

AUTHORIZING THE DIRECTOR OF LAW TO ENTER INTO AN AGREEMENT WITH THE
SUMMIT COUNTY PUBLIC DEFENDER'S COMMISSION, AUTHORIZING PAYMENT
THEREFORE, AND PROVIDING FOR IMMEDIATE ENACTMENT

WHEREAS, this Council is advised that provision must be made to provide legal counsel for indigent persons charged with criminal offenses with penalties carrying loss of liberty under ordinances of the State of Ohio and the City of Tallmadge; and

WHEREAS, the Summit County Public Defender's Commission has the facilities to adequately provide such services at a reasonable charge therefore; and

WHEREAS, the legal services to be provided involve performance of personal skills of a specialized nature requiring the exercise of legal skills and aptitude.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TALLMADGE, COUNTIES OF SUMMIT AND PORTAGE, STATE OF OHIO:

SECTION 1. That the Director of Law is hereby authorized and directed to enter into an agreement with the Summit County Public Defender's Commission to provide for payment for legal defense of indigent persons charged with loss of liberty offenses under ordinances of the City of Tallmadge commencing January 1, 2022 and terminating December 31, 2022.

SECTION 2. That the Director of Finance of the City is hereby authorized and directed to pay for all charges pursuant to such agreement provided for in Section 1 hereof and charge the same to Account 101.715.53000 of the Annual Appropriation.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after November 28, 1975, that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance is necessary to provide for and to accomplish the purposes herein set forth, which are conducive to the health, safety, and welfare of the citizens of Tallmadge. For that reason, provided this ordinance shall receive the affirmative vote of three-fourths of the members of Council and approval by the Mayor, it shall be enacted immediately and shall be of immediate effect.

Passed: _____

Susan E. Burton, Clerk of Council
MER/jt
12/14/21
Filed with the Mayor _____

Dennis K. Loughry, President of Council

Approved:

David G. Kline, Mayor

This _____ day of _____, 2022

Committee Assignment: _____

Readings: 1st _____ 2d _____ 3d _____

For: _____ Against: _____ Abstain: _____

Note: _____

AGREEMENT

This Agreement made at the CITY OF TALLMADGE, Ohio on this 13 day of January, 2022, by and between the CITY OF TALLMADGE, Ohio, acting by and through its Mayor (or designee) duly authorized by Ordinance 2022-17, passed by the Council of the CITY OF TALLMADGE, Ohio on the 13 day of January, 2022, hereinafter referred to as the CITY and the Summit County Public Defender’s Commission, One Cascade Plaza Suite 1940, Akron, Ohio hereinafter referred to as the DEFENDER.

WITNESSETH:

WHEREAS, the CITY has entered into an agreement to obtain the services of the DEFENDER to provide legal counsel to indigent persons charged with loss of liberty offenses in its municipal jurisdiction for 2022; and

WHEREAS, pursuant to Chapter 120 of the Ohio Revised Code and Administrative Code 120-1-09 it is necessary to enter into this Agreement in order for said County to obtain reimbursement pursuant to Chapter 120 and Administrative Rule 120-1-09 of the Ohio Administrative Code.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions, and terms to be kept and performed, it is agreed between the parties as follows:

Section 1. The DEFENDER, through the Legal Defenders Office of Summit County, Ohio, Inc. (“LDO”), shall provide counsel in the Stow Municipal Court to persons charged with a violation of the Codified Ordinances of the CITY OF TALLMADGE, Ohio for which a sentence of

confinement may be imposed on such person should they be convicted, and who meet either of the following specifications:

- a. The judge has determined in accordance with Subsection D of Rule 44 of the Ohio Rules of Criminal Procedure that such person is unable to obtain legal counsel; or
- b. The Defender or LDO determines that the individual is indigent in accordance with Sections 120.05 and 120.15 of the Ohio Revised Code and Section 120-1-03 of the Ohio Administrative Code.

Section 2. The CITY shall pay to the DEFENDER a fee for the services provided in Section 1 of the Agreement of One Hundred Seventy Dollars (\$170.00) per case for all cases opened between January 1, 2022 through December 31, 2022.

Section 3. The Defender or LDO, on behalf of its attorneys and each attorney employed by the Defender or LDO individually, reserves the right to decline to advise or represent any particular person, consistent with the Ohio Rules of Professional Conduct. The Company or LDO further reserves the right to withdraw from representation: (1) for a conflict of interest consistent with the Ohio Rules of Professional Conduct; (2) due to a finding of the client's financial ineligibility for the legal services; or (3) due to an excessive workload as determined by Section 120-1-07 of the Ohio Administrative Code. However, in the event Company desires to withdraw due to financial ineligibility or excessive workload, the Company or attorney shall continue representation previously commenced at the trial court level through all trial court proceedings, including *capias* and probation violation proceedings, and shall continue previously taken appeals until the appeals process is terminated by a

final action on the merits by the appellate court or until alternate counsel is obtained.

Section 4. The DEFENDER shall send quarterly statements to the CITY certifying the number of cases completed during the preceding months.

Section 5. The Agreement shall expire on December 31, 2022.

Section 6. In the event the CITY does not renew this Agreement, the CITY agrees to pay the DEFENDER the amount of One Hundred-Seventy Dollars (\$170.00) per pending case upon the completion of said case.

Section 7. Should the DEFENDER be succeeded by a county defender organized in accordance with the Ohio Revised Code, the DEFENDER may assign its duties under this assignment and shall not be made by either party without the prior written consent of the other; provided, however, that the DEFENDER is expressly authorized to provide the services described in Section 1 through the Legal Defender Office of Summit County, Ohio Inc.

Section 8. Should the DEFENDER or any other entity receive reimbursement for the services performed by the DEFENDER, the DEFENDER shall insure the CITY receives its prorated share of such reimbursement through credit toward the CITY's payment and/or payments, direct or indirect, to the CITY.

Section 9. The DEFENDER shall defend and hold harmless the CITY from any and all claims or liability resulting from the services performed by the DEFENDER under the contract.

Section 10. All amendments to this Agreement shall be in writing and

signed by both parties.

Section 11. This contract shall be subject to the approval of the Ohio Public Defender Commission. In addition to indigency determination, all rules, standards and guidelines issued by the Office of the Ohio Public Defender and Ohio Public Defender Commission shall be followed.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

IN THE PRESENCE OF:

CITY OF TALLMADGE

Witness for Mayor/Designee

_____/_____
Law Director Date

Witness for Commission

SUMMIT COUNTY PUBLIC
DEFENDER COMMISSION

Approved as to legal form
and correctness:

_____/_____
Date

_____/_____
Law Director Date

CERTIFICATE OF DIRECTOR OF FINANCE

I hereby certify that certificates will be furnished on payment orders issued by the City of Tallmadge under this contract and that sufficient money is in the treasury under this contract and that sufficient money is in the treasury or in the process of collection to the credit of the appropriate fund or division to discharge the CITYS's obligation under this contract as authorized by Ordinance 2022-17.

Director of Finance