

BILL NO. 23-8

ORDINANCE NO. 1196

AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF MEMPHIS, MISSOURI AND Clark County Memorial Shop/ Sam Redding, FOR THE PURPOSES OF PROVIDING THE SERVICE OF OPENING AND CLOSING OF GRAVES AT THE MEMPHIS CEMETERY, OWNED AND OPERATED BY THE CITY OF MEMPHIS, MISSOURI

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF MEMPHIS, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby approves, and the Mayor is hereby authorized to execute, on behalf of the City of Memphis, Missouri, an Agreement in substantially the form of "Exhibit A" attached hereto and incorporated herein by reference, with _____, to serve as an independent contractor for the purpose of providing the service of opening and closing of graves at the cemetery owned and operated by the City of Memphis, Missouri. The City Administrator, City Clerk, and Mayor are further authorized to take such additional action as may be necessary or contemplated pursuant to this Agreement.

Section 2. This Ordinance shall be in full force and effect on and after its passage and approval by the Mayor.

PASSED AFTER HAVING BEEN READ BY TITLE TWO TIMES PRIOR TO PASSAGE BY THE BOARD OF ALDERMEN OF THE CITY OF MEMPHIS, MISSOURI, THIS 7th DAY OF December, 2023.



David M. Ahland, Mayor

ATTEST:



Nicole Beard, City Clerk

EXHIBIT A

AGREEMENT FOR SERVICES

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (the "Agreement") is made and entered into this ____ day of _____, 2023, by and between the CITY OF MEMPHIS, MISSOURI, a municipal corporation ("City"), and _____ ("Contractor").

WHEREAS, the City desires to retain the services of an independent contractor for the purpose of obtaining the opening and closing of graves at the cemetery owned and operated by it; and

WHEREAS, the Contractor has experience and training in such work and has proper equipment to perform the services contracted for herein.

NOW, THEREFORE, in consideration of the terms in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contractor is hereby granted the exclusive right to open and close any and all graves placed within the City's cemetery. Contractor agrees to the following schedule of charges for third parties desiring to contract with Contractor for such services:

- Regular Weekday Charge: \$ _____
- Saturday Charge: \$ _____
- Sunday Charge: \$ _____

2. Contractor understands and agrees that Contractor shall be responsible for collecting all fees from any third party that retains Contractor to open and close a grave in the City's cemetery.

3. The term of this Agreement shall be for a period of one (1) year from January 1, 2024, to December 31, 2024.

4. Contractor agrees to provide all necessary equipment to open and close graves in the City's cemetery and will perform said services in a workmanlike manner.

5. The City shall have no responsibility for any costs or expenses related to the services provided by Contractor pursuant to this Agreement.

6. Contractor shall obtain no rights or interests in any real property located in the City's cemetery, and Contractor acknowledges that it shall be a licensee of the City and by this Agreement only obtains the right to enter the premises at those times reasonably necessary for performing the services described herein and shall obtain no other rights whatsoever to the above-described premises.

7. The Contractor shall be and operate as an independent contractor in the performance of this Agreement. The Contractor shall have complete charge of the personnel engaged in the performance of the services, and all persons employed by the Contractor shall be employees of said Contractor and not employees of the City in any respect.

8. The Contractor shall comply with all applicable City ordinances and other laws and regulations, Federal, State and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Agreement.

9. The Contractor shall not subcontract any of the services to be performed by it hereunder without the express written consent of the City. In addition, this Agreement shall not be assigned by the Contractor.

10. Contractor shall maintain a commercial liability insurance policy with a minimum policy limit of \$100,000.00/\$300,000.00 for personal injury, and \$100,000.00 for property damage, that names the City as an additional insured. Contractor shall provide the City with a Certification of Insurance or other proof of insurance required by the City prior to the commencement of any work provided for by the Agreement.

11. To the fullest extent permitted by law, the Contractor agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from Contractor's breach of the Agreement or out of services and operations performed hereunder by the Contractor, including the City's reliance on or use of the services or products provided by the Contractor under the terms of this Agreement. The Contractor shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Contractor agrees that this indemnification requires Contractor to obtain insurance in amounts specified herein and that Contractor has had the opportunity to recover the costs of such insurance in the compensation set forth in this Agreement.

12. If either party hereto shall breach the terms of this Agreement, the non-breaching party shall have the right to enforce the same by legal proceedings after giving five (5) days written notice of the alleged breach. If legal proceedings are necessary to enforce this Agreement, the breaching party shall pay such costs thereof, including reasonable attorney fees, incurred by the non-breaching party as may be ordered to be paid by the court.

13. This Agreement shall be binding upon the parties hereto, their heirs, personal representatives, and successors.

14. The parties may agree to renew this Agreement for two (2) additional one (1) year terms commencing on January 1, 2025, and continuing until December 31, 2025, and on January 1, 2026, and continuing until December 31, 2026. The option to renew this Agreement for additional one (1) year terms shall only be exercised upon the mutual consent of the parties. An option to renew for an additional one (1) year term shall be exercised by the parties prior to the expiration of the term of this Agreement.

15. Contractor agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree the Agreement represents the entire agreement between the parties.

16. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws.

IN WITNESS WHEREOF, the City and Contractor have each caused this Agreement to be executed by its duly authorized representatives as of the date first above written.

CITY OF MEMPHIS, MISSOURI
("The City")

By: _____
David M. Ahland, Mayor

ATTEST:

Nicole Beard, City Clerk

("Contractor")

Printed Name: _____

Address: _____