

CITY OF LAKE OZARK
A Missouri Municipality of the 4th Class

BILL NO.: 2023-30

ORDINANCE NO.: 2023-30

***AN ORDINANCE APPROVING A COMMUNICATION SERVICES AGREEMENT
WITH THE CITY OF OSAGE BEACH, MISSOURI***

WHEREAS, the City of Lake Ozark presently operates and maintains a communications (dispatch) center as a part of its police department; and,

WHEREAS, the City of Osage Beach also operates and maintains a communications (dispatch) center for its police department and ambulance and fire district; and,

WHEREAS, the two cities have determined it to be in their mutual best interest to consolidate their communications (dispatch) services, where in for a contracted fee from Lake Ozark, Osage Beach will provide communication (dispatch) services for the Lake Ozark's police department in accord with the terms set out in Exhibit 1 attached hereto.

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

Section 1. Adoption and Execution. The Communication Services Agreement attached hereto as Exhibit 1 is hereby adopted and approved. The Mayor or his designated agent is authorized to execute said Communication Services Agreement for and on behalf of the City.

Section 2. Effective Date. This ordinance shall take effect and be in full force immediately after its adoption by the Board of Aldermen of the City of Lake Ozark.

Intentionally Blank Blow This Line


First Reading: July 25, 2023

Second Reading: August 8, 2023

DULY READ AND APPROVED THIS 8th DAY OF JUNE 2023.

Alderman Watts	Aye
Alderman Jackson	Aye
Alderman Thompson	Aye
Alderman Neels	Aye
Alderman Ridgely	Aye
Alderman Denny	Aye

APPROVE:


Dennis Newberry, Mayor

ATTEST:


Kathy Vance, City Clerk



COMMUNICATION SERVICES AGREEMENT

THIS COMMUNICATION SERVICES AGREEMENT (the "Agreement") states the terms and conditions that govern the contractual relationship between the City of Osage Beach, Missouri ("City") and the City of Lake Ozark, Missouri ("**Lake Ozark**"), on the following terms.

WHEREAS, the parties are political subdivisions of the State of Missouri; and

WHEREAS, Lake Ozark is desirous of contracting Osage Beach to provide public safety communication services to Lake Ozark, and Lake Ozark to pay compensation to Osage Beach for said services.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable considerations, the Parties covenant and agree as follows:

I. TERMS

1. **Definitions.** The following terms shall have these defined meanings:

- a. "**Public Safety Communications Services**" or the "**Services**" shall mean and include the receipt of both emergency and non-emergency calls within the geographical boundaries of Lake Ozark, mutual aid requests outside of the geographical boundaries of Lake Ozark and the transmittal of information regarding those emergency and non-emergency calls to Lake Ozark personnel;
- b. "**Police Chief**" shall mean the Police Chief for the referenced city;
- c. "**Communication System**" shall mean the hardware and software needed to operate the Osage Beach Communications Center;
- d. "**Communications Center**" shall mean the Communication System and all personnel employed to operate the Communication System, including but not limited to dispatchers and other support personnel;
- e. "**Dispatch Supervisor**" shall mean the Osage Beach Dispatch Supervisor or such other person designated by the Osage Beach Police Chief to manage the Communications Center.

2. **Osage Beach's Obligations.**

- a. *Services.* Osage Beach shall provide all Public Safety Communications Services for Lake Ozark during the Term of this Agreement.

- b. *Insurance.* Osage Beach shall purchase and maintain insurance which insures the Communications Center and Communications System. Osage Beach shall purchase and maintain such other insurance as it deems necessary in its sole discretion.
- c. *Expenses.* Osage Beach shall endeavor at all times to maintain all equipment, whether owned, leased or otherwise obtained, in good working order and suitable to meet the joint needs of the parties. Osage Beach assumes all responsibility and expense for the providing of necessary equipment, equipment replacement, equipment upgrades, utility costs and other incidental expenses in the Communications Center, not covered elsewhere in this agreement and deemed necessary in the sole judgment of the City for proper operation of the Communication System

3. Lake Ozark's Obligations.

- a. *Payment.* Lake Ozark hereby agrees to pay Osage Beach to provide Public Safety Communications Services through its Communications Center as follows:
 - i. For the remainder of 2023, the sum of \$10,000.00 per month due on the first of every month beginning _____ 1, 2023.
 - ii. For calendar year 2024, the sum of \$120,000.00 due in quarterly installments on January 1, April 1, July 1, and October 1, 2024.
 - iii. For calendar years 2025 and thereafter, Osage Beach will increase the amount due after review of its expenses incurred in providing the Services and notify Lake Ozark no later than October 31 of the preceding year of any increase (which shall be no more than 5% per year).
- b. *Insurance.* Lake Ozark shall purchase and maintain insurance which covers Lake Ozark and its employees' use of the Communications Center and names Osage Beach as an additional insured therefor. Lake Ozark shall purchase and maintain such other insurance as it deems necessary in its sole discretion.
- c. *Lake Ozark System.* Lake Ozark currently operates its own communications system. Lake Ozark shall power down and maintain its system as-is, and Osage Beach shall be permitted to activate and use Lake Ozark's existing system as a backup in case of emergency or other unexpected need.

4. Mutual Obligations.

- a. *Consultation.* The Police Chiefs and Dispatch Supervisor, or their designees, should meet at least monthly to discuss items of mutual concern. Items of

mutual concern should include, but are not limited to the parties' current and future communications needs; changes to policies and procedures of the daily operations of the communication center; equipment upgrades or modifications to better serve the needs of the users; review Lake Ozark's call load and other services rendered pursuant to this Agreement.

- b. *Professionalism.* Each party will exercise the care and skill ordinarily used by members of the subject profession practicing under similar circumstances (as defined by the appropriate licensing authority, professional standards, and/or relevant industry practices). Each party shall treat the other's employees respectfully and will ensure its personnel and any subcontractors will conduct themselves in a thoroughly professional and respectable manner. Each party shall ensure its personnel and any subcontractors comply with the other's policies while on the other party's property. Lake Ozark and its personnel and any subcontractors will comply with all reasonable instructions and requests by the Communications Center, and vice versa. Each party's property and resources are to be used only in ways that are consistent with their lawful intended purpose.
 - c. *Licenses, Permits.* Each party shall be responsible for applying for, obtaining, and maintaining all licenses, permits, and other approvals required for itself, including but not limited to the subject matter of this Agreement.
5. **Term.** The Initial Term of this Agreement shall run from execution through December 31, 2025 (the "**Initial Term**"), unless canceled by either party as set forth below. Lake Ozark shall have the option to extend Term of this Agreement for two consecutive 12-month periods (i.e. calendar years 2026 and 2027) (each a "**Renewal Term**"). This Agreement shall automatically be extended to include the Renewal Term(s) unless Lake Ozark notifies Osage Beach by September 30 of the preceding year of its decision to opt out of the Renewal Term(s).
6. **Employees.** Lake Ozark intends to shut down its current communications center and separate its dispatchers; Lake Ozark shall be solely responsible therefor. Osage Beach hopes to hire Lake Ozark's dispatchers to work in its Communications Center. Once Lake Ozark has disclosed its plans to its employees, Osage Beach shall be permitted to meet with Lake Ozark's dispatchers to interview them for employment. This Agreement shall be contingent upon Osage Beach hiring sufficient dispatchers (whether they be Lake Ozark's former dispatchers or other personnel) to provide the Services herein.
7. **Appropriations.** The continuation of this Agreement is contingent upon annual appropriation of funds by the respective party's Board of Aldermen. In the event a Board of Aldermen shall not budget and appropriate, specifically with respect to this Agreement, on or before January 1, subsequent years of the contract moneys sufficient to make all

payments or provide for services under this Agreement, the Agreement shall terminate as provided herein.

8. **Transition Expense.** Osage Beach shall not be obligated to pay or liable for any cost incurred by Lake Ozark prior to execution of this Agreement. All costs to prepare and transition Public Safety Communication Services from Lake Ozark to Osage Beach shall be borne by the party incurring them.
9. **Assignment or Transfer.** Neither this Agreement, nor any portion thereof, shall be transferred or assigned without formal written approval by the other party.
10. **Discrimination Policy.** The parties do not discriminate on the basis of disability, race or color, national origin, religion, age, or sex in employment or the provision of municipal services. Neither party shall discriminate on any prohibited basis and shall comply with all applicable employment laws.
11. **Laws, Ordinances, and Regulations.** Each party shall conform to all Federal, State, and local regulations, ordinances, and laws applicable to it or the subject matter of this Agreement. Each party shall conform to all changes made to this Agreement as a result of any ordinance, law and/or directive issued by the Federal, State, or local authority having jurisdiction over this Agreement, Lake Ozark, or Osage Beach.
12. **Other Governmental Units.** The parties understand and agree that Osage Beach, in its sole discretion, may provide communication services to other entities including political subdivisions by separate agreements.
13. **Anti-Israel Discrimination.** The parties certify they are not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. See R.S.Mo. § 34.600.
14. **Indemnification.** Lake Ozark shall indemnify, save, and hold harmless Osage Beach, its employees, and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by Lake Ozark or its employees, agents, subcontractors, or assignees arising out of this Agreement.
15. **Sunshine Law.** All material submitted to either party may become public record and will be subject to the Missouri Sunshine Law, R.S.Mo. Chapter 610. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from other materials. Lake Ozark must include justification for the request. Osage Beach's

obligation to comply with the Sunshine Law supersedes any request by Lake Ozark that material be treated as proprietary or confidential.

16. **Termination.** Either party may terminate this Agreement without cause by giving six months' written notice to the other party. Either party may terminate this Agreement for cause upon written notice of any violation of this Agreement if such violation is not cured within 14 calendar days of such notice.

17. **Notices.** All formal notices or other documents required by this Agreement shall be in writing and delivered personally or mailed by certified mail, postage prepaid, addressed to the parties at:

For Osage Beach:

Police Chief

1000 City Parkway

Osage Beach, MO 65065

For Lake Ozark:

Police Chief

3162 Bagnell Dam Blvd.

Lake Ozark, MO 65049

18. **Necessary Documents.** The parties agree to execute and deliver without additional consideration such instruments and documents and to take such further actions as they may reasonably request in order to fulfill the intent of and give effect to this Agreement and the transactions contemplated thereby.

19. **Entire Agreement.** This Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other understandings or agreements between them.

20. **Non-Waiver.** No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein.

21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

22. **Governing Law; Venue for Disputes.** This Agreement was made in the State of Missouri and shall be interpreted under and governed by the laws of the State of Missouri. Any action arising out of this Agreement or its subject matter shall be filed in the Circuit Court for Camden County, Missouri or the Associate Division thereof and the parties hereby consent and agree to the exclusive personal and subject-matter jurisdiction of that Court.

23. **WAIVER OF RIGHT TO JURY TRIAL.** THE PARTIES HEREBY KNOWINGLY, INTENTIONALLY, VOLUNTARILY AND IRREVOCABLY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT OR

TRANSACTION CONTEMPLATED HEREBY OR THEREBY, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY.

24. **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies under or by reason of this Agreement.
25. **Severability.** If any provision in this Agreement shall be found to be void, the other provisions of this Agreement shall survive and remain enforceable.
26. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A facsimile or electronic (such as .PDF) copy of this Agreement or a signature thereto shall have the same force and effect as an original.
27. **Binding Effect.** This Agreement, subject to the above conditions of assignment, shall be binding upon and inure to the benefit of all parties and their respective legal representatives, successors, heirs, and assigns.

III. ACCEPTANCE

THIS AGREEMENT CONTAINS A WAIVER OF THE PARTIES' RIGHTS TO TRIAL BY JURY. THE UNDERSIGNED HEREBY MUTUALLY RELINQUISH AND WAIVE THEIR RIGHT TO TRIAL BY JURY.

CITY:
CITY OF OSAGE BEACH, MISSOURI

LAKE OZARK:
CITY OF LAKE OZARK, MISSOURI

BY: Michael Harmison Date
ITS: Mayor

BY: Dennis Newberry Date
ITS: Mayor

Attest:

Attest:

BY: Tara Berreth Date
ITS: City Clerk

BY: Kathy Vance Date
ITS: City Clerk