

BILL NO. 24.40

ORDINANCE NO. 24.40

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A SERVICE AGREEMENT WITH GARY L. SMITH ESQ. FOR A MUNICIPAL DIVISION JUDGE.

WHEREAS, the Board of Aldermen hereby authorizes the Mayor to execute on behalf of the City a Service Agreement for a licensed attorney in the State of Missouri and qualified to serve as Municipal Court Judge;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. The Mayor is hereby authorized to execute a Municipal Division Judge Services Agreement under substantially the same terms and conditions as the attached draft, Exhibit A to this ordinance.

Section 2. Total expenditures or liability authorized under this Ordinance shall not exceed Twenty-Two Thousand One Hundred Eighty-Four Dollars and Sixteen Cents (\$22,184.16) per year to be paid at a rate of Nine Hundred Twenty-Four Dollars and Thirty-Four Cents (\$924.34) per court held and completed. Mr. Smith will be responsible for paying all taxes due on such compensation.

Section 3. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: June 20, 2024

READ SECOND TIME: July 2, 2024

I hereby certify that the above Ordinance No. 24.40 was duly passed on July 2, 2024, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 5

Nays: 0

Abstain: 00

Absent: 1

This Ordinance is hereby transmitted to the Mayor for his signature.

July 2, 2024
Date

Tara Berreth
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury
Cole Bradbury, City Attorney

I hereby approve Ordinance No. 24.40.

July 2, 2024
Date

Michael Harmison
Michael Harmison, Mayor

ATTEST:

Tara Berreth
Tara Berreth, City Clerk



MUNICIPAL DIVISION JUDICIAL SERVICES AGREEMENT

THIS AGREEMENT is effective as of July 1, 2024, by and between the City of Osage Beach ("City"), and Gary Smith ("Judge"), a professional attorney practicing in Camden County, Missouri, contingent upon approval of the Board of Alderman of the appointment of Judge as Municipal Judge for the City of Osage Beach.

WHEREAS Judge is a licensed attorney in the State of Missouri and qualified to serve as Municipal Court Judge; and

WHEREAS the City desires that Judge provide such judicial services to the City.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth; the Parties hereto have agreed, and do hereby agree as follows:

1. **Term.** The Mayor appoints, and the Board of Aldermen confirms, Judge for a period commencing on the effective date hereof and continuing through June 30, 2026, to serve as Judge for the Osage Beach Municipal Division of the Circuit Court of Camden and Miller Counties. Judge hereby accepts such appointment and agrees to perform the services hereinafter described all upon the terms and conditions herein stated.
2. **Scope of Services to be Provided.** Judge is hereby appointed as Municipal Court Judge and will be responsible for the following duties; all Municipal Court proceedings, supervision of the activities of the Osage Beach Municipal Division of the Circuit Court of Camden and Miller Counties, and the discharge of other duties of the Municipal Court Judge as required by law. In the discharge to his duties as Municipal Court Judge, Judge shall comply with all the laws of the State of Missouri and the Supreme Court Rules, specifically the Rules Governing the Missouri Bar and the Judiciary, Rule 2 - Code of Judicial Conduct.
3. **Fees.** For the services rendered pursuant to this Agreement, Judge shall submit an invoice to the City for services. Judge shall be paid Nine Hundred Twenty Four Dollars and Thirty Four Cents (\$924.34) per session contracted and will receive a Form 1099 at the end of the year. Judge shall be responsible for paying all taxes due on such compensation. In performing the services herein specified, Judge is acting as an independent contractor and shall not be considered an employee of the City.

4. **Professional Training.** Judge agrees to attend all required continuing municipal legal education training sessions and will provide documentation of said training to the City upon request.
5. **Professionalism.** In addition to any warranties or specifications contained in its Bid, Judge will exercise the care and skill ordinarily used by members of the subject profession practicing under similar circumstances (as defined by the appropriate licensing authority, professional standards, and/or relevant industry practices). Judge understands that it will be perceived as a representative of the City and will ensure its personnel and any subcontractors will conduct themselves in a thoroughly professional and respectable manner while performing this Agreement for the City and while on-site.
6. **Licenses, Permits, Taxes.** Judge shall be responsible for applying for, obtaining, and maintaining all licenses, permits, and other approvals required for Judge. Judge shall be responsible for paying all sales, income, property, and other taxes required to carry on his business.
7. **Appropriations.** The continuation of this Agreement is contingent upon annual appropriation of funds by the Osage Beach Board of Aldermen. In the event the Board of Aldermen shall not budget and appropriate, specifically with respect to this Agreement, on or before January 1, subsequent years of the contract moneys sufficient to make all payments under this Agreement, the City shall not be obligated to make those payments.
8. **Assignment or Transfer.** No rights or obligations contemplated by this Agreement shall be transferred or assigned without formal written approval by the City.
9. **Discrimination Policy.** The City of Osage Beach advises the public that it does not discriminate on the basis of disability, race or color, national origin, religion, age, or sex in employment or the provision of municipal services. Judge shall not discriminate on any prohibited basis and shall comply with all applicable employment laws.
10. **Laws, Ordinances, and Regulations.** Judge shall conform to all Federal, State, and local regulations, ordinances, and laws applicable to Judge, the City, or the subject matter of this Agreement. The City shall not be responsible for any fees, charges, money, or other obligations due as result of from any service provided under this Agreement. Judge shall conform to all changes made to this Agreement as a result of any ordinance, law and/or directive issued by the Federal, State, or local authority having jurisdiction over this Agreement, Judge, or the City.
11. **Ownership of Work Product.** All documents and other work product created by Judge under this Agreement shall become the property of City once the invoice for the preparation of such document or work product has been paid.
12. **Termination.** City may terminate this Agreement upon written notice of any violation of this Agreement if such violation is not cured within 7 calendar days of such notice. City

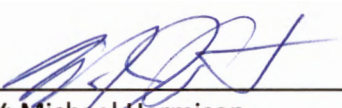
may immediately terminate this Agreement for any material violation or any violation which creates a risk to the health, safety, or welfare of any person or property.

13. **Necessary Documents.** The parties agree to execute and deliver without additional consideration such instruments and documents and to take such further actions as they may reasonably request in order to fulfill the intent of and give effect to this Agreement and the transactions contemplated thereby.
14. **Entire Agreement.** This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them. Without limiting the foregoing, this Agreement expressly supersedes any click-through, browse-wrap, or any other terms related to the subject matter of this Agreement on any website or that otherwise may be presented to or required to be accepted by the City or its employees and contractors while exercising rights under this Agreement.
15. **Non-Waiver.** No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein
16. **Governing Law; Disputes.** This Agreement shall be governed by the laws of the State of Missouri. Any action arising out of this Agreement or its subject matter shall be litigated in the Circuit Court for Camden County, Missouri and the parties consent and agree to the exclusive personal and subject-matter jurisdiction of that Court. Nothing in this Agreement shall require the City to consent to arbitration or other binding dispute resolution.
17. **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement.
18. **Severability.** If any provision in this Agreement shall be found to be void, the other provisions of this Agreement shall survive and remain enforceable.
19. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A facsimile or electronic (such as .PDF) copy of this Agreement or a signature thereto shall have the same force and effect as an original.
20. **Binding Effect.** This Agreement, subject to the above conditions of assignment, shall be binding upon and inure to the benefit of all parties and their respective legal representatives, successors, heirs, and assigns.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

CITY:
CITY OF OSAGE BEACH, MISSOURI

JUDGE:


BY: Michael Harmison
ITS: Mayor
Date 7-8-24


Gary Smith
Date 6/11/24

Attest:


BY: Tara Berreth
ITS: City Clerk
Date 6/21/24