

Resolution No. 21-03

RESOLUTION OF SOUTH OGDEN CITY APPROVING AND AUTHORIZING ENTERING INTO AN AGREEMENT WITH DEE SMITH FOR CITY PROSECUTOR PROFESSIONAL SERVICES; AUTHORIZING THE CITY MANAGER TO CAUSE TO BE DRAFTED AND TO SIGN THE NECESSARY DOCUMENTS ON BEHALF OF THE CITY TO GIVE EFFECT TO THE INTENT HEREOF; AND, PROVIDING FOR AN EFFECTIVE DATE.

SECTION I - RECITALS

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to regulating the use and operation of municipal property and programs; and,

WHEREAS, the City Council finds that it is necessary to enter into an agreement with Dee Smith for City Prosecutor professional services; and,

WHEREAS, the City Council finds that entering into an agreement Dee Smith for City Prosecutor professional services should be approved and adopted as necessary to the support the activities of South Ogden city; and,

WHEREAS, the City Council finds that City now desires to further those ends by entering into an agreement with Dee Smith for City Prosecutor professional services; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions contemplated,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SOUTH OGDEN AS FOLLOWS:

SECTION II - CONTRACT AUTHORIZED

That The City Manager Is Authorized To Cause To Be Drafted, To Negotiate And To Sign On Behalf Of The City An Agreement With Dee Smith For The Provision Of City Prosecutor Professional Services, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of any and all prior Resolutions, with their specific provisions where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which are in conflict with this Resolution, are, to the extent of such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION V - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 5th day of January 2021, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH,** on this 5th day of January 2021.

SOUTH OGDEN CITY

Russell L. Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

CITY PROSECUTOR SERVICES AGREEMENT

This Agreement is made and entered into this _____ day of December, 2020, by and between South Ogden City (“City”) and Dee Smith (“Attorney”). City and Attorney may be referred to collectively within this Agreement as (“Parties”).

RECITALS

- A. Criminal law functions include the review and analysis of criminal investigations and charges brought by law enforcement, and the prosecution of those charges. Said charges are limited to misdemeanors and infractions of both local and state laws, and are prosecuted in the City justice court.
- B. Said functions also include meeting with individuals who have been charged in order to discuss their charges and the facts and circumstances thereof. These meetings generally take place at arraignments or pretrial conferences. These conferences, as well as trials, are generally conducted every Monday and Wednesday at the South Ogden City Justice Court. The court schedule is maintained by the court and its clerk, and may be changed as circumstances warrant.
- C. Criminal law is a specialized area of the law. Furthermore, the functions and responsibilities of justice courts continue to increase as the state and district courts place more responsibility upon them.
- D. The City is desirous to continue to meet the increasing needs of its citizens by providing efficient and knowledgeable enforcement of the laws of the City and the State of Utah.

THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the Parties agree as follows:

1. **Recitals.** The RECITALS as set forth above are incorporated herein by this reference.
2. **Duties and Obligations.** The City agrees to the assignment of all criminal law functions of the City to Attorney. Said functions shall include, but not be limited to, the following: Reviewing investigations and charges brought by law enforcement within the City and preparing charging documents as necessary; working in cooperation with law enforcement to enforce the laws of South Ogden City and the State of Utah and to timely and efficiently prosecute violations thereof; attending South Ogden City justice court as scheduled by the court to handle all criminal matters before the court; prosecute bench and jury trials; prosecute trials de novo in the district court; perform legal research to support legal decision-making;

work with the court in scheduling trials, hearings, etc. as necessary.

3. **Qualifications.** Attorney agrees that he is authorized to practice law in the State of Utah, and that he is a member in good standing of the Utah State Bar Association. Attorney agrees that he is trained and competent in the pursuit of the obligations and functions set forth herein.
4. **Supervision.** Attorney shall report to the City Manager or designee in the performance of this agreement.
5. **Compensation.** The City agrees to pay to Attorney monthly fee of \$2,500.00 for the performance of the Agreement to be billed to the City on a monthly basis. Attorney agrees to schedule appropriate coverage for Court cases should he be unavailable at no additional cost to the City.
6. **Termination.** This Agreement may be terminated at any time by either party to this Agreement for any reason, and with thirty (30) days written notice.
7. **Term of Agreement.** The Parties agree this Agreement shall be good for a term of five (5) years and may be renewed for an additional two (2) years at the mutual agreement of the Parties.
8. **Amendments.** This contract may be amended in writing by mutual consent of both parties.

DATED this _____ day of December, 2020.

SOUTH OGDEN CITY

By: Russell L. Porter
Its: Mayor

Dee W. Smith

Attorney