

**ORDINANCE NO. 130-14**

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTINGENT FEE AGREEMENT WITH VORYS, SATER, SEYMOUR AND PEASE, LLP IN CONNECTION WITH A COUNTERCLAIM IN CONDEMNATION FILED BY COLUMBIA GAS TRANSMISSION, LLC, AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:**

- SEC. 1:** That the Mayor is hereby authorized and directed to execute a Contingent Fee Agreement with Vorys, Sater, Seymour and Pease, LLP in connection with a Counterclaim in Condemnation filed by Columbia Gas Transmission, LLC.
- SEC. 3:** That a copy of the Contingent Fee Agreement is marked Exhibit A, attached hereto and incorporated herein, and is subject to final approval of the Law Director.
- SEC. 4:** That it is 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 this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 5:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and for the further reason to answer the lawsuit within the next 28 days; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

**PASSED:** July 24, 2014

**SIGNED:** John M. Coyne, III  
President of Council

**ATTEST:** Kathy Patton  
Clerk of Council

**APPROVED:** July 24, 2014

**SIGNED:** Dennis Hanwell  
Mayor

## CONTINGENT FEE AGREEMENT

The undersigned, City of Medina (hereinafter "Client"), agrees to retain Vorys, Sater, Seymour and Pease, LLP (hereinafter "Vorys") in connection with a Counterclaim in Condemnation filed by Columbia Gas Transmission, LLC (hereinafter "Columbia") in the case *Wilson et al v. Columbia Gas Transmission LLC*, Case No. 2:12cv1203 in the U.S. District Court, Southern District of Ohio, (hereinafter the "the *Wilson Case*"). The *Wilson Case* was filed on December 21, 2012 as a Class Action asserting various tort and equitable claims and a claim for inverse condemnation. Vorys intends to seek class certification for Columbia's Counterclaim in Condemnation as well as for the claims pled in the original *Wilson Complaint*.

**If there is no recovery, there will be no attorney's fee.**

1. Class Action Attorney's Fees. Client understands that this matter is being pursued as a Class Action, and that if the case is successfully resolved as a Class Action, counsel fees will not be determined solely by the percentages set forth below, but rather will be determined and approved by the Court overseeing the litigation. However, percentages set forth below will provide the benchmark for Vorys' fee request to the Court.

2. Non-Class Action Attorney's Fees. If this matter is not resolved as a Class Action, the Client agrees to pay Vorys Thirty-Three and One-Third percent (33-1/3%) of the amount recovered, if any.

3. Costs. Client understands that there will be costs incurred in addition to attorney's fees. Costs will be advanced by Vorys and Client will not be personally responsible for costs if there is no recovery. Costs advanced may include, but are not limited to, filing fees, deposition costs, copying/scanning charges, travel costs, long distance telephone calls, parking fees, etc. In addition, to the extent practicable, Vorys allocates the costs of support systems such as automation support required by the engagement and computer research services in accordance with the extent of usage by individual clients. Therefore, certain costs incurred on behalf of Client also may be billed to Client as expenses and collected from Client at the conclusion of this engagement. It is agreed that reasonable costs and expenses advanced by Vorys on behalf of Client, if any, may be deducted from the recovery before computation of the fee.

4. Fees and Costs Limitation. The combined total of fees and costs charged by Vorys pursuant to this Agreement will not exceed any recovery obtained for Client in the case.

5. Experts/Investigators. Client understands that Vorys may from time to time employ consulting or trial experts, or investigators. Client agrees that Vorys is authorized in its discretion to employ experts and/or investigators as it deems necessary.

6. Abandonment or Discharge. If Client elects at any time to abandon its claims or defenses in this action or discharge Vorys, then, in either such event, Client agrees to pay to Vorys at that time a reasonable fee for the services performed by Vorys prior to the date of such abandonment or discharge.

7. Attorney Agreement. Vorys agrees to diligently investigate, evaluate, prosecute and/or defend the claims and to keep the Client advised of the progress of the case and of any settlement proposals that may be received. No settlement shall be made without the express consent of the Client. It is understood between the parties hereto that if at any time Vorys deems in their judgment that further prosecution or defense of the Client in this matter constitutes an unreasonable financial burden, or for other good and sufficient cause, Client agrees that Vorys may cancel this Agreement and withdraw from further representation upon giving reasonable notice.

8. Client's Responsibilities. Client agrees to be truthful. Any misrepresentation by Client is a cause for withdrawal by Vorys. In addition, if Vorys is unable to reach Client due to Client's change of address or telephone without informing Vorys, Vorys will withdraw after two (2) weeks of inability to contact Client. However, absence by Client is acceptable if adequate contact information is provided to Vorys and if that absence does not interfere with timely and effective prosecution or defense of the claims.

9. Lien. Vorys shall have a lien on all moneys or property received in settlement or recovered by judgment or decree, execution, garnishments or by any other proceeding whatsoever.

10. Power of Attorney. Client gives Vorys his/her power of attorney to execute any and all documents connected with and necessary for the prosecution of this action, including, without limitation, pleadings, contracts, releases, dismissals, orders, and settlement agreements approved by Client.

11. Appeals. This Agreement does not cover any form of Appeal. A new Agreement is required for Appeal, including an Appeal from Dismissal or Summary Judgment Order adverse to Client.

12. No Warranties or Representations Concerning Outcome. Vorys makes no warranties or representations concerning the successful outcome of any claims or defenses arising out of this engagement or of any related legal action(s) that may be filed.

EXECUTED AT Medina (city), Ohio, on this 24<sup>th</sup> day of July, 2014.

Fully Understood and Agreed:

Client Signature

Print Name

Telephone:

Email Address:

Address

City, State

Zip Code

County:

Client Signature

Print Name

Telephone:

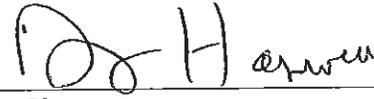
Email Address:

Address

City, State

Zip Code

County:



City of Medina  
Mayor Dennis Harwell

330-722-9020

dconwill@medinaoh.org

132 N. Elmwood St.

Medina, OH 44256

Medina

VORYS, SATER, SEYMOUR AND PEASE, LLP  
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Columbus, Ohio 43215