



**Issue:** Intergovernmental Agreement between the City of Nixa and the Christian County Circuit Court

**Date:** October 19, 2021

**Submitted By:** Jimmy Liles, City Administrator

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### Background

On September 13<sup>th</sup>, 2021, City Council passed ordinance 2021-088, which transfers the Nixa Municipal Court to the 38<sup>th</sup> Judicial Circuit Court, effective January 1, 2022. The Board of Aldermen of the City of Ozark recently voted to transfer their Municipal cases to the Christian County Circuit Court as well. With the transfer of both Municipal Courts to the Christian County Court, Christian County Circuit Clerk Barb Stillings expressed concerns over the case load her office would be taking on. Mrs. Stillings has requested the City of Ozark and the City of Nixa split the cost of an additional circuit clerk to handle both city's cases. Although Nixa's cases will not be fully transferred until January 2022, Mrs. Stillings has asked to hire the clerk as soon as possible so she can use the remaining months in 2021 to train the new clerk.

### Analysis

Nick and Christian County Judge Johnson have provided the attached Intergovernmental agreement between the City of Nixa and the Christian County Circuit Court. The agreement states the City of Nixa will reimburse the Christian County Circuit Court for one half of the clerk's salary and benefits, not to exceed \$23,833.20. The agreement also states that if a clerk is hired before January 1, 2022, the Christian County Circuit Court shall invoice the City of Nixa the prorated amount of one half of the annual salary and benefits to be paid to the clerk through January 1, 2022. This amount is shall not exceed \$2,948.45. The circuit clerk will not be a City of Nixa employee and will not be supervised by City staff. The funds for 2021 can be covered by the current Municipal Court budget and the funds for 2022 are included in the 2022 budget that will be presented to City Council for approval in the near future. The agreement is a 1-year contract, which will allow both parties to evaluate the need of the additional clerk on a yearly basis.

### Recommendation

Staff recommends the approval of the ordinance allowing the Mayor to execute the intergovernmental agreement between the City of Nixa and the Christian County Circuit Court.

1     **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE**  
2     **MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE**  
3     **38<sup>TH</sup> JUDICIAL CIRCUIT OF THE STATE OF MISSOURI FOR THE FUNDING,**  
4     **HIRING, AND MAINTAINING OF A COURT CLERK AND THE TRANSFER AND**  
5     **STORAGE OF MUNICIPAL COURT FILES.**  
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8             **WHEREAS** the City Council, by the passage of Ordinance 2224, which was  
9 approved by the Mayor, elected to have the violations of Nixa ordinances heard and  
10 determined by an Associate Circuit Judge of the 38<sup>th</sup> Judicial Circuit; and  
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12             **WHEREAS** the Council desires to authorize the Mayor to execute, on behalf of the  
13 City, the Intergovernmental Agreement attached hereto as “Council Bill Exhibit A”; and  
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15             **WHEREAS** said Intergovernmental Agreement is intended to establish the  
16 responsibilities of the City and the 38<sup>th</sup> Judicial Circuit related to the transfer of municipal  
17 court, including the funding, hiring, and maintaining of a court clerk, and the transfer and  
18 storage of the physical municipal court files.  
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20             **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**  
21 **NIXA, AS FOLLOWS, THAT:**  
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23             **SECTION 1:** The Mayor, or designee, on behalf of the City, is hereby authorized  
24 to enter into the Intergovernmental Agreement attached hereto, and incorporated herein  
25 by this reference, as “Council Bill Exhibit A.” Said Agreement shall be in substantially  
26 similar form to the document attached hereto as “Council Bill Exhibit A.” The Mayor is  
27 further authorized to do all things necessary or convenient to carry out the terms and  
28 intent of this Ordinance.  
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30             **SECTION 2:** This Ordinance shall be in full force and effect from and after its final  
31 passage by the City Council and after its approval by the Mayor, subject to the provisions  
32 of section 3.11(g) of the City Charter.  
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38             **[Remainder of page intentionally left blank. Signatures follow on next page.]**  
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47 **ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**  
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50 **ATTEST:**

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52 \_\_\_\_\_  
53 **CITY CLERK**

\_\_\_\_\_ **PRESIDING OFFICER**

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56 **APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**  
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59 **ATTEST:**

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61 \_\_\_\_\_  
62 **CITY CLERK**

\_\_\_\_\_ **MAYOR**

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65 **APPROVED AS TO FORM:**

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67 \_\_\_\_\_  
68 **CITY ATTORNEY**

**INTERGOVERNMENTAL AGREEMENT**

**THIS INTERGOVERNMENTAL AGREEMENT** (“Agreement”) is made and entered into, on the day of its execution by all parties, by and between, the City of Nixa, Missouri (“City”) and the 38<sup>th</sup> Judicial Circuit of the State of Missouri, (“Christian County Circuit Court”).

**WHEREAS** Section 479.040 RSMo provides that a City may elect to have the violations of its municipal ordinances heard and determined by an Associate Circuit Judge of the Circuit in which the city is located; and

**WHEREAS** the City is located in the 38<sup>th</sup> Judicial Circuit also known as Christian County Circuit Court; and

**WHEREAS** on September 16, 2021, Ordinance 2224 became effective; and

**WHEREAS** said Ordinance contained the City’s election to have violations of its municipal ordinances heard and determined by an Associate Circuit Judge of Christian County Circuit Court; and

**WHEREAS** this Intergovernmental Agreement establishes the responsibilities of the parties related to the transfer of municipal court, including the funding, hiring, and maintaining of a court clerk, and the transfer and storage of the physical municipal court files; and

**WHEREAS** the City has agreed to provide funding for one half of the cost of a contract worker hired to perform services in the Christian County Circuit Clerk’s Office (“Circuit Clerk”).

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the Parties agree, as follows:

**SECTION 1. CONSOLIDATION**

- A. The City has elected to have the violations of its municipal ordinances heard and determined by an Associate Circuit Judge in Christian County Circuit Court, effectively consolidating the City’s Municipal Court into the Associate Division of Christian County Circuit Court. Said consolidation shall occur as soon as practicable but not later than January 1, 2022, and Christian County Circuit Court shall be responsible for the administration of the City’s Municipal Court.
  
- B. In recognition that the existing City Municipal Court files and records are property of Christian County Circuit Court, said Court shall accept for storage and housing all the City’s Municipal Court files and records within a reasonable time frame, no later than one year from January 1, 2022.

**SECTION 2. CLERK**

- A. The Christian County Circuit Court shall enter into a one-year contract with a clerk (“clerk”), to perform services for the Circuit Clerk. The Christian County Circuit Court shall compensate the clerk. The City shall reimburse the Christian County Circuit Court for one half of the clerk’s salary and benefits, said amount not to exceed Twenty-Three Thousand Eight Hundred Eighty-Three Dollars and 20/100 (\$23,883.20). This Agreement does not create an employee/employer relationship between the parties and the parties are not joint employers of the clerk.
- B. The hourly rate and benefits paid to the clerk will be determined by the Christian County Circuit Court and will be commensurate with the wage rates and benefits paid to other full-time clerks employed by the Circuit Clerk but will not exceed an annual salary plus benefits of Forty-Seven Thousand Seven Hundred Sixty-Six Dollars and 40/100 (\$47,766.40). As a contractor with the Christian County Circuit Court, the clerk shall receive a 1099 Form for services performed during each calendar year. Neither Federal, State nor local income tax nor payroll tax of any kind shall be withheld or paid by the Christian County Circuit Court or the City. The clerk shall be solely responsible for the withholding and payment of all Federal, State, and local taxes.
- C. If the clerk is hired to perform services before January 1, 2022, then the Christian County Circuit Court shall invoice the City the prorated amount of annual salary and benefits to paid to the clerk through January 1, 2022, no later than November 15, 2021. The City shall be obligated to pay an amount to cover one half of the services performed by the Clerk prior to January 1, 2022, however in no event shall this prorated amount exceed \$2,948.45 (Two-Thousand Nine-Hundred Forty-Eight and 45/100).
- D. Beginning in 2022, the Christian County Circuit Court shall invoice the City no later than January 15<sup>th</sup> an amount equal to one half of the entire amount of salary and benefits to be paid the clerk for the 2022 contract year. If during the term of this Agreement the position partially funded by the City becomes vacant or is unfilled by the Christian County Circuit Court, the Circuit Clerk shall immediately notify the City of the date of vacancy or unfilled status and the City shall receive credit for the entire period the position is vacant or unfilled. The credit shall be refunded to the City by the Christian County Circuit Court promptly at the end of the contract term and no later than December 31, 2022. In addition, if this Agreement is terminated for any reason, the City shall receive credit in the same manner as set forth in this paragraph on the date of termination of this Agreement.
- E. The Circuit Clerk shall be responsible for performing all duties and functions of the City’s Municipal Court Clerk. The clerk shall perform all regular court clerk functions in accordance with the standard of care, skill, and expertise ordinarily used in the performance of said duties and in compliance with applicable laws.
- F. It is the intention of the Parties that the clerk will be an independent contractor. The clerk shall not be the employee of the Christian County Circuit Court or the City, or any other entity by virtue of the clerk’s relationship with the Circuit Court of Christian County under this Agreement for any purposes, including but not limited to application for the Fair Labor Standards Act, minimum wage or

overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri Revenue and Taxation laws, Missouri's Workers Compensation and Unemployment Insurance laws. This Agreement shall not be construed as creating a joint employment relationship between the clerk and the Christian County Circuit Court or the City, and the Parties will not be liable for any obligation incurred by the clerk, except as expressly agreed to outside the terms of this Agreement.

### **SECTION 3. TERM**

- A. This Agreement shall terminate on December 31, 2022.

### **SECTION 4. MISCELLANEOUS PROVISIONS**

- A. Notices. All notices required or permitted hereinunder and required to be in writing may be given by electronic mail or by first class mail addressed to City and the Christian County Circuit Court at the addresses shown below. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by electronic mail transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

City of Nixa  
Jimmy Liles  
P.O. Box 395  
Nixa, Missouri 65714  
Ph: (417)725-3785  
Email: jliles@nixa.com

Christian County Circuit Court  
c/o Barb Stillings, Circuit Clerk  
110 W. Elm  
Ozark, MO 65721  
Ph:  
Email:

- B. Jurisdiction. This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Agreement be litigated, venue shall be proper only in the Circuit Court of Christian County, Missouri.
- C. Entire Agreement. This Agreement contains the entire agreement of the Parties. No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective unless in writing specifically referring hereto and signed by both Parties.

- D. Authority. The undersigned represent that they each have the authority and capacity from the respective Parties to execute this Agreement.
- E. Execution. This Agreement may be executed by the parties in counterparts, by email/pdf or facsimile signatures, and such counterparts, taken together, shall be deemed to be a fully executed original of this Agreement.
- F. Termination. Failure of either party to perform their obligations under this Agreement shall constitute breach of this Agreement and the nonbreaching party shall thereupon have the right to terminate this Agreement as provided herein. The nonbreaching party shall give notice of the breach and their intent to terminate this Agreement. The breaching party shall then have 15 days to rectify the breach, to the reasonable satisfaction of the nonbreaching party. If the breach is not rectified within 15 days, this Agreement shall be considered terminated and of no further effect.
- G. Right to Audit. During the term of this Agreement, Christian County Circuit Court agrees to furnish sufficient supporting details or documents as may be required by the City to support any charges or invoices submitted to the City for payment under this Agreement. The City shall have the right to inspect such records upon reasonable notice to Christian County Circuit Court.

**[Remainder of Page intentionally left blank. Signature page follows.]**

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as indicated below:

CITY OF NIXA, MISSOURI

BY: \_\_\_\_\_  
Brian Steele, Mayor

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Nick Woodman, City Attorney

CHRISTIAN COUNTY CIRCUIT COURT

BY: \_\_\_\_\_  
Judge Laura Johnson

DATE: \_\_\_\_\_