

Bill No. 4697

Ordinance No. _____

Requested by: Michael Hurlbert

Sponsored by: Council as a Whole

AN ORDINANCE AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE AGREEMENTS WITH CERTAIN MUNICIPALITIES FOR ENFORCEMENT AND PROSECUTION OF VARIOUS CODES ADOPTED BY THE MUNICIPALITIES AND ENFORCED BY THE ST. CHARLES COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

WHEREAS, the St. Charles County Charter, Article II, Section 2.528 provides that the County Council may authorize or enter into contracts with any city or political subdivision or agency thereof for a common service; and

WHEREAS, Section 70.220, Revised Statutes of Missouri (RSMo), as amended, as well as Section 66.010, RSMo, as amended, and Section 479.040, RSMo, as amended, authorize intergovernmental agreements between political subdivisions for the purposes herein set out; and

WHEREAS, the St. Charles County Charter, Article II, Section 2.513 grants legislative power to establish and collect fees for licenses, permits, inspections and services performed by County officers and employees; and

WHEREAS, the St. Charles County Charter, Article X, Section 10.502 authorizes the County on a proportional cost basis to assess charges to recover the costs of delivering services under contracts with municipalities within the County; and

WHEREAS, after establishing a County Municipal Court by Ordinance 07-152 under the authority of Section 2.534 of Article II of the St. Charles County Charter, the County adopted Ordinance 08-089 to amend existing agreements, which had been previously authorized by Ordinance 96-161, and to authorize for future use an amended form agreement with qualifying municipalities to conduct all routine prosecutions of violations of ordinances of the municipalities that have contracted with St. Charles County for enforcing them and prosecuting violations of them in its County Municipal Court; and

WHEREAS, the Department of Community Development has provided various permitting and enforcement activities to jurisdictions that have entered into contracts with the County under the above referenced authorizing ordinances; and

WHEREAS, multiple versions of contracts with different jurisdictions makes enforcement of the contracts challenging, it is necessary to establish one master contract under which a municipality may elect to received services under a set menu of service options which will be provided and enforced consistently for all jurisdictions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The County Executive is hereby authorized to execute the “Agreement Between St. Charles County and the Municipality to Administer and Enforce Various Building and Construction Codes and Business and Occupation Codes Adopted by the Municipality” with municipalities having a population of less than 6,000

according to the most recent decennial census, except when the services to be provided are Private Sewage Disposal/Septic and Blasting, in which case no population limitation applies, (“Agreement”) providing for the following:

- a. the Municipality’s adoption by ordinance of the codes adopted by St. Charles County and codified in the various sections of the Ordinances of St. Charles County, Missouri (“OSCCMo”), along with any amendments to them that St. Charles County may adopt hereafter (collectively herein referred to as “Codes”); and
- b. the County’s administration and enforcement of the Codes and issuance of permits authorized or required by the Codes; and
- c. the County’s assessment of charges and collection of fees to recover costs of services performed in its administration and enforcement of any of the Codes.

Section 2. Each Agreement between the County and any qualifying municipality shall be in substantially the same form as that attached hereto and incorporated herein as **EXHIBIT A**.

Section 3. Further, the County Executive is hereby authorized to execute amendments to Agreements with municipalities if/when municipalities would like to change the level of the services provided by the County.

Section 4. Compliance with all the terms of the Agreements authorized herein, as amended, shall be the responsibility

of the Director of Community Development and the St. Charles County Counselor's Office.

Section 5. This ordinance shall be in full force and effect from and after the date of its passage and approval and any Agreement executed pursuant to this ordinance shall be valid upon its lawful execution by each governmental entity entering into that Agreement as required by Chapter 70 of the Revised Statutes of the State of Missouri.

DATE PASSED

DATE APPROVED BY COUNTY EXECUTIVE

CHAIR OF THE COUNCIL

COUNTY EXECUTIVE

ATTEST:

COUNTY REGISTRAR

EXHIBIT A

**AGREEMENT BETWEEN ST. CHARLES COUNTY AND
THE CITY OF _____, MISSOURI, A MUNICIPALITY,
TO ENFORCE VARIOUS CODES ADOPTED BY THE MUNICIPALITY**

This Agreement made by and between ST. CHARLES COUNTY, MISSOURI, (hereinafter "County") and the CITY OF _____, MISSOURI, a municipal corporation, (hereinafter "Municipality"), each also referred to individually as "Party" and both collectively referred to as "Parties", pursuant to Section 70.220 RSMo., and authorized by Ordinance _____ to provide administration and enforcement of various building and property maintenance codes adopted by the municipality by ordinance (hereinafter, "Agreement"), is subject to the following terms and conditions:

ARTICLE I - GENERAL TERMS

- A. Supersession: This Agreement supersedes all other agreements, if any, between the County and the Municipality entered into prior to the date of this Agreement regarding the same subject matter as this Agreement (hereinafter, collectively "Prior Agreements"). The Prior Agreements between the County and the Municipality shall terminate upon execution of this Agreement.
- B. Municipality's Responsibilities. The Municipality agrees to:
1. Receive the services selected from the list of services shown in **EXHIBIT I**, attached hereto and made part of this Agreement.
 2. Adopt by ordinance all the code sections enacted by St. Charles County, Missouri, Ordinances of St. Charles County, Missouri ("OSCCMo") corresponding to the selected services, all listed in **EXHIBIT I**, attached hereto and made part of this Agreement (hereinafter, "Listed Codes"). The services to be provided by the County shall include, without limitations, enforcement of the County's licensure requirements for all professionals performing any of the services subject to the Listed Codes.
 3. Adopt by ordinance any and all amendments to the Listed Codes enacted by the County (hereinafter "Amendments") within 60 days of receipt of the County's written notification that it has enacted said Amendments. Failure to adopt said Amendments shall be construed as a breach of this Agreement by the Municipality.
 4. Certify a copy of the above-described ordinances adopting Listed Codes and Amendments and send them to:
 - a. County Registrar at 201 N. Second Street, St. Charles, Missouri 63301; and

- b. County's Department of Community Development, Building and Code Enforcement Division at 201 N. Second Street, St. Charles, MO 63301.
5. Forward to the County's department of Community Development for handling any and all complaints received from residents of the Municipality concerning violations of the Listed Codes and Amendments; and
6. Make available any Municipality staff which are deemed, in the sole discretion of the County, to be necessary to assist the County in its code enforcement task under this Agreement, including provide testimony and any other assistance to the prosecution of the code enforcement violations.

C. County's Responsibilities. The County agrees to:

1. Be responsible, through the Division of Building and Code Enforcement of the County's Department of Community Development, for the administration and enforcement of the Listed Codes and Amendments, as well as other special services listed in **EXHIBIT I**, if selected, and all associated functions for, and on behalf of, the Municipality; and
2. Provide the Municipality with written notice of any Amendments the County enacts after the execution of this Agreement, and for as long as the Agreement is in force and effect, within 30 days of the effective date of the specific Amendment; and
3. Prosecute, through the Office of the County Counselor and in the County Municipal Court, all violations of the Listed Codes and Amendments; and
4. Perform, through the County Municipal Court, such duties as required to hear and determine those violations; and
5. Provide the Municipality with the capability to obtain violation status updates through access to the County's web-based permitting and application system.

D. Notices: Any notice required to be given in writing by either Party to the other shall be (i) delivered in person, (ii) sent by reputable express courier or delivery service, (iii) sent by registered or certified mail, postage prepaid, return receipt requested, or (iv) sent by facsimile machine or electronic mail followed by delivery by any of the above methods, addressed as follows:

Notice to County should be sent to:
County Counselor Office
100 N. Third Street
St. Charles, MO 63301
Fax: 6369497541
E-mail: ARoark@sccmo.org

Notice to Municipality should be sent to:

Name, Title
Municipality
Address
Address
Fax:
E-mail:

The notice address may be changed by any Party by giving notice to the other Party under this provision. Notices shall be deemed delivered (a) on the date hand delivery is made, (b) on the next business day following the date that the notice is deposited with an overnight delivery service, (c) on the date that is two (2) calendar days after the notice is deposited in the United States mail by registered or certified mail, or (d) on the date transmission is made by facsimile machine or electronic mail.

ARTICLE II – LIABILITY

- A. Indemnification by Municipality: To the extent allowed or permitted by law, the Municipality shall indemnify, defend and hold harmless the County, its council members, executive, officers, employees, and agents, from and against the loss, cost, claims, demands, damage and/or expense arising out of any demand, claim, suit or judgment for damages to property or injury to or death of persons, and including payment under any workmen's compensation law, or under any plan for employee's disability or death benefit, which may arise out of or be caused in whole or in part by the fault, failure, negligence or alleged negligence of the Municipality, its officers, employees, agents, or servants in performing its obligations under this contract.
- B. Indemnification by County: To the extent allowed or permitted by law, the County shall indemnify, defend and hold harmless the Municipality, its officers, employees, agents, or servants from and against the loss, cost, claims, demands, damage and/or expense arising out of any demand, claim, suit or judgment for damages to property or injury to or death of persons, which may arise out of or be caused in whole or in part by the fault, failure, or negligence of the County, its employees, agents, or servants in performing its obligations under this contract.
- C. Breach: Any of the following events will constitute a breach of this Agreement:
1. The failure by Municipality to pay, when due and payable, any fee, expense or other payment as provided for in this Agreement.
 2. The failure of either Party to perform any other term, condition or covenant of this Agreement which failure has not been corrected within 15 days of the date of written notice of such nonperformance given to it by the other Party.
 3. All instances specifically stated elsewhere in the Agreement to construe a breach

of this Agreement.

- D. Remedies: The Parties agree to the following remedies in the event of any breach, which shall be cumulative and not exclusive:
1. In the event of breach by the Municipality, the County may terminate the Agreement by giving the Municipality written notice no later than 30 days prior to the termination effective date stated in the written notice of termination, and keep the entire amount of the annual payments already made to the County by the Municipality under this Agreement. The County shall continue to perform all functions of the code enforcement services it deems necessary to close out all pending projects.
 2. In the event of breach by the County, the Municipality may terminate the Agreement by giving the County written notice of termination no later than 30 days prior to the termination effective date stated in the written notice of termination, and the County shall reimburse the Municipality a prorated amount of the annual fee prepaid to the County by the Municipality corresponding to the months remaining from date of termination through the end of the contract period, or any subsequent annual renewal.
- E. No Waiver: In no event shall the continued performance of Services under this Agreement by either Party after the occurrence of any event of breach by the other Party, be construed as a waiver of damages for such breach or as a modification of this Agreement. The waiver of one breach under this Agreement by either Party shall not constitute a waiver of subsequent breaches.

ARTICLE III- LIMITATIONS

- A. Assignment Prohibited: Either Party shall not assign, transfer or delegate any interest in this Agreement to anyone. Any attempted assignment shall be void and of no force and effect.
- B. Sole Beneficiary: This Agreement is made for the sole benefit of the Parties hereto and is to be exercised solely by the Parties, subject to, and in conformance with, the rules and regulations St. Charles County has now in force or may hereinafter adopt related to the County's provision of the services under this Agreement to the Municipality. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the County and the Municipality.
- C. Compliance with Applicable Law: The Municipality shall comply with all applicable laws, ordinances, rules, regulations and requirements now in force or which may hereinafter be put into force to ensure it is in full compliance with the provisions of this Agreement for the entire duration of this Agreement. Any ordinance, rule, regulation or requirement the Municipality has now in place or may hereinafter adopt that would be inconsistent or conflict with the terms of this Agreement or with any of the Listed Codes and Amendments, shall be construed a breach of this Agreement by Municipality.

- D. Amendments: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the Municipality and the County.

ARTICLE IV- COMPENSATION

In consideration of the County meeting the obligations of this contract, the Municipality agrees that pursuant to St. Charles County Charter Article X, Section 10.502, the County may collect the following fees and assess the following charges to recover the County's expenses for the services rendered pursuant to this Agreement:

A. Fees to be paid by the Municipality:

1. Code Enforcement and Property Maintenance: The Municipality shall pay an annual fee of one dollar (\$1) for each resident of the Municipality according to the latest decennial census, commencing on January 1, 2020. Such fee shall be payable to St. Charles County within 30 days of the invoice sent to the Municipality by the County, and annually therefrom, for as long as this Agreement is in force and not otherwise terminated; and
2. Building Damage Assessment: The Municipality shall pay ten dollars (\$10) per Initial Assessment inspection and ninety dollars (\$90) per Detailed Assessment inspection, per building damage occurrence.

B. Fees to be paid by Persons:

1. Permit Applications: Permit applicants shall pay all standard permit application fees payable by applicants for permits under the Listed Codes and Amendments, all in the amounts corresponding to the respective services as set forth in Chapter 505, and in Section 635.150, OSCCMo., as amended in the County's sole discretion from time to time and without notice, in force and effect at the time the respective services are rendered.
2. Other Fees: Persons shall pay all standard fees for specific services, such as property abatement, as outlined in the respective sections of the OSCCMo., as amended in the County's sole discretion from time to time and without notice, in force and effect at the time the respective services are rendered.

- C. All court costs to the extent that such costs are distributable to the Municipality or Persons by law.

ARTICLE V-CONTRACT TERM / TERMINATION

- A. Original Contract Period / Automatic Renewals: The original contract period shall commence on the date this Agreement is executed and shall terminate on December 31,

2019. The Agreement will automatically renew every year thereafter, unless terminated by either Party pursuant to this Agreement.

- B. Termination by Notice: This agreement may be terminated by either Party hereto at any time by giving the other Party written notice of termination no later than sixty (60) days before the termination effective date, stated in the notice of termination.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have entered into this Services Agreement on the date last written below.

Executed by the Municipality the _____ day of _____, 2019.

Executed by the County the _____ day of _____, 2019.

MUNICIPALITY

ST. CHARLES COUNTY, MISSOURI

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

ATTEST:

ATTEST:

Signature: _____ Signature: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

CERTIFICATE OF ST. CHARLES COUNTY DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made, each sufficient to meet this obligation.

Director of Finance

Date

EXHIBIT I

The Services to be provided by St. Charles County to the Municipality pursuant to the Agreement to Enforce Various Codes, to which this **Exhibit I** is attached and made part of, are those corresponding to the INITIALS box that is populated by the Municipality’s authorized representative’s initials. If the INITIALS box is left blank or marked in any way other than by municipality’s authorized representative’s initials, the corresponding services shall not be deemed selected.

The fees the County collects from permit applicants for the various code enforcement activities are codified and published in the referenced section, Chapter 505, and in Section 635.150 of the Ordinances of St. Charles County, Missouri (OSCCMo). Chapter 505 OSCCMo and Section 635.150 OSCCMo are subject to amendments by the County without notice.

[*] City of Foristell is ineligible to receive these services from the County in those portions of the City outside of the St. Charles County boundaries.

SERVICES TO BE PROVIDED	FEES	REFERENCED SECTIONS	INITIALS
<p>Building Permitting (Only When Population < 6,000)</p> <p>All aspects of building permitting, review and inspections services for all building types, including burning and other fire prevention-related activities.</p>	<p style="text-align: center;"><u>Payable by Municipality:</u></p> <p style="text-align: center;">NONE</p>	<p style="text-align: center;">OSCCMo 500.100, 500.150, 500.200, 500.220, 500.240, 500.260, 500.280, 500.300, 500.320, 500.400, 500.420, and 500.600</p>	
	<p style="text-align: center;"><u>Payable by Persons:</u></p> <p style="text-align: center;"><i>If/As Applicable and Provided in Chapter 505 OSCCMo. and the Referenced Sections</i></p>		
<p>Private Sewage Disposal / Septic</p> <p>All aspects of building permitting, review and inspections services related to the maintenance, installation, and reconfiguration of private sewage disposal systems (septic).</p>	<p style="text-align: center;"><u>Payable by Municipality:</u></p> <p style="text-align: center;">NONE</p>	<p style="text-align: center;">OSCCMo 500.300</p>	
	<p style="text-align: center;"><u>Payable by Persons:</u></p> <p style="text-align: center;"><i>If/As Applicable and Provided in Chapter 505 OSCCMo and the Referenced Section</i></p>		

<p>Blasting</p> <p>Permit the storage and use of explosives, including the random recording of ground movement and air blast during shots.</p>	<p><u>Payable by Municipality:</u></p> <p>NONE</p>	<p>OSCCMo 635.030, 635.050, 635.060, 635.070, 635.080, 635.090, 635.100, 635.110, 635.120, and 635.130</p>	
<p>Code Enforcement and Property Maintenance [*] (Only When Population < 6,000)</p> <p>Investigate complaints and enforce codes related to the maintenance of property including the prosecution of violators, hold hearings related to these activities, and the abatement of nuisances.</p>	<p><u>Payable by Municipality:</u></p> <p><i>One (1) Dollar per resident as recorded on the last decennial federal census</i></p>	<p>OSCCMo 500.500 500.510, 500.520, 500.530, 500.540, and 500.550</p>	
<p>Building Damage Assessment [*] (Only When Population < 6,000)</p> <p>Perform after flood events, wind events, seismic events, or similar disasters as required for application and reporting to federal programs, such as the National Flood Insurance Program; perform Initial Assessment to identify property affected by the disaster, determine if the property is safe to occupy, and provide an estimated loss value of the structure; perform Detailed Assessments to provide a comprehensive list of repairs required for the structure to be repaired; prepare related reports, and provide data to municipality.</p>	<p><u>Payable by Municipality:</u></p> <p><i>Ten (10) dollars per Initial Assessment inspection and Ninety (90) dollars per Detailed Assessment inspection.</i></p>	<p>St. Charles County Emergency Management Plan – Emergency Support Function 17 (Building Damage Assessment)</p>	
	<p><u>Payable by Persons:</u></p> <p><i>Not Applicable</i></p>		