Firm and any parent, subsidiary or affiliate of the Client (any of them being referred to as "Affiliate"). The Firm, during the course of its representation of the Client, will not be given any confidential information regarding any of the Client's Affiliates. Accordingly, representation of the Client in this matter will not give rise to any conflict of interest in the event other clients of the Firm are adverse to any of the Client's Affiliates.

11. Consultation with Firm Counsel. From time to time, issues arise that raise questions as to our duties under the professional conduct rules that apply to lawyers. These might include conflict of interest issues, and could even include issues raised because of a dispute between us and a client over the handling of a matter. The firm has several in-house ethics counsel who assist the firm's lawyers in such matters. We believe that it is in our clients' interest, as well as the firm's interest, that in the event that issues arise during a representation about our duties and obligations as lawyers, we receive expert analysis of our obligations. Accordingly, as part of our agreement concerning our representation, the Client agrees that if we

determine in our own discretion during the course of the representation that it is either necessary or appropriate to consult with our firm's counsel (either the firm's internal counsel or, if we choose, outside counsel), we have the Client's consent to do so and that our representation of the Client shall not, thereby, waive any attorney-client privilege that the firm may have to protect the confidentiality of our communications with our internal or outside counsel.

12. Retirement Plan Advice. If the Client engages the Firm to provide legal services with respect to a retirement plan that is subject to the Employee Retirement Income Security Act, the Client should be aware that certain "covered service providers" must disclose some very specific information to the Client as a responsible fiduciary before the Client engages those services. While the Firm would not usually be serving as a "covered service provider," there are some situations in which it might be. A description of the disclosures required in those situations can be located at www.dol.gov/ebsa/newsroom/fs408b2finalreg.html.

13. Authorization. By the Client's agreement to these terms of our representation, the Client authorizes us to take any and all action we deem advisable on the Client's behalf on this matter. We will, whenever possible, discuss with the Client in advance any significant actions we intend to take.