

**REGULAR MEETING OF WASHINGTON, MISSOURI CITY COUNCIL
 MONDAY, MARCH 21, 2022 - 7:00 P.M.
 COUNCIL CHAMBER, 405 JEFFERSON STREET, WASHINGTON, MISSOURI**

**SUGGESTED
 COUNCIL ACTION**

1. INTRODUCTORY ITEMS:

Roll Call / Pledge of Allegiance

Approval of the Minutes from the March 7, 2022 Council Meeting

Need Motion/Mayor

Memo

Approval and Adjustment of Agenda including Consent Agenda

Need Motion/Mayor

Memo

a. Fireworks Display

b. Liquor License Application – Four Kings Investments LLC dba The Grazing Board, 216 West Main Street

2. PRIORITY ITEMS:

Mayor’s Presentations, Appointments & Re-Appointments

a. Proclamation – Franz Schwarzer Day

Mayor

b. City Physician Reappointment

Approve/Mayor

Memo

c. Police Officer Promotions & Reappointments

Approve/Mayor

Memo

d. Police Officer Reappointment

Approve/Mayor

Memo

3. PUBLIC HEARINGS:

4. CITIZENS COMMENTS:

5. UNFINISHED BUSINESS:

6. REPORT OF DEPARTMENT HEADS:

7. ORDINANCES/RESOLUTIONS:

a. An ordinance repealing Ordinance No. 20-13222 and enacting in lieu thereof an ordinance authorizing and directing the execution of a Dispatching Services Agreement by and between the City of Washington, Missouri and the City of Berger, Missouri.

Read &Int/Read/Vote/Mayor

Memo

b. An ordinance authorizing and directing the City of Washington, Missouri to accept the Sales Contract from Don Brown Chevrolet for the purchase of a 2023 Chevrolet Silverado 3500HD Crew Cab Truck and amend the 2021/2022 Budget.

Read &Int/Read/Vote/Mayor

Memo

c. An ordinance authorizing and directing the City of Washington, Missouri to accept the Contract Agreement from Shingle Tech for the Kohmueller House Metal Roof.

Read &Int/Read/Vote/Mayor

Memo

d. An ordinance authorizing and directing the execution of a Full and Final Release of all Property Damage Claims by and between the City of Washington, Missouri, Big C’s Enterprises and Darrel Hedrick.

Read &Int/Read/Vote/Mayor

Memo

- | | | |
|---|----------------------------|------|
| e. An ordinance authorizing and directing the execution of a Contract Agreement with Ford Asphalt Co., Inc. for the 2022 Parks Paving Project. | Read &Int/Read/Vote/Mayor | Memo |
| f. An ordinance authorizing and directing the City of Washington, Missouri to accept the Bid with Landmark Appraisal Co. for the Third Street Overlay and Improvement Project, Federal Project# STP-6401(602). | Read &Int/Read/Vote/Mayor | Memo |
| g. An ordinance authorizing and directing the execution of a Contract with K.J. Unnerstall Construction Co. for the 2022 Busch Creek Greenway Improvement Project TAP-6406(606). | Read &Int/Read/Vote/Mayor | Memo |
| h. An ordinance authorizing and directing the execution of a Development Agreement by and between the City of Washington, Missouri and Big Elm, LLC. | Read &Int/Read/Vote/Mayor | Memo |
| i. An ordinance authorizing and directing the execution of a Development Agreement by and between the City of Washington, Missouri, Clover Valley Properties, LLC and Wilfred H. Kleekamp Trust. | Read &Int/Read/Vote/Mayor | Memo |
| j. A resolution of the City of Washington, Missouri stating intent to seek funding through Missouri Department of Transportation Cost Share Program and authorizing the Mayor to pursue activities in an attempt to secure funding. | Read/Int/Second/Vote/Mayor | Memo |
| k. A resolution of the City of Washington, Missouri stating intent to seek funding through Missouri Department of Transportation Cost Share Program and authorizing the Mayor to pursue activities in an attempt to secure funding. | Read/Int/Second/Vote/Mayor | Memo |

8. COMMISSION, COMMITTEE AND BOARD REPORTS:

9. MAYOR’S REPORT:

10. CITY ADMINISTRATOR’S REPORT:

11. COUNCIL COMMENTS:

12. CITY ATTORNEY’S REPORT:

Public Vote on whether or not to hold a closed meeting to discuss personnel, legal and real estate matters pursuant to Section 610.021 RSMo (2000).

Roll Call Vote

13. INFORMATION:

- a. E-Cycle Collection Event – April 16, 2022

14. ADJOURNMENT:

NOTICE: COPIES OF THE PROPOSED ORDINANCES ON THIS AGENDA ARE AVAILABLE FOR PUBLIC INSPECTION PRIOR TO THE TIME THE BILL IS UNDER CONSIDERATION BY THE CITY COUNCIL.
POSTED BY SHERRI KLEKAMP, CITY CLERK, MARCH 17, 2022

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI
MONDAY, MARCH 7, 2022**

INTRODUCTORY ITEMS:

The Regular Meeting of the City of Washington, Missouri, City Council was held on Monday, March 7, 2022, at 7:15 p.m. in the Council Chamber. Mayor Sandy Lucy opened the meeting with roll call and Pledge of Allegiance.

Mayor:	Sandy Lucy	Present
Council Members: Ward I	Steve Sullentrup	Present
	Duane Reed	Present
Ward II	Mark Wessels	Present
	Mark Hidritch	Present
Ward III	Jeff Patke	Present
	Greg Skornia	Present
Ward IV	Gretchen Pettet	Present
	Joe Holtmeier	Present

Also Present:	City Attorney	Mark Piontek
	City Administrator	Darren Lamb
	City Clerk	Sherri Klekamp
	Police Chief	Ed Menefee
	Emergency Management Director	Mark Skornia
	Economic Development Director	Sal Maniaci
	Public Works Director	John Nilges
	Parks Director	Wayne Dunker
	Human Resources Manager	Shauna Pfitzinger

Originals and/or copies of agenda items of the meeting, including recorded votes are available on record in the office of the City Clerk. Each ordinance is read a minimum of twice by title, unless otherwise noted.

Approval of Minutes:

- * Approval of the Minutes from the February 22, 2022 Council Meeting
A motion to accept the minutes as presented made by Councilmember Hidritch, seconded by Councilmember Holtmeier, passed without dissent.

Approval and Adjustment of Agenda including Consent Agenda:

- * Change Order No. 1 – 2021 Front Street Electric Service Conversion Project
- * Liquor License Application – La Joya AR LLC dba Taco Loco, 2016 Washington Crossing
After a brief discussion on Change Order No. 1 – 2021 Front Street Electric Service Conversion Project, a motion to accept and approve the agenda including the consent agenda

accordingly made by Councilmember Holtmeier, seconded by Councilmember Pettet, passed without dissent.

PRIORITY ITEMS:

Mayor's Presentations, Appointments & Reappointments:

* **Police Department Appointment**

March 3, 2022

To The City Council

City of Washington

Washington, MO 63090

Dear Council Members:

I herewith submit for your approval the following for appointment to the Police Department for a six month probationary term:

<i>NAME</i>	<i>APPOINTED</i>	<i>TERM EXPIRE</i>
<i>Brenden M. McMillian</i>	<i>March 14, 2022</i>	<i>August 14, 2022</i>
<i>Police Officer</i>		<i>(1st 6 months)</i>

A motion to accept and approve the appointment made by Councilmember Patke, seconded by Councilmember Hidritch, passed without dissent.

* **Urban Forestry Council Reappointment**

February 28, 2022

City Council

City of Washington

Washington, Missouri 63090

Dear Council Members:

I herewith submit for your approval the following for reappointment to the Urban Forestry Council:

Bob Briscoe – term ending March 2025

Respectfully Submitted,

Sandy Lucy

Mayor

A motion to accept and approve the reappointment made by Councilmember Patke, seconded by Councilmember Holtmeier, passed without dissent.

PUBLIC HEARINGS

* None

CITIZENS COMMENTS

* Andy Powers addressed the Council regarding his positive impressions of the community.

UNFINISHED BUSINESS

* None

REPORT OF DEPARTMENT HEADS

* None

ORDINANCES/RESOLUTIONS

Bill No. 22-12543, Ordinance No. 22-13497, an ordinance accepting the proposal for Standard Architectural/Engineering Services for Interior Alterations with Cochran Engineering for the Freight Depot.

The ordinance was introduced by Councilmember Holtmeier.

With no further discussion, the ordinance was read a second time and approved on the following vote; Wessels-aye, Hidritch-aye, Holtmeier-aye, Sullentrup-aye, Pettet-aye, Skornia-aye, Reed-aye, Patke-aye.

Bill No. 22-12544, Ordinance No. 22-13498, an ordinance accepting the proposal from Radio Comm Co. for the installation of a Motorbo UHF-VHF Gateway and amend the 2021/2022 Budget.

The ordinance was introduced by Councilmember Holtmeier.

With no further discussion, the ordinance was read a second time and approved on the following vote; Wessels-aye, Hidritch-aye, Holtmeier-aye, Sullentrup-aye, Pettet-aye, Skornia-aye, Reed-aye, Patke-aye.

Bill No. 22-12545, Ordinance No. 22-13499, an ordinance accepting the contractor agreement from Klekamp Lawn and Landscape LLC for Grounds Maintenance Services by the City of Washington, Missouri.

The ordinance was introduced by Councilmember Patke.

With no further discussion, the ordinance was read a second time and approved on the following vote; Wessels-aye, Hidritch-aye, Holtmeier-aye, Sullentrup-aye, Pettet-aye, Skornia-aye, Reed-aye, Patke-aye.

Bill No. 22-12546, Ordinance No. 22-13500, an ordinance authorizing and directing the execution of a Corrective Quit Claim Deed by and between the City of Washington, Missouri and 801 Terry Lane, LLC.

The ordinance was introduced by Councilmember Holtmeier.

With no further discussion, the ordinance was read a second time and approved on the following vote; Wessels-aye, Hidritch-aye, Holtmeier-aye, Sullentrup-aye, Pettet-aye, Skornia-aye, Reed-aye, Patke-aye.

COMMISSION, COMMITTEE AND BOARD REPORTS

* 2022 Aquatic Complex Fees

February 21, 2022

Honorable Mayor and City Council

City of Washington

405 Jefferson Street

Washington, MO 63090

RE: Fee Recommendation – 2022 Aquatic Complex Fees

Honorable Mayor and City Council,

In 2020 and early 2021, staff, the City Administrator and Parks and Recreation Commission members formed an Aquatic Complex Fees and Charges Sub Committee to evaluate the City's fees and charges for the new Agnes Nolting Aquatic Center. After extensive hours of research and several meetings, the Committee recommended amending the Park Facilities User Fee Schedule for the new aquatic complex.

Below are the aquatic complex fees and charges the Committee recommended to City Council in February 2021.

- *\$7.00 daily admission (3 and over)*
- *\$50 punch/visit card (10 punches) *Available after, June 1, 2021.*
- *\$500 after hours pool rental (2 hour limit), \$200 rental deposit*

The Parks and Recreation staff also requested a Grand Opening Discount off the pool punch card. This promotional discount allowed people to purchase a 20 punch/visit card for \$85. This was a one-time discount. After June 1, the punch/visit card options were 10 visits for \$50 or 20 visits for \$100.

At the February 8th Parks and Recreation Commission meeting, the Commission made a recommendation not to amend the Aquatic Complex User Fees and Charges for the upcoming 2022 pool season, based on record pool attendance in 2021 and the intensive research the Committee recently completed.

Respectfully,

Spark Stuckenschneider

Park & Recreation Commission Co-President

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ESTIMATED Pool Revenue & Expenses 2021

Estimates completed January 2021

Estimated Expenses	
Item	Amount
Guards & Pool Ops & Management	\$145,000-\$165,000
Utilities	\$ 10,500.00
Guards for Programming/Rentals	\$ 18,000.00
Cashiers/Admissions Staff	\$ 15,000.00
Concession Stand Staff	\$ 15,000.00
Concession Stand Product/Supplies	\$ 15,000.00
Insurance	\$ 17,000.00

TOTAL Est. Expenses \$231,000 - \$251,200

Anticipate a 30% increase in attendance for 2021

Estimated Revenue	
Item	Amount
Daily Fees	\$ 45,500.00
Punch Cards	\$ 32,500.00
Programs, Lessons, Rentals	\$ 20,000.00
Concession Sales	\$ 15,000.00
Birthday Parties Packages	\$ 7,000.00
Rentals - Swim Team & After Hrs	\$ 5,000.00

TOTAL Est. Revenue \$ 120,000.00

EST. PROFIT/LOSS: \$111,200 - \$131,200

Actual Attendance	
Year	Attendance
2019	8,790
2018	7,837
2017	10,218
2016	10,441
2015	9,235

* Pump went out

Anticipate a 30% increase in attendance for 2021

Net Operating Loss	
Year	Loss
2019	\$ 137,299.00
2018	\$ 123,749.00
2017	\$ 139,437.00
2016	\$ 122,433.00
2015	\$ 102,302.00

AVG. LOSS Per Year: \$125,000

ACTUAL Pool Revenue & Expense 2021

Actual Expenses	
Item	Amount
Guards & Pool Ops & Management	\$ 152,360.00
Utilities	\$ 8,658.00
Guards for Programming/Rentals	\$ 15,000.00
Admiss. Cashiers & Concession Staff	\$ 25,738.23
Pool Chemicals	\$ 3,900.12
Concession Stand Product/Supplies	\$ 20,985.04
Insurance	\$ 13,112.00

TOTAL Actual Expenses \$ 239,758.39

Actual Revenue	
Item	Amount
Daily Fees	\$ 75,126.00
Punch Cards	\$ 54,990.50
Programs & Lessons	\$ 11,462.00
Concession Sales	\$ 40,979.90
Birthday Parties Packages	\$ 2,336.25
Rentals - (Swim Teams & After Hrs)	\$ 6,001.50
Camp Washington Pool Fees	\$ 3,498.00
TOTAL Actual Revenue	\$ 194,394.15

ACTUAL PROFIT/LOSS \$45,364.24

Actual Attendance	
Year	Attendance
2021	19,008
2019	8,790
2018	7,837
2017	10,218
2016	10,441
2015	9,235

Net Operating Loss	
Year	Loss
2021	\$ 45,364.24
2019	\$ 137,299.00
2018	\$ 123,749.00
2017	\$ 139,437.00
2016	\$ 122,433.00
2015	\$ 102,302.00

With no further discussion, a motion to accept this item into the minutes made by Councilmember Holtmeier, seconded by Councilmember Patke, passed without dissent.

MAYOR'S REPORT

* Thank you Andy Powers for saying nice things about the City.

CITY ADMINISTRATOR'S REPORT

* None

COUNCIL COMMENTS

* None

CITY ATTORNEY'S REPORT

Public vote on whether or not to hold a closed meeting to discuss personnel, legal and real estate matters pursuant to Section 610.021 RSMo (2000) passed at 7:32 p.m. on the following roll call vote; Wessels-aye, Hidritch-aye, Holtmeier-aye, Sullentrup-aye, Pettet-aye, Skornia-aye, Reed-aye, Patke-aye.

The regular session reconvened at 8:13 p.m.

ADJOURNMENT

With no further business to discuss, a motion to adjourn made at 8:13 p.m. by Councilmember Patke, seconded by Councilmember Pettet passed without dissent.

Adopted: _____

Attest: _____
City Clerk

President of City Council

Passed: _____

Attest: _____
City Clerk

Mayor of Washington, Missouri



March 9, 2022

Honorable Mayor and City Council
405 Jefferson Street
Washington, MO 63090

Re: Fireworks Display Permit Request

Dear Mayor and City Council,

On Friday, 27 May 2022 John G's Bier Deck will be hosting a fundraiser for the Almost Home Rescue and Rehabilitation & Exceptional Equestrians. John G's LLC is requesting permission to detonate fireworks on the boat dock at Rennick Riverfront Park (weather permitting). It will be a small display at twilight. If they are unable to detonate on that day Friday May 27, 2022 they are requesting a backup date of Friday June 3, 2022.

Larry "Cowboy" Proemsey has agreed to be the pyro-technician for the event and is working with the city staff to obtain all the necessary permits.

Thank you for your consideration in the matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Tom Neldon", is written over a horizontal line.

Tom Neldon
Building Official



March 14, 2022

Re: Liquor License

Mrs. Sherri Klekamp, City Clerk
City of Washington
405 Jefferson Street
Washington, MO 63090

Dear Sherri,

Lorene Williams has submitted an alcohol license application for the privilege of selling liquor of all kinds by the drink at retail. She will sell Monday through Saturday, as well as Sunday. Miss Lorene Williams business is named Four Kings Investments LLC dba The Grazing Board and is located at 216 W Main St. Miss Lorene Williams has submitted all required paperwork and has paid the \$166.67 fees.

Miss Lorene Williams has asked that his application go before the City Council on March 21, 2022.

Sincerely,

Heather M Parker

Heather M Parker, Clerk
City of Washington

Mayor's Proclamation

CITY OF WASHINGTON, MISSOURI

Franz Schwarzer Day

Whereas, Franz Schwarzer moved from Austria to the United States and settled in Washington, Missouri in 1867. He was an accomplished carpenter making furniture, carvings for churches and zithers; and

Whereas, in 1873, Schwarzer sent three of his zithers to the Vienna International Exposition in Austria and won the Gold Medal of Progress which made Schwarzer Zithers world famous; and

Whereas, his reputation grew as he became known as the Zither King. He enlarged his factory and began making only zithers and other musical instruments. Schwarzer was known for Sunday afternoon zither gatherings at his home on Front Street in Washington, Missouri, and the first Congress of the American Zither Verband was held in Schwarzer Park in September of 2012. The Congress of the American Zither Verband held annual events until 1926; and

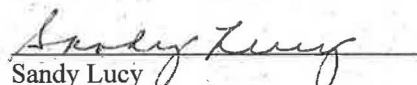
Whereas, Now, over a century later, 26 zither players coming from 12 different states and several other countries are making plans to perform in Washington, Missouri where many members of the ensemble will be playing Schwarzer zithers that are over 100 years old; and

Whereas, The Washington Historical Society and the Schwarzer Zither Ensemble are pleased to announce the 2022 International Zither Gathering to be held in Washington, Missouri on Sunday, April 3, 2022 which will be the largest zither concert held in the United States.

Now Therefore, I, Sandy Lucy, by virtue of the authority vested in me as Mayor of the City of Washington, and on behalf of the entire City Council hereby proclaim April 3, 2022, as Franz Schwarzer Day in the City of Washington, Missouri and encourage all residents to acknowledge the occasion of this day.



In Witness Whereof I have hereunto set my hand and caused to be affixed the Seal of the City of Washington, Missouri, this 21st day of March 2022.


Sandy Lucy
Mayor



March 7, 2021


To The City Council
City of Washington
Washington, Missouri

Dear Council Members:

I herewith submit for your approval the following for reappointment as the City Physician:

Ann-Elizabeth Mohart, M.D. – term ending March 2023

Respectfully submitted,


Sandy Lucy
Mayor



March 15, 2022

City Council
City of Washington
405 Jefferson Street
Washington, Missouri 63090

Dear Councilmembers:

I herewith submit for your approval the promotion of the following Police Officers and each to be reappointed with their new rank.

NAME:

Lieutenant Darryl R. Balleydier	<u>to</u>	Captain Darryl R. Balleydier
Detective Sergeant Steven C. Sitzes	<u>to</u>	Detective Lieutenant Steven C. Sitzes
Police Officer Douglas A. Tollison	<u>to</u>	Sergeant Douglas A. Tollison
Detective Betsey J. Schulze	<u>to</u>	Detective Sergeant Betsey J. Schulze

Effective date of each promotion is July 15, 2022. Each ones new term of appointment is for one (1) year and will be from July 15, 2022 to July 15, 2023.

Sincerely,

Sandy Lucy
Mayor



POLICE
CITY OF WASHINGTON

Chief Edward Menefee
Washington Police Department
301 Jefferson Street
Washington, MO 63090

Administration: (636)390-1055
Dispatch: (636)390-1050
Fax: (636)390-2455
Email: emenefee@washmo.gov

Date: 03-15-22

To: Mayor Sandy Lucy
City Council

From: Chief Edward Menefee

RE: Promotion Appointments

Mayor Lucy and City Council,

I respectfully request the following police officer promotions be approved and each be reappointed with their new rank:

NAME

LT. DARRYL R. BALLEYDIER TO CAPTAIN DARRYL R. BALLEYDIER

DET. SGT. STEVEN C. SITZES TO DET. LIEUTENANT STEVEN C. SITZES

PO. DOUGLAS A. TOLLISON TO SGT. DOUGLAS A. TOLLISON

DET. BETSEY J. SCHULZE TO DET. SGT. BETSEY J. SCHULZE

Effective date of each promotion is July 15, 2022.

Each ones new term of appointment for one year is from July 15, 2022 to July 15, 2023.

As you know, I submitted my formal announcement of retirement with my retirement date being July 14, 2022. City Council then approved and appointed Capt. Jim Armstrong as the next Chief of Police. With Capt. Armstrong's appointment to Chief of Police, several openings came about in the chain of command. Those are the promotion requests listed above.

Each individual listed for promotion is exemplary as an officer/detective/supervisor. They are professionals that are committed to service and safety of the citizens. They are all a credit to the City and the Department. I am proud of them.

Again, I respectfully request all the listed promotions be approved.

A handwritten signature in black ink, appearing to read "Chief Edward T. Menefee". The signature is fluid and cursive, with the first name "Edward" being particularly prominent.

Chief Edward T. Menefee, Washington Police Department



March 16, 2022


City Council
City of Washington
Washington, Missouri

Dear Council Members:

I herewith submit for your approval the following for reappointment to the Police Department:

<u>NAME</u>	<u>APPOINTED</u>	<u>TERM</u> <u>EXPIRES</u>
David Burke Police Officer	April 03, 2022	April 03, 2023

Respectfully submitted,


Sandy Lucy
Mayor



WASHINGTON POLICE DEPARTMENT

**301 JEFFERSON STREET
WASHINGTON, MO. 63090**

*Chief of Police Edward Menefee, DSN 221
636-390-1062 office 636-390-2455 fax*

emenefee@washmo.gov

DATE: March 16, 2022
TO: Mayor Sandy Lucy
SUBJECT: Reappointment of Police Officer

Honorable Mayor,

I respectfully request the following police officer for reappointment to the Washington Police Department for a one-year term:

NAME	DATE EFFECTIVE	DATE EXPIRES
POLICE OFFICER DAVID BURKE	April 03, 2022	April 03, 2023

Thank you for your consideration.

Respectfully,


Edward T. Menefee
Chief of Police

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE REPEALING ORDINANCE NO. 20-13222 AND ENACTING IN LIEU THEREOF AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A DISPATCHING SERVICES AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI AND THE CITY OF BERGER, MISSOURI

BE IT ORDAINED by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to execute a Dispatching Services Agreement by and between the City of Washington, Missouri and the City of Berger, Missouri, a copy of which is marked Exhibit A and is attached hereto and incorporated herein by reference, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the Agreement and other such documents, certificates and Instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 2: The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A

DISPATCHING SERVICES AGREEMENT

This Agreement, made and entered into this 21st day of March 2022, by and between the City of Washington, Missouri, hereinafter called "City", and the City of Berger, Missouri, hereinafter called "Agency".

WITNESSETH:

WHEREAS, the City is organized under and by virtue of the Constitution and laws of the State of Missouri is authorized by Chapter 70 RSMO to participate in cooperative programs with other political agencies and entities; and

WHEREAS, the Agency is organized under and by virtue of the Constitution and laws of the State of Missouri is authorized by Chapter 70 RSMO to participate in cooperative programs with other political agencies and entities; and

WHEREAS, the City has a dispatching center capable of providing dispatch services to the Agency; and

WHEREAS, the Agency is desirous of entering into an agreement with the City as a service contractor in order to provide to its constituency efficient communication and to manage emergency and non-emergency calls, and;

WHEREAS, the Agency deems it in the best interest and welfare of the inhabitants within its boundaries to enter into this Agreement for the purpose of obtaining emergency and non-emergency dispatching service, and

WHEREAS, the Agency, which, through the City of Berger, Missouri Police Department, hereinafter called the "Department", is engaged in law enforcement emergency and non-emergency services wishes to become a Service Contractor with the City.

NOW, THEREFORE, in consideration of the premises and the mutual undertakings hereinafter set forth, it is mutual agreed by the parties as follows:

I. DISPATCHING SERVICES

The City agrees to provide emergency and non-emergency dispatching services for the Department, for which the Agency shall pay the City the following amounts:

(a) For the period beginning April 1, 2022 through March 31, 2023. Agency agrees to pay City the sum of One-Thousand Seven Hundred and Fifty dollars, \$1750.00.

II. TERM OF AGREEMENT

This contract shall take effect on April 1, 2022, and shall continue in effect through March 31, 2023.

III. RESPONSIBILITIES OF PARTIES

Agency agrees to be responsible for any necessary radio upgrades that may be necessary to adequately provide a standard of service acceptable to both parties. City agrees to provide a level of dispatching services equal to the services currently provided to existing agencies.

City shall provide public safety answering and dispatch services for the Department within the Agency limits. The services shall be provided 24-hours a day, three hundred sixty five days a year. The City reserves the right to determine the level of staffing necessary to accomplish its responsibilities under this Agreement. The dispatchers performing the services set forth herein shall be under the control and direction of the City at all times.

City and Agency shall utilize their best efforts to anticipate and deal with problems or difficulties, which arise during the term of the Agreement. To accomplish this, each party will be required to identify one representative with appropriate knowledge of the dispatching services or need thereof, to be provided by the City. The representatives shall meet as often as necessary to assure that the dispatching services are being provided in an effective and efficient manner.

The parties agree that during the term of this Agreement they shall keep in force a policy of general and comprehensive liability insurance that will insure each party against any claims for any actions or omissions charged against either or both parties during the term of this Agreement. Each party agrees to cooperate with the other in the defense of any claim or claims assessed against either or both parties arising out of the rendering or non-rendering of services contemplated by this Agreement.

IV. TERMINATION OF AGREEMENT

Notwithstanding anything contained herein to the contrary, either party may terminate this Agreement at any time by giving written notice ninety (90) days prior to the termination date addressed to the other party at its usual place of business.

V. SEVERANCE

If any clause, sentence, paragraph or section of this Agreement is adjudged invalid by a court of competent jurisdiction, the judgment shall not impair or invalidate the remaining portion hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day a year first above written.

CITY OF WASHINGTON, MISSOURI

Sandy Lucy, Mayor

ATTEST: _____
Sherri Klekamp, City Clerk

CITY OF BERGER, MISSOURI

Harold Englert, Mayor

ATTEST: _____
Jason Eaklor, City Clerk



March 16, 2022

Mayor Sandy Lucy
City Council Members
405 Jefferson St
Washington MO 63090

Dear Mayor and City Council Members,

Attached you will find an Ordinance and Dispatching Service Agreement for the City of Berger, Missouri. They have recently hired a new part time officer and would like to resume dispatching services with the City of Washington Communications Division. The purpose of this agreement is to provide law enforcement emergency and non-emergency dispatch services to the Berger Police Department.

I will be available at the meeting on March 21, 2022, to answer any questions.

Sincerely,

Lisa Moffitt,
Director of Communications

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY OF WASHINGTON, MISSOURI TO ACCEPT THE SALES CONTRACT FROM DON BROWN CHEVROLET FOR THE PURCHASE OF A 2023 CHEVROLET SILVERADO 3500HD CREW CAB TRUCK AND AMEND THE 2021/2022 BUDGET

BE IT ORDAINED by the Council of the City of Washington, Missouri as follows:

SECTION 1: The Mayor is hereby authorized and directed to accept the sales contract from Don Brown Chevrolet for the purchase of a 2023 Chevrolet Silverado 3500HD Crew Cab Truck. A copy of the contract is attached and marked Exhibit A.

SECTION 2: This ordinance shall amend the 2021/2022 Budget as follows:

Vehicle Equipment Replacement Fund 010-21-000-542100 Vehicles \$45,500

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

**Exhibit A
SALES CONTRACT**

This Sales Contract, made and entered into this 21st day of March, 2022, by and between Don Brown Chevrolet, herein referred to as "Seller", and the City of Washington, MO., a municipal corporation hereinafter referred to as "City".

WITNESSETH: Whereas, Seller was the best low bid received for furnishing of (1) one 2023 Chevrolet Silverado 3500HD Crew Cab Truck equipped as stated in the bid.

NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

- 1. Seller agrees to provide to the City one (1) 2023 Cheverolet Silverado 3500HD Crew Cab Truck and/or alternate bids in the manner set forth in the contract documents, for payment in the total sum of **Forty Five Thousand Four Hundred Thirty Four and Zero Cents**

(\$ 45,434.00).

- 2. The contract documents shall consist of the following:

- A. This Contract
- B. Signed copy of Ordinance
- C. General Specification and Bid

This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties.

These documents are as fully a part of the contract as if attached hereto or repeated herein.

- 3. This agreement shall be construed or determined according to the laws of the State of Missouri.

IN TESTIMONY WHEREOF, Seller has hereunto set its hand, and the City of Washington executes this contract the day and year first written.

SELLER:

CITY:

BY: _____
Company Representative

BY: _____
Mayor – Washington, MO

ATTEST: _____
City Clerk

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March 21, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Bid Recommendation – 2023 Chevy 3500HD truck

Honorable Mayor and City Council,

As you may be aware, before making a determination that a particular piece of equipment needs to be replaced, staff will annually review and analyze the equipment to determine the current condition and need for replacement. In doing so, it was determined the Department's 2014 Chevy 1500 is due for replacement. Therefore, the Department identified the need to replace the truck in the FY 2021-2022 budget.

This truck replacement was part of the Enterprise Leasing package of vehicles to be purchased for the Department this fiscal year however, Enterprise would not be able to get the truck until late fall. The City can purchase this truck now out of St. Louis off the State Contract.

Accordingly, Staff recommends that Council consider approval of Don Brown's bid in the amount of \$45,434.00 for a 2023 Chevrolet Silverado 3500DH Crew Cab truck.

As always, if you have any questions, concerns or would like additional information, please feel free to contact me prior to the Council Meeting.

Respectfully,

Wayne Dunker

Wayne Dunker, CPRP
Director of Parks and Recreation



2244 S. Kingshighway, St. Louis, Missouri 63110
 (314)772-1400
dave@donbrownchevrolet.com

ATTN: City of Washington

DATE: 03/07/22

QUOTE

	DESCRIPTION		TOTAL
	MoDOT Contract #IFB605CO22000068		
1	Line Item #6 - 2023 Chevrolet Silverado 3500HD Crew Cab 4WD/6.5ft Box - White in Color	\$36,745.00	\$36,745.00
1	Option 6A - Running Boards	\$459.00	\$459.00
1	Option 6B - Spray-in Bed Liner	\$525.00	\$525.00
1	Option 6C - Aux. Upfitter Switches	\$130.00	\$130.00
1	Option 6E - Additional Set of Keys	\$45.00	\$45.00
1	Option ZLQ - WT Convenience Package: outside power-adjustable vertical trairling with heated upper glass mirrors, remote keyless entry, EZ lift tailgate	\$736.00	\$736.00
1	Option JL1 - Integrated trailer brake controller	\$267.00	\$267.00
1	Option AKO - Deep-tinted glass	\$194.00	\$194.00
1	Option A2X - 10-way power driver seat	\$281.00	\$281.00
1	Option Gooseneck Receiver Hitch (2 5/16" ball) with in bed wiring	\$978.00	\$978.00
1	Option VYU - Snow Plow Prep Package	\$291.00	\$291.00
1	Option PQA - WT Safety Package: Includes Front & Rear Chrome Bumpers, Inside rearview auto-dimming mirror, Front & Rear Park Assist, Lane change alert with side blind zone alert, Rear cross traffic alert, Outside power-adjustable vertical trairling with heated & auto-dimming upper glass, rear window defogger	\$1,056.00	\$1,056.00
1	Option Remote Start	\$425.00	\$425.00
1	Option Headache Rack	\$428.00	\$428.00
1	Option Amber/White Light	\$705.00	\$705.00
1	Option Rear Under Seat Cargo Storage - 84734683	\$225.00	\$225.00
1	Option Hard Roll-up Tonneau Cover - 19418642	\$1,009.00	\$1,009.00
1	Option weatherguard Chest Tool Box 664-52-01	\$935.00	\$935.00

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1	Installation		\$0.00
1	Shipping - TBD		\$0.00
GRAND TOTAL			\$45,434.00

If you should have any questions, please don't hesitate to give me a call. Thank you!

Customer Approval

Dave Helterbrand
Fleet Department Manager

This quote is good for 30 days

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING
THE CITY OF WASHINGTON, MISSOURI TO ACCEPT
THE CONTRACT AGREEMENT FROM SHINGLE TECH
FOR THE KOHMuELLER HOUSE METAL ROOF

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is are hereby authorized and directed to accept the contract agreement with Shingle Tech for the Kohmueller House Metal Roof in the amount totaling Nineteen Thousand Nine Hundred Thirty Three Dollars and Nineteen Cents (\$19,933.19). A copy of said agreement is attached hereto and marked as Exhibit A.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: This ordinance shall take effect and be in full force from and after it's passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A

CITY-CONTRACTOR AGREEMENT

This Construction Agreement ("Agreement") is entered into effective as of the 21st day of March, 2022 ("Effective Date") by and between Shingle Tech, a Missouri for-profit corporation with offices located at 516 West Fifth Street, Washington, MO 63090, ("Contractor"), and the City of Washington, Missouri (hereinafter called the "City") (Contractor and the City may hereafter individually be referred to as a "Party" or collectively referred to as the "Parties").

WHEREAS, the Parties desire to enter into an Agreement under which the Contractor is to provide Work as described in this Agreement, currently owned, managed, or otherwise under the stewardship of the City;

WHEREAS, the Contractor has submitted documentation to the City, in the manner and time specified, a proposal in accordance with the terms of the Agreement and;

WHEREAS, the City has examined and canvassed the proposal submitted, and as a result, has determined and declared the Contractor to be the best bidder for constructing said Work, and has duly awarded to the said Contractor contract therefor, for the sums named in the proposal attached to and made a part of this contract:

NOW THEREFORE, THIS AGREEMENT WITNESSETH, in consideration of the recitals stated above, which all Parties agree are accurate and complete, the agreements, promises, and warranties set forth

below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE I.
SCOPE AND DEFINITIONS**

SECTION A. SCOPE OF THE AGREEMENT

Implementation of the Agreement

Paragraph 1.1. This Agreement, and its related Exhibits and Attachments, attached hereto and incorporated herein for all purposes, comprise the entire contract between the City and Contractor concerning the Work. It may be altered only by a written Modification or Change Order.

Paragraph 1.2. It is the intent of the Agreement to describe a complete Project. Any Work that may reasonably be inferred from the Agreement as being required to produce the intended result shall be supplied by the Contractor at no additional cost to the City, whether or not it is specifically called for.

SECTION B. DEFINITIONS

Wherever used in the Agreement the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Paragraph 1.3. "Additional Work" or "Additional Services" means Work beyond the scope of services identified in the specifications described in Exhibit "A".

Paragraph 1.4. "Agreement" or "Contract" means this signed written agreement between the City and Contractor covering the Work to be performed by Contractor, and other Addenda, attachments and Exhibits to this Agreement and made a part thereof as provided herein.

Paragraph 1.5. "Application for Payment" means the form approved by the City which is to be used by Contractor in requesting progress or final payment and which is to include such supporting documentations as is required by the Agreement.

Paragraph 1.6. "Bonds" means bid and/or performance bond or other instruments of security.

Paragraph 1.7. "Change Order" means a written order to Contractor signed by the City authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price issued after the Effective Date of the Agreement.

Paragraph 1.8. "Commencement Date" means the date upon which the Work shall begin.

Paragraph 1.9. "Contract Price" means the monies jointly and separately due and payable by the City to Contractor under this Agreement.

Paragraph 1.10. "Day" means a calendar day of twenty-four hours measured from midnight to the next midnight.

Paragraph 1.11. “Modifications” means (a) a written amendment of the Agreement signed by both Parties, or (b) a Change Order.

Paragraph 1.12. “Owner” means the City.

Paragraph 1.13. “Permit” means a written permit issued by any local, State, or Federal agency, or other legal authority, as required to conduct the Work.

Paragraph 1.1.4. “Person” means an individual, partnership, joint venture, corporation, limited liability company, or unincorporated organization.

Paragraph 1.15. “Project” means the total scope of Work specified in the Agreement.

Paragraph 1.16. “Report” means weekly, monthly, quarterly, or yearly report that demonstrates the tasks completed over that period of time.

Paragraph 1.17. “Subcontractor” means a Person having a direct contract with Contractor or with any other subcontractor for the performance of part of the Work.

Paragraph 1.18. “Third Party” or “Third Parties” means any Person other than a member of Contractor or the City.

Paragraph 1.19. “Unit” means a specific quantity of material or service (per park, per gallon, per tree, per mile, per track, per, acre, per sculpture, linear feet, square feet, etc.).

Paragraph 1.20. “Unit Price” means the dollar amount per Unit as quoted/bid in Exhibit “A”.

Paragraph 1.21. “Work” means all of the services, labor, equipment and materials to be performed, provided, or furnished by Contractor as required by the Agreement.

ARTICLE II. CONTRACT ADMINISTRATION

SECTION A. CONTRACT FORMATION, INTERPRETATION, ASSIGNMENT, AND SUBCONTRACTS

Subcontracting and Assignments

Paragraph 2.1. Contractor shall supply a complete list of any and all subcontractor(s) proposed to be used under the Agreement and shall not use any Subcontractor or other Person (including those who are to furnish the principal items of material or equipment), whether initially or as a substitute, without the prior written consent of the City.

Once a subcontractor(s) has been approved by the City, the Contractor shall submit a signed and dated Contract between the Contractor and the subcontractor indicating the total dollar amount of the subcontractor's Contract. Before any subcontractor can begin work on the project, whether originally subcontracted prior to the start of the project or subcontracted after the project has begun all provisions of this article must be complied with.

Paragraph 2.2. The City may assign this Agreement in part or in whole including all rights and obligations to any assignee at its sole discretion and without any prior notice or consent from Contractor

including but not limited to any entity that succeeds to any of the rights and obligations to provide governmental type services to the local community, including any city, county or state agency, and/or a newly formed municipality. Upon any such assignment by the City, this Agreement shall remain a valid and enforceable agreement and the original terms and conditions contained herein, or any properly amended terms and conditions shall remain valid and enforceable. Contractor shall not assign this Agreement, including to any Affiliates, without the City's prior written consent. Any purported assignment without such consent shall be void.

Paragraph 2.3. Contractor shall be fully responsible for all acts and omissions of its Subcontractors, of all Persons directly or indirectly employed by them and Persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of Persons directly employed by Contractor. Nothing in the Agreement shall create any contractual relationship between the City and any Subcontractor, except as may otherwise be required by law.

SECTION B. TERM

Paragraph 2.4. This Agreement shall be effective as of the Effective Date written on the first page of this Agreement. If the first page is undated, then the Effective Date shall be the date the first Work is commenced.

Paragraph 2.5. This Agreement shall continue from the Effective Date until terminated by the expiration of the Term as indicated in Exhibit "A" or by termination procedures as described in this Agreement.

Paragraph 2.6. If Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the City, or of an employee, or of a separate contractor employed by the City; or by a Change Order in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other caused beyond the Contractor's control; or by delay authorized by the City pending mediation and arbitration; or by other causes that the City determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the City may determine.

SECTION C. CONTRACT COMMUNICATION

Notices

Paragraph 2.6. All notices, requests, demands, and other communications specifically required or authorized by this Agreement shall be written and shall be (a) delivered personally, (b) mailed by registered mail or certified mail, return receipt requested, postage prepaid, (c) sent by facsimile transmission, or (d) sent by e-mail. All such communications shall use the receiving Party's contact information as contained

in this Article II Section C. A Party may change its contact information by sending a notice to the other Party complying with these notice requirements.

Paragraph 2.7. All other communications, including telephone, regular mail, e-mail, and other informal communication methods, shall be effective only when the responsible officer, director, manager, or supervisor of the receiving Party has actual knowledge of the communication.

Paragraph 2.8. Contractor’s contact information is as follows:

Shingle Tech

Attn: Nic Napier
516 West Fifth Street
Washington, MO 63090
636-221-7284
shingletechstl@gmail.com

Paragraph 2.9. City of Washington contact information is as follows:

CITY OF WASHINGTON

Attn: Wayn Dunker
Director of Parks and Recreation
405 Jefferson Street
Washington, Missouri 63090
Telephone: 636-390-1080
E-mail: wdunker@washmo.gov

SECTION D. CONTRACT PERFORMANCE

Work

Paragraph 2.10. Contractor, acting as an independent contractor, agrees to furnish at his/her own expense all supervision, labor, expertise, equipment, supplies, and other requirements as set forth herein and as more specifically described in Exhibit “A” and will provide such in a good and “Workmanlike Manner”, the term Workmanlike Manner being defined as the rendition of services in a manner deemed proficient by those with the special knowledge, training, and experience to judge such services and in accordance with highest generally accepted standard of care in the industry.

Contractor as an Independent Contractor

Paragraph 2.11. At all relevant times to this Agreement, Contractor shall act as an independent contractor to the City in providing Work to the City. Nothing in this Agreement shall be interpreted to create any employment, partnership, or joint ventures. Except to the extent required to enable Contractor to perform his/her specific duties under this Agreement, Contractor shall no act as an agent of the City, by

entering into this Agreement, the City in no way, assumes any liabilities, debts or obligations of the Contractor whether now existing or hereafter created.

Paragraph 2.12. Contractor shall not have the authority to incur or assume any debt, obligation, expense, or liability against the City, and shall not have the authority to bind or otherwise obligate the City to any contracts, agreements, warranties, or understandings.

Change Orders

Paragraph 2.13. Any Change Orders or Modifications to the Agreement must be approved by the City and be incorporated by written amendment to the Agreement. Contractor shall not have the authority to make, revise, alter, depart, or otherwise diverge from any of the terms, conditions, or places furnished to Contractor by the City and/or this Agreement absent consent of the City and written amendment to the Agreement.

Continuing the Work

Paragraph 2.14. Contractor shall carry on the Work and maintain the performance of the Work during all disputes or disagreements with the City, except upon the City's default hereunder. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Parties may otherwise agree in writing.

Equipment Storage

Paragraph 2.15. Contractor shall be responsible for locating and providing storage for all equipment.

Permits

Paragraph 2.16. Contractor shall be solely responsible for obtaining and paying for all permits and licenses related to their performance of the Work.

Taxes and Fees

Paragraph 2.17. Contractor shall pay all taxes and fees which may be chargeable against the performance of the Work, or incident to the Agreement by a government agency, including but not limited to any employment related taxes, F.I.C.A. taxes, social security taxes, and other taxes and fees, directly to the appropriate governmental bodies. The City is a political subdivision of the State of Missouri and exempt from tax; The City agrees to make their tax-exempt certification available to the Contractor to the extent required to assure the City is not charged taxes which they are not responsible to pay. The City shall not be liable in any way for such fees or taxes and the Contractor shall indemnify and hold the City, their Affiliates officers, directors, members, and employees and assigns harmless from and against all

claims, demands, causes of action, suits or other litigation in connection with Contractor's failure to report such taxes and fees. No additional compensation will be paid to Contractor for taxes or fees.

Contract Price and Payment Procedures

Paragraph 2.18. Contract Price constitutes the total compensation (subject to authorized adjustments made by a Change Order) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at its expense without change in the Contract Price. Contract Price is described in the specification in Exhibit "A".

Paragraph 2.19. Contractor shall submit to the City monthly Applications for Payment that shows all applicable areas where the Work was performed. Failure to fully comply with the Application for Payment procedure will cause daily in processing payments.

Paragraph 2.20. On the twenty-fifth (25th) day of each month and no later than the thirtieth (30th) of the month during the Term of the Agreement, beginning with the first (1st) month after the Commencement Date, Contractor shall submit to the City the Application for Payment, accompanied by (a) the monthly Report, (b) a sworn statement by Contractor certifying (i) the Application for Payment is correct, (ii) all insurance required by this Agreement is in full force and effect, (iii) all Subcontractors and suppliers have been paid from previous Applications for Payment, (iv) Certified payroll, and (v) the Contractor is not in default under any provisions of the Agreement and that no event has occurred which with the passing of time or the giving of notice could be a default under the Agreement, and (c) any other documents, information or data which the City request be provided.

Paragraph 2.21. If the City disputes any portion of an Application for Payment, they shall, within thirty (30) Days of receipt of the Application for Payment, furnish the Contractor a reasonably detailed explanation of the objection, and may withhold payment on the portion in dispute. If Contractor objects to the withholding, it shall provide the City with written notice of its objection within ten (10) Days of receipt of the written explanation from the City. The Parties may then proceed to Dispute Resolution as described in this Agreement as to any disputed amount. All undisputed amounts shall be paid within forty-five (45) Days of the receipt of the Application for Payment by the City.

Paragraph 2.22. Contractor shall notify the City in writing within ten (10) Days of their receipt of payment from the City, if there is any discrepancy based on a Contractor audit of the number of Units. This notice shall include the nature of the disagreement, the address of the location of the Unit in question, the type of service being provided, and the date such service began or ended. If the Contractor does not notify the City of a discrepancy within the ten (10) Day period, the discrepancy is waived, and the Contractor is afforded no further recourse, right or remedy as to the discrepancy.

Paragraph 2.23. At any time during the Term of the Agreement, the City may be Change Order alter the number of Units applicable to the Work. If the number of Units is increased, the Work on any additional Units will be paid to Contractor in an amount equal to the number of additional Units multiplied by the Unit Price herein. If the number of Units are decreased, the Contract Price will be reduced in an amount equal to the number of Units decreased multiplied by the Unit Price. Unit Price and Units are described in the specifications in Exhibit "A".

Paragraph 2.24. Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the City to the Contractor when: the Contractor has fully performed the Contract except for the

Contractor's responsibility to correct Work, and to satisfy other requirements, if any, which extend beyond final payment; and a final Certificate for Payment has been issued.

Liquated Damages

Paragraph 2.25. Contractor and City recognize that time is of the essence and that City may suffer financial loss if the Work is not completed within the times specified in Exhibit "A", plus any extensions thereof allowed. The Parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by City if the Work is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City \$500.00 for each day that expires after the time specified in Exhibit "A" above until the Work is complete.

Character and Conduct of Contractor's Employees and Subcontractors

Paragraph 2.26. The Contractor's employees and Subcontractors who normally and regularly come into direct contact with the public shall bear some means of company identification such as a company uniform with name badges, name tags or identification marks. Vehicles and equipment shall also bear some means of company identification (as identified in Exhibit "A").

Paragraph 2.27. The Contractor shall perform the Work with as little noise and as little disturbance to Third Parties and surrounding property owners as possible.

Paragraph 2.28. Care shall be taken by Contractor to prevent damage to property, including buildings, sidewalks, parking lots, trails, roads, pavilions, playgrounds, lawns, shrubs, flowers, trees, plants, etc. on City-Owned Property, Rights-of-Ways or of Third Parties.

Safety and Protection

Paragraph 2.29. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall appoint a qualified, experienced safety representative, whose duties shall be the prevention of accidents and the maintaining and supervision of the safety precautions and programs.

Injury or Damage

Paragraph 2.30. Contractor shall promptly notify the City of all damage to property belonging to the City or Third Parties, or injuries incurred by persons other than employees of Contractor in no case later than one (1) hour after the injury or damage occurred.

Paragraph 2.31. Contractor shall be responsible for any damage to the property, real or personal, of any Third Party or of the City that is caused by any act or omission of the Contractor in the performance under the Agreement. If the City finds that the Contractor has failed to completely reimburse the Third Party any amount and the City, and the City deems it necessary to compensate the Third Party for its damaged property, the City may pay the Third Party and deduct this amount from the amount due to Contractor under this Agreement. The City reserves the right to pay all fines, penalties, costs and assessments levied by any governmental authority against the Contractor and to withhold said amount

from any payments due to Contractor under this Agreement. The terms and conditions of this paragraph shall survive the termination of this Agreement.

Additional Services

Paragraph 2.32. Contractor shall prepare a list of rates for special services not specified in Exhibit "A". Contractor shall supply the list from time to time, but not less than once per year.

Reports by Contractor

Paragraph 2.33. Contractor shall submit reports as identified in Exhibit "A" and upon request by the City provide a written report of equipment, staffing, emergencies, security problems or any related events. The Contractor shall cooperate with the City as necessary to review financial statements and/or audit Contractor's books and records concerning this Agreement.

SECTION E. PERFORMANCE AND TERMINATION

Force Majeure

Paragraph 2.34. Contractor and the City shall be excused from complying with the terms and conditions of this Agreement if, to the extent, and for as long as, such Party's compliance is delayed or prevented by a Force Majeure event. A Force Majeure event will not excuse either Party from making payments, performing indemnity obligations (as applicable), or other duties not directly limited by the Force Majeure event, except as otherwise provided within this paragraph entitled "Force Majeure". "Force Majeure" includes acts of God, floods, blizzards, ice storms, and hurricanes; insurrection, revolution, piracy, and war. Strikes, slowdowns, walkouts, lockouts, industrial disturbances and labor disputes are not excused under this provision.

Provisions Surviving Termination

Paragraph 2.35. In the event of termination of this Agreement, the terms and conditions which expressly survive termination of this Agreement and those dealing with warranty, indemnities, audit, confidentiality, insurance, arbitration, disclaimer of consequential damages and any limitation of liability, shall survive termination and remain in full force and effect.

Termination by the City

Paragraph 2.36. The City may terminate the Agreement upon 1) thirty (30) Days written notice for any reason, or 2) upon any of the following events of default ("Events of Default") if after giving the Termination Notice described in Paragraph 2.36, the Contractor has not cured the Event of Default within the applicable cure period:

- A. If Contractor fails to fulfill or maintain in a timely and proper manner any obligations, duties or provision of the Agreement, and Contractor fails to cure such default to the satisfaction of the City within ten (10) Days of the Contractor's receipt of written notice from the City specifying the how the Contractor failed to perform in reasonable detail.
- B. If Contractor is adjudicated voluntarily bankrupt, or if Contractor is subject to the appointment of receiver or trustee and fails to have the receiver or trustee removed within sixty (60) Days, or if any

assignment or Contractor's property shall be made for the benefit of creditors, or if Contractor becomes insolvent, or unable to pay its debts as they become due.

- C. If there is a change of Control of the Contractor, whether voluntarily or by operation of law, or substantially all the assets of the Contractor are sold or transferred voluntarily or otherwise, the Agreement shall terminate unless the City agrees by Change Order to continue the Agreement with the Contractor after the change of Control or disposition of assets. The Contractor shall promptly notify the City of any actual or proposed change in, transfer of or acquisition by another party of Control of the Contractor. "Control" as used herein means the power, whether direct or indirect, to direct the affairs of the Contractor by whatever manner exercised. Any agreement by the City to continue this Agreement after the change in Control or disposition of assets shall be contingent upon the new controlling party or owner of the assets becoming a signatory to the Agreement and otherwise complying with all the terms and conditions herein, including but not limited to the submission of Bonds, if required by this Agreement, and certificates of insurance acceptable to the City.

Administrative Fee

Paragraph 2.37. If there is an Event of Default which the Contractor does not cure within the applicable cure period, the City may charge and the Contractor shall pay to the City an administrative fee to compensate the City for its costs associated with the Contractor's failure to perform the Work as required in this Agreement. The City may levy this administrative fee without terminating this Agreement. The fee shall be equal to 1.5 times the Unit Cost multiplied by the number of Days the Event of Default continues uncured after the expiration of the applicable cure period and shall be payable to the City by the Contractor upon written demand. The Parties stipulate that the fee is a reasonable estimate and is not to be construed as a fine or penalty, and shall be in addition to any other remedy the City may have at law, in equity or under the Agreement.

Termination Notice: Cancellation of Orders and Subcontracts

Paragraph 2.38. Upon the occurrence of an Event of Default subject to any applicable notice and cure period, the City should they elect to terminate the Agreement, will issue a written notice of termination (the "Termination Notice") to the Contractor. In addition, the City may issue a Termination Notice for any reason as so long as the Contractor is given thirty (30) Days' notice in the Termination Notice. Termination shall be effective upon the date specified in the Termination Notice, and upon said date this Agreement shall be deemed immediately terminated and thereafter neither Party shall have any rights or obligations under this Agreement except as expressly provided herein. Any termination of the Agreement shall not relieve the Contractor (a) from the obligation to pay any fees, taxes or other charges then due to the City or any other Third Party incident to the Agreement, (b) from the obligation to file any monthly, quarterly or annual Reports through termination, (c) from any claim from damages previously accrued or then accruing against the Contractor nor (d) from any provisions of this Agreement that expressly survive termination. Upon the effective date of termination as contained in the Termination Notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all Work and shall proceed to promptly cancel all existing orders and subcontracts for the Work. Contractor shall immediately submit an Application for Payment showing in detail the Work performed through the date of termination. The City agrees to compensate the Contractor for that portion of Work actually performed prior to the effective date of termination and not disputed under this Agreement and not previously paid, less any charges, deductions, or administrative fees. Termination of this Agreement shall not affect any rights or remedies of the City against Contractor

then existing or which may thereafter accrue. Any retention or payment of monies due Contractor by the City shall not release Contractor from liability.

Termination or Stop Work by Contractor and Remedies for Default by the City

Paragraph 2.39. If through no act or fault of Contractor, the Work is suspended for a period of more than ninety (90) Days by the City or under an order of court or other public authority, or the City fails for sixty (60) Days to pay Contractor any sum not in dispute, or if the City otherwise default hereunder, then Contractor may, (i) upon fifteen (15) Days written notice to the City, and provided the City does not remedy such suspension or failure to pay within that time, terminate this Agreement and recover payment from the City for the undisputed Work which Contractor completed prior to the effective date of termination, or (ii) upon seven (7) Days written notice to the City stop the Work until payment of all such amounts due Contractor are received, without termination of this Agreement as the Contractor's sole and exclusive remedies.

ARTICLE III. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

General Service Warranty

Paragraph 3.1. The general service warranty applies to all services performed by Contractor or its subcontractors. Contractor warrants it will perform all services in a good and Workmanlike Manner.

Contractor's Representations and Warranties

Paragraph 3.2. Contractor is familiar with the nature and extent of the Agreement, the Work, the locality, with all local conditions and federal, state, and local laws, ordinances, rules, and regulations

including but not limited to all rules, regulations, and the restrictive covenants governing the land within the jurisdiction of the City, that in any manner may affect cost, progress or performance of the Work.

Paragraph 3.3. The person signing this Contract on behalf of the Contractor is authorized by Contractor to do so.

Paragraph 3.4. Contractor's representations and warranties under this Article III of the Agreement entitled Contractor's Representations and Warranties will survive the termination of this Agreement.

ARTICLE IV. FINANCIAL ADMINISTRATION

SECTION A. APPLICATIONS FOR PAYMENT AND PROCEDURES

Compensation

Paragraph 4.1. Contractor's compensations shall be set forth in the specifications in Exhibit "A".

Contractor's Invoices

Paragraph 4.2. Applications for Payment shall be submitted in such form and accompanied by such certification and documentation as the City may reasonably request, including the following as applicable: (a) Daily rate and the number of day worked in performing the Work, (b) the type and quantities of materials or supplies furnished by Contractor and utilized in performing the Work (e.g. chemicals), (c) the dates and hours equipment or machinery was employed in performing the Work, (d) Report on number of acres cleared, and (e) any charges for extra services authorized by the City (Each service must be individually listed next to its charge and approved proposals or Change Orders must be included).

Payment of Application for Payment

Paragraph 4.3. Except as provided in the paragraph entitled "Disputed Invoices," the City agrees to pay Contractor's Application for Payment within forty-five (45) Days after the City's receipt of the Application for Payment.

Remedies for Unpaid Invoices

Paragraph 4.4. Undisputed Applications for Payment or the undisputed part of an Application for Payment remaining unpaid after forty-five (45) Days from receipt by the City shall accrue simple interest

at the rate of 10% per annum (or the maximum interest rate allowed by applicable law, whichever is less), from the 46th day after receipt by the City through the day the City mails payment to the Contractor.

Disputed Applications for Payment

Paragraph 4.5. If the City, in good faith, disputes any Application for Payment in whole or in part, the City shall notify Contractor of the dispute within the time required for payment and shall timely pay any undisputed portion. Interest shall not accrue on the amounts disputed in good faith.

City Payment Does Not Constitute Waiver

Paragraph 4.6. The City payment of an Application for Payment shall not prevent it from later filing claims against Contractor or waive its rights to recover money previously paid to Contractor. Without limiting the generality of the preceding sentence, the City may recover any sums paid to Contractor by mistake of law or of fact.

SECTION B. LIENS AND CLAIMS

Contractor's Obligations Concerning Liens and Claims

Paragraph 4.7. Contractor shall pay all valid claims for its labor, materials, services, supplies, and products as they become due. Whether a claim is valid or invalid, no lien, privilege, charge, or similar encumbrance shall become fixed upon the City lands, fixtures, improvements, or other property because of Contractor's failure to pay for goods or services provided for hereunder. After being notified of the existence of such claims, charges, liens, privilege, or encumbrances, Contractor agrees to take all necessary steps to obtain the release of such lien, privilege, or encumbrance.

Paragraph 4.8. If Contractor fails or refuses to pay its claims or indebtedness, then the City shall have the right to pay any such claims or indebtedness out any money due or to become due to Contractor under this Agreement; provided, however, the City shall not pay any such claim or indebtedness as long as Contractor is actively contesting it and has taken all actions necessary (including the posting of a bond

or security if appropriate) to protect the City's property interests and the interests of other Persons in that same property.

Paragraph 4.9. Before the City pays any Application for Payment, the City may require Contractor to certify that there are no unsatisfied claims for labor, materials, equipment, supplies, or products.

ARTICLE V. RISK MANAGEMENT

SECTION A. GENERAL INDEMNIFICATION

Release, Defense, and Indemnity

Paragraph 5.1. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless City and its officers, directors, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

Paragraph 5.2. Contractor agrees to release, protect, defend, indemnify, and hold harmless the City or any of its officers, directors, employees, agents, consultants and subcontractors from and against any and all claims (including claims of Third Parties and claims of spouses, heirs, survivors, legal representatives, successors and assigns) of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work for personal injury, illness, death, property (whether real or person, owned or leased) damage) and loss arising out of or resulting from the performance of this Agreement suffered by Contractor **EVEN IF THE CLAIMS ARE CONTRIBUTED TO OR CAUSED BY THE SOLE, JOINT, COMPARATIVE, CONCURRENT, ACTIVE OR PASSIVE NEGLIGENCE OF ANY MEMBER(S) OF THE CITY.**

The release, protection, defense, indemnity and hold harmless obligations assumed by Contractor, and the limitations afforded the City, in this paragraph include any liability for employment discrimination, medical, compensation, or other benefits owed to employees of Contractor as a result of the direct employment relationship of such individuals with a member of Contractor even if such individuals are determined to be the borrowed or statutory employee of any member(s) of the City.

The indemnities in Paragraph 5.2 of this Agreement shall only be effective to the maximum extent permitted by the applicable law, either legislative enactment or a controlling judicial decision. If such existing or future law limits in any way the extent to which indemnification may be provided to an indemnity that is negligent, solely negligent, or otherwise at fault and, notwithstanding the choice of law provision set forth herein, such law is applicable to interpretation of this Agreement, then this Agreement shall automatically be amended to provide that the indemnification provided hereunder shall extend only to the maximum extent permitted by such law. The liability of the City is limited due its status as a political subdivision of the State of Missouri.

Paragraph 5.3. For the purpose of Article V, the phrase "arising from or resulting from the performance of this Agreement" shall be broadly construed to include, but not be limited to, not only formal

work, but also any occurrences at the work site, including transportation to and from the work (other than personal or public transportation to the work site), breaks of all kinds, including, without limitation, breaks for meals and/or rest, horseplay of all kinds, or volunteering of all kinds to assist others in their work.

Indemnity for Removal of Liens

Paragraph 5.4. Should the Contractor fail to fulfill its obligations under Article IV Section B concerning removal of liens, privileges or encumbrances on the property of any resident(s) of the City or property of the City arising out of performance under this Agreement, Contractor agrees to release, protect, defend, indemnify, and hold harmless the City for its direct costs actually incurred in removing such lien, privilege or encumbrance, should the City decide to proceed with removal.

Limitation on Damages

Paragraph 5.5. Contractor agrees that no resident(s) of the City will be responsible for and specifically agrees to release, defend, indemnify, and hold harmless the residents of the City, Mayor, City Council, employees, and agents from any and all liability for indirect, special, incidental, consequential, punitive or exemplary damages suffered by any employee(s) of Contractor.

SECTION B. INSURANCE

Basic Insurance Coverage

Paragraph 5.6. The Contractor and all subcontractors shall support its indemnity obligations by furnishing liability insurance coverage of the types set forth.

Comprehensive General Liability and Bodily Injury

Including Death: \$1,000,000 each person
\$3,000,000 each occurrence

Property Damage: \$3,000,000 each occurrence
\$3,000,000 aggregate

Comprehensive Automobile Liability, Bodily Injury

Including Death: \$1,000,000 each person
\$3,000,000 each occurrence

Property Damage: \$3,000,000 each accident

Owner's Protective Bodily Injury

Including Death: \$1,000,000 each occurrence
\$1,000,000 each occurrence

Property Damage: \$1,000,000 each occurrence
\$1,000,000 aggregate

Workers Compensation

The Contractor shall procure and shall maintain during the term of the Agreement, Workers' Compensation insurance for all of its employees to be engaged and perform work under the Agreement, and in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all such employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's Workers Compensation Insurance. In the event any class of employees engaged in hazardous work under the Agreement is not protected under the Workers' Compensation Statute, the Contractor shall provide, and shall cause such subcontractor to provide, adequate Employer's Liability Insurance for the protection of its employees not otherwise protected.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the City.

In full compliance with the Worker's Compensation Act of the State of Missouri and Employer's Liability Coverage the minimum amount of insurance shall be \$1,000.00 per occurrence.

Insurance Endorsements and Provisions

Paragraph 5.7. Prior to commencing to Work under this Agreement, Contractor shall obtain a waiver of subrogation from its insurers on the policies required in favor of the City.

Paragraph 5.8. All such insurance coverage required under this Agreement shall name the City as an additional insured.

Paragraph 5.9. Have such policies contain or be endorsed to contain a severability of interest provision so that each insured shall be treated separately under the policy so that the insurer may not deny

enforcement based on the conduct or omissions of another insured; provided, however, this provision shall not cause any insurer or underwriter to pay more than the limits of the insurance coverage provided;

- Be primary over any insurance coverage maintained by the City;
- Be maintained in full force and effect during the term of this Agreement; and
- Contain provisions stating that such policies shall not be materially changed or cancelled without thirty (30) Days prior written notice having first been furnished to the City.

Certificates of Insurance

Paragraph 5.10. Contractor and all Subcontractors agree that prior to commencing any of the Work under this Agreement; they shall have their insurance carrier furnish the City a certificate or certificates of insurance and endorsement page(s) evidencing insurance coverage in accordance with the requirements identified herein. Acceptance by the City of a certificate or certificates of insurance and/or endorsement page(s) showing coverage not in compliance with the insurance requirements of this Agreement shall not relieve Contractor or Subcontractor(s) from its obligations under this Agreement.

Performance Bond and Labor and Material Payment Bond

Paragraph 5.11. Contractor shall furnish with the executed Agreement a Performance and Payment Bonds, each in an amount at least equal to the Contract Price of the Agreement as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents, and also a Labor and Material Payment Bond in an amount at least equal to the Contract Price as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The Performance bond and the Labor and Material Payment Bond may be in separate instruments, however, if combined into one the amount shall be for two hundred percent of the Contract Sum. The City will hold the Bonds for the duration of the Contract, as security for faithful performance and payment of all obligations under the Contract Documents.

Paragraph 5.12. Shall use the Performance Bond forms contained in the contract documents.

Paragraph 5.13. All Bonds signed by an agent must be accompanied by a certified copy of agent's authority to act. Only surety companies authorized to do business in, and having an agent for services in the State of Missouri will be acceptable.

Paragraph 5.14. If the Surety on any Bonds furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the state where the project is located or it ceases to meet the requirements of the preceding paragraph, the Contractor shall substitute another Bond and Surety, both of which must be acceptable to the City before continuing the Work.

Severability

Paragraph 5.15. If any part of Article V contravenes any applicable statutes, regulations, rules, or common law requirements, then, to the extent and only to the extent of such contravention, such part shall

be severed from this Article V and deemed nonbinding while all other parts of this Article V shall remain binding.

ARTICLE VI. LEGAL ADMINISTRATION

SECTION A. COMPLIANCE WITH LAWS AND REGULATIONS

General Legal Compliance

Paragraph 6.1. Contractor shall comply with all applicable local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Agreement as well as other regulations and restrictive covenants of the City.

If the Contractor discovers any provisions in the Agreement which is contrary or inconsistent with any law, ordinance, or regulation, it shall immediately report same in writing to the City.

Paragraph 6.2. Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city, town district or other political subdivision on whose behalf the Contract is made or awarded, one hundred dollars (\$100.00) for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this Contractor, by him/her or by any subcontractor under him/her.

Paragraph 6.3. Contractor shall affirm by sworn affidavit that he/she has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services and to sign the affidavit affirming that Contractor does not knowingly employ any person who is an unauthorized alien in connection with the Contract. Such affidavit shall be required as a condition of this Contract prior to or at the time of execution of this Contract, and Contractor shall provide documentation for the program.

SECTION B. GOVERNING LAW AND DISPUTE RESOLUTION

Paragraph 6.4. The Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Missouri. The Agreement is performable in Franklin, County, Missouri, and the Parties agree that venue for any dispute under the Agreement shall be Franklin County. Any Party, who is the prevailing Party in any legal proceeding brought under or in relation to the Agreement shall be entitled to recover court costs and reasonable attorney's fees from the non-prevailing Party.

SECTION C. MISCELLANEOUS

Severability

Paragraph 6.5. If any part of this Agreement contravenes any applicable statutes, regulations, rules, or common law requirements, then, to the extent and only to the extent of such contravention, such part

shall be severed from this Agreement and deemed nonbinding while all other parts of this Agreement shall remain binding, so long as the material purposes of this Agreement can be determined and effectuated.

Singular and Plural

Paragraph 6.6. Reference to one gender includes a reference to the other gender.

Headings

Paragraph 6.7. The headings, sub-headings, and other subdivisions of this Agreement are inserted for convenience only. The Parties do not intend them to be an aid in legal construction.

Counterpart Execution

Paragraph 6.8. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed an original of this Agreement for all purposes. No Party shall be bound to this Agreement unless and until all Parties have executed a counterpart.

Binding Authority

Paragraph 6.9. Each of the individuals executing this Agreement represents that he or she has full right and authority to execute this instrument on behalf of the City or Contractor, as the case may be, and to bind such Party. If the Person executing this

Agreement has a title that includes the term "Manager," "Director," or "Vice President," then the Parties agrees that such Person has apparent authority to execute this Agreement and bind the Party. If such Person executes this Agreement on behalf of a Party, the other Party is not required to obtain a power of attorney, delegation of authority, or corporate resolution evidencing such authority.

Entirety of Contract

Paragraph 6.10. The Agreement embodies the entire contract between Parties.

Waiver

Paragraph 6.11. Failure to exercise any option to terminate shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. A waiver of any breach of any provision of the Agreement shall not constitute or operate as a waiver of any breach of such provision or any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provisions or any other provision. The failure of the City at any time to enforce or to object to a failure or refusal to perform any terms, condition, or covenant of the Agreement, or to exercise any option herein giver, or to require at any time performance by the Contractor of any term, condition, or covenant hereof, shall in no way constitute a waiver of any subsequent breach, or effect the validity of the Agreement or any part hereof

or the right of the City thereafter to enforce the same, but shall apply only to the specific instance to which the failure to enforce is directed.

Approvals

Paragraph 6.12. All approvals or consents required or permitted pursuant to the Agreement shall be writing in order to be considered valid and effective.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF WASHINGTON

By _____
Sandy Lucy, Mayor

(SEAL)

ATTEST:

Sherri Klekamp, City Clerk

CONTRACTOR

By _____
"Contractor"

Title _____

(SEAL)

ATTEST:

Title:



March 21, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Recommendation – Kohmueller House metal roof bid

Honorable Mayor and City Council,

The Kohmueller House in Hillermann Park is in need of a new metal roof. The Washington Historical Society who manages the interior items and displays informed the Parks and Recreation Department last summer the roof was starting to leak causing some plaster damage. They asked the City to repair the roof before any historical items were destroyed. Once the roof is replaced, the Historical Society will repair the interior water damage.

The roof was budgeted in the FY22 Parks and Recreation budget for \$15,000. The project was bid out twice after not received any bids. One bid was received from Shingle Tech for \$19,933.19. This is \$4,933.19 over what was budgeted for the project. To make up for the shortfall in funding, can be taken from the Capital Improvement Sales Tax, specifically the Main Stage Roof Structure. That project will then be re-budgeted for a future year.

Accordingly, staff recommends that Council consider the approval of Shingle Tech's bid in the amount of Nineteen Thousand Nine Hundred Thirty Three dollars and Nineteen cents (\$19,933.19) and an additional \$2,000.00 to cover unforeseen conditions.

As always, if you have any questions or would like additional information, please see me before the Council meeting.

Respectfully,

Wayne Dunker

Wayne Dunker, MA, CPRP
Director of Parks and Recreation

METAL ESTIMATE

Shingle Tech
 516 W 5th st
 Washington, MO 63090
 (636) 221-7284



Chad Owens
Job #J-1615 - Kohmueller House
Washington, MO

Estimate # E-4644
Date 2/25/2022

Item	Description	Qty
Standing Seam (smooth)	54@17.3 9@12.3 18@7.6	1,181.00
standing seam (eave drip trim)	10 ft	11.00
Standing seam (rake)	10 ft	12.00
rake cleat (standing seam) 10 ft		10.00
standing seam (cap)	10 ft	5.00
standing seam Z channel (10 ft)		24.00
butal tape (mastic)	20 ft roll	12.00
chimney	custom sidewall 2-10ft front pan 2- 10 ft back pans	4.00
pan screws		1,000.00
rivets	rivets for standing seam (100 ct bag)	3.00
standing seam (S-5 rail)	8ft	13.00
standing seam (s-5 clamp)		39.00
standing seam (color slit for s-5_		13.00
standing seam (sidewall)	10 ft	3.00
standing seam (hi side eave)		2.00
standing seam (fashia)	1x6 10ft	11.00
half round gutter clips		67.00
2x6 (8ft)		14.00
anchor nails(1x 1 1/4) 100 ct		1.00
labor	tear-off and install	1.00

Sub Total

\$19,933.19

Total

\$19,933.19

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A FULL AND FINAL RELEASE OF ALL PROPERTY DAMAGE CLAIMS BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI, BIG C'S ENTERPRISES, LLC AND DARREL HEDRICK

BE IT ORDAINED by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to execute a Full and Final Release of Property Damage claims by and between the City of Washington, Missouri, Big C's Enterprises, LLC and Darrel Hedrick, a copy of which is marked Exhibit A and is attached hereto and incorporated herein by reference, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the said Release and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 2: The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

EXHIBIT A

FULL AND FINAL RELEASE OF ALL PD CLAIMS

KNOW ALL ME BY THESE PRESENTS, that the Undersigned, Washington Fairgrounds (authorized representative) does confirm settlement in the amount of Eighteen Thousand Nine Hundred Eighty One Dollars No/100 (\$18,981.00) in total, which is accepted in full compromise settlement and satisfaction of, and as sole consideration for the final release and discharge of all actions, claims and demands whatsoever, that now exist, or may hereafter accrue, against Big C's Enterprises LLC, their driver Darrel Hedrick and its insurer Everest National Insurance Company and Sedgwick and any other person, corporation, association or partnership charged with responsibility for injuries to the person and property of the Undersigned, and the consequences flowing therefrom, as the result of an accident, casualty or event which occurred on or about on 8/10/21 at Washington Fairgrounds 6 Fairgrounds Rd Washington, MO 63090. for which the Undersigned claims the said persons or parties are legally liable in damages, which legal liability and damages are disputed and denied, including, but not limited to all claims made or which could have been made in the above-captioned claim.

The Undersigned warrants that no promise or inducement has been offered except as herein set forth; that this Release is executed without reliance upon any statement or representation by the person or parties released, or their representatives, or physicians, concerning the nature and extent of the injuries and/or damages and/or legal liability therefor; that the Undersigned is of legal age, legally competent to execute this Release and accepts full responsibility therefor, and;

The Undersigned agrees, as a further consideration and inducement for this compromise settlement, that it is a full and final release of all claims and shall apply to all known and unknown and anticipated and unanticipated injuries and damages resulting from said accident, casualty or event, as well as to those now known or disclosed.

IN WITNESS WHEREOF, I have hereunto set hand and seal the 21st day of March in the year 2022.

_____(L.S.)
Claimant name

STATE OF

: SS

COUNTY OF

Before me, a Notary Public, for and within the County of Franklin, State of Missouri, this 21st day of March 2022, personally appeared Sandy Lucy and known to me to be the person(s) named in and who executed the above Release, and they acknowledged to me that they executed the same as their own free act and deed.

Signature of Notary Public

My commission expires:



March 21, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Fairgrounds tree damage claim

Honorable Mayor and City Council,

On August 9, 2021 as the Town & Country Fair's carnival contractor was moving equipment off the Fairgrounds when a loaded truck of carnival equipment rolled down the walkway of the Midway. The truck hit two large Maple trees along south side of the walkway, near the Fair Administration Building. The City and the carnival's insurance company inspected the trees for damage. The carnival's insurance company agreed with the City Arborist, Josh Wargo that the trees will likely die in two to five years. Attached is release of property damage documentation including the compromise settlement amount for the value of the trees.

Respectfully,

Wayne Dunker

Wayne Dunker, CPRP
Director of Parks and Recreation

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACT AGREEMENT WITH FORD ASPHALT CO., INC. FOR THE 2022 PARKS PAVING PROJECT

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to execute an Agreement by and between the City of Washington, Missouri and Ford Asphalt Co., Inc. A copy of the Agreement is attached and is marked as Exhibit A.

SECTION 2: The Mayor and City Clerk are hereby authorized and directed to execute said contract, and to do all things necessary by the terms of said contract.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A
CONTRACT AGREEMENT
2022 PARKS PAVING PROJECT

THIS AGREEMENT, made and entered into this 21st day of March, 2022, by and between the CITY OF WASHINGTON, MISSOURI, party of the first part; hereinafter termed the "City", and **FORD ASPHALT CO., INC.**, party of the second part, hereinafter termed in this agreement as the "Contractor".

WITNESSETH:

THAT WHEREAS, the City has caused to be prepared specifications and other contract documents for the work herein described, and has approved and adopted these contract documents and has invited proposals for the furnishing of materials, labor and equipment for, and in connection with, the construction of improvements in accordance with the terms of this contract; and,

WHEREAS, the Contractor, in response to the invitation, submitted to the City in the manner and at the time specified, a proposal in accordance with the terms of the contract; and,

WHEREAS, the City has opened, examined and canvassed the proposals submitted, and as a result of such canvass, has determined and declared the Contractor to be the lowest and best bidder for constructing said improvements, and has duly awarded to the said Contractor contract therefore, for the sum or sums named in the proposal attached to and made a part of this contract;

NOW THEREFORE, THIS AGREEMENT WITNESSETH, that the parties to these presents, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, have agreed and hereby agree the City for itself, and its successors and the Contractor for itself, himself, or themselves, its, his or their successors and assigns, to its, his or their executors and administrators, as follows:

ARTICLE I: That the Contractor will furnish at his own cost and expense, all labor, tools, equipment and materials required, and construct and complete in a good first class and workmanlike manner, the work as designated, described and required by the plan, specifications and proposals for construction of the improvement, all in accordance with the specifications, general conditions, supplementary conditions, instructions to bidders, proposal, and other specified documents, all of which contract documents from the contract, and are as fully a part thereof as if repeated verbatim herein; all work to be done under the direct supervision, and to the entire satisfaction of the City.

Contractor shall provide (a) a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for its employees working onsite on the project. The program shall include a course in construction safety and health

approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees working on the project are required to complete the program within sixty (60) days of beginning work on the construction project. (b) Any employee found on the worksite subject to this section without documentation of the successful completion of the course required under subsection (a) shall be afforded 20 days to produce such documentation before being subject to removal from the project. (c) Contractor shall require all onsite employees of any subcontractors to complete the ten-hour training program required under subsection (a). (d) Pursuant to Sec. 272.675 RSMo., Contractor shall forfeit as a penalty to the City \$2,500.00 plus \$100.00 for each employee employed by Contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time periods in subsections (a) and (b) have elapsed. City shall withhold and retain from the amount due Contractor under this contract, all sums and amounts due and owing City as a result of any violation of this section.

ARTICLE II: Specifically, the Contractor shall comply in all respects with the Anti-Discrimination Provisions.

ARTICLE III: In accordance with the provisions of Section 34.600 RSMo. the Contractor shall, upon execution of the Contract, execute and deliver to the City an affidavit in the form marked **Affidavit of Compliance with Section 34.600 RSMo** attached hereto and incorporated herein by reference. Failure to provide the affidavit and comply with the provisions of Section 34.600 RSMo shall render the Contract void.

ARTICLE IV: That the Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city and county, city, town, district, or other political subdivision on whose behalf the contract is made or awarded, one-hundred dollars (\$100.00) for each workman employed, for each working day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this contract, by him or by any subcontractor under him.

ARTICLE V: Contractor agrees to comply with Missouri Revised Statute Section 285.530.1 in that it shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of this contract, the Contractor shall, by sworn affidavit, and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. The Contractor shall also sign the affidavit, attached hereto and made a part of this contract, affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Contractor shall require each subcontractor to affirmatively state in its contract with Contractor that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the State of Missouri and shall not henceforth do so. Alternatively, Contractor shall require each subcontractor to provide Contractor with a sworn affidavit under the penalty of perjury attesting to the fact that

the subcontractor's employees are lawfully present in the United States.

ARTICLE VI: That the City will pay the Contractor for the performance of this Contract and the Contractor will accept in full compensation therefore, the sum of **One Hundred Nine Thousand Four Hundred Dollars and Zero Cents (\$109,400.00)**, for all work covered in the Base Proposal Bid.

IN WITNESS WHEREOF, the parties have made and executed this Agreement the day and year first above written.

FORD ASPHALT CO., INC.

CITY OF WASHINGTON
COUNTY OF FRANKLIN
STATE OF MISSOURI

By: _____
Contractor

Mayor

Title

City Clerk

7e



March 21, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Recommendation – 2022 Parks Paving Projects Bid

Honorable Mayor and City Council,

In the last couple of years, the Department has been focused on addressing some of the failing asphalt in the park system, mainly in parking lots and some trails. In the last two years, several park parking lots and nearly all of the asphalt in the Fairgrounds has been addressed. It has been a number of years since the Lakeview Trails have been paved. Paving of the Lakeview Trails was budgeted in the Parks and Recreation FY22 budget. Also identified in the FY22 Parks and Recreation budget are a couple small paving projects at Phoenix Park. Those projects include repaving a bad section of the entrance drive at Phoenix Park and the relocation of a small section of the existing trail around the new playground to the pavilion.

The Engineering Department solicited for paving bids and received six total bids ranging from \$130,132 to \$109,400. Ford Asphalt Company had the lowest bid of \$109,400.00. The funding for these paving projects will come from the Capital Improvement Sales Tax fund and the Parks and Recreation Operations Capital fund.

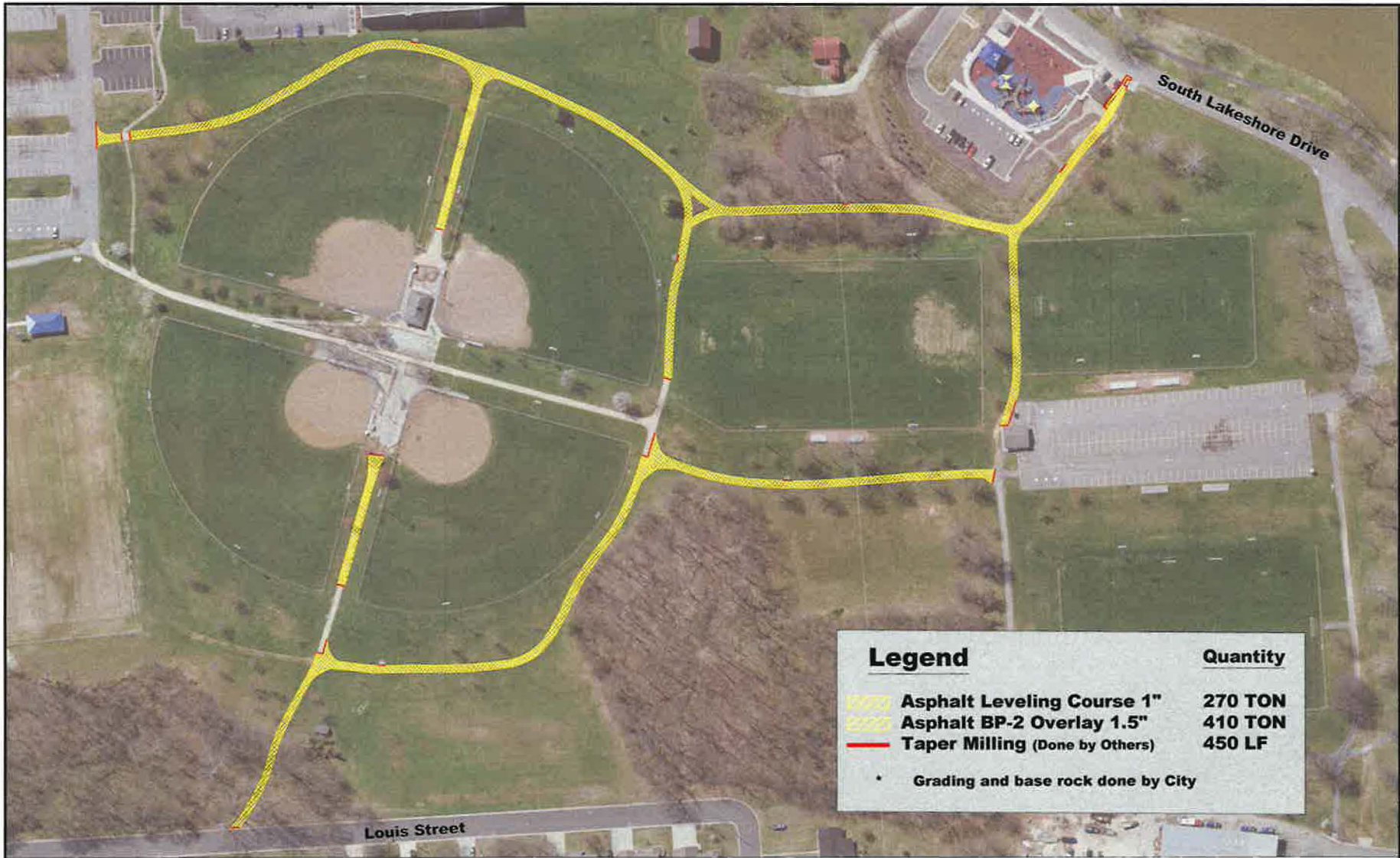
Accordingly, staff recommends that Council consider Ford Asphalt Company's bid in the amount of One Hundred Nine Thousand Four Hundred dollars and no cents (\$109,400.00) for paving projects at Lakeview and Phoenix Parks.

As always, if you have any questions or would like additional information, please see me before the Council meeting.

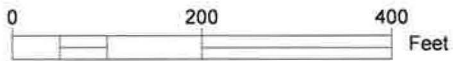
Respectfully,

Wayne Dunker

Wayne Dunker, CPRP
Director of Parks and Recreation



Legend		Quantity
	Asphalt Leveling Course 1"	270 TON
	Asphalt BP-2 Overlay 1.5"	410 TON
	Taper Milling (Done by Others)	450 LF
* Grading and base rock done by City		



Lakeview Park Trails



CITY OF WASHINGTON
 ENGINEERING DEPARTMENT
 405 JEFFERSON STREET
 WASHINGTON, MISSOURI 63090
 (636) 390-1010



CITY OF WASHINGTON
 2022 PARKS PAVING PROJECT

REVISIONS	
Number	Description



JOHN ROBERT HALDER, PE
 No. 87533-AS
 CITY ENGINEER




DATE: 01/28/22

CHECKED BY: JRN

DRAWN BY: CAS

SHEET PLAN SHEET
 SHEET 2 of 3



Legend		Quantity
	2" Asphalt BP-1	15 TON
	Asphalt BP-2 Overlay 1.5"	110 TON
	Full Width Milling	1,170 SY
<ul style="list-style-type: none"> • Grading and base rock done by City 		

CITY OF WASHINGTON
 ENGINEERING DEPARTMENT
 405 JEFFERSON STREET
 WASHINGTON, MISSOURI 63090
 (616) 390-1010



CITY OF WASHINGTON
2022 PARKS PAVING PROJECT

Number	Description



JOHN ROBERT YULE, P.E.
 PE ARCHITECT
 CITY ENGINEER

DATE: 01/28/22

CHECKED BY: JRN

DRAWN BY: CAS

SHEET: PLAN SHEET
 SHEET 3 of 3

Phoenix Park

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY OF WASHINGTON, MISSOURI TO ACCEPT THE BID WITH LANDMARK APPRAISAL CO. FOR THE THIRD STREET OVERLAY AND IMPROVEMENT PROJECT, FEDERAL PROJECT# STP-6401(602)

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to accept the bid with and Landmark Appraisal Co for the Third Street Overlay and Improvement Project, Federal Project# STP-6401(602). A copy of the bid is attached and is marked as Exhibit A.

SECTION 2: The Mayor and City Clerk are hereby authorized and directed to execute said contract, and to do all things necessary by the terms of said contract.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A



RESIDENTIAL * COMMERCIAL * FARMS * ESTATES

1601 W. 5th Street, Washington, MO 63090

(636) 239-2731 (636) 239-2733 fax

March 15, 2022

Ms. Andrea Lueken
City of Washington
405 Jefferson St
Washington, MO 63090

Third Street Project

Dear Ms. Lueken,

Per your request, we have prepared a bid for the above referenced project which is located in the City of Washington, Missouri.

This appraisal is prepared in compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation along with all aspects of Section 136.8 in the Local Public Agency Land Acquisition manual of MODOT.

All of the information which is part of this appraisal is on file in the office of the appraiser and is available for inspection by the client, such third parties as may be authorized by due process of law, and a duly-authorized professional peer review committee. Format of the appraisal used will also adhere to those outlined by MODOT and has been selected as the best means of reporting the significant factors considered in estimating the just compensation to land owners for the takings. The process of collecting, confirming and reporting data is explained in the report.

As a necessary part of this assignment, a personal inspection of the subject property will be performed. Data upon which value conclusions are based have been compiled from various real estate brokers, managers and leasing agents. Published industry data and primary research conducted by **Landmark Appraisal Company**.

We will perform the inspections and our time to complete these reports within a 60 day timeframe after engagement of the order or an agreed upon date by the appraiser and client. The fee for each report will be \$300. The reports will each be saved individually and be delivered by hard copy and transmitted in pdf format for the client's use.

Also, Landmark's Errors and Omissions Insurance declaration page and license is attached for your records.

If you have any questions or concerns please feel free to call Karen at Landmark at the number below.

Respectfully submitted,



Karen J. Koopman
General Appraiser #2007008687
Landmark Appraisal Co.
(636) 239-2731

Attachments: E & O Certification, License

The City will pay Landmark Appraisal Co. for the performance of this Agreement and Landmark Appraisal Co. will accept in full compensation therefore, the sum of Ten Thousand Eight Hundred dollars and No cents (\$10,800.00), for all work covered in the Proposal Bid.

LANDMARK APPRAISAL CO.

CITY OF WASHINGTON
COUNTY OF FRANKLIN
STATE OF MISSOURI

By: _____
Appraiser

Mayor

Title

City Clerk

State of Missouri

Department of Insurance, Financial Institutions and Professional Registration
Division of Professional Registration
Real Estate Appraisers Commission
State Certified General Real Estate Appraiser

VALID THROUGH JUNE 30, 2020
ORIGINAL CERTIFICATE/LICENSE NO. 2007008687

KAREN J KOOPMAN
LANDMARK APPRAISAL CO.
1601 W. 5TH STREET
WASHINGTON MO 63090
USA


EXECUTIVE DIRECTOR


DIVISION DIRECTOR



LIA Administrators & Insurance Services

APPRAISAL, VALUATION AND PROPERTY SERVICES
PROFESSIONAL LIABILITY INSURANCE POLICY



DECLARATIONS

Aspen American Insurance Company

(Referred to below as the "Company")
590 Madison Avenue, 7th Floor
New York, NY 10022
877-245-3510

Table with 3 columns: Date Issued (11/15/2021), Policy Number (AAID04107-07), Previous Policy Number (AAID04107-06)

THIS IS A CLAIMS MADE AND REPORTED POLICY. COVERAGE IS LIMITED TO LIABILITY FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND THEN REPORTED TO THE COMPANY IN WRITING NO LATER THAN SIXTY (60) DAYS AFTER EXPIRATION OR TERMINATION OF THIS POLICY...

1. Customer ID: 104625
Named Insured: LANDMARK APPRAISAL COMPANY
JAK EN'ERPRISES, LLC
Karen J. Koopman
1601 W. 5th Street
Washington, MO 63090
2. Policy Period: From: 12/27/2021 To: 12/27/2022
12:01 A.M. Standard Time at the address stated in 1 above.
3. Deductible: \$1000 Each Claim
4. Retroactive Date: 12/22/1986
5. Inception Date: 12/27/2015
6. Limits of Liability: A. \$1,000,000 Each Claim
B. \$2,000,000 Aggregate
Subpoena Response: \$5,000 Supplemental Payment Coverage
Pre-Claim Assistance: \$5,000 Supplemental Payment Coverage
Disciplinary Proceeding: \$7,500 Supplemental Payment Coverage
Loss of Earnings: \$500 per day Supplemental Payment Coverage

7. Covered Professional Services (as defined in the Policy and/or by Endorsement):
Real Estate Appraisal and Valuation: Yes [X] No []
Residential Property: Yes [X] No []
Commercial Property: Yes [X] No []
Bodily Injury and Property Damage Caused During Appraisal Inspection (\$100,000 Sub-Limit): Yes [X] No [] If "yes", added by endorsement
Right of Way Agent and Relocation: Yes [] No [X]
Machinery and Equipment Valuation: Yes [] No [X]
Personal Property Appraisal: Yes [] No [X] If "yes", added by endorsement
Real Estate Sales/Brokerage: Yes [] No [X] If "yes", added by endorsement

8. Report Claims to LIA Administrators & Insurance Services, 800-534-0652, P.O. Box 1319, 1000 Annapolis St, Santa Barbara, California 93103

9. Annual Premium:

10. Forms attached at issue: LIA002 (04/19) LIA MO (05/19) LIA MO NOT (05/19) LIA012 (05/19) LIA018 (05/19) LIA042 (05/19) LIA131 (05/19) LIA164 (05/19)

This Declarations Page, together with the completed and signed Policy Application including all attachments and exhibits thereto, and the Policy shall constitute the contract between the Named Insured and the Company.

11/15/2021

Date

[Signature]

By: Authorized Representative



March 16, 2022

Honorable Mayor and City Council
City of Washington
Washington, MO 63090

RE: Third Street Overlay and Improvement Project, Federal Project# STP-6401(602)

Dear Mayor and City Council Members:

The City will need 36 temporary construction easements (TCE) to complete the construction of this project. A STP federally funded project requires that appraisals and review appraisals be completed when TCE's or right of way are required to complete a project. An alternate valuation tool is available if the acquisitions meet certain criteria. This project meets those criteria and we recommend entering into a contract with Landmark Appraisal Co. to prepare waiver valuations for each of the 36 TCE's needed. This company is listed on MoDOT's approved appraiser list. The attached proposal provides a cost of \$300.00 per parcel and for 36 parcels the total is \$10,800.00. Find in this packet an ordinance for your consideration that would allow the City to enter into a contract with Landmark Appraisal Co. in the amount of \$10,800.00.

The City has budgeted this project out of the Transportation Sales Tax fund.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Andrea F. Lueken".

Andrea F. Lueken, P.E.
Assistant City Engineer

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACT WITH K.J. UNNERSTALL CONSTRUCTION CO. FOR THE 2022 BUSCH CREEK GREENWAY IMPROVEMENT PROJECT TAP-6406(606)

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The City of Washington, Missouri, is hereby authorized and directed to execute an Agreement by and between K.J. Unnerstall Construction Co. and the City of Washington, Missouri. A copy of the agreement is attached and is marked as "Exhibit A". Said execution is subject to approval by MoDOT.

SECTION 2: The Mayor and City Clerk are hereby authorized and directed to execute said contract, and to do all things necessary by the terms of said contract.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

"Exhibit A"
CONTRACT AGREEMENT
BUSCH CREEK GREENWAY IMPROVEMENT PROJECT

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, by and between the CITY OF WASHINGTON, MISSOURI, party of the first part; hereinafter termed the "City", and **K. J. Unnerstall Construction Co.**, party of the second part, hereinafter termed in this agreement as the "Contractor".

WITNESSETH:

THAT WHEREAS, the City has caused to be prepared specifications and other contract documents for the work herein described, and has approved and adopted these contract documents and has invited proposals for the furnishing of materials, labor and equipment for, and in connection with, the construction of improvements in accordance with the terms of this contract; and,

WHEREAS, the Contractor, in response to the invitation, submitted to the City in the manner and at the time specified, a proposal in accordance with the terms of the contract; and,

WHEREAS, the City has opened, examined and canvassed the proposals submitted, and as a result of such canvass, has determined and declared the Contractor to be the lowest and best bidder for constructing said improvements, and has duly awarded to the said Contractor contract therefore, for the sum or sums named in the proposal attached to and made a part of this contract;

NOW THEREFORE, THIS AGREEMENT WITNESSETH, that the parties to these presents, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, have agreed and hereby agree the City for itself, and its successors and the Contractor for itself, himself, or themselves, its, his or their successors and assigns, to its, his or their executors and administrators, as follows:

ARTICLE I: That the Contractor will furnish at his own cost and expense, all labor, tools, equipment and materials required, and construct and complete in a good first class and workmanlike manner, the work as designated, described and required by the plan, specifications and proposals for construction of the improvement, all in accordance with the specifications, general conditions, supplementary conditions, instructions to bidders, proposal, and other specified documents, all of which contract documents from the contract, and are as fully a part thereof as if repeated verbatim herein; all work to be done under the direct supervision, and to the entire satisfaction of the City.

Contractor shall provide (a) a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for its employees working onsite on the project.

The program shall include a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees working on the project are required to complete the program within sixty (60) days of beginning work on the construction project. (b) Any employee found on the worksite subject to this section without documentation of the successful completion of the course required under subsection (a) shall be afforded 20 days to produce such documentation before being subject to removal from the project. (c) Contractor shall require all onsite employees of any subcontractors to complete the ten-hour training program required under subsection (a). (d) Pursuant to Sec. 272.675 RSMo., Contractor shall forfeit as a penalty to the City \$2,500.00 plus \$100.00 for each employee employed by Contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time periods in subsections (a) and (b) have elapsed. City shall withhold and retain from the amount due Contractor under this contract, all sums and amounts due and owing City as a result of any violation of this section.

ARTICLE II: Specifically, the Contractor shall comply in all respects with the Anti-Discrimination Provisions.

ARTICLE III: That the Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city and county, city, town, district, or other political subdivision on whose behalf the contract is made or awarded, one-hundred dollars (\$100.00) for each workman employed, for each working day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this contract, by him or by any subcontractor under him.

ARTICLE IV: Contractor agrees to comply with Missouri Revised Statute Section 285.530.1 in that it shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of this contract, the Contractor shall, by sworn affidavit, and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. The Contractor shall also sign the affidavit, attached hereto and made a part of this contract, affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Contractor shall require each subcontractor to affirmatively state in its contract with Contractor that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the State of Missouri and shall not henceforth do so. Alternatively, Contractor shall require each subcontractor to provide Contractor with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States.

ARTICLE V: That the City will pay the Contractor for the performance of this Contract and the Contractor will accept in full compensation therefore, the sum of Six Hundred Twenty-Five Thousand Two Hundred Dollars and Zero Cents (\$625,200.00), for all work covered in the Base Proposal Bid.

IN WITNESS WHEREOF, the parties have made and executed this Agreement the day and year first above written.

K.J. UNNERSTALL CONSTRUCTION CO.

CITY OF WASHINGTON
COUNTY OF FRANKLIN
STATE OF MISSOURI

By: _____
Contractor

Mayor

Title

City Clerk



March 15, 2022

Honorable Mayor and City Council
City of Washington
Washington, MO 63090

RE: Busch Creek Greenway Improvement Project, TAP-6406(606)

Dear Mayor and City Council Members:

On March 11, 2022 the City received the following bids for this project:

K.J. Unnerstall Construction Co.	\$ 625,200.00
Pavement Solutions, LLC	\$ 949,857.59
Kozeny Wagner, Inc.	\$ 990,810.00
Lamke Trenching & Excavating Inc.	\$ 1,535,580.50
<i>Engineer's Estimate</i>	\$ 656,458.10

Find in this packet an ordinance for your consideration that would allow the City to enter into a contract with K.J. Unnerstall Construction Co. in the amount of \$ 625,200.00. This award is contingent on MoDOT's concurrence to award which is anticipated in April. The contractor has 180 calendar days to complete the project once Notice to Proceed has been issued. This project includes an on-street shared use path and an off-street 10' wide concrete trail with shared-lane street markings and way-finding signage including stormwater pipe, striping, fencing, gates, decorative street light and ADA sidewalk construction along portions of the project.

The City has budgeted \$761,000.00 with \$385,800.68 funded by a federal TAP grant and \$75,000.00 funded by Franklin County Transportation Sales Tax. 61.7% of the construction costs will be paid for with federal funds and 12.0% will be paid for with the Franklin County sales tax funds.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Andrea F. Lueken".

Andrea F. Lueken, P.E.
Assistant City Engineer

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI AND BIG ELM, LLC

BE IT ORDAINED by the Council of the City of Washington, Missouri as follows:

SECTION 1: The Mayor is hereby authorized and directed to execute a Development Agreement by and between the City of Washington, Missouri and Big Elm, LLC, a copy of which is marked Exhibit I and is attached hereto and incorporated herein by reference, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the said Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 2: The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval.

(i)

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

EXHIBIT I

DEVELOPMENT AGREEMENT

among

THE CITY OF WASHINGTON, MISSOURI

and

BIG ELM, LLC, or assigns

dated as of

March 21, 2022

(iii)

16691878.v1
16739486.v1
16739486.v1

7h

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “*Agreement*”) is made and entered into as of March _____, 2022, by and among the **CITY OF WASHINGTON, MISSOURI** (the “*City*”), a third-class city and political subdivision of the State of Missouri, and **BIG ELM, LLC, or assigns**, a Missouri limited liability company (the “*Developer*”).

RECITALS:

- A. The City desires to increase the water flow to Autumn Leaf Subdivision.
- B. The City desires to have a second access to Autumn Leaf Subdivision.
- C. The Developer would like High Street extended to the Area along with sewer and water from the current southernmost line of the existing High Street to the northern line of what is commonly known as the “Marquart Farm” (the “**High Street Extension**”), being more particularly described on Exhibit A, attached hereto and incorporated by reference herein.
- D. The City has agreed to incur the expense of the High Street Extension in return for Developer’s agreement to extend Sophia Street from Autumn Leaf Subdivision to the High Street Extension (the “**Sophia Street Extension**”), as more particularly shown on Exhibit B, attached hereto and incorporated by reference herein.
- E. The Developer will extend the sewer and water lines from Autumn Leaf to the new High Street Extension with the City reimbursing Developer for the cost of the water line (labor and materials) and the Developer paying for the cost of the street and sewers (both labor and materials), all as more particularly described herein.

NOW, THEREFORE, to improve safety to Autumn Leaf Subdivision, to improve the residential activity in the City by assuring opportunities for development and attracting sound and stable residential growth, to promote the public interest and to enhance the tax base of the City and in consideration of the premises and the mutual covenants and agreement herein set forth, the City and the Developer do hereby covenant and agree as follows:

- 1. Plans by City. The City shall provide the following plans and specifications:
 - a. Final Design Plans for the of High Street Extension to be provided by third party consultant hired by the City and shall include all necessary excavation and grading, storm inlets, sanitary manholes, water lines, fire hydrants, street lighting and electric, gas, and phone utility extensions, as well as curbing, pavement, and base rock to comply with current City Codes.

b. Final design Plans and hydraulic sizing of box culvert or bridge as shown on Exhibit A, including flood zone calculations.

c. All street construction details in regard to side street connections shall terminate at 30' from centerline.

2. **Construction by Developer.** The Developer shall construct the following improvements:

a. Extend Sophia Drive, including excavation, grading and fill compaction, pavement, curb and gutter, base rock, and street lighting from its termination in Autumn Leaf Subdivision to the High Street Extension.

b. The extension of the sanitary sewer of eight (8") inches in diameter from Autumn Leaf Subdivision to the High Street Extension.

c. The extension of the storm water sewer of fifteen (15") inches in diameter from Autumn Leaf Subdivision to the High Street Extension.

d. The extension of the water line of eight (8") inches in diameter from Autumn Leaf Subdivision to the High Street Extension.

e. The High Street Extension, including excavation, grading and fill compaction, pavement, curb and gutter, base rock, and street lighting from its current southernmost line to the northern line of the Marquart Farm.

f. The extension of the current High Street water line of twelve (12") inches in diameter to the Marquart Property.

g. The extension of the current High Street sanitary sewer of eight (8") inches in diameter to the Marquart Property.

h. The extension of the current High Street storm water sewer of twenty-four (24") inches in diameter to the Marquart Property.

i. Installation of a reinforced box culvert or bridge to meet city design standards at the High Street second creek crossing.

3. **Costs to be Paid by Developer.** Developer shall be responsible for the costs described in paragraphs in 2(a), 2(b) and 2(c) above for the Sophia Street Extension. Developer shall also be responsible for the costs of surveying, stakeout, inspection and testing costs for the Sophia Extension.

4. **Costs to be Paid or Waived by City.** The City shall be responsible for payment of the following:

a. The cost described in paragraphs 2(d) above for the Sophia Street Extension and 2(e), 2(f), 2(g), 2(h) and 2(i) for the High Street Extension. These costs are itemized on Exhibits C and D, respectively, attached hereto and incorporated by reference herein.

Monthly progress invoices will be prepared and submitted to the city for payment monthly based on the attached scope of work and schedule of values (Exhibits A, B, C, and D). No retainage will be withheld. Upon final completion of the project, the City and Developer shall measure the final quantities of work and adjust the final contract quantities with additions or deletions to determine the final contract sum based on the unit prices and lump sum prices below.

The agreed upon unit cost shall be as follows:

Item	Description	Quantity	Unit	Cost
1	Surveying & As-builts		LS	\$5,000.00
2	Mobilization		LS	\$2,500.00
3	Clearing		Acre	\$5,000.00
4	Excavation		CY	\$2.30
5	Embankment		CY	\$0.70
6	Box Culvert		LF	TBD
7	Double Curb Inlet		Each	\$3,200.00
8	36" RCP		LF	\$130.00
9	24" RCP		LF	\$72.00
10	36" Flared End Section		Each	\$2,080.00
11	Type 2 Rip Rap Blanket		SY	\$100.00
12	Water 12" SDR 21		LF	\$74.00
13	Water 8" SDR 21		LF	\$53.00
14	Water 6" C900 DR 14		LF	\$52.00
15	12" Valve and Valve Box		Each	\$3,200.00
16	12"x8" Tee		Each	\$1,360.00
17	8" Valves and Valve Box		Each	\$1,900.00
18	8"x6" Tee		Each	\$1,030.00
19	6" Valves and Valve Box		Each	\$1,185.00
20	6" Anchor Couplers		Each	\$585.00
21	6" Hydrant Assembly		Each	\$3,215.00
22	Sanitary 8" SDR 35 Gasket		LF	\$58.00
23	Sanitary Manhole		Each	\$2,545.00
24	30" Curb and Gutter		LF	\$25.00
25	4" Aggregate Base w/Fabric		SY	\$7.20
26	Asphalt 2" Surface on 7" Base		SY	TBD
27	Stripe		LS	
28	Seed and Straw		Acre	\$4,500.00

Adjustments to unit cost, unknown cost, and additional line items not identified shall be agreed upon by both parties prior to construction and/or payment. Adjustments will require an amendment to this agreement.

b. All surveying and stakeout costs for the High Street Extension.

c. City shall provide tax-exempt certificates for all material purchased by Developer for the City-paid portion of both the Sophia Street Extension and the High Street Extension.

d. Waiver of Inspection fees for all work performed for the High Street Extension

e. Third party material testing fees for all work performed for the High Street Extension

5. **High Street Extension Limited Access.** The High Street Extension shall be a limited access street. Adjacent property shall have no access to the High Street Extension. The High Street Extension shall have only those intersecting streets as are approved by the City. No driveways shall have direct access to the High Street Extension.

6. **Construction Contracts; Insurance.** The Developer may enter into one or more construction contracts to complete the work. All construction contracts shall provide that the City shall have no liability with respect to such contract, except as set forth herein. Before commencement of construction of the System and Roads, the Developer shall obtain or shall require that each of its contractors hired to construct the work obtains workers' compensation and comprehensive public liability coverage in amounts provided herein and shall deliver evidence of such insurance to the City:

a. Comprehensive general liability insurance (including operations, operations of subcontractors, completed operations and contractual liability insurance) with limits against bodily injury and property damage of not less than \$3,000,000 for each occurrence (to accomplish the above required limits, an umbrella excess liability policy may be used.

b. The policies of insurance required shall be in form and content reasonably satisfactory to the City and shall be placed with financially sound and reputable insurers licensed to transact business in the State of Missouri with a general policy holder's rating of not less than A- and a financial rating of A- as rated in the most current available "Best's" insurance reports. The policy of insurance delivered shall contain an agreement of the insurer to give not less than thirty (30) days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage thereunder. The Developer shall deliver to the City evidence of all insurance to be maintained hereunder and shall name the City as an additional insured under the policy of comprehensive general liability insurance maintained by the Developer under this Agreement.

7. **Prevailing Wage.** To the extent that Wage and Hour Statutes apply by law to any of the work, the City and the Developer agree to cooperate and take all actions necessary to apply for wage and hour determinations and otherwise comply with such laws.

8. **Inspection.** The City may conduct such periodic inspections of the work as the City deems necessary.

9. **Authority.** The parties hereto covenant and warrant to each other that each has full right, power and authority to execute this Agreement and have the power to grant all rights and perform all duties and obligations hereunder.

10. **Assignment**. The City and Developer shall not assign their rights and obligations under this Agreement to any other party without the written consent of the parties, which consent shall not be unreasonably withheld.

11. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, assigns, and all owners of the Property.

12. **Miscellaneous**.

a. *Cooperation*. The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications supplemental hereto, as may be necessary or appropriate to carry out the terms, provisions and intent hereof and which do not impair the rights of the affected party as such rights exist under this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent.

b. *Default*. Except as otherwise provided in this Agreement, in the event of any default in or breach of any material term or condition of this Agreement by any party or any permitted successor or assign, the defaulting or breaching party shall, upon written notice from any of the other parties, proceed to immediately cure or remedy such default or breach, and shall, in any event within thirty (30) days after receipt of such notice, commence to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the aggrieved party or parties may institute such proceedings as may be necessary or desirable in its or their opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

c. *Entire Agreement*. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by all parties hereto.

d. *Choice of Law*. This Agreement shall be construed in accordance with the laws of the State of Missouri.

e. *Severability*. If any provision of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement which shall continue in full force and effect. Entire Agreement. This Agreement represents the entire agreement of the parties related to the subject matter set forth herein. This Agreement may not be amended, changed, modified, altered or terminated without the prior written consent of both of the parties hereto.

f. *Counterparts/Electronic Signature/Facsimile.* This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument. This Agreement and any documents relating to it may be executed and transmitted to any other party by electronic mail or facsimile, and an electronic or facsimile signature on this Agreement shall be effective as an original signature.

g. *Severability.* If any portion of this Agreement shall to any extent be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

h. *Notices.* Any notice, demand or other communication required by this Agreement to be given by one party to another party shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, or delivered personally,

(i) In the case of the Developer, to:

Big Elm, LLC
Attention: Kurt J. Unnerstall
4923 South Point Road
Washington, Missouri 63090
Fax:
Email: kurt@kjuinc.com

With a copy to:

Eckelkamp Kuenzel LLP
Attention: Steven P. Kuenzel
200 West Main Street, 2nd Floor
P.O. Box 228
Washington, Missouri 63090
Fax: (636) 239-1595
Email: steve@eckelkampkuenzel.com

(ii) In the case of the City, to:

City of Washington
Attention: City Administrator
405 Jefferson Street
Washington, Missouri 63090
Fax: (636) 239-8945
Email:

With a copy to:

Sandberg Phoenix
Attention: Mark C. Piontek, Esq.
1200 Jefferson Street
P.O. Box 1040
Washington, Missouri 63090
Fax: (636) 239-8450
Email: mpiontek@sandbergphoenix.com

or to such other address as a party may, from time to time, designate in writing and forward to the others as provided in this **Section 11(h)**. Notices, demands, consents, approvals, and other communications shall be deemed given and personally delivered three (3) days after mailing; provided, however, that if any such notice or other communication shall also be sent by telecopy or a facsimile machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machine and forwards a copy thereof with its mailed or couriered delivered notice or communication. Any notice provided to one party shall be provided to each other party hereunder.

i. *Force Majeure.* If a party is delayed or hindered in, or prevented from the performance required under this Agreement (except for payment of monetary obligations) by reason of materials shortages, earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or other reason of like nature not the fault of the party delayed in performing work or doing acts, such party is excused from such performance for the period of delay. The period for the performance of any such act shall then be extended for the period of such delay.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names, and the City and the County have caused their seals to be affixed thereto, and attested as to the date first above written.

CITY OF WASHINGTON, MISSOURI

(SEAL)

By: _____
Name: Sandy Lucy
Title: Mayor

Attest:

Sherri Klekamp
City Clerk

7h

BIG ELM, LLC,

By: _____
Name: Kurt J. Unnerstall
Title: Manager

STATE OF MISSOURI)
) SS
COUNTY OF FRANKLIN)

On this ____ day of _____, before me appeared **KURT J. UNNERSTALL**, to me personally known, who being by me duly sworn, did say that he is the Manager designated to act on behalf of **BIG ELM, LLC**, a Missouri limited liability company, and that said instrument was signed in behalf of said Limited Liability Company, by authority of its Managers, and said **KURT J. UNNERSTALL** acknowledged said instrument to be the free act and deed of said Limited Liability Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

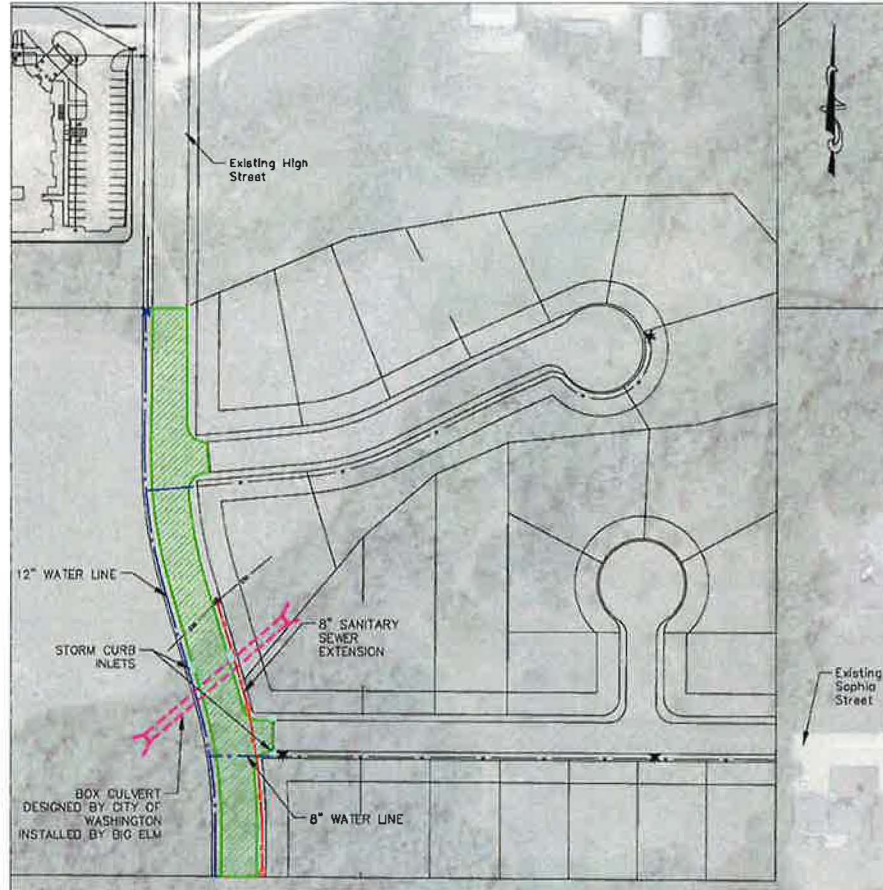
Name: _____

Notary Public - State of Missouri
Commissioned in Franklin County

(SEAL)

My Commission Expires:

STREET RESPONSIBILITY EXHIBIT 'A'



NOTE: THIS DOES NOT CONSTITUTE A LEGAL BOUNDARY SURVLY. FINAL SURVEY SHALL BE CONDUCTED BY A LICENSED PROFESSIONAL LAND SURVEYOR FOR REFERENCE ONLY.

PROPOSED SCOPE LEGEND

- HIGH STREET EXTENSION BY CITY OF WASHINGTON [Green Hatched Box]
- SOPHIA CONNECTION AND SIDE STREET BY BIG ELM LLC [Blue Hatched Box]



PHONE: (636) 239-2028 FAX: (636) 239-2002
4925 SOUTH POINT RD. WASHINGTON, MISSOURI 63090

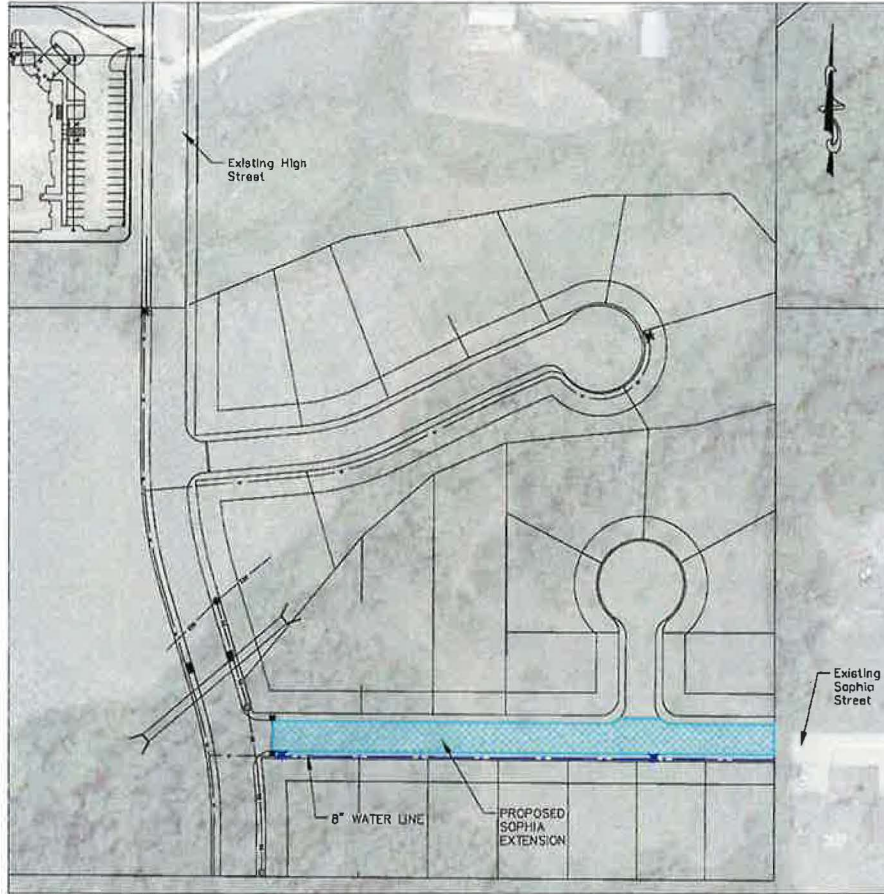
HIGH STREET EXTENSION / SOPHIA CONNECTION WASHINGTON, MO.

DRAWING
EX 4

DATE
11-30-21

JOB No.
-


STREET RESPONSIBILITY EXHIBIT 'B'



NOTE: THIS DOES NOT CONSTITUTE A LEGAL BOUNDARY SURVEY. FINAL SURVEY SHALL BE CONDUCTED BY A LICENSED PROFESSIONAL LAND SURVEYOR. FOR REFERENCE ONLY.

PROPOSED SCOPE LEGEND

HIGH STREET EXTENSION BY CITY OF WASHINGTON 

SOPHIA CONNECTION AND SIDE STREET BY BIG ELM LLC 



PHONE: (636) 239-2028 FAX: (636) 239-2002
4923 SOUTH POINT RD, WASHINGTON, MISSOURI 63090

HIGH STREET EXTENSION / SOPHIA CONNECTION WASHINGTON, MO.

DRAWING
EX #

DATE
2-1-27
JOB No.



March 17, 2022

Honorable Mayor and City Council
Washington, MO

Re: High Street and Rabbit Trail Connections

Dear Mayor and Council,

Over the past year, City staff have worked with property owners and developers to make transportation connections that have been identified in the City's Comprehensive plan.

As a result, we have focused on two areas. One being the extension of High Street that would provide the extension of High Street and connect Sophia Lane within Autumn Leaf. This will provide a secondary access for the Autumn Leaf Subdivision. The second connection will be from Rabbit Trail Drive to North Crest Drive. This connection was also identified in the City's Comp Plan and will provide relief of northbound Rabbit Trail traffic to Phoenix Center II Commercial Development.

Both projects are proposed to be funded with the use of funds that have accumulated through the Franklin County Road and Bridge Tax. Currently we have \$1.25 million, and we receive approximately \$200,000 / year. In addition to those funds, staff is proposing to utilize Transportation Sales Tax Funds and apply for \$100,000 grant through the Franklin County Road and Bridge Tax.

The extension of High Street is ready to be designed, and staff has received a design proposal from Wunderlich Surveying and Engineering that will be presented at the April 4th City Council meeting. Design of the Rabbit Trail connection is anticipated to take place this Fall.

Sincerely,

for Darren Lamb, AICP
City Administrator

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI, CLOVER VALLEY PROPERTIES, LLC AND WILFRED H. KLEEKAMP TRUST

BE IT ORDAINED by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to execute a Development Agreement by and between the City of Washington, Missouri, Clover Valley Properties, LLC, a Wilfred H. Kleekamp Trust, a copy of which is marked Exhibit I and is attached hereto and incorporated herein by reference, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the said Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 2: The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

EXHIBIT I

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“Agreement”) made and entered into this day of 2022, by and between the City of Washington, Missouri a political subdivision and municipal corporation of the State of Missouri (“City”), Clover Valley Properties, LLC , or assigns, a Missouri Limited Liability Company (“Developer”), and Wilfred H. Kleekamp, Trust, or assigns, (“Trust”)(collectively referred to hereafter as “parties” or singularly as a “party”).

RECITALS:

- A. The City desires to have an access between Rabbit Trail Drive and Earth Crest Drive in Stone Crest Subdivision (“Access Road”) which requires the construction of a reinforced box culvert or bridge (“Bridge”)
- B. The Developer is the owner of certain real property as described on Exhibit A attached hereto and incorporated herein by reference (“Developer Property”).
- C. The Trust is the owner of certain real property located as described on Exhibit B attached hereto and incorporated herein by reference (“Trust Property”).
- D. The Access Road will cross both the Trust Property and the Developer Property.
- E. The City desire to extend its wastewater collection system (the “System Extension”) to the Trust Property.
- F. The City is willing to construct the System Extension as required to provide wastewater collection for the Trust Property and to construct the Access Road and Bridge to provide access to the Trust Property and the Developer Property.
- G. The Trust is willing to dedicate the right-of-way for the Access Road, Bridge, and the System Extension.
- H. The Developer is willing to dedicate the right-of-way for the Access Road.

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00), the foregoing Recitals, the premises, the mutual covenants, and agreements

contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The foregoing Recitals are true and accurate and are hereby incorporated into the body of this Agreement by this reference.

2. Plans by City. The City shall provide the following plans and specifications: a. Final Design Plans for the Access Road to be provided by third party consultant hired by the City and shall include all necessary excavation and grading, storm inlets, sanitary manholes, water lines, fire hydrants, street lighting and electric, gas, and phone utility extensions, as well as curbing, pavement, and base rock to comply with current City Codes.

b. Final Design Plans and hydraulic sizing for the Bridge as shown on Exhibit C including flood zone calculations.

c. All street construction details in regard to side street connections shall terminate at 30' from centerline.

3. Construction by Developer. The Developer shall construct the following improvements:

a. The Access Road from Point A to Point B in a location mutually acceptable to the City, Trust, and the Developer.

b. The Bridge in the location generally shown on Exhibit C to meet City design standards.

c. The System Extension in the location generally shown on Exhibit C.

d. The cost of construction of the Access Road, Bridge, and the System Extension shall not exceed a total cost of One Million Seven Hundred Thousand and 00/100 Dollars (\$1,700,000.00).

e. The cost of relocation of a sanitary sewer main located on the Developer Property in the location generally shown on Exhibit C.

4. Costs to be Paid by City. The City shall pay the costs described in Sections 2, 3, and 4 above as well as all surveying and stakeout cost for the Access Road, will waive inspection fees for all work performed on the Access Road, Bridge, and System Extension, and will pay all costs of third-party material testing for all work performed on the Access Road. City shall provide tax-exempt certificates for the material

purchased by Developer for the Access Road, Bridge, and System Extension . Monthly progress invoices will be prepared and submitted to the City for payment based on construction progress. No retainage will be withheld. Upon final payment of the project, the City and Developer will measure the final quantities of work and adjust the final contract quantities with additions or deletions to determine the final contract sum based on the unit prices and lump sum prices. Adjustments to unit costs, unknown costs, and additional line items not identified shall be agreed upon by both parties prior to construction and/or payment. Adjustments will require an amendment to this Agreement.

5. Developer and Trust Right-of-Way Dedication. Upon execution of this Agreement the Developer and the Trust shall each dedicate to the City the right-of-way for the Access Road and System Extension. The Developer, Trust, and City will be required to agree on one of two options for right-of-way and street design:

- a. Option 1- Right-of-way width of minimum 50' with a 35' back of curb to back of curb street. Parking will be allowed on both sides and access will not be limited.
- b. Option 2 – Right-of-way width of minimum 40' with a 30' back of curb to back of curb street. Parking will not be allowed and access will be limited to City approval of all access points.

6. Construction Contracts; Insurance. The Developer may enter into one or more construction contracts to complete the work. All construction contracts shall provide that the City shall have no liability with respect to such contract. Before commencement of construction of the System and Roads, the Developer shall obtain or shall require that each of its contractors hired to construct the work obtains workers' compensation and comprehensive public liability coverage in amounts provided herein and shall deliver evidence of such insurance to the City:

- (1) Comprehensive general liability insurance (including operations, operations of subcontractors, completed operations and contractual liability insurance) with limits against bodily injury and property damage of not less than \$3,000,000 for each occurrence (to accomplish the above required limits, an umbrella excess liability policy may be use

(2) The policies of insurance required shall be in form and content reasonably satisfactory to the City and shall be placed with financially sound and reputable insurers licensed to transact business in the State of Missouri with a general policy holder's rating of not less than A- and a financial rating of A- as rated in the most current available "Best's" insurance reports. The policy of insurance delivered shall contain an agreement of the insurer to give not less than thirty (30) days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage thereunder. The Developer shall deliver to the City evidence of all insurance to be maintained hereunder and shall name the City as an additional insured under the policy of comprehensive general liability insurance maintained by the Developer under this Agreement.

7. Prevailing Wage. To the extent that Wage and Hour Statutes apply by law to any of the work, the City and the Developer agree to cooperate and take all actions necessary to apply for wage and hour determinations and otherwise comply with such laws.

8. Inspection. The City may conduct such periodic inspections of the work as the City deems necessary.

9. Authority. The parties hereto covenant and warrant to each other that each has full right, power, and authority to execute this Agreement and have the power to grant all rights and perform all duties and obligations hereunder.

10. Assignment. The City, Trust and Developer shall not assign their rights and obligations under this Agreement to any other party without the written consent of the parties, which consent shall not be unreasonably withheld.

11. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives, assigns, and all owners of the Property.

12. Miscellaneous.

a. *Cooperation.* The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications supplemental hereto, as may be necessary or appropriate to carry out the terms,

provisions and intent hereof and which do not impair the rights of the affected party as such rights exist under this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent.

b. Default. Except as otherwise provided in this Agreement, in the event of any default in or breach of any material term or condition of this Agreement by any party or any permitted successor or assign, the defaulting or breaching party shall, upon written notice from any of the other parties, proceed to immediately cure or remedy such default or breach, and shall, in any event within thirty (30) days after receipt of such notice, commence to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the aggrieved party or parties may institute such proceedings as may be necessary or desirable in its or their opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party. The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

c. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Agreement must be in writing and executed by all parties hereto.

d. Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Missouri.

e. Severability. If any provision of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement which shall continue in full force and effect. Entire Agreement. This Agreement represents the entire agreement of the parties related to the subject matter set forth herein. This Agreement may not be amended, changed, modified, altered, or terminated without the prior written consent of both of the parties hereto.

f. Counterparts/Electronic Signature/Facsimile. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original

and all of which shall constitute but one and the same instrument. This Agreement and any documents relating to it may be executed and transmitted to any other party by electronic mail or facsimile, and an electronic or facsimile signature on this Agreement shall be effective as an original signature.

g. *Severability.* If any portion of this Agreement shall to any extent be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

h. *Notices.* All notices, requests and demands shall be in writing and shall be delivered personally, made by overnight delivery, made by facsimile with delivery confirmation, or made by certified mail, return receipt requested, as follows:

If to the City:

Darren Lamb
City Administrator
City of Washington
405 Jefferson Street
Washington, Missouri 63090

If to the Developer:

Clover Valley Properties, LLC
c/o Kurt Unnerstall

Washington, Missouri 63090

With a copy to:

Mark C. Piontek
Sandberg Phoenix & Von Gontard P.C.
1200 Jefferson Street
Washington, Missouri 63090

If to the Trust:

Wilfred H. Kleekamp, Trust
c/o John Kleekamp

Washington, Missouri 63090

i. *Force Majeure.* If a party is delayed or hindered in, or prevented from the performance required under this Agreement (except for payment of monetary obligations) by reason of materials shortages, earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or other reason of like nature not the fault of the party delayed in performing work or doing acts, such party is excused from such performance for the period of delay. The period for the performance of any such act shall then be extended for the period of such delay.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WASHINGTON, MISSOURI

By: _____
Sandy Lucy, Mayor

DEVELOPER

CLOVER VALLEY PROPERTIES, LLC

By: _____
Name: _____
Title: _____

TRUST

WILFRED H. KLEEKAMP, TRUST

By: _____
Name: _____
Title: _____

EXHIBIT A



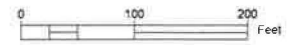
N/F
10-7-25.0-0-099-046.100
CLOVER VALLEY
PROPERTIES LLC

N/F
10-7-25.0-0-099-050.000
CLOVER VALLEY
PROPERTIES LLC

N/F
10-7-25.0-0-099-050.100
CLOVER VALLEY
PROPERTIES LLC

North Crest Drive

Wind Crest Court



CITY OF WASHINGTON
ENGINEERING DEPARTMENT
405 HILPERSON STREET
WASHINGTON, MISSOURI 63090
(636) 950-1010



CITY OF WASHINGTON
PROPOSED RIGHT-OF-WAY
AND EASEMENT EXHIBIT

REVISIONS	
Number	Description

PRELIMINARY
NOT FOR
CONSTRUCTION

JOHN ROBERT HILGER, P.E.
No. 401020013
CITY ENGINEER

DATE:
3/16/22

CHECKED BY:
JRN

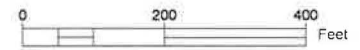
DRAWN BY:
CAS

SHEET PLAN SHEET
SHEET 1 of 1

EXHIBIT B

N/F
10-7-35.0-0-000-002.000
KLEEKAMP, WILFRED H TR

Rabbit Trail Drive



CITY OF WASHINGTON
ENGINEERING DEPARTMENT
405 JEFFERSON STREET
WASHINGTON, MISSOURI 63090
(636) 330-1010



CITY OF WASHINGTON
PROPOSED RIGHT-OF-WAY
AND EASEMENT EXHIBIT

REVISIONS	
Number	Description

**PRELIMINARY
NOT FOR
CONSTRUCTION**

JOHN ROBERT NELDER, P.E.
PLANNING
CIVIL ENGINEER

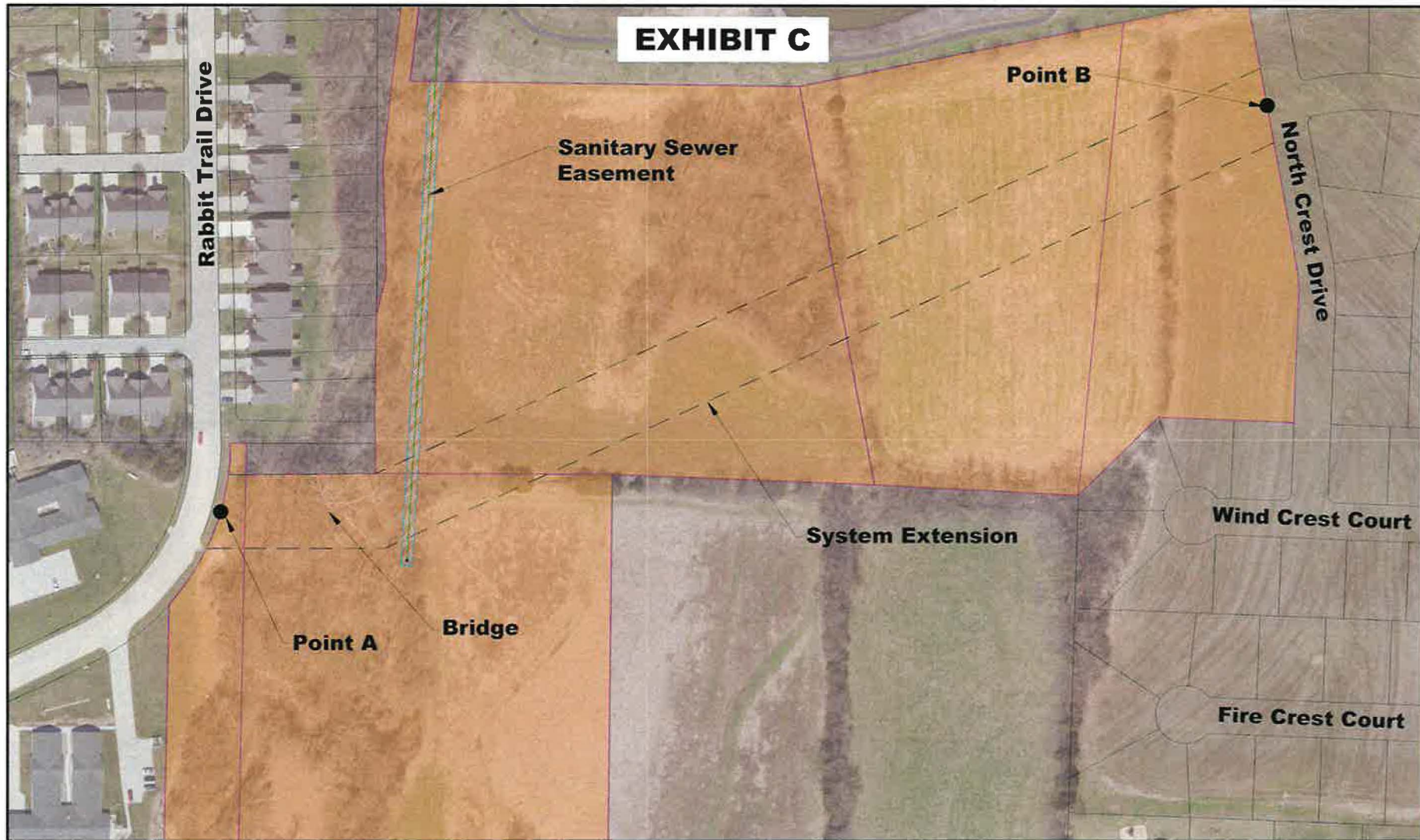
DATE: 3/16/22

CHECKED BY: JRN

DRAWN BY: CAS

SHEET: PLAN SHEET
SHEET 1 of 1

EXHIBIT C



CITY OF WASHINGTON
ENGINEERING DEPARTMENT
405 JEFFERSON STREET
WASHINGTON, MISSOURI 63090
(636) 390-1010



CITY OF WASHINGTON
PROPOSED RIGHT-OF-WAY
AND EASEMENT EXHIBIT

REVISIONS	
Number	Description

**PRELIMINARY
NOT FOR
CONSTRUCTION**

JOHN ROBERT NILGES, P.E.
REGISTERED PROFESSIONAL
CIVIL ENGINEER

DATE:
03/16/22

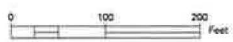
CHECKED BY:
JRN

DRAWN BY:
CAS

SHEET: PLAN SHEET
SHEET 1 of 1



	Property Lines		Permanent 15' Easement
---	----------------	--	------------------------





March 17, 2022

Honorable Mayor and City Council
Washington, MO

Re: High Street and Rabbit Trail Connections

Dear Mayor and Council,

Over the past year, City staff have worked with property owners and developers to make transportation connections that have been identified in the City's Comprehensive plan.

As a result, we have focused on two areas. One being the extension of High Street that would provide the extension of High Street and connect Sophia Lane within Autumn Leaf. This will provide a secondary access for the Autumn Leaf Subdivision. The second connection will be from Rabbit Trail Drive to North Crest Drive. This connection was also identified in the City's Comp Plan and will provide relief of northbound Rabbit Trail traffic to Phoenix Center II Commercial Development.

Both projects are proposed to be funded with the use of funds that have accumulated through the Franklin County Road and Bridge Tax. Currently we have \$1.25 million, and we receive approximately \$200,000 / year. In addition to those funds, staff is proposing to utilize Transportation Sales Tax Funds and apply for \$100,000 grant through the Franklin County Road and Bridge Tax.

The extension of High Street is ready to be designed, and staff has received a design proposal from Wunderlich Surveying and Engineering that will be presented at the April 4th City Council meeting. Design of the Rabbit Trail connection is anticipated to take place this Fall.

Sincerely,

for Darren Lamb, AICP
City Administrator

RESOLUTION NO. _____ INTRODUCED BY _____

A RESOLUTION OF THE CITY OF WASHINGTON, MISSOURI
STATING INTENT TO SEEK FUNDING THROUGH MISSOURI
DEPARTMENT OF TRANSPORTATION COST SHARE
PROGRAM AND AUTHORIZING THE MAYOR TO PURSUE
ACTIVITIES IN AN ATTEMPT TO SECURE FUNDING

WHEREAS, The City of Washington, Missouri is seeking funding through
MODOT's Cost Share Program for improvements to Highway 47 between Bieker and the
proposed East West Parkway;

WHEREAS, The City of Washington, Missouri recognizes the importance of
providing improvements to Highway 47 to accommodate increased traffic and match the
improvements needed in the City's Comprehensive Plan;

WHEREAS, The City of Washington, Missouri will commit 50% of the
consulting, engineering, construction, and other associated costs of the project.

NOW, THEREFORE, BE IT RESOLVED by the City of Washington, Missouri
that it desires to participate with MODOT in providing funds to improve Highway 47
from Bieker to the proposed East West Parkway.

THEREFORE, BE IT FURTHER RESOLVED, that the Mayor of Washington,
Missouri hereby is authorized to prepare and submit documents which are necessary in
applying for funding and establishing an administrative organization to implement
activities pursuant to the aforementioned act.

Adopted this 21st day of March, 2022 by the City Council of the City of
Washington, Missouri.

(Seal)

ATTEST: _____

President of City Council

(Seal)

ATTEST: _____

Mayor of Washington, Mo.





March 21, 2022

Honorable Mayor and City Council
City of Washington
Washington, MO 63090

RE: MODOT Cost Share Applications
Highway 100 West
Highway 47 South

Dear Mayor and City Council Members:

In your packet tonight are two resolutions of support for applications to MODOT for their 50/50 Project Cost Share Program.

- The first of which is to request 50% of the funds for the improvements needed to Highway 100 from Vossbrink Drive to the proposed Oldenburg Industrial Park. See attached exhibit for location and scope of project. Staff estimates the widening of 100, turn lanes, and new entrance to the Oldenburg Industrial Park will cost approximately \$1,000,000. The application requests \$500,000 to come from MODOT and \$500,000 from the City. The matching funds from the City can be provided by the earmarked \$500,000 in Capital Improvement Sales Tax for economic development.
- The Second application is to request 50% of the funds for improvements needed on Highway 47 from Bieker Road south to the proposed entrance of the East West Park Way. The adjoining property in this location is for sale and staff recognizes the importance of making these improvements prior to development that would increase traffic in the area. The Comprehensive Plan has proposed the East West Parkway crossing Highway 47 on southern border of the Kleekamp Property for over 30 years. Completing these improvements would accommodate developments that will eventually be in the City Limits as well as match the County's long-term plans for Highway 47. An exhibit is attached showing the location and scope of the project. Staff anticipates the improvements would cost approximately \$3,750,000 with \$1,875,000 coming from the City's transportation fund.

If you have any questions feel free to contact me at 636-390-1004.

A handwritten signature in black ink, appearing to read "Sal Maniaci".

Sal Maniaci
Community and Economic Development Director.

RESOLUTION NO. _____ INTRODUCED BY _____

A RESOLUTION OF THE CITY OF WASHINGTON, MISSOURI
STATING INTENT TO SEEK FUNDING THROUGH MISSOURI
DEPARTMENT OF TRANSPORTATION COST SHARE
PROGRAM AND AUTHORIZING THE MAYOR TO PURSUE
ACTIVITIES IN AN ATTEMPT TO SECURE FUNDING

WHEREAS, The City of Washington, Missouri is seeking funding through
MODOT's Cost Share Program for improvements to Highway 100 between Vossbrink
Drive and the proposed Oldenburg Industrial Park;

WHEREAS, The City of Washington, Missouri recognizes the importance of
providing adequate and safe access from Highway 100 to the Oldenburg Industrial Park;

WHEREAS, The City of Washington, Missouri will commit 50% of the
consulting, engineering, construction, and other associated costs of the project.

NOW, THEREFORE, BE IT RESOLVED by the City of Washington, Missouri
that it desires to participate with MODOT in providing funds to improve Highway 100
from Vossbrink Drive to the Oldenburg Industrial Park.

THEREFORE, BE IT FURTHER RESOLVED, that the Mayor of Washington,
Missouri hereby is authorized to prepare and submit documents which are necessary in
applying for funding and establishing an administrative organization to implement
activities pursuant to the aforementioned act.

Adopted this 21st day of March, 2022 by the City Council of the City of
Washington, Missouri.

(Seal)

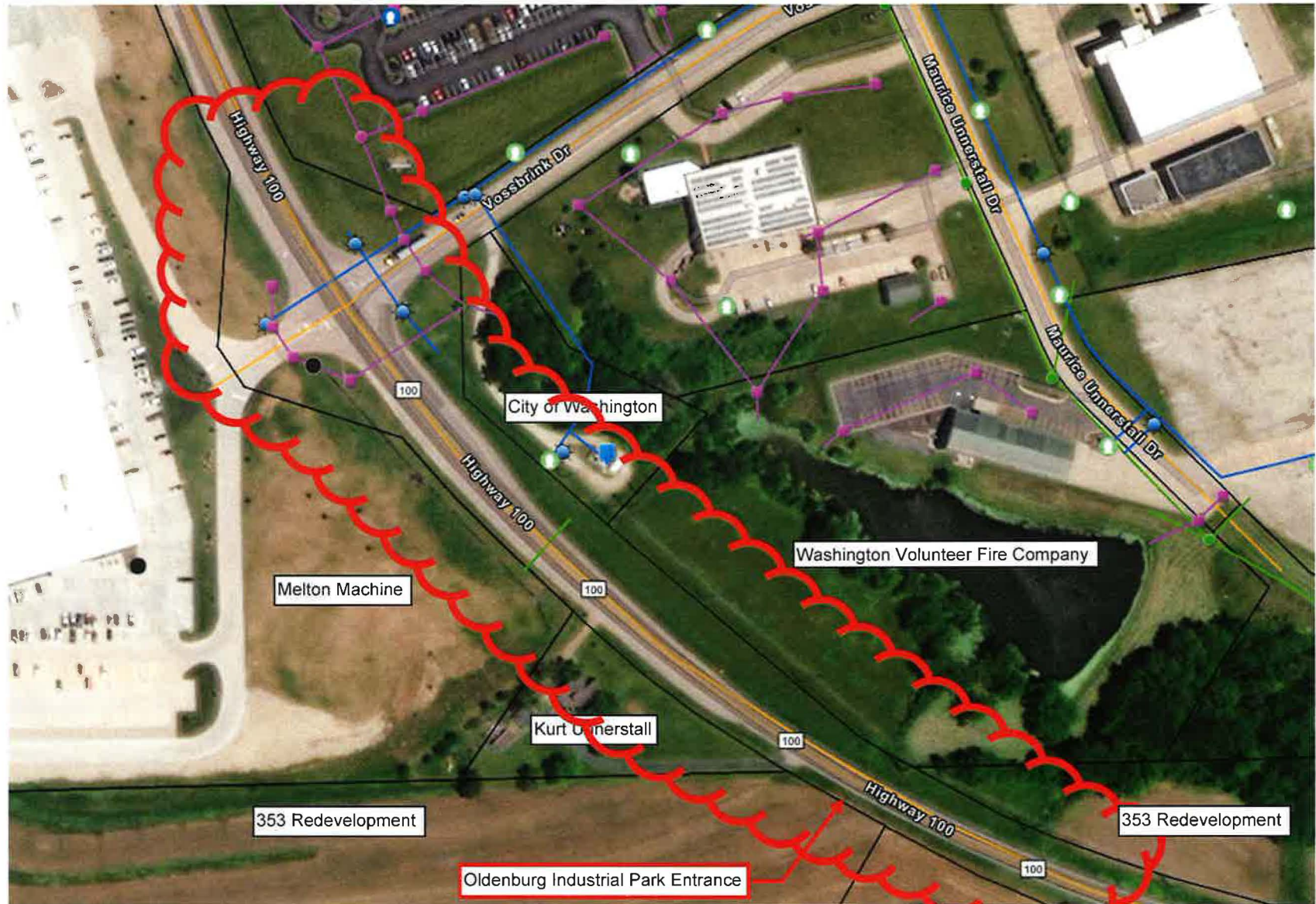
ATTEST: _____

President of City Council

(Seal)

ATTEST: _____

Mayor of Washington, Mo.





March 21, 2022

Honorable Mayor and City Council
City of Washington
Washington, MO 63090

RE: MODOT Cost Share Applications
Highway 100 West
Highway 47 South

Dear Mayor and City Council Members:

In your packet tonight are two resolutions of support for applications to MODOT for their 50/50 Project Cost Share Program.

- The first of which is to request 50% of the funds for the improvements needed to Highway 100 from Vossbrink Drive to the proposed Oldenburg Industrial Park. See attached exhibit for location and scope of project. Staff estimates the widening of 100, turn lanes, and new entrance to the Oldenburg Industrial Park will cost approximately \$1,000,000. The application requests \$500,000 to come from MODOT and \$500,000 from the City. The matching funds from the City can be provided by the earmarked \$500,000 in Capital Improvement Sales Tax for economic development.
- The Second application is to request 50% of the funds for improvements needed on Highway 47 from Bieker Road south to the proposed entrance of the East West Park Way. The adjoining property in this location is for sale and staff recognizes the importance of making these improvements prior to development that would increase traffic in the area. The Comprehensive Plan has proposed the East West Parkway crossing Highway 47 on southern border of the Kleekamp Property for over 30 years. Completing these improvements would accommodate developments that will eventually be in the City Limits as well as match the County's long-term plans for Highway 47. An exhibit is attached showing the location and scope of the project. Staff anticipates the improvements would cost approximately \$3,750,000 with \$1,875,000 coming from the City's transportation fund.

If you have any questions feel free to contact me at 636-390-1004.

A handwritten signature in black ink that reads "Sal Maniaci".

Sal Maniaci

Community and Economic Development Director.

TK

CITY OF WASHINGTON & MRC RECYCLING E-CYCLE COLLECTION EVENT



Event Date & Time:

**Saturday - April 16, 2022 / 8:00 am - 1:00 pm
(Rain or Shine)**

The drop-off event will be held at the City of Washington's Public Works Facility at 4 Chamber Dr. The entrance into the event will be off Chamber Drive.

Acceptable Items:

Computers & components, Office Equipment, Communication Equipment, Electronic Equipment, Microwaves, Phones Vacuum Cleaners, (anything with a cord or battery, working or not working). NO alkaline batteries, light bulbs, media (CD, DVD, Cassette, VHS, Floppy Disk, etc.)

All appliances (washer, dryer, refrigerators, etc.) can be dropped off at the City of Washington's Recycle Center (400 Recycle Dr.) during normal operating hours.



Don't forget to RECYCLE your CELL PHONES!



CHARGES FOR TV'S & MONITORS

\$5.00 each = CRT MONITORS

\$30.00 each = CRT TV'S 26" or LESS

\$50.00 each = CRT TV'S 27" or GREATER

\$50.00 each = WOOD CONSOLE & TRUE

BIG SCREEN/PROJECTION TV'S

\$20.00 each = LED/LCD/PLASMA TV'S

\$10.00 each = ANY FREON CONTAINING UNIT



For more information, contact Pam at 636-390-1032.