ORDINANCE NO. 193-14

AN ORDINANCE AUTHORIZING THE JOB CREATION GRANT AGREEMENT FOR MEDINA PLATING & POWDER.

WHEREAS: Ordinance No. 154-07, passed September 24, 2007, adopted a Job Creation Grant Program for the City of Medina, Ohio to provide incentives to businesses to retain, create and expand employment opportunities within the City of Medina without utilizing tax revenues or impacting negatively upon the local school system; and

WHEREAS: As part of said Job Creation Grant Program, a Business Development Committee was established to review applications and annually review each approved grant for adherence to their grant agreement; and

WHEREAS: The Business Development Committee recommended the attached grant agreement for Medina Plating & Powder.

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

SEC. 1: That the Job Creation Grant Agreement #JCG10 for Medina Plating & Powder is hereby authorized.

SEC. 2: That the Mayor is hereby authorized to execute all documentation associated with the Grant.

SEC. 3: That a copy of the Job Creation Grant Agreement is marked Exhibit A, attached hereto and incorporated herein.

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 in full force and effect at the earliest period allowed by law.

PASSED: November 24, 2014

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: November 25, 2014

SIGNED: Dennis Hanwell
Mayor

ORD. 193-14 Exh. A

PLEASE REVIEW THE EMPLOYMENT AND PAYROLL NUMBERS FOR CONSISTENCY WITH YOUR APPLICATION FORM. THESE NUMBERS WILL BECOME YOUR COMPANY'S COMMITMENT TO THE CITY OF MEDINA.

EXHIBIT A

GRANT# JCG10-MedinaPlating14
(Administrative Only)

JOB CREATION GRANT AGREEMENT

This Agreement made and entered into by and between the CITY OF MEDINA, OHIO, a municipal corporation, with its main offices located at 132 North Elmwood Avenue, Medina, Ohio 44256 (hereinafter referred to as "Medina") and Medina Plating & Powder with its main offices located at 940 Lafayette Road, Medina, Ohio 44256 (hereinafter referred to as "Company), and is dated as of October 31, 2014.

WITNESSETH:

WHEREAS, Medina has encouraged the creation and retention of new job opportunities throughout the City of Medina; and

WHEREAS, Medina Plating & Powder is desirous of expanding 910 Lake Road, Medina, Ohio 44256 in the city by constructing a powder coating line and installing a zinc nickel plating line to create 20 new full time employment opportunities (hereinafter sometimes referred to as the "PROJECT") within the boundaries of the City of Medina, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Council of the City of Medina, Ohio by Ordinance No. 154-07 adopted September 25, 2007 created the Job Creation Grant Program pursuant to Article XVIII, Section 3 and Article VIII, Section 13 of the Ohio Constitution; and

WHEREAS, the City of Medina, having the appropriate authority for the stated type of program, is desirous of providing Medina Plating & Powder with incentives available for the development of the PROJECT; and

WHEREAS, Medina Plating & Powder has submitted a proposed Agreement application (herein attached as Exhibit A1) to the City of Medina (said application hereinafter referred to as "Application"); and

WHEREAS, Medina Plating & Powder has remitted the required application fee of $ 500.00 made payable to the City of Medina; and

WHEREAS, the Business Development Committee of the City of Medina has investigated the application of Medina Plating & Powder and has recommended the same to Medina City Council on the basis that Medina Plating & Powder is qualified by financial responsibility and business experience to create employment opportunities in the City of Medina and improve the economic climate of Medina; and

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. Description of the Project.

   A. Medina Plating & Powder shall **install a zinc nickel plating line and will construct a powder coating line** at the facility located at **910 Lake Road,** Medina, Ohio in order to create 20 new full time positions.

2. Project Investment.

   A. The PROJECT will involve a total investment, plus or minus 10%, by the Property Owner of $7,920,000(dollars) the PROJECT.

   B. The PROJECT will involve a total investment, plus or minus 10%, by Medina Plating & Powder as follows:

1. Acquisition of Buildings	**$700,000**
2. Additions/New Construction	**$200,000**
3. Improvements to existing buildings	**$200,000**
4. Machinery & Equipment	**$6,800,000**
5. Furniture & Fixtures	**$20,000**
TOTAL	**$7,920,000**

   C. The Project will begin approximately **October of 2014** and will be completed approximately **March 30, 2015.**

3. Job Creation and Retention.

   A. Medina Plating & Powder shall create in the City of Medina within a time period not exceeding **a 3 year period** after the completion of the aforesaid project, the equivalent of **20** new full-time permanent job opportunities in the City of Medina.

      1) Medina Plating & Powder schedule for hiring permanent full time employees is as follows:

Year	Number of Jobs New to Medina
2014	3
2015	12
2016	5

B. The job creation period begins approximately October 1, 2014 and all jobs will be in place by December 31, 2016.

C. The Company currently has __52_____ employees at the project site. The Company currently has __52___ employees in the City of Medina. In total, the Company has 52 full-time permanent employees in the State of Ohio.

D. The increase in the number of employees new to the City of Medina will result in approximately $750,000 of additional annual payroll in the City if Medina when the projected maximum employment level is achieved.

E. The retention of the existing jobs in Medina will maintain the current gross annual payroll in Medina of $1,350,000.

4. Issuance of Grant.

A. The City of Medina hereby grants a Job Creation Grant based upon the creation of new payroll and jobs in the City of Medina, and the implementation of the PROJECT, according to the schedules contained herein in Section 4(C).

Years	Amount of Grant as a Percentage of Payroll Taxes New to Medina
6	40%

Funding for the grant issued herein shall only be from the following non-tax revenue sources: interest income, permit fees, activity fees, service charges, and tax incentive application and monitoring fees.

B. For purposes of calculating the amount of the grant, the new payroll upon which the grant is based may not exceed 25% above the maximum payroll projected in Section 3(D) above. The grant amount shall be based on the current 1.25% income tax rate. The maximum grant amount in any year shall be $4,687.50. **(maximum NEW PAYROLL projection x 125% X 1.25% x 40% of grant)**

C. To receive a grant in any given year, **Medina Plating & Powder** must retain full time permanent jobs existing in Medina prior to the Agreement.

(1) If **Medina Plating & Powder** does not achieve at least 90% of new payroll projections, **Medina Plating & Powder** shall receive reduced incentives according to the schedule below:

% of New Payroll Projection Achieved	Amount of Grant as a Percentage of Payroll Taxes New to Medina
90-100%	full grant
85-89%	reduce grant by 5% (Ex.: 40% grant reduced to 35%)
80-84%	reduce grant by 10% (Ex.: 40% grant reduced to 30%)
75-79%	reduce grant by 15%
Less than 75%	no grant for that year; and

(2) If **Medina Plating & Powder** fails to meet 75% of new payroll **or** new employment projections in any given year, the grant shall not be awarded for that year.

(3) If **Medina Plating & Powder** has multiple locations in the City of Medina and new employment and new payroll projections are met at any combination of locations in the City of Medina, **Medina Plating & Powder** will receive its annual grant payment.

(4) New payroll is defined as that amount in excess of the amount in Section 3(E) above.

5. Grant Payments.

A. Initial Grant Payment.

(1) Year 1 projections must be met by December 31, 2014. The initial grant payment shall be made by approximately June 30th, 2015 **(following year)**, provided that **Medina Plating & Powder** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28, 2015, and reconciliation is confirmed by the City of Medina Finance Department.

(2) If the project start or occupancy of the project facility is delayed, Year 1 may be extended to the following year and the Year 1 projections deadline adjusted accordingly, upon written request by **Medina Plating & Powder** to the Economic Development Director, provided that the extension is approved by the Economic Development Director with notice to the Business Development Committee.

(3) If the project or occupancy of a project facility begins in the third or fourth quarter of the year and **Medina Plating & Powder** is not able to

meet its Year 1 projections by December 31st of that year, Year 1 will be considered the first full year of occupancy, and the first grant payment will occur in the year following the first full year of the project or occupancy of the project facility.

B. Timing of Annual Grant Payments. Annual grant payments shall be made by June 30th of the following year, provided that **Medina Plating & Powder** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28th and reconciliation is confirmed by the City of Medina Finance Department. If **Medina Plating & Powder** requests an extension for filing of its S-W3 form, the City of Medina shall make the grant payment within three months of the extended filing date. It is the responsibility of **Medina Plating & Powder** to advise the Economic Development Director of the filing extension.

C. Use of Grant Payments. Grants shall be allocated by **Medina Plating & Powder** for land acquisition, building acquisition, purchase of machinery/equipment, purchase of furniture/fixtures, and/or other non-construction related and non-installation related costs of the project.

6. Payment of Taxes and Filing Reports and Returns. **Medina Plating & Powder** shall pay all taxes and shall file all tax reports and returns as required by law. If **Medina Plating & Powder** fails to pay such taxes or file such returns and reports, all incentives granted under this Agreement are terminated beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

7. Information for Annual Review. **Medina Plating & Powder** shall timely provide to the City of Medina any information reasonably required by the City of Medina to evaluate **Medina Plating & Powder** compliance with the Agreement.

8. Maintenance of Grant.

A. Medina shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain incentives granted under this Agreement including, without limitation, joining in the execution of all documentation and providing necessary information to maintain the incentives granted hereunder.

B. If for any reason the Job Creation Grant Program is discontinued, entitlements granted under this Agreement shall continue for the number of years specified under this Agreement, unless **Medina Plating & Powder** materially fails to fulfill its obligations under this Agreement and Medina terminates or modifies the incentives granted under this Agreement.

9. Certification as to Payment of Taxes. **Medina Plating & Powder** certifies that at the time this Agreement is executed, **Medina Plating & Powder** does not owe any delinquent real or tangible personal property taxes to any taxing authority of the

State of Ohio, and does not owe delinquent taxes for which **Medina Plating & Powder** is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed **Medina Plating & Powder** currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against **Medina Plating & Powder.** For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.

10. Non-Discrimination Hiring. Medina has developed a policy to ensure recipients of Job Creation Grants practice non-discriminatory hiring in its operations. By executing this Agreement, **Medina Plating & Powder** is committing to following non-discriminatory hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

11. Transfer and Assignment. This Agreement is not transferable or assignable without the express, written approval of Medina. The City of Medina acknowledges that it would be unreasonable to withhold such consent in the event of a proposed transfer or assignment to any parent, subsidiary or affiliate of **Medina Plating & Powder** or to any third party so long as with respect to all or any of such proposed transfers or assignments, the proposed transferee or assignee adequately and sufficiently demonstrates to the City of Medina, to the City of Medina's reasonable satisfaction, its financial ability, business experience and intentions to continue its operations of the Facility and Project in a manner similar to that of **Medina Plating & Powder** in all pertinent respects.

12. Termination or Modification of Incentives.

    A. If **Medina Plating & Powder** fails to meet 75% of new payroll or new employment projections in any given year, the grant shall not be awarded for that year.

    B. If **Medina Plating & Powder** fails to meet 75% of new payroll or new employment projections for three consecutive years, this Agreement shall be terminated by the City of Medina.

    C. If the project does not proceed as specified in Section 5(A)(1) of the Agreement or within the approved one year extension period, the City of Medina may terminate the Agreement upon recommendation of the Business Development Committee.

    D. If **Medina Plating & Powder** fails to submit required information and/or reports as set forth in Section 7 above, the City of Medina may terminate or modify this Agreement and deny or modify future grants heretofore granted from the date of **Medina Plating & Powder's** breach or default.

In the case as provided in this Subsection D, the City of Medina's termination or modification of this Agreement may be instituted only if **Medina Plating & Powder** fails to cure any breach of any term of this Agreement as determined by the City of Medina within ten (10) days of receiving written notice of such failure from the City of Medina or, if cure of the breach cannot be completed within ten (10) days, if **Medina Plating & Powder** has not made a good faith start of the cure, and/or not diligently pursued same.

E. Nothing contained in Sections 12(A), 12(B), 12(C), or 12(D) shall permit the City of Medina to recapture or otherwise deny **Medina Plating & Powder** the benefit of a grant in respect of any period prior to the date of such termination or modification by the City of Medina.

F. The City of Medina may terminate or modify this Agreement and may also require the repayment of the full amount of grant payments awarded under this Agreement, upon the occurrence of any of the following:

1) the City of Medina determines that the certification as to delinquent taxes required by this Agreement is fraudulent, or

2) **Medina Plating & Powder** vacates the Facility and/or moves the Project out of the City of Medina or terminates its operations at the Facility altogether during a __6__ (numeral) year period beginning on the effective date of this Agreement.

The City of Medina may, absent any legislative action, resolution or court ordered mandate to the contrary, collect any and all grant payments awarded under this Agreement, and **Medina Plating & Powder** shall pay directly to the City of Medina or its authorized agent any and all grant payments awarded under this Agreement due on the date **Medina Plating & Powder** moves the Project out of the City of Medina or terminates its operations at the Facility altogether during the __6__ year period beginning on the effective date of this Agreement; or within ten (10) days from the date **Medina Plating & Powder** is notified by the City of Medina that any tax certification is fraudulent.

G. Medina Plating & Powder or successor entity shall promptly notify the City of Medina if any of the following events occur:

(i) If control of **Medina Plating & Powder** or substantially all of its assets located at the Project site is obtained by another entity or shareholders or

(ii) If **Medina Plating & Powder** merges with another entity or

(iii) If **Medina Plating & Powder** substantially restructures itself through an acquisition or divestiture or otherwise

and if any of these events affects the ability of **Medina Plating & Powder** or its successor entity to perform substantially the obligations of **Medina Plating & Powder** under this Agreement and to meet the employment and payroll projections anticipated herein. "Control of **Medina Plating & Powder**" for the purposes of this subsection means that persons and/or entities owning the majority of Company's outstanding voting stock at the date of this Agreement cease to own such or cease to have the unconditional right to elect a majority of **Medina Plating & Powder**'s board of directors.

H. Each provision for modification or termination hereunder shall not affect **Medina Plating & Powder**'s obligations or the City of Medina's rights under any other provision of this Agreement.

13. Fees. **Medina Plating & Powder** shall pay an annual fee of $ 500 (five hundred dollars) in each year that **Medina Plating & Powder** receives a grant payment upon notification that such payment is due. The proceeds will be used to defray costs of program administration and to help fund the program.

14. Any notices, statements, acknowledgements, consent approvals, certificates, or requests required to be given on behalf of either party shall be made in writing addressed as follows:

If to the City to:

Dennis Hanwell, Mayor
Medina City Hall
132 N. Elmwood Avenue
Medina, Ohio 44256

With a copy to:

Director of Law– City of Medina
Gregory Huber
Medina City Hall
132 N. Elmwood Avenue
Medina, Ohio 44256

If to **Medina Plating & Powder** to:

Shawn Ritchie, President
Medina Plating & Powder
940 Lafayette Road
Medina, Ohio 44256

or such other address as may be noticed.

15. Condition Precedent. **Medina Plating & Powder** and Medina acknowledge that this Agreement must be approved by formal action of the legislative authority of the City of Medina as a condition for the Agreement to take effect.

IN WITNESS WHEREOF, the City of Medina, Ohio, by Dennis Hanwell, its Mayor, and pursuant to Ordinance No. 154-07 and **Medina Plating & Powder**, by Shawn Ritchie, its **President**, have caused this instrument to be executed on the 25th day of November, 2014.

WITNESSED BY:

Kathy Patton

Dawn McGuire

CITY OF MEDINA

By: Dr Hanwell
Dennis Hanwell

Title: Mayor

WITNESSED BY:

_____

_____

Medina Plating & Powder

By: _____

Title: _____

The legal form and correctness of the within instrument is hereby approved.

DIRECTOR OF LAW– CITY OF MEDINA

By: Greg Lykins

Date: 11/25/14