

**AGREEMENT FOR INDIGENT DEFENSE SERVICES
IN MUNICIPAL COURT
(ASSIGNED COUNSEL)**

This Agreement entered into by and between the Mercer County Commissioners with a mailing address of 220 W. Livingston St., Room A201, Celina, Ohio 45822 (hereinafter referred to as the "COUNTY"), and the City of Celina, with a mailing address of City of Celina Municipal Court, City Hall, P.O. Box 362, Celina, Ohio 45828, (hereinafter referred to as the "CITY").

WHEREAS, the CITY recognizes its responsibility under the laws of the State of Ohio and of the United States of America to provide legal counsel to indigent persons charged with a violation of a CITY ordinance for which the penalty or any possible adjudication includes the potential loss of liberty, and

WHEREAS, the COUNTY has adopted a program for this Municipality, whereby individual attorneys are assigned on a case by case basis for indigent defendants who qualify, and

WHEREAS, the County Commissioners pursuant to Ohio Revised Code §120.33 may enter into a contract with a municipal corporation under which the municipal corporation shall reimburse the County for counsel appointed to represent indigent persons charged with a violation of an ordinance of the municipal corporation, and

WHEREAS, these contracts must contain terms in conformance with Ohio Administrative Code 120-1-09 and the parties must follow the Ohio Public Defender Commission standards and guidelines and the limits of the County Maximum Fee Schedule for Appointed Counsel in order for the COUNTY to obtain reimbursement for indigent defense costs pursuant to Ohio Revised Code §120.33 and §120.35, and pay the CITY it's appropriate share, and

WHEREAS, this Agreement has been authorized by the CITY by Ordinance # _____, passed by the _____ CITY Council on _____, 2019, and by Resolution # _____, passed by the Board of Commissioners of Mercer County on _____, 2019.

NOW THEREFORE, the parties do mutually agree to bind themselves as follows:

1. REPRESENTATION

- 1.1 The CITY and COUNTY agree that the judges of the municipal court may assign by journal entry, recorded on the Court Docket, appointed counsel to represent indigent adults and juveniles in Municipal Court on or after the commencement date and during the term of this agreement in which the defendant is indigent and charged with the commission of an offense or act which is a violation of a CITY ordinance and for which the penalty or any possible adjudication includes the potential loss of liberty.

1.2 Indigency shall be determined in accordance with the standards of indigency and other rules and guidelines established by the Ohio Public Defender's Commission and the State Public Defender, pursuant to Ohio Revised Code §120.03 and Ohio Administrative Code §120-1-03. In addition to indigency determination, all rules, standards and guidelines issued by the Office of the Ohio Public Defender and Ohio Public Defender Commission shall be followed.

2. COMPENSATION

2.1 Pursuant to Ohio Revised Code 120.33 and aforesaid resolutions, the COUNTY shall pay all legal fees and expenses to counsel duly appointed by the Municipal Court of Celina, Ohio, to represent indigent persons charged with violations of the ordinances of the City of Celina, Ohio.

2.2 Payment by the municipality for representation of indigent persons may be by contractual amount or a fee schedule, however in either event such payment shall not exceed the fee schedule in effect and adopted by the County Commissioners of the county wherein the municipal corporation is located.

2.3 CITY agrees to reimburse the COUNTY for all legal fees and expenses which are paid by the COUNTY according to 2.1 above within thirty (30) days of receipt of an invoice for such fees and expenses.

2.4 The COUNTY shall promptly pay over to the CITY any reimbursement received from the Office of the Ohio Public Defender Commission pursuant to Chapter 120 of the Ohio Revised Code for any amounts expended pursuant to this agreement, within thirty (30) days of receipt of said reimbursement.

3. DURATION OF CONTRACT AND TERMINATION

3.1 The term of this agreement shall be for one year, January 1, 2019 to December 31, 2019. *This contract may be renewed for additional one year terms upon proper resolution of each entity agreeing to the one year extension and proper appropriation of funding for the new year. Copies of the resolutions are to be sent to the Ohio Public Defender, 250 East Broad St., Suite 1400, Columbus, Ohio 43215.*

3.2 If the COUNTY or CITY shall fail to fulfill in a reasonable, timely and proper manner its obligations under this agreement or if either party shall substantially violate any of the covenants, agreements or stipulations of this agreement by giving written notice to the other party of such termination and specifying an effective date thereof at least thirty (30) days before the effective date of said termination. Termination by either party shall not constitute a waiver of any other right or remedy it may have in law or in equity for breach of this agreement by the other party.

3.3 Written notice shall be considered furnished when it is sent by Certified Mail, return receipt requested or is hand delivered.

- 3.4 This agreement is automatically canceled, without requirement of notice, if any payment required by Section 2.1 of this agreement is not made within 90 business days of the date on which it is due.

4. TERMS OF AGREEMENT

- 4.1 Indigency and client eligibility for representation under this agreement shall be determined in conformity with the standards of indigency and other rules and standards established by the Ohio Public Defender Commission and the State Public Defender.
- 4.2 As soon as is reasonably practical after a case is finally disposed of by the Municipal Court, the court shall approve counsel fees in accordance with the standards of indigency, which fees shall not be taxed as part of the costs of the case. In only exceptional circumstances shall the court approve attorney's fees in excess of the schedule established by the COUNTY.
- 4.3 Recognizing that the requests for reimbursements must be received by the State Public Defender within ninety (90) days of the end of the calendar month in which a case is finally disposed of by the court, the Celina Municipal Court Clerk shall promptly notify the COUNTY of the fees which have been approved.
- 4.4 After approval, the COUNTY Auditor shall thereafter, process the fees and expenses approved by the court in accordance with the procedure set forth in Ohio Revised Code §120.33.
- 4.5 There shall be no discrimination against any employee who is employed in the work covered by this agreement or against any application for such employment because of the race, color, religion, sex, age, handicap or national origin. This provision shall apply to, but not be limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, raises of pay or other forms of compensation, and selection for training, including apprenticeship. The COUNTY shall insert a similar provision in any subcontract for services covered by this agreement.
- 4.6 No personnel of the parties or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this Agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

5. MODIFICATION

- 5.1 This contract may not be amended orally.
- 5.2 This contract may be amended only by written addendum, signed and executed by the parties named herein, or their successors.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

| | | | |
|-------|------|---------------------|------|
| _____ | Date | _____ | Date |
| CITY | | County Commissioner | |
| _____ | Date | _____ | Date |
| CITY | | County Commissioner | |
| _____ | Date | _____ | Date |
| CITY | | County Commissioner | |

COUNTY AUDITOR CERTIFICATE

It is hereby certified that the amount required to meet the contract agreement, obligation, payment, or expenditure for the above has been lawfully appropriated, authorized or directed for such purpose and is in the County Treasury or in the process of collection free from any obligation of certificate now outstanding, as required by § 5705.41(D) of the Ohio Rev. Code.

DATED _____

Randy Grapner, County Auditor

Approved by:

Timothy Young Date
Ohio Public Defender