

A RESOLUTION APPROVING THE APPOINTMENT OF HEATH HARDMAN AS THE CITY PROSECUTOR; FIXING THE COMPENSATION OF THE CITY PROSECUTOR; AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT FOR LEGAL SERVICES

WHEREAS, pursuant to Section 3.10 of the Charter of the City of West Plains, Missouri, "There shall be a City Attorney(s) appointed by a majority of the entire Council. The City Attorney(s) shall serve as the chief legal advisor to the Mayor, the Council, administrative staff and all City departments, offices and agencies, shall represent the City in all legal proceedings and shall perform any other duties prescribed by law, by this Charter, by ordinance or as may be required of the City Attorney(s) by the Mayor, the Council or City Administrator"; and

WHEREAS, the City Council finds and determines that Heath Hardman possesses the necessary qualifications and experience to serve as the City Prosecutor; and

WHEREAS, it is the desire of the City to enter into an agreement with Heath Hardman, setting forth the terms under which legal services will be performed for the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, AS FOLLOWS:

Section One. Appointment of City Prosecutor and Creating a Method for Establishing Compensation Therefor.

(a) Heath Hardman is hereby appointed as City Prosecutor for the City of West Plains, Missouri, to represent it generally in all prosecutorial matters involving the City.

(b) For such legal services rendered, Heath Hardman shall be compensated on an hourly basis in accordance with the Agreement for Legal Services attached hereto, marked as Exhibit A and incorporated by reference herein, or such fees as may hereafter be amended from time to time by the City Council and reflected in the budget adopted by the City.

Section Two. Agreement for Legal Services.

That the form, terms, and provisions of the Agreement for Legal Services attached hereto, marked as Exhibit A, and incorporated by reference herein, be and they hereby are in all respects approved, and the City Administrator is hereby authorized, empowered and directed to accept, execute, acknowledge, deliver and administer on behalf of the City such Agreement for Legal Services in substantially the form attached hereto.

Section Three. Effective Date. This ordinance shall be in full force and effect on and after its passage and approval.

PASSED AND APPROVED THIS 15th DAY OF AUGUST 2022.

CITY OF WEST PLAINS, MISSOURI

BY: Michael Topf
MAYOR MICHAEL TOPLIFF

ATTEST:

Allison Skinner
CITY CLERK ALLISON SKINNER

EXHIBIT A

**CITY OF WEST PLAINS
AGREEMENT FOR LEGAL SERVICES**

This Legal Services Agreement (the "Agreement") is made and effective this _____ day of _____, 2022 by and between Heath Hardman ("Attorney") and the City of West Plains, Missouri ("City"):

WHEREAS, Heath Hardman has been appointed to serve as City Prosecutor for the City; and

WHEREAS, the City desires to engage Heath Hardman to perform legal services for the City as City Prosecutor.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES EXPRESSLY MADE HEREIN, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. **Term.** The term of this Agreement shall commence as of the date of this Agreement and shall continue at the pleasure of the City Council until terminated by the City or Attorney.
2. **License.** All attorneys at The Law Office of Heath Hardman are, and shall be during the term of this Agreement, licensed to practice law in the courts of the State of Missouri.
3. **Duties.** Attorney shall provide legal services including those outlined in Section II, Scope of Services, of the Request for Qualifications for City Prosecutor, including (but not limited to): (a) attend all municipal court dockets and trials; (b) provide 24/7 access to be able to answer police officer questions and/or in-custody warrants or other legal questions; (c) arrange for a mutually agreed upon time to sign all municipal citations; (d) provide legal updates and training for police officers and court staff as required; (e) consult with city departments on all ordinance violations and unified development codes; (f) issue additional charges and recommend amendments to charges; (g) handle all cases which are certified to the Howell County Circuit Court for jury trial or trial de novo; (h) perform other duties and responsibilities relating to the municipal court which are typical for a prosecuting attorney, including but not limited to processing municipal citations, signing information, etc.; (i) provide recommendations that would determine the need for a special prosecuting attorney; (j) prepare subpoenas for the court; (k) make recommendations regarding internal core processes and case dispositions; and (l) conduct plea agreements.
4. **Other Legal Counsel.** Nothing in this Agreement shall preclude the City from engaging special legal counsel separate from Attorney to advise, perform special services or represent the City on special matters as may be determined by the Mayor and City Council to be in the best interest of the City, or upon recommendation by Attorney.

5. Services and Fees. For the services described herein to be rendered by Attorney, the City will be billed at an hourly rate of \$125.

Attorney will not charge separately for secretarial or routine clerical services. Any additional agreements regarding fees charged for professional and non-professional staff will be discussed and reduced to writing before the costs are incurred.

6. Billing. Attorney's bills will be submitted monthly unless the parties agree to an alternative arrangement. All bills will be accompanied by a detailed statement describing the services performed, the time expended each day and for the entire period by each attorney or paralegal, the hourly rates charged, and such additional details and explanations as may be requested by the City from time to time. Reimbursable expenses included on each bill will also be broken down by category. Attorney will maintain back-up documentation for all expenses for the City's review as may be necessary. In the event Attorney forwards invoices for certain expenses to be paid directly by the City, Attorney will transmit such invoices with any available back-up documentation and a letter explaining the purpose of such expense.

7. Payments. City shall render payment for monthly bill received from Attorney approved by the City within thirty (30) days of receipt.

8. Termination. The City has the right to terminate Attorney's engagement in accordance with the Charter of the City of West Plains, Missouri, and the Code of Ordinances of the City of West Plains, Missouri, as amended, at any time. Attorney has the right to terminate this engagement, subject to Attorney's obligation to give the City reasonable notice to permit it to obtain alternative representation or services and subject to applicable Rules of Professional Conduct. Attorney will provide reasonable assistance in effecting a transfer of responsibilities to the new City Prosecutor.

9. Disputes. The laws of the State of Missouri shall govern the interpretation of this agreement, including all rules or codes of ethics which apply to the provision of legal services.

10. Miscellaneous.

a. Severability. The provisions of this Agreement shall be deemed severable.

b. Headings. The headings and captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement or any provisions hereof.

c. Entire Agreement; Amendment. The parties hereto agree that this Agreement shall constitute the entire agreement between the parties and no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the duly authorized agents of the parties.

d. Counterparts. This Agreement may be executed in multiple counterparts.

e. E-mail Communications. Attorney often communicates using e-mail. Any attorney or legal assistant e-mail could contain attorney-client, confidential, or other privileged communications. While Attorney makes every effort to ensure that Attorney's e-mail and server are secure, Missouri lawyers are required by the Missouri Bar Disciplinary Counsel to notify prospective recipients of e-mail that (1) e-mail communication is not a secure method of communication, (2) any e-mail that is sent to the City or by the City may be copied and held by various computers it passes through as it goes from Attorney to the City or vice versa, and (3) persons not participating in our communication may intercept our communications by improperly accessing the City's computer or Attorney's computer or even some computer unconnected to either the City or Attorney that the e-mail passes through. Unless the City otherwise instructs Attorney in writing, Attorney will assume the City has consented to receive communications via e-mail. If in the future the City changes its mind and wants future communications to be sent by a different method, please contact Attorney in writing immediately.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date and year first above written.

THIS AGREEMENT IS ACCEPTED AND AGREED TO: