

CONTRACT FOR PROFESSIONAL SERVICES

This Contract, entered into this _____ day of _____ 2006, as authorized by Columbus City Council Ordinance 1304-2006, and by and between the **City Attorney, City of Columbus** ("City"), and **The City of Columbus Lead Litigation Group**, which is comprised of the following attorneys and law firms:

John J. McConnell, Jr., Esq.
Motley Rice, LLC
321 South Main St.
P.O. Box 6067
Providence, RI 02940-6067

John P. Kennedy, Esq.
George R. McCue III, Esq.
Crabbe, Brown & James
500 S. Front St., Ste.1200
Columbus, Ohio 43215

Andrew S. Lipton, Esq.
Lipton Law LLC
316 North Michigan St., Ste. 800
Toledo, Ohio 43624

George E. Gerken, Esq.
Gerken Law Office
412 14th St.
Toledo, Ohio 43624

Jon L. Gelman, Esq.
1450 Valley Road, 1st Floor
P.O. Box 934
Wayne, NJ 07474-0934

Michael J. O'Shea, Esq.
O'Shea & Associates Co., LPA
55 Public Sq. Ste.1600
Cleveland, OH 44113

WHEREAS, the City desires to engage these attorneys and law firms, to be known as the City of Columbus Litigation Group (“LLG”), to render certain professional services in connection with matters pertaining to any and all claims which the City has, or may have, against E.I. DuPont, Glidden Corp., Millennium Holdings LLC(successor to The Glidden Company), Sherwin-Williams Co., American Cyanamid Co., N.L. Industries, Atlantic Richfield Company (successor to International Smelting and Refining Company and Anaconda Lead Products Company), The Lead Industries Association, and/or other lead manufacturers, distributors, marketers, retailers and/or each of their successors, assigns and insurers (collectively “Lead Manufacturers”) relating to the presence of and effects from lead in paint in the City of Columbus (the “Claims”).

WHEREAS, the LLG desires to perform said service for the City.

NOW THEREFORE, for the reasons set forth above and in consideration of the mutual covenants and promises of the parties hereto, the City and the LLG covenant and agree as follows:

I. SCOPE OF SERVICES

The City engages the LLG to perform legal and professional services, in accordance with reasonably accepted professional standards for attorneys, in matters related to the investigation of the City’s potential Claims against the Lead Manufacturers and providing legal representation to the City in a suit against the Lead Manufacturers.

The City Attorney will designate an attorney from his office to monitor the case and be a liason between the LLG, the City Attorney’s Office and City departments and offices. The City agrees to cooperate with LLG for the purpose of investigation and/or

prosecution of the City's claim. Motley Rice LLC is designated as lead counsel on behalf of the LLG and will be the liason between the LLG and the City Attorney's Office.

II. TERMS

A. The LLG represents that it has, or will secure at its own expense, all necessary support staff at its law firms that may be necessary and required to perform all work to be completed under this Contract. All of the services required under this Contract will be directly performed by the LLG or by such personnel at its law firms that are acting under the LLG's direct supervision and control. All personnel engaged in work under this Contact shall be fully qualified and authorized or permitted under applicable state and local law to perform such services. None of the LLG's services covered by this Contract shall be transferred, assigned, or subcontracted by the LLG without the prior written consent of the City. The LLG may hire expert witnesses or other law firms, with the City's consent, to assist in the prosecution of this litigation if the LLG deems it necessary. The retention of other law firms to assist the LLG shall not result in any increase of fee to the City.

B. All reports, information, data, or other documents given to, prepared by, or assembled by the LLG under this contract shall be deemed as attorney-client communications and shall be kept confidential and not made available to any individual or organization by the LLG without the prior approval of the City, nor be subject to any public records law.

C. All reports, working documents, and other documents, whether finished or unfinished, that are prepared by the LLG as part of the services pursuant to this Contract shall become the City's property.

D. The City may, from time to time, request changes in the scope of services to be performed by the LLG. No such change, including an increase or decrease in the amount of compensation, which may be mutually agreed upon by the City and the LLG shall be effective or enforceable until a written amendment to this Contract has been executed by both parties and such modification has been authorized by ordinance, if required.

E.. If, for any reason or cause, either the City or the LLG shall fail to fulfill its obligations under this Contract, then either party shall have the right to terminate the Contract upon giving written notice to the other party specifying a termination date that shall be at least fifteen (15) days after the date such notice is provided. Such notice should be provided to the LLG in writing at the Toledo, Ohio law office of Andrew S. Lipton, and notice to the City shall be provided to the City Attorney, 90 West Broad Street, Columbus, Ohio 43215.

F. The LLG shall advance and pay all reasonable litigation expenses and court costs related to the prosecution of this litigation. The LLG shall keep records of litigation expenses and court costs it pays for prosecution of this litigation. The City shall pay, a contingent fee to LLG out of any settlement amount made in this matter prior to commencement of trial in the amount of 25% of the net amount of money collected from the settlement. The net amount will be determined by subtracting from each sum of settlement money collected any reasonable litigation expenses and court costs paid by the LLG for on the City's behalf for which the City shall reimburse the LLG from the settlement funds. All remaining funds shall go the City. In the event this matter goes to trial against any Lead Manufacturer, then the LLG shall be entitled to a contingent fee of 33 1/3% of the net

amount of money collected and reimbursement of any remaining reasonable litigation expenses and court costs paid by the LLG on the City's behalf.

G. In the event, and to the extent, that the City is afforded an opportunity (either by way of settlement or judgment) to resolve the claim for any non-monetary relief, then the City agrees to use its best efforts to ensure that the LLG receives, either directly from the Lead Manufacturers or through an award of attorney fees from the Court, an appropriate attorney's fee which is consistent with the percentage fees set out hereinabove for the monetary portion of any relief or based upon reasonable time and rates incurred by the LLG.

G. The LLG agrees to follow and be bound by all provisions and terms of the Equal Opportunity Clause, which is made a part hereof, and is incorporated herein as required by Section 3909.01, Columbus City Code.

H. The LLG shall be precluded, by virtue of its legal representation hereunder, from representing other clients in connection with other matters involving the City of Columbus or its various departments, where such representation is in direct conflict with the services being rendered hereunder.

I. The LLG agrees to pay the City of Columbus any such Columbus City income tax resulting from work performed in the City of Columbus pursuant to this contract as may be required by Chapter 361, Columbus City Code.

J. It is further agreed by and between the City and the LLG that this Contract and any dispute that may arise hereunder, shall be governed, controlled and interpreted using the laws of the State of Ohio and such disputes shall be brought in the Franklin County Court of Common Pleas.

IN WITNESS WHEREOF, the parties hereto hereby set their hands this _____
day of _____, 2006.

City of Columbus Litigation Group

CITY OF COLUMBUS, OHIO

John J. McConnell, Jr., Esq.

Richard C. Pfeiffer, Jr.
Columbus City Attorney

John P. Kennedy, Esq.

George R. McCue III, Esq.

George E. Gerken, Esq.

Andrew S. Lipton, Esq.

Jon L. Gelman, Esq.

Michael J. O'Shea, Esq.

ATTACHMENT A

CHAPTER 3909 EQUAL OPPORTUNITY CLAUSE

3909.01 Equal Opportunity Clause.

(A) The contracting agencies of the City are directed to include the following equal opportunity clause in all contracts, as defined in 3901.01. The inclusion of this clause may be waived by the EBO Commission Office Executive Director where it is appropriate due to a similar clause requirement by state or federal Law. The requirements contained in this clause will be considered by the Executive Director in determining whether a contractor is in compliance with this Article.

(B) Equal Opportunity Clause:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or termination; rates of pay or other forms of compensation; and selection for training. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices summarizing the provisions of this Equal Opportunity Clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that the contractor is an equal opportunity employer.
- (3) It is the policy of the City of Columbus that business concerns owned and operated by minority and female persons shall have the maximum practicable opportunity to participate in the performance of contracts awarded by the City.
- (4) The contractor shall permit access to any relevant and pertinent reports and documents by the Executive Director for the sole purpose of verifying compliance with this Article, and with the regulations of the Contract Compliance Office. All such materials provided to the Executive Director by the contractor shall be considered confidential.

- (5) The contractor will not obstruct or hinder the Executive Director or Directors deputies, staff and assistants in the fulfillment of the duties and responsibilities imposed by Article I, Title 39.
- (6) The contractor and each subcontractor will include a summary of this Equal Opportunity Clause in every subcontract. The contractor will take such action with respect to any subcontract as is necessary as a means of enforcing the provisions of the Equal Opportunity Clause.
- (7) The contractor agrees to refrain from subcontracting any part of this contract or contract modification thereto to a contractor not holding a valid certification number as provided for in Article I, Title 39.
- (8) Failure or refusal of a contractor or subcontractor to comply with the provisions of Article I, Title 39, may result in cancellation of this contract.