

AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH THE LAW FIRM OF GILMORE & BELL FOR SERVICES RELATING TO THE CONSIDERATION OF THE LEGACY DEVELOPMENT PROPOSAL AND TIF PLAN APPLICATION FOR THE REDEVELOPMENT OF THE OSAGE BEACH OUTLET MALL UNDER THE REAL PROPERTY TAX INCREMENT FINANCING REDEVELOPMENT ACT.

WHEREAS, the City has been requested by Legacy Development (the “Developer”) to consider a tax increment financing redevelopment plan application (the “Application”) within the City, for the redevelopment of the Osage Beach Outlet Mall in accordance with the “Real Property Tax Increment Allocation Redevelopment Act” in Sections 99.800 to 99.865 of the Revised Statutes of Missouri (the “TIF Act”); and

WHEREAS, pursuant to Section 99.820 of the Revised Statutes of Missouri, the City is authorized to enter into all contracts necessary or incidental to the implementation and furtherance of a redevelopment plan or redevelopment project; and

WHEREAS, the Board of Aldermen has authorized the Mayor to execute a Funding Agreement with the Developer on behalf of the city to provide funding for legal and financial consulting necessary for the city to properly and fully consider the Application; and

WHEREAS, the Board of Aldermen has approved a Tax Increment Financing Policy (the “Policy”) which provides guidance to the Developer and other potential TIF applicants regarding the process and standards that will be applied by the City to evaluate proposed TIF plans; and

WHEREAS, the Board of Aldermen desires to enter into an agreement with Gilmore and Bell for legal services necessary to ensure that the City has properly and fully considered and, if ultimately approved by Board of Aldermen, implemented the TIF Plan and then properly enter into a development agreement with the developer selected to implement the plan.

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

1. The Engagement Letter with Gilmore and Bell for their services in reference to the Legacy Development proposal and TIF Plan Application for the Redevelopment of the Osage Beach Outlet Mall, attached as **Exhibit A** is approved and the Mayor is authorized to execute the same on behalf of the city.

READ FIRST TIME: March 3, 2022

READ SECOND TIME: March 3, 2022

I hereby certify that the above Ordinance No. 22.08 was duly passed on March 3, 2022 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 5

Nays: 0

Abstentions: 0

Absent: 1

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

March 3, 2022  
Date

Tara Berreth  
Tara Berreth, City Clerk

Approved as to form:

Ed B. Rucker  
Edward B. Rucker, City Attorney

I hereby APPROVE Ordinance No. 22.08.

March 3, 2022  
Date

John Olivarri  
John Olivarri, Mayor

ATTEST:

Tara Berreth  
Tara Berreth, City Clerk



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February 23, 2022

Mayor and Board of Aldermen  
Osage Beach, Missouri

Re: Redevelopment Proposal for Osage Beach Marketplace

Ladies and Gentlemen:

The purpose of this engagement letter is to set forth certain matters concerning the services we will perform as special counsel and bond counsel to the City of Osage Beach in connection with the proposed redevelopment of the Osage Beach Marketplace (the "Project").

#### **SCOPE OF ENGAGEMENT**

##### **Special Counsel Services**

Gilmore & Bell will provide the following services as special counsel regarding the Project:

1. Review and advise the City regarding the legal compliance of the redevelopment plan, cost-benefit analysis and related documents.
2. Prepare or review legal proceedings relating to the approval of the redevelopment plan.
3. Prepare or review applicable resolutions and ordinances, public notices to local taxing bodies, and other documents.
4. Assist the City Attorney in advising the City on legal matters incident to the approval of any economic development incentives.
5. Review and advise the City regarding the incentives proposed by a developer.
6. Assist the City Attorney in negotiating and drafting a redevelopment or other agreement between the City and the developer.
7. Attend such conferences and meetings as may be requested by the City in connection with the project.

### **Bond Counsel Services**

If bonds or other obligations (collectively, the “Obligations”) are to be issued to finance the Project (i.e., “TIF” bonds) or facilitate certain incentives for the Project (i.e., “Chapter 100” bonds”), Gilmore & Bell will provide the following services:

1. Prepare or examine all proceedings and legal documents relating to the authorization of the Obligations.
2. Assist the City’s financial advisor or underwriter in obtaining a rating on the Obligations, if applicable, and preparing the necessary documents related to the sale and issuance of the Obligations.
3. Prepare and examine transcripts of proceedings relating to the authorization of the Obligations.
4. Coordinate and assist with the necessary filings and recordings with appropriate county, state and federal agencies.
5. Render an approving legal opinion on the validity of the Obligations and any opinions incidental thereto, to the extent appropriate for the applicable transaction.
6. Attend such conferences and meetings as may be requested in connection with the issuance of the Obligations.
7. Any other services necessary for the timely and cost effective sale of the Obligations.
8. If separately engaged by the City, provide post-issuance tax and securities law compliance services (e.g. arbitrage rebate calculations and assistance with securities law disclosure).

At the direction of the City, our bond counsel services will also include disclosure counsel services in connection with the offering of any Obligations for the Project. Disclosure counsel services typically include preparation of an official statement or other offering document, preparation of a continuing disclosure undertaking, and delivery of a customary SEC Rule 10b-5 letter concerning any offering document.

Our bond counsel services are limited to the items describe above and expressly do not include:

1. Except as required to complete any applicable disclosure counsel services, performing an independent investigation to determine the accuracy, completeness or sufficiency of the offering document or rendering advice that the offering document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.
2. Preparing requests for tax rulings from the Internal Revenue Service or no-action letters from the Securities and Exchange Commission, or representing the City in Internal Revenue Service examinations or inquiries or Securities and Exchange Commission investigations.

3. Preparing “Blue Sky” or investment surveys with respect to the Obligations.
4. Drafting state constitutional or legislative amendments or pursuing test cases or other litigation.
5. Making an investigation or expressing any view as to the creditworthiness of the City or any credit enhancement provider for the Obligations.
6. Preparing or negotiating the terms of any guaranteed investment contract or other investment agreement.
7. After Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.
8. After Closing, providing continuing advice to the City or any other party concerning any actions necessary to assure that interest paid on the Obligations will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Obligations).
9. Addressing any other matter not specifically set forth above that is not required to render any Bond Counsel opinion or SEC Rule 10b-5 letter.

#### **ATTORNEY-CLIENT RELATIONSHIP**

Upon execution of this engagement letter, the City will be our client and an attorney-client relationship will exist between us. We assume that all other parties will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that in this transaction we represent only the City, we are not counsel or any other party, and we are not acting as an intermediary among the parties. Our services as special counsel are limited to those contracted for herein. Our representation of the City will not affect our responsibility to render an objective Bond Opinion.

Our representation of the City and the attorney-client relationship created by this engagement letter will be concluded upon closing the transaction(s).

#### **FEES AND EXPENSES**

##### **Special Counsel Services**

Our proposed fee for providing Special Counsel services will be based on our current hourly rate for shareholders, as adjusted from time to time. For calendar year 2022, our charge will be \$325 per hour. We commit that this rate will not increase by more than 5% per year. In addition to the fees set forth above, we will seek reimbursement for our out-of-pocket expenses incurred in connection with the Special Counsel services, such as travel, postage, deliveries, photocopying, printing and similar expenses. We will submit invoices for payment of fees incurred for Special Counsel services on a monthly basis or at such other times as the City may request.

**Bond Counsel Services**

Our Bond Counsel fee in connection with the issuance of any Obligations will be a flat fee due upon issuance of the Obligations and determined in accordance with our then-current fee schedule, based on the structure, complexity and size of the transaction. We will confirm a specific fee estimate with the City as soon as sufficient details regarding any proposed Obligations are determined.

**RECORDS**

At your request, papers and property furnished by you will be returned promptly. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of the engagement.

**CONCLUSION**

If the foregoing terms are acceptable to you, please so indicate by returning a signed copy of this engagement letter. We look forward to working with you.

Very truly yours,




Mark A. Spykerman

MAS:

**ACCEPTED AND APPROVED:**

Date: March 3, 2022

**CITY OF OSAGE BEACH, MISSOURI**

By:   
Title: Mayor