

RESOLUTION NO.: 2018-R79
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: OCTOBER 23, 2018 **ASSIGNED TO:** INTERGOV. & UTIL.

A RESOLUTION APPROVING AN AGREEMENT WITH THE CITY OF BARBERTON FOR PROSECUTORIAL SERVICES, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Green, through its Law Director, has a statutory duty to prosecute misdemeanor criminal cases cited under Green's Codified Ordinances; and

WHEREAS, the City of Barberton, through its Law Director, has the expertise and qualifications to perform these prosecutorial services; and

WHEREAS, since the City of Green became a city, Green has contracted with the City of Barberton to provide prosecutorial services for criminal and traffic cases arising within the City of Green; and

WHEREAS, the most recent Agreement with the City of Barberton expires on December 31, 2018; and

WHEREAS, the City of Green and the City of Barberton desire to renew their Agreement for prosecutorial services; and

WHEREAS, the cost of the Prosecutors employed by the City of Barberton are currently shared by the Cities of Green, New Franklin and Norton; the Village of Clinton; and, the Townships of Copley and Coventry. The sharing of these costs has realized savings and increased efficiency for all the communities; and

WHEREAS, it is in the best interest of the citizens of the City of Green to contract with the City of Barberton for the performance of prosecutorial services.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:

SECTION ONE:

City of Green approves a new Agreement with the City of Barberton for prosecutorial services for the term 2019-2021, as set forth in the Agreement attached as Exhibit "A".

SECTION TWO:

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION THREE:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety, and welfare of the citizens of Green. Provided that this legislation receives the affirmative vote of three-fourths of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

ADOPTED: November 13, 2018

Molly Kapelner
Nichole Baldinger, Clerk of Council, ~~Interim~~
Molly Kapelner

Chris Humphrey
Chris Humphrey, Council President

APPROVED: Nov. 13, 2018

Gerard M. Neugebauer
Gerard M. Neugebauer, Mayor

COPIED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MAY	FIN	LAW	PLAN	ENG	
SVCE	FIRE	PARK	ZONE	HR	

ENACTED EFFECTIVE: Nov. 13, 2018

ON ROLL CALL: Babbitt - Aye Dyer - Aye Humphrey - Aye Shaughnessy - Aye
Speight - Aye Yeargin - Aye Young - Aye Adopted 7-0

Suburbanite publication on Nov. 16 and Nov. 23, 2018

Molly Kapelner
Nichole Baldinger, Clerk of Council, ~~Interim~~
Molly Kapelner

10/18/2018 Approved as to form and content by William G. Chris, Law Director, Interim

W. G. Chris

AGREEMENT

2018-R79
Exhibit "A"

THIS AGREEMENT is entered into this _____ day of _____, 2018 by and between the CITY OF BARBERTON ("Barberton"), pursuant to Resolution No. _____ enacted by Barberton City Council on the _____ day of _____, 2018 and the CITY OF GREEN ("Green"), pursuant to Resolution No. _____ enacted by Green City Council on the _____ day of _____, 2018.

WHEREAS, Green desires to obtain prosecutorial services from Barberton for the prosecution of certain traffic and criminal cases in the Barberton Municipal Court; and

WHEREAS, Barberton desires to provide prosecutorial services to Green for the prosecution of certain traffic and criminal cases in the Barberton Municipal Court.

NOW, THEREFORE, in consideration of the mutual covenants, promises, conditions and terms contained in this Agreement, the parties agree as follows:

SECTION ONE. Barberton, through its Director of Law, agrees that it will undertake to prosecute, by and through personnel employed by the City of Barberton, Law Director, all cases coming before the Barberton Municipal Court, Criminal Division, arising out of alleged violations of traffic and criminal ordinances of Green or traffic and criminal statutes of the State of Ohio which occur within the limits of Green.

Barberton, through its Director of Law, further agrees that it will direct its personnel, who are to perform the services contemplated by this Agreement, to consult with and advise law enforcement personnel who are assigned to enforce the law in Green and all other appropriate officials of Green, when necessary, concerning the enforcement of the criminal and traffic statutes of the State of Ohio and Ordinances of Green within the limits of Green.

SECTION TWO. Barberton, through its Director of Law, agrees that it will, by and through the personnel assigned to duties in the Barberton Law Department, consult with and advise all persons concerning violations of the criminal statutes of the State of Ohio and Green alleged to have occurred within the limits of Green and will assist such citizens when necessary in the preparation and filing of affidavits charging such offenses.

SECTION THREE. Barberton, through its Director of Law, agrees that it will undertake to represent the Bureau of Motor Vehicles, by and through personnel employed by the Barberton Law Department, in all cases coming before the Barberton Municipal Court, Civil Division, arising out of the appeal procedure of Ohio Revised Code §4511.19 and §4507.40, and in which the legal representative of Green would have a duty to represent the Bureau of Motor Vehicles.

SECTION FOUR. In consideration of the services provided by Barberton under this Agreement, Green agrees to pay an annual rate as follows:

2019 Rate:	\$37,106.00
2020 Rate:	\$38,961.00
2021 Rate:	\$40,909.00

The annual rate shall be payable in four (4) equal quarterly installments. The first quarterly installment is due on or around February 1st of each year, and additional quarterly payments are due every three (3) months.

The annual rate shall constitute payment in full of all costs incurred by Barberton under this Agreement, including, but not limited to, the salary of the person employed by Barberton with these funds, the current cost of funding such person's retirement pension, workers' compensation benefits and Medicare tax. It is specifically understood and agreed that should the salary pay scale level and/or the cost of benefits be increased or decreased, the annual rate of reimbursement for prosecutorial services under this Agreement shall be adjusted accordingly and reflected in the quarterly payments of Green. Barberton shall provide Green with a written notice of at least thirty (30) days prior to any change in the annual contract amount.

SECTION FIVE. Nothing in this Agreement shall be construed to bind Barberton to assign personnel of any particular pay scale to perform the prosecutorial services for Green. Barberton does agree to assign personnel who are licensed to practice law in the State of Ohio and are in good standing with the Ohio Supreme Court.

SECTION SIX. It is mutually understood and agreed that the responsibility of Barberton, and its Director of Law, under this Agreement shall be limited to those functions set forth in this Agreement and that the personnel assigned by Barberton to carry out the terms of this Agreement shall not be required to engage in any investigations other than those normally performed by the Barberton Law Department in regard to and incident to the prosecution of routine cases.

SECTION SEVEN. Barberton shall indemnify and save Green harmless from all claims or liability of any type or nature to any person, firm or corporation arising from, resulting from or attributable to the work done under this Agreement by Barberton. Nothing in this Agreement shall be construed as an attempt to make Green responsible for the negligence of Barberton or for any strict liability which may be imposed upon Barberton.

SECTION EIGHT. This Agreement may be terminated by either party by giving ninety (90) days written notice to the other party of its intention to terminate.

SECTION NINE. The parties agree that this Agreement shall be in full force and effect from the date of this Agreement and shall continue unless terminated earlier as provided in this Agreement.

SECTION TEN. This writing embodies the entire Agreement between the parties and all amendments shall be in writing and signed by both parties.

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

WITNESSES:

THE CITY OF GREEN

Name

Gerald Neugebauer, Mayor

Approved as to form:

William G. Chris
Law Director

WITNESSES:

THE CITY OF BARBERTON

Name

William B. Judge, Mayor

Approved as to form:

Lisa Okolish Miller
Law Director

File

City of Barberton

Founded 1891

October 3, 2018

William G. Chris
Law Director, City of Green
c/o Roderick Linton Belfance, LLP
50 S. Main Street, 10th Floor
Akron, OH 44308

Dear Bill:

In follow up to our earlier conversation, the prosecutors' contract expires at the end of this year.

In pursuing the renewal, I offer the most recent case numbers from the Clerk of Courts office. These numbers represent total cases filed, not the total cases that come through our office. However, a review of the numbers from 2015 through 2017 demonstrate an increase of 13-29% in traffic cases and an increase of 6-14% in criminal cases.

	2016		2017		2018 (to date)	
	TRAFFIC	CRIMINAL	TRAFFIC	CRIMINAL	TRAFFIC	CRIMINAL
BARBERTON	1854	1291	1841	1463	2436	1108
GREEN	2354	637	3034	678	1280	454
NEW FRANKLIN	342	226	410	231	273	190
NORTON	1919	485	1841	454	1245	331
CLINTON	9	8	52	7	29	10
COPLY	852	202	869	310	480	271
COVENTRY	747	364	674	317	426	247

You may not be aware that in 2017, the prosecutors throughout Summit County, both municipal and county, collaborated to purchase a prosecutorial software system. The Summit County Prosecutor's office led the project after receiving a victim-focused grant. The software will allow for "paperless" files for prosecution.

In fact, within the Barberton Prosecutor's office, Barberton, Norton and Copley Police Departments (those served by the Southwest Summit Communications Council of Governments) are nearly operating at a paperless level. For example: discovery is accomplished through email with defense attorneys; videos are viewed by a link to an outside vendor that stores the police department's body camera video; police reports are transferred from the officer's mobile data terminals in their cruisers to our office. Certainly, there are exceptions to the "paperless" case file, as each case is unique and presents with unique circumstances and evidence.

Lisa Okolish Miller, Law Director
576 West Park Avenue • Barberton, Ohio 44203
Phone: 330-848-6728 • Fax: 330-861-7209
www.cityofbarberton.com

However, this is not available for cases from the City of Green.

In addition to the "paperless" opportunities, the software will also allow our office to compile and provide the City of Green with statistical information that was never before available. We will be able to provide a breakdown of cases by type of offense, criminal, traffic, and specific defendant. For example, to date our office has prosecuted 205 cases on behalf of the City of Green. That number constitutes 21% of the total number of cases prosecuted by our office.

Of course such improvements and opportunities come with costs. We have experienced the implementation cost (\$12,750) and equipment costs (\$5400.00). In addition, we will incur the ongoing subscription cost, which is \$16,320 for 2018.

I suggest we enter into an additional three-year contract with an increase of 5% each year. I have enclosed a draft agreement.

If you have any questions, please contact me.

Sincerely,



Lisa Okolish Miller
Law Director

Attachment

File

Lisa Okolish Miller, Law Director
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