

RESOLUTION NO. 94-2014

Offered by All of Council

A RESOLUTION AUTHORIZING THE MAYOR AND FINANCE DIRECTOR TO ENTER INTO A DELINQUENT DEBT COLLECTION AGREEMENT WITH THE OHIO ATTORNEY GENERAL; AND DECLARING AN EMERGENCY

WHEREAS, under Ohio law, the Ohio Attorney General has the authority to collect certain types of debts owned to local governmental entities on behalf of such entities; and

WHEREAS, the Village has outstanding debts owed to it for emergency medical response transportation, fines and costs for Mayor's Court, and local income tax; and

WHEREAS, Council desires to authorize the Village to enter into an agreement with the Ohio Attorney General to collect such debts on behalf of the Village.

NOW THEREFORE, BE IT RESOLVED, by the Council of the Village of Richfield, County of Summit, State of Ohio, that:

- SECTION 1. The Mayor and Finance Director are hereby authorized to enter into a Delinquent Debt Collection Agreement with the Ohio Attorney General for the collection of certain outstanding debts owed to the Village, substantially in accordance with the Agreement attached hereto as "Exhibit A" and incorporated fully herein.
- SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with legal requirements, including section 121.22 of the Ohio Revised Code.
- SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare of the residents of the Village of Richfield, County of Summit, State of Ohio and for the further purpose to allow the Village to collect outstanding debts at the earliest possible time, thereby promoting the fiscal stability of the Village; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force at the earliest time provided by law.

PASSED: 12-16-14


President of Council


Mayor

Dated: 12/16/14

ATTEST:


Clerk of Council



MIKE DEWINE

★ OHIO ATTORNEY GENERAL ★

Collections Enforcement
Office 614-466-8360
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Columbus, OH 43215
www.OhioAttorneyGeneral.gov

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND
VILLAGE OF RICHFIELD**

I. PARTIES

1.1. THIS DELINQUENT DEBT COLLECTION AGREEMENT (this "Agreement") is between the Ohio Attorney General (hereinafter "Attorney General") and

VILLAGE OF RICHFIELD ("Political Subdivision"), collectively referenced herein as the "Parties."

II. PURPOSE

2.1. The Political Subdivision has requested that the Attorney General undertake, and the Attorney General agrees to undertake, the collection of delinquent debt owed to the Political Subdivision, pursuant to Ohio Revised Code ("O.R.C.") § 131.02. This Agreement sets forth the rights, duties and obligations of the Parties and the amounts to be charged, collected and allocated between the Political Subdivision and Attorney General. This Agreement will become effective in ten business days once fully executed ("Effective Date").

III. CERTIFICATION OF DEBT

3.1. The Parties agree that this Agreement shall apply to amounts owed to Political Subdivision that meet the criteria specified on the attached Exhibit "A" (hereinafter the "Debt"). The Parties may, from time to time, change the categories of debt to be certified to the Attorney General by amending Exhibit "A" pursuant to the discretion of the Section Chief of the Collections Enforcement Section of the Attorney General and VILLAGE OF RICHFIELD of the Political Subdivision. Such changes to the categories of debt identified on Exhibit "A" shall not be construed as an amendment or termination of this Agreement.

3.2. Political Subdivision hereby warrants that all Debts certified to the Attorney General for collection pursuant to this Agreement are or will be legally due and owing to Political Subdivision at the time of certification.

3.3. Political Subdivision hereby warrants that it has complied or will comply with all conditions precedent to the legality of certifying the Debt for collection prior to certifying the Debt to Attorney General pursuant to this Agreement.

3.4. Political Subdivision hereby warrants that it has obtained the approval of any person or entity whose approval is required as a condition to entering into this Agreement. True and correct copies of any such approvals shall be attached hereto as Exhibit "B."

3.5. Political Subdivision shall identify and itemize the amounts owed in any bills or mailings issued to the debtors prior to certifying the Debt pursuant to this Agreement. Such itemization shall separately identify penalties, fees, costs and interest, if any, added to the principal balance of the amounts owed. For all Debt certified under this Agreement, Political Subdivision shall maintain account records documenting the principal balance of the amounts owed, as well as any penalties, fees, costs and interest, from the date such debt becomes due and owing to Political Subdivision until the debt is paid in full, resolved or written off as specified herein.

3.6. Political Subdivision shall make all account records related to the Debt fully available to specified Attorney General personnel in order for the Attorney General to actively identify and pursue collection activities. Political Subdivision shall retain account records related to the Debt so long as the Debt remains outstanding, or until the Debt is resolved or written off as specified herein.

3.7. Political Subdivision agrees and shall forward all payments received on certified Debt to the Attorney General. In the event that Political Subdivision accepts a debtor's payment on Debt certified to the Attorney General, Political Subdivision agrees to promptly notify the Attorney General of the details of the payment, including date, amount, remitter, check or instrument number and forward the payment to the Attorney General.

3.8. In the event that any debtor owing Debt certified to the Attorney General files bankruptcy or other insolvency proceeding, Political Subdivision shall immediately notify the Attorney General of such filing. The Attorney General shall cease all collection efforts with regard to such Debt. Political Subdivision remains exclusively and solely responsible for protecting its interest in bankruptcy & other insolvency proceedings. Upon notice that Debt certified to the Attorney General is subject to bankruptcy or other insolvency proceeding, the Attorney General shall close the affected accounts and such accounts shall no longer be considered to be certified to the Attorney General. Other insolvency proceeding may include but is not limited to receivership or foreclosure.

IV. ALLOCATION OF FEES AND COLLECTION COSTS

4.1 The client may choose for each account certified to the Attorney General to bear interest (hereinafter "AGI") at the annual rate established by the Tax Commissioner under O.R.C. § 5703.47. Upon recovery AGI is paid to Political Subdivision, not to Attorney General. AGI may be waived, either by Political Subdivision or the Attorney General. Political Subdivision also has discretion to request that AGI not be assessed as an additional obligation of debtors. If this request is indicated, the cost of AGI will not be added to the Debt. Political Subdivision may execute the Service Level Agreement attached hereto as Exhibit "C" to designate the preference of Political Subdivision as to AGI. If no preference is indicated, Attorney General may waive AGI at its discretion, and the addition of AGI to the Debt will increase the debtors' obligation. The AGI is in place of any separate accruing interest of the Political Subdivision on the Debt once certified to the Attorney General.

4.2 Pursuant to O.R.C. § 131.02, the Attorney General is authorized to deduct the Attorney General's collection cost from all amounts collected, calculated upon all certified amounts recovered, plus interest and fees accruing from the date of certification to Attorney General. Attorney General collection costs may be waived, either by the Attorney General or jointly by the Political Subdivision and the Attorney General. The Parties agree that the Attorney General will pass all Attorney General collection costs on to the debtor as an additional obligation of debtor. The Attorney General collection cost is 10% pursuant to O.R.C. § 109.08.

4.3 Upon agreement, the Attorney General may also hire third party vendors to collect claims for Political Subdivision and to pay such third party vendors for their services ("TPV Fees") from funds collected by them. Political Subdivision may execute the Service Level Agreement attached hereto as Exhibit "C" to designate the preference of Political Subdivision with respect to the assignment of Debt to TPVs. If no preference is indicated the Attorney General will assign Debt to TPVs in accordance with an established assignment strategy. TPV fees shall be paid at rates set by the Attorney General. The Parties agree that the Attorney General will pass all TPV Fees on to debtors as an additional obligation of the debtors.

4.4 Upon agreement the Attorney General may appoint special counsel to collect claims for Political Subdivision and to pay such special counsel for their services ("Special Counsel Fees") from funds collected by them. Political Subdivision may execute the Service Level Agreement attached hereto as Exhibit "C" to designate the preference of Political Subdivision with respect to the assignment of Debt to Special Counsel. If no preference is indicated the Attorney General will assign Debt to Special Counsel in accordance with an established assignment strategy. Special Counsel Fees shall be paid at rates set by the Attorney General. The Parties agree that the Attorney General will pass all Special Counsel Fees on to debtors as an additional obligation of the debtors.

4.5 Political Subdivision may execute a different Service Level Agreement for each category of debt certified pursuant to this Agreement, and each Service Level Agreement shall be attached as additional pages of Exhibit "C."

4.6 Political Subdivision may change or terminate the Service Level Agreement(s) attached hereto as Exhibit "C" upon appropriate written notice as specified therein, and any change or termination of the Service Level Agreement(s) shall not be construed as an amendment or termination of this Agreement.

V. DISBURSEMENT PROCESS/PAYMENT OF COLLECTION COSTS

5.1 On a weekly basis the Attorney General shall disburse to the Political Subdivision the full amounts collected on the Debt minus any applicable collection costs or fees as outlined herein. The Political Subdivision and Attorney General shall have the authority to settle or compromise any account in the Debt which is agreed upon by the Political Subdivision and Attorney General as payment in full based on the best interests of the Parties. At the time of the Attorney General's disbursement to the Political Subdivision, the Political Subdivision will receive the amount collected minus the Attorney General's collection costs and any applicable TPV Fees or Special Counsel Fees pursuant to this Agreement.

5.2 The Parties agree that court cases and judgment liens shall not be dismissed or deemed satisfied without the Political Subdivision's consent that all the fees have been paid by the debtor liable for costs under the court case and/or judgment lien.

5.3 Disbursements to the Political Subdivision of amounts due hereunder may be made via state check or by Automated Clearing House ("ACH") deposit, at the Attorney General's discretion. Political Subdivision acknowledges that the Attorney General prefers to remit all payments by ACH deposit, and Political Subdivision agrees to execute an ACH payment authorization in accordance with the form attached hereto as Exhibit "D" within thirty (30) days after the Effective Date of this Agreement.

VI. CERTIFICATION AND CANCELLATION OF DEBT

6.1. Political Subdivision will certify only Debt to the Attorney General which is past due and final, in accordance with O.R.C. § 131.02(A). O.R.C. § 131.02 provides that the Attorney General and Political Subdivision may determine an appropriate time beyond the regular 45-day requirement to certify delinquent debt. Such exceptions may be made as the Attorney General and the Political Subdivision mutually agree are appropriate.

6.2. The Parties acknowledge and agree that O.R.C. §131.02 empowers the Attorney General to, with the consent of the chief officer of an entity reporting a debt, cancel the debt or cause the same to be canceled. O.R.C. § 131.02(F)(2) provides a general statute of limitations of forty (40) years from the date of certification to collect claims. O.R.C. § 131.02(F)(1) allows the Attorney General to cancel uncollectible claims earlier, with the approval of the Political Subdivision. Political Subdivision may execute the Service Level Agreement attached hereto as Exhibit "C" to designate the preference of Political Subdivision. If no preference is indicated, the write off period will be fifteen (15) years after the date of certification. Exceptions revising the write off period for specified claims or categories of debt may be agreed to by the Attorney General and the Political Subdivision as amendments to the Service Level Agreement, and such amendments shall not be construed as an amendment or termination of this Agreement.

VII. CONFIDENTIALITY

7.1. Any confidential debtor information made available to Attorney General in the course of performance of this Agreement shall be used only for the purpose of carrying out the provisions of this Agreement pursuant to the Attorney General's statutory obligations. Additionally, the Attorney General shall not sell any debtor information to any third parties.

VIII. LIABILITY

8.1. Each Party shall be responsible for its own acts and omissions and those of its officers, employees and agents.

IX. CHOICE OF LAW

9.1. This Agreement is made and entered into in the State of Ohio and shall be governed and construed in accordance with the laws of Ohio. Any legal action or proceeding related to this Agreement shall be brought in Franklin County, Ohio, and the Parties irrevocably consent to jurisdiction and venue in Franklin County, Ohio.

X. COMPLIANCE WITH LAW

10.1. The Parties, in the execution of their respective duties and obligations under this Agreement, agree to comply with all applicable federal, Ohio and local laws, rules, regulations and ordinances.

XI. RELATIONSHIP OF THE PARTIES

11.1. It is fully understood and agreed that a Party's personnel shall not at any time, or for any purpose, be considered as agents, servants, or employees of the other Party.

11.2. Except as expressly provided herein, neither Party shall have the right to bind or obligate the other Party in any manner without the other Party's prior written consent.

XII. MODIFICATION

12.1. This Agreement constitutes the entire agreement between the Parties, and any changes or modifications to this Agreement shall be made and agreed to by the Parties in writing.

XIII. TERMINATION/EXPIRATION

13.1. Either party may terminate this Agreement for any reason by giving written notice, at least forty-five (45) days in advance of the date of termination, to the other Party via e-mail, facsimile transmission, mail, certified mail or personal delivery to the other Party's signatory to this Agreement.

13.2. If there is pending litigation in connection with any Debt, termination shall not be effective until the Attorney General terminates the legal representation in the litigation matter. The Attorney General shall be compensated for Debt collected and received prior to termination. The Parties agree to cooperate so as to effectuate a speedy and efficient transfer of the work to Political Subdivision.

XIV. SIGNATURES

14.1. The Parties may submit their signatures to the Agreement in counterparts, which taken together will constitute a valid enforceable Agreement. Facsimile or copied signatures shall be considered valid and enforceable.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed, as of the day and year last written below.

ACCEPTED AND APPROVED:

VILLAGE OF RICHFIELD

Mayor Roberta Beshara

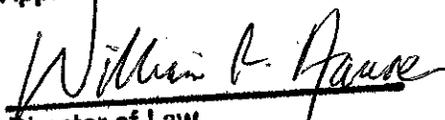
Date

OHIO ATTORNEY GENERAL
MICHAEL DEWINE

By: _____
Lisa J. Iannotta
Section Chief

Date

Approved as to legal form:



Director of Law
Village of Richfield, Ohio

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
AND**

VILLAGE OF RICHFIELD

EXHIBIT "A"

The Parties agree that the following categories of debt may be certified to the Attorney General. All debt must be final with a minimum principal amount of \$100.00.

Examples of Categories of Debt to be certified:

- (a) Statutory fees as assessed by a Political Subdivision;
- (b) Civil court costs; and
- (c) Criminal court costs so long as the defendant is not incarcerated on the date the debt is certified.
- (d) Debt must be declared final with no chance of appeal or no future changes to the amount of the debt sent to the Attorney General for collection purposes.
- (e) Debt from a school system must be as a result of a contractual agreement.

Examples of Categories of Debt NOT to be certified:

- (a) Debt that is against a juvenile.
- (b) Debt against a presently incarcerated individual.
- (c) Debt that is involved in a bankruptcy, rental or foreclosure action.
- (d) Debt from any type of utility.
- (e) Debt resulting from code enforcement violations.

**PLEASE NOTE: THE ATTORNEY GENERAL'S OFFICE RESERVES THE RIGHT TO
DECLINE ACCEPTANCE OF ACCOUNTS BASED ON QUANTITY, VALUE, OR DEBT TYPE**

**PLEASE LIST THE TYPE OF DEBTS YOU WILL BE CERTIFYING TO THE
ATTORNEY GENERAL'S OFFICE:**

EMS TRANSPORT

FINES AND COSTS FOR MAYOR'S COURT

LOCAL INCOME TAX

**DELINQUENT DEBT COLLECTION AGREEMENT
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EXHIBIT "B"

The Delinquent Debt Collection Agreement Between the Ohio Attorney General and

VILLAGE OF RICHFIELD , executed by Mayor Roberta Beshara ,
, on _____, is hereby ratified and approved.

POLITICAL SUBDIVISION AUTHORITY (I.E. COUNTY COMMISSIONERS, COUNCIL)

Date

Date

Date

POLITICAL SUBDIVISION LEGAL AUTHORITY (I.E. PROSECUTOR, LAW DIRECTOR)

Date

**DELINQUENT DEBT COLLECTION AGREEMENT
BETWEEN THE
OHIO ATTORNEY GENERAL
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**EXHIBIT "C"
SERVICE LEVEL AGREEMENT**

The following Service Level Agreement is made between the Attorney General of Ohio, Collections Enforcement Section ("AGO") and VILLAGE OF RICHFIELD ("CLIENT"), collectively referenced herein as the "Parties". CLIENT authorizes and the Parties to this Service Level Agreement agree to the following (if no line is checked, the Parties' agreement is indicated by asterisk, which is the default agreement):

Attorney General Interest (AGI) AGO is granted the authority to add AGI to the amount owed by the debtor to be paid to the client (see section IV (4.1) of the Debt Collection Agreement.

AGI AGO is NOT granted the authority to add AGI to the amount owed by the debtor to be paid to the client.

If AGI is to be added AGO is granted the authority to waive AGI*
 CLIENT and AGO jointly waive AG Interest

Write Off Period: 15 years*
_____ Years (insert number of years)

Third Party Vendor: AGO will forward uncollected Debt.*
 AGO will not forward uncollected Debt.

Special Counsel: AGO will forward uncollected Debt.*
 AGO will not forward uncollected Debt.

Either Party may terminate this Service Level Agreement for any reason by giving written notice, at least forty-five (45) days in advance of the date of termination to the other Party, via e-mail, facsimile transmission, regular U.S. mail, certified mail or personal delivery to the other Party's signatory to this Agreement. Regardless of the termination of this agreement, CLIENT is still legally obligated to certify its outstanding Debt pursuant to the Delinquent Debt Collection Agreement between the Parties, until that Agreement is separately terminated. This Service Level Agreement shall remain and continue in full force and effect unless modified or terminated in writing.

IN WITNESS WHEREOF, the Parties hereto have caused this Service Level Agreement to be executed, as of the day and year last written below.

ACCEPTED AND APPROVED:

VILLAGE OF RICHFIELD

Mayor Roberta Beshara

Date

OHIO ATTORNEY GENERAL
MICHAEL DEWINE

By: _____

Lisa J. Iannotta
Section Chief

Date

**TO: Village Council
Mayor Bobbie Beshara**

**CC: Carolyn Sullivan
William Hanna**

FROM: Sandy Turk, Finance Director

RE: Ohio Attorney General MOU Agreement for November 18, 2014 Council Meeting

Date: November 13, 2014

ACTION BEING REQUESTED		TYPE OF REQUEST	
Approval		Agreement	

The Finance Department requests first reading on the delinquent debt collection agreement with the Ohio Attorney General's Office for professional services. Adoption will be considered at the December 16th, Council meeting.

We are asking that the Attorney General undertake the collection of delinquent debt owed to the Village pursuant to Ohio Revised Code Section 131.02. This service will primarily be used for the collection of delinquent EMS transport fees. It can also be used to collect delinquent Mayor's Court fines and costs and income tax. We have approximately \$20,000 of EMS billings in 2014 that have been found to be non-collectable by Life Force Management Inc.

The Attorney General's collection cost is 10% pursuant to ORC 109.08 and the office will pass the collection costs onto the debtor as an additional obligation of the debtor. The Attorney General may also hire third party vendors to collect claims and the third party vendors would also be paid from funds collected by them. The agreement can be terminated with 45 days notice in advance of the date of termination.

Let me know if you have any questions.
Attachment - Authorizing Resolution