

AN ORDINANCE TO PROVIDE SPECIAL COUNSEL TO THE DIRECTOR OF LAW, TO APPROVE AN AGREEMENT FOR LEGAL SERVICES IN THE CASE OF K.S.T. OIL AND GAS COMPANY, ET AL VS. E. JUNE FEIBER, ET AL, INVOLVING A DECLARATORY JUDGMENT AND DECLARING AN EMERGENCY.

Be It Ordained by the Council of the Village of Richfield, Ohio:

Section 1: Pursuant to Section 8.01 of the Charter of the Village, Council deems it necessary to provide litigation services of special counsel to the Director of Law in connection with a claim now pending entitled K.S.T. Oil & Gas Company, et al, vs. E. June Feiber, as Mayor, et al, Common Pleas Court of Summit County, Ohio and indexed as Case Number 85-2-0463 on the records of that Court, and appoints the firm of Kelley, McCann and Livingstone for the provision of such services.

Section 2: Council finds and determines that the agreement for the provision of such services is exempt from the requirement for competitive bidding.

Section 3: The form of the agreement for the provision of such services, now on file in the office of the Director of Public Service, is approved and the Mayor and Director of Finance are authorized and directed to execute the agreement for and on behalf of this Village and to pay for such services from the appropriate account or accounts.

Section 4: This Ordinance is determined to be an emergency measure necessary for the immediate preservation of the public peace, health or safety for the reason to be timely on required filings and provided this Ordinance receives the affirmative vote of two-thirds of the members elected or appointed, it shall take effect and be in force from and after its approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest date provided by law.

Passed:

3/5/85

William J. Nagel
Vice-President of Council

William J. Nagel
Acting Mayor

Dated: 3/5/85

Attest:

Theresa J. Kelley
Clerk of Council

CONTRACT FOR LITIGATION SERVICES

THIS AGREEMENT, entered into as of this ____ day of March, 1985, by and between THE VILLAGE OF RICHFIELD, OHIO, West Streetsboro, Richfield, Ohio 44286 ("RICHFIELD"), and KELLEY, MCCANN & LIVINGSTONE, 300 National City East Sixth Building, Cleveland, Ohio 44114 ("COUNSEL"), WITNESSETH THAT:

WHEREAS, RICHFIELD has recently been named as a defendant, along with a number of its officials in their official capacities, in a lawsuit filed in Summit County Common Pleas Court by KST Oil & Gas Company, Inc. and two property owners; and

WHEREAS, the Council of Richfield desires to retain special counsel for the Village and to the Director of Law to defend these lawsuits.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Scope of Services

COUNSEL shall perform all legal services necessary on behalf of RICHFIELD and the officials named in their official capacities in the defense of the actions described herein through the common pleas court stage and in any ensuing appeal or appeals. COUNSEL shall confer with and advise the Mayor, the Director of Law, and Council of the status of these actions as may from time to time be necessary.

2. Time of Performance

This Agreement shall be effective either as of the date

that the first legal services are rendered by COUNSEL in connection with the particular action or proceeding described above, or on the date hereof, whichever is first. Such services shall be undertaken in such sequence and with such reasonable dispatch as to assure the expeditious completion of the subject litigation.

3. Fees

RICHFIELD shall pay COUNSEL for all legal services rendered hereunder at the hourly rate of \$75.00 per lawyer hour.

4. Litigation Expense and Travel

COUNSEL shall be reimbursed for out-of-pocket expenses incurred by COUNSEL in performing legal services hereunder, including filing costs, expenses of depositions, witness fees, investigative expenses, printing and copying expenses, long distance telephone calls and telegrams, delivery, and similar costs relating to the litigation and generally chargeable to a client, provided such expenses shall not include normal office operating expenses. When travel to Richfield or Akron is necessary, COUNSEL shall charge as billable time only the time spent travelling to the destination and shall not bill for return time. Other travel time, if necessary, shall be billed at the agreed hourly rate in full.

5. Monthly Statements

As a condition precedent to any payment to COUNSEL under this Agreement, counsel shall submit to RICHFIELD in duplicate a statement of account which clearly sets forth by dates (year, month, day) the designated items of legal work; by whom performed if more than one attorney is involved; the time approximately charged thereto prorated to the nearest tenth hour in connection with an hourly rate; the total number of hours

charged; and the amounts charged as litigation expenses pursuant to Section 4 above. Such statements shall be submitted monthly, except that such requirement may be waived if unbilled fees do not exceed \$200.00 and a fees statement is submitted in any event at least quarterly.

6. Method of Payment

Payment to COUNSEL for legal services rendered hereunder and expenses relating hereto shall be made by RICHFIELD upon receipt by RICHFIELD of the monthly statement referred to in Section 5, above.

7. Termination

RICHFIELD may terminate this Agreement at such time as it deems appropriate upon payment to COUNSEL of all charges and expenses to date of termination. The authority for this agreement is Ordinance 17-1985.

IN WITNESS WHEREOF, RICHFIELD and COUNSEL have executed
this Agreement as of the date first above written.

VILLAGE OF RICHFIELD, OHIO

By *William J. Neigel*
Atms Mayor

By _____
Director of Finance

KELLEY, McCANN & LIVINGSTONE

By _____

FINANCE DIRECTOR'S CERTIFICATE

This is to certify that relative to the within contract between KELLEY, McCANN & LIVINGSTONE and the VILLAGE OF RICHFIELD, OHIO, for legal services entered into pursuant to legislation adopted _____, 1985, that I hereby certify that sufficient sums to meet the contract, have been lawfully appropriated or authorized or directed for such purpose and are in the Treasury or in process of collection free from any obligation or certificate now outstanding.

Date _____
Finance Director, the Village of
Richfield