

AN ORDINANCE DIRECTING THE CITY MANAGER AND DIRECTOR OF PUBLIC SAFETY TO EXECUTE A COOPERATIVE AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR OBTAINING A BREATH ALCOHOL INSTRUMENT TO BE USED BY GLADSTONE POLICE OFFICERS TO OBTAIN BREATH ALCOHOL SAMPLES IN DRIVING WHILE INTOXICATED CASES.

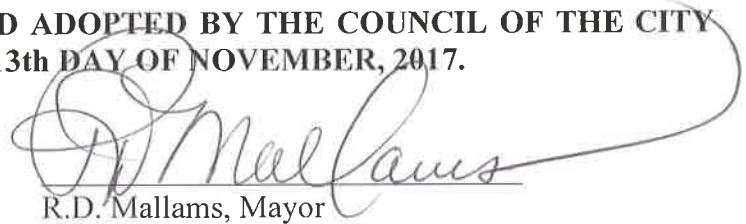
LEGISLATIVE FINDINGS

1. The City of Gladstone and the Missouri Highways and Transportation Commission seek to continue the enforcement of laws pertaining to Driving While Intoxicated.
2. Aggressive Driving While Intoxicated (DWI) enforcement creates a safer environment for the citizens of and the visitors to the City of Gladstone.
3. Effective DWI enforcement reduces injuries and deaths on the roadway as well as property damage.
4. The Cooperative Agreement is in the best interests of the residents of the City of Gladstone.

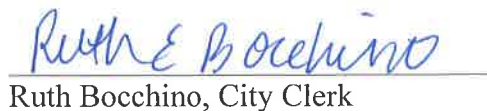
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GLADSTONE, MISSOURI AS FOLLOWS:

1. The City of Gladstone hereby enters into a Cooperative Agreement with the Missouri Highways and Transportation Commission for the purpose of obtaining a breath alcohol instrument; and
2. The City Manager and Director of Public Safety are directed to execute the Cooperative Agreement in substantially the form presented to the City Council.

INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 13th DAY OF NOVEMBER, 2017.


R.D. Mallams, Mayor

ATTEST:


Ruth Bocchino, City Clerk

1st READING: November 13, 2017

2nd READING: November 13, 2017



**Department of Public Safety
Administration
Memorandum MJH 17-44**

DATE: November 8, 2017

TO: Scott C. Wingerson, City Manager

FROM: Chief Michael J. Hasty *mjh*

CC: Chris Williams, City Attorney
Captain Jeffrey R. Self, Police Field Services Division Commander
Captain Robert Hays, Support Services Division Commander
Ruth Bocchino, City Clerk

RE: MEMORANDUM OF AGREEMENT – MISSOURI DEPARTMENT OF HIGHWAYS AND TRANSPORTATION COMMISSION

The Public Safety Department submitted an application for a grant under a program administered through the Missouri Safety Center and funded by the Missouri Department of Transportation, Highway Safety, and Traffic Division to acquire a new breath alcohol instrument. The application was approved for Gladstone Department of Public Safety to receive an "Intoximeter EC/IR II" breath alcohol analyzer to be used by our officers for obtaining breath alcohol samples in Driving While Intoxicated (DWI) cases.

The Missouri Highway and Transportation Commission requires the City of Gladstone to execute a *Memorandum of Agreement* to take possession of the new breath alcohol instrument. The agreement requires Gladstone Department of Public Safety to comply with the terms of use and disposal of the instrument received by the department as well as ensuring the operation of the instrument is in compliance with the Missouri Department of Health and Senior Services Breath Alcohol Program. This agreement also requires the Public Safety Department to maintain the instrument per the manufacturer's recommendations and to make the instrument available to other law enforcement agencies when needed.

The Public Safety Department is required to provide appropriate training to operators of the instrument ("*Type III*") and advanced training to officers assigned to maintain the machine and train other law enforcement officers in its operation ("*Type II*"). The stipulations in the agreement do not impose any additional burden on the department that is not already required when utilizing any breath analyzer for law enforcement purposes. The department has always trained most officers as "*Type III Operators*" and a few officers as "*Type II Operators*" who maintain the instruments and train other officers in their use.

The Intoximeter EC/IR II has a value of approximately \$7,500.00 and will be an excellent tool in the enforcement of DWI laws in Gladstone and I recommend the agreement be signed. City Attorney Chris Williams has reviewed and approved the *Memorandum of Agreement* and a copy is attached. An ordinance approving and directing you to execute this agreement has been added to the City Council Meeting Agenda for Monday, November 13, 2017. Please advise if you have any questions.

Missouri Department of Transportation
Patrick K. McKenna, Director

573.751.4161
Fax: 573.634.5977
1.800.800.2358

December 21, 2017

Chief Michael Hasty
Gladstone Police Department
7010 N. Holmes
Gladstone, MO 64118

Dear Chief Hasty:

Enclosed is a fully executed copy of a **Memorandum of Agreement** between the Missouri Highways and Transportation Commission (MHTC) and your agency for the placement of a breath alcohol instrument.

The breath alcohol instrument will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division.

The Missouri Safety Center will contact your agency directly for purchase of the breath alcohol instrument for placement in your agency.

If you have any questions about the process, please call me at 573-751-5960.

Sincerely,



Jackie Rogers,
Senior System Management Specialist

c: Officer Eric D. Stock, Traffic Enforcement Division
Mr. Dan Lucas, Missouri Safety Center

Enclosure



Missouri Department of Transportation
Patrick K. McKenna, Director

573.751.4161
Fax: 573.634.5977
1.800.800.2358

December 21, 2017

Chief Michael Hasty
Gladstone Police Department
7010 N. Holmes
Gladstone, MO 64118

Dear Chief Hasty:

Enclosed is a fully executed copy of a **Memorandum of Agreement** between the Missouri Highways and Transportation Commission (MHTC) and your agency for the placement of a breath alcohol instrument.

The breath alcohol instrument will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division.

The Missouri Safety Center will contact your agency directly for purchase of the breath alcohol instrument for placement in your agency.

If you have any questions about the process, please call me at 573-751-5960.

Sincerely,



Jackie Rogers,
Senior System Management Specialist

c: Officer Eric D. Stock, Traffic Enforcement Division
Mr. Dan Lucas, Missouri Safety Center

Enclosure



CCO Form: HS05
Approved: 05/13 (ASB)
Revised: 09/17 (GJH)
Modified:

**MEMORANDUM OF AGREEMENT BETWEEN
THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
AND CITY OF GLADSTONE**

THIS MEMORANDUM OF AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Gladstone (hereinafter, "City").

WHEREAS, the Commission has set aside funding for the purchase of breath alcohol instruments in the state of Missouri. These breath alcohol instruments will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division. The breath alcohol instruments will be one of the instruments listed in the Missouri Department of Health and Senior Services Breath Alcohol Program requirements found in 19 CSR 25-30.050; and

WHEREAS, in order for all parties to comply with 2 CRF 200.313 the inventory and disposition of such breath alcohol instruments must be tracked.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Memorandum of Agreement (hereinafter, "Agreement"), the parties agree as follows:

(1) **INSTRUMENT**: The Missouri Safety Center will purchase and provide to the City breath alcohol instrument(s) to be used to obtain breath alcohol samples in Driving While Intoxicated ("DWI") cases.

(2) **INVENTORY SYSTEM**: Federal and State requirements, including but not limited to 2 CRF 200.313 mandate that the breath alcohol instrument(s) being purchased be placed in an inventory system. Periodic inventory checks will be made by the Commission and/or the Missouri Safety Center to determine that the instrument is still being used and is in good condition.

(3) **DISPOSAL**: Before a breath alcohol instrument may be disposed of the Missouri Safety Center and the City must notify the Commission in writing of the intent to dispose of the instrument. The Commission will then notify the National Highway Traffic Safety Administration ("NHTSA"). After NHTSA has approved the disposal of the instrument, the Commission will notify the Missouri Safety Center and City in writing of that decision.

(4) COMPLIANCE: The City shall remain compliant with all Missouri Department of Health and Senior Services Breath Alcohol Program requirements found in 19 CSR 25-30.011 through 19 CSR 25-30.080.

(5) QUALITY CONTROL: The City agrees to periodic quality control evaluations by the manufacturer of the instrument and/or the Missouri Safety Center. Such evaluations will occur at least once every two years.

(6) AVAILABILITY: Breath alcohol instruments will be made available for use by other law enforcement agencies in neighboring jurisdictions. Breath tests and observation periods shall be conducted by Type II or Type III qualified officers from the arresting (or neighboring) agency unless otherwise agreed upon by the City.

(7) COURT AVAILABILITY: The City agrees to make Type II permit holders available for court support to assist in DWI adjudication when needed.

(8) TYPE II: Prior to receipt of the new breath alcohol instrument and peripheral components, the appropriate officers within the City's department will complete the necessary Type II training. The City is responsible for developing and implementing a schedule for training its own Type III certified officers.

(9) RETURN INSTRUMENTS: The City shall return all breath alcohol instruments previously purchased under Highway Safety funding to the Missouri Safety Center within six months of receipt of the new breath alcohol instrument.

(10) DAMAGE: The City shall be responsible for the loss of, damage to, or destruction of the breath alcohol instruments purchased pursuant to this Agreement.

(11) REPAIRS: The City is responsible for maintaining the breath alcohol instrument keeping it in good working order and is responsible for any associated repair costs.

(12) RECALL: The Commission and the Missouri Safety Center, reserves the right to recall the breath alcohol instruments if the terms and conditions of this Agreement are not followed.

(13) 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 City and the Commission.

(14) COMMISSION REPRESENTATIVE: The Commission's Director of Highway Safety is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(15) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(16) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(17) PRODUCT AND CONTACT INFORMATION: Please indicate the breath instrument of choice:

- Intoximeter DMT
- Intoxilyzer 8000
- Intoximeter EC/IR II

Please indicate your point of contact for Type II Instrument Replacement:

Name: Officer Eric D. Stock Phone: 816-436-3550

Email: erics@gladstone.mo.us

[Remainder of Page Intentionally Left Blank]

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

Executed by City of Gladstone on 11/13/17 (Date).

Executed by Commission on 12/12/2017 (Date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

[Signature]
(Signature)

Title Assistant Chief Engineer

ATTEST:

[Signature]
(Commission's Secretary)

CITY OF GLADSTONE

By [Signature]
(Signature of authorizing official)

Title CITY MANAGER

ATTEST:

By [Signature] 11/21/17
(Signature of authorizing official)

Title CITY CLERK

APPROVED AS TO FORM:

[Signature]
(Commission Counsel)

APPROVED AS TO FORM:

By [Signature]
(Signature of agency legal counsel, if needed)

Title CITY COUNSELOR

Ordinance # 4403

SEAL

