

RESOLUTION NUMBER 38-91
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Sally Beels ON THE
18th DAY OF November, 1991.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE MONTGOMERY COUNTY PUBLIC DEFENDER COMMISSION PROVIDING FOR LEGAL COUNSEL TO INDIGENT PERSONS CHARGED WITH VIOLATIONS OF THE CITY'S MUNICIPAL ORDINANCES, THE OUTCOME OF WHICH COULD RESULT IN THE LOSS OF LIBERTY OF SAID PERSONS; PROVIDING FOR THE PAYMENT FOR SAID SERVICES AND PROVIDING FOR A TERM COMMENCING JANUARY 1, 1992 AND TERMINATING ON DECEMBER 31, 1992.

THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES THAT:

SECTION 1. The City Manager is hereby authorized and directed to do all things necessary to execute a Contract with the Montgomery County Public Defender Commission, a copy of which is attached hereto as Exhibit "A" and incorporated herein, which contract provides legal counsel to indigent persons charged with violation of the City's Municipal Ordinances, the outcome of which could result in the loss of liberty of said persons; providing for the payment for services and providing for a term commencing January 1, 1992 and terminating on December 31, 1992, among other provisions.

SECTION 2. This Resolution shall become effective immediately upon passage.

PASSED this 18th day of November, 1991.


Mayor of the City of
Centerville, Ohio

ATTEST:


Clerk of the Council of the
City of Centerville, Ohio

C E R T I F I C A T E

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Resolution Number 38-91, passed by the Council of the City of Centerville, Ohio, on the 18th day of November, 1991.

Maile J. Saughli
Clerk of Council

Approved as to form, consistency with existing ordinances, the charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

**CONTRACT FOR COUNTY PUBLIC DEFENDER
SERVICE TO MUNICIPAL CORPORATION**

AGREEMENT

This Agreement entered into between the Montgomery County Public Defender Commission, hereinafter called the "Commission", and the City of Centerville, Ohio, hereinafter called the "City".

WHEREAS, the City recognizes its responsibilities under the laws of the State of Ohio and the United States of America to provide legal counsel to indigent persons charged with violation of the City's Municipal Ordinance, the outcome of which could result in the loss of liberty of said persons; and,

WHEREAS, the City in furtherance of the execution of its legal responsibilities, desires to provide such legal services to the City's indigent citizens and others so situated, and to do so in cooperation with the Commission;

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

1. The Commission shall in a satisfactory and proper manner under the terms and conditions contained herein, provide the required legal services for all indigent persons charged with violating the City's Municipal Ordinances which could result in their loss of liberty and which cases are not in conflict with other cases or persons represented by the Commission.

2. The City shall pay to the Commission a sum of One Thousand Five Hundred (\$1,500) dollars, estimated to be the cost of the Commission's services during the term of this contract. This sum is subject to the year-end settlement provisions in paragraph four based on actual cost, types of cases and weight of cases. Said sum shall be paid in the following manner: One-half (50%) of the contract price, to-wit: Seven Hundred Fifty (\$750) dollars shall be paid upon the execution of this Agreement; thereafter the Commission shall be paid the balance in two (2) equal payments of one-fourth of the contract price, to-wit: Three Hundred Seventy-Five (\$375) dollars, the first of said payments at the expiration of four (4) months of the term of this contract; and the second at the expiration of eight (8) months of the term of this contract.

3. It is the agreement and intention of the parties hereto that the compensation paid to the Public Defender Commission shall not exceed that portion of the Public Defender's total year's expenditures attributable to persons charged with violations of Centerville Municipal Ordinances other than minor misdemeanors and represented by the Public Defender. This figure shall be calculated by dividing the Public Defender's total expenditures by the number of cases handled during such year (weighted as set forth below) and multiplied by the number of cases subject to this Agreement.

For purposes of this Agreement, a single case includes all applicable proceedings when one defendant is charged with one offense, or when one defendant is charged with offenses resulting from a series of events that occur in the course of one scheme of

conduct happening over a period of time, regardless of the number of counts or charges. Cases including at least one jailable ordinance charge and one jailable statutory charge shall be totaled; one-half of such total shall be treated as cases subject to this Agreement.

When there are multiple defendants charged with the same offense(s), whether tried separately or together, each defendant shall be treated as a separate case.

When the Public Defender Office represents an individual charged with a felony in municipal court who is bound over to the Grand Jury and indicted, the municipal court case and the Common Pleas Court case shall be treated as one case.

When one defendant is charged with unrelated acts, happening at separate times, each act or charge shall constitute a separate case whether tried separately or together.

In determining the caseload subject to this Agreement, cases shall be weighted as follows:

Misdemeanor Cases	1
Juvenile Cases	1.3
Felony Cases	3
Appeal Cases	16

4. At the end of the calendar year, or as soon thereafter as possible, the total expense of operating the Public Defender's Office for 1992 and the number of cases subject to this Agreement, shall be determined and the amount owing by the City shall be calculated in accordance with the formula set out in paragraph three above. Settlement shall thereupon be made in the

form of a rebate or additional payment, whichever is appropriate. This clause does not apply to minimum bid (i.e. \$500) contracts.

5. The duration of this contract shall be for one (1) year commencing on January 1, 1992 and shall terminate on December 31, 1992.

6. The Commission shall not assign all or any part of this Agreement without the prior written consent of the City which consent shall not be unreasonably withheld.

7. Either party may terminate this contract at its sole option at any time upon giving sixty (60) days written notice to the other party prior to the effective date of said termination.

8. All amendments to this Agreement agreed upon by the parties shall be in writing and made a part of this Agreement.

9. The Commission will make available to the City any and all financial data reasonably requested by the City and reasonably necessary for appraising the Commission's budget.

10. 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 race, color, religion, sex or national origin. This provision shall apply to, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or selection for training, including apprenticeship. The Commission shall insert a similar provision in any sub-contract for services covered by this Agreement.

11. The Commission and its members covenant that they presently have no interest and shall not acquire any interest,

direct or indirect, which would conflict in any manner with the performance of services required under this Agreement.

12. In the event that funds are made available to the Commission by the State of Ohio pursuant to Section 120.18 of the Ohio Revised Code, this Agreement shall be subject to modification of the contract price commensurate with the percentage of reimbursement of the total cost of the Public Defender Office received by the Commission from the State of Ohio.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of _____, 19_____.

THE CITY OF CENTERVILLE, OHIO

MONTGOMERY COUNTY
PUBLIC DEFENDER COMMISSION

BY _____
DARRYL K. KENNING
City Manager

BY _____
WAYNE P. STEPHAN
Chairman

APPROVED AS TO FORM:

BY _____
ROBERT N. FARQUHAR
Legal Counsel

BY _____
KURT R. PORTMANN
Public Defender