

Resolution 20-01

A RESOLUTION TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT FOR PROVISION OF COUNSEL TO INDIGENT PERSONS IN CRIMINAL CASES AND TO DECLARE AN EMERGENCY

Whereas, the proposed agreement between the Highland County Commissioners, the City of Hillsboro and the Ohio Public Defender has been reviewed by the Hillsboro Municipal Court Judge, Now, Therefore,

Be it RESOLVED by the Council of the City of Hillsboro, State of Ohio, that

SECTION ONE:

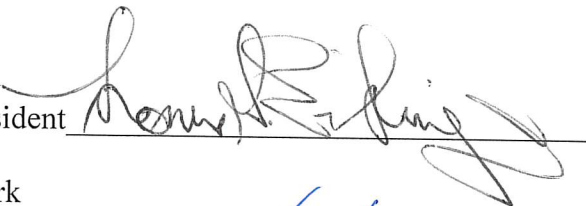
The Mayor is hereby authorized and directed to enter into an agreement with the Highland County Commissioners, the Ohio Public Defender and the City of Hillsboro for the provision of counsel to indigent persons in criminal cases.

SECTION TWO:

This RESOLUTION is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare and for the reason that immediate action is necessary to assure constitutionally mandated access to legal counsel is afforded to indigent persons, this measure shall have immediate effect from and after the earliest time allowed by law.

Passed: 1-13-2020

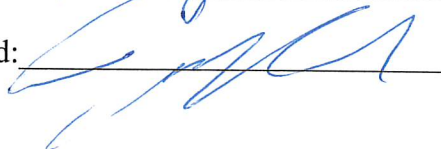
President



Attested:

Rosemary Thomas, Clerk

Approved:

, Mayor

Date:

1/13/20

Prepared by the City Law Director.

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

This Agreement is entered into by and between the Highland County Commissioners, with a mailing address of 119 Governor Foraker Place, Suite 211, Hillsboro, OH 45133, (hereinafter referred to as the "COUNTY"), and the city of Hillsboro, with a mailing address of 130 N. High Street, Hillsboro, OH 45133, (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/VILLAGE 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 have been charged with a municipal code violation, rather than referring the matter to the County Public Defender, and

WHEREAS, the Highland 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 its appropriate share, and

WHEREAS, this Agreement has been authorized by the CITY by Res./Ord. # 20-01, passed by the Hillsboro CITY Council on 1-13-2020, and by Contract # _____, approved by the Board of Commissioners of Highland COUNTY on _____.

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 persons 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 the 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 Hillsboro, Ohio, to represent indigent persons charged with violations of the ordinances of the CITY of Hillsboro, 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 shall pay to the COUNTY for all legal assigned counsel services and expenses provided in City Ordinance cases the amount approved and paid by the County and not reimbursed by the Ohio Public Defender's Office, which shall constitute full and complete payment for the legal services and expenses during the term of this contract. Said sum shall be paid within forty-five (45) days of receipt of an approved statement from the Highland County Commissioners for such service.
- 2.4 Counsel appointed for representation in County Court shall be paid according to the schedule promulgated by the County Commissioners pursuant to ORC section 120.33.

3. DURATION OF CONTRACT and TERMINATION

- 3.1 The term of this agreement shall be for one year, January 1, 2020 to December 31, 2020. (OPTIONAL: *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, then the aggrieved party shall hereupon have the right to terminate 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 30 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 Hillsboro 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.

Witness Date

County Commissioner Date

Witness Date

County Commissioner Date

County Commissioner Date

Kimberly Newna 1-13-2020
Witness Date

[Signature] 1-13-2020
City of Hillsboro Date

Approved by:

Timothy Young Date
Ohio Public Defender

#478959