



Board of Alderman Request for Action

MEETING DATE: 9/6/2022

DEPARTMENT: Administration

AGENDA ITEM: Resolution No. 1116 – Amendment No. 1 to the MOU Agreement with the Smithville Main Street District

REQUESTED BOARD ACTION:

Motion to approve Resolution 1116, authorizing and directing the Mayor to execute Amendment No. 1 to the MOU agreement with the Smithville Main Street District.

SUMMARY:

During the Board of Aldermen Work Session on July 19, 2021, the Board directed staff to allocate funds to support the Smithville Main Street Association. Staff worked with the Main Street Board and membership to develop the contract.

Contractual services to be provided by Main Street include organization and support for all downtown businesses, marketing and tourism promotion, design assistance for downtown guidelines and general economic vitality. All of these items will be completed on an ongoing basis by the Smithville Main Street Association for a total of \$75,000 over a four year time period. The first payment was issued on October 21, 2021 in the amount of \$40,000. The initial contract is for one year and includes three additional automatic annual renewal periods.

On August 2, 2022, The Smithville Main Street Association made their annual presentation to the Board of Aldermen according to the requirements set forth within the previously mentioned agreement. During this presentation, additional funding was requested from the Board of Aldermen. The first request was for \$10,000 for the purpose of a travel and training line item to aid in the several trainings that the Smithville Main Street Director and Board are required to attend. The second request was for funds to aid in the purchase of a Smithville Main Street computer and printer.

The proposed Amendment No. 1 outlines an increase of \$10,000 in support from the City as well as a not to exceed amount of \$2,500 for the reimbursement of costs associated with the purchase of a computer and printer.

PREVIOUS ACTION:

- Expenditure discussed during the July 19, 2021 Board work session, using unfunded balance created by receipt of CARES funds for reimbursement of expenditures in 2020 related to response to COVID-19.
- October 19, 2021 – Approval of Resolution 981, Agreement with the Smithville Main Street Association.

POLICY OBJECTIVE:

FINANCIAL CONSIDERATIONS:

ATTACHMENTS:

- | | |
|--|-----------------------------------|
| <input type="checkbox"/> Ordinance | <input type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Plans |
| <input type="checkbox"/> Staff Report | <input type="checkbox"/> Minutes |
| <input checked="" type="checkbox"/> Other: Agreement Amendment No. 1 | |

RESOLUTION 1116

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO AN AGREEMENT WITH SMITHVILLE MAIN STREET ASSOCIATION

WHEREAS, the City has identified a need for improved services for the downtown area; and

WHEREAS, the Smithville Main Street Association was created to provide marketing and educational support for the revitalization of Downtown Smithville; and

WHEREAS, the Board of Alderman has allocated funds for the Smithville Main Street Association to use for the completion of services; and

WHEREAS, the original agreement was passed and adopted by the Mayor and Board of Aldermen on October 19, 2021; and

WHEREAS, the first amendment outlines the increase of funding for the second year of the agreement for the purposes of travel and training in the amount of \$10,000 and an office equipment reimbursement not to exceed \$2,500; and

WHEREAS, the Smithville Main Street Association is willing to perform services as outlined in the agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE
CITY OF SMITHVILLE, MISSOURI:**

**THE MAYOR IS HEREBY AUTHORIZED AND DIRECTED TO EXECUTE
AMENDMENT NO. 1 TO AN AGREEMENT WITH SMITHVILLE MAIN STREET
ASSOCIATION.**

PASSED AND ADOPTED by the Mayor and Board of Aldermen this 6th day of September, 2022.

Damien Boley, Mayor

ATTEST:

Linda Drummond
City Clerk

SERVICES CONTRACT

THIS AGREEMENT entered into this 19th day of October 2021 by and between the City of Smithville, Missouri, a political subdivision in the State of Missouri (hereinafter referred to as "City") and Smithville Main Street Association a Non- Profit Corporation doing business in Missouri (hereinafter referred to as "SMSA").

WITNESSETH:

WHEREAS, SMSA has received a Grant from Missouri Mainstreet Connection for the purposes of using and integrating its four-point program (Organization, Economic Vitality, Design, and Promotion) into a practical downtown management strategy, by which SMSA will produce fundamental changes in a community's economic base, while preserving its historic commercial buildings and the community's unique heritage. The goal is to create a sustainable organization that functions as the revitalization leader in the community; and

WHEREAS, the City has authority to promote the general economic development of the City and believes that it serves a Public Purpose to use public funds to help revitalize the City's Downtown Area. For the purposes of this Agreement the City's "Downtown Area" shall be deemed to mean the approximate 13 blocks, with the boundaries of 169 Hwy to Heritage Park and from Meadow to Jefferson Hwy; and

WHEREAS, the Smithville Main Street Association was created to provide marketing and educational support for the revitalization of Downtown Smithville; and

WHEREAS, the City, by declaration in its fiscal year budget for 2021-22 did designate a portion of its budget for contracted services in support of downtown Smithville, to promote the general economic welfare of the Downtown Area; and

WHEREAS, the City has determined that it is in the best interests of the City, and important to the promotion of the general economic welfare of the City, to allocate a designated amount to Smithville Main Street Association as compensation of the performance of services pursuant to this agreement; and

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

1. **SCOPE OF WORK**: SMSA will provide the following services ("Services"):
 - a. SMSA Director – work jointly with the City to develop a job description and promote the position and conduct the search process.
 - b. Organization – provide like support and aid for all businesses in the Downtown Area.
 - c. Marketing and Tourism Promotion – develop and update a consistent

- promotion and advertising program for the Downtown Area.
- d. Design – work with the City to help initiate and develop design proposals for façade, signage, lighting, landscapes and the overall aesthetic look of the Downtown Area.
 - e. Economic Vitality – strengthen the existing economic asset of the Downtown Area while diversifying its economic base, including recruiting new businesses, marketing empty space and strengthening the management capabilities of Downtown Area merchants.

2. TERM AND TIME OF PERFORMANCE: The original term of this Agreement shall be from November 1, 2021, to October 31, 2022, and shall automatically renew for three (3) additional one (1) year terms, unless the Agreement is terminated as provided herein. Prior to each renewal, there shall be a review of performance by the City. To facilitate the review, SMSA shall submit a copy of its current budget by October 15 annually and provide a report of all activity to the City. The City shall inform SMSA by November 1 annually of the results of the City review. All compensation for the Services is subject to annual appropriation by the City of Smithville.

3. COMPENSATION AND METHOD OF PAYMENT: The purpose of payment is to act as seed funding to enable SMSA to grow and become self-sufficient. Following the date of signing of this agreement, the City agrees to pay \$40,000 for the first annual payment for “Services” during the fiscal year in a one-time payment. Following years payment will decrease by fifty percent (50%) each year as follows: year one - \$40,000; year two - \$20,000; year three - \$10,000; year four - \$5,000. All compensation for the Services is subject to the provision of Section II above.

4. AUDIT, INSPECTION OF RECORDS AND ANNUAL REVIEW: SMSA shall permit an authorized representative of the City to inspect and audit all data and records of SMSA related to their performance under this Agreement.

5. REQUEST OF EVENTS: SMSA shall submit a list of expected events each year by February 1 for the upcoming year. Additional information required will include the number of attendees expected, permits needed, street closures, and police presence needed.

6. SUBCONTRACT: SMSA and the City hereby agree that this Agreement shall not be assigned, transferred, conveyed, or otherwise disposed of without the prior consent of the other party to the Agreement.

7. REPRESENTATION ON BOARD: It is agreed that SMSA’s Executive Board has been created to oversee the operation of Smithville Main Street Association. A

representative of the City (as appointed by the Board of Aldermen upon nomination from the Mayor) will participate as an ex officio member of the Executive Board.

8. NON-DISCRIMINATION PROVISIONS: SMSA and its subcontractors will not discriminate against any employee or applicant for employment because of race, color, disability, age, religion, sex or national origin. SMSA will ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination on the basis of race, color, or national origin under any programs provided, administered by SMSA (as provided by Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1987).

Every effort will be made to ensure nondiscrimination in all of SMSA 's programs and activities, whether those programs and activities are federally funded or not. When SMSA distributes funds or aid it will include Title VI language in all written agreements and will monitor for compliance.

9. COMPLIANCE WITH THE LAW: All parties shall comply with all applicable federal, state and local laws, ordinances, codes and regulations.

10. INDEPENDENT CONTRACTOR: This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that SMSA will be an independent contractor and not the City's employee for all purposes. SMSA shall retain sole and absolute discretion in the judgment of the manner and means of carrying out its activities and responsibilities hereunder. Further, the City shall not have any ability to dictate the management of SMSA as a Missouri non-profit corporation, nor shall the City have any ownership interest in SMSA.

11. INDEMNIFICATION: SMSA shall indemnify, release, defend, become responsible for and forever hold harmless the City, its officers, agents, employees, elected officials and attorneys, each in their official and individual capacities, subject to the provisions set forth in the Missouri Sovereign Immunity Statute, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities, of any character and from any cause whatsoever arising out of or resulting from any act, error, omission or intentional act of SMSA or its agents, employees or subcontractors, arising out of or in any way connected with the operations expressly authorized herein; provided, however, that SMSA need not save harmless the City from claims, demands, losses and expenses arising out of the sole negligence of the City, its employees or agents.

12. CANCEL, TERMINATION, OR SUSPENSION: This Agreement may be cancelled, terminated, or suspended at any time by written, mutual agreement of all parties, provided all applicable laws and regulations are complied with. The City may

terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to SMSA. If either party is in default of this Agreement, the defaulting party shall be given notice in writing.

In the event of default, the defaulting party shall have thirty (30) calendar days to cure/remedy the default. The defaulting party will be sent the violation by certified mail a Notice Demand to Cure Default explaining the specific nature and extent of the default violation. Said violation or default will be cured or remedied within fifteen (15) working days after receipt of said Notice unless a longer time is agreed upon by both parties in writing. In the case that the default is not cured or remedied within the agreed upon time, the Agreement may be terminated with five (5) days written notice.

13. NOTICE: Any notice required by this contract is deemed to be given if it is mailed by United States certified mail, postage prepaid, and addressed as hereinafter specified.

Notice to the City shall be addressed to:

City Administrator, City of Smithville 107 W Main St. Smithville, MO 64089

Notice to Smithville Main Street Group shall be addressed to:

President, Smithville Main Street Group 107 E Main St. Smithville, MO 64089

14. AMENDMENTS: This Agreement, if necessary, may be modified by mutual agreement of the City of Smithville and SMSA. Changes to be affected by written form and incorporated into this Agreement as an amendment.

15. SEVERABILITY: It is mutually agreed that in case any provision of this Agreement is determined by a court of law to be unconstitutional, illegal, or unenforceable, it is the intention of all parties that the remaining provisions of this Agreement shall remain in full force and effect.

16. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties with respect to its subject matter and any prior agreements, understanding or other matters, whether oral or written are hereby merged into and made a part hereof and are of no further force or affect.

IN WITNESS WHEREOF, the parties have set their hands and seals the date and year first above written. The parties represent that the signatories below have full authority and authorization to sign on behalf of the respective parties.

THE CITY OF SMITHVILLE:

By: _____

Name: _____ Damien Boley, Mayor _____

SMITHVILLE MAIN STREET ASSOCIATION:

By: _____

Title _____

AMENDMENT 1

1. **ADDITIONAL COMPENSATION:** As directed by the Board of Aldermen at the August 2, 2022, work session, the City agrees to increase the second year funding amount by \$10,000 to \$30,000. This additional funding is intended to be used for training and travel of the SMSA Executive Director and SMSA Board Members. The City further agrees to provide reimbursement of costs associated with purchase of a computer and printer for use by SMSA in an amount not to exceed \$2,500.

THE CITY OF SMITHVILLE:

By: _____

Name: Damien Boley, Mayor

SMITHVILLE MAIN STREET ASSOCIATION:

By: _____

Title _____