

**MAYOR DENNIS HANWELL – STATE OF THE CITY ADDRESS
IMMEDIATELY FOLLOWING CITY COUNCIL MEETING**

**CITY OF MEDINA
AGENDA FOR COUNCIL MEETING**

September 26, 2016
Medina City Hall
7:30 p.m.

Call to Order.

Roll Call.

Reading of minutes. (Sept. 12, 2016)

Reports of standing committees.

Requests for council action.

Reports of municipal officers.

Notices, communications and petitions.

Unfinished business.

Introduction of visitors.
(speakers limited to 5 min.)

Introduction and consideration of ordinances and resolutions.

Res. 124-16

A Resolution recognizing the service of the American Legion Post 202 Honor Guard for their work at the Western Reserve National Cemetery.

Ord. 125-16

An Ordinance amending Ordinance No. 37-16, passed March 14, 2016 authorizing the payment to Your Construction for the HOME Agreement at 411 E. North Street as part of the PY14 CHIP Grant Program.
(emergency clause requested)

Ord. 126-16

An Ordinance amending Ordinance No. 67-16, passed May 23, 2016 authorizing the payment to Jenmet Construction for the HOME Agreement at 427 S. Prospect Street as part of the PY14 CHIP Grant Program.
(emergency clause requested)

Res. 127-16

A Resolution authorizing the Mayor to file an application for grant assistance with the Ohio Public Works Commission (OPWC) for the West Smith Reconstruction Project, Phase 3.
(emergency clause requested)

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Ord. 128-16

An Ordinance amending Ordinance No. 41-15, passed April 13, 2015, relative to the Job Creation Grant Agreement with Allfasteners USA, LLC

Ord. 129-16

An Ordinance amending Ordinance No. 193-14, passed November 24, 2014, relative to the Job Creation Grant Agreement with Medina Plating and Powder.

Ord. 130-16

An Ordinance amending Ordinance No. 132-14, passed August 25, 2014, relative to the Job Creation Grant Agreement with Discount Drug Mart.

Ord. 131-16

An Ordinance amending Ordinance No. 131-13, passed July 15, 2013, relative to the Job Creation Grant Agreement with Discount Drug Mart.

Ord. 132-16

An Ordinance amending Ordinance No. 165-15, passed December 22, 2015. (Amendments to 2016 Budget)

Ord. 133-16

An Ordinance authorizing the Mayor to advertise for competitive bids and to award a contract to the successful bidder for the Wadsworth Road Water Line, Phase 2 Project.

Ord. 134-16

An Ordinance authorizing the increase of the expenditure to Davis Tree Farm from \$25,000.00 to \$45,000.00 for the Forestry Department.

Council comments.

Adjournment.

MEDINA CITY COUNCIL
Monday, September 12th 2016

Opening:

Medina City Council met in regular, open session on Monday, September 12th, 2016. The meeting was called to order at 7:30 p.m. by President of Council Pro-Tem Jim Shields who led the Pledge of Allegiance.

Roll Call:

The roll was called with the following members of Council present P. Rose, J. Shields (President of Council Pro-Tem), D. Simpson, J. Coyne (Acting Mayor), B. Hilberg, and M. Kolesar. B. Lamb was absent.

Also present were the following members of the Administration: Keith Dirham, Greg Huber, Nino Piccoli, Patrick Patton, Chief Painter, Jonathan Mendel, Mike Wright, Dan Gladish, Jansen Wehrley, and Kimberly Marshall.

Minutes:

Mr. Simpson moved that the minutes from August 22nd, 2016, as prepared and presented by the Clerk be approved, seconded by Mr. Kolesar. The roll was called and the minutes were approved by the yeas of J. Shields, D. Simpson, B. Hilberg, M. Kolesar, and P. Rose.

Reports of Standing Committees:

Finance Committee: Mr. Coyne stated the Finance Committee met prior to Council and will meet again in 2 weeks on September 26th.

Health, Safety & Sanitation Committee: Mr. Kolesar stated they will have representatives from Medina County Sanitation, the Sanitary Engineers coming to the September 26th meeting to discuss recycling in the county and where they are on the topic and which direction they are heading. Looking to schedule a meeting for the first week in October.

Public Properties Committee: Mr. Shields had no report.

Special Legislation Committee: Mr. Lamb was absent.

Streets & Sidewalks Committee: Mr. Simpson had no report.

Water & Utilities Committee: Mr. Hilberg had no report.

Emerging Technologies Committee: Mr. Rose had no report.

Requests for Council Action:

Finance Committee

16-135-9/12 – Budget Amendments

16-136-9/12 – Expenditure Over \$15,000 – Grant Reimbursement 239 S. Court St.

16-137-9/12 – Increase P.O. #2016-728 – Osborne

16-138-9/12 – Expenditure Over \$15,000 – Lincoln Aquatics

16-139-9/12 – Amend Ord. 37-16, Your Construction – 411 E. North St., CHIP Grant

16-140-9/12 – Expenditure Over \$15,000 – 221 S. Court, Grant Reimbursement

16-141-9/12 – Increase P.O. #2016-173 – Treemasters

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16-142-9/12 – 2016 Fall Tree Planting Expenditures
16-143-9/12 – Increase P.O. #2016-735, Signal Service Co.
16-144-9/12 – Amend Ord. 67-16, Jenmet Construction – 427 S. Prospect, CHIP Grant
16-145-9/12 – Moratorium – Cultivation, Processing or Retail Sale of Medical Marijuana
16-146-9/12 – Amend Ord. 41-15, Job Creation Grant #JCG-11, Allfasteners
16-147-9/12 – Amend Ord. 193-14, Job Creation Grant #JCG-10, Medina Plating
16-148-9/12 – Amend Ord. 132-14, Job Creation Grant #JCG-09, Drug Mart
16-149-9/12 – Amend Ord. 131-13, Job Creation Grant #JCG-07, Drug Mart
16-150-9/12 – Use Options for Masonic/Medina Theatre Site
16-151-9/12 – OPWC Grant Application
16-152-9/12 – Bids, Wadsworth Rd. Water Line, Phase 2

Reports of Municipal Officers:

John Coyne, Acting Mayor – Stated that residents of the City of Medina may have received more than once, a flyer from Kimble regarding recycling in Medina. We have an ordinance where our Sanitation Department is the only trash hauler or recycler that can come into the City of Medina and collect your trash so if you are receiving this flyer it has been done so illegally and you should disregard it because you cannot enter into a contract with Kimble to pick up your trash. Council is doing a great job this year and he hopes they will continue their great efforts.

Keith Dirham, Finance Director, reported they are working through the General Fund budgets and they have a meeting later this week.

Greg Huber, Law Director, had no report.

Chief Berarducci, Police Chief, was absent

Chief Painter, Fire Chief, reminded residents that they will be holding their annual Open House at the Fire Department on October 15th 11 a.m. to 2 p.m. He will have more details closer to the event.

Kimberly Marshall, Economic Development Director, had no report.

Jonathon Mendel, Planning Community Director, had no report.

Mike Wright, Recreation Center Director, was absent.

Jansen Wehrley, Parks and Recreation Director, stated as of today the splashpads at Fred Greenwood and Ray Mellert Park are officially closed for the season. They recently completed their Nature Works Grant Project at Sam Masi Park installing rubberized surface to the playground and it is officially open.

Dan Gladish, Building Official, had no report.

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Patrick Patton, City Engineer, had no report.

Nino Piccoli, Service Director, had no report.

Notices, Communications and Petitions:

Liquor Permit:

Mr. Simpson moved not to object to the transfer of a C2 permit from WJF Investment Corporation, dba Medina Marathon, 429 S. Court Street to MGJJ, LLC, dba Medina Marathon, 429 S. Court Street, seconded by Mr. Kolesar. The roll was called and passed by the yea votes of D. Simpson, B. Hilberg, M. Kolesar, P. Rose, and J. Shields.

Unfinished Business:

There was none.

Introduction of Visitors:

There were none.

Introduction and Consideration of Ordinances and Resolutions:

Ord. 116-16:

An Ordinance authorizing the increase of the expenditure to HD Supply Company from \$25,000.00 to \$45,000.00 for the Water Department. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 116-16, seconded by Mr. Kolesar. Mr. Simpson moved that the emergency clause be added to Ordinance/Resolution No. 116-16, seconded by Mr. Kolesar. Mr. Piccoli stated they have seen an increase in water breaks, especially in July where they had 14 and this will help cover the cost of clamps, repair parts and pieces, and get us through the end of the year. The roll was called on adding the emergency clause and was approved by the yea votes of M. Kolesar, P. Rose, J. Shields, D. Simpson, and B. Hilberg. The roll was called and Ordinance/Resolution No. 116-16 passed by the yea votes of B. Hilberg, M. Kolesar, P. Rose, J. Shields, and D. Simpson.

Ord. 117-16:

An Ordinance authorizing the increase of the expenditure to Solid Ground Construction from \$32,975.00 to \$33,625.00 relative to Activity #AC-14-02 of the PY14 CHIP Grant. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 117-16, seconded by Mr. Kolesar. Mr. Simpson moved that the emergency clause be added to Ordinance/Resolution No. 117-16, seconded by Mr. Kolesar. Mr. Mendel stated this is in relation to a \$650.00 change order for this private rehab project under the CHIP Grant in the City of Brunswick. Emergency is needed to pay the contractor as soon as possible. The roll was called on adding the emergency clause and was approved by the yea votes of J. Shields, D. Simpson, B. Hilberg, M. Kolesar, and P. Rose. The roll was called and Ordinance/Resolution No. 117-16 passed by the yea votes of P. Rose, J. Shields, D. Simpson, B. Hilberg, and M. Kolesar.

Ord. 118-16:

An Ordinance authorizing the purchase of one (1) Smeal Pumper on a Spartan Chassis from Smeal Fire Apparatus Co. for the Fire Department. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 118-16, seconded by Mr. Kolesar. Chief Painter stated this truck purchase will replace a 1997 Pumper and includes in the trade in a 2006 rescue truck. It is State Bid pricing and looking at a 14 to 16 month bill period. Mr. Kolesar wanted to remind the public of the total cost for the new truck is \$446,000.00. The roll was called and Ordinance/Resolution No. 118-16 passed by the yea votes of D. Simpson, B. Hilberg, M. Kolesar, P. Rose, and J. Shields.

Res. 119-16:

A Resolution accepting a donation from Murry and Susan Van Epp to fund the purchase and installation of a Dew Drop Omnipod from Rain Drop Products, LLC for the Memorial Pool. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 119-16, seconded by Mr. Kolesar. Jansen explained that the Van Epp family have been long time benefactors for the City and graciously offered to donate \$6,400.00 to the City for the purchase of a Dew Drop Omnipod which is a water mushroom to be installed in the zero depth entry bay of the newly renovated pool at Memorial Park. Councilmen Shields and Simpson both expressed their appreciation to the Van Epp family for their donations to the City. The roll was called and Ordinance/Resolution No. 119-16 passed by the yea votes of B. Hilberg, M. Kolesar, P. Rose, J. Shields, and D. Simpson.

Ord. 120-16:

An Ordinance authorizing the Mayor to advertise for the auction, sale or disposal of city equipment and vehicles no longer in use. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 120-16, seconded by Mr. Kolesar. Mr. Piccoli stated this is their annual auction with typical items, various vehicles, electronics and bicycles, even a pool table from the Masonic Temple purchase, various light fixtures and theater chairs in clusters of three. The auction is slated for Saturday, October 22nd. The preview will be at 9 a.m., actual auction promptly starts at 10 a.m. at the City Garage, 781 West Smith Road. The roll was called and Ordinance/Resolution No. 120-16 passed by the yea votes of M. Kolesar, P. Rose, J. Shields, D. Simpson, and B. Hilberg.

Ord. 121-16:

An Ordinance amending Section 133.01 of the Codified Ordinances of the City of Medina, relative to Association Memberships. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 121-16, seconded by Mr. Kolesar. Mr. Dirham stated that association memberships have to be approved by Council for each position in the city that has memberships, there is a list of organizations that they are allowed to join. The roll was called and Ordinance/Resolution No. 121-16 passed by the yea votes of P. Rose, J. Shields, D. Simpson, B. Hilberg, and M. Kolesar.

Ord. 122-16:

An Ordinance authorizing the Mayor to execute the Acknowledgement of Vacation of Easement for the sanitary sewer easement on Medina City Lot #8332. Mr. Simpson moved for the adoption of Ordinance/Resolution No. 122-16, seconded by Mr. Kolesar. Mr. Simpson moved that the emergency clause be added to Ordinance/Resolution No. 122-16, seconded by Mr. Kolesar. Mr. Patton stated they were approached by the property owner, there is a vacant city lot

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that has a sanitary sewer easement running through it and in order for these folks to build a new house on that lot the easement had to be readjusted and moved a couple of feet. The sanitary sewer easement of course belongs to the county. The County Commissioners did grant relocation of this easement. The emergency is needed so they can get started building their home they have been going through this process for several months already. The roll was called on adding the emergency clause and was approved by the yeas votes of D. Simpson, B. Hilberg, M. Kolesar, P. Rose, and J. Shields. The roll was called and Ordinance/Resolution No. 122-16 passed by the yeas votes of J. Shields, D. Simpson, B. Hilberg, M. Kolesar, and P. Rose.

Ord.123-16:

An Ordinance amending Ordinance No. 165-15, passed December 22, 2015.

(Amendments to 2016 Budget) Mr. Simpson moved for the adoption of Ordinance/Resolution No. 123-16, seconded by Mr. Kolesar. Mr. Dirham stated the first and last of these are hat sales. The hats are being sold to finance the Bicentennial celebration but the expenditure of the money has to be approved by Council even though it came from those sales. The second one is a \$10 donation. The others are for the pool. The roll was called and Ordinance/Resolution No. 123-16 passed by the yeas votes of B. Hilberg, M. Kolesar, P. Rose, J. Shields, and D. Simpson.

Council Comments:

Mr. Shields stated there are two budget meetings one on Wednesday, September 14, 2016 at 5:30 p.m. and one on Tuesday, September 20th at 5:30 p.m. Both are being held here at City Hall. The Mayor will be doing the State of the City Address at the next Council meeting on September 26th.

Mr. Simpson thanked everyone that took time to remember the anniversary of September 11th. He thanked Mr. Dirham for participating in the Tunnels to Towers Run that was very successful. Mr. Coyne represented the City and welcomed all the runners.

Mr. Kolesar thanked all the emergency service first responders out there in our community, we greatly appreciate them putting their lives on the line every day. He also bid farewell to Hawkins Market, they've been around this community for quite some time.

Adjournment:

There being no further business before Council, the meeting adjourned at 8:53 p.m.

Kathy Patton, CMC - Clerk of Council

John M. Coyne, President of Council

RESOLUTION NO. 124-16

A RESOLUTION RECOGNIZING THE SERVICE OF THE AMERICAN LEGION POST 202 HONOR GUARD FOR THEIR WORK AT THE WESTERN RESERVE NATIONAL CEMETERY.

WHEREAS: For well over 60 years Medina's American Legion Post 202's Honor Guard has performed honor ceremonies for departed veterans of Medina County by performing honors for deceased veterans at the Ohio Western Reserve Cemetery and at Medina county-wide cemeteries; and

WHEREAS: The American Legion Post 202 Honor Guard demonstrates the ideals of patriotism for Medina City citizens at High School football games, special events on Medina's Public Square, school Veterans Day observances, healthcare facilities where veterans reside, and for many other occasions – all to honor the service of Medina County veterans and;

WHEREAS: The American Legion Post 202 Honor Guard was recommended by the National Cemetery Director from over 50 other Honor Guards in northeast Ohio to take part in a documentary entitled "The Volley of Fire" by Award Winning Photojournalist Ali Ghanbari; and

WHEREAS: "The Volley of Fire" has won television's prestigious Emmy Award and was presented to the Commander and Honor Guard Captain of Post 202 at Kalahari Resort in 2016 by the National Academy of Television Arts and Sciences.

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

SEC. 1: That Medina City Council and the Mayor hereby recognize the American Legion Post 202 Honor Guard for their exemplary work and congratulate them on this recent award.

SEC. 2: That this Resolution shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORDINANCE NO. 125-16

AN ORDINANCE AMENDING ORDINANCE NO. 37-16, PASSED MARCH 14, 2016 AUTHORIZING THE PAYMENT TO YOUR CONSTRUCTION FOR THE HOME AGREEMENT AT 411 E. NORTH STREET AS PART OF THE PY14 CHIP GRANT PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS: Ordinance 37-16, passed March 14, 2016 authorized the payment of \$26,840.00 to Your Construction of Brunswick for the HOME Written Agreement at 411 E. North Street, as part of the PY14 CHIP Grant Program; and

WHEREAS: A Change Order for the project has been issued bringing the entire project cost to \$26,990.00; and

WHEREAS: The City has requested an increase to Purchase Order #2016000885 in the amount of \$150.00 to cover the Change Order for this project.

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

SEC. 1: That Ordinance No. 37-16, passed March 14, 2016 is hereby amended and increased to \$26,990.00 for payment to Your Construction to cover the Change Order amount of \$150.00 for the HOME Written Agreement at 411 E. North Street (Activity AC-14-13), Medina as part of the PY14 CHIP Grant Program.

SEC. 2: That the funds to cover this increased expenditure in the amount of \$150.00 are available in Account No. 139-0404-52215.

SEC. 3: 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. 4: 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 the project is completed and contractor is requesting payment; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORDINANCE NO. 126-16

AN ORDINANCE AMENDING ORDINANCE NO. 67-16, PASSED MAY 23, 2016 AUTHORIZING THE PAYMENT TO JENMET CONSTRUCTION FOR THE HOME AGREEMENT AT 427 S. PROSPECT STREET AS PART OF THE PY14 CHIP GRANT PROGRAM, AND DECLARING AN EMERGENCY.

WHEREAS: Ordinance 67-16, passed May 23, 2016 authorized the payment of \$32,945.00 to Jenmet Construction for the HOME Written Agreement at 427 S. Prospect Street, as part of the PY14 CHIP Grant Program; and

WHEREAS: A Change Order for the project has been issued bringing the entire project cost to \$33,180.00; and

WHEREAS: The City has requested an increase to Purchase Order #2016001205 in the amount of \$235.00 to cover the Change Order for this project.

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

SEC. 1: That Ordinance No. 67-16, passed May 23, 2016 is hereby amended and increased to \$33,180.00 for payment to Jenmet Construction to cover the Change Order amount of \$235.00 for the HOME Written Agreement at 427 S. Prospect Street (Activity AC-14-13), Medina as part of the PY14 CHIP Grant Program.

SEC. 2: That the funds to cover this increased expenditure in the amount of \$235.00 are available in Account No. 139-0404-52215.

SEC. 3: 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. 4: 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 the project is completed and contractor is requesting payment; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

RESOLUTION NO. 127-16

A RESOLUTION AUTHORIZING THE MAYOR TO FILE AN APPLICATION FOR GRANT ASSISTANCE WITH THE OHIO PUBLIC WORKS COMMISSION (OPWC) FOR WEST SMITH RECONSTRUCTION PROJECT, PHASE 3, AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

SEC. 1: That the Mayor is hereby authorized and directed to file an application for grant assistance with the Ohio Public Works Commission (OPWC) for the West Smith Road Reconstruction Project, Phase 3.

SEC. 2: That if the Grant is awarded to the City, the Mayor is authorized to accept the grant and complete all documentation necessary for the implementation and administration of the grant.

SEC. 3: That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution 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. 4: 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 the application deadline is September 30, 2016; wherefore, this Resolution shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORDINANCE NO. 128-16

**AN ORDINANCE AMENDING ORDINANCE NO. 41-15,
PASSED APRIL 13, 2015, RELATIVE TO THE JOB
CREATION GRANT AGREEMENT WITH ALLFASTERNERS
USA, LLC.**

WHEREAS: Ordinance No. 41-15, passed April 13, 2015, authorized the Mayor to enter into a Job Creation Grant Agreement with Allfasteners USA, LLC for the company to relocate to the City of Medina at 959 Lake Road and create 25 full-time jobs; and

WHEREAS: That during our Job Creation Grant Monitoring, Allfasteners discovered that the annual payroll estimated in the initial application had been miscalculated and have requested that their grant agreement be amended to reflect the annual payroll of \$1,280,000 and 24 full-time positions.

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

SEC. 1: That the Job Creation Grant Agreement #JCG-11, authorized in Ordinance No 41-15, passed April 13, 2015, is hereby amended to reflect the annual payroll of \$1,280,000 and 24 full-time positions.

SEC. 2: That a copy of the amended agreement is marked Exhibit A, attached hereto and incorporated herein.

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

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.

ORD. 128-16
Exh. A

EXHIBIT B

GRANT# JCG11

(Administrative Only)

AMENDED 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 Allfasteners USA LLC with its main offices located at 15401 Commerce Park Drive, Brook Park, Ohio 44142 (hereinafter referred to as "Company"), and is dated as of _____.

WITNESSETH:

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

WHEREAS, Allfasteners USA LLC is desirous of relocating in the city with the acquisition of a building located at 959 Lake Rd., Medina, Ohio 44256 for the purpose of manufacturing steel plates and structural fabrication and wholesale of fastener products for the cell communications industry and to create 24 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 Council of the City of Medina, Ohio by Ordinance No. 194-14 adopted November 24, 2014 new Guidelines and Application for 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 Allfasteners USA LLC with incentives available for the development of the PROJECT; and

WHEREAS, Allfasteners USA LLC 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, Allfasteners USA LLC 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 Allfasteners USA LLC and has recommended the same to Medina City Council on the basis that Allfasteners USA LLC 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. Allfasteners USA LLC shall acquire a building in Medina for the purpose of setting up a new CNC machine to fabricate and machine structural steel plates for the cell communications industry creating 25 new permanent full time positions.

2. Project Investment.

- A. The PROJECT will involve a total investment, plus or minus 10%, by the Property Owner of \$2,300,000(dollars) the PROJECT.
- B. The PROJECT will involve a total investment, plus or minus 10%, by Allfasteners USA LLC as follows:

1. New Machinery and Equipment	\$ 300,000
2. New Furniture & Fixtures	\$ 100,000
3. Land/Building Acquisition	\$1,450,000
4. Construction of facility / improvements	\$ 100,000
5. Inventory	\$ 350,000
TOTAL	\$2,300,000

- C. The project will begin approximately March 2015 and will be completed approximately 2017.

3. Job Creation and Retention.

- A. Allfasteners USA LLC shall create in the City of Medina within a time period not exceeding **36** months after the occupation of the aforesaid facility, the equivalent of **24** new full-time permanent job opportunities in the City of Medina.

- 1) Allfasteners USA LLC's schedule for hiring permanent full time employees is as follows:

<u>Year</u>	<u>Number of Jobs New to Medina</u>
1	16
2	5
3	3

- B. The job creation period begins approximately 2015 and all jobs will be in place by 2017.
- C. The Company currently has 0 employees at the project site. The Company currently has 0 employees in the City of Medina. In total, the Company currently has 14 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 \$ 1,280,000 of additional annual payroll in the City of Medina when the projected maximum employment level is achieved.
- E. The company will maintain its current annual payroll of \$ 1,070,000.

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).

<u>Years</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
4	\$6,400

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 **\$8,000.00. (maximum NEW PAYROLL projection x 125% X 1.25% x 40% of grant)**

C. To receive a grant in any given year, Allfasteners USA LLC must retain full time permanent jobs existing prior to the Agreement.

- (1) If Allfasteners USA LLC does not achieve at least 90% of new payroll projections, Allfasteners USA LLC shall receive reduced incentives according to the schedule below:

<u>% of New Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
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 Allfasteners USA LLC 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 Allfasteners USA LLC 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, Allfasteners USA LLC 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 3 projections must be met by December 31, 2017. The initial grant payment shall be made by approximately June 30th, 2018 (After year 3), provided that Allfasteners USA LLC 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 3 projections deadline adjusted accordingly, upon written request by Allfasteners USA LLC to the Economic Development Director, provided that the extension is approved by the Economic Development Director with notice to the Business Development Committee.

9. Certification as to Payment of Taxes. **Allfasteners USA LLC** certifies that at the time this Agreement is executed, **Allfasteners USA LLC** 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 **Allfasteners USA LLC** is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, **Allfasteners USA LLC** 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 **Allfasteners USA LLC**. 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, **Allfasteners USA LLC** 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 **Allfasteners USA LLC** 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 **Allfasteners USA LLC** in all pertinent respects.
12. Termination or Modification of Incentives.
 - A. If **Allfasteners USA LLC** 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 **Allfasteners USA LLC** 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 **Allfasteners USA LLC** 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 **Allfasteners USA LLC**'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 Allfasteners USA LLC 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 Allfasteners USA LLC 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 Allfasteners USA LLC 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

In the event that Allfasteners USA LLC vacates the Facility and/or moves the Project out of the City of Medina or terminates its operations at the Facility altogether during a 7 (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 Allfasteners USA LLC 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 Allfasteners USA LLC moves the Project out of the City of Medina or terminates its operations at the Facility altogether during the 7 year period beginning on the effective date of this Agreement; or within ten (10) days from the date Allfasteners USA LLC is notified by the City of Medina that any tax certification is fraudulent.

- G. Allfasteners USA LLC or successor entity shall promptly notify the City of Medina if any of the following events occur:
- (i) If control of Allfasteners USA LLC or substantially all of its assets located at the Project site is obtained by another entity or shareholders or
 - (ii) If Allfasteners USA LLC merges with another entity or
 - (iii) If Allfasteners USA LLC substantially restructures itself through an acquisition or divestiture or otherwise

and if any of these events affects the ability of Allfasteners USA LLC or its successor entity to perform substantially the obligations of Allfasteners USA LLC under this Agreement and to meet the employment and payroll projections anticipated herein. "Control of Allfasteners USA LLC " 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 Allfasteners USA LLC's board of directors.

H. Each provision for modification or termination hereunder shall not affect Allfasteners USA LLC 's obligations or the City of Medina's rights under any other provision of this Agreement.

13. Fees. Allfasteners USA LLC shall pay an annual fee of \$ 500 (five hundred dollars) in each year that Allfasteners USA LLC maintains a grant agreement. 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 Allfasteners USA LLC to:

Mick Strange
Allfasteners USA LLC
15401 Commerce Park Drive
Brook Park, Ohio 44142

or such other address as may be noticed.

15. Condition Precedent. Allfasteners USA LLC 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 Allfasteners USA LLC , by Mick Strange its **Owner**, have caused this instrument to be executed on the _____ day of _____, 2015.

WITNESSED BY:

WITNESSED BY:

CITY OF MEDINA

By: _____

Title: Mayor

ALLFASTENERS USA LLC

By: _____

Title: _____

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

DIRECTOR OF LAW— CITY OF MEDINA

By: _____

Date: _____

ORDINANCE NO. 129-16

**AN ORDINANCE AMENDING ORDINANCE NO. 193-14,
PASSED NOVEMBER 24, 2014, RELATIVE TO THE JOB
CREATION GRANT AGREEMENT WITH MEDINA
PLATING AND POWDER.**

WHEREAS: Ordinance No. 193-14, passed November 24, 2014, authorized the Mayor to enter into a Job Creation Grant Agreement with Medina Plating and Powder for an expansion project at 940 Lafayette Road and the creation of 20 full-time jobs; and

WHEREAS: That during our Job Creation Grant Monitoring, administrative staff discovered that the term of the grant was mistakenly set at 6 years when it should have been 5 years.

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

SEC. 1: That the Job Creation Grant Agreement #JCG-10, authorized in Ordinance No. 193-14, passed November 24, 2014, is hereby amended to reflect the term of the grant to be 5 years.

SEC. 2: That a copy of the amended agreement is marked Exhibit A, attached hereto and incorporated herein.

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

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-AMENDMENT

WHEREAS This Agreement was 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; and

WHEREAS the original grant agreement had incorrectly stated the grant period as "6" years; and

WHEREAS the City of Medina Job Creation Grant Guidelines clearly state the length of the allowable grant period for the below stated project is "5" years, the grant is hereby amended to reflect the correct grant period of 5 years as below:

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:

<u>Year</u>	<u>Number of Jobs New to Medina</u>
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).

<u>Years</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
5	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:

<u>% of New Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
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 8 (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 8 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 _____ day of _____, 2016.

WITNESSED BY:

CITY OF MEDINA

By: _____

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: _____

Date: _____

ORDINANCE NO. 130-16

**AN ORDINANCE AMENDING ORDINANCE NO. 132-14,
PASSED AUGUST 25, 2014, RELATIVE TO THE JOB
CREATION GRANT AGREEMENT WITH DISCOUNT DRUG
MART.**

WHEREAS: Ordinance No. 132-14, passed August 25, 2014, authorized the Mayor to enter into a Job Creation Grant Agreement with Discount Drug Mart for an expansion/acquisition project for the purpose of relocating 25 new full-time employees from the cities of Cleveland, Ohio and Canton, Ohio as a result of the acquisition of Hastings Professional Medical Equipment Company, located at 15210 Industrial Parkway, Cleveland, Ohio; and

WHEREAS: That during our Job Creation Grant Monitoring, Discount Drug Mart discovered that the annual payroll estimated in the initial application had been miscalculated and have requested that their grant agreement be amended to reflect the annual payroll of \$860,781 and 31 full-time positions.

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

SEC. 1: That the Job Creation Grant Agreement #JCG-09 authorized in Ordinance No. 132-14, passed August 25, 2014, is hereby amended to reflect the annual payroll of \$860,781 and 31 full-time positions.

SEC. 2: That a copy of the amended agreement is marked Exhibit A, attached hereto and incorporated herein.

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORD. 130-16 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 B

GRANT# JCG09-Discount Drug Mart14
(Administrative Only)

AMENDED JOB CREATION GRANT AGREEMENT
AMENDMENT #1

WHEREAS, the City of Medina has entered into a grant Agreement 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 Discount Drug Mart, Inc. with its main offices located at 211 Commerce Drive, Medina, Ohio 44256 (hereinafter referred to as "Company"), and is dated as of June 1, 2014; and

WHEREAS; the "Company" has requested an amendment to said grant agreement, "attached as Exhibit B", the City of Medina has made the following amendments to the grant agreement.

WITNESSETH:

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

WHEREAS, Discount Drug Mart, Inc. has acquired Hastings Professional Medical Equipment Company located at 15210 Industrial Parkway, Cleveland, Ohio 44135 and will **relocate 25** new full time employees to 211 Commerce Drive, Medina, Ohio 44256 (hereinafter sometimes referred to as the "PROJECT") and \$860,781.00 in new payroll 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 Discount Drug Mart, Inc. with incentives available for the development of the PROJECT; and

WHEREAS, Discount Drug Mart, Inc. 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, Discount Drug Mart, Inc. 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 **Discount Drug Mart, Inc.** and has recommended the same to Medina City Council on the basis that **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** shall relocate 25 full-time employees from a newly acquired company in Cleveland, Ohio to 211 Commerce Drive, Medina, Ohio 44256.

2. Project Investment.

- A. The PROJECT will involve a total investment, plus or minus 10%, by the Property Owner of \$275,000.00(dollars) the PROJECT.
- B. The PROJECT will involve a total investment, plus or minus 10%, by **Discount Drug Mart, Inc.** as follows:

1. New Machinery and Equipment	\$145,000
2. New Furniture & Fixtures	\$ 95,000
3. Land/Building Acquisition	\$ n/a
4. Construction of facility / improvements Of existing building	\$ 35,000
TOTAL	\$275,000

- C. Transfer of employees will begin approximately **August 1, 2014** and will be completed approximately **September 30, 2014**.

3. Job Creation and Retention.

- A. **Discount Drug Mart, Inc.** shall transfer employees into the City of Medina within a time period not exceeding **36** months, the equivalent of **25** new full-time permanent job opportunities in the City of Medina.

- 1) **Discount Drug Mart, Inc.'s** schedule for hiring permanent full time employees is as follows:

<u>Year</u>	<u>Number of Jobs New to Medina</u>	<u>Payroll Created</u>
2015	25	\$694,178.00
2016	6	\$166,603.00

2 yr. total: 31 employees

\$860,781.00 in payroll

- B. The job creation period begins approximately August 1, 2014 and all jobs will be in place by September 30, 2016.
- C. The Company currently has 276 employees at the 211 Commerce Drive site. The Company currently has 276 employees in the City of Medina. In total, the Company has 1,777 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 \$860,781.00 of additional annual payroll in the City of Medina when the projected maximum employment level is achieved after the three year period.
- E. The retention of the existing jobs in Medina will maintain the current annual payroll in Medina of \$14,672,000.00.

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).

<u>Years</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
5	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 amount of the grant in any year shall be **\$5,379.88 (maximum NEW PAYROLL projection x 125% X 1.25% x 40% of grant)**
- C. To receive a grant in any given year, **Discount Drug Mart, Inc.** must retain full time permanent jobs existing in Medina prior to the Agreement.

- (1) If **Discount Drug Mart, Inc.** does not achieve at least 90% of new payroll projections, **Discount Drug Mart, Inc.** shall receive reduced incentives according to the schedule below:

<u>% of New Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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, **Discount Drug Mart, Inc.** 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, 2015. The initial grant payment shall be made by approximately June 30th, 2017 (**following year**), provided that **Discount Drug Mart, Inc.** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28, 2016, 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 **Discount Drug Mart, Inc.** 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 Discount Drug Mart, Inc. 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** to advise the Economic Development Director of the filing extension.

C. Use of Grant Payments. Grants shall be allocated by **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** shall pay all taxes and shall file all tax reports and returns as required by law. If **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** shall provide to the City of Medina in a timely manner, any information reasonably required by the City of Medina to evaluate **Discount Drug Mart, Inc.**'s 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 **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** certifies that at the time this Agreement is executed, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** in all pertinent respects.

12. Termination or Modification of Incentives.

- A. If **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.**'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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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) **Discount Drug Mart, Inc.** vacates the Facility and/or moves the Project out of the City of Medina or terminates its operations at the Facility altogether during a 5 (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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** moves the Project out of the City of Medina or terminates its operations at the Facility altogether during the 5 year period beginning on the effective date of this Agreement; or within ten (10) days from the date **Discount Drug Mart, Inc.** is notified by the City of Medina that any tax certification is fraudulent.

G. **Discount Drug Mart, Inc.** or successor entity shall promptly notify the City of Medina if any of the following events occur:

- (i) If control of **Discount Drug Mart, Inc.** or substantially all of its assets located at the Project site is obtained by another entity or shareholders or
- (ii) If **Discount Drug Mart, Inc.** merges with another entity or
- (iii) If **Discount Drug Mart, Inc.** substantially restructures itself through an acquisition or divestiture or otherwise

and if any of these events affects the ability of **Discount Drug Mart, Inc.** or its successor entity to perform substantially the obligations of **Discount Drug Mart, Inc.** under this Agreement and to meet the employment and payroll projections anticipated herein. "Control of **Discount Drug Mart, Inc.**" 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 **Discount Drug Mart, Inc.**'s board of directors.

H. Each provision for modification or termination hereunder shall not affect **Discount Drug Mart, Inc.**'s obligations or the City of Medina's rights under any other provision of this Agreement.

13. Fees. **Discount Drug Mart, Inc.** shall pay an annual fee of \$ 500 (five hundred dollars) in each year that **Discount Drug Mart, Inc.** has a grant agreement in effect 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 Discount Drug Mart, Inc. to:

Tom McConnell
Chief Financial Officer
Discount Drug Mart, Inc.
211 Commerce Drive
Medina, Ohio 44256

or such other address as may be noticed.

15. Condition Precedent. Discount Drug Mart, Inc. 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 Discount Drug Mart, Inc., by Tom McConnell, its Chief Financial Officer, have caused this instrument to be executed on the _____ day of _____, 2014.

WITNESSED BY:

CITY OF MEDINA

By: _____

WITNESSED BY:

Title: Mayor

DISCOUNT DRUG MART, INC.

By: _____

Title: _____

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

DIRECTOR OF LAW-- CITY OF MEDINA

By: _____

Date: _____

ORDINANCE NO. 131-16

AN ORDINANCE AMENDING ORDINANCE NO. 131-13, PASSED JULY 15, 2013, RELATIVE TO THE JOB CREATION GRANT AGREEMENT WITH DISCOUNT DRUG MART.

WHEREAS: Ordinance No. 131-13, passed July 15, 2013, authorized the Mayor to enter into a Job Creation Grant Agreement with Discount Drug Mart for an expansion project at their Headquarters facility located at 211 Commerce Drive; and

WHEREAS: That during our Job Creation Grant Monitoring, Discount Drug Mart discovered that the annual payroll estimated in the initial application had been miscalculated and have requested that their grant agreement be amended to reflect the annual payroll of \$750,000 and 26 full-time positions.

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

SEC. 1: That the Job Creation Grant Agreement #JCG-07 authorized in Ordinance No. 131-13, passed July 15, 2013, is hereby amended to reflect the annual payroll of \$750,000 and 26 full-time positions.

SEC. 2: That a copy of the amended agreement is marked Exhibit A, attached hereto and incorporated herein.

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORD. 131-16 Exh. A

EXHIBIT A

GRANT# JCG07-Discount Drug Mart13
(Administrative Only)

JOB CREATION GRANT AGREEMENT
AMENDMENT #1

WHEREAS, the City of Medina entered into a grant Agreement 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 Discount Drug Mart, Inc. with its main offices located at 211 Commerce Drive, Medina, Ohio 44256 (hereinafter referred to as "Company"), and is dated as of June 6, 2013; and

WHEREAS, the "Company" has requested an amendment to said grant agreement, "attached as Exhibit B", the City of Medina has made the following amendments to the grant agreement.

WITNESSETH:

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

WHEREAS, Discount Drug Mart, Inc. is desirous of expanding 211 Commerce Drive, Medina, Ohio 44256 in the city by renovating an existing warehouse space to create a 1,620 square foot call center to create 26 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 Discount Drug Mart, Inc. with incentives available for the development of the PROJECT; and

WHEREAS, Discount Drug Mart, Inc. 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, Discount Drug Mart, Inc. 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 Discount Drug Mart, Inc. and has recommended the same to Medina City Council on the basis that Discount Drug Mart, Inc. 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. **Discount Drug Mart, Inc.** shall renovate a **1,620 square foot warehouse at 211 Commerce Drive, Medina, Ohio** to create a call center for pharmaceutical operations which will consist of new office space complete with new electrical and telephone connections.

2. Project Investment.

- A. The PROJECT will involve a total investment, plus or minus 10%, by the Property Owner of \$498,100(dollars) the PROJECT.
- B. The PROJECT will involve a total investment, plus or minus 10%, by **Discount Drug Mart, Inc.** as follows:

1. New Machinery and Equipment	\$298,100
2. New Furniture & Fixtures	\$ 50,000
3. Land/Building Acquisition	\$
4. Construction of facility / improvements	\$150,000
TOTAL	\$498,100

- C. Construction of the addition will begin approximately **July 1, 2013** and will be completed approximately **September 30, 2013**.

3. Job Creation and Retention.

- A. **Discount Drug Mart, Inc.** shall create in the City of Medina within a time period not exceeding **36** months after the occupation of the aforesaid facility, the equivalent of **30** new full-time permanent job opportunities in the City of Medina.

- 1) **Discount Drug Mart, Inc.'s** schedule for hiring permanent full time employees is as follows:

<u>Year</u>	<u>Number of Jobs New to Medina</u>	<u>Payroll Created</u>
2014	15	\$432,692
2015	10	\$288,460
2016	1	\$ 28,848
3 yr. total: 26 employees		\$750,000 in payroll

- B. The job creation period begins approximately March 31, 2014 and all jobs will be in place by December 31, 2016.
- C. The Company currently has 286 employees at the project site. The Company currently has 286 employees in the City of Medina. In total, the Company has 1,777 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 annual payroll in Medina of \$14,672,000.00.

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).

<u>Years</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
5	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, **Discount Drug Mart, Inc.** must retain full time permanent jobs existing in Medina prior to the Agreement.

- (1) If **Discount Drug Mart, Inc.** does not achieve at least 90% of new payroll projections, **Discount Drug Mart, Inc.** shall receive reduced incentives according to the schedule below:

<u>% of New Payroll Projection Achieved</u>	<u>Amount of Grant as a Percentage of Payroll Taxes New to Medina</u>
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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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, **Discount Drug Mart, Inc.** 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, 2017 provided that **Discount Drug Mart, Inc.** files its Reconciliation of City Income Tax Withheld Form S-W3 by February 28, 2014, 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 **Discount Drug Mart, Inc.** 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 Discount Drug Mart, Inc. 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** to advise the Economic Development Director of the filing extension.

C. Use of Grant Payments. Grants shall be allocated by **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** shall pay all taxes and shall file all tax reports and returns as required by law. If **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** shall timely provide to the City of Medina any information reasonably required by the City of Medina to evaluate **Discount Drug Mart, Inc.**'s 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 **Discount Drug Mart, Inc.** 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. **Discount Drug Mart, Inc.** certifies that at the time this Agreement is executed, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** is liable under Chapter 5733, 5735, 5739, 5741, 5743, 5747, or 5753 of the Ohio Revised Code, or, if such delinquent taxes are owed, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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, **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** in all pertinent respects.

12. Termination or Modification of Incentives.

- A. If **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.**'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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** 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) **Discount Drug Mart, Inc.** vacates the Facility and/or moves the Project out of the City of Medina or terminates its operations at the Facility altogether during a 8 (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 **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.** moves the Project out of the City of Medina or terminates its operations at the Facility altogether during the 8 year period beginning on the effective date of this Agreement; or within ten (10) days from the date **Discount Drug Mart, Inc.** is notified by the City of Medina that any tax certification is fraudulent.

G. **Discount Drug Mart, Inc.** or successor entity shall promptly notify the City of Medina if any of the following events occur:

- (i) If control of **Discount Drug Mart, Inc.** or substantially all of its assets located at the Project site is obtained by another entity or shareholders or
- (ii) If **Discount Drug Mart, Inc.** merges with another entity or
- (iii) If **Discount Drug Mart, Inc.** substantially restructures itself through an acquisition or divestiture or otherwise

and if any of these events affects the ability of **Discount Drug Mart, Inc.** or its successor entity to perform substantially the obligations of **Discount Drug Mart, Inc.** under this Agreement and to meet the employment and payroll projections anticipated herein. "Control of **Discount Drug Mart, Inc.**" 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 **Discount Drug Mart, Inc.**'s board of directors.

H. Each provision for modification or termination hereunder shall not affect **Discount Drug Mart, Inc.**'s obligations or the City of Medina's rights under any other provision of this Agreement.

13. Fees. **Discount Drug Mart, Inc.** shall pay an annual fee of \$ 500 (five hundred dollars) in each year that **Discount Drug Mart, Inc.** has a grant agreement in effect 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 Discount Drug Mart, Inc. to:

Tom McConnell
Chief Financial Officer
Discount Drug Mart, Inc.
211 Commerce Drive
Medina, Ohio 44256

or such other address as may be noticed.

15. Condition Precedent. **Discount Drug Mart, Inc.** 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 **Discount Drug Mart, Inc.**, by Tom McConnell, its **Chief Financial Officer**, have caused this instrument to be executed on the _____ day of _____, 2016.

WITNESSED BY:

CITY OF MEDINA

By: _____

Title: Mayor

WITNESSED BY:

DISCOUNT DRUG MART, INC.

By: _____

Title: _____

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

DIRECTOR OF LAW— CITY OF MEDINA

By: _____

Date: _____

ORDINANCE NO. 132-16

**AN ORDINANCE AMENDING ORDINANCE NO. 165-15,
PASSED DECEMBER 22, 2015.** (Amendments to 2016 Budget)

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

SEC. 1: That Ordinance No. 165-15, passed December 22, 2015, shall be amended by the following additions:

<u>Account No./Line Item</u>	<u>Additions</u>
001-0210-53313 (Donation-Cemetery)	\$20.00 *
137-0406-52215 (CHIP)	14,000.00 *
514-0543-53315 (Sanitation Dept. - Containers)	25,000.00
001-0210-52215 (FOC Donation for Water Line Project)	12,220.00 *

SEC. 2: That Ordinance No. 165-15, passed December 22, 2015, shall be amended by the following reductions:

<u>Account No./Line Item</u>	<u>Reductions</u>
001-0702-52212 (Reduce Carryforward – Mayor’s Office)	500.00
001-0702-52213 (Reduce Carryforward – Mayor’s Office)	800.00
001-0702-53311 (Reduce Carryforward – Mayor’s Office)	3,000.00
001-0702-53315 (Reduce Carryforward – Mayor’s Office)	2,300.00
001-0702-53315 (Reduce Carryforward – Mayor’s Office)	2,400.00
514-0543-54413 (Sanitation Dept. - Containers)	25,000.00

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

* - new appropriation

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor

ORDINANCE NO. 133-16

AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR COMPETITIVE BIDS AND TO AWARD A CONTRACT TO THE SUCCESSFUL BIDDER FOR THE WADSWORTH ROAD WATER LINE, PHASE 2 PROJECT.

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

SEC. 1: That the Mayor is hereby authorized and directed to advertise for competitive bids and to award a contract to the successful bidder for the Wadsworth Road Water Line, OPWC Project #CI31S, Medina City Job #1007, in accordance with plans and specifications on file in the office of the Mayor.

SEC. 2: That the estimated cost of the project, in the amount of \$316,200.00, is available as follows: \$250,000.00 in Account No. 380-0502-54418 and \$66,200.00 in Account No. 546-0530-54418.

SEC. 3: 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. 4: That this Ordinance shall be in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____

President of Council

ATTEST: _____

APPROVED: _____

Clerk of Council

SIGNED: _____

Mayor

ORDINANCE NO. 134-16

AN ORDINANCE AUTHORIZING THE INCREASE OF THE EXPENDITURE TO DAVIS TREE FARM FROM \$25,000.00 TO \$45,000.00 FOR THE FORESTRY DEPARTMENT.

WHEREAS: The Parks Director has requested to increase Purchase Order #2016000177 from \$25,000.00 to \$45,000.00, which requires Council approval; and

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

SEC. 1: That the Purchase Order #2016000177 for Davis Tree Farm is hereby authorized to be increased to \$45,000.00 for the Forestry Department.

SEC. 2: That the funds to cover this expenditure are available in Account No. 001-0420-54411.

SEC. 3: 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. 4: That this Ordinance shall be considered in full force and effect at the earliest period allowed by law.

PASSED: _____

SIGNED: _____
President of Council

ATTEST: _____
Clerk of Council

APPROVED: _____

SIGNED: _____
Mayor