

NOTICE OF MEETING AND BOARD OF ALDERMEN AGENDA



CITY OF OSAGE BEACH BOARD OF ALDERMEN MEETING

1000 City Parkway
Osage Beach, MO 65065
573/302-2000 FAX 573/302-0528
www.osagebeach.org

TENTATIVE AGENDA

REGULAR MEETING

July 19, 2018 – 6:00 P.M.
CITY HALL

***** Note: Make sure your cell phone is turned off or on a silent tone only. Please sign the attendance sheet located at the podium if you desire to address the Board. Agendas and packets are available on the back table and on the City's website at www.osagebeach.org.

CALL TO ORDER
Pledge of Allegiance
Roll Call

MAYOR'S COMMUNICATIONS

CITIZENS' COMMUNICATIONS

- This is a time set aside on the agenda for citizens and visitors to address the Mayor and Board on any topic that is not a public hearing. The Board will not take action on any item not listed on the agenda, but the Mayor and Board welcome and value input and feedback from the public. Speakers will be restricted to three minutes unless otherwise permitted. Minutes may not be donated or transferred from one speaker to another.

APPROVAL OF CONSENT AGENDA

If the Board desires, the consent agenda may be approved by a single motion.

- Minutes of Regular Board Meeting of July 5, 2018 (Page 1)
- Bills List (Page 11)

UNFINISHED BUSINESS.

- A. **Bill 18-35.** An Ordinance of the City of Osage Beach, Missouri, Amending the Code of Ordinances by enacting a new Chapter 250 entitled "Prescription Drug Monitoring Program" consisting of Sections 250.010 through 250.090 for the purpose of creating a program to monitor the prescribing and dispensing of Schedule II through IV drugs in the City and authorizing the City Administrator to coordinate such a program with other jurisdictions. Second Reading. (Page 24)

NEW BUSINESS

- A. **Bill 18-36.** An Ordinance of the City of Osage Beach, Missouri, Authorizing the Mayor to Execute Contract OB18-014 with Capital Paving & Construction, LLC for the Nichols Overlay Project. First and Second Reading. (Page 43)
- B. **Bill 18-37.** An Ordinance of the City of Osage Beach, Missouri, Deleting 405.370(B)(1)(b) Zoning Regulations, Signs, Sign Regulations, Permitted Signs. First Reading. (Page 50)
- C. **Bill 18-38.** An Ordinance of the City of Osage Beach, Missouri, Authorizing the Mayor to Execute a Contract with Commercial Acceptance Company for Collection Services. First Reading. (Page 76)

COMMUNICATIONS FROM MEMBERS OF THE BOARD OF ALDERMEN

STAFF COMMUNICATIONS

ADJOURN

Representatives of the news media may obtain copies of this notice by contacting the following:

Cynthia Lambert, City Clerk
1000 City Parkway
Osage Beach, MO 65065
573-302-2000 ex 230

If any member of the public requires a specific accommodation as addressed by the Americans with Disabilities Act, please contact the City Clerk's office forty-eight hours in advance of the meeting at the above telephone number.

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 MINUTES OF THE REGULAR MEETING OF THE BOARD OF
 ALDERMEN
 OF THE CITY OF OSAGE BEACH, MISSOURI

July 5, 2018

The Board of Aldermen of the City of Osage Beach, Missouri, met to conduct a Regular Meeting on Thursday, July 5, 2018, at 6:00 p.m. at City Hall. The following were present: Mayor John Olivarri, Alderman Greg Massey, Alderman Phyllis Marose, Alderman Tom Walker, Alderman Richard Ross, Alderman Jeff Bethurem, and Alderman Kevin Rucker. Dorothy Urlicks, Deputy City Clerk, was present and performed the duties of that office.

Citizens Communications.

Keith Fredrick, State Representative from 123rd District, spoke against PDMP, he feels that our concern should be with treatment programs.

Stacy Shore spoke against starting PDMP.

Dane Henry from Lake Regional Hospital spoke in favor of the PDMP program.

Consent Agenda.

Alderman Bethurem moved to approve the Consent Agenda which included the Minutes of the Advanced Session of June 20, 2018 and the Regular Board Meeting of July 5, 2018 and the Bills List. The motion was seconded by Alderman Rucker. The motion was voted on and unanimously passed on a voice vote.

Unfinished Business.

BILL 18-33 – An Ordinance of the City of Osage Beach, Missouri, Authorizing the Mayor to Execute Engineering Contract AEOB18-011 with HR Green, Inc. for the Osage Beach Parkway Sidewalks Phase 5.

Public Works Director Nick Edelman stated that the first reading of Bill 18-33 was approved by the Board on June 21, 2018.

Mayor Olivarri presented the second reading of Bill No. 18-33 to become Ordinance 18.33 by title only. It was noted that Bill No. 18-33 to become Ordinance 18.33 had been available for public review.

Alderman Bethurem moved to approve the second reading of Bill No. 18-33 to become Ordinance 18.33 as presented. Alderman Marose seconded the motion. The following roll call vote was taken to approve the second and final reading of Bill No. 18-33 and to pass same into ordinance: “Ayes”: Alderman Massey, Alderman Marose, Alderman Walker, Alderman Ross, Alderman Rucker and Alderman Bethurem. “Nays”: None. Bill No. 18-33 was passed and approved as Ordinance No. 18.33.

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New Business.

PUBLIC HEARING on Bill 18-35: Special Use Case 400: A Colorful Life, LLC (Belinda Phillips) Property Owner Fred Dehner, Proposed Developer – Special Use Permit to allow extended stay rental units in a Commercial District.

Mayor Olivarri opened the Public Hearing for Special Use Case 400.

City Planner Cary Patterson presented the following report:

Applicant: A Colorful Life, LLC (Belinda Phillips) Property Owner Fred Dehner,
Proposed Developer

Location: Approximately 400 west of Osage Beach Parkway on the north side of Zebra Road

Petition: Special Use Permit to allow extended stay rental units in a Commercial District.

Existing Use: Vacant commercial building.

Zoning: C-1 (General Commercial)

Tract Size: Approximately 24,000 sq. ft.

Surrounding Zoning: Surrounding Land Use:

North: R-1 (Single Family) Lake Area Anchor Club

South: C-1 (Commercial) Shopping Center

East: C-1 (Commercial) Dance Academy

West: R-1 (Single Family) Residential

The Osage Beach Comprehensive Plan Designates this area as appropriate for: Moderate Density Residential

Rezoning History Case # Date

City Wide 1984

Utilities: Water: City Electricity: Ameren UE Sewer: City

Access: Property has frontage on Zebra Road.

Analysis:

1. The applicant is the owner of the vacant property in question.
2. The character of the area is mixed containing moderate density residential and the Osage Beach Parkway commercial corridor.

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3. The current proposal is to convert the existing facility from a commercial office building into a multi-unit residential dwelling facility. It of course will be used as a rental facility with multi-tenant capacity.
4. The portion of the property that is being requested for SUP is fronted and serviced by Zebra Road.

Department Comments:

The property is recommended for Moderate Density Residential, which is defined by the Comprehensive Plan as 5-13 units per acre. Obviously in this situation we are not looking at a large lot residential development. The density on this request is not of any concern as it would be a low number of units in an existing commercial facility.

For the purposes of what would be more beneficial to the City, having the additional well-maintained housing units would not only serve a need of the community, but also would seem to be a better fit for the property, under today's conditions, than that of a commercial use. It is also important that the City be willing to promote structure repurposing on properties such as this in order to stimulate additional commercial activity in the area by providing more consumers in the immediate service area of one of our busiest retail locations. Perhaps the biggest positive to a request like this is the location of housing units in an area that contains a large number of retail, entertainment, and service jobs in our community. Providing for this housing will allow the possibility for some of these workers to live near their job location. This is a valuable benefit for both the employee and the employer.

Under the Section 405.610 of the City Code of Ordinances for Amendments and Changes, bullet point 6 gives five matters that the city should consider before making a change in the use of property.

1. Relatedness of the proposed amendment to the goals and outlines of the long range physical plan for the City:

As I have already stated, the request is in conformance with the use recommendations of the Comprehensive Plan.

The Comprehensive Plan also encourages the City to provide additional work force housing when the opportunity arises to locate it on property where it is compatible.

2. Existing uses of property within the general area of the property in question:
As previously stated, the area surrounding the subject property contains mixed uses including moderate density residential, storage facilities, and Osage Beach Parkway commercial corridor.

The request basically provides a use that works with the existing mix of low impact and intensity uses.

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3. The zoning classification of property within the general area of the property in question:

The zoning of the surrounding properties is a mix that basically coincides with the uses. The requested use will mesh without issue with the surroundings.

4. The suitability of the property in question to the uses permitted under the existing zoning classification:

As I have stated, the use of this property as a low impact commercial use (office or storage), would not cause issue in the area. However, the conditions lend more towards the use of the facility for rental residential and likely will keep the facility from sitting empty for some time.

5. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification:

The secondary corridor has seen little development in recent years. There is currently some activity for low impact commercial in the nearby vicinity that will make the subject property and facility a transition between the commercial and residential uses.

Based on the analysis of the conditions pertaining to the subject petition, the Planning Department recommends approval of the request subject to the following provisions regulating the property being granted a SUP for repurpose of the existing office facility into rental units:

Permitted Uses:

The following uses shall be permitted in those areas as illustrated on the PUD site plan:

1. Residential Uses shall conform to the requested repurposing of the existing facility into rental residential units.
2. Accessory Uses will be designed for and available to the tenants and their guests only and will not be open to the public. Those uses include any administrative office(s) for project management, garages, maintenance facilities, and recreation facilities. At this point, there are no accessory buildings planned.

Construction:

Construction shall be in accordance with the International Building Code and all other pertaining construction codes as adopted by the City of Osage Beach at the time a building permit is issued for each individual facility.

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Bulk, Area, and Height Requirements:

Construction for these units will be confined to the existing facility.

Dimensional Requirements:

Will be confined to existing facilities and meet all setback requirements for the existing zone.

Public Facilities:

1. Engineering plans for any required water or sewer improvements will be constructed in accordance with the Osage Beach Design Guidelines and shall be approved by the Public Works Director.

Access:

1. Access shall be derived from the existing entrance to the property off of Zebra Road.

Parking:

All development shall adhere to Osage Beach off-street parking requirements at the time that it is constructed.

Buffering and Screening:

No additional buffering or screening is required. Waste cans or dumpsters shall be placed in a location as to have minimal visual impact to the surrounding properties and conform to the general practice and placement of the same facilities within the corridor.

Exterior Lighting:

1. Exterior lighting shall be designed, located and constructed to eliminate or significantly reduce glare and/or a general increase in lighting intensity within the adjoining existing or proposed residential area(s).

Additionally, all exterior lighting shall be so arranged and shielded so as to confine all direct light rays within the boundaries of the subject property.

Signage:

The applicant will be required to get a sign permit from the city. At such time that an application is filed, a site plan and engineering will be submitted to assure the signs compliance with the city's sign code for on premise residential signage.

Maintenance of Open Space and Common Areas:

The maintenance of common area and facilities within the District shall be the responsibility of the property owner(s) and/or the property management administrators.

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Platting:

All platting of property will be required to be in conformance with the Osage Beach Subdivision Code.

Final Development Plan:

- a. The site plan required for the building permit application will serve as the Final Development Plan.

Fred Dehner, developer of the property explained use of the property as eight – one-bedroom units.

Sharon Schrimpf, owner of Steps Dance Studio, spoke regarding her concerns of little children around low-income property renters.

Stephanie Dehner explained she vets all tenants; that there are many single professionals, senior citizens and some young couples that rent from her at their other properties. She stated she makes sure that people can afford monthly rent. She also runs background checks and credit checks. She looks for long term rentals and the average rental stays in her properties three years, and she normally has no problems.

There being no further questions or comments, the Public Hearing was closed at 6:30 p.m.

Motion – Approve Special Use Case 400 with A Colorful Life, LLC – Special Use Permit to Allow Extended Stay Rental Units in a Commercial District.

Following a brief discussion, Alderman Bethurem moved to approve Special Use Case 400 A Colorful Life, LLC (Belinda Phillips) Property Owner, Fred Dehner, Proposed Developer – Special Use Permit to allow extended stay rental units in a Commercial District. Alderman Ross seconded the motion which was voted on and unanimously passed.

BILL 18-35 – An Ordinance of the City of Osage Beach, Missouri, Amending the Code of Ordinances by Enacting a new Chapter 250 entitled “Prescription Drug Monitoring Program,” consisting of Sections 250.010 through 250.090, for the purpose of creating a program to monitor the prescribing and dispensing of Schedule II through IV drugs in the City and authorizing the City Administrator to Coordinate such a Program with other Jurisdictions.

City Attorney Ed Rucker gave a brief presentation of staff’s research of the possibility of participating in the St. Louis County PDMP Program.

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Mayor Olivarri presented the first reading of Bill No. 18-35 to become Ordinance 18.35 by title only. It was noted that Bill No. 18-35 to become Ordinance 18.35 had been available for public review.

Alderman Bethurem moved to approve the first reading of Bill No. 18-35 to become Ordinance 18.35 as presented. Alderman Massey seconded the motion.

Alderman Rucker expressed his concerns regarding, privacy and the data taken from our area to St. Louis County. His concerns also included administrative subpoena being used to obtain data instead of warrants. The Dept. of Justice is funding this, if they don't continue to fund this project then the cost would rise for us. We have not received a copy of the Bureau of Justice Assistance Grant with St. Louis County. He also doesn't feel this issue should be handled at a City level; it should be at State level.

Alderman Marose agrees with Alderman Rucker. She thanked Dr. Frederick and Stacy Shore for coming tonight. Phyllis added she is a strong advocate that this should be dealt with at State level. She thanked Alderman Rucker for all of his statements.

Alderman Massey noticed a trend that there are two different sides to this argument. Privacy, everyone who owns a credit card – they're information is already out there. Warrants, if you are not doing anything wrong, why are worried about a warrant. The other side is public health and safety. He will weigh on that side all day.

Alderman Ross agrees with Alderman Massey. There are all kinds of data that is available. He questioned City Attorney Ed Rucker regarding the contract that we do not have from St. Louis. Ed Rucker explained what we do not have is a copy of Department of Justice Grant with St. Louis County which pays out the initial cost of participation. The City's cost this year if we participate is zero dollars. Next year if the grant is not renewed will be \$681. Alderman Ross added that he will err on the side of public health and safety and does support this program.

Mayor Olivarri expressed his concerns. He feels this Board must decide what is in the best interest of our community. He would like other communities to step up and do something even if this is only a beginning tool to get this started. Hopefully the new governor will step up to get this done at the State level then everyone will participate.

Alderman Bethurem moved to approve the first reading of Bill No. 18-35 to become Ordinance 18.35 as presented. Alderman Walker seconded the motion. The Mayor asked for a roll call vote. The following roll call vote was taken: Alderman Marose and Alderman Rucker voted no, Alderman Walker, Alderman Ross, Alderman Bethurem and Alderman Massey voted yes. The first reading passed.

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MOTION – Approving A Revised Version of the City’s Policy for using Tax Increment Financing.

City Attorney Ed Rucker reviewed the major TIF Policy amendment included in the revision.

After a discussion Alderman Rucker moved to table the TIF Policy to relook at item 18. Alderman Marose seconded the motion.

MOTION – Approving CPSM Professional Services Contract for Public Safety Technical Assistance for a Contract Amount of \$43,650 plus travel expenses not to exceed \$4,000.

City Administrator Jeana Woods advised the agreement was for a complete and comprehensive analysis of the City’s law enforcement services.

After a discussion Alderman Ross moved to table the revised version of the contract with CPSM for Public Safety Technical Assistance. Alderman Marose seconded the motion which was voted on and unanimously passed.

Communications from Members of the Board of Aldermen.

Alderman Rucker attended the Pops Concert at the school it was great entertainment. The City did get recognition for their support. He also wanted to challenge the staff to look at the e-mail from MML to look at legislation that passed that have to do with municipalities, and to look at the items that did not pass.

Alderman Rucker brought up an e-mail Alderman Bethurem sent out regarding use tax. Per the e-mail it looks like if you order online it charges the local tax. Alderman Rucker claims it does not.

Alderman Ross complimented Chief Davis for his work with the Can-Am Games. He also complimented the Building Dept. for how great the building looked for the 4th with the number of flags. He also complimented the Public Works dept. for the great striping and how much they have improved. He questioned City Attorney on where we are with the burning ordinance. Ed Rucker explained the ordinance will be ready for review within the next 2 meetings.

Alderman Marose sent an e-mail to Nick regarding how nice the parkway looked for the 4th of July holiday. She also commended Jeana Woods on her due diligence with her work on researching Public Safety Technical Assistance.

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Staff Communications.

City Administrator Jeana Woods stated they will be getting information on the use tax because we are going to be having a conversation about it within the next month. It is hard to believe it is July she will be needing information regarding budget prep.

Police Chief Todd Davis stated the Can-Am Games are over. We had 349 participants that competed in 1400 events. In a few months we will be working on the 2020 event. There were a few complaints when we told them we had a flat 5K run, we meant Ozarks flat, and they don't know how we function with this humidity.

Assistant City Administrator Mike Welty spoke with Greg Sullins regarding the funding we gave for Aquapalozza. They are excited about this year's event.

Public Works Director Nick Edelman introduced new civil engineer Kim Ingham.

Executive Session. Alderman Rucker moved to close the meeting pursuant to RSMo. Section 60.021(1), Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys.

Alderman Marose seconded the motion. The following roll call was taken to close the meeting: "Ayes": Alderman Ross, Alderman Rucker, Alderman Bethurem, Alderman Massey, Alderman Marose and Alderman Walker. "Nays": None. The meeting was therefore closed.

CLOSED SESSION

Alderman Massey moved to open the meeting. Alderman Rucker seconded the motion. The following roll call vote was taken to open the meeting: "Ayes": Alderman Rucker, Alderman Bethurem, Alderman Massey, Alderman Marose, Alderman Walker and Alderman Ross. "Nays": None. The meeting was therefore opened.

No announcements were made following the closed session.

Adjourn.

There being no further business to come before the Board, the meeting adjourned at 8:33 p.m.

I, Dorothy Urlicks, Deputy City Clerk of the City of Osage Beach, Missouri, do hereby certify that the above foregoing is a true and complete journal of proceedings of the regular meeting of the Board of Aldermen of the City of Osage Beach, Missouri, held on July 5, 2018.

Minutes
Board of Aldermen

07/05/18
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Dorothy Urlicks, Deputy City Clerk

John Olivarri, Mayor

**CITY OF OSAGE BEACH
BILLS LIST
July 19, 2018**

Bills Paid Prior to Board Meeting	371,124.56
Payroll Paid Prior to Board Meeting	128,755.14
SRF Transfer Prior to Board Meeting	
TIF Transfer Dierbergs	
TIF Transfer Prewitt's Pt	
Bills Pending Board Approval	197,681.66
Total Expenses	697,561.36

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
NON-DEPARTMENTAL	General Fund	MO DEPT OF REVENUE FAMILY SUPPORT PAYMENT CENTER	JUNE CVC COLLECTIONS	834.21
			Case #81106219	150.00
			Case #31550944	138.46
			Cse #16CMDR00112	173.08
		MO DEPT OF REVENUE MO TREASURER BUDGET DIRECTOR INTERNAL REVENUE SERVICE	State Withholding	2,760.00
			JUNE PEACE OFFICER TRAININ	117.00
			Fed WH	9,736.34
			FICA	6,831.83
		ICMA	Medicare	1,597.76
			Loan Repayment	365.59
			Loan Repayment	170.36
			Loan Repayment	182.93
			Loan Repayment	233.04
			Retirment 457 &	312.08
			Retirement 457	1,060.00
			Loan Repayments	156.85
			Loan Repayments	543.78
			Loan Repayments	207.35
			Loan Repayments	144.72
			Loan Repayments	432.53
			Loan Repayments	209.74
			Loan Repayments	16.99
			Loan Repayments	47.57
			Loan Repayments	351.32
		CITIZENS AGAINST DOMESTIC VIOLENCE HSA BANK	Retirment Roth IRA %	164.31
			Retirement Roth IRA	290.00
			JUNE CADV COLLECTIONS	232.00
			HSA Contribution	75.00
		SHERIFFS RETIREMENT SYSTEM US DEPARTMENT OF EDUCATION	HSA Family/Dep. Contributi	1,852.66
			JUNE COLLECTIONS	336.50
			#1028145744	293.68
			TOTAL:	30,017.68
City Administrator	General Fund	INTERNAL REVENUE SERVICE	FICA	405.71
			Medicare	94.88
		ICMA HSA BANK	Retirement 401	402.62
			HSA Family/Dep. Contributi	150.00
			Medical Reimbursement	500.00
			TOTAL:	1,553.21
City Clerk	General Fund	INTERNAL REVENUE SERVICE	FICA	224.17
			Medicare	52.43
		ICMA HSA BANK	Retirement 401	225.55
			HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	250.00
			TOTAL:	827.15
City Treasurer	General Fund	INTERNAL REVENUE SERVICE	FICA	518.44
			Medicare	121.24
		ICMA HSA BANK	Retirement 401	512.07
			HSA Contribution	37.50
			HSA Family/Dep. Contributi	150.00
			Medical Reimbursement	750.00
			TOTAL:	2,089.25
Municipal Court	General Fund	WASHBURN, WILLIAM F	JUNE MUNICIPAL JUDGE SERVI	1,763.17

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		INTERNAL REVENUE SERVICE	FICA	77.86
			Medicare	18.21
		ICMA	Retirement 401	80.37
		HSA BANK	HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	500.00
			TOTAL:	2,514.61
City Attorney	General Fund	INTERNAL REVENUE SERVICE	FICA	331.14
			Medicare	77.44
		ICMA	Retirement 401	323.99
		HSA BANK	HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	250.00
			TOTAL:	1,057.57
Building Inspection	General Fund	INTERNAL REVENUE SERVICE	FICA	407.87
			Medicare	95.39
		ICMA	Retirement 401	403.90
		AT&T MOBILITY-CELLS	BLDG DEPT CELL PHONE	153.00
		HSA BANK	HSA Contribution	37.50
			HSA Family/Dep. Contributi	187.50
			Medical Reimbursement	1,125.00
			TOTAL:	2,410.16
Building Maintenance	General Fund	ALLIED SERVICES LLC	SERV 7/1-7/31/18	139.47
		INTERNAL REVENUE SERVICE	FICA	51.15
			Medicare	11.96
		TRACEY OLIVER DBA KEEPING CONDOS CLEAN	CITY HALL JANITORIAL SERV	1,380.75
		SUMMIT NATURAL GAS OF MISSOURI INC	SERV 5/15-6/15/18	30.00
			TOTAL:	1,613.33
Parks	General Fund	FECHTEL BEVERAGE & SALES INC	BEER FOR CONCESSIONS	217.00
		ALLIED SERVICES LLC	SERV 7/1-7/31/18	235.94
		INTERNAL REVENUE SERVICE	FICA	499.14
			Medicare	116.74
		ICMA	Retirement 401	265.30
		O'DAY, MICHAEL	UMPIRE 2 GAMES 6/25	60.00
		AT&T MOBILITY-CELLS	PARK CELL PHONE	84.91
		MISSOURI EAGLE LLC	BEER FOR CONCESSIONS	128.80
			BEER FOR CONCESSIONS	416.50
		HSA BANK	HSA Contribution	76.38
			HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	759.18
		NEWMAN, DWIGHT A	UMPIRE 3-6/4, 1-6/18, 2-6/	180.00
			UMPIRE 1 GAME 6/28	30.00
		DULLE, PATRICK VINCENT	UMPIRE 2 GAMES 6/18/18	60.00
			UMPIRE 3 GAMES 6/25, 28, 2	90.00
		BOYER, MARVIN	UMPIRE 2 GAMES 6/18/18	60.00
			UMPIRE 3 GAMES 6/25 & 6/29	90.00
		LARY, DAVID ALAN	UMPIRE 2- 6/19 & 1-6/21	105.00
			UMPIRE 4 GAMES 6/25 & 6/27	140.00
		BLAIR, JERRY LYNN JR	UMPIRE 3 GAMES 6/25, 28, 2	90.00
		UNDERWOOD, MATTHEW W SR	UMPIRE 4 GAMES 6/25 & 6/27	120.00
			TOTAL:	3,899.89
Human Resources	General Fund	INTERNAL REVENUE SERVICE	FICA	136.16
			Medicare	31.84

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		ICMA	Retirement 401	137.79
		HSA BANK	HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	250.00
		McCROREY, BOBBY	TUITION REIMBURSEMENT	1,830.00
			TOTAL:	2,460.79
Overhead	General Fund	MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	128,419.08
		CHARTER COMMUNICATIONS HOLDING CO LLC	SERV 7/1-7/31/18	51.15
			TOTAL:	128,470.23
Police	General Fund	FBI/NAA	FALL RE-TRAINER - T.DAVIS	175.00
		INTERNAL REVENUE SERVICE	FICA	3,096.19
			Medicare	724.10
		ICMA	Retirement 401	2,993.86
		AT&T MOBILITY-CELLS	POLICE DEPT CELL PHONES	44.66
		GORSLINE, TOM	MILEAGE REIMB 5/12-5/18/18	49.48
		HSA BANK	HSA Contribution	186.12
			HSA Family/Dep. Contributi	1,350.98
			Medical Reimbursement	5,994.10
			TOTAL:	14,614.49
911 Center	General Fund	INTERNAL REVENUE SERVICE	FICA	762.95
			Medicare	178.45
		ICMA	Retirement 401	587.01
		CHARTER COMMUNICATIONS HOLDING CO LLC	SERV 7/1-7/31/18	25.58
			SERV 7/1-7/31/18	104.41
		HSA BANK	HSA Contribution	75.00
			HSA Family/Dep. Contributi	374.02
			Medical Reimbursement	1,746.72
			TOTAL:	3,854.14
Planning	General Fund	INTERNAL REVENUE SERVICE	FICA	188.49
			Medicare	44.08
		ICMA	Retirement 401	186.47
		HSA BANK	HSA Family/Dep. Contributi	112.50
			Medical Reimbursement	375.00
			TOTAL:	906.54
Information Technology	General Fund	INTERNAL REVENUE SERVICE	FICA	132.56
			Medicare	31.00
		ICMA	Retirement 401	131.83
		AT&T INTERNET/IP SERVICES	SERV 6/19-7/18/18	2,419.73
			PARK SERV 6/19-7/18/18	884.67
			LCF SERV 6/19-7/18/18	1,245.63
		CHARTER COMMUNICATIONS HOLDING CO LLC	SERV 7/1-7/31/18	284.40
		AT&T MOBILITY-CELLS	INTERNET CONNECTION	2.12
		HSA BANK	HSA Family/Dep. Contributi	75.00
			Medical Reimbursement	250.00
			TOTAL:	5,456.94
NON-DEPARTMENTAL	Transportation	MO DEPT OF REVENUE	State Withholding	238.74
		INTERNAL REVENUE SERVICE	Fed WH	993.56
			FICA	902.31
			Medicare	211.01
		ICMA	Retirment 457 &	330.30
			Retirement 457	213.21

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			Loan Repayments	44.36
			Loan Repayments	33.63
			Retirement Roth IRA	65.80
		HSA BANK	HSA Contribution	33.50
			HSA Family/Dep. Contributi	318.22
			TOTAL:	3,384.64
Transportation	Transportation	EDELMAN, NICHOLAS	MEAL REIMB FOR SEMA TRAINI	40.00
		ALLIED SERVICES LLC	SERV 7/1-7/31/18	37.46
		INTERNAL REVENUE SERVICE	FICA	902.31
			Medicare	211.05
		ICMA	Retirement 401	790.18
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	17,382.31
		AT&T MOBILITY-CELLS	TRANS DEPT CELL PHONES	116.35
		TRACEY OLIVER DBA KEEPING CONDOS CLEAN	TRANS JANITORIAL SERV	270.30
		HIBDON, ERIC	MEAL REIMB FOR SEMA TRAINI	40.00
		HSA BANK	HSA Contribution	50.25
			HSA Family/Dep. Contributi	399.75
			Medical Reimbursement	1,667.50
		LONG, ROB	MEAL REIMB FOR SEMA TRAINI	120.00
			TOTAL:	22,027.46
NON-DEPARTMENTAL	Water Fund	MO DEPT OF REVENUE	State Withholding	178.81
		INTERNAL REVENUE SERVICE	Fed WH	745.21
			FICA	706.63
			Medicare	165.27
		ICMA	Retirment 457 &	54.87
			Retirement 457	126.46
			Loan Repayments	58.43
			Loan Repayments	16.08
			Loan Repayments	24.02
			Loan Repayments	52.80
			Loan Repayments	9.88
			Retirement Roth IRA	64.35
		HSA BANK	HSA Contribution	8.25
			HSA Family/Dep. Contributi	53.46
		ONE TIME VENDOR FEHRENBACH, DONALD	02-3050-01	32.20
			TOTAL:	2,296.72
Water	Water Fund	EDELMAN, NICHOLAS	MEAL REIMB FOR SEMA TRAINI	40.00
		ALLIED SERVICES LLC	SERV 7/1-7/31/18	37.47
		INTERNAL REVENUE SERVICE	FICA	706.64
			Medicare	165.29
		ICMA	Retirement 401	702.09
		CAMDEN COUNTY RECORDER OF DEEDS	LIEN RELEASE	12.50
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	18,251.55
		AT&T MOBILITY-CELLS	WATER DEPT CELL PHONES	195.04
		TRACEY OLIVER DBA KEEPING CONDOS CLEAN	WATER JANITORIAL SERV	270.31
		HIBDON, ERIC	MEAL REIMB FOR SEMA TRAINI	40.00
		AMEREN MISSOURI	WELL #2 5/29-6/27/18	3,260.63
			SWISS VILLAGE WELL	3,469.34
		MANKEY, KYLE	MILEAGE REIMB 6/27-7/3/18	81.75
		HSA BANK	HSA Contribution	49.88
			HSA Family/Dep. Contributi	324.01
			Medical Reimbursement	1,412.51
		CARLSON, CHAD	MEAL REIMB FROM SEMA TRAIN	120.00

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		STOUFER, TOMMIE L	MILEAGE REIMB 6/13-6/19/18	140.61
			TOTAL:	29,279.62
NON-DEPARTMENTAL	Sewer Fund	MO DEPT OF REVENUE	State Withholding	406.45
		INTERNAL REVENUE SERVICE	Fed WH	1,419.40
			FICA	1,054.95
			Medicare	246.75
		ICMA	Retirement 457 &	123.14
			Retirement 457	128.52
			Loan Repayments	45.71
			Loan Repayments	21.11
			Loan Repayments	21.24
			Loan Repayments	104.27
			Retirement Roth IRA	64.85
		HSA BANK	HSA Contribution	8.25
			HSA Family/Dep. Contributi	350.31
			TOTAL:	3,994.95
Sewer	Sewer Fund	EDELMAN, NICHOLAS	MEAL REIMB FOR SEMA TRAINI	40.00
		ALLIED SERVICES LLC	SERV 7/1-7/31/18	37.47
		INTERNAL REVENUE SERVICE	FICA	1,054.94
			Medicare	246.69
		ICMA	Retirement 401	926.62
			Retirement 457 &	10.00
		CAMDEN COUNTY RECORDER OF DEEDS	LIEN RELEASE	12.50
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	48,204.88
		CARD SERVICES 0248	SAFETY BOOTS-N. EARP	78.74
		AT&T MOBILITY-CELLS	SEWER DEPT CELL PHONES	248.43
		TRACEY OLIVER DBA KEEPING CONDOS CLEAN	SEWER JANITORIAL SERV	270.31
		STARK, CHAD	MILEAGE REIMB 6/20-6/27/18	18.53
			MEAL REIMB FOR SEMA TRAINI	120.00
		DUNCAN, CHRIS	MILEAGE REIMB 6/20-6/27/18	240.35
		HIBDON, ERIC	MEAL REIMB FOR SEMA TRAINI	40.00
		AMEREN MISSOURI	GRINDER STATIONS & LIFT PU	3,282.23
			GRINDER PUMPS & LIFT STATI	8,961.34
			1075 RUNABOUT 5/28-6/26/18	19.56
			GRINDER STATIONS & LIFT PU	3,388.91
			GRINDER STATIONS & LIFT PU	8,495.32
		HSA BANK	HSA Contribution	49.87
			HSA Family/Dep. Contributi	551.24
			Medical Reimbursement	2,419.99
		BRUEWER, ROB	MILEAGE REIMB 6/27-7/3/18	69.76
			TOTAL:	78,767.68
NON-DEPARTMENTAL	Ambulance Fund	MO DEPT OF REVENUE	State Withholding	240.00
		INTERNAL REVENUE SERVICE	Fed WH	782.50
			FICA	717.52
			Medicare	167.81
		ICMA	Retirement 457 &	60.03
			Retirement 457	15.00
			Loan Repayments	122.24
		LACLEDE COUNTY CIRCUIT CLERK	Case No. #11LA-AC00632	87.16
			Case No,. 14LA-AC00228	78.44
		HSA BANK	HSA Family/Dep. Contributi	125.00
			TOTAL:	2,395.70

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
Ambulance	Ambulance Fund	INTERNAL REVENUE SERVICE	FICA	717.52
			Medicare	167.81
		ICMA	Retirement 401	553.12
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	6,051.33
		CHARTER COMMUNICATIONS HOLDING CO LLC	SERV 7/1-7/31/18	25.56
		AT&T MOBILITY-CELLS	AMB DEPT CELL PHONES	83.96
		HSA BANK	HSA Contribution	75.00
			HSA Family/Dep. Contributi	150.00
			Medical Reimbursement	1,000.00
			TOTAL:	8,824.30
NON-DEPARTMENTAL	Lee C. Fine Airpor	MO DEPT OF REVENUE	State Withholding	62.80
		INTERNAL REVENUE SERVICE	Fed WH	242.95
			FICA	327.77
			Medicare	76.64
		ICMA	Retirement 457	89.00
			Loan Repayments	38.55
			TOTAL:	837.71
Lee C. Fine Airport	Lee C. Fine Airpor	ALLIED SERVICES LLC	SERV 7/1-7/31/18	34.38
		AMEREN MISSOURI	LCF FIREHOUSE 5/30-6/27/18	34.20
		INTERNAL REVENUE SERVICE	FICA	327.77
			Medicare	76.64
		ICMA	Retirement 401	273.05
		DISH NETWORK	SERV 6/29-7/28/18	79.03
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	8,440.65
		HSA BANK	HSA Contribution	37.50
			HSA Family/Dep. Contributi	120.00
			Medical Reimbursement	650.00
			TOTAL:	10,073.22
NON-DEPARTMENTAL	Grand Glaize Airpo	MO DEPT OF REVENUE	State Withholding	41.20
		INTERNAL REVENUE SERVICE	Fed WH	145.32
			FICA	183.88
			Medicare	43.01
		ICMA	Retirement 457	30.00
			TOTAL:	443.41
Grand Glaize Airport	Grand Glaize Airpo	CITY OF OSAGE BEACH	SERV 5/22-6/25/18	64.95
		ALLIED SERVICES LLC	SERV 7/1-7/31/18	34.39
		AMEREN MISSOURI	GG AP HANGAR 5/29-6/27/18	27.88
			GG AP TBLC EXT D 5/29-6/27	252.51
			GG AP SHOP 5/29-6/27/18	28.60
			GG AP 5/29-6/27/18	12.07
			TBLC EXT D 5/29-6/17/18	16.71
			GG AP HANGAR TBLC 5/29-6/2	45.84
			GG AP SLEEPY 5/29-6/27/18	21.35
		INTERNAL REVENUE SERVICE	FICA	183.88
			Medicare	43.01
		ICMA	Retirement 401	185.67
		MIDWEST PUBLIC RISK OF MISSOURI	FY 18-19 PROP & LIAB CONTR	5,356.31
		HSA BANK	HSA Family/Dep. Contributi	180.00
			Medical Reimbursement	600.00
			TOTAL:	7,053.17

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
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===== FUND TOTALS =====		
10	General Fund	201,745.98
20	Transportation	25,412.10
30	Water Fund	31,576.34
35	Sewer Fund	82,762.63
40	Ambulance Fund	11,220.00
45	Lee C. Fine Airport Fund	10,910.93
47	Grand Glaize Airport Fund	7,496.58

	GRAND TOTAL:	371,124.56

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
NON-DEPARTMENTAL	General Fund	MO DEPT OF REVENUE	BOOKS, MISC SALES TAX	5.45
			TOTAL:	5.45
Mayor & Board	General Fund	STAPLES BUSINESS ADVANTAGE	PAD PAPER	6.08
		BANKCARD SERV 7514	MML CONF-K. RUCKER	500.00
			MML CONF-P. MAROSE	600.00
		PATRICK IBARRA DBA THE MEJORANDO GROUP	BOARD OF ALDERMAN RETREAT	7,517.78
			TOTAL:	8,623.86
City Administrator	General Fund	BANKCARD SERV 7564	BAGELS FOR STAFF MEETING	30.07
		MO MUNICIPAL LEAGUE	MCMA MEMBERSHP-M. WELTY	75.00
			MCMA MEMBERSHIP-J. WOODS	75.00
			TOTAL:	180.07
City Clerk	General Fund	BANKCARD SERV 7514	NOTARY STAMP & BOOK-D. URL	46.75
			TOTAL:	46.75
City Attorney	General Fund	THOMSON REUTERS - WEST	MAY INFO CHARGES	330.00
			SUBSCRIPTION CHRGS-5/23-6/	73.83
			TOTAL:	403.83
Building Inspection	General Fund	PRECISION AUTO & TIRE SERVICE LLC	CHECK TIRES & SUSPENSION-B	49.00
		BANKCARD SERV 7663	WATER	2.68
			FIRST AID KITS	47.64
			FOOD FOR CODE OFFICIALS MT	29.48
		STAPLES BUSINESS ADVANTAGE	STAMP	21.01
			STAMP	21.01
		AMAZON CAPITAL SERVICES INC	INK CARTRIDGES	82.47
			TOTAL:	253.29
Building Maintenance	General Fund	EZARDS	DRYER VENT HOOD,FOLDING SA	22.58
			LAG BOLT, SHEILD, DRILL BI	17.63
			SHUT OFF VALVE	9.99
			SHOWER HEAD	19.99
		AMERICAN STAMP & MARKING PRODUCTS INC	NAME PLATE	38.59
		PRAIRIEFIRE COFFEE & ROASTERS	COFFEE	135.70
			CH WATER COOLER RENTAL	38.51
			COFFEE & HOT COCOA	120.80
		AB PEST CONTROL INC	CH PEST CONTROL	125.00
			CH PEST CONTROL	75.00
		BANKCARD SERV 7663	ALCOHOL & VINEGAR	2.67
			14" WINDOW SCRUBBER	12.98
		STAPLES BUSINESS ADVANTAGE	CHAIR MAT-T.STARK	49.52
			PAPER TOWELS & LAMINATING	107.44
		CROWN LINEN SERVICE INC	CH FLOOR MATS	33.27
			TOTAL:	809.67
Parks	General Fund	OZARKS COCA-COLA/DR PEPPER BOTTLING CO	CONCESSION SUPPLIES	373.40
			CONCESSION SUPPLIES	457.55
		EZARDS	BEE SPRAY & BATTERIES	30.95
		ADVANCED TURF SOLUTIONS INC	FIELD MAINTENANCE APPLICAT	3,015.10
		MEEKS BUILDING CENTER	NUTS, BOLTS & WASHERS	3.15
		PLUMB SUPPLY CO	IRRIGATION REPAIRS	55.70
		SYSCO KANSAS CITY INC	CONCESSION SUPPLISE	82.26
			CONCESSION SUPPLISE	948.52
			CONCESSION SUPPLIES	537.93

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		MOTOR HUT INC	SPOOL FOR STRING TRIMMER	12.83
			COVER & SPOOL INSERT-STRG	112.25
			FILLER CAP AND WEED EATER	126.02
		O'REILLY AUTOMOTIVE STORES INC	AIR FILTER	10.29
			FUEL FILTER	4.89
			ANTI SEIZE	8.99
			GREASE	8.49
		SHERWIN-WILLIAMS	MARKING PAINT	57.19
			FIELD PAINT	53.03
		PRECISION AUTO & TIRE SERVICE LLC	REPAIR A/C AND CHEWED WIRE	310.35
		BANKCARD SERV 7663	CELL PHONE CASE-M.VANDEVVOO	48.42
			WIRE SPOOL & ADAPTERS	40.25
			SCREEN PROTECTION & LCD HO	116.37
			CONCESSION SUPPLIES	156.49
		BEACON ATHLETICS	INFIELD MAINTENANCE SUPPLI	498.00
		REINHOLD ELECTRIC INC	SOCCER FIELD LIGHT REPAIR	15,220.00
		MIDWAY RENTAL & SALES	SOD CUTTER	300.00
			TOTAL:	22,588.42
Human Resources	General Fund	NEW DIRECTIONS BEHAVIORAL HEALTH	3RD QUARTER EAP SERVICES	604.06
		WOODS SUPER MARKETS INC 2068	ICE CREAM	18.20
			ICE CREAM	56.07
			ICE CREAM	44.68
		LAKE REGIONAL OCCUPATIONAL MEDICINE	FIT FOR DUTY	100.00
			POST ACCIDENT	45.00
			RANDOM TESTING	115.00
			PRE-EMPLOYMENT TESTING	20.00
		1138 INC DBA VALIDITY SCREENING SOLUTI	PRE-EMPLOYMENT SCREENING	72.00
		BANKCARD SERV 7663	SUPPLIES FOR WOWSA DAY	45.38
			SUPPLIES FOR WOWSA DAY	458.16
			SUPPLIES FOR WOWSA DAY	51.16
			SUPPLIES FOR WOWSA DAY	8.00
			SUPPLIES FOR WOWSA DAY	9.97
			SUPPLIES FOR WOWSA DAY	9.97
		PROTECT MY MINISTRY LLC DBA PROTECT YO	LEAGUE BACKGROUND CHECKS	50.45
			TOTAL:	1,708.10
Overhead	General Fund	XEROX CORPORATION	JUNE BASE & PRINT CHARGES	334.32
		WILLIAMS KEEPERS LLC	2017 AUDIT BILLING FINAL	1,090.00
		LOCKTON COMPANIES LLC	NOTARY BOND-D. URLICKS	40.00
		STAPLES BUSINESS ADVANTAGE	COPY PAPER	80.04
			TOTAL:	1,544.36
Police	General Fund	LEON UNIFORM CO INC	NAMEPLATE-HELMERICHs	14.00
		SUN BADGE CO	REPAIR BADGE	59.00
		O'REILLY AUTOMOTIVE STORES INC	HEADLIGHT BULB-PD 30	6.63
		LAKE CLEANERS INC DBA DAMSEL DRY CLEAN	UNIFORM RPR-JACKSON & SCHW	33.50
		LYNN PEAVEY COMPANY	EVIDENCE SUPPLIES	255.35
		DALE A DISTLER DBA	INSTALL REAR LIGHT IN PD 3	50.00
		HEDRICK MOTIV WERKS LLC	OIL CHANGE - PD 20	65.00
			OIL CHANGE-PD 24	80.93
			REPAIR A/C- CECL1J PD	356.85
			OIL CHANGE-PD 33	45.45
		BANKCARD SERV 0833	TRANS UNION CHARGES	25.00
			CIT MEMBERSHIP-T. GORSLINE	25.00
			FIND LEADER IN YOU-T.MORLE	329.00

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			KWIK KAR MEMBERSHIP	26.00
			THERMAL PRINTER ROLLS	88.62
			TRANS UNION CHARGES	25.00
		STAPLES BUSINESS ADVANTAGE	PENS,TAPE, MARKERS & TONER	232.76
			TOTAL:	1,718.09
911 Center	General Fund	WIRELESS USA INC	JULY SERVICE CONTRACT	225.00
		BANKCARD SERV 0833	WINDEX	38.25
			KEY CABINET TAGS	15.87
			REPLACEMENT EAR CUSHIONS	20.00
		WEST SAFETY SOLUTIONS CORP	V-VAAS MONTHLY FEE 7/3-8/2	3,525.00
			TOTAL:	3,824.12
Information Technology	General Fund	TYLER TECHNOLOGIES INC	ONLINE RECORD SEARCH 7/1-7	166.74
			ONLINE RECORD SEARCH 8/18-	2,000.00
		DELL MARKETING LP	2 YR PRO SUPPORT 08/18-08/	5,818.40
		ALEXANDER OPEN SYSTEMS INC	UNITREND BACKUP DEVICE	25,984.10
			SMART NET RENEWAL 5/18-5/1	2,173.50
			TOTAL:	36,142.74
Emergency Management	General Fund	AB PEST CONTROL INC	STORM SIREN PEST CONTROL	225.00
			TOTAL:	225.00
Economic Development	General Fund	DENNIS F BENNE	2018 AQUAPALOOZA SPONSOR	3,000.00
		BANKCARD SERV 7564	LOREDC MEETING-J. WOODS	41.34
		VACATION NEWS	JUNE CALENDAR BILLING	150.00
		BANKCARD SERV 0833	MOVIE LICENSE FOR COCO-NNO	435.00
		ONE TIME VENDOR MEDC	MEDC:18/19 DUES-J. WOODS	175.00
		MEDC	MEDC:18/19 DUES-J. OLIVARR	40.00
			TOTAL:	3,841.34
Transportation	Transportation	RP LUMBER INC	MAILBOX POST FOR BENTWOOD	55.98
		FASTENAL CO	PART FOR ZERO TURN MOWER	3.00
		ARAMARK UNIFORM & CAREER APPAREL GROUP	TRANS DEPT UNIFORMS	50.12
			TRANS DEPT FLOOR MATS	9.26
			TRANS DEPT UNIFORMS	47.32
			TRANS DEPT FLOOR MATS	11.10
		D&R MATERIALS	MATERIAL FOR BENTWOOD	111.00
		ECONO SIGNS & BARRICADE LLC	SIGNS	505.14
		O'REILLY AUTOMOTIVE STORES INC	BATTERY CARRIER & TARP	34.98
			BULB FOR BACKHOE	4.98
		LAKE SUN LEADER 81525 & 1586450	BID-BENTWOOD RD REPAIR	238.50
		SASCO PAVEMENT COATINGS INC	SUPPLIES FOR PAINTING PKWY	661.50
			SUPPLIES FOR PAINTING PKWY	119.90
		CROWN POWER & EQUIPMENT	ROCK TEETH & ROLL PIN-MINI	739.52
			KIT FOR BACKHOE, ASSY CAP-	61.63
		CWD SUPPLY	EXPANSION JOINT FOR BENTWO	27.50
		CORE & MAIN LP	SUPPLIES FOR BENTWOOD	11.00
		BANKCARD SERV 5106	FUEL	182.58
		MIDWEST PUBLIC RISK OF MISSOURI	DEDUCTIBLE CLAIM # MPR1803	1,000.00
		INDEPENDENT SALT COMPANY	ROAD SALT	5,236.50
		MAGRUDER LIMESTONE CO INC	GRAVEL	110.25
			GRAVEL	270.76
			GRAVEL	394.50
			GRAVEL	303.60
			GRAVEL	118.60

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			GRAVEL	153.75
			GRAVEL	373.79
		ELLIS BATTERY SPECIALISTS LLC	BATTERY	87.95
		CHASE CO INC	LABOR ON CONCRETE SAW	88.00
		STAPLES BUSINESS ADVANTAGE	CHAIR - S. HINES	160.76
			RETURN MONITOR STAND	29.77
		DREDGING INC DBA SCOTTS CONCRETE	CONCRETE	542.25
			CONCRETE-BENTWOOD SIDEWALK	1,205.00
		SELECTURF INC	GRASS FOR BENTWOOD	35.20
		EARTHWORKS EXCAVATION AND ASSOCIATES L	APPLE BLOSSOM STORM IMPRVM	21,702.32
			TOTAL:	34,628.47
NON-DEPARTMENTAL	Water Fund	MO DEPT OF REVENUE	WATER SALES TAX	3,335.07
			TOTAL:	3,335.07
Water	Water Fund	CAPITAL MATERIALS LLC	ROAD PATCH	1,171.30
		EZARDS	BATTERIES	29.98
		FASTENCO INC	SWIVEL & BUSHING	11.46
		ARAMARK UNIFORM & CAREER APPAREL GROUP	WATER DEPT UNIFORMS	28.64
			WATER DEPT FLOOR MATS	9.26
			WATER DEPT UNIFORMS	28.64
			WATER DEPT FLOOR MATS	11.09
		NORTHERN SAFETY CO INC	RAIN SUITS	22.63
		POSTMASTER	JULY UTILITY BILL POSTAGE	425.00
		PRECISION AUTO & TIRE SERVICE LLC	OIL CHANGE - TRUCK 58	20.48
		CHASE CO INC	1.5 TON ROLLER-SUNSET DR	186.30
		STAPLES BUSINESS ADVANTAGE	CHAIR - S. HINES	80.37
		SIDENER ENVIRONMENTAL SERVICES INC	FLUROIDE	20.48
		FERGUSON ENTERPRISES INC DBA POLLARDWA	DECHLORINATOR	934.15
		ARAMARK	PW CLASS 2 T-SHIRTS	217.89
			PW CLASS 2 T-SHIRTS	895.59
			TOTAL:	4,093.26
Sewer	Sewer Fund	EZARDS	STOCK PARTS TO REPLUMB	37.98
		FASTENAL CO	ZIP TIES	15.42
			CABLE TIES	51.40
		ARAMARK UNIFORM & CAREER APPAREL GROUP	SEWER DEPT UNIFORMS	50.12
			SEWER DEPT FLOOR MATS	9.26
			SEWER DEPT UNIFORMS	50.12
			SEWER DEPT FLOOR MATS	11.09
		TALLMAN COMPANY	PIPE & TEE'S-HERON BAY	100.04
		KNAPHEIDE TRUCK INC	HAND HELD REMOTE	685.83
		NORTHERN SAFETY CO INC	RAIN SUITS	22.63
		O'REILLY AUTOMOTIVE STORES INC	BRAKE CLEAN & HEX BITS	74.25
			BATTERY FOR ROCKWAY	160.53
		POSTMASTER	JULY UTILITY BILL POSTAGE	425.00
		PRECISION AUTO & TIRE SERVICE LLC	OIL CHANGE - TRUCK 58	20.47
		STAPLES BUSINESS ADVANTAGE	CHAIR - S. HINES	160.76
		CLIFFORD POWER SYSTEMS	SEMI ANNUAL MAINT-KK1-A	801.22
		ARAMARK	PW CLASS 2 T-SHIRTS	217.90
			TOTAL:	2,894.02
Ambulance	Ambulance Fund	BOUND TREE MEDICAL LLC	MEDICAL SUPPLIES	16.17
		LAKE REGIONAL PHARMACY	RESTOCK MEDICAL SUPPLIES	47.02
		BANKCARD SERV 0833	BATTERY	87.19
		SAKELARIS FORD LINCOLN OF CAMDENTON	WHEEL ALIGNMENT - MEDIC 8	89.95

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		ALAN J WILSON MD	JULY MEDICAL DIRECTOR SERV	1,000.00
			TOTAL:	1,240.33
NON-DEPARTMENTAL	Lee C. Fine Airpor	MO DEPT OF REVENUE	LCF SALES TAX	4,892.09
			TOTAL:	4,892.09
Lee C. Fine Airport	Lee C. Fine Airpor	GB MAINTENANCE SUPPLY	TOILET PAPER	91.45
		NAEGLER OIL CO	LCF AV GAS	6,996.14
			LCF JET FUEL	20,270.99
			LCF JET FUEL	20,103.97
			LCF EQUIP CHRG & SATELLITE	46.00
			LCF JET FUEL	10,256.87
		ALPHAGRAPHS OF OSAGE BEACH	INVOICE BOOKS	511.13
		O'REILLY AUTOMOTIVE STORES INC	TRACTOR FLUID	44.99
			SMOG PUMP	116.31
			CORE RETURN	1.00
			HI-POWER BELT	33.96
			OIL & TRANS FLUID	65.97
			BATTERY	111.20
			TOTAL:	58,647.98
NON-DEPARTMENTAL	Grand Glaize Airpo	MO DEPT OF REVENUE	GG SALES TAX	184.97
			TOTAL:	184.97
Grand Glaize Airport	Grand Glaize Airpo	NAEGLER OIL CO	GG EQUIP CHRG & SATELLITE	46.00
		CRAWFORD, MURPHY & TILLY INC	GG PAVEMENT MAINT4/28-5/25	5,804.38
			TOTAL:	5,850.38

===== FUND TOTALS =====		
10	General Fund	81,915.09
20	Transportation	34,628.47
30	Water Fund	7,428.33
35	Sewer Fund	2,894.02
40	Ambulance Fund	1,240.33
45	Lee C. Fine Airport Fund	63,540.07
47	Grand Glaize Airport Fund	6,035.35

	GRAND TOTAL:	197,681.66

City of Osage Beach**Agenda Item Summary**Date of Board of Aldermen Meeting: 07/19/18Originator: **(Name/Title)** Ed Rucker / City Attorney for Alderman BethuremDate Submitted: 07/05/18**Agenda Item Title:**

Bill 18-35 - An Ordinance of the City of Osage Beach, Missouri, amending the Code of Ordinances, by enacting a new Chapter 250 entitled "Prescription Drug Monitoring Program," consisting of Sections 250.010 through 250.090, for the purpose of creating a program to monitor the prescribing and dispensing of Schedule II through IV drugs in the City and authorizing the City Administrator to coordinate such a program with other jurisdictions.

Presented by: **(Name/Title)** Ed Rucker / City Attorney**Requested Action:**
☐
☐
☒
☐

Motion to Approve

First Reading of Bill # _____

Second Reading of Bill # 18-35

Resolution # _____

☐
☐
☐

Proclamation

Public Hearing

Other (Describe)

Ordinance Reference for Action: (i.e. RSMo Section, Ordinance # & Title)

RSMo Sec. 79.380 for regulations to secure the general health of the City, and RSMo Sec. 70.220 and RSMo Sec. 70.230.

Deadline for Action: YES ☐ NO ☒

If yes, explain:

Fiscal Impact:Not Applicable ☐Budgeted Item: YES ☐ NO ☒If no, provide funding source: Bureau of Justice Assistance Grant to St. Louis CountyBudget Line Item/Title: Beginning in 2019, \$681.41 per year

FY ____ Budgeted Amount:

\$ _____

Expenditures to Date _____:

(\$ _____)

Available:

\$ _____ 0.00

Requested Amount:

\$ _____

Attachments: YES ☒ NO ☐

If yes, list attachments:

1. Draft PDMP User Agreement between St. Louis County and City of Osage Beach, Missouri
2. Email from Emily Varner PDMP Coordinator for St. Louis County.

Department Comments and Recommendation:

Staff researched the possibility of the City's participation in the St. Louis County PDMP Program.

If adopted, the cost to the City is \$681.41 per year beginning in September 2019. A grant already received by St. Louis County from the Bureau of Justice Assistance will cover the city participation costs for the first year.

The obligations of the City for participation are found in Exhibit B of the User Agreement:

1. Enact appropriate legislation authorizing participation in the PDMP and engagement in a User Agreement with County. Subscriber legislation must be consistent with St. Louis County Ordinance 26,352. Subscriber will submit a copy of authorized legislation with signed User Agreement.

2. Pay annual participation costs and follow the applicable billing schedule, dependent upon BJA funding, outlined in Exhibit C: Participation Costs.

3. Provide subscriber (City's) W-9.

4. Designate a local contact to receive reports and information from County.

5. Subscriber will be responsible for continued community engagement and outreach.

The draft ordinance to authorize the City participation in the St. Louis County PDMP has been forwarded for St. Louis County PDMP for review and comment. We have received no indication that our ordinance is in any defective.

The Ordinance and PDMP user agreement are ready for the Board's consideration and may be adopted at the Board's discretion.

City Administrator Comments and Recommendation:

Per City Code 110.230, Bill 18-35 is in correct form as per City Attorney.

The first reading was read and passed by the Board of Aldermen on July 5, 2018.

BILL NO. 18-35

ORDINANCE NO. 18.35

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING THE CODE OF ORDINANCES, BY ENACTING A NEW CHAPTER 250 ENTITLED “PRESCRIPTION DRUG MONITORING PROGRAM,” CONSISTING OF SECTIONS 250.010 THROUGH 250.090, FOR THE PURPOSE OF CREATING A PROGRAM TO MONITOR THE PRESCRIBING AND DISPENSING OF SCHEDULE II THROUGH IV DRUGS IN THE CITY AND AUTHORIZING THE CITY ADMINISTRATOR TO COORDINATE SUCH A PROGRAM WITH OTHER JURISDICTIONS.

WHEREAS, there is an epidemic of dangerous addictions to drugs, including prescription drugs such as opioids, in our metropolitan area; and

WHEREAS, because Missouri is currently the only state without a prescription drug monitoring program, areas such as St. Louis City, St. Louis County and Jackson County, Missouri have passed laws to establish their own prescription drug monitoring programs; and

WHEREAS, a prescription drug monitoring program will be a vital tool to aid in the improvement of public health, particularly helping to reduce drug addiction and overdoses; and

WHEREAS, a prescription drug monitoring program approach will only be effective if the same registry system is used by all dispensers in the region; and

WHEREAS, St Louis County, Missouri has a program for consolidating and coordinating prescription drug monitoring services within the State of Missouri to maintain a combined prescription drug monitoring program; and

WHEREAS, this ordinance and agreement are authorized pursuant to state law specifically Sections 79.380 R.S.Mo. to secure the general health of the City and as an agreement between governments under Sections 70.220 and 70.230 R.S.Mo.

WHEREAS, the Board of Aldermen believes such a program will protect the public health and encourages consolidation and coordination with surrounding jurisdictions;

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

Section 1. That the Code of Ordinances is hereby Amended by enacting a new Chapter 250 entitled “Prescription Drug Monitoring Program,” consisting of Sections 250.010 through 250.090, for the purpose of creating a City of Osage Beach, Missouri Prescription Drug Monitoring Program to monitor the prescribing and dispensing of Schedule II through IV drugs within the city, said article to read as follows:

CHAPTER 250 PRESCRIPTION DRUG MONITORING PROGRAM

Sec. 250.010. Establishment; Title.

There is hereby established a “City of Osage Beach, Missouri Prescription Drug Monitoring Program” referred to herein as a (“PDMP”).

Sec. 250.020. Definitions.

Controlled substance means a drug, substance, or immediate precursor in Schedules I through V as set out in Chapter 195 of the Revised Statutes of Missouri.

City Administrator means the City Administrator of the City Of Osage Beach or his or her designee.

Director means the Administrator to the St. Louis County PDMP Program.

Dispenser means a person who delivers a Schedule II, III, or IV controlled substance to a patient. Dispenser does not include, however: a) a hospital as defined in Section 197.020 of the Revised Statutes of Missouri that distributes such substances for the purpose of inpatient care or dispenses prescriptions for controlled substances at the time of discharge from such facility; b) a practitioner such as a nurse or a physician or other authorized person who administers such a substance; c) a wholesale distributor of a Schedule II, III, or IV controlled substance; or d) persons in the veterinary field licensed pursuant to Chapter 340 of the Revised Statutes of Missouri.

Patient means a person who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed. Patient does not include a hospice patient enrolled in a Medicare-certified hospice program who has controlled substances dispensed to him or her by such hospice program.

PDMP means Prescription Drug Monitoring Program.

Schedule II, III, or IV controlled substance means a controlled substance listed in Schedules II, III, or IV as set out in Chapter 195 of the Revised Statutes of Missouri or as set out in the Controlled Substances Act, 21 U.S.C. Section 812.

Sec. 250.030. Director Responsibilities; Rules and regulations; coordination with other jurisdictions.

- (a) The City Administrator shall coordinate and cooperate with St. Louis County to establish and maintain a PDMP for monitoring the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense such substances in the City of Osage Beach, Missouri.

- (b) St. Louis County Health Department holds the contract with Apriss. The City of Osage Beach shall have a subscription to participate in the St. Louis County PDMP program.
- (c) This ordinance gives authority for St Louis County Health Department to receive information from the City of Osage Beach through the Apriss system.
- (d) Any PDMP shall operate so as to be consistent with federal law, such as laws or regulations concerning narcotics and laws regarding patient privacy.

Sec. 250.040. Reporting Required; Reportable information; Waivers; Extensions

(a) *Electronic reporting required.* Within seven business days of having dispensed a Schedule II, III, or IV controlled substance, a dispenser shall submit to the St Louis County PDMP program with which the City has a cooperating relationship information regarding such dispensing. The information shall be submitted electronically in a format required by the Director and in accordance with the transmission standards established by the American Society for Automation in Pharmacy or any of its successor organizations.

(b) *Report contents.* The information submitted for each dispensing shall, at minimum, include:

- (1) the pharmacy's Drug Enforcement (DEA) number;
- (2) the date of dispensation;
- (3) if the substance was dispensed via prescription;
- (4) the prescription number or other unique identifier;
- (5) whether the prescription is new or a refill;
- (6) the prescriber's DEA or National Provider Identifier (NPI) number;
- (7) the National Drug Code (NDC) of the drug dispensed;
- (8) the quantity and dosage of the drug dispensed; and
- (9) an identifier for the patient to whom the drug was dispensed, including but not limited to any one of the following:
 - a. the patient's driver's license number;
 - b. the patient's government-issued identification number;

- c. the patient's insurance cardholder identification number; or
- d. the patient's name, address, and date of birth.

(c) *Waiver of electronic requirement.* The Director is authorized to issue a waiver of the electronic transmission requirement to a dispenser demonstrably unable to comply with the requirement. A waiver shall expire one year from the date of its issuance. Required information submitted under a waiver shall be submitted within the same time frame as is required herein for electronic transmission.

(d) *Application for waiver timing.* The Director shall make a decision concerning an application for a waiver or extension within three business days of receipt thereof. An applicant for a waiver or extension who has been aggrieved by a decision of the Director may appeal the decision according to law within three business days of the Director's decision.

(e) *Extensions of time.* In the event unforeseen circumstances temporarily prevent a dispenser (who has not received a waiver of the electronic submission requirement) from transmitting dispensation information electronically, the dispenser may, upon application to the Director, receive an extension of up to 10 business days in which to submit the required dispensation information by electronic transmission. The Director may renew such extensions upon a showing of need by the dispenser when the Director finds such an extension is warranted.

Sec. 250.050. Dispensation information to be closed pursuant to law.

(a) Except when provided to persons or agencies authorized by this Article to receive such information, dispensation information submitted to the Director is confidential, considered a closed record and not subject to public disclosure except as provided by law. No person shall provide such information to any person or agency not authorized by this Article or the Director to receive it. A request for dispensation information made under Chapter 610 of the Revised Statutes of Missouri shall be referred to the City Attorney to ensure compliance with this Article.

(b) The Director shall develop and maintain procedures to ensure that the privacy and confidentiality of patients and personal information collected, recorded, transmitted, and maintained are not disclosed to persons not authorized to receive dispensation information.

Sec. 250.060. Persons authorized to receive dispensation information.

(a) Upon a duly-made request, the Director may provide dispensation information and other data compiled in connection with a PDMP only to the following:

- (1) persons, whether in or out of the State of Missouri, who are authorized to prescribe or dispense controlled substances, if the requesting person demonstrates that the

request is made for the purpose of providing medical or pharmaceutical care for a patient;

- (2) persons who request their own dispensation information in accordance with law;
- (3) the Missouri State Board of Pharmacy;
- (4) any state board charged with regulating a professional authorized to prescribe or dispense controlled substances, and which has duly requested the information or data in the course of a current and open investigation into the acts of a specific professional under the jurisdiction of the state board. Only information related to the subject professional shall be provided by the Director;
- (5) local, state, and federal law enforcement or prosecutorial officials, both in or outside of Missouri, who are engaged in the administration, investigation, or enforcement of laws governing prescription drugs, based on a specific case and under a subpoena issued pursuant to court order;
- (6) The MO HealthNet division of the Missouri Department of Social Services regarding MO HealthNet program recipients; or
- (7) A judge or other judicial officer under a subpoena issued pursuant to court order.

(b) *Statistics and Education.* The Director may provide dispensation information and data to public or private entities for statistical or education purposes after having de-identified such information in a manner reasonably thought to be unusable to identify individual persons.

Sec. 250.070. Unauthorized access to dispensation information prohibited; compliance required.

(a) Absent lawful authority, no person shall knowingly access or disclose prescription or dispensation information maintained by the Director pursuant to the PDMP, or knowingly violate any other provision of the PDMP.

(b) No person shall violate any provision of this Article.

Sec. 250.080. Pharmacists or prescribers not required to obtain information from Director.

Nothing in this Article shall be construed or interpreted to require a pharmacist or prescriber to obtain dispensation information possessed or maintained by the St. Louis, Missouri Health Department or a consolidated PDMP.

Sec. 250.090. Penalties.

Any person convicted of violating this section shall be punished by a fine of up to \$500 per violation, up to 90 days in jail per violation, or both.

Section 2. The Mayor is authorized and to execute on behalf of the city a User Agreement with St. Louis County to connect the City's program with the program adopted by St. Louis County pursuant to St. Louis County ordinance 26.352.2016 and to seek inclusion in that program to coordinate the consolidation of a prescription drug monitoring program for the purpose of creating a more effective program.

Section 3. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 4. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 5. 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: July 5, 2018 READ SECOND TIME: _____

I hereby certify that Ordinance No.18.35. was duly passed on _____ by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes:

Nays:

Abstentions:

Absent:

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

Date

Cynthia Lambert, City Clerk

Approved as to form:

Edward B. Rucker, City Attorney

I hereby approve Ordinance No.18 35.

John Olivarri, Mayor

Date

Cynthia Lambert, City Clerk

USER AGREEMENT

This USER AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2018, by and between St. Louis County ("County") and _____ ("Subscriber");

Commented [VE1]: Insert subscriber name

WHEREAS, Sections 602.802 SLCRO authorized the St. Louis County Department of Public Health to establish and maintain a program for monitoring the prescribing and dispensing of all Schedule II, III and IV controlled substances by professionals licensed to prescribe or dispense such substances in St. Louis County; and

WHEREAS, County has a contract with Appriss, Inc. ("Appriss") for operation of an application for a Prescription Drug Monitoring Program ("PDMP"); and

WHEREAS, County has adopted Ordinance 26,528 as amended authorizing the County Executive on behalf of St. Louis County to enter into contracts with the City of St. Louis and Missouri counties and municipalities for the purposes stated herein;

WHEREAS, Subscriber is authorized to execute this agreement by Ordinance _____;

Commented [VE2]: Insert ordinance number

NOW, THEREFORE, in consideration of the premises and the mutual covenants, considerations and agreements contained herein, the parties agree as follows:

1. **Term of Agreement.** This Agreement shall become effective upon its execution by the parties (the "Effective Date") and shall run for a period of three years. The parties may renew the agreement for up to two additional one-year terms.
2. **Obligations of County.** County, as Administrator of the PDMP, shall provide the services listed on Exhibit A, attached and incorporated herein.
3. **Obligations of Subscriber.** Subscriber shall perform the obligations outlined in Exhibit B, attached and incorporated herein.
4. **Fee for Services and Payments.** The annual PDMP participation cost for Subscriber is \$7.00 per covered practitioner, plus an administrative fee proportional to prescriber population. The participation cost is subject to change during any renewal period. Exhibit C contains the annual participation costs and billing schedule.

County shall pursue funding opportunities for Subscribers from the Bureau of Justice Administration (BJA). If awarded to County, this funding will cover the participation costs for Subscriber for the grant period, and Subscriber is responsible for participation costs for all subsequent years.

In the event County does not receive funding from BJA, Subscriber shall pay County for the participation costs charged to County by Appriss for participation in the PDMP for all years. Exhibit C contains the annual participation costs and billing schedule when Subscriber is responsible for all participation costs. County will invoice Subscriber for year 1 on November 1, 2017, and year 1 will be prorated based on the go-live date. For all subsequent years, County will invoice Subscriber on January 1 for entire year.

5. **Ownership.** The County shall retain ownership of the purchased software. Each Party shall retain all right, title, and interest (including all data, images, copyright and other proprietary or intellectual property rights) to its own data.
6. **Notices.** Unless otherwise indicated, all notices, waiver, and consents required or permitted pursuant to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or sent by direct mail, electronic mail, telephone, or facsimile. Notices shall be sent to the addresses set forth as follows on or before the date such notice, waiver or consent must be given:

If to Subscriber:

Attn: _____

If to County:

Saint Louis County Department of Public Health
6121 N. Hanley Rd.
Berkeley, MO 63134
Attn: Emily Varner

Commented [VE3]: Insert contact info for Agreement changes

7. **Entire Agreement; Amendments.** This Agreement, together with its exhibits, represents the entire understanding and agreement between the parties relating to the subject matter hereof and supersedes all prior written or oral communications between the Parties regarding such subject matter. All amendments to and modifications of this Agreement shall be in writing and signed by all of the parties hereto.
8. **Severability.** If any provision of this Agreement or the application thereof to any Party or circumstance is held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other parties or circumstances will not be affected thereby, the provisions of this Agreement being severable in any such instance.
9. **Waiver.** Failure by any Party at any time hereafter to require strict performance by another Party or other Parties of any provision of this Agreement shall not waive, affect, or diminish any right of a Party to demand strict compliance and performance therewith.
10. **Binding Agreement.** The covenants, agreements, terms, and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
11. **Governing Law.** County and Subscriber shall comply with all applicable federal, state, and local laws. This Agreement shall be governed, interpreted, and construed in accordance with the laws of the State of Missouri. Venue for any action arising from this Agreement shall be in the Circuit Court of St. Louis County, Missouri.
12. **Interstate Data Sharing.** County may elect to participate in an interstate exchange of PDMP data such as PMP InterConnect. All data contained in the County PDMP will be available to entities participating in the interstate exchange. Participation in an interstate exchange, such as PMP InterConnect, allows registered users of the County PDMP to examine their patient's complete prescription history, including out of state prescriptions if any. County agrees to limit the user types that can access the PDMP through the interstate exchange to ensure strict compliance with St. Louis County Ordinance 26,352, and to take steps to safeguard against unauthorized access to the information contained therein. Registered users of other state PDMPs will be able to access their patient information from all states of interest within their native PDMP; out of state users will not be required to register with multiple PDMPs.
13. **Termination for Convenience.** County and Subscriber shall each have the right to terminate the contract immediately in the exercise of its absolute and sole discretion, upon written notice to the other party. After receipt of such notice, the contract shall automatically terminate without further obligation of the parties.

County may terminate this Agreement if Subscriber fails to submit payment within 90 days of receipt of invoice or if County or Subscriber PDMP legislation is repealed or amended to end operation of the PDMP. The terms of this Agreement are subject to change, dependent on the agreement between County and Appriss. Subscriber will, at County's sole discretion, return to County or destroy the Documentation and all copies thereof and certify in writing Subscriber's compliance with such obligation.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties hereto have executed this User Agreement as of the day and year first above written.

[REDACTED]

Subscriber

By: _____

Printed Name: _____

Title: _____

ATTEST:

Printed Name: _____

Title: _____

STATE OF MISSOURI)
)SS
COUNTY OF [REDACTED])

On this _____ day of _____, 2018, before me a Notary Public in and for said state, personally appeared _____ who acknowledged himself/herself to be the _____ of _____ and that he/she, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

(SEAL)
My Commission expires:

Commented [VE4]: Please remove **all** comments and submit 2 original, signed, notarized copies to St. Louis County Department of Public Health. 1 original, signed copy will be returned.

Commented [VE5]: The same entity that enacts legislation needs to sign the User Agreement unless the legislation explicitly designates another entity.

Commented [VE6]: Insert notary jurisdiction

ST. LOUIS COUNTY, MISSOURI

By: _____
Printed Name: Steven V. Stenger
Title: County Executive

ATTEST:

Printed Name: _____
Title: County Clerk

APPROVED:

Printed Name: Dr. Faisal Khan
Title: Director of Public Health

Approved as to legal form:

County Counselor

Approved:

Accounting Officer

Exhibit A: County's Obligations

County will be responsible for reviewing and approving all PDMP deliverables as well as approving changes to technical and functional documentation with Appriss. County will perform all management of the PDMP. The PDMP platform will be PMP AWARe, the web-based PDMP platform created by Appriss.

County will provide access to appropriate users, as defined in St. Louis County, Missouri Municipal Code § 602.800-602.808. County shall provide Subscriber with any revisions to the authorizing ordinances. Table 1 outlines the authorized recipients, requirements for access, information provided, and level of access.

Table 1. PDMP Access.

Authorized Recipients	Requirements	Information Provided	Access
Local Public Health Agency (LPHA)	Will receive routine, quarterly reports from County. Can request additional reports from County that will be provided as resources are available.	County-specific reports on prescribing practices. Reports will contain aggregate & de-identified data.	Routine reports from County. Ad hoc reports upon request.
Prescribers	Persons, or their duly designated delegates, whether in or out of the State of Missouri, who are authorized to prescribe controlled substances, if the requesting person demonstrates that the request is made for the purpose of providing medical care for a patient.	Patient Rx & delegate user information.	Registered users and have full access to the PDMP.
Dispensers	Persons, or their duly designated delegates, whether in or out of the State of Missouri, who are authorized to dispense controlled substances, if the requesting person demonstrates that the request is made for the purpose of providing pharmaceutical care for a patient.	Patient Rx & delegate user information.	Registered users and have full access to the PDMP.
Self	Request own dispensation information.	Personal Rx history.	Report upon completed request form.
Board of Pharmacy	Regulate a professional authorized to prescribe or dispense controlled substances, and which has requested the information or data in the course of a current and open investigation into the acts of a professional under the jurisdiction of the state board. Only information related to the subject professional shall be provided by the County Department of Public Health Director.	Information necessary to regulate industry as per their authority.	Routine reports from County. Ad hoc reports upon request.
State Regulatory Boards	Regulate a professional authorized to prescribe or dispense controlled substances, and which has requested the information or data in the course of a current and open investigation into the acts of a professional under the jurisdiction of the state board. Only information related to the subject professional shall be provided by the County Department of Public Health Director.	Information necessary to regulate industry as per their authority.	Routine reports from County. Ad hoc reports upon request.

Law Enforcement	Local, state, and federal law enforcement or prosecutorial officials, both in or outside Missouri, who are engaged in the administration, investigation, or enforcement of laws governing prescription drugs based on a specific case and under a subpoena issued pursuant to court order.	All prescriber, dispenser, & patient information as specified in subpoena.	Report upon completed request form with accompanying subpoena.
MO HealthNet	Regarding MO HealthNet program recipients.	Eligible or enrolled patient Rx information.	Routine reports from County. Ad hoc reports upon request.
Judge/Judicial Officer	Under subpoena issued pursuant to court order.	All prescriber, dispenser, & patient information as specified in subpoena.	Report upon completed request form with accompanying subpoena.

County and Appriss will be responsible for initial provider and dispenser outreach. County will operate and maintain a PDMP website with relevant information for prescribers, dispensers, the public, and participating counties. County will maintain email communication and respond to all questions, comments, and/or concerns related to the PDMP.

County will provide technical assistance to users in the form of policy, registration, user account information, and user profile modifications. Appriss will be responsible for operating a help desk 24/7/365 to assist dispensers and users with data submission, query, analysis, reporting, and user name and password changes or resets.

County will notify Subscriber of BJA funding decision. County will follow the applicable billing schedule, dependent upon BJA funding, to invoice Subscriber according to Exhibit C: Participation Costs.

Exhibit B: Subscriber's Obligation

Subscriber will enact appropriate legislation authorizing participation in the PDMP and engagement in a User Agreement with County. Subscriber legislation must be consistent with St. Louis County Ordinance 26,352. Subscriber will submit a copy of authorized legislation with signed User Agreement.

Subscriber agrees to pay annual participation costs and follow the applicable billing schedule, dependent upon BJA funding, outlined in Exhibit C: Participation Costs.

Subscriber will provide requested information in Exhibit D: Subscriber W-9.

Subscriber will designate a local contact to receive reports and information from County.

Contact Name: _____

Phone Number: _____

Email: _____

Address: _____

Commented [VE7]: Please provide a local point of contact.

Subscriber will be responsible for continued community engagement and outreach.

Subscriber will be onboarded on a quarterly basis after User Agreement is executed. The onboarding timeline is in Table 2, below. Onboarding consists of data submitters (dispensers) registering with Appriss and moving from testing to production (successfully submitting data). Data for Subscriber will be visible to users on a date determined by County and Appriss or by the first day of the quarter following onboarding.

Table 2. PDMP Onboarding Timeline.

Quarter A	Quarter B		Quarter C
County Legislation & User Agreement signed	Data Submitter Registration	Clearinghouse Testing → Production	PMP AWARe live on 1 st business day!

Exhibit C: Participation Costs

County shall pursue funding opportunities for Subscribers from the Bureau of Justice Administration (BJA). If awarded to County, this funding will cover the participation costs for Subscriber for the grant period. Table 3 contains billing schedules if County receives BJA funding; Table 4 contains the billing schedule if County does not receive BJA funding. County will notify Subscriber of the BJA funding decision by October 16, 2017. Subscriber shall comply with the applicable billing schedule, dependent upon BJA funding.

In the event County receives funding from BJA, the participation costs for Subscriber would be covered for the grant period, and Subscriber is responsible for participation costs for all subsequent years. For year 3 (period immediately following grant), Subscriber is responsible for the remainder of the year's cost. For each subsequent one-year term (January 1 through December 31), Subscriber will be invoiced on January 1 with payment due by January 31 of the term year. Subscriber's annual cost for all years can be found in Table 5.

In the event County does not receive BJA funding, Subscriber will be billed for prorated annual costs in year 1 and complete annual costs for all subsequent years. Year 1 is prorated based on go-live date. For example, if Subscriber is participating in initial implementation, year 1 costs will be 75% of the annual cost as the PDMP will be accessible to users for 75% of the year (April-December 2017). For each subsequent one-year term (January 1 through December 31), Subscriber will be invoiced on January 1 with payment due by January 31 of the term year. Subscriber's annual cost for can be found in Table 5.

Table 3. Billing Schedule if County receives BJA funding.

County Receives BJA Funding				
Years 1-2 (2017-2019)	Year 3 (Q4 2019)	Year 4 (2020)	Year 5 (2021)	
- BJA funding covers Subscriber's participation costs	- Invoice Date: 10/1/19 - Due Date: 10/31/19 - Period Covered: 10/1/19-12/31/19	- Invoice Date: 1/1/20 - Due Date: 1/31/20 - Period Covered: 1/1/20-12/31/20	- Invoice Date: 1/1/21 - Due Date: 1/31/21 - Period Covered: 1/1/21-12/31/21	
- No invoicing				

Table 4. Billing Schedule if County does not receive BJA funding.

County Does Not Receive BJA Funding					
Year 1 (2017)	Year 2 (2018)	Year 3 (2019)	Year 4 (2020)	Year 5 (2021)	
- Invoice Date: 11/1/17	- Invoice Date: 1/1/18	- Invoice Date: 1/1/19	- Invoice Date: 1/1/20	- Invoice Date: 1/1/21	
- Due Date: 11/30/17	- Due Date: 1/31/18	- Due Date: 1/31/19	- Due Date: 1/31/20	- Due Date: 1/31/21	
- Period Covered: 4/1/17-12/31/17	- Period Covered: 1/1/18-12/31/18	- Period Covered: 1/1/19-12/31/19	- Period Covered: 1/1/20-12/31/20	- Period Covered: 1/1/21-12/31/21	

Table 5. Subscriber Annual Participation Costs.

Jurisdiction	County Total Users	% of Total Users	User Fee \$7 per User	% of Administrative Cost	Total Cost
Osage Beach	49	0.3%	\$ 343.00	\$ 339.41	\$ 682.41

Exhibit D: Subscriber W-9

Subscriber must submit a copy of W-9 with signed User Agreement for County to invoice Subscriber for PDMP costs.

In addition, Subscriber must provide following information:

Billing Address:

Contact Name: _____

Phone Number: _____

Fax Number: _____

Email: _____

Address: _____

Commented [VE8]: Please provide W-9 and billing and mailing contacts.

Mailing Address:

Contact Name: _____

Phone Number: _____

Fax Number: _____

Email: _____

Address: _____

<jbethurem@osagebeach.org>; Richard Ross <rross@osagebeach.org>

Subject: RE: 4th Class city direct participation in PDMP

Hi Edward,

Thanks so much for your interest in the St. Louis County PDMP! I've included some information related to the PDMP below and have attached the most recent PDMP participation map.

The process for cities/counties to join or subscribe to the PDMP has 2 parts: 1) enact authorizing legislation and 2) execute a User Agreement with St. Louis County. All Missouri jurisdictions are welcome to participate in the St. Louis County PDMP, but it is up to each jurisdiction to determine who holds the authority to enact legislation and is willing to use said authority. At this point, we've had all classes of counties join the PDMP, and legislation has been enacted by cities, counties, and health centers. The User Agreement (attached) outlines the roles and responsibilities of both St. Louis County as the PDMP Administrator and Osage Beach as a Subscriber. If you'd like to send the proposed ordinance, we'd be happy to review prior to enacting.

We have a PDMP website, www.stlouisco.com/PDMP, that contains the program goals, FAQs, timeline, information for Subscribing Counties (& links to all enacted legislation from all Subscribing Counties), information for Dispensers, etc.

For Osage Beach, the annual cost to participate in the PDMP would be \$682.41. The annual participation cost varies by county and is dependent upon the proportion of healthcare providers licensed within the city. The participation cost is comprised of 2 components: 1) user fee that the vendor charges (this fee goes directly back to the vendor) and 2) administrative fee. The two costs combined for the total annual participation cost of \$682.41 for Osage Beach. We received a grant from the Bureau of Justice Assistance that would cover Osage Beach's participation costs through September 2019.

We launched on April 25 for the first 14 counties and are currently prepping for additional implementation cycles. The counties participating in each of these implementation cycles can be found on our website, www.stlouisco.com/PDMP. We are continuing to add counties monthly, but the onboarding process takes 3 months to complete. Once legislation is enacted and we receive the User Agreement, we can set the go-live date for the city. Once the go-live date is set, we send 4 rounds of communication to pharmacies during the month preceding data submission. We also send information to providers through the Health Alert Network within the few days prior to the go-live date (PDMP fact sheet – attached).

I would be happy to discuss this in more detail/go over any questions with you anytime! I can be reached at 314-615-1658.

Please let us know if there are any questions or any way we can be of assistance! We look forward to working with Osage Beach!

Thanks!
Emily

Emily Varner, MPH

Prescription Drug Monitoring Program Coordinator

Assessment, Evaluation, and Policy

Division of Health Promotion and Public Health Research

Saint Louis County Department of Public Health

314-615-1658

evartner@stlouisco.com

www.stlouisco.com/PDMP

City of Osage Beach**Agenda Item Summary**Date of Board of Aldermen Meeting: 07/19/18Originator: *(Name/Title)* Nicholas Edelman, Public Works DirectorDate Submitted: 07/05/18**Agenda Item Title:**

Bill 18-36 - An ordinance of the City of Osage Beach, Missouri, authorizing the Mayor to execute Contract OB18-014 with Capital Paving & Construction, LLC for the Nichols Road Overlay Project.

Presented by: *(Name/Title)* Nicholas Edelman, Public Works Director**Requested Action:**☐

Motion to Approve

☒First Reading of Bill # 18-36☒Second Reading of Bill # 18-36☐

Resolution # _____

☐

Proclamation

☐

Public Hearing

☐

Other (Describe) _____

Ordinance Reference for Action: (i.e. RSMo Section, Ordinance # & Title)

Board of Aldermen approval required for purchases over \$15,000 per Municipal Code Chapter 135; Article II: Purchasing, Procurement, Transfers, and Sales.

Deadline for Action: YES ☒ NO ☐

If yes, explain:

We are trying to get this work done before the start of the school season.

Fiscal Impact:Not Applicable ☐Budgeted Item: YES ☒ NO ☐

If no, provide funding source: _____

Budget Line Item/Title: 20-00-764207 Asphalt OverlayFY 18 Budgeted Amount: \$ 669,210.00Expenditures to Date 07/05/18: (\$ 266,945.00)Available: \$ 402,265.00Requested Amount: \$ 105,000.00Attachments: YES ☒ NO ☐

If yes, list attachments:

Bill 18.36, Agreement, Bid Tab

Department Comments and Recommendation:

This project is to overlay Nichols Road from the end of MoDOT's Expressway Interchange with Nichols Road to a location just past the Osage Beach Elementary School. The portion north of the school was slurry sealed earlier this year.

Bids were opened on July 3rd. There were three bidders. The low bidder is Capital Paving with a bid amount of \$105,000. The budgeted amount for this project was \$187,338.

We have done work with Capital Paving in the past with good results. They did the overlay on Barry Prewitt earlier this year.

The Public Works Department recommends approval.

City Administrator Comments and Recommendation:

Per City Code 110.230, Bill 18-36 is in correct form as per City Attorney.

Staff is requesting a first and a second reading to meet a complete deadline prior to school starting for the season. I concur with the Public Works Director's recommendation.

BILL NO. 18-36

ORDINANCE NO. 18.36

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE CONTRACT OB18-014 WITH CAPITAL PAVING & CONSTRUCTION, LLC. FOR THE NICHOLS OVERLAY PROJECT.

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

Section 1. The Board of Aldermen hereby authorizes the Mayor to execute on behalf of the City a contract with Capital Paving & Construction, LLC. substantially the same under the terms set forth in the form attached hereto as ("Exhibit A").

Total expenditures or liability authorized under this contract shall not exceed One Hundred Five Thousand Dollars (\$105,000.00).

Section 2. The City Administrator is hereby authorized to take such further actions as are necessary to carry out the intent of this Ordinance and Contract.

Section 3. This Ordinance shall be in full force and effect from date of passage and approval by the Mayor.

READ FIRST TIME:

READ SECOND TIME:

I hereby certify that Ordinance No. 18.36 was duly passed on _____, 2018 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes:

Nays:

Abstain:

Absent:

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

Date

Cynthia Lambert, City Clerk

Approved as to form:

Edward B. Rucker, City Attorney

I hereby approve Ordinance No. 18.36.

Date

John Olivarri, Mayor

ATTEST:

Cynthia Lambert, City Clerk

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2018, by and between the **City of Osage Beach**, Party of the First Part and hereinafter called the **Owner**, and **Capital Paving & Construction, LLC** a Limited Liability Company of Jefferson City, Missouri Party of the Second Part and hereinafter called the **Contractor**.

WITNESSETH:

THAT WHEREAS, the City of Osage Beach has caused to be prepared, in accordance with law, specifications, plans, and other contract documents for the work herein described and has approved and adopted said documents, and has caused to be published, in the manner and for the time required by law, an advertisement for and in connection with the construction of the improvements, complete, in accordance with the contract documents and the said plans and specifications; and

WHEREAS, the Contractor, in response to such advertisement, has submitted to the Owner, in the manner and at the time specified, a sealed bid in accordance with the terms of said advertisement;

WHEREAS, the Owner, in the manner prescribed by law, has publicly opened, examined and canvassed the bids submitted in response to the published advertisement therefor, and as a result of such canvass has determined and declared the aforesaid Contractor to be the lowest responsive and responsible Bidder for the said work and has duly awarded to the said Contractor a contract therefor, for the sum or sums named in the Contractor's bid, a copy thereof being attached to and made a part of this contract.

NOW, THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreements herein contained, the Parties to these presents have agreed and hereby agree, the Owner for itself and its successors, and the Contractor for its, his, or their executors and administrators, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services and facilities; (b) furnish all materials, supplies and equipment specified and required to be incorporated in and form a permanent part of the completed work except the items specified to be furnished by the Owner; (c) provide and perform all necessary labor; and (d) in a good, substantial, and workmanlike manner and in accordance with the provisions of the General Conditions and Supplementary Conditions of this contract which are attached hereto and make a part hereof, and in conformance with the contract plans and specifications designated and identified therein, execute, construct, and complete all work included in and covered by the Owner's official award of this contract to the said Contractor, such award being based on the acceptance by the Owner of the Contractor's bid for the construction of the improvements.

It is further stipulated that not less than the prevailing rate of wages as found by the Department of Labor and Industrial Relations of the State of Missouri or determined by the courts of appeal shall be paid to all workmen performing work under this Contract.

ARTICLE II. That the Contractor shall construct, complete as designated and described in the foregoing Bid Form and attached specifications and in accordance with the Advertisement for Bids, Instructions to Bidders, Bid Form, Bonds, General Conditions, Supplementary Conditions, detailed specifications, plans, addenda, and other component parts of the contract documents hereto attached, all of which documents form the contract and are fully a part hereto as if repeated verbatim here.

ARTICLE III. That the Owner shall pay to the Contractor for the performance of the work described as follows:

Nichols Overlay 2018

and the Contractor will accept as full compensation thereof, the sum (subject to adjustment as provided by the contract) of **One hundred five thousand dollars and zero cents (\$105,000.00)** for all work covered by and included in the contract award and designated in the foregoing Article I. Payment therefor shall be made in the manner provided in the General Conditions and Supplementary Conditions attached hereto.

ARTICLE IV. That the Contractor shall begin assembly of materials and equipment within fifteen (15) days after receipt from the Owner of executed copies of the contract and that the Contractor shall complete said work within Thirty (30) consecutive calendar days from the thirtieth day after the Effective Date of the agreement, or if a Notice to Proceed is given, from the date indicated in the Notice to Proceed.

Owner and Contractor recognize time is of the essence of this agreement and that Owner will suffer financial loss if the work is not completed within the time specified above, plus any extensions thereof allowed in allowance with Article 11 of the General Conditions. Owner and Contractor agree that as liquidated damages for delay, but not as a penalty, Contractor shall pay Owner Five Hundred dollars (\$ 500.00) for each and every calendar day of each section that expires following the time specified above for completion of the work.

ARTICLE V. This Agreement will not be binding and effective until signed by the Owner.

IN WITNESS WHEREOF, the Parties hereto have executed this contract as of the day and year first above written.

SIGNATURE:

ATTEST:

Owner, Party of the First Part

City Clerk

By _____
Name and Title

(SEAL)

LICENSE or CERTIFICATE NUMBER, if applicable _____

SIGNATURE OF CONTRACTOR:

IF AN INDIVIDUAL OR PARTNERSHIP

Contractor, Party of the Second Part

By _____
Name and Title

IF A CORPORATION

ATTEST:

Contractor, Party of the Second Part

Secretary

By _____
Name and Title

(CORPORATE SEAL)

STATE OF _____

COUNTY OF _____

On This _____ day of _____, 20____, before me appeared _____
to me personally known who, being by me duly sworn, did say that he/she is the _____ of
Capital Paving & Construction, LLC and acknowledged to me that he/she executed said instrument in behalf of said
Limited Liability Company and acknowledged to me that he/she executed the same for the purposes therein stated.

(SEAL)

My commission Expires: _____

Notary Public Within and For Said County and State

BID TABULATION
City of Osage Beach
Nichols Overlay 2018
Osage Beach Project # OB18-014

7/3/2018

Bids			Engineer Estimate		Capital Paving Jefferson City, MO		Higgins Asphalt Paving Co. Inc Tipton, MO		R C Contracting, LLC Rocky Mount, MO 65072	
Item No.	Description	Est. Quantity Unit	Unit Price	Extension Figure	Unit Price	Extension Figure	Unit Price	Extension Figure	Unit Price	Extension Figure
1	Mobilization	1 LS	\$8,000.00	\$ 8,000.00	\$4,039.00	\$ 4,039.00	\$1,200.00	\$ 1,200.00	\$10,000.00	\$ 10,000.00
2	Traffic Control	1 LS	\$10,000.00	\$ 10,000.00	\$3,000.00	\$ 3,000.00	\$1,000.00	\$ 1,000.00	\$10,000.00	\$ 10,000.00
3	Remove & Replace Subgrade	70 CY	\$70.00	\$ 4,900.00	\$120.00	\$ 8,400.00	\$125.00	\$ 8,750.00	\$80.00	\$ 5,600.00
4	Bituminous Stabilized Base	35 Ton	\$80.00	\$ 2,800.00	\$87.60	\$ 3,066.00	\$141.00	\$ 4,935.00	\$148.50	\$ 5,197.50
5	2" Bituminous Concrete Pavement	900 Ton	\$88.00	\$ 79,200.00	\$81.60	\$ 73,440.00	\$85.50	\$ 76,950.00	\$85.00	\$ 76,500.00
6	Asphalt Overlay Fabric	1,100 SY	\$20.00	\$ 22,000.00	\$4.00	\$ 4,400.00	\$4.10	\$ 4,510.00	\$5.00	\$ 5,500.00
7	Cold Milling Bituminous Pavement	425 SY	\$5.00	\$ 2,125.00	\$8.60	\$ 3,655.00	\$7.70	\$ 3,272.50	\$15.00	\$ 6,375.00
8	Force Account	1 LS	\$5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00
Total Bid			\$ 134,025.00		\$ 105,000.00		\$ 105,617.50		\$ 124,172.50	

City of Osage Beach**Agenda Item Summary**Date of Board of Aldermen Meeting: 07/19/18Originator: *(Name/Title)* Cynthia Lambert, City ClerkDate Submitted: 07/09/18**Agenda Item Title:**

18-37. An ordinance of the City of Osage Beach, Missouri, deleting 405.370(B)(1)(b) Zoning Regulations, Signs, Sign Regulations, Permitted Signs.

Presented by: *(Name/Title)* Cynthia Lambert, City Clerk**Requested Action:**

☐	Motion to Approve
☒	First Reading of Bill # <u>18-37</u>
☐	Second Reading of Bill # _____
☐	Resolution # _____

☐	Proclamation
☐	Public Hearing
☐	Other (Describe) _____

Ordinance Reference for Action: (i.e. RSMo Section, Ordinance # & Title)

Board of Aldermen approval required per Section 110.230. Ordinances, Resolutions, Etc. – Generally

Deadline for Action: YES ☐ NO ☒

If yes, explain:

Fiscal Impact:Not Applicable ☒Budgeted Item: YES ☐ NO ☐

If no, provide funding source: _____

Budget Line Item/Title: _____

FY____ Budgeted Amount: \$ _____

Expenditures to Date _____: (\$ _____)

Available: \$ _____ 0.00

Requested Amount: \$ _____

Attachments: YES ☐ NO ☒

If yes, list attachments:

Bill 18.37; Court Opinion.

Department Comments and Recommendation:

This Bill was prompted upon review of the City's current sign code.

Chapter 405. Zoning Regulations, Article V. Signs, Section 405.370(B)(1)(b) references a limited time period for an election sign which must then be removed. Such a code section was ruled unconstitutional by *Whitton v. Gladstone*, 54 F.3d 1400 United States Court of Appeals, Eighth Circuit. which held in part that ordinance provisions imposing time limits on political signs, prohibiting external illumination of such signs, and imposing vicarious liability on candidates for ordinance violations, were all invalid as content-based restrictions which were not narrowly tailored to city's aesthetic and traffic safety concerns. That line of thought is only encouraged by the recent U.S Supreme Court case of *Reed v. Town of Gilbert* further promoting the rights of citizens to use sign and requiring a strict analysis of any government action restricting signs as protected free speech under the First Amendment.

City Administrator Comments and Recommendation:

Per City Code 110.230, Bill 18-37 is in correct form as per City Attorney.

This change is to conform with a Federal Court decision. I concur with the recommended change.

BILL NO. 18-37

ORDINANCE NO. 18.37

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, DELETING 405.370(B)(1)(b) ZONING REGULATIONS, SIGNS, SIGN REGULATIONS, PERMITTED SIGNS.

WHEREAS, durational limits on political signs contained in Section 405.370.B.1.b were found to be an invalid content based restriction of free speech in the case of *Whitton v. City of Gladstone, Missouri*, 54 F3d 1400 (8th Cir. 1995), and to bring the City Code into compliance with the current state of the law.

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

Section 1. That Chapter 405.370(B)(1)(b) Sign Regulations – All Zoning Districts, Zoning Regulations, Permitted Signs, Temporary Signs Generally of the Osage Beach Code of Ordinances be and is hereby repealed as follows:

Chapter 405. Zoning Regulations

ARTICLE V. Signs

Section 405.370. Sign Regulations — All Zoning Districts.

- B. *Permitted Signs.* Except as otherwise limited in this Article, the following types of signs are permitted, without a sign permit, in all zoning districts within the City of Osage Beach:

1. Temporary Signs, Generally.

- a. Temporary signs allowed at any time: a) A property owner may place one sign with a sign face no larger than two (2) square feet on the property at any time. b) A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
- ~~b. One temporary sign per 0.25 acre of land may be located on the owner's property for a period of thirty (30) days prior to an election involving candidates for a federal, state or local office that represents the district in which the property is located.~~
- be. "One temporary sign may be located on a property when the owner consents and that property is being offered for sale or lease any time prior to and up to the date of possession by a person purchasing or leasing the property."

cd One temporary sign may be located on the owner's property two days prior two and on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a Residential District on more than two days in a year and the days must be consecutive and may not use this type of sign in any Commercial District for more than 14 days in a year and the days must be consecutive. For purposes of this Section a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward.

de A property owner may place and maintain one temporary sign on the property on July 4.

ef A person exercising the right to place temporary signs on a property as described in this Section must limit the number of signs on the property per 0.25 acre at any one time to 2 plus a sign in the window as allowed in 1 (a).

fg The sign face of any temporary sign, unless otherwise limited in this Section must not be larger than two (2) square feet.

2. Construction signs provided only one (1) such sign of no more than thirty-two (32) square feet may be erected on each street frontage for the duration of such construction activities. Such sign(s) shall be located on the property in which the construction activity is taking place.
3. Official public notices and notices posted by a public authority in accordance with public notice requirements as may be required by law.
4. Business directional signs posted by the City of Osage Beach where a business located on a lake road or other commercial or secondary collector street is not visible upon approaching the intersection, a business directional sign may be erected on public property. Such directional signs shall be constructed by the City and shall be of the type determined by the City. Businesses with existing off-premises advertising within three hundred (300) feet and/or located at the same intersection will not be allowed on the City directional sign until such existing signage is removed. All other directional signage on private property at such intersections shall be considered non-conforming. Businesses who otherwise are complying with all sign ordinances may request that their sign be placed on the business directional sign and a fee of no more than thirty dollars (\$30.00) per month for each space rented on City directional signs shall be charged by the City for the privilege. No such device shall be erected without the approval of the Planning Commission and Board of Aldermen. Business directional signs are provided by the City for the convenience of the City and are subject to removal at any time.

5. Governmental signs for the control or direction of traffic and other public purposes, such as neighborhood watch program signs, historical markers and plaques, or temporary emergency signs.
6. (Reserved)
7. "No Parking" or "No Trespassing" signs which are no larger than two (2) square feet in gross sign area.
8. Single identification signs not exceeding five (5) square feet in gross sign area which are hung below a canopy or awning, provided they allow a clearance of at least seven (7) feet above the sidewalk or other pedestrian way.
9. Painted graphics when located in a non-residential zoning district.
10. Tablets or plaques in building walls denoting names of buildings, names of officers and officials and date of erection when cut into any masonry surface or when constructed of bronze or other similar material.
11. Address numbers.
12. Subdivision or development identification signs. Up to two (2) permanent subdivision or development signs (one (1) on each corner of the entry street) not exceeding fifty (50) square feet in size each, inclusive of any logo, shall be allowed for any planned development, subdivision, multiple-family (apartment) or condominium development with ten (10) or more lots or units, or for any commercial or industrial subdivision, or commercial/industrial planned development with five (5) or more lots. Where the subdivision or development has access on two (2) or more streets, or has more than one (1) entrance on one (1) street, identification signs shall be allowed at each entrance.

Section 2. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 3. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall

continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 4. 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:

READ SECOND TIME:

I hereby certify that Ordinance No.18.37 was duly passed on _____, 2018, the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes:

Nays:

Abstentions:

Absent:

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

Date

Cynthia Lambert, City Clerk

Approved as to form:

Edward B. Rucker, City Attorney

I hereby approve Ordinance No.18.37.

John Olivarri, Mayor

ATTEST:

Cynthia Lambert, City Clerk

54 F.3d 1400
 United States Court of Appeals,
 Eighth Circuit.

Larry WHITTON,
 Appellee/Cross–Appellant,
 v.
 CITY OF GLADSTONE,
 MISSOURI,
 Appellant/Cross–Appellee.

Nos. 94–1286, 94–1287.
 |
 Submitted Nov. 16, 1994.
 |
 Decided May 15, 1995.

Synopsis

Candidate for **political** office brought action challenging constitutionality of city's **sign** ordinance. The United States District Court for the Western District of Missouri, Dean Whipple, J., 832 F.Supp. 1329, held that portion of ordinance was invalid, and cross-appeals were taken. The Court of Appeals, Hansen, Circuit Judge, held that ordinance provisions imposing durational **limits** on **political signs**, prohibiting external illumination of such **signs**, and imposing vicarious liability on candidates for ordinance violations, were all invalid as content-based restrictions which were not narrowly tailored to city's aesthetic and traffic safety concerns.

Affirmed in part and reversed in part.

Fagg, Circuit Judge, dissented and filed opinion.

West Headnotes (6)

[1] Constitutional Law 🔑 Mootness

Political candidate's First Amendment challenge to municipal **sign** ordinance was not rendered moot by election; candidate intended to run again and assist others in doing so, and so case involved issues capable of repetition yet evading review.

2 Cases that cite this headnote

[2] Constitutional Law 🔑 Applicability to governmental or private action; state action

First Amendment is applicable to **political** subdivisions of states. U.S.C.A. Const.Amend. 1.

2 Cases that cite this headnote

[3] **Constitutional Law**
 🔑Content-Neutral Regulations
 or Restrictions

Purported **time**, place, and manner restriction on speech is constitutionally permissible so long as it is justified without reference to content of regulated speech. U.S.C.A. Const.Amend. 1.

5 Cases that cite this headnote

[4] **Constitutional Law**
 🔑Signs
Election Law
 🔑Independent
 communications; express
 advocacy

Municipal ordinance prohibiting commercial or residential owners from placing **political signs** on property more than 30 days prior to election, and requiring **sign** removal within 7 days of election, even if viewpoint-neutral, was content-based restriction which violated free speech right of candidate, in that it was not narrowly tailored to meet city's aesthetic and traffic safety concerns. U.S.C.A. Const.Amend. 1; City of

Gladstone, Mo., **Sign** Code § 25–45.

39 Cases that cite this headnote

[5] **Constitutional Law**
 🔑Signs
Election Law
 🔑Independent
 communications; express
 advocacy

Municipal ordinance prohibiting external illumination of **political signs** in either commercially or residentially zoned areas of city was content-based restriction which violated free speech right of candidate; there was no showing that external illumination of **political signs** created dangers or detracted from aesthetics any differently than other **signs** which were permitted to be externally illuminated. U.S.C.A. Const.Amend. 1; City of Gladstone, Mo., **Sign** Code § 25–46.

11 Cases that cite this headnote

[6] **Constitutional Law**
 🔑Signs

Election Law**Independent**

communications; express
advocacy

Municipal code section holding **political** candidates “prima facie responsible for placement, erection and removal of” their **political signs** was content-based restriction which violated free speech right of candidate, in that it was not narrowly tailored; city could have subjected **political** candidates to prosecution in same manner as other **sign** code violators. **U.S.C.A. Const.Amend. 1**; City of Gladstone, Mo., **Sign** Code § 25–47(B).

10 Cases that cite this headnote

Attorneys and Law Firms

***1401 Linda J. Salfrank**, Kansas City, MO, argued for appellant (**Richard N. Bien**, on brief).

William J. Hatley, Overland Park, KS, argued for appellee.

Before **FAGG**, **WOLLMAN**, and **HANSEN**, Circuit Judges.

Opinion

HANSEN, Circuit Judge.

The City of Gladstone, Missouri, appeals from the district court’s order holding that several provisions of its **sign** code are impermissible restraints on free speech and therefore unconstitutional. Larry Whitton cross-appeals from the district court’s order holding that other related provisions of the **sign** code are constitutional. We affirm in part and reverse in part.

I.

Whitton owns residential and commercial property in Gladstone, Missouri. While running for sheriff of Clay County (within which Gladstone is a city) in 1992, he filed a complaint under **42 U.S.C. § 1983** challenging the constitutional validity of several sections of the Gladstone **Sign** Code that regulate the use of **political signs**. Whitton contended that these provisions of the **sign** code violated his First Amendment right of free speech because they hindered his ability to use his residential and commercial property to run for **political** office. After Whitton filed his complaint, Gladstone repealed its existing **sign** code and enacted a new one in its place.¹ Whitton then filed an amended complaint challenging the constitutionality of the following provisions of the newly enacted **sign**

code regulating **political signs**: (1) section 25–45, which **limits** the placement or erection of **political signs** to 30 days prior to the election to which the **sign** pertains and requires *1402 the removal of those **signs** within 7 days after the election (“durational limitations”);² (2) section 25–46, which prohibits the external illumination of **political signs** (“external illumination prohibition”);³ and (3) section 25–47(B), which holds the candidate, on whose behalf a **political sign** is displayed, *prima facie* responsible for the placement, erection, and removal of those **signs** (“vicarious liability provision”).⁴ Gladstone answered by denying the allegations of Whitton’s complaint.

^[1] The parties made cross-motions for summary judgment. The district court granted, in part, Whitton’s motion for summary judgment, holding that the durational limitations in § 25–45 and the portion of the external illumination prohibition in § 25–46 that applied to commercial property are unconstitutional because they are content-based restrictions that do not survive strict scrutiny. *Whitton v. City of Gladstone, Mo.*, 832 F.Supp. 1329, 1335–37 (W.D.Mo.1993). However, the district court also granted, in part, the City’s motion for summary judgment, ruling that the portion of the external illumination prohibition in § 25–46 that applies to residential property does not regulate on the basis of the content of the speech and is a constitutionally permissible **time**, place, and manner restriction. *Id.* at

1337–38. In a later order in response to Whitton’s motion to alter or amend the judgment, the court held that the vicarious liability provision in § 25–47(B) is also content-neutral and a constitutional **time**, place, and manner regulation. Gladstone appeals from that portion of the district court’s judgment striking down provisions of the **sign** code as unconstitutional. Whitton cross-appeals the district court’s order to the extent that it holds that the remaining challenged provisions of the **sign** code are constitutional.⁵

II.

^[2] The First Amendment’s Free Speech Clause states that “Congress shall make no law ... abridging the freedom of speech....” U.S. Const. amend. I. The First Amendment is applicable to the **political** subdivisions of the states. See *Lovell v. Griffin*, 303 U.S. 444, 450, 58 S.Ct. 666, 668, 82 L.Ed. 949 (1938). “[**S**igns are a form of expression protected by the Free Speech Clause....” *City of Ladue v. Gilleo*, 512 U.S. 43, —, 114 S.Ct. 2038, 2041, 129 L.Ed.2d 36 (1994). However, the Supreme Court recently stated that **signs** “pose distinctive problems that are subject to municipalities’ police powers. Unlike oral speech, **signs** take up space and may obstruct views, distract motorists, displace alternative uses *1403 for land, and pose other problems that legitimately call for regulation.” *Id.* On the other hand, the

Supreme Court has long recognized “that the First Amendment has its fullest and most urgent application to speech uttered during a campaign for **political** office,” *Burson v. Freeman*, 504 U.S. 191, 196–97, 112 S.Ct. 1846, 1850, 119 L.Ed.2d 5 (1992) (internal citations and quotations omitted), and further that “[a] special respect for individual liberty in the home has long been part of our culture and our law; that principle has special resonance when the government seeks to constrain a person’s ability to *speak* there.” *City of Ladue*, 512 U.S. at —, 114 S.Ct. at 2047. See also *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334, —, 115 S.Ct. 1511, 1516–18, 131 L.Ed.2d 426 (1984) (**political** speech “occupies the core of the protection afforded by the First Amendment”).

[3] Therefore, we apply the familiar framework for evaluating the constitutionality of a restriction upon speech, like the **sign** code provisions at issue here. We first “determine whether [the] regulation is content-based or content-neutral, and then, based on the answer to that question, ... apply the proper level of scrutiny.” *City of Ladue*, 512 U.S. at —, 114 S.Ct. at 2047 (O’Connor, J., concurring). See also *Rappa v. New Castle County*, 18 F.3d 1043, 1053 (3d Cir.1994) (“the first step in First Amendment analysis [is] to determine whether a statute is content-neutral or content-based”). Gladstone contends that each challenged provision is a constitutionally permissible **time**, place, and manner restriction. A

purported **time**, place, and manner restriction is constitutionally permissible so long as it is “justified without reference to the content of the regulated speech....” *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293, 104 S.Ct. 3065, 3069, 82 L.Ed.2d 221 (1984). Therefore, our threshold inquiry for each challenged provision of the **sign** code necessarily focuses upon whether the provision at issue is a content-based restriction and then, based upon the resolution of that question, we will apply the appropriate level of scrutiny.

A. *Durational Limitations* (§ 25–45)

Section 25–45 of the **sign** code prohibits a commercial or residential landowner from placing a **political sign** on his property more than 30 days prior to the election to which the **sign** pertains and requires the **sign** to be removed within 7 days of the election. Gladstone contends that § 25–45 does not regulate speech on the basis of its content and is a reasonable **time**, place, and manner restriction because it has significant interests in maintaining the City’s aesthetic beauty and promoting traffic safety, and **political signs** significantly detract from these interests. Whitton maintains that the restriction is content-based because it distinguishes among **signs** based upon their subject matter and it affords commercial speech a greater degree of protection than **political** speech and, further, that the regulation does not pass strict scrutiny because Gladstone’s

interests, while substantial, are not compelling, and less restrictive means exist for achieving Gladstone's concerns. The district court ruled that the durational limitations are content-based regulations because they "favor[] commercial speech over noncommercial speech" and "distinguish[] between permissible and impermissible **signs** on the basis of the **signs**' content." *Whitton*, 832 F.Supp. at 1333. The court further found that the provisions fail to survive strict scrutiny because Gladstone's stated interests are not compelling and the restrictions are not narrowly tailored to enhance traffic safety and preserve the City's aesthetics. *Id.* at 1335.

^[4] We agree with the district court that § 25–45, containing the durational limitations which are applicable only to **political signs**, is a content-based restriction.⁶ The Supreme Court has held that a restriction on speech is content-based when the message conveyed determines whether the speech is subject to *1404 the restriction. See *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, — — —, 113 S.Ct. 1505, 1516–17, 123 L.Ed.2d 99 (1993). In *Cincinnati*, the Supreme Court evaluated the constitutionality of an ordinance which prohibited newsracks distributing commercial handbills but allowed newsracks selling newspapers. *Id.* at — — —, 113 S.Ct. at 1516. The Supreme Court held that "[u]nder the city's newsrack policy, whether any particular newsrack falls within the ban is determined by the content of the

publication resting inside that newsrack. Thus, by any commonsense understanding of the term, the ban in this case is 'content-based.' " *Id.* at — — —, 113 S.Ct. at 1516–17.⁷

Simply stated, § 25–45 is content-based because it makes impermissible distinctions based *solely* on the content or message conveyed by the **sign**. The words on a **sign** define whether it is subject to the durational limitations in § 25–45. For instance, in some residentially-zoned areas of Gladstone, see § 25–28(B)(1), a permanent year around ground **sign** expressing support for a particular sports team would not be subjected to the durational limitations while an identical **sign** made of the same material, with the same dimensions and the same colors, and erected on the same spot advocating a particular candidate for **political** office would be.⁸ In other residentially-zoned areas of Gladstone, see § 25–28(A)(3), a church may erect a permanent ground **sign** indicating upcoming church activities and **times** of services for an unlimited duration while the same **sign** could be posted for a total of only 38 days (30 days before election and seven days after) if it expressed its support for a church member's **political** candidacy. Finally, businesses in Gladstone's commercially-zoned areas may erect **signs** advertising upcoming events as far in advance of the event as they choose while identical **signs** supporting **political** candidates must follow the durational restrictions of § 25–45. See also *Linmark Assoc.*,

Inc. v. Willingboro, 431 U.S. 85, 97 S.Ct. 1614, 52 L.Ed.2d 155 (1977) (invalidating as impermissible content-based restriction township ordinance prohibiting “For Sale” and “Sold” **signs**).

Section 25–45 is also constitutionally suspect because it grants certain forms of commercial speech a greater degree of protection than noncommercial **political** speech, a practice which a plurality of the Supreme Court held to be content-based in *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 101 S.Ct. 2882, 69 L.Ed.2d 800 (1981). The *Metromedia* Court ruled that a San Diego billboard ordinance, which generally prohibited billboards in the city but exempted on-site billboards that identified the owner or occupant of the premises or that advertised goods available on the property, was a content-based regulation because it granted commercial speech a greater degree of protection than noncommercial speech. *Id.* at 513–17, 101 S.Ct. at 2895–97. Here, the **sign** code makes equally impermissible distinctions between commercial speech and noncommercial speech. The **sign** code, for example, permits construction **signs** to be erected 90 days prior to commencement of construction of a project and does not require removal until 10 days *1405 after completion of the project. See Article III, section H. Businesses are allowed to advertise upcoming events as far in advance as they choose. Real estate **signs** are not governed by a durational restriction and may be

displayed under the **sign** code for any length of **time**. Obsolete commercial **signs** are permitted to remain posted for up to 30 days after the discontinuance of the business to which the **sign** pertains. See §§ 25–8 and 25–19. **Political signs**, however, are only permitted to be erected 30 days prior to the election to which they pertain and must be removed within 7 days of the election. Thus, certain forms of commercial speech are treated more favorably than **political** speech, and for that reason as well, § 25–45 is a content-based restriction.⁹ Other courts, applying *Metromedia*, have reached similar results. See, e.g., *Matthews v. Town of Needham*, 764 F.2d 58, 60 (1st Cir.1985) (local bylaw which prohibited **political signs** but allowed “For Sale” **signs**, professional office **signs**, contractors’ advertisements, and **signs** erected for religious causes impermissible content-based restriction); *National Advertising Co. v. Town of Babylon*, 900 F.2d 551, 556–57 (2d Cir.) (applying standard of *Metromedia* plurality in invalidating on First Amendment grounds content-based ordinance favoring commercial speech over noncommercial speech), *cert. denied*, 498 U.S. 852, 111 S.Ct. 146, 112 L.Ed.2d 112 (1990); *Major Media of the Southeast v. City of Raleigh*, 792 F.2d 1269, 1272 (4th Cir.1986) (applying *Metromedia* plurality standard to uphold city signage ordinance because ordinance allowed substitution of noncommercial messages where commercial messages were permitted), *cert. denied*, 479 U.S.

1102, 107 S.Ct. 1334, 94 L.Ed.2d 185 (1987).

Gladstone contends that § 25–45 is content-neutral because the durational limitations apply across-the-board to all **political** candidates, not just candidates from a particular party or espousing a particular viewpoint. However, the argument that a restriction on speech is content-neutral because it is viewpoint-neutral has been repeatedly rejected by the Supreme Court. See *Consolidated Edison v. Public Serv. Comm’n*, 447 U.S. 530, 537, 100 S.Ct. 2326, 2333, 65 L.Ed.2d 319 (1980) (addressing prohibition on utilities from including inserts in monthly electric bills discussing desirability of nuclear power, the Court stated that “[t]he First Amendment’s hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic”). See also *Burson*, 504 U.S. at 196–97, 112 S.Ct. at 1850 (Tennessee statute which prohibited the solicitation of votes and display of campaign material within 100 feet of polling place on election day content-based even though it applied to all **political** speech).

Gladstone also asserts that the Supreme Court announced a new standard for determining whether restrictions on speech are content-based in *Ward v. Rock Against Racism*, 491 U.S. 781, 109 S.Ct. 2746, 105 L.Ed.2d 661 (1989), and that under this standard, § 25–45 is a content-neutral restriction.

In *Ward*, the Supreme Court stated that “[t]he principal inquiry in determining content neutrality, in speech cases generally and in **time**, place, and manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government’s purpose is the controlling consideration.” *Id.* at 791, 109 S.Ct. at 2754 (internal citations omitted). The Court went on to state that “[g]overnment regulation of expressive activity is content neutral so long as it is ‘justified without reference to the content of the regulated speech.’ ” *Id.* (quoting *Clark*, 468 U.S. at 293, 104 S.Ct. at 3069). Gladstone argues that its stated purpose in enacting § 25–45 (and the other **political sign** restrictions) was to promote traffic safety and maintain the City’s aesthetic beauty and *1406 offers § 25–50 of the **sign** code as support.¹⁰ Gladstone argues that under *Ward*, its **political sign** restrictions are constitutionally sound because its stated purpose controls the case, and the stated purpose is “justified without reference to the content of the regulated speech.” *Ward*, 491 U.S. at 791, 109 S.Ct. at 2753 (internal citation omitted).

We reject this argument. We do not read *Ward* to mandate that reviewing courts are required to accept legislative explanations from a governmental entity regarding the purpose(s) for a restriction on speech without further inquiry. *Ward* merely instructs reviewing courts to give controlling

weight to what the court determines is the government's true purpose for enacting it. More importantly, however, the Supreme Court recognized in *City of Cincinnati*, 507 U.S. at —, 113 S.Ct. at 1517, a case decided after *Ward* (and joined by the author of *Ward* without comment), that even when a government supplies a content-neutral justification for the regulation, that justification is not given controlling weight without further inquiry. In response to Cincinnati's argument that its prohibition on the distribution of commercial handbills on public property was a **time**, place, and manner restriction because its purpose was to promote safety and aesthetics, the Court stated:

The argument is unpersuasive because the very basis for the regulation is the difference in content between ordinary newspapers and commercial speech. True, there is no evidence that the city has acted with animus toward the ideas contained within respondents' publications, but just last Term we expressly rejected the argument that discriminatory ... treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas. Regardless of the *mens rea* of the city, it has enacted a sweeping ban on the use of newsracks that distribute 'commercial handbills,' but not 'newspapers.' Under the city's newsrack policy, whether any

particular newsrack falls with the ban is determined by the content of the publication resting inside that newsrack. Thus, by any commonsense understanding of the term, the ban in this case is 'content-based.'

Nor are we persuaded that our statements that the test for whether a regulation is content-based turns on the 'justification' for the regulation compel a different conclusion. We agree with the city that its desire to **limit** the total number of newsracks is 'justified' by its interest in safety and esthetics. The city has not, however, **limited** the number of newsracks; it has **limited** (to zero) the number of newsracks *distributing commercial publications*. As we have explained, there is no justification for that particular regulation other than the city's naked assertion that commercial speech has 'low value.' It is the absence of a neutral justification for its selective ban on newsracks that prevents the city from defending its newsrack policy as content-neutral.

Id. at — – —, 113 S.Ct. at 1516–17 (internal citations and quotations omitted). Our case is conceptually identical to *Cincinnati*. Thus, even if we agree with the City of Gladstone that its restriction is "justified" by its interest in maintaining traffic safety and preserving aesthetic beauty, we still must ask whether the regulation *accomplishes* the stated

purpose in a content-neutral manner. Gladstone has not **limited** the durational period of **signs** generally; it has **limited** the duration of **political signs** of any kind, temporary or permanent, in particular. “Thus, by any commonsense understanding of the term, the [restriction] in this case is ‘content- *1407 based.’ ” *Id.* at ———, 113 S.Ct. at 1516–17.

The First Circuit interpreted *Cincinnati* in a similar manner in its recent opinion in *National Amusements, Inc. v. Town of Dedham*, 43 F.3d 731 (1st Cir.), *cert. denied*, 515 U.S. 1103, 115 S.Ct. 2247, 132 L.Ed.2d 255 (1995). In *Dedham*, a local theater challenged on First Amendment grounds a Dedham ordinance which prohibited certain licensed activities for which a fee of admission is charged (such as concerts, dances, exhibitions, and public shows) from being conducted between the hours of 1:00 a.m. and 6:00 a.m. *Id.* at 734–35. In distinguishing *Cincinnati* from the facts presented, the court observed that “[w]hether Cincinnati’s regulation applied to a particular newsrack was determined by necessary reference to the subject matter of the specific publications contained therein—a telltale harbinger of content-based regulation,” while Dedham’s challenged regulation applied without reference to the content of any speech because the applicability determination rested upon the existence of an admission fee. *Id.* at 738. The court went on to state that the *Cincinnati*:

holding pivots on the conclusion that, though the city’s underlying purpose in enacting the ordinance was proper, the differential treatment of speakers had no relationship to the underlying purpose. Thus, [*Cincinnati*] establishes a much narrower proposition: that, even when a municipality passes an ordinance aimed solely at the secondary effects of protected speech (rather than at speech *per se*), the ordinance may nevertheless be deemed content-based if the municipality differentiates between speakers *for reasons unrelated to the legitimate interests that prompted the regulation*.

Id. (internal citation omitted). Under this standard, the inquiry focused on “whether there are any secondary effects attributable to licensed (commercial) amusements that distinguish them from the unlicensed (noncommercial) amusements that

Dedham has left unregulated.” *Id.* See also *Carey v. Brown*, 447 U.S. 455, 465, 100 S.Ct. 2286, 2292–93, 65 L.Ed.2d 263 (1980) (striking down statute which prohibited picketing generally but exempted labor picketing because “nothing in the content-based labor-nonlabor distinction ha[d] any bearing” on the state’s asserted interest in privacy).

Although Gladstone’s justification for enacting the durational limitations was to curtail the traffic dangers which **political signs** pose and to promote aesthetic beauty, Gladstone has not seen fit to apply such restrictions to *identical signs* displaying nonpolitical messages which present *identical concerns*. Thus, like *Cincinnati*, Gladstone “differentiates between speakers for reasons unrelated to the legitimate interests that prompted the regulation.” *Town of Dedham*, 43 F.3d at 738.

The dissent posits that “the unique nature of election **signs**, including their fragility, brief relevance, and sheer numbers, poses a special threat to the ordinance’s stated neutral goals of promoting aesthetics and traffic safety.” *Infra* at 1412. However, as noted above, a **sign** which stated “Go Royals” would not be subjected to the durational limitations while a **sign** stating “Go Ashcroft” would, even though the **signs** were made of the same material, installed in the same manner, erected on the same spot, posed the same traffic hazards and detracted from the City’s aesthetic

beauty in the same manner. Like the Court in *Cincinnati*, we conclude that despite Gladstone’s laudable asserted purposes for enacting the durational limitations (traffic safety and aesthetic beauty), whether or not a **sign** falls within the limitations imposed by § 25–45 is based solely upon the message conveyed by the **sign**, i.e., is it a “**political**” **sign**, and is therefore a content-based restriction.¹¹

***1408** Because we have concluded that the durational limitations are content-based restrictions, they must be subjected to strict scrutiny. See *Perry Ed. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37, 45, 103 S.Ct. 948, 955, 74 L.Ed.2d 794 (1983). “[I]t is the rare case in which ... a law survives strict scrutiny.” *Burson*, 504 U.S. at 211, 112 S.Ct. at 1857. “With rare exceptions, content discrimination in regulations of the speech of private citizens on private property ... is presumptively impermissible, and this presumption is a very strong one.” *City of Ladue*, 512 U.S. at —, 114 S.Ct. at 2047 (O’Connor, J., concurring). “[C]ontent-based restrictions on **political** speech ‘must be subjected to the most exacting scrutiny.’ ” *Ward*, 491 U.S. at 798 n. 6, 109 S.Ct. at 2758 n. 6 (quoting *Boos*, 485 U.S. at 321, 108 S.Ct. at 1164). “For the State to enforce a content-based exclusion it must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end.” *Perry Ed. Ass’n*, 460 U.S. at 45, 103 S.Ct. at 955. The requirement that a restriction on speech

be narrowly drawn requires the regulation to be the “least restrictive” alternative available. *Ward*, 491 U.S. at 798 n. 6, 109 S.Ct. at 2758 n. 6 (quoting *Boos*, 485 U.S. at 329, 108 S.Ct. at 1168).

As the experienced district judge observed, a municipality’s asserted interests in traffic safety and aesthetics, while significant, have never been held to be compelling. *Whitton*, 832 F.Supp. at 1335. Moreover, the durational restrictions are not narrowly-tailored to achieve their aims. Gladstone argues that it has an interest in promoting traffic safety by reducing the number of **signs** that obstruct motorists’ vision. However, Gladstone already has regulations in place concerning the dimensions of **political signs** (not greater than 2’ x 2’) along with the total amount of square footage of **political** signage (64 feet²) permitted per residential lot which adequately promote this interest. See § 25–45. Gladstone also contends that **political signs** pose unique dangers to passing motorists because their sole purpose is to capture an individual’s attention, and with such distractions come increased dangers in automobile accidents. However, we observe that the first purpose of any **sign** is to capture the attention of passersby¹² and further, Gladstone has not presented sufficient evidence that **political signs** more effectively capture the attention of individuals nor present graver dangers than other **signs** which are allowed to be posted for much longer periods, nor that lot line set back requirements

would not meet the perceived traffic danger.

Gladstone also argues that **political signs** detract from the City’s beauty because the **signs** are usually inexpensively constructed and intended to be temporary in nature and, due to their susceptibility to the elements and vandalism, can leave an unsightly mess if they are posted too long. However, again Gladstone already has in place measures, applicable to all **signs**, which adequately address these issues. See §§ 25–10, 25–12. Gladstone has presented no evidence that enforcement of these existing provisions is insufficient to alleviate its interests in maintaining the City’s aesthetic beauty. We take note of the Supreme Court’s observation in *City of Ladue* “that individual residents themselves have strong incentives to keep their own property values up and to prevent ‘visual clutter’ in their own yards and neighborhoods.... [A] resident’s self interest diminishes the danger of the ‘unlimited’ proliferation of residential **signs** that concerns the *City of Ladue*.” *Id.* at —, 114 S.Ct. at 2047. Finally, Gladstone has not presented sufficient evidence that **political signs** detract from the aesthetics of the City any more than other **signs** permitted to stand for longer periods.

***1409** We agree with the district court’s assessment that “regarding both traffic safety and aesthetics, the city could regulate the construction of the **signs**, amount of signage and the duration of **time** a temporary **political**

sign can remain before the candidate or committee must remove or replace the **sign**,” measures which adequately address the ills sought to be suppressed and are less restrictive means of doing so. *Whitton*, 832 F.Supp. at 1335–36.¹³ Therefore, we conclude that Gladstone’s durational limitations in § 25–45, as applied to both residential and commercial property, are content-based restrictions which fail to satisfy strict scrutiny and are, therefore, unconstitutional restraints on free speech.

B. External Illumination Prohibition (§ 25–46)

Section 25–46 prohibits external illumination of **political signs**. The district court held that the portion of this provision that applies to **signs** in a commercial zone is an impermissible content-based restriction because Gladstone allows businesses to externally illuminate commercial **signs** erected on their commercially-zoned property. *Whitton*, 832 F.Supp. at 1337. However, the district court held that the portion of the provision that applies to residential property is content-neutral and a reasonable **time**, place, and manner restriction because the **sign** code does not permit external illumination of any **sign** on residential property. *Id.* at 1337–38. Gladstone appeals the district court’s decision holding that § 25–46 is unconstitutional as applied to commercial property. Whitton appeals the district court’s decision holding that § 25–46 is

constitutional as applied to residential property.

¹⁵ We agree with the district court that the portion of § 25–46 that applies to commercial property is a content-based restriction which fails to survive strict scrutiny for many of the reasons outlined in the previous section discussing § 25–45 (Part IIA). For example, § 25–17(B) of the **sign** code allows ground **signs** under 30 square feet in area to be externally illuminated.¹⁴ Thus, a 2’ x 2’ permanent ground **sign** may be erected on commercial property and externally illuminated if it advertises an upcoming nonpolitical event; however, the same **sign** could not be externally illuminated if it expresses support for a **political** candidate. Again, the operative distinction is the message conveyed by the **sign**, making the regulation content-based.

We similarly conclude that this provision also fails to pass strict scrutiny. As we noted in Part IIA, while traffic safety and aesthetic beauty are admittedly substantial interests, they are not compelling governmental interests. Further, the restriction is not narrowly drawn to accomplish its purported purpose. Section 25–17(D) of the **sign** code mandates that all illuminated **signs** must be operated in such a manner as not to impose a danger to passing motorists.¹⁵ Moreover, Gladstone has made no showing that external illumination of **political signs** on commercial property creates dangers or detracts from

aesthetic beauty any differently than other **signs** which are permitted to be externally illuminated. Thus, we conclude that the district court committed no error in finding that § 25–46 of the **sign** code is unconstitutional as applied to commercial property.

However, we disagree with the district court’s holding regarding the application of § 25–46 to residential property. The **sign** code permits the erection of some type of ground **sign** in all of the residentially-zoned *1410 areas. See § 25–28(A)–(B). As long as the ground **sign** is less than 30 square feet in size, it may be externally illuminated, see § 25–17(B), *except* that no **political sign** of any kind may be externally illuminated. See § 25–46. Because the message on the **sign** determines whether or not it may be externally illuminated in a residentially-zoned area, we conclude that § 25–46, as applied to residential property, is a content-based restriction. For the same reasons § 25–46 failed to pass strict scrutiny as applied to commercial property, it also does not withstand strict scrutiny when it is applied to residential property.

Therefore, we affirm the district court’s holding that § 25–46 is unconstitutional as applied to commercially-zoned property, and we reverse its holding that § 25–46 is constitutional as applied to residential property.

C. Vicarious Liability Provision (§ 25–47(B))

¹⁶¹ Section 25–47(B) holds **political** candidates “*prima facie* responsible for the placement, erection and removal of” their **political signs**. In response to Whitton’s request to alter or amend the court’s previous judgment, the district court held that § 25–47(B) is a reasonable **time**, place, and manner restriction. Whitton argues that this section is a content-based restriction because only **political** candidates whose **political signs** violate provisions of the **sign** code are subject to the burden-shifting mandated by this section. We agree.

Under the **sign** code, there are no other provisions which hold a party presumptively responsible for code infractions. Thus, a business that erects a **sign** advertising its products or services that is in excess of the square footage allowance is not held *prima facie* responsible for the violation. Similarly, a residential landowner who places a permanent ground **sign** too close to the curb line is not subject to the burden shifting provisions of § 25–47(B). Only a **political** candidate whose **political sign** is in violation of the **sign** code is held vicariously *prima facie* liable for violations. Again, because the particular message on the **sign** dictates whether it is subject to the challenged restriction, it too is a content-based restriction.

Like the provisions examined above, this section cannot withstand the rigors of strict scrutiny. Gladstone has offered

no interests which it seeks to serve or protect through the enactment of this provision. Section 25–50, which outlines the legislative purpose and intent regarding the restrictions peculiar to **political signs**, makes no reference to § 25–47(B). Likewise, the restriction is not narrowly tailored. Gladstone could subject **political** candidates to prosecution in the same manner as other **sign** code violators and has not provided any rationale for the disparate treatment of **political** candidates whose **signs** violate the **sign** code.¹⁶

We conclude that § 25–47(B) is a content-based restriction that does not withstand strict scrutiny. Accordingly, we reverse the district court’s holding that it is a constitutionally permissible **time**, place, and manner restriction.

III.

In ruling as we have today, we are not unsympathetic to Gladstone’s concern for controlling the unrestricted proliferation of **political signs**. However, when the remedy the local government chooses conflicts with the constitutionally-guaranteed right to free speech, and in particular the **political** speech so fundamental to our democracy, such concerns must yield. For the reasons outlined above, we affirm the district court’s judgment that § 25–45 is unconstitutional and that § 25–46 is unconstitutional as applied to

commercial property. We reverse the district court’s judgment that § 25–46 is constitutional *1411 as applied to residential property and that § 25–47(B) is constitutional.¹⁷

FAGG, Circuit Judge, dissenting.

Because the majority concludes Gladstone’s durational limitations on **political** campaign **signs**, i.e., election **signs**, are content based, the majority applies strict scrutiny rather than the more deferential level of scrutiny applicable to content-neutral restrictions. *Supra* at 1408. I believe the durational limitations are content neutral and would thus apply the more deferential standard. See *Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S.Ct. 2746, 2753–54, 105 L.Ed.2d 661 (1989) (content-neutral restrictions on the **time**, place, or manner of protected speech need only be narrowly tailored to serve a significant governmental interest and leave open ample alternative channels for information’s communication). In my view, Gladstone can place reasonable **time** restrictions on the posting of election **signs** without also restricting other yard **signs** because the City found election **signs** pose a special threat to the neutral legislative goals of aesthetics and traffic safety. Analyzed under the deferential standard, I conclude the durational limitations are valid **time**, place, or manner

restrictions. I thus respectfully dissent from Part II(A) of the majority's opinion, *supra* at 1403–09.

Valid **time**, place, or manner restrictions must be content neutral. *Ward*, 491 U.S. at 791, 109 S.Ct. at 2753–54. The main inquiry in deciding content neutrality, especially in **time**, place, or manner cases,

is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government's purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others. Government regulation of expressive activity is content neutral so long as it is “*justified* without reference to the content of the regulated speech.”

Id. (Court's emphasis) (citations omitted) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S.

288, 293, 104 S.Ct. 3065, 3069, 82 L.Ed.2d 221 (1984)). Even when a regulation applies only to a particular category of speech, the regulation may be content neutral if the regulation's justification has nothing to do with that speech, that is, the regulation does not aim to suppress free expression. *Boos v. Barry*, 485 U.S. 312, 320, 108 S.Ct. 1157, 1163, 99 L.Ed.2d 333 (1988).

I believe Gladstone's durational limitations on election **signs** are content neutral because they are “*justified* without reference to the content of the regulated speech.” ” *Ward*, 491 U.S. at 791, 109 S.Ct. at 2753–54 (Court's emphasis) (quoting *Clark*, 468 U.S. at 293, 104 S.Ct. at 3069). The stated purposes of the durational limitations are the promotion of aesthetics and traffic safety. These goals have nothing to do with the content of the election **signs** or with preventing the communication of election messages. See *Boos*, 485 U.S. at 320, 108 S.Ct. at 1163. The goals are unrelated to the suppression of ideas. *Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789, 805, 104 S.Ct. 2118, 2129, 80 L.Ed.2d 772 (1984).

In concluding the limitations are content based, I believe the majority misconstrues *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 113 S.Ct. 1505, 123 L.Ed.2d 99 (1993). *Supra* at 1403–05, 1406–07. In *City of Cincinnati*, the Supreme Court held that although Cincinnati's goal of **limiting** the total number of newsracks

was “justified” by its interest in safety and aesthetics, Cincinnati lacked a neutral justification for its regulation of only a subgroup of newsracks *1412 that distributed commercial publications, rather than all newsracks. 507 U.S. at —, 113 S.Ct. at 1517. In contrast, Gladstone has a neutral justification for placing special restrictions on only election signs as a subgroup of all yard signs, and the limitation enacted by Gladstone applies to the entire subgroup of election signs. Gladstone’s City Council determined that election signs pose risks to citizens and property different in kind from other yard signs. *Supra* at 1406 n. 10. In other words, the unique nature of election signs, including their fragility, brief relevance, and sheer numbers, poses a special threat to the ordinance’s stated neutral goals of promoting aesthetics and traffic safety. The durational limitations are content neutral even though they apply only to election signs because the neutral regulatory goals of aesthetics and traffic safety are particularly associated with election signs. See *Boos*, 485 U.S. at 320, 108 S.Ct. at 1163.

Although my colleagues do not reach the analysis for content-neutral regulations, I believe the durational limitations are valid time, place, or manner restrictions. First, the durational limitation is “ ‘narrowly tailored to serve a significant governmental interest.’ ” *Ward*, 491 U.S. at 796, 109 S.Ct. at 2756 (quoting *Community for Creative Non-Violence*, 468 U.S. at 293, 104 S.Ct. at 3069).

Gladstone has a substantial interest in advancing the goals of aesthetics and traffic safety. See *Taxpayers for Vincent*, 466 U.S. at 805, 807, 104 S.Ct. at 2129, 2130. The 38-day durational limitations are also a narrowly tailored means of achieving these goals. The limitations “need not be the least restrictive or least intrusive means” of serving the City’s goals. *Ward*, 491 U.S. at 798, 109 S.Ct. at 2757. Rather, the limitations are narrowly tailored if the City’s interest “would be achieved less effectively absent the regulation.” *Id.* at 799, 109 S.Ct. at 2758. That is the case here. Second, the durational limitations “leave open ample alternative channels of communication.” *Id.* at 802, 109 S.Ct. at 2760. Outside as well as during the 38-day period when election signs may be posted, candidates can seek and individual property owners can express support in other ways. For example, candidates could distribute handbills, make telephone solicitations, host campaign receptions, give speeches, and run advertisements on the radio, television or in print. Individual property owners could wear campaign buttons, put bumper stickers on their cars, and place signs in the windows of their homes or businesses.

I would reverse the district court’s holding that the durational limitations violate the First Amendment.

All Citations

54 F.3d 1400, 63 USLW 2724, 23
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Footnotes

- 1 The old **sign** code was repealed the evening before a hearing was to be held in the district court on Whitton's request for a temporary restraining order and a preliminary injunction enjoining the enforcement of several provisions of the then-existing **sign** code regulating **political signs**. A new **sign** code was enacted the same evening. At the hearing the following day, the district court allowed Whitton to challenge the provisions of the new **sign** code regulating **political signs**. Whitton's requests for injunctive relief were denied. Further references to the "**sign** code" relate to the new **sign** code.
- 2 Section 25–45 of the **sign** code is entitled "Restriction of **political signs** within zones." Part (A) states that no "[p]olitical signs located in an area zoned for residential use shall ... be placed or erected more than thirty (30) days prior to the election to which such **sign** pertains and such **sign** shall be removed within seven (7) days after such election." Similarly, part (B) states that no "[p]olitical signs located in an area zoned for industrial or commercial use shall ... be placed or erected more than thirty (30) days prior to the election to which such **sign** pertains and such **sign** shall be removed within seven (7) days after such election."
- 3 Section 25–46 is entitled "Illumination of **political signs** by external sources prohibited" and states that "[n]o **political sign** in any area of any zoned use may be lit by external sources with the sole purpose to light said **sign**."
- 4 Section 25–47 is entitled "Responsibility for Removal" and states in pertinent part:
B. The candidate on whose behalf any **political sign** is displayed, the chair person [sic] of any **political** committee [sic] for any such candidate, or the chairperson of any committee supporting or opposing any issue or proposition in any election concerning which a **political sign** is displayed, shall be deemed prima facie responsible for the placement, erection and removal of any such **sign** as required by this Article.
Moreover, § 25–49 outlines the available penalties for violations of those sections of the **sign** code relating to **political signs**. It allows for punishment by a fine not in excess of \$500 or up to 90 days of imprisonment or both for such infractions.
- 5 Although the election for sheriff of Clay County is over, Whitton states that he plans to run for **political** office in the future, as well as assist others in doing so. Thus, this case is not moot because it involves issues which are "capable of repetition, yet evading review." *Moore v. Ogilvie*, 394 U.S. 814, 816, 89 S.Ct. 1493, 1494–95, 23 L.Ed.2d 1 (1969) (quoting *Southern Pac. Terminal Co. v. Interstate Commerce Comm'n*, 219 U.S. 498, 515, 31 S.Ct. 279, 283, 55 L.Ed. 310 (1911)).
- 6 In conducting our analysis of this provision, we make no distinction between the durational limitations as applied to **signs** on residential property (§ 25–45(A)) and **signs** on commercial property (§ 25–45(B)), and we also make no distinction between the preelection 30–day erection limitation versus the postelection 7–day removal requirement because our analysis and the result are the same as to each.
- 7 We do not find the Supreme Court's recent opinion in *Ladue* to be dispositive of the outcome here. In *Ladue*, the Supreme Court addressed a challenge to the constitutionality of a Ladue, Missouri, ordinance which banned all residential **signs** except those falling within ten narrowly-defined exemptions. *City of Ladue*, 512 U.S. at ———, 114 S.Ct. at 2040–41. The Court assumed, for the purposes of deciding the case, that the ordinance was a content-neutral restriction. *Id.* at ———, 114 S.Ct. at 2044. Thus, the Court did not address the first issue which we must decide: whether the restrictions on **political signs** in this case are content-based or content-neutral. Moreover, neither party before this court has argued that *City of Ladue* is dispositive of the issues contained in this case.
- 8 During oral argument, counsel for the City of Gladstone conceded that a **sign** stating "Go Royals" would not be subject to the durational limitations while a **sign** constructed with the same materials and on precisely the same spot stating "Go Ashcroft" would be. Counsel for Gladstone also conceded that a **sign** urging the impeachment of the President of the United States would not fall within the definition of a **political sign** (and thus not subject to the

durational limitations) while a **sign** urging the reelection of the President would be. In fact, in these areas, a permanent ground **sign** with *no* message could be erected and would not be subjected to the durational limitations while the same **sign** advocating a **political** candidate would be.

- 9 Gladstone argues that it favors **political** speech over commercial speech because some commercial **signs** are subject to application and permit requirements while **political signs** are not. However, no permit is required to erect a construction **sign** or real estate **sign** and these **signs** may be posted longer than **political signs** are. Moreover, we are aware of no authority which allows restrictions imposed on commercial speech to offset other restrictions imposed on noncommercial speech, achieving a sort of balance, in order to render the challenged provision content-neutral.
- 10 Section 25–50 is entitled “Legislative Purpose and Intent of **Political Sign** Sections” and purports to outline the Gladstone City Council’s purpose for enacting the provisions of the **sign** code regulating **political signs**. The Council determined that **political signs**, due to their temporary nature, structure, and method of installation, as well as susceptibility to adverse weather conditions, pose risks to citizens and property different in kind from other **signs** permitted under the code. *See* § 25–50(C). The Council also concluded that the unrestricted proliferation of **political signs** would detract from the City’s aesthetic beauty and consequently have an adverse impact on the local economy. *See* § 25–50(E). For these reasons, the Council stated that the interests sought to be served by the restrictions “are sufficiently substantial to justify the content-neutral regulation represented by this section.” *See* § 25–50(F).
- 11 Gladstone also argues that the “secondary effects” doctrine from *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986), is applicable in this case. Gladstone contends that, assuming the durational restriction is content-based, it is justified by Gladstone’s desire to eliminate certain undesirable effects of **political signs**, namely vandalism and maintenance problems, which in turn contribute to aesthetic and safety concerns. However, the Supreme Court addressed a similar argument in *Cincinnati* and held that “[i]n contrast to the speech at issue in *Renton*, there are no secondary effects attributable to respondent publishers’ newsracks that distinguish them from the newsracks Cincinnati permits to remain on its sidewalks.” *City of Cincinnati*, 507 U.S. at —, 113 S.Ct. at 1517. Likewise, here there are no secondary effects attributable to **political signs** which distinguish them from other permitted **signs** under the code which are not subject to the durational limitations, and therefore we decline to apply *Renton* to the present case.
- 12 Indeed § 25–8 of Gladstone’s ordinance defines “**sign**” as “[a]ny medium which is used or intended to be used to attract attention to any subject matter....”
- 13 For instance, Gladstone could require that any **political sign** be posted for a maximum period of 90 days before it is removed or replaced. *See City of Waterloo v. Markham*, 234 Ill.App.3d 744, 175 Ill.Dec. 862, 865, 600 N.E.2d 1320, 1323 (1992) (“Nothing in the ordinance prohibits the defendants from erecting a different temporary **sign** one day after dismantling their first temporary **sign**.”) Whitton concedes that such a measure would be constitutional.
- 14 Section 25–17(B) provides that “[g]round **signs** exceeding thirty feet in area may only be internally illuminated.”
- 15 Section 25–17(D) states that “[a]ll illumination shall be operated in such a manner and at such **times** as not to cause a direct glare of light upon the occupants of neighboring properties or upon drivers of vehicles traveling the public streets.”
- 16 Enforcement of this provision as it is currently drafted could lead to the anomalous result of a **political** candidate being forced to prove his innocence for an infraction of the **sign** code regarding a **sign** which purports to advocate the candidate but was in fact planted by the candidate’s opponent. Along the same lines, a candidate would be *prima facie* responsible for violations of the **sign** code for not only **political signs** he erected, but also for **signs** his supporters erected on his behalf. These results would conflict with our holding in *Video Software Dealers Ass’n v. Webster*, 968 F.2d 684, 690 (8th Cir.1992), wherein we stated that “any statute that chills the exercise of First Amendment rights must contain a knowledge element.”
- 17 We decline to address Gladstone’s argument that Whitton should be denied relief under the “clean hands” doctrine because, as a prior member of the Gladstone City Council (1981–1984, 1987–1990), he helped enact

Whitton v. City of Gladstone, Mo., 54 F.3d 1400 (1995)63 USLW 2724, 23 Media L. Rep. 1910

several of the provisions he is now challenging. However, the record indicates that the durational limitations and the vicarious liability provision were originally enacted in 1978 and the prohibition against external illumination was originally enacted in 1986. Whitton was not on the Council during either period of **time**. We believe that his mere membership on the Council and **limited** participation in making modifications and amendments to the **sign** code during his tenure do not bar him from seeking relief.

End of Document

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City of Osage Beach**Agenda Item Summary**Date of Board of Aldermen Meeting: 07/19/18Originator: *(Name/Title)* Karri Bell, City TreasurerDate Submitted: 07/09/18**Agenda Item Title:**

Bill 18.38 Authorizing the Mayor to execute a service agreement with Commercial Acceptance Company (CAC) for Collection Services.

Presented by: *(Name/Title)* Karri Bell, City Treasurer**Requested Action:**
☐
☒
☐
☐

Motion to Approve

First Reading of Bill # 18.38

Second Reading of Bill # _____

Resolution # _____

☐
☐
☐

Proclamation

Public Hearing

Other (Describe)

Ordinance Reference for Action: (i.e. RSMo Section, Ordinance # & Title)

Board of Aldermen approval required for purchases over \$15,000 per Municipal Code Chapter 135; Article II: Purchasing, Procurement, Transfers, and Sales.

Deadline for Action: YES ☐ NO ☒

If yes, explain:

Fiscal Impact:Not Applicable ☒Budgeted Item: YES ☐ NO ☐

If no, provide funding source: _____

Budget Line Item/Title: _____

FY____ Budgeted Amount: \$ _____

Expenditures to Date _____: (\$ _____)

Available: \$ _____ 0.00

Requested Amount: \$ _____

Attachments: YES ☒ NO ☐

If yes, list attachments:

Bill 18-38; Collection Service Agreement; RFP Analysis; Letter from current collections provider (All-Cal).

Department Comments and Recommendation:

In 2017, the City wrote-off \$99,300 in ambulance accounts and another \$6,000 in miscellaneous accounts, with the vast majority of those accounts going to collections. I believe that after a through review of the proposals and corrections made to the service agreement by the City Attorney that Commercial Acceptance Company will provide a quality and financially beneficial service to the City.

City Administrator Comments and Recommendation:

Per City Code 110.230, Bill 18-38 is in correct form as per City Attorney.

I concur with the City Treasurer's recommendation.

BILL NO. 18-38

ORDINANCE NO. 18.38

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH COMMERCIAL ACCEPTANCE COMPANY FOR COLLECTION SERVICES.

WHEREAS, the Board of Aldermen has determined it is in the best interests of the City to authorize a contract with Commercial Acceptance Company to provide collection services.

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

Section 1. The Board of Aldermen authorizes the Mayor to execute on behalf of the City a contract with Commercial Acceptance Company to provide collection services as indicated on the attached contract ("Exhibit A").

Section 2. Total expenditures or liability authorized under the contract shall be the contingent fees and costs as stipulated in the contract.

Section 3. The City Administrator is hereby authorized to take such further actions as are necessary to carry out the intent of this Ordinance and Contract.

Section 4. This Ordinance shall be in full force and effect from date of passage and approval by the Mayor.

READ FIRST TIME:

READ SECOND TIME:

I hereby certify that the above Ordinance No. 18.38 was duly passed on _____, 2018, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes:

Nays:

Abstentions:

Absent:

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

Date

Cynthia Lambert, City Clerk

Approved as to form:

Edward B. Rucker, City Attorney

I hereby approve Ordinance No. 18.38.

Date

John Olivarri, Mayor

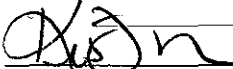
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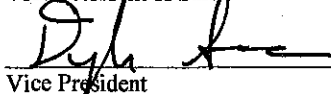
Cynthia Lambert, City Clerk

COLLECTION SERVICE AGREEMENT

1. This agreement is made and entered into by and between Commercial Acceptance Company of Camp Hill Pennsylvania, hereinafter referred to as CAC, and City of Osage Beach, hereinafter referred to as CLIENT.
2. CAC will use its best effort to effect collections of accounts referred to it by the CLIENT. CAC shall not, under any circumstances, use any threats, intimidation, or harassment of a debtor in the collection of accounts or violate any other applicable governmental guidelines.
3. CAC will observe individual rights within the constraints of the Federal Debt Collection Practices and Privacy Act.
4. CAC will remit to the CLIENT by the 20th of the month on all funds collected by it during the preceding month on a net basis. (Gross basis = all monies; net basis = less CAC's commission).
5. CAC will not remit successive gross statements until all previous months' commissions have been paid by the CLIENT.
6. CLIENT agrees to pay CAC a commission of 20% on all first placement accounts.
7. CAC shall maintain company records as they pertain to said accounts, which may be audited by the CLIENT at any time during normal business hours.
8. CAC shall not institute legal proceedings in the name of the CLIENT without express written authorization of the CLIENT.
9. CLIENT agrees to notify CAC immediately of all payments received by CLIENT on accounts placed with CAC for collection. CAC is entitled to full commissions on all monies recovered, whether paid to CAC or CLIENT directly.
10. CLIENT, its agents and employees, shall not be liable for any loss or damage of whatsoever kind or by whomsoever caused, to the person or property of anyone (including CAC) arising out of or resulting from CAC's performance under this agreement. CAC for itself, its heirs, executors, administrators, successors or assigns, hereby agrees to indemnify and hold CLIENT, its agents and employees, harmless from and against all such claims, demands, liabilities, suits or actions (including all reasonable expenses and attorney's fees incurred by or imposed upon CLIENT in connection therewith) for such loss, damage or other casualty.
11. CAC agrees that any information provided by CLIENT on the debtor will be used solely for the purpose of skip tracing and/or to collect the account placed by CLIENT. This information will be held in strictest confidence and used for no other purpose.
12. CLIENT authorizes CAC to endorse negotiable instruments received for payment of accounts. For the CLIENT's protection, all funds collected by CAC on accounts assigned will be deposited daily into trust accounts.
13. This agreement may be canceled by either party, with or without cause, by furnishing written notice to the other party. Upon cancellation of this agreement, CLIENT allows CAC sixty (60) days to work and return all accounts. CAC is not obligated to return any accounts which are currently mailing payments, or are pending 3rd party payment.

COMMERCIAL ACCEPTANCE COMPANY:

 7/10/18
 Vice President of Sales Date

 7/10/18
 Vice President Date

CLIENT:

City of Osage Beach

Representative/Title

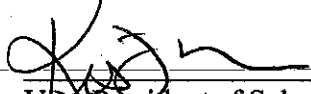
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EARLY OUT COLLECTION PROGRAM

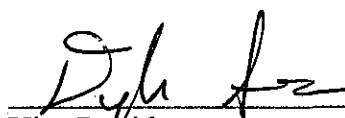
1. CAC will provide early out collection services to the CLIENT at a 10% contingency commission for any accounts placed within sixty (60) days from the date of service.
2. If CAC receives an account after sixty (60) days from the date of service, that account will be subject to the first placement contingency commission rate as outlined in section 6 of the existing Collection Service Agreement.
3. CAC will scrub all accounts for medical assistance until the account is aged six (6) months.
4. CLIENT wishes to have CAC report negative information to Equifax, Experian and Trans Union Credit Bureau regarding accounts that have not paid.
5. CLIENT agrees that information provided to CAC regarding delinquent accounts is true and correct. CAC shall not be liable in any manner whatsoever for any loss or injury to the CLIENT resulting from CAC having reported information that to the best of its knowledge is true and correct.
6. CAC shall not charge the CLIENT for credit bureau reporting, however, CLIENT agrees to allow CAC to continue to work these accounts for so long as the information is listed on the debtor's credit file and the agreement has not been cancelled pursuant to section 13 of the existing Collection Service Agreement.
7. CAC agrees to abide by all of the terms and conditions of the Missouri and Federal "Fair Credit Reporting Act" in the handling and reporting of this information to the credit bureau.
8. This addendum and the rights hereunder shall be in addition to any rights granted to CAC by any other agreement between the parties.
9. This agreement may be canceled by either party, with or without cause, by furnishing written notice to the other party. Upon cancellation of this agreement, CLIENT allows CAC sixty (60) days to work and return all accounts. CAC is not obligated to return any accounts which are currently mailing payments, or are pending 3rd party payment.

COMMERCIAL ACCEPTANCE COMPANY:

CLIENT:

 7/10/18
 Vice President of Sales Date

City of Osage Beach
 Client Name

 7/10/18
 Vice President Date

 Representative/Title Date

01/18

CREDIT BUREAU ADDENDUM TO SERVICE AGREEMENT

1. CLIENT wishes to have CAC report negative information to Experian, Equifax, and Trans Union Credit Bureaus regarding accounts that have not paid.

2. CLIENT agrees that information provided to CAC regarding delinquent accounts is true and correct. CAC shall not be liable in any manner whatsoever for any loss or injury to the CLIENT resulting from CAC having reported information that to the best of its knowledge is true and correct.

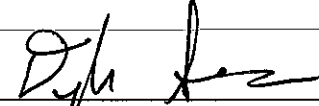
3. CAC shall not charge the CLIENT for this portion of its service; however, CLIENT agrees to allow CAC to continue to work these accounts for so long as the information is listed on the debtor's credit file.

4. CAC agrees to abide by all of the terms and conditions of the "Fair Credit Reporting Act" in the handling and reporting of this information to the credit bureau.

5. This addendum and the rights hereunder shall be in addition to any rights granted to CAC by any other agreement between the parties.

COMMERCIAL ACCEPTANCE COMPANY:

 7/10/18
 Vice President of Sales Date

 7/10/18
 Vice President Date

CLIENT:

City of Osage Beach
 Client Name

 Representative/Title Date

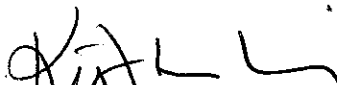
Rev. 1/03

LEGAL ADDENDUM TO SERVICE AGREEMENT

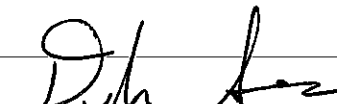
1. CLIENT wishes to have CAC institute legal proceedings on certain accounts that have been placed with CAC for collection.
2. As indicated in article 8 of the Collection Service Agreement between CAC and CLIENT, CAC shall not institute such legal proceedings without express written authorization from CLIENT.
3. CAC shall supply to CLIENT, via U.S. Mail, both a "Request for Judgment" and a "Request for Execution" as necessary for authorization.
4. CAC shall indicate the estimated costs of such proceedings in the "Request for Judgment" and "Request for Execution".
5. Upon replying in the affirmative to the "Request", CLIENT agrees to pay the indicated costs associated therewith, and allows CAC to institute the requested legal action.
6. CLIENT understands that CAC may hire legal counsel at its own discretion to represent CAC and CLIENT in such proceedings.
7. Upon full recovery being obtained on a specific account, CAC shall reimburse CLIENT for all costs previously paid toward that account. The reimbursement of these costs will not be subject to a commission or fee.
8. CLIENT agrees that upon authorizing such legal proceedings CAC will be paid a commission of 45% from any further recovery on that account.

COMMERCIAL ACCEPTANCE CO.

CLIENT:

 7/10/18
 Vice President of Sales Date

City of Osage Beach
 Client Name

 7/10/18
 Vice President Date

Representative/Title Date

Rev 11/09

HIPAA ADDENDUM TO SERVICE AGREEMENT

Business Associate Trading Partner and Chain of Trust

THIS AGREEMENT made on June 21, 2018, between City of Osage Beach, hereafter referred to as "Covered Entity", and Commercial Acceptance Company, hereafter referred to as "Business Associate."

WHEREAS, pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") the Office of the Secretary of the Department of Health and Human Services ("HHS") has issued regulations governing the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") and Standards for Security of Electronic Protected Health Information ("Security Rule"); and

WHEREAS, pursuant to the privacy provisions of the Health Information Technology for Economic and Clinical Health Act ("HITECH") , HHS has revised the Security Rule and Privacy Rule, adopted rules relating to breach notification and modified rules pertaining to HIPAA enforcement; and

WHEREAS, the Privacy Rule and Security Rule provide, among other things, that a Covered Entity is permitted to disclose Protected Health Information to a Business Associate and allow the Business Associate to obtain, transmit, receive, and create Protected Health Information on the Covered Entity's behalf, only if the Covered Entity obtains satisfactory assurance in the form of a written contract, that the Business Associate will appropriately safeguard the Protected Health Information; and

WHEREAS, the Covered Entity and the Business Associate have entered into a Service Agreement pursuant to which the Business Associate creates, maintains, receives, or transmits Protected Health Information on the Covered Entity's behalf and, accordingly, the parties desire to enter into this Agreement which sets forth the terms under which they shall comply with HIPAA rules;

NOW, THEREFORE, in consideration of the agreements contained herein, the Parties do hereby agree to addend all past, present and future contracts between the parties with the terms of this Agreement and agree as follows:

1. Definitions. Terms used but not otherwise defined in this Agreement shall have the same meaning as in 45 CFR 160.103 and 164.501.
 - (a) HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR 160 and 164.

2. General Provisions.

- (a) HIPAA Readiness. Business Associate agrees that it will make commercially reasonable efforts to be compliant with the applicable requirements of the HIPAA Rules and, upon Covered Entity's request, will provide Covered Entity with the written certification of such compliance.
- (b) Changes in Law. Business Associate agrees that it will make commercially reasonable efforts to comply with any change in the HIPAA Rules by the compliance date(s) established for any such

changes and will provide Covered Entity with written certification of such compliance upon Covered Entity's request.

- (c) Audit by Secretary of HHS. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received on behalf of, Covered Entity available to HHS upon request for purposes of determining Covered Entity's compliance with HIPAA.
 - (d) Audit by Covered Entity. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received on behalf of, Covered Entity available to Covered Entity within 14 days of Covered Entity's request for purpose of monitoring Business Associate's compliance with this Agreement.
3. Permitted Uses and Disclosures. Business Associate may use and disclose Protected Health Information ("Information") on behalf of or to provide **Collection Services** to the Covered Entity, provided Business Associate shall not use or further disclose any Protected Health Information received from, or created or received on behalf of, Covered Entity, in a manner that would violate the requirements of the Privacy Rule, if done by Covered Entity.
- (a) Except as otherwise limited in this Agreement, the Business Associate may use Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
 - (b) Business Associate agrees to make uses, disclosures, and requests for Information consistent with Covered Entity's minimum necessary policies and procedures.
 - (c) Except as otherwise limited in the Agreement, the Business Associate may disclose Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (d) Except as otherwise limited in the Agreement, the Business Associate may use Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
 - (e) Business Associate may use Information for payment of health care service accounts, as reasonably necessary to secure payment on such accounts.
-
- (f) Business Associate may use Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).
4. Obligations and Activities of Business Associate. The Business Associate will:
- (a) Use or disclose the Information only as permitted by this Agreement or as required by Law;

- (b) Use appropriate safeguards to prevent any other use or disclosure, and comply with Subpart C of 45 CFR 164 with respect to electronic Information, to prevent use or disclosure of the Information other than as provided for by this Agreement;
- (c) Report to the Covered Entity any use or disclosure of the Information not provided for by this Agreement of which it becomes aware and mitigate to the extent practicable the harmful effect of such use or disclosure in violation of this Agreement;
- (d) Ensure that any agent or subcontractor who may receive such Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions on use and disclosure of information imposed by this Agreement, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2);
- (e) At the request of Covered Entity, provide access to Information in a Designated Record Set to Covered Entity, or as directed by Covered Entity, to an Individual as required by 45 CFR 164.524;
- (f) Amend Information in a Designated Record Set as designated by Covered Entity so that Covered Entity may meet its amendment obligations under 45 CFR 164.526;
- (g) Develop, implement, maintain and use appropriate administrative, technical, and physical safeguards to comply with 45 CFR 164.530(c), to preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of Information transmitted electronically. Business Associate will document and keep safeguards current.
- (h) Accommodate any restriction or use or disclose Protected Health Information and any request for confidential communications to which Covered Entity has agreed or must abide by in accordance with the Privacy Rule.
- (i) Document disclosures of Information in accordance with Covered Entity's accounting requirements in 45 CFR 164.528 and provide such Information as directed by Covered Entity;
- (j) Make available, within fifteen (15) days of receiving a request from Covered Entity, the Information necessary for Covered Entity to make an accounting of Disclosures of Information about an Individual;
- (k) At termination, or upon receipt of written demand, Business Associate will immediately return or destroy all Information received from Covered Entity or creditor or received by Business Associate on behalf of Covered Entity and all copies and magnetic or electronic backups of Information, or if it is feasible to return or destroy Information, protections are extended to such information for so long as Business Associate maintains such Information. This provision also applies to Information in the possession of agents or subcontractors of Business Associate.

5. Obligations of Covered Entity. Covered Entity will:

- (a) Provide Business Associate with Covered Entity's "notices of privacy practices" and all updates that Covered Entity produces in accordance with 45 CFR 164.250, as well as any changes to such notice;

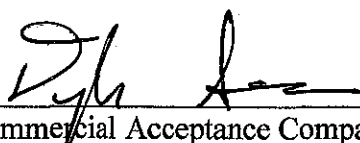
- (b) Notify Business Associate of any limitation(s) in its notice of privacy practices to the extent that such limitation may affect Business Associate's use of disclosure of Information;
 - (c) Notify Business Associate of any restriction, change or revocation of permission by Individual to use or disclose Information if it would affect Business Associate's use and disclosures, in accordance with 45 CFR 164.522.
 - (d) Not request Business Associate to use or disclose Information if not permissible under the Privacy Rule if done by the Covered Entity.
6. Termination. This Agreement is effective until terminated. Pursuant to the terms of 45 CFR 154.504(e)(2)(iii), Covered Entity may give written notice to immediately terminate this Agreement upon discovery of a material breach provided Business Associate has received an opportunity to cure the breach or end the violation and has failed to do so. This Agreement shall terminate upon the termination of the Service Agreement.
- (a) Return of Protected Health Information. At termination of this Agreement or the Service Agreement, whichever occurs first, Business Associate shall return to Covered Entity and require its subcontractors to return to Covered Entity, all Protected Health Information received from, or created or received on behalf of, Covered Entity that Business Associate or such subcontractors maintain in any form and shall retain no copies of such information. If such return is not feasible, based solely on Business Associate's discretion, Business Associate shall, and shall require its subcontractors to, destroy such Protected Health Information if permitted by Business Associate and/or extend the protection of this Agreement to such Protected Health Information retained by Business Associate or subcontractors and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
7. Confidentiality, Trading Partners and Chain of Trust. All Information received or created by Business Associate shall be kept confidential and shall be used only as permitted by this Agreement. This provision applies to employees, subcontractors and agents of Business Associate. If Business Associate conducts in whole or part Standard Transactions for or on behalf of Covered Entity, Business Associate will comply, and will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 CFR Part 162. Business Associate will not enter into, or permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:
- (a) Changes the definition, data condition or use of a data element or segment in a Standard Transaction;
 - (b) Adds any data elements or segments to the maximum defined data set;
 - (c) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or

- (d) Changes the meaning or intent of the Standard Transaction's implementation specification.
8. Indemnity. The parties to this Agreement shall mutually protect, indemnify and hold each other harmless from all claims and damages including attorney's fees, arising from failure of the other party to comply with applicable federal, state and local laws and regulations or the performance of the work and services by that party under this Agreement. This section shall survive termination of this Agreement.
 9. No Third Party Beneficiaries. Business Associate and Covered Entity agree that individuals who are the subject of Protected Health Information are not intended to be third party beneficiaries of this Agreement.
 10. Amendment. This Agreement may not be amended, altered, or modified unless in writing and signed by the parties who agree to amend as necessary to comply with HIPAA and the Privacy Rule.
 11. Parties' Relationship. Nothing in this Agreement shall be construed as creating a Principal/Agency relationship between the Covered Entity and Business Associate.
 12. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with HIPAA Rules.
 13. Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the state of Missouri except to the extent federal law applies without regard to conflicts of law rules. The parties hereby submit to the jurisdiction of the courts located in the State of Missouri including any appellate court thereof.
 14. Headings. The headings and subheadings of this Agreement have been inserted for convenience of reference only and shall not affect the construction of the provisions of the Agreement.
 15. Cooperation. The parties shall agree to cooperate and to comply with procedures mutually agreed upon to facilitate compliance with the HIPAA Rules, including procedures designed to mitigate the harmful effects of any improper use or disclosure of Covered Entity's Protected Health Information.

City of Osage Beach

Title

Date



Commercial Acceptance Company

Vice President

Title

7/10/18

Date

ANALYSIS OF COLLECTION COMPANIES

	ALL-CAL LAKE OZARK, MO	FEDChex RECOVERY IRVINE, CA	COMMERCIAL ACCEPTANCE CAMP HILL, PA	RSH & ASSOC. LENEXA, KS
INCLUDES:				
COMPANY OVERVIEW	YES	YES	YES	YES
CONTRACT/AGREE SAMPLE	YES	YES	YES	YES
CO PROCEDURES	YES	YES	YES	YES
BANK RUPTCIES	BANKO	YES	YES	
CUSTOMER SERVICE	YES	YES	YES	YES
IT SYSTEM REQUIRE	THE STING	YES	YES	YES
SECURITY		YES	YES	YES
REPORT ACCOUNTS				
REMOTE ACCESS	AVAILABLE			
WEB BASED ACCESS	NO	YES	YES	YES
TEST LOGIN INCLUDED	NO			YES
FEE STRUCTURE				
FEEES	25%-33%	18% - 25%	20.0%	24.9%
OVER 1 YEAR OLD		25%-30%		39.9%
LEGAL	50.0%		45.0%	45.0%
UNDER \$200	60.0%			
LEGAL AFTER 120 DAYS		35.0%		
REMIT SCHEDULE	YES	YES	YES	YES
SAMPLE MO REPORTS	YES	YES	YES	YES
REFERENCES	YES	YES	YES	YES
CLIENTS LISTED	YES	YES	YES	
CLIENTS	?	?	600	300
LEGAL ISSUES	?	NO PENDING	NO PENDING	NO PENDING
INSURANCE				
INSUR LIABILITY	1,000,000.00	NOT INCLUDED	100,000.00	100,000.00
INSUR ERRORS	1,000,000.00	NOT INCLUDED	100,000.00	100,000.00
INSUR WORK COMP	1,000,000.00	NOT INCLUDED	100,000.00	
CONTRACT SAMPLE	YES	YES	YES	YES
RENEWAL	YES	YES	YES	YES
TERMINATION	YES	YES	YES	YES
RECOMMEND INVOICE WORDAGE	YES	NO	NO	NO
QUESTIONNAIRE				
HOW LONG BUSINESS	1988	2001	1993	2008
HISTORY	YES	YES	YES	YES
GEO TERRITORIES	YES	NATIONWIDE	YES	YES
BACKGROUND EXPERIENCE	YES	YES	YES	YES
NON GOV CLIENTS IN MO	YES	YES	NO	YES
HOW MANY COLLECTORS	3	15	20	8
METHODS ATTEMPTS	?	YES	YES	YES
SKIP TRACING	YES		YES	YES
HOW LONG PROCESS BEFOREO LEGAL	?	4 MO.	6 MO.	1 YEAR
COMPLAINT HANDLING	?	YES	YES	YES
INVOICE SAMPLES	YES	YES	YES	YES
PAY METHODS	?	YES	YES	YES
EQUAL OPPORTUNITY?	?	N/A	YES	YES
MINORITY OR DISADVANTAGED	?	NO	NO	N/A
LAWSUITS FAIR DEBT PRACTICES	?	NOT CURRENT	NO	NOT CURRENT
BIDDER ID & SIGN.	YES	YES	YES	YES

May 17, 2018

City of Osage Beach
1000 City Parkway
Osage Beach, Mo. 65065

Dear Board of Directors

The Staff at All Cal Collection Services, Inc have enjoyed working with the staff at the City of Osage Beach and it's Billing Service.

We appreciate the opportunity to continue as your Collection Service. Our rates are good and our CPR (Collection percentage ratio) is better than most agencies.

To save the City more money and collect more money for the City we would propose that the City add the recommended wordage to its paper work and have the patient sign and date it , see enclosure.

Let me explain: Now, we can only collect the principal amount assigned plus interest at nine percent (9% per annum) FROM THE DATE OF FILING SUIT. Our attorney fees are not collectable.

With the wordage added and signed we can collect interest from Thirty (30) days from the date of the service rendered at the legal rate of Eighteen percent (18% per annum), plus add collection fees, up to Fifty percent (50%) of the principal amount assigned.

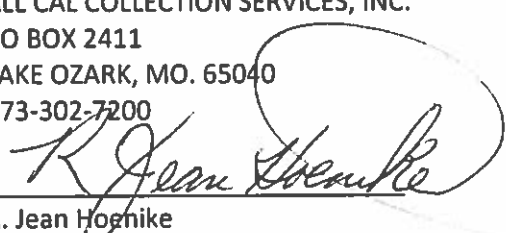
With adding collection fees, the City will get 100 percent of the principal and ACCS will get the collection fees 100%.

I believe we are the right fit for the City of Osage Beach with our health care knowledge, our collection knowledge, our collection software and our creative talent.

We have helped many business's fine tune their AR procedures and hope that we can continue working with the City of Osage Beach.

We Respectfully Submit our Proposal for Collection Services

Sincerely,
ALL CAL COLLECTION SERVICES, INC.
PO BOX 2411
LAKE OZARK, MO. 65040
573-302-7200


R. Jean Hoehnik