

RESOLUTION No. 22/23-12
City of Dayton, Oregon

A Resolution of the City of Dayton Authorizing the Mayor to Sign a Professional Services Agreement with Judge Larry J. Blake, Jr. for Dayton Municipal Court Judicial Services.

WHEREAS, the City of Dayton has a contract with the Yamhill County Sheriff's Office for the provision of police services within the City; and

WHEREAS, Dayton Municipal Court will process appropriate citations issued by the deputy; and

WHEREAS, the services of Larry J. Blake Jr., Attorney, with The Law Offices of Larry J. Blake Jr., LLC, and Municipal Court Judge, are desired for Dayton Municipal Court Judicial Services; and

WHEREAS, a Professional Services Agreement between the City of Dayton and Judge Larry J. Blake, Jr. is required in order for Judge Blake to undertake these duties.

Therefore, the City of Dayton resolves as follows:

- 1) **THAT** the City Council does hereby approve and authorize the Mayor to sign the professional services agreement between the City of Dayton and Judge Larry J. Blake, Jr. for Dayton Municipal Court Judicial Services. A copy of the agreement marked Exhibit A is attached hereto and incorporated herein; and
- 2) **THAT** this resolution shall become effective immediately upon adoption.

ADOPTED this 1st Day of May 2023.

In Favor: Mackin, Sandoval-Perez, Maguire, Marquez, Wildhaber, and Hildebrandt


Opposed: None.

Absent: None.

Abstained: None.



Trini Marquez, Mayor




Date Signed

ATTEST:



Melissa A. York, City Recorder



Date of Enactment

Attachment:

1. Exhibit A – Professional Services Agreement - Judge Larry J. Blake, Jr.

Exhibit A

AGREEMENT FOR MUNICIPAL JUDGE FOR THE CITY OF DAYTON

This AGREEMENT (“Agreement”) is made and entered into May 1, 2023, by and between the CITY OF DAYTON, a Municipal Corporation, hereinafter called “CITY,” and Larry J. Blake, Jr., hereinafter called “JUDGE” both of whom agree as follows:

WITNESSETH

WHEREAS, the City desires to contract for the services of said JUDGE as Municipal Judge of the City; and

WHEREAS, it is the desire of the Dayton City Council to establish certain terms of employment under this Agreement with said JUDGE; and

WHEREAS, JUDGE desires to contract with City as Municipal Judge of City.

SECTION 1. CONTRACT

City hereby contracts with Larry J. Blake, Jr. as the Municipal Judge of CITY to perform the functions and duties specified in City Charter; attached hereto and incorporated by reference herein; and to perform such other legally permissible and proper duties and functions as may from time to time arise in the operation of the Court. This AGREEMENT may be modified in writing when there is agreement by both parties.

SECTION 2. DUTIES

- a. Duties include all normal duties of Municipal Judge acting in the capacity for Municipal Court. These duties include, but are not limited to, having regular arraignments, accepting pleas, conducting bench trials, issuing search or abatement warrants, presiding over jury trials as necessary, issuing orders and opinions, and conducting sentencing. It may be necessary to conduct a jury trial on a separate day from regular court day. The JUDGE also issues warrants, such as bench warrants for criminal non-appearances, search warrants, administrative warrants, and abatement warrants. The JUDGE must be available for telephone calls or video conferences to consider probable cause affidavits and other matters.
- b. JUDGE will perform work in a manner according to professional standards observed by JUDGEs in the municipal court judge profession. JUDGE shall maintain membership in good standing with the Oregon State Bar.
- c. The Municipal Court Clerk assists the JUDGE with paperwork and necessary orders. The JUDGE may review court programs, court fines, court charges, and court procedures. The JUDGE may issue court orders establishing the procedure and amount of fees. The JUDGE will keep the Municipal Court Clerk apprised of changes in the law and procedures. The JUDGE, MUNICIPAL COURT CLERK and CITY PROSECUTOR will meet to review calendars and programs applicable to court operations.

- d. JUDGE shall arrange for pro-tem Judge, who shall sit and hear cases as the JUDGE's designee when the JUDGE is absent due to illness, vacation, or when conflicts arise with other court schedules in his private practice. Any individual hired for such duties shall be members of the Oregon State Bar, and in good standing. Any pro-tem judge shall also be an independent contractor and not an employee of the City and shall, in JUDGE'S absence, provide the same services listed in this AGREEMENT.

- e. The JUDGE will not represent any clients in legal matters where the City is involved including the Yamhill County Sheriff's Department, whether in Municipal Court, Yamhill County Circuit Court, or any other competent jurisdiction.

SECTION 3. CONFLICT OF INTEREST

JUDGE will disclose any actual, apparent, or potential conflict of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. In the event of potential conflict of interest due to a former attorney-client relationship between JUDGE and an accused citizen, the citizen and the City Prosecutor will be given the opportunity to waive the conflict after full disclosure. In the event a former client or the City Prosecutor declines to waive the conflict, a pro-tem Judge will handle the proceedings. A pro-tem Judge will be assigned in the event an apparent or actual conflict of interest is identified and paid for by the CITY.

SECTION 4. JUDGE STATUS/INDEPENDENT CONTRACTOR

Larry J. Blake, Jr. is a Judge and an agent of the City, and as a JUDGE, is responsible for all of JUDGE'S employees, subcontractors, and agents performing portions of this work under this AGREEMENT. Larry J. Blake, Jr. will not be considered an employee of the City of Dayton for the performance of work under this AGREEMENT. JUDGE will not be a participant in, nor be in a qualified position as defined by Oregon PERS nor with the JUDGE be eligible for any other benefits provided for CITY employees.

SECTION 5. COMPENSATION AND REPORTING

Larry J. Blake, Jr. will perform duties at the rate of \$500.00 per month.

Additional court days or night court can be added to the Court schedule. Times, dates, and additional compensation will be negotiated between the JUDGE and the City Manager.

Requests for any monthly compensation adjustments must be made to the City Manager and approved by the City Council between January and March of the given year for budgeting purposes. Any adjustment granted will go into effect at the beginning of the fiscal year (July 1.)

SECTION 6. NOTICES

All notices, bills and payments shall be made in writing and may be given by personal delivery, by mail, or email to the following:

TO: Accountant
City of Dayton
416 Ferry Street
Dayton , OR 97114
Email: dbeveridge@daytonoregon.gov

SECTION 7. COMPLIANCE WITH LAW

- a. Larry J. Blake, Jr. shall comply with all applicable federal, state, and local statutes, ordinances, administrative rules, regulations and other legal requirements in the performance of this AGREEMENT.
- b. Larry J. Blake, Jr. shall not discriminate against any individual because of race, color, religion, sex, age, national origin, physical or mental disability, disabled veteran or veteran status, or any other protected status or activity in violation of state or federal law. Larry J. Blake, Jr. will administer the Court in compliance with City policy and applicable union collective bargaining agreements.
- c. Larry J. Blake, Jr. shall comply with all requirements associated with access to and confidentiality of law enforcement data system records and categories of records protected by law which come before the Court. Larry J. Blake, Jr. shall appropriately direct Court staff and the police department with respect to such matters which come to our attention.
- d. Larry J. Blake, Jr. shall be a contract employee for all federal or state taxes applicable to any compensation or payments paid to Larry J. Blake, Jr. under this AGREEMENT. Larry J. Blake, Jr. is not eligible for any federal Social Security, unemployment insurance, or workers' compensation benefits from compensation or payments paid under this AGREEMENT.

SECTION 8. TERM OF AGREEMENT

This AGREEMENT shall commence on May 1, 2023 and will run continuously for two years. This AGREEMENT will roll over automatically after being reviewed by the City Council.

JUDGE serves at the pleasure of the City Council. Therefore, this AGREEMENT may be terminated effective by the City at any time for convenience or by the JUDGE reason upon sixty (60) days' written notice of the party's intent to terminate. In the event this agreement is terminated, JUDGE shall receive compensation only for Services performed up to the last day of work performed as JUDGE.

SECTION 9. DISPUTE RESOLUTION

Any controversy or claim arising out of or relating to this AGREEMENT, including without limitation, the making, performance, or interpretation of this AGREEMENT or the AGREEMENT documents, shall be attempted to be settled by mediation in good faith prior to any litigation being filed. Any litigation arising under or as a result of this AGREEMENT shall be tried to the court without a jury. Each party agrees to be responsible for payment of its own professional fees, including attorneys' fees.

SECTION 10. INDEMNIFICATION AND INSURANCE

Except for the performance of judicial functions for which the CITY shall indemnify, defend, and hold JUDGE harmless, JUDGE acknowledges responsibility for any and all liability arising out of the performance of this AGREEMENT and shall hold CITY harmless from, indemnify and defend CITY for any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from JUDGE'S acts, omissions, activities or services in the course of performing this AGREEMENT.

JUDGE shall maintain occurrence form commercial general liability and automobile liability insurance for the protection of JUDGE, CITY, its Councilors, officers, agents and employees. Coverage shall include personal injury, bodily injury (including death) and broad form property damage, including loss of use of property, occurring in the course of or in any way related to JUDGE'S operations, in an amount not less than Two Million dollars (\$2,000,000.00) combined single limit per occurrence. Such insurance shall name CITY as an additional insured.

JUDGE shall maintain professional liability insurance as mandated by the Oregon State Bar.

JUDGE is self-employed and is responsible for any claims of workers' compensation that may arise from her self-employment in accordance with Oregon law.

JUDGE shall furnish the CITY certificates evidencing the date, amount, and type of insurance required by this AGREEMENT. All policies will provide for not less than thirty (30) days written notice to the CITY before they may be canceled.

The coverage provided by insurance required under this AGREEMENT shall be primary, and any other insurance carried by CITY shall be excess

SECTION 11. GENERAL PROVISIONS

JUDGE shall maintain the confidentiality, both external and internal, of that confidential information which JUDGE receives in their capacity as JUDGE, to the extent appropriate. This Agreement shall not be interpreted or applied to affect the proper and public sessions of the Court or proper access to judicial proceedings and Court records not under seal.

JUDGE shall not use any data, pictures, or other representations of the CITY in JUDGE'S external advertising, marketing programs, or other promotional efforts except with prior specific written authorization from the CITY.

JUDGE shall furnish to City JUDGE'S employer identification number, as designated by the Internal Revenue Service or JUDGE'S Social Security number.

The AGREEMENT shall be governed by the laws of the State of Oregon. The venue shall be in Yamhill County, Oregon.

Neither CITY nor JUDGE shall assign or transfer their interest or obligation hereunder in this AGREEMENT without the written consent of the others. Except as otherwise provided above, JUDGE must seek and obtain CITY'S written consent before subcontracting any part of the work required of JUDGE under this AGREEMENT. Any assignment, transfer, or subcontract attempted in violation of this subparagraph shall be void.

All work, including but not limited to documents, drawings, papers, computer programs, and photographs, performed or produced by JUDGE under this AGREEMENT shall be the property of CITY. JUDGE shall retain all books, documents, papers, and records that are directly pertinent to this AGREEMENT for at least ten years after CITY makes final payment on this AGREEMENT and all other pending matters are closed.

This AGREEMENT shall not create any rights in, or inure to the benefit of, any party other than the CITY and JUDGE.

The AGREEMENT incorporates, without limitation, standard contract clauses that are required in every public contract in accordance with the Oregon Revised Statutes Chapter 279B and in particular the provisions of ORS 279B.220, 279B.225, 279B.230 and 279B.235. As such, to the extent applicable under State law, these paragraphs apply to this Agreement. This Agreement hereby incorporates by reference any other standard contract clauses required by federal, state, and local laws, ordinances, and regulations.

If any provision of this AGREEMENT is held to be invalid, it will not affect the validity of any other provision. This AGREEMENT will be constructed as if the invalid provision had never been included.

A waiver by a party of any breach by the other shall not be deemed to be a waiver of any subsequent breach.

This AGREEMENT contains the entire contract between the parties and supersedes all prior written or oral discussions or contracts regarding the same subject.

IN WITNESS WHEREOF, the City of Dayton has caused this AGREEMENT to be signed and executed in its behalf by its City Council and duly attested by its City Recorder, and JUDGE has signed and executed the AGREEMENT, both in duplicate, the day and year first above written.

CITY OF DAYTON:

By: *Trini Marquez*
Trini Marquez, Mayor

JUDGE:

By: 

ATTESTED:

By: *Melissa A. York*
Melissa A. York, City Recorder