

# Ordinance No. 33-2020 (As Amended )

Council Member Kelley  
(by departmental request)

## AN EMERGENCY ORDINANCE

Authorizing the Director of Finance, on behalf of the Cleveland Municipal Court, to enter into contract with the Cuyahoga County Public Defender Commission for legal services necessary to defend ~~indigents~~ **indigent defendants** charged with violation of ordinances of the City of Cleveland that may result in incarceration, for the Cleveland Municipal Court for a period of one year, with one option to renew for an additional year, exercisable by the Director of Finance.

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WHEREAS, in Argersinger v. Hamlin and Scott v. Illinois, the United States Supreme Court held that no indigent criminal defendant may be sentenced to a term of imprisonment unless he or she has been afforded the right to assistance of counsel in their defense; and

WHEREAS, the Cleveland Municipal Court, through the City of Cleveland, is obligated to provide counsel for an indigent person charged with violation of City ordinances with the possibility of a sentence including incarceration; and

WHEREAS, under Section 120.14 of the Revised Code, a county public defender commission may contract with any municipal corporation within the County served by the county public defender to provide legal representation on behalf of the municipal corporation; and

WHEREAS, the Cleveland Municipal Court, the district of which encompasses Bratenahl and the City of Cleveland, recommends that the Cuyahoga County Public Defender Commission should provide indigent defense; and

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

### **BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:**

**Section 1.** That the Director of Finance, on behalf of the Cleveland Municipal Court, is authorized to enter into contract with the Cuyahoga County Public Defender Commission for legal services necessary to defend ~~indigents~~ **indigent defendants** charged with violation of ordinances of the City of Cleveland, provided the violation may result in incarceration,

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for a period of one year beginning January 1, 2020, at an estimated cost of \$2,237,350, with one option, exercisable by the Director of Finance, to renew for an additional one-year term.

**Section 2.** That two percent (2%) of any payment received by the City and/or Cleveland Municipal Court from the financing of defense counsel for indigent persons shall be utilized by participants in a court exchange program between Cleveland Municipal Court and the Cleveland Municipal School District.

**Section 3.** That the costs of the contract shall be paid ~~from funds approved by the Director of Finance.~~ **from Fund No. 01-0115-6320, RQS 0115, RL 2020-3.**

**Section 4.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected 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 from and after the earliest period allowed by law.

SM:nl  
1-6-20

FOR: Russell Brown, Court Administrator

## **Amendments to Ord. No. 33-2020**

THERE IS NO LEGAL OBJECTION TO THIS LEGISLATION IF AMENDED AS FOLLOWS:

1. In the title, line 6, and in Section 1, line 3, strike "indigents" and insert "indigent defendants" in both places.

2. In Section 3, lines 1 and 2, strike "from funds approved by the Director of Finance." and insert "from Fund No. 01-0115-6320, RQS 0115, RL 2020-3.".

Date: \_\_\_\_\_ (Signed): \_\_\_\_\_

Kevin Roberts  
Assistant Director of Law

Ord. No. 33-2020

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**READ FIRST TIME on JANUARY 6, 2020**  
**and referred to DIRECTORS of Finance, Law;**  
**COMMITTEE on Finance**

**REPORTS**

CITY CLERK

READ SECOND TIME

**January 27, 2020.**

CITY CLERK

READ THIRD TIME

**January 27, 2020.**

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **106** Page \_\_\_\_\_

Published in the City Record **February 7, 2020.**

**REPORT**  
**after second Reading**

**PASSAGE RECOMMENDED BY**  
**COMMITTEE ON**  
**FINANCE**

FILED WITH COMMITTEE

**PASSAGE RECOMMENDED BY**  
**COMMITTEE ON**  
**FINANCE**

FILED WITH COMMITTEE

SECOND READING FOR PASSAGE