



Resolution

Number 12-1819

Adopted Date December 20, 2012

APPROVE AND ENTER INTO AGREEMENT BETWEEN THE WARREN COUNTY COMMISSIONERS AND THE CITY OF MASON, OHIO REGARDING REIMBURSEMENT FOR PUBLIC DEFENDER EXPENDITURES FOR 2013


BE IT RESOLVED, to approve and enter into contract with the City of Mason, Ohio for reimbursement for 2013 public defender services; said agreement attached hereto and made a part hereof.

Mrs. South moved for adoption of the foregoing resolution, being seconded by Mr. Young. Upon call of the roll, the following vote resulted:

Mr. Ariss – yea
Mr. Young – yea
Mrs. South – yea

Resolution adopted this 20th day of December 2012.

BOARD OF COUNTY COMMISSIONERS


Tina Davis, Clerk

Tz/

cc: c/a—City of Mason
City of Mason (file)
Ohio Public Defender Office
Commissioners file
T. Zindel
R. Crisenbery

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

This Agreement is entered into by and between the Warren County Board of County Commissioners, with a mailing address of 406 Justice Drive, Lebanon, Ohio 45036, (hereinafter referred to as the "COUNTY"), and the City of Mason, Ohio, with a mailing address of 6000 Mason-Montgomery Road, Mason, Ohio 45040, (hereinafter referred to as the "CITY").

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

WHEREAS, the COUNTY, in furtherance of the execution of its legal responsibilities, desires that said legal services be delivered to COUNTY's indigent citizens and others so situated, and

WHEREAS, the CITY of Mason Municipal Court maintains a list of Public Defenders who are willing to provide the aforesaid legal services to the COUNTY's indigent citizens and others so situated, and

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

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

WHEREAS, this Agreement has been authorized by the CITY by Res. (Ord) Number 2012-82, passed by the Mason CITY Council on NOV. 26, 2012, and by Resolution Number 12-18,9, passed by the Board of Commissioners of Warren COUNTY on 12/20/12.

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

1. REPRESENTATION

- 1.1** The CITY and COUNTY agree that the judges of the municipal court may assign by journal entry, recorded on the Court Docket, appointed counsel to represent indigent adults and juveniles in Municipal Court on or after the commencement date and during the term of this agreement in which the defendant is indigent and charged with the commission of an offense or act which is a violation of a CITY Ordinance and for which the penalty or any possible adjudication includes the potential loss of liberty.
- 1.2** Indigency shall be determined in accordance with the standards of indigency and other rules and guidelines established by the Ohio Public Defendant's Commission and the State Public Defender, pursuant to Ohio Revised Code section 120.33 and Ohio Administrative Code section 120-1-03.

2. COMPENSATION

- 2.1 Pursuant to Ohio Revised Code section 120.33 and aforesaid resolutions, the COUNTY shall pay all legal fees and expenses to counsel duly appointed by the Municipal Court of Mason, Ohio, to represent indigent persons charged with violations of the ordinances of the CITY of Mason, Ohio.
- 2.2 Payment by the municipality for representation of indigent persons will be by fee schedule, and such payment shall not exceed the fee schedule in effect and adopted by the Board of County Commissioners of Warren County, Ohio.
- 2.3 CITY agrees to upfront amounts necessary for the COUNTY to pay all legal fees and expenses.
- 2.4 The COUNTY shall pay over to the CITY any reimbursement received from the Office of the Ohio Public Defender Commission pursuant to Chapter 120 of the Ohio Revised Code for any amounts expended pursuant to this agreement, within thirty (30) days of reconciliation of reimbursements received or at a time mutually agreed upon by the parties.

3. DURATION OF CONTRACT AND TERMINATION

- 3.1 The term of this agreement shall be for one year, January 1, 2013 to December 31, 2013.
- 3.2 If the COUNTY or CITY shall fail to fulfill in a reasonable, timely and proper manner its obligations under this agreement or if either party shall substantially violate any of the covenants, agreements or stipulations of this agreement, then the aggrieved party shall hereupon have the right to terminate this agreement by giving written notice to the other party of such termination and specifying an effective date thereof at least thirty (30) days before the effective date of said termination. Termination by either party shall not constitute a waiver of any other right or remedy it may have in law or in equity for breach of this agreement by the other party.
- 3.3 Written notice shall be considered furnished when it is sent by Certified Mail, return receipt requested, or is hand-delivered.

4. TERMS OF AGREEMENT

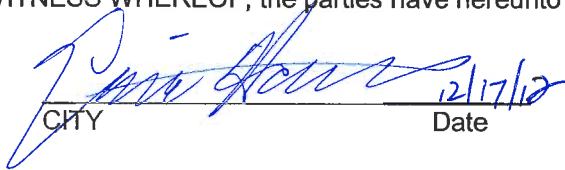
- 4.1 As soon as is reasonably practical after a case is finally disposed of by the Mason Municipal Court, the Court shall approve counsel fees in accordance with the standards of indigency, which fees shall not be taxed as part of the costs of the case.
- 4.2 Recognizing that the requests for reimbursements must be received by the State Public Defender within ninety (90) days of the end of the calendar month in which a case is finally disposed of by the Court, the Mason Municipal Court Clerk shall promptly notify the COUNTY of the fees which have been approved.
- 4.3 After approval, the COUNTY Auditor shall thereafter process the fees and expenses approved by the Court in accordance with the procedure set forth in Ohio revised Code section 120.33.

- 4.4 There shall be no discrimination against any employee who is employed in the work covered by this agreement or against any application for such employment because of the race, color, religion, sex, age, handicap or national origin. This provision shall apply to, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, raises of pay or other forms of compensation, and selection for training, including apprenticeship. The COUNTY shall insert a similar provision in any subcontract for services covered by this agreement.
- 4.5 No personnel of the parties or member of the governing body of any locality or other public official or employee of any such locality in which, or relating to which, the work under this agreement is being carried out, and who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work shall, prior to the completion of said work voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

5. MODIFICATION

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

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



 CITY Date 12/17/12



 COUNTY COMMISSIONER Date 12/20/12

Approved as to form:



 Warren County Prosecutor's Office Date 12-17-12