

City of Arkansas City Board of City Commissioners

Agenda

Special Call Meeting

Tuesday, September 10, 2019 @ 5:30 p.m.

Commission Room, City Hall — 118 W. Central Ave. — Arkansas City, KS

I. Routine Business

1. Roll Call

II. Business

1. Consider a Resolution authorizing the City of Arkansas City to execute a Professional Services Agreement with Larry R. Schwartz. (Voice Vote)

III. Adjournment

RESOLUTION NO. 2019-09-

A RESOLUTION AUTHORIZING THE CITY OF ARKANSAS CITY TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH LARRY R. SCHWARTZ, AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONSUMMATE THE PURPOSES AND INTENTS OF THIS LEGISLATIVE ENACTMENT.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:

SECTION ONE: That the Governing Body of the City of Arkansas City hereby authorizes the City Manager to execute a Professional Services Agreement with Larry R. Schwartz. Such Agreement is attached hereto and incorporated by reference as if fully set forth herein.

SECTION TWO: That the Governing Body of the City of Arkansas City hereby authorizes the City Manager and/or City Clerk take such further and other necessary actions that are required to effectuate the intent and purposes of this Legislative Enactment.

SECTION THREE: This Resolution will be in full force and effect from its date of passage by the City Commission of the City of Arkansas City.

PASSED AND RESOLVED by the Governing Body of the City of Arkansas City on the 10th day of September, 2019.

Jay Warren, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Larry R. Schwartz, City Attorney

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution No. 2019-09-____ of the City of Arkansas City, Kansas adopted by the governing body on September 10, 2019 as the same appears of record in my office.

DATED: _____.

Lesley Shook, City Clerk

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made entered into this ____ day of _____, 2019, by and between:

THE CITY OF ARKANSAS CITY, KANSAS
a Municipal Corporation,
herein referred to as “City”, and

Larry R. Schwartz
herein referred to as “City Attorney”.

PURPOSE: The purpose of this Agreement is to set out the terms and conditions by which the temporary City Attorney shall perform such duties as may be required for the smooth and efficient functioning of the Arkansas City Municipal Court and Municipal operations, and to provide a basis for compensation for such services.

NOW, THEREFORE, THE CITY AND CITY ATTORNEY AGREE AS FOLLOWS:

1. **Appointment.** The City Manager does hereby appoint Larry R. Schwartz as City Attorney and City Prosecutor for the City of Arkansas City, Kansas, on the date first above written. As such, he shall have full authority and responsibility to act on the City’s behalf as required or provided in the City Code, State Statute, or applicable law, or as hereinafter provided.

2. **Duties and Responsibilities.** The City delegates to the City Attorney the duties set out in Kansas statute, Municipal Code, and other duties as may be necessary. With written permission of the City Manager, City Attorney may refer matters to outside counsel for consultation, such as if City Attorney has a conflict in a case, or if the matter requires special knowledge or expertise outside of City Attorney’s experience. In such a case, City shall be responsible for negotiating payment terms and conditions.

3. **Facilities, Staffing.** The City Attorney shall reside within the City limits of the City of Arkansas City. The City Attorney will provide the necessary equipment, and/or reference materials, essential to the operations during all municipal meetings and municipal court, starting upon approval of the agreement.

4. **Compensation.** For the purposes of compensation, the City Attorney shall be considered an independent contractor of whom less than 1,000 hours per year is required. In exchange for the services to be provided, the City Attorney shall be compensated as follows:

- a. **MUNICIPAL COURT PROSECUTOR.** The City shall pay City Attorney \$3,000 per month to perform the services of City Prosecutor regardless of the number of hours actually required to perform all duties, including, but not necessarily limited to the following: try criminal cases and meet with counsel and defendants at Municipal Court; review criminal histories to ensure defendants are properly charged; try appeals of Municipal Court cases to District Court; plan and prepare for criminal cases outside of hours spent at Municipal Court; draft long-form complaints for prosecution in Municipal Court; review police reports and evidence; interview Police officers, witnesses, defendants and their counsel; draft required pleadings, motions and responses to motions; draft and negotiate diversion agreements; and draft required correspondence. City Attorney shall not be required to submit itemized invoices detailing the work performed as Municipal Court Prosecutor.

- b. **CIVIL LEGAL WORK.** The City shall pay City Attorney \$2000 to perform civil legal services, up to 30 hours per month, which shall include: to provide general legal opinions and general counsel to the City Commission, City Manager, City Staff, Advisory Boards, and Strother Field Commission; attend Commission meetings, meetings of advisory boards, Strother Field Commission or other meetings, when so directed. The City Manager has discretion to direct the City Attorney to attend only specific meetings of the Commission and City staff when legal services and opinions are required.

The City Attorney shall also draft legislation for consideration by the City Commission as requested by the majority of the City Commission, City Manager or City Clerk; and to perform other legal duties and assignments as requested or authorized by the City Manager and/or majority of the City Commission, including, but not limited to, review and analysis of case law and statutes; drafting legal memoranda, contracts, and correspondence; telephone conferences and office conferences on city-related matters; and other tasks completed on behalf of the City. City Attorney shall be required to submit itemized invoices detailing the work performed for civil matters. Any hours above 30 per month must be approved in advance by the City Manager, and shall be paid at the rate of \$125 per hour, billed in 1/10 hour increments.

The parties hereto specifically acknowledge that this is a Professional Services Agreement and the relationship is that of an independent contractor and not an employee of the City of Arkansas City.

6. Term. This Agreement shall be initially for ninety (90) days after the date first written above. While it is not anticipated the City Attorney will seek to renew this Agreement, this Agreement may be renewed under the same terms and conditions for successive one (1) month terms upon mutual agreement of the parties. This Agreement may be terminated by

either party upon 30 days written notice to the other party or upon such other terms as may be mutually agreed to by the parties.

7. **Successor City Attorney.** Upon request, the City Attorney shall assist the City in interviewing and selecting a Successor City Attorney, and training said Successor in the policies and procedures of Arkansas City Municipal Court.

8. **Sole Agreement, Severable Provisions.** This Agreement shall constitute the entire Agreement between the City and the Attorney. If any provision or any portion hereof shall be held to be unconstitutional, invalid, or unenforceable by a Court of competent jurisdiction, it shall be severed from this Agreement and the remainder of the Agreement shall remain intact and in force. This Agreement shall be interpreted and governed by the laws of the State of Kansas.

IN WITNESS WHEREOF, the parties to this Agreement have affixed their signatures and bound themselves, their heirs, successors and assigns to the faithful performances of the covenants hereinabove written effective on the date first above written.

September _____, 2019 effective date.

THE CITY OF ARKANSAS CITY, KANSAS

By _____
Nickolaus J. Hernandez, City Manager

CITY ATTORNEY

By _____
Larry R. Schwartz