

# RECORD OF RESOLUTIONS

Resolution No. 2016-N

April 25, 2016

## City of Bellbrook

### Resolution No. 2016-N

#### **A Resolution Authorizing the City Manager to Sign an Agreement with the City of Xenia for Prosecution Services.**

WHEREAS, Section 238.01 of the Bellbrook Municipal Code establishes the office of Prosecuting Attorney for the City of Bellbrook and establishes conditions and qualifications for employment of the Prosecuting Attorney; and

WHEREAS, the City of Bellbrook has negotiated an agreement with the City of Xenia to provide prosecution services; and

WHEREAS, the agreement will be in effect for the period beginning May 1, 2016 and ending April 30, 2019.

#### **Now, Therefore, the City of Bellbrook Hereby Resolves:**

Section 1. That the City Manager is hereby authorized to sign the attached agreement with the City of Xenia.

Section 2. That this resolution shall take effect and be in force forthwith.

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Robert L. Baird, Mayor

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Jami L. Kinion, Clerk of Council

## **AGREEMENT**

This agreement is made between the City of Xenia, Ohio (“Xenia”) and the City of Bellbrook, Ohio (“Bellbrook”), both parties being municipal corporations organized pursuant to the laws of the State of Ohio.

WHEREAS, the City of Xenia is the host city for the Xenia Municipal Court which has jurisdiction in the City of Bellbrook; and

WHEREAS, the City of Xenia, through its law department, provides municipal court prosecutorial services for its own jurisdiction; and

WHEREAS, the City of Bellbrook desires to engage the City of Xenia to provide municipal court prosecutorial services pursuant to the provisions of this agreement, and the City of Xenia desires to be so engaged;

NOW THEREFORE, the parties agree to the following terms, conditions, and promises:

1. Xenia shall provide for Bellbrook an attorney (attorneys) for prosecution services in the Xenia Municipal Court. For purposes of this agreement, prosecution shall mean the following:
  - a. Responding to questions from and advising the Bellbrook City Council and administrative staff, including the Bellbrook Police Department, on matters directly related to prosecution in the Xenia Municipal Court;
  - b. As necessary, reviewing charges and making charging recommendations;
  - c. Representing Bellbrook in the Xenia Municipal Court in all criminal matters for which the Court has proper jurisdiction and which arose in Bellbrook and in which defendant is charged with a violation of the Ohio Revised Code;
  - d. Representing Bellbrook in the Xenia Municipal Court in all criminal matters in which the plaintiff is the City of Bellbrook;
  - e. As necessary and proper, arranging for evidence and witnesses for hearings and trials, and preparing and forwarding to the Clerk of Court for delivery all necessary subpoenas;
  - f. As necessary and proper, appearing at hearings, responding to motions, and responding to discovery requests;
  - g. As necessary and proper, preparing and prosecuting cases at trial;
  - h. As necessary and proper, negotiating plea arrangements;
  - i. Except as provided for in paragraph 3, as necessary and proper, representing Bellbrook in cases appealed from Xenia Municipal Court to the Greene County Court of Appeals; and
  - j. As necessary and proper, providing all office and meeting space, office supplies, clerical and secretarial support staff and communications equipment to provide the services and work described in items (a) through (i) above.

2. At all times while this agreement is in effect, any and all attorneys provided by Xenia to represent Bellbrook shall be licensed and in good standing to practice law in the State of Ohio. In instances of sickness, vacation, conflict of interest or other valid reasons for absence of an attorney to represent Bellbrook, Xenia shall provide for Bellbrook a substitute prosecutor. Selection of a substitute prosecutor shall be at the discretion of Xenia and at no additional expense to Bellbrook.
3. In instances of Bellbrook criminal cases appealed from the Xenia Municipal Court to the Greene County Court of Appeals and in which Xenia provided trial court prosecution services, Xenia shall notify the Bellbrook City Manager or his/her designee upon receipt of a notice of such an appeal. Unless otherwise notified by the Bellbrook City Manager, Xenia shall provide prosecution services to represent Bellbrook in the appeal. Xenia's cost and expense for representing Bellbrook in each such appeal, excluding any cost for filing the appeal and any cost for transcript preparation, shall be included in and part of the payment for services amount referred to in paragraph 5 of this Agreement unless the total of attorney work hours devoted to any single appeal exceeds sixty (60). In the event the total amount of attorney hours devoted to any single appeal exceeds sixty (60), then in such event Bellbrook shall make payment to Xenia in the amount of Eighty Dollars and No Cents (\$80.00) for each hour exceeding sixty (60) hours that is devoted to any single appellate case. Xenia shall submit a statement for such appellate work and Bellbrook shall make payment of same within thirty (30) days from statement date.
4. In the instance of any case appealed from the Greene County Court of Appeals to the Ohio Supreme Court and in which Xenia provided prosecution or appellate services, upon the request of Bellbrook and upon agreement of the parties as to suitable payment arrangements, Xenia shall represent Bellbrook before the Ohio Supreme Court in cases appealed to that same Court.
5. For the services provided pursuant to paragraph 1 of this Agreement, Bellbrook shall pay annually to Xenia the amount of \$15,000 per year. This amount shall be increased annually by two percent(2%). Bellbrook shall make payment to Xenia in equal quarterly payments beginning May 1, 2016 until April 30, 2019. Said quarterly payments shall be made in advance on or before May 1, August 1, November 1, and February 1 of each year. The initial quarterly payment may be remitted by the City of Bellbrook after May 1, 2016 and may be combined with the second quarterly payment for convenience at Bellbrook's discretion. The City of Xenia shall provide to the City of Bellbrook a quarterly invoice for the services. The parties agree that appellate services provided for attorney hours exceeding sixty (60) for each appeal and for any representation before the Ohio Supreme Court shall be billed separately from quarterly statements.
6. This signed and executed Agreement shall take effect May 1, 2016 and shall extend through April 30, 2019. Any amendments to this agreement shall be in writing, agreed upon and signed by all parties. Any party may after December 31, 2016, upon providing thirty (30) days advance written notice to the other party, seek to modify or terminate this Agreement. If at the end of the thirty (30) day period the parties have not agreed to amend or modify this Agreement, this Agreement may be terminated immediately.
7. All notices required by this Agreement or related to this Agreement shall be provided by either personal "hand delivery" or by U.S. mail, certified, return receipt requested and sent to:
  - a) If to Bellbrook:

Bellbrook City Manager  
15 E. Franklin St.  
Bellbrook, OH 45305

b) If to Xenia:

Xenia City Manager  
101 North Detroit Street  
Xenia, OH 45385

With a copy to:

Xenia Law Director  
101 North Detroit Street  
Xenia, OH 45385

8. All expenses incurred by Xenia for expert witness, preparation of exhibits, and preparation of demonstrative evidence required for Bellbrook trials shall be reimbursed to Xenia by Bellbrook when such total costs exceed \$250.00 per trial. Bellbrook shall reimburse Xenia at Xenia's direct cost for all costs incurred by Xenia for appellate filing fees and all transcript preparation expenses for Bellbrook cases represented by Xenia on appeal.

IN WITNESS WHEREOF, by the signatures of their respective authorized representatives, the parties agree to the above terms, conditions, and promises.

CITY OF BELLBROOK, OHIO

CITY OF XENIA, OHIO

By \_\_\_\_\_ Date \_\_\_\_\_  
Mark Schlagheck  
City Manager

By \_\_\_\_\_ Date \_\_\_\_\_  
Brent Merriman  
City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Patricia Campbell, Municipal Attorney  
City of Bellbrook

\_\_\_\_\_  
Matt Stokely, Interim Law Director  
City of Xenia