RESOLUTION NO. 206-14

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENTS WITH THE MEDINA COUNTY COMMISSIONERS AND THE MEDINA COUNTY PUBLIC DEFENDER COMMISSION SO AS TO PROVIDE LEGAL COUNSEL TO INDIGENT PERSONS CHARGED WITH A VIOLATION OF THE CITY'S ORDINANCES AND DECLARING AN EMERGENCY.

WHEREAS: The City of Medina, Ohio, is required to provide legal counsel to indigent persons charged with serious offenses and loss of liberty offenses in the Medina Municipal Court pursuant to the State of Ohio Constitution and the laws of the State of Ohio; and

WHEREAS: The City of Medina, Ohio, desires that legal services be delivered to the City's indigent citizens and others so situated; and

WHEREAS: Agreements to provide the aforesaid legal services have been authorized by the Medina County Commissioners; and

WHEREAS: Section 3.2 of the contract states that the contract may be extended by one year upon passage of a Resolution which will then be forwarded to the Ohio Public Defender's Office.

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

SEC. 1: That the Mayor be and hereby is authorized and directed to enter into agreements with the Medina County Commissioners and the Medina County Public Defender Commission so as to provide for the appointment of legal counsel to defend indigent persons charged with a serious violation of the City's ordinances;

SEC. 2: That the contract is hereby extended until December 31, 2015.

SEC. 3: That the Clerk of Council is hereby directed to send a copy of this Resolution to the Ohio Public Defender's Office.

SEC. 4: That a copy of said Agreement is marked "Exhibit A", attached hereto and incorporated herein.

SEC. 5: 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. 6: That this Resolution shall be considered an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and for the further reason that indigent citizens and others so situated shall immediately be afforded their constitutional right to counsel; wherefore, this Ordinance shall be in full force and effect from and immediately upon its passage and upon signature by the Mayor.

PASSED: **December 8, 2014** **SIGNED:** **John M. Coyne, III**
President of Council

ATTEST: **Kathy Patton** **APPROVED:** **December 9, 2014**
Clerk of Council

SIGNED: **Dennis Hanwell**
Mayor

I hereby certify that the foregoing Ordinance No. 206-14 was duly published by title only in the *Medina County Gazette* on the 16th day of December 2014, and the 23rd day of December 2014.

Kathy Patton
Clerk of Council

Res. 206-14
Exh. A

AGREEMENT FOR INDIGENT DEFENSE SERVICES IN MUNICIPAL COURT

This Agreement is entered into by and between the Medina County Public Defender Commission, and the Medina County Commissioners, with a mailing address of 144 North Broadway Street, Medina, Ohio 44256, (hereinafter referred to as the "COUNTY"), and the City of Medina, with a mailing address of 132 North Elmwood, Medina, Ohio 44256 (hereinafter referred to as the "CITY").

WHEREAS, the CITY of Medina 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, Medina County has adopted a program whereby a Public Defender Commission has been formed and has established a Public Defender Office for providing indigent defense in Municipal Court and if there is a conflict of interest or for any other reason contained in OAC 120-1-04 or OAC120-1-07 then the Court will appoint assigned counsel attorneys.

WHEREAS, the COUNTY Public Defender Commission and Commissioners pursuant to Ohio Revised Code §120.14 and §120.16 may enter into a contract with a municipal corporation whereby the County provides legal representation to indigent persons charged with a violation of an ordinance of a municipal corporation for which the penalty or possible adjudication includes the potential loss of liberty and under which the municipal corporation shall pay the COUNTY for these services.

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 COUNTY Maximum Fee Schedule for Appointed Counsel, in order for the COUNTY to obtain reimbursement for indigent defense costs pursuant to Ohio Revised Code §120.18, §120.33 and §120.35, and pay the CITY it's appropriate share if such has not already been calculated into the formula to determine compensation, and

WHEREAS, this Agreement has been authorized by Resolution No . 206-14, passed by the Medina City Council on Dec. 10, 2014, and by Resolution No._____, passed by the Board of Commissioners of Medina County on _____, and passed by the Medina County Public Defender Commission on _____.

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

1. REPRESENTATION

1.1 The COUNTY, on behalf of the CITY, agrees to provide legal representation in Municipal Court on or after the commencement date and during the term of this agreement in cases where 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.

1.3 A major purpose of this agreement is to enable the COUNTY to obtain partial reimbursement of its costs to have the County Public Defender or, when necessary appointed counsel, provide legal representation in Municipal Court for indigent persons

charged with any violation of a CITY Ordinance for which the penalty or any possible adjudication includes the potential loss of liberty. Any question regarding terms or performance of this agreement should be resolved in favor of obtaining this result.

2. COMPENSATION

2.1 CITY agrees to pay the COUNTY for Public Defender Representation as follows:

The sum of $100.00 per case containing an initially charged violation of a CITY Ordinance that results in a plea any time before trial.

The sum of $125.00 per case containing an initially charged violation of a CITY Ordinance that proceeds to a trial.

A case shall be counted as any matter in which the CITY initially charges an indigent person under a CITY Ordinance for which jail is a possible sentence.

Matters that have multiple ordinances under one case number shall be counted as one case.

Where a case has both ordinance charges and ORC charges the CITY will be billed.

2.2 In addition to the payments for the Public Defender services, in situations, where assigned counsel is appointed, the COUNTY will pay the assigned counsel and bill the CITY monthly for City Ordinance violation cases the COUNTY paid in any particular month, based on qualifying attorney vouchers. The COUNTY will issue an invoice to the CITY and the CITY will have sixty (60) days to pay from date of receipt.

2.3 Amounts paid by the CITY for representation of such indigent persons, whether by a contractual amount or fee schedule, shall not exceed the fee schedule in effect and adopted by the COUNTY Commissioners.

2.4 Applications for transcripts and expert fees may be made to the Court. When granted by the Court in CITY code violation cases, the COUNTY will pay, bill the CITY and the CITY will reimburse the COUNTY.

2.5 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 the CITY expended pursuant to this agreement for assigned counsel costs, experts and expenses in municipal code violation cases.

(There is *no sharing of state reimbursement for the PD office costs.)*

3. DURATION OF CONTRACT and TERMINATION

3.1 The term of this agreement shall be from January1, 2015 through December 31, 2015.

3.2 This section intentionally left blank.

3.3 If 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.

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

3.5 This agreement is automatically canceled, without requirement of notice, if any payment required by Section 2.1 of this agreement is not made within sixty (60) 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 Recognizing that the requests for reimbursements must be received by the State Public Defender in a timely manner, the Medina County Public Defender Office shall promptly notify the COUNTY of the CITY ordinance cases completed and pending in any month.

4.3 Recognizing that the requests for reimbursements must be received by the State Public Defender in a timely manner, the Medina Municipal Court shall promptly submit assigned counsel vouchers to the County Auditor.

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.

City Dennis Hanwell - Mayor	Date	County PD Commissioner	Date
City	Date	County PD Commissioner	Date
City	Date	County PD Commissioner	Date
County Commissioner	Date	County PD Commissioner	Date
County Commissioner	Date	County PD Commissioner	Date
County Commissioner	Date	Medina County Public Defender	Date

Approved by:

Timothy Young Date
Ohio Public Defender