

**REGULAR MEETING OF WASHINGTON, MISSOURI CITY COUNCIL  
 MONDAY, AUGUST 15, 2022 - 7:00 P.M.  
 COUNCIL CHAMBER, 405 JEFFERSON STREET, WASHINGTON, MISSOURI**

<b><u>1. INTRODUCTORY ITEMS:</u></b>	<b><u>SUGGESTED COUNCIL ACTION</u></b>	
Roll Call / Pledge of Allegiance		
Approval of the Minutes from the August 1, 2022 Council Meetings	Need Motion/Mayor	Memo
<u>Approval and Adjustment of Agenda including Consent Agenda</u>	Need Motion/Mayor	Memo
a. Collector's/Treasurer's Report Summary – May 2022		
b. Monthly Investment Report – May 2022		
<b><u>2. PRIORITY ITEMS:</u></b>		
<b><u>Mayor's Presentations, Appointments &amp; Reappointments</u></b>		
a. Police Department Reappointment	Approve/Mayor	Memo
<b><u>3. PUBLIC HEARINGS:</u></b>		
a. Voluntary Annexation – Bieker Road	Approve/Mayor	Memo
b. An ordinance annexing 14 acres of property located along Bieker Road in the City of Washington, Franklin County, Missouri.	Read & Int/Read/Vote/Mayor	
<b><u>4. CITIZENS COMMENTS:</u></b>		
<b><u>5. UNFINISHED BUSINESS:</u></b>		
<b><u>6. REPORT OF DEPARTMENT HEADS:</u></b>		
<b><u>7. ORDINANCES/RESOLUTIONS:</u></b>		
a. An ordinance authorizing and directing the execution of a Lease Agreement by and between the City of Washington, Missouri and The Axe Depot, LLC.	Read & Int/Read/Vote/Mayor	Memo
b. An ordinance authorizing and directing the execution of a Contractor Agreement by and between the City of Washington, Missouri and Franklin County Construction for the Washington Freight Depot Renovations Project and amend the 2021/2022 Budget.	Read & Int/Read/Vote/Mayor	Memo
c. An ordinance authorizing and directing the execution of a Sales Agreement by and between the City of Washington, Missouri and the Missouri Highways and Transportation Commission.	Read & Int/Read/Vote/Mayor	Memo
d. An ordinance authorizing and directing the execution of an Agreement to Sell and Purchase Real Estate by and between the City of Washington, Missouri and ELS Washington, LLC.	Read & Int/Read/Vote/Mayor	Memo

e. An ordinance approving a boundary adjustment for Quail Run Subdivision Plat 8 in the City of Washington, Franklin County, Missouri.

Read & Int/Read/Vote/Mayor

**8. COMMISSION, COMMITTEE AND BOARD REPORTS:**

a. An ordinance approving the final plat of Terrace in Washington Plat 3 in the City of Washington, Franklin County, Missouri.

Read & Int/Read/Vote/Mayor

**9. MAYOR'S REPORT:**

a. Special Council Meeting August 22, 2022, 6:00 p.m.

b. Next Regular Council Meeting – Tuesday, September 6, 2022 due to the Labor Day Holiday

**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:**

**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, AUGUST 11, 2022  
A COPY OF THIS NOTICE IS ALSO AVAILABLE ONLINE AT [www.washmo.gov](http://www.washmo.gov)



**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL  
CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI  
MONDAY, AUGUST 1, 2022**

**INTRODUCTORY ITEMS:**

The Regular Meeting of the City of Washington, Missouri, City Council was held on Monday, August 1, 2022, at 7:00 p.m. in the Council Chamber. Mayor Doug Hagedorn opened the meeting with roll call and Pledge of Allegiance.

<b>Mayor:</b>	Doug Hagedorn	Present
<b>Council Members:</b>	<b>Ward I</b>	Al Behr Present
		Duane Reed Present
	<b>Ward II</b>	Mark Hidritch Present
		Mark Wessels Present
	<b>Ward III</b>	Chad Briggs Present
		Jeff Patke Present
	<b>Ward IV</b>	Mike Coulter Present
		Joe Holtmeier Present

<b>Also Present:</b>	City Attorney	Mark Piontek
	City Administrator	Darren Lamb
	City Clerk	Sherri Klekamp
	Police Chief	Jim Armstrong
	Public Works Director	John Nilges
	Parks Director	Wayne Dunker

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 July 18, 2022 Council Meeting

A motion to accept the minutes as presented made by Councilmember Patke, seconded by Councilmember Hidritch, passed without dissent.

**Approval and Adjustment of Agenda including Consent Agenda:**

\* Final Payment Request – Lions Lake Pavilions Rock Columns

\* Final Payment Request – Waterworks Building Renovation

A motion to accept and approve the agenda including the consent agenda accordingly made by Councilmember Holtmeier, seconded by Councilmember Coulter, with Councilmember Patke abstaining.

**PRIORITY ITEMS:**

\* Lions Club Presentation

Current President Mathew Feltmann and Past President Ron Williams of the Washington Lions Club presented a check for \$27,810 to Mayor Hagedorn for the Lions Lake Rock Columns.

**Mayor’s Presentations, Appointments & Reappointments:**

\* Special Police Appointments

*July 26, 2022*

*City Council*

*City of Washington*

*Washington, Missouri 63090*

*RE: Special Police Officer Appointments – 2022 Washington Town & Country Fair*

*Dear Council Members:*

*I herewith submit for your approval the following for appointment as Special Police Officers August 3 – 7, 2022 for the 2022 Washington Town & Country Fair:*

- |                            |   |
|----------------------------|---|
| <i>Andrew Rosenkoetter</i> | <i>Franklin County Sheriff’s Department</i> |
| <i>Michael Broome</i>      | <i>Franklin County Sheriff’s Department</i> |
| <i>Luke Murray</i>         | <i>Franklin County Sheriff’s Department</i> |
| <i>James Cross</i>         | <i>Franklin County Sheriff’s Department</i> |
| <i>John Paul</i>           | <i>Franklin County Sheriff’s Department</i> |
| <i>Chad Johnmeyer</i>      | <i>St. Clair Police Department</i>          |
| <i>Kevin Williams</i>      | <i>Union Police Department</i>              |
| <i>Charles Raymond</i>     | <i>Union Police Department</i>              |

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

**PUBLIC HEARINGS**

\* None

**CITIZENS COMMENTS**

\* None

**UNFINISHED BUSINESS**

\* None

**REPORT OF DEPARTMENT HEADS**

\* None

**ORDINANCES/RESOLUTIONS**

**Bill No. 22-12639, Ordinance No. 22-13599, an ordinance authorizing and directing the execution of a Cooperative Agreement for road improvement for a section of South Point Road by and between the City of Washington, Missouri and the Washington Special Road District and amend the 2022 Budget.**

The ordinance was introduced by Councilmember Holtmeier.

After a brief discussion, the ordinance was read a second time and approved on the following vote; Reed-aye, Coulter-aye, Holtmeier-aye, Patke-aye, Briggs-aye, Wessels-aye, Hidritch-aye, Behr-aye.

**Bill No. 22-12640, Ordinance No. 22-13600, an ordinance of the City of Washington, Missouri to establish a procedure to disclose potential conflicts of interest and substantial interest for certain Municipal Officials.**

The ordinance was introduced by Councilmember Hidritch.

After a brief discussion, the ordinance was read a second time and approved on the following vote; Reed-aye, Coulter-aye, Holtmeier-aye, Patke-aye, Briggs-aye, Wessels-aye, Hidritch-aye, Behr-aye.

**COMMISSION, COMMITTEE AND BOARD REPORTS**

- \* None

**MAYOR'S REPORT**

- \* Thank you for your patience and keep up the great discussions.

**CITY ADMINISTRATOR'S REPORT**

- \* There will be a Special Meeting at the end of August to set the proposed property tax rates for the City of Washington and the City of Washington Library District; budget highlights will also be discussed.
- \* Looking into improvements to City Hall, City Auditorium, Old Pool Bathhouse and Public Works Building.
- \* Update on Library HVAC System.
- \* Brief discussion on Main Stage roof.
- \* Update on airport hangers bid.
- \* Update on Highway 100 Medians.

**COUNCIL COMMENTS**

- \* Brief discussion on the Washington Town and Country Fair Parade attendance and how much time and work goes into it.

**ADJOURNMENT**

With no further business to discuss, a motion to adjourn made at 7:20 p.m. by Councilmember Patke, seconded by Councilmember Hidritch passed without dissent.

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Adopted: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President of City Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor of Washington, Missouri


CITY OF WASHINGTON  
 CITY COLLECTOR'S/TREASURER'S REPORT SUMMARY  
 MAY 2022

	City Collector's Report				Adjusted Cash Position					
	CASH BALANCE AS OF 5/1/2022	RECEIPTS	DISBURSEMENTS	CASH BALANCE AS OF 5/31/2022	LESS RESTRICTED CASH	LESS RESERVED CASH	CASH UNRESTRICTED	INVESTMENTS AS OF 5/31/2022	① LESS 15% / 25% DESIGNATED	OVER (UNDER) FUNDED
<b>CASH FUNDS:</b>										
GENERAL FUND ②	1,035,155.04	832,404.15	(958,948.66)	908,610.53	(59,520.14)	(9,001.92)	840,088.47	1,977,839.95	(1,665,393.30)	1,152,535.12
LIBRARY FUND ②	413,191.70	17,484.23	(64,031.95)	366,643.98	(191,000.26)	(54,813.59)	120,830.13	0.00	0.00	120,830.13
VOLUNTEER FIRE FUND	2,146,509.17	7,498.44	(49,446.03)	2,104,561.58	0.00	(24,343.28)	2,080,218.30	0.00	0.00	2,080,218.30
VEHICLE & EQUIPMENT REPLACEMENT FUND ②	950,589.27	722.82	(1,156.82)	950,155.27	0.00	0.00	950,155.27	0.00	0.00	950,155.27
STORM WATER IMPROVEMENT FUND	3,774,781.82	158,547.52	(28,499.41)	3,904,829.93	0.00	0.00	3,904,829.93	353,676.00	0.00	4,258,505.93
CAPITAL IMPROVEMENT SALES TAX FUND	1,566,311.91	172,557.65	(208,840.81)	1,530,028.75	0.00	0.00	1,530,028.75	0.00	0.00	1,530,028.75
TRANSPORTATION SALES TAX FUND ②	929,317.78	234,965.79	(169,145.81)	995,137.76	0.00	0.00	995,137.76	0.00	0.00	995,137.76
DEBT SERVICE C.O.P. FUND	2,153,371.56	1,637.40	0.00	2,155,008.96	(1,643,338.39)	0.00	511,670.57	0.00	0.00	511,670.57
DOWNTOWN TIF RPA-1 FUND	1,144,855.41	249.60	(14,876.46)	1,130,228.55	0.00	0.00	1,130,228.55	0.00	0.00	1,130,228.55
FRONT & MAIN TIF RPA-3 FUND	24,905.44	26.44	0.00	24,931.88	0.00	0.00	24,931.88	0.00	0.00	24,931.88
RHINE RIVER TIF RPA-2 FUND	467.04	0.10	0.00	467.14	0.00	0.00	467.14	0.00	0.00	467.14
WATER FUND	1,044,746.75	166,041.62	(433,089.19)	777,699.18	0.00	0.00	777,699.18	0.00	(397,743.50)	379,955.68
SEWAGE TREATMENT FUND	249,373.24	218,063.71	(286,697.08)	180,739.87	0.00	0.00	180,739.87	0.00	(581,544.75)	(400,804.88)
SOLID WASTE FUND	4,001,339.94	217,126.56	(230,570.47)	3,987,896.03	(6,805,809.66)	0.00	(2,817,913.63)	0.00	(796,010.75)	(3,613,924.38)
PHOENIX CENTER II CID FUND	2,807.39	39,238.16	(38,845.78)	3,199.77	0.00	0.00	3,199.77	0.00	0.00	3,199.77
<b>TOTALS</b>	<b>\$ 19,437,723.46</b>	<b>\$ 2,066,564.19</b>	<b>\$ (2,484,148.47)</b>	<b>\$ 19,020,139.18</b>	<b>\$ (8,699,668.45)</b>	<b>\$ (88,158.79)</b>	<b>\$10,232,311.94</b>	<b>\$2,331,515.95</b>	<b>\$(3,440,692.30)</b>	<b>\$ 9,123,135.59</b>

DELINQUENT CITY RE & PP TAXES COLLECTED THIS MONTH: \$ 10,299.06

  
 DARREN J. LAMB, CITY ADMINISTRATOR/DEPUTY CITY TREASURER

8/8/22  
 DATE

  
 MARY J. SPRUNG, CPA FINANCE DIRECTOR/CITY COLLECTOR/CITY TREASURER


8/3/22  
 DATE

① = Resolution No. 11-108880 15% =Fund Balance Reserved For General Operating Fund  
 25% - Fund Balnace Reserve For Enterprise Funds (Water, Sewer, and Solid Waste)

② = Annually in October, Transfers for debt service and subsidy allocations are done which may result in a negative cash balances until tax revenues come in at calendar year end.



**CITY OF WASHINGTON MONTHLY INVESTMENT REPORT**

 <b>MAY 2022</b>	INVESTMENT DATE	INTEREST PERCENT	MATURITY DATE	BEGINNING ADJUSTED COST	ADJUSTED GAIN/(LOSS)	REVENUE	EXPENSE	SOLD/REINVESTED 10/01/21 - 09/30/22	ENDING ADJUSTED COST
	<b>GOVERNMENT BONDS:</b>								
FEDERAL HOME LOAN BANK BONDS	6/8/2021	2.125%	9/14/2029	\$ 215,142.00	98.90	-	-	\$ -	\$ 215,240.90
FEDERAL HOME LOAN BANK BONDS	11/15/2019	2.250%	12/8/2023	\$ 477,782.40	504.00	-	-		\$ 478,286.40
<b>IBN: BOND TOTALS:</b>				<b>\$ 692,924.40</b>	<b>\$ 602.90</b>	<b>\$ -</b>			<b>\$ 693,527.30</b>
<b>CERTIFICATES OF DEPOSITS:</b>									
KS STATE BANK CD	2/9/2018	2.450%	2/9/2023	\$ 52,421.20	(123.34)	104.71	-		\$ 52,297.86
ENERBANK USA CD	9/27/2019	1.950%	3/27/2023	\$ 114,336.30	(212.05)	182.71	-		\$ 114,124.25
STATE BANK OF INDIA CD	2/25/2019	3.050%	2/28/2024	\$ 242,138.40	(585.90)		-		\$ 241,552.50
BMW BANK OF NORTH AMERICA CD	2/25/2022	1.700%	9/4/2024	\$ 242,799.90	(338.75)			\$ -	\$ 242,461.15
<b>IBN: CERTIFICATE OF DEPOSIT TOTAL:</b>				<b>\$ 651,695.80</b>	<b>(1,260.04)</b>	<b>287.42</b>		<b>0.00</b>	<b>\$ 650,435.76</b>
FIRST INTERNET BANK INDIANA CD	2/1/2021	0.650%	8/2/2022	\$ 245,000.00					\$ 245,000.00
FIVE POINTS BANK CD	2/1/2021	1.000%	2/2/2025	\$ 245,000.00					\$ 245,000.00
MIDLAND STATES BANK CD	2/1/2021	0.750%	2/2/2024	\$ 245,000.00					\$ 245,000.00
VISION BANK CD	6/30/2021	0.750%	6/23/2023	\$ 245,000.00					\$ 245,000.00
<b>AMERICAN: CERTIFICATE OF DEPOSIT TOTAL:</b>				<b>\$ 980,000.00</b>	<b>0.00</b>	<b>0.00</b>			<b>\$ 980,000.00</b>
<b>CERTIFICATE OF DEPOSITS TOTALS:</b>				<b>\$ 1,631,695.80</b>	<b>\$ (1,260.04)</b>	<b>\$ 287.42</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,630,435.76</b>
<b>MONEY MARKETS:</b>									
<b>IBN: MONEY MARKET</b>				<b>\$ 7,242.20</b>				<b>287.42</b>	<b>\$ 7,529.62</b>
<b>AMERICAN: MONEY MARKET</b>				<b>\$ 23.27</b>	<b>0.00</b>	<b>0.00</b>		<b>0.00</b>	<b>\$ 23.27</b>
<b>MONEY MARKET TOTALS:</b>				<b>\$ 7,265.47</b>					<b>\$ 7,552.89</b>
<b>GRAND TOTALS:</b>				<b>\$ 2,331,885.67</b>	<b>\$ (657.14)</b>	<b>\$ 287.42</b>			<b>\$ 2,331,515.95</b>

**ALLOCATIONS OF FUNDS:**

PRINCIPAL - GENERAL FUND ACCT.- 001-103000	1,500,000.00	
INVESTMENT GENERAL FUND- GAIN/(LOSS)	477,839.95	
YEAR END MARKET VALUE ADJUSTMENT-SEPT	-	
<b>TOTAL GENERAL FUND:</b>		<b>\$ 1,977,839.95</b>
PRINCIPAL - STORMWATER FUND ACCT.- 250-103000	353,676.00	
<b>TOTAL STORMWATER FUND:</b>		<b>\$ 353,676.00</b>
<b>TOTAL MARKET VALUE OF INVESTMENTS:</b>		<b>\$ 2,331,515.95</b>

NOTE: Market Value Adjustment done with annual audit adjustments in September.

  
 DARREN J. LAMB, CITY ADMINISTRATOR/DEPUTY CITY TREASURER

8/8/22  
 DATE

  
 MARY J. SPRUNG, CPA FINANCE DIRECTOR/CITY TREASURER

8/3/22  
 DATE



August 10, 2022

To The City Council  
City of Washington  
Washington, MO 63090

Dear Council Members:

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

<u>NAME</u>	<u>TERM BEGINS</u>	<u>TERM ENDS</u>
Brendan McMillan Police Officer	August 14, 2022	February 14, 2023 <i>(2nd 6 months)</i>

Respectfully submitted,

James D. Hagedorn  
Mayor



**POLICE**  
CITY OF WASHINGTON

**Washington Police Department**  
Chief Jim Armstrong DSN 256

301 Jefferson Street  
Washington, MO 63090  
Administration: (636)390-1055  
Dispatch: (636)390-1050  
Fax: (636)390-2455

Date: August 10, 2022  
To: Mayor Doug Hagedorn  
Subject: Reappointment of Police Officer

Honorable Mayor,

I respectfully request that Officer Brendan McMillan be presented to the City Council for reappointment with the Washington Police Department for his second six-month term. Officer McMillan successfully completed his initial six-month appointment and has proven to be an asset the department and City of Washington.

NAME	DATE EFFECTIVE	DATE EXPIRES
<b>Officer Brendan McMillan</b>	<b>August 14, 2022</b>	<b>February 14, 2023 (2nd 6 months)</b>

Thank you for your consideration.

Respectfully,

Jim Armstrong, Chief of Police





August 9, 2022

Honorable Mayor and City Council  
City of Washington  
Washington, Missouri

**Re: File No. 22-0801-Voluntary Annexation-Bieker Road**

Dear Mayor and Council Members:

At the regular meeting of the Planning and Zoning Commission, held on August 8, 2022 the Commission reviewed and approved the above request with a unanimous vote.

Sincerely,

A handwritten signature in blue ink that reads "Thomas R. Holdmeier".

Thomas R. Holdmeier  
Planning & Zoning  
Chairman

To: Planning and Zoning Commission

From: Planning and Engineering Department Staff

Date: August 8, 2022

Re: File # 21-1204 – Voluntary Annexation – Vic Hoerstkamp

Synopsis: The applicant is requesting to annex approximately 14 acres off Bieker Road. Legal Description attached.

<b>Adjacent Land Use /Zoning Matrix</b>		
	Existing Land Use	Existing Zoning
North	Single Family	R1-D
South	Farm Land	N/A
East	Vacant Land	N/A
West	Single Family under construction	R-1D

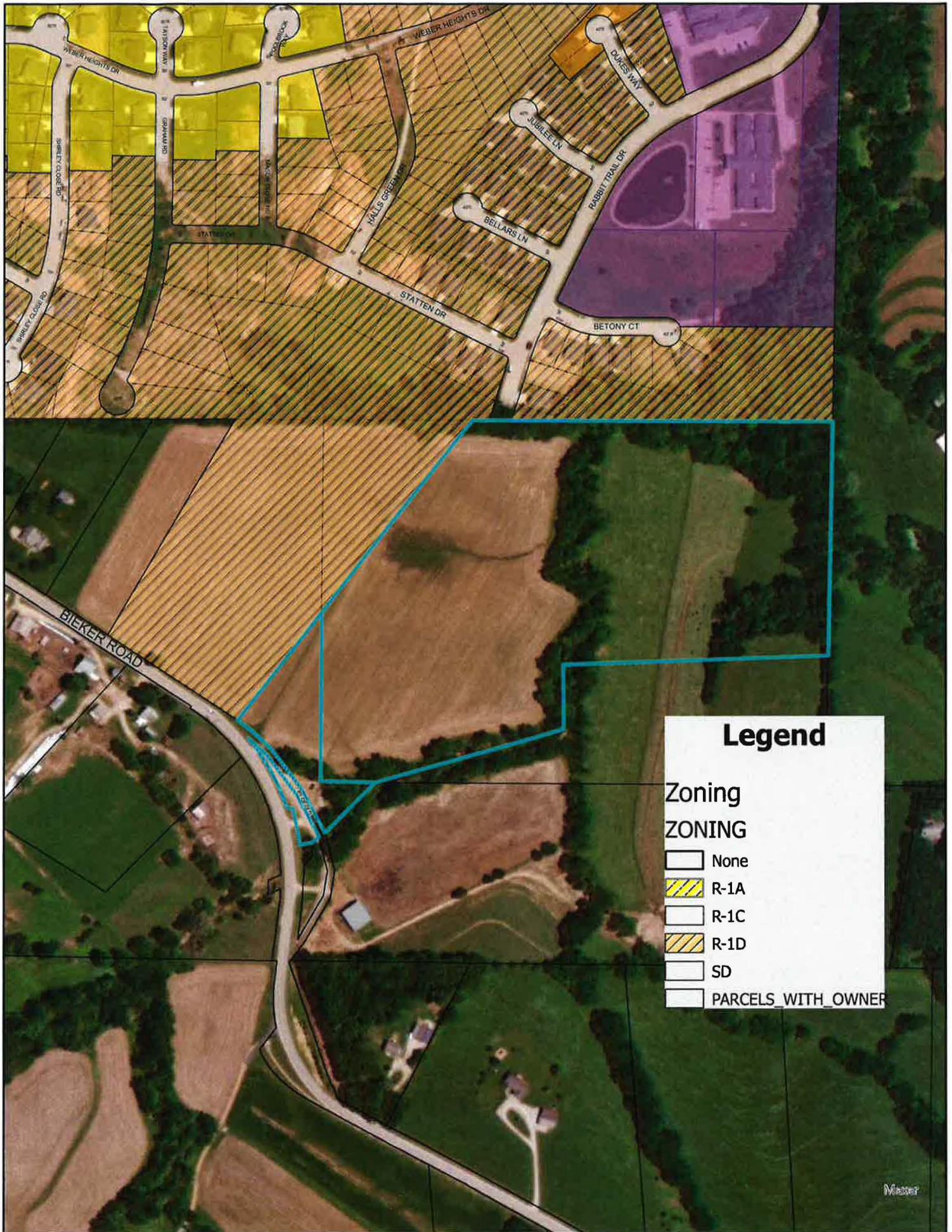
**Analysis:**

The applicant has submitted an application to annex 14 acres as shown with an attached survey and legal description. The application requests that the newly annexed property be zoned R1-D Single Family Residential. The future land use map of this specific area proposes single family residential uses as it develops. The proposed zoning of R1-D matches the vision of the comprehensive plan and the density requirements of this district are compatible with the surrounding area. The property to the north has developed as single family lots approximately 7,500 square feet in size under the R1-D zone district. This also allows for the extension of Rabbit Trail to Bieker Road, a connection long listed in the City’s Comprehensive Plan. The City has entered into a development agreement with the owner and the applicant to annex the land and the City will build the street. This application is in accordance with the development agreement.

**Recommendation:**

Staff recommends approval of the proposed annexation as well as the proposed zoning designation of R1-D Single Family Residential.





Master





## WUNDERLICH SURVEYING & ENGINEERING, INC.

512 EAST MAIN STREET • UNION, MO 63084  
(636) 583-8400 Email: info@wseteam.com

### DESCRIPTION OF PROPERTY TO BE ANNEXED:

A tract of land being part of U.S. Survey 1912 and part of the Northeast Fractional Quarter of Section 35, Township 44 North, Range 1 West of the 5th P.M., in Franklin County, Missouri, being more fully described as follows:

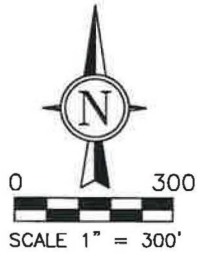
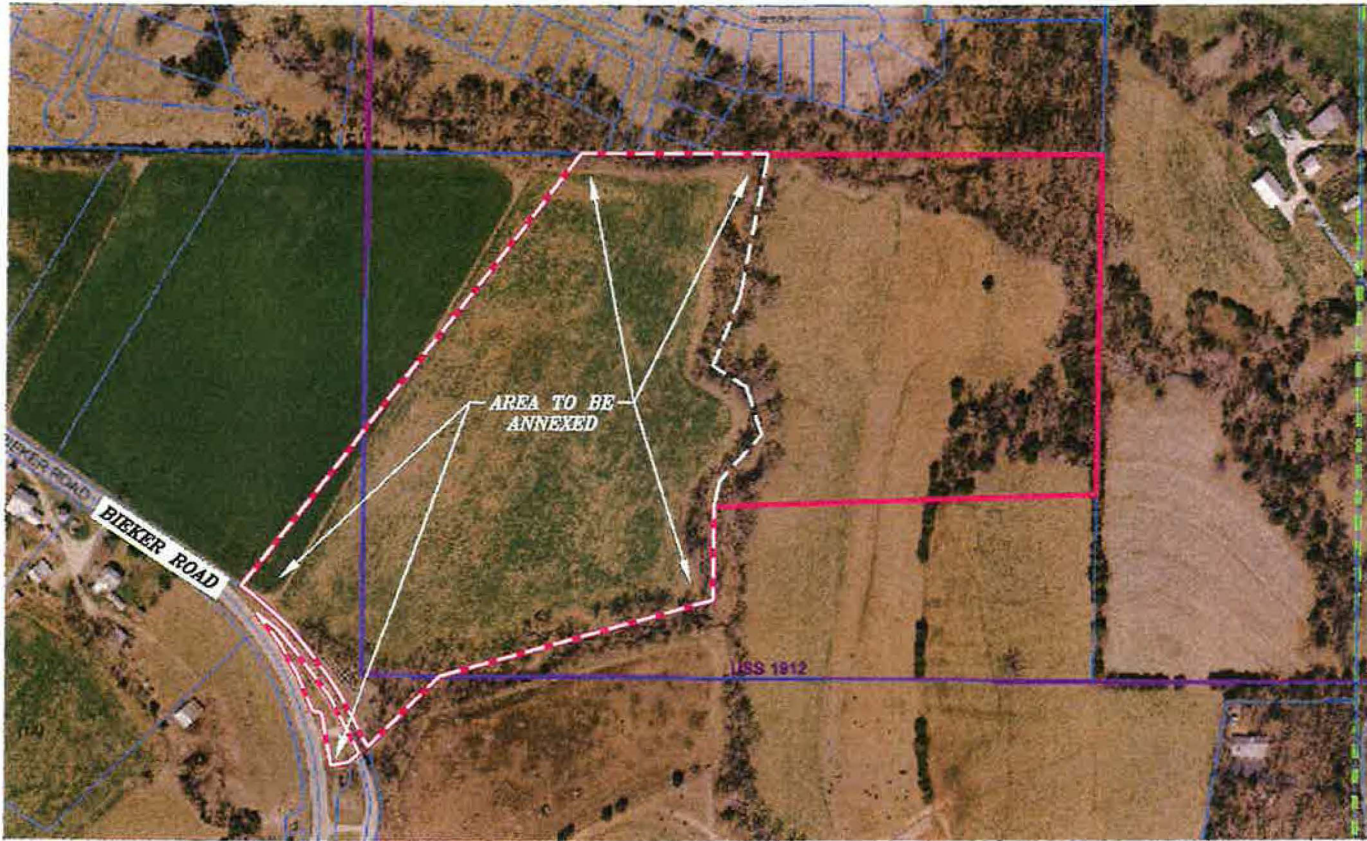
Beginning at the Southeast corner of the Northeast Fractional Quarter and run thence North 3° East 508.2 feet;  
Thence North 86° 55' West 510.84 feet;  
Thence North 3° East 360.0 feet, this being the actual POINT OF BEGINNING of the tract herein described;  
Thence South 89° 48' West 744.1 feet to a point in the centerline of a creek;  
Thence with said creek centerline South 0° 29' West 183.9 feet;  
Thence South 76° 10' West 544.2 feet;  
Thence South 51° 44' West 228.4 feet to a point in the centerline of Bieker County Road;  
Thence with said road centerline North 26° 22' West 132.9 feet;  
Thence North 34° 41' West 141.0 feet;  
Thence North 46° 29' West 115.6 feet;  
Thence leave said road centerline and run North 40° 06' East 1088.7 feet;  
Thence South 88° 08' East, 1010.2 feet more or less;  
Thence South 3° West 658.0 feet to the PLACE OF BEGINNING;

SUBJECT TO the right of ingress and egress over that portion of Bieker County Road embraced therein.

EXCEPTING THEREFROM all that part of the above described tract lying East of said creek centerline.

SUBJECT TO easements, conditions, and restrictions of record.





**WUNDERLICH**  
 SURVEYING & ENGINEERING INC.  
 512 EAST MAIN STREET  
 UNION, MO 63084 (636) 583-8400

<b>ANNEXATION EXHIBIT</b>	
PART OF U.S. SURVEY 1912 & PART NE FRACTIONAL 1/4 SEC. 35, T44N, R1W OF THE 5TH P.M. IN FRANKLIN COUNTY, MO	
SCALE: 1" = 300'	SHEET
JOB: 7782	<b>PRELIMINARY NOT FOR CONSTRUCTION</b>
DATE: 6-30-22	
DWN: MR	
S: 7782	<b>1 OF 1</b>



22-0702

CITY OF WASHINGTON, MISSOURI  
Department of Planning and Engineering Services  
405 Jefferson Street • Washington, Missouri 63090  
636.390.1010 phone • 636.239.4649 fax

VERIFIED PETITION FOR ANNEXATION

By completing this document, the undersigned is verifying the following:

- 1. The undersigned is the owner of all fee interest in that real property described in Exhibit "A", a copy of which is attached hereto and incorporated herein by reference.
- 2. Said property described in Exhibit "A" is contiguous and compact to the existing corporate limits of the City of Washington, Missouri.
- 3. The undersigned hereby petitions the City Council of the City of Washington, Missouri, for voluntary annexation of the real property described in Exhibit "A".
- 4. The undersigned hereby requests the City Council of the City of Washington, Missouri, zone the real property described in Exhibit "A" as \_\_\_\_\_

The following describes the fee involved with a voluntary annexation request, and the conditions of a refund, as called out in the City of Washington Codes:

SECTION 400.170: VOLUNTARY ANNEXATION PETITIONS FEES & PROCEDURES

- A. Any request for voluntary annexation submitted to the City of Washington, Missouri, pursuant to Section 71.012 of the Revised Statutes of Missouri shall be accompanied by a cost deposit of two hundred dollars (\$200.00) for processing said request. Please make check payable to the City of Washington.
- B. If the request for voluntary annexation is not approved by the City Council, the cost deposit shall be refunded to the applicant. If the request for voluntary annexation is withdrawn by the applicant, the cost deposit shall be forfeited to the City. If the request for voluntary annexation is contingent on the occurrence of one (1) or more events and these events do not transpire due to action or inaction by others than the City Council and the voluntary annexation is not approved by the City Council, then the cost deposit shall be forfeited to the City. (Ord. No. 00-8783 §1, 4-3-00)

Jeannette Hoelscher Jeannette Hoelscher  
Applicant Name (print) Applicant signature

Address & Phone 503 W 2nd St. Washington, Mo  
63090

STATE OF MISSOURI     )  
  )     SS  
COUNTY OF FRANKLIN     )

On this 24 day of June, 2022, before me appeared Jeannette Hoelscher, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as their own free act and deed.

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

Heather Marie Parker  
Notary Public



BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ANNEXING 14 ACRES OF  
PROPERTY LOCATED ALONG BIEKER ROAD IN THE  
CITY OF WASHINGTON, FRANKLIN COUNTY,  
MISSOURI

WHEREAS, on June 24, 2022, a verified petition signed by Jeanne Hoelscher, owner of the tract of real estate hereinafter described, requesting annexation of certain territory into the City of Washington, Missouri, was filed with the City Clerk; and

WHEREAS, said real estate as hereinafter described is adjacent and contiguous to the present corporate limits of the City of Washington, Missouri; and

WHEREAS, the Washington Planning & Zoning Commission has recommended that the subject property described in Exhibit A, attached hereto, should be annexed into the city limits of the City of Washington, and should be placed into a R-1D, Single Family Residential classification, as requested by the applicant; and

WHEREAS, the City Council held a Public Hearing concerning the matter of annexation of the land described in Exhibit A, at City Hall in Washington, Missouri, on Monday, August 15, 2022 at 7:00 p.m. during a regular meeting of the City Council; and

WHEREAS, notice of said Public Hearing was given by publication of notice thereof, on July 30, 2022 in the "Washington Missourian", a bi-weekly newspaper of general circulation in the County of Franklin, State of Missouri; and

WHEREAS, at said public hearing, all persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed annexation of the land described this ordinance; and

WHEREAS, no written objection to the proposed annexation was filed with the City Council of the City of Washington, Missouri, within fourteen (14) days after said Public Hearing; and

WHEREAS, the City Council of the City of Washington, Missouri does find and determine that said annexation of the land described in this ordinance is reasonable and

necessary to the proper development of the City; and

WHEREAS, the City is able to furnish normal municipal services to said area within a reasonable time after annexation.

NOW, THEREFORE, be it ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The boundaries of the City of Washington, Missouri, are hereby altered to encompass the tracts of land described in Exhibit A of this ordinance, lying adjacent and contiguous to the present corporate limits.

SECTION 2: Pursuant to the provisions of Section 71.012 RSMo, as amended, the land described and incorporated herein by reference, is hereby annexed into the City of Washington, Missouri, and zoned R-3, Multi-Family Residential.

SECTION 3: The City Clerk of the City of Washington is hereby ordered to have three (3) certified copies of this ordinance filed with the Franklin County Clerk.

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

DESCRIPTION OF PROPERTY TO BE ANNEXED:

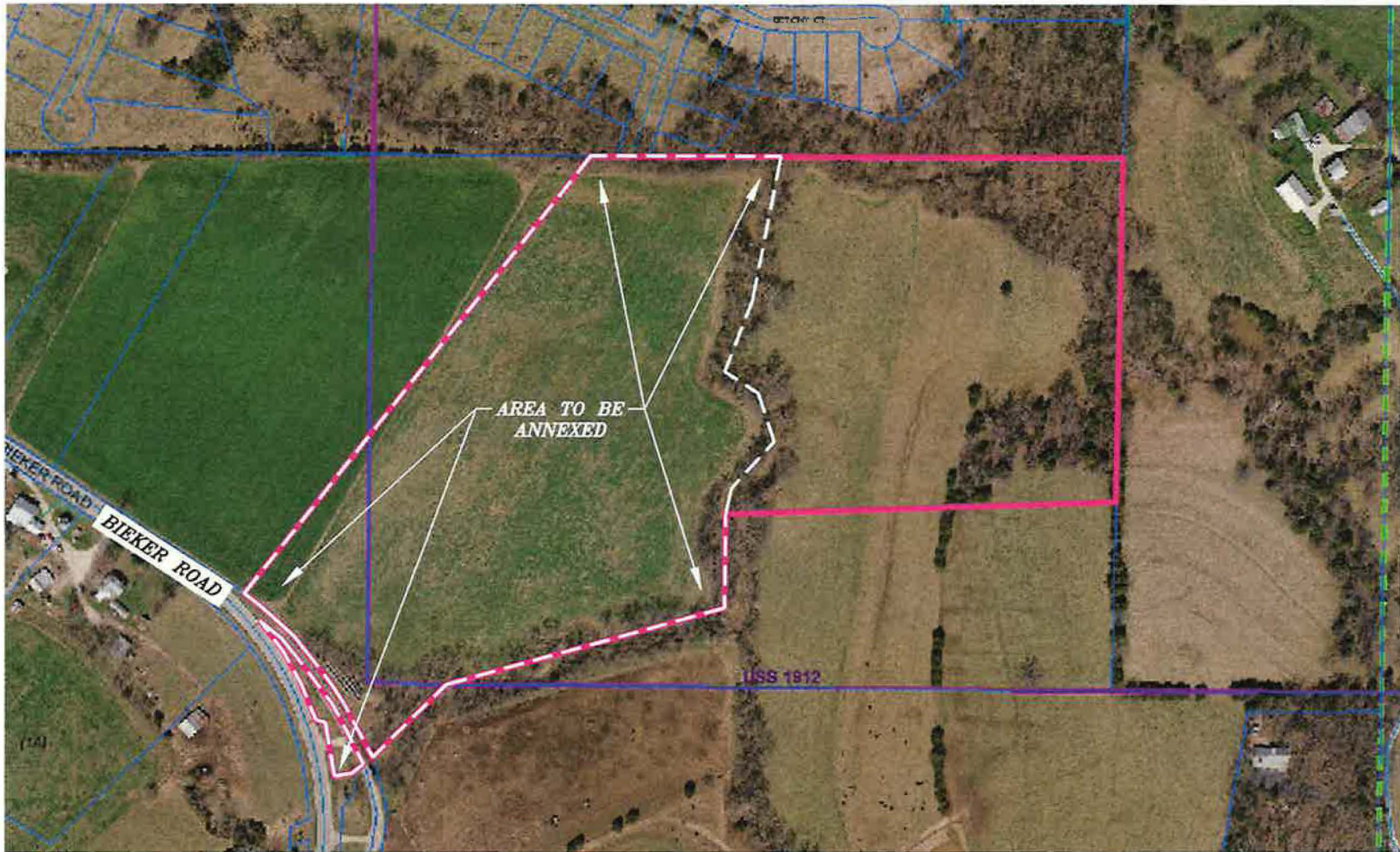
A tract of land being part of U.S. Survey 1912 and part of the Northeast Fractional Quarter of Section 35, Township 44 North, Range 1 West of the 5th P.M., in Franklin County, Missouri, being more fully described as follows:


Beginning at the Southeast corner of the Northeast Fractional Quarter and run thence North 3° East 508.2 feet;  
Thence North 86° 55' West 510.84 feet;  
Thence North 3° East 360.0 feet, this being the actual POINT OF BEGINNING of the tract herein described;  
Thence South 89° 48' West 744.1 feet to a point in the centerline of a creek;  
Thence with said creek centerline South 0° 29' West 183.9 feet;  
Thence South 76° 10' West 544.2 feet;  
Thence South 51° 44' West 228.4 feet to a point in the centerline of Bieker County Road;  
Thence with said road centerline North 26° 22' West 132.9 feet;  
Thence North 34° 41' West 141.0 feet;  
Thence North 46° 29' West 115.6 feet;  
Thence leave said road centerline and run North 40° 06' East 1088.7 feet;  
Thence South 88° 08' East, 1010.2 feet more or less;  
Thence South 3° West 658.0 feet to the PLACE OF BEGINNING;

SUBJECT TO the right of ingress and egress over that portion of Bieker County Road embraced therein.

EXCEPTING THEREFROM all that part of the above described tract lying East of said creek centerline.

SUBJECT TO easements, conditions, and restrictions of record.



	ANNEXATION EXHIBIT	
	PART OF U.S. SURVEY 1912 & PART NE FRACTIONAL 1/4 SEC. 35, T44N, R1W OF THE 5TH P.M. IN FRANKLIN COUNTY, MO	
<b>WUNDERLICH</b> SURVEYING & ENGINEERING INC. 512 EAST MAIN STREET UNION, MO 63084 (636) 583-8400	SCALE: 1" = 300'	PRELIMINARY NOT FOR CONSTRUCTION
	JOB: 7782 DATE: 6-30-22 DWN: MR S: 7782	
		1 OF 1

BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND DIRECTING THE  
EXECUTION OF A LEASE AGREEMENT BY AND  
BETWEEN THE CITY OF WASHINGTON, MISSOURI AND  
THE AXE DEPOT, 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 Lease Agreement by and between the City of Washington, Missouri and The Axe Depot, 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.

Passed: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
President of City Council

Approved: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Mayor of Washington, Missouri

**EXHIBIT I**

**LEASE AGREEMENT**

THIS LEASE (“Lease”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Washington, Missouri, a Municipal Corporation (hereinafter “Landlord”) and The Axe Depot, LLC, a Missouri limited liability company (“Tenant”).

WITNESSETH:

Landlord, for and in consideration of the rents required to be paid by Tenant, and the covenants and agreements required to be performed by Tenant, does hereby lease and demise unto Tenant, and Tenant hereby takes and hires from Landlord, the Freight Depot Building, lying and being in the City of Washington, Missouri, more particularly described in Exhibit “A” annexed hereto and hereby made a part hereof (the “Land”), together with the buildings and improvements erected thereon (collectively, the “Improvements”) (the Land and the Improvements being hereinafter referred to collectively as the “Demised Premises”).

TOGETHER also with all right and interest, if any, of Landlord in and to (i) the land lying in the streets and roads in front of and adjoining the Land to the center line thereof to the extent owned by Landlord, and (ii) any easement, appurtenance, alleyway, passageway, sidewalk, curb, and vault appurtenant to the Land and/or the Improvements but subject to the obligations, if any, thereunder.

1. Purpose.

Tenant may use and occupy the Demised Premises for any lawful purpose permitted in the Zoning District in which the Demised Premises is located.

2. Term; Security Deposit.

2.1 The initial term of this Lease (the “Term”) shall be for five (5) years commencing upon issuance of a Commercial Occupancy Permit (the “Commencement Date”) or within one hundred eighty (180) days of Landlord’s completion of the improvements as set forth in Section 10.3 herein, whichever occurs last, and ending at



11:59 P.M. on the date that is five (5) years hence (the "Expiration Date"), unless sooner terminated as hereinafter provided. (The "Original Term"). Tenant, at tenant's option, by giving Landlord sixty (60) days written notice before the expiration of the Term, may extend the Term of this lease for one (1) additional period of five (5) years on the same terms and conditions, except as to rent which shall be as set forth hereinbelow, except that Tenant, or Landlord, by giving the other party one hundred eighty (180) days written notice, may cancel any option term then in effect. (The "Option Term").

2.2 Tenant agrees to deposit with Landlord upon the execution hereof Three Thousand Dollars (\$3,000.00) as and for a security deposit hereunder.

3. Net Rent.

3.1 Tenant covenants and agrees to pay to Landlord, as rental for the first year of the Original Term for the Demised Premises, the sum of Thirty-Six and 00/100 Dollars (\$36,000.00) per annum, payable in equal monthly installments in advance on the first day of each month during the Term ("Net Rent").

3.2 During the second year of the Original Term, and for each year thereafter, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum of Thirty-Six Thousand and 00/100 Dollars (\$36,000.00) plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.3 During the third year of the Original Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the second year of the Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.4 During the fourth year of the Original Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the third year of the Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.5 During the fifth year of the Original Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the fourth year of the Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.6 During the first year of the Option Term, Tenant covenants and agrees to pay to Landlord, as rental for the Demised Premises, the sum calculated for the fifth year of the Original Term, plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.7 During the second year of the Option Term, and for each year thereafter, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the first year of the Option Term, plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.8 During the third year of the Option Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the second year of the Option Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.9 During the fourth year of the Option Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the third year of the Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.10 During the fifth year of the Option Term, Tenant covenants and agrees to pay Landlord as rental for the Demised Premises, the sum calculated for the fourth year of the Term plus the lesser of a percentage equal to the increase in the cost of living for the St. Louis Metropolitan Area as reflected in the most recent Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, or an appropriate successor index, issued immediately prior to the commencement of the Original Term then in effect on an annual basis or three percent (3%).

3.11 All Net Rent and all other sums payable to Landlord under this Lease shall be made in lawful money of the United States of America and shall be paid to Landlord at its address as set forth herein or to such other party and/or to such other address as Landlord may from time to time designate in writing to Tenant as provided herein.

#### 4. Payment of Impositions.

4.1 Tenant, as additional rent hereunder, shall pay or cause to be paid, before any fine, penalty, interest or cost may be added thereto for the nonpayment thereof, all water and sewer rents, and all charges for public utilities such as gas and electricity,



which at any time during the Term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due or payable out of or in respect of, or become a lien on, the Demised Premises or any part thereof or any appurtenant thereof (all such other charges being hereinafter referred to as "Impositions", and any of the same being hereinafter referred to as an "Imposition").

4.2 Tenant shall pay all real estate and personal property taxes due, if any, on the Demised Premises throughout the Term of this Lease.

5. Insurance.

5.1 Tenant shall, at its own sole cost and expense, throughout the entire Term, procure and maintain comprehensive general public liability insurance against claims for bodily injury, death or property damage occurring upon, in or about the Demised Premises, such insurance to afford immediate protection at the Commencement Date of the Term to the limit of not less than Three Million Dollars (\$3,000,000.00) in respect of bodily injury or death to any one person, and to the limit of not less than Three Million Dollars (\$3,000,000.00) in respect of any one occurrence, and to the limit of not less than Four Hundred Thousand Dollars (\$400,000.00) for property damage.

5.2 All insurance provided for in this Article shall be affected under valid and enforceable policies, issued by insurers of recognized responsibility, and qualified to do business in the State of Missouri, which have been approved by Landlord. All policies of insurance provided for or contemplated by this Article shall name Landlord and Tenant as the insureds or additional insureds, as their respective interests may appear. To the extent required by any Landlord's mortgagee under any mortgage covering the Demised Premises, any policies provided for or contemplated by this Article shall name such Landlord's mortgagee as an additional insured thereunder.

5.3 Landlord shall, at its sole cost and expense, keep the Demised Premises insured against loss or damage by earthquake, flood or fire, and against loss or damage by such other risks to property embraced by standard extended coverage forms or endorsements, and Landlord need not name Tenant as an insured under any such policy.

6. Destruction or Damage by Fire or Other Casualty.

6.1 If the Demised Premises or any part thereof shall be destroyed or damaged by fire or other casualty, this Lease shall continue in full force and effect except as hereinafter set forth.

6.2 If the Demised Premises are totally or partially damaged or destroyed by fire or other casualty, or Tenant is unable to access the Demised Premises due to flooding or other casualty, Tenant shall give prompt notice thereof to Landlord, and Landlord shall proceed with due diligence to promptly repair and restore the damaged or destroyed portion of the Demised Premises and restore access to the Demised Premises at Landlord's expense. Regarding any area of the Demised Premises which becomes wholly unusable by Tenant by reason of fire or other casualty, or by reason of any repairs and restoration occasioned thereby, the Net Rent due under this Lease shall be reduced in proportion to the area so rendered unusable for the period of time commencing with the date such area becomes unusable and for so long as such area remains unusable by Tenant.

6.3 If the Demised Premises are damaged or destroyed by fire or other casualty so that the cost of repairing, restoring or rebuilding the same is more than One Hundred Thousand Dollars (\$100,000.00), Landlord may elect to terminate this Lease by written notice to Tenant given within thirty (30) days of the date of the occurrence of such damage or destruction, which notice shall specify a date for termination or not less than thirty (30) days nor more than ninety (90) days after the giving of such notice and upon such date this Lease shall cease and expire as if such date were the date heretofore fixed for the expiration of the Term herein demised. If this Lease is so terminated by Landlord, (i) Tenant shall vacate and surrender the Demised Premises to Landlord upon the date specified in the notice of termination, and (ii) neither party shall have any further right or claim hereunder against the other.

#### 7. Assignment and Subletting.

Tenant shall not have the right, at any time, to assign this Lease or sublet the whole or any portion of the Demised Premises, except as set forth herein. Tenant may, with the written consent of Landlord not to be unreasonably withheld, sublet the whole or

any portion of the Demised Premises provided that no such subletting shall in any way release, reduce, waive, diminish, or affect the obligations of Tenant hereunder.

8. Alterations.

8.1 Tenant may from time to time make alterations, installations, additions, or improvements to the Demised Premises (collectively, "Alterations") of a non-structural nature which are reasonably required for the conduct of Tenant's business at the Demised Premises, provided that the proposed Alteration will not materially reduce the size of the Improvements or materially diminish the value thereof. Tenant shall make no structural Alterations without Landlord's prior written consent. Notwithstanding the foregoing, all Alterations shall be made in compliance with all applicable laws, ordinances, rules and regulations of the National Board of Fire Underwriters or any other body hereafter exercising similar functions. All structural Alterations which are made, performed, or installed by Tenant with Landlord's consent shall be deemed the property of Landlord without any compensation therefor by Landlord.

8.2 Tenant agrees to allow Landlord to enter the Premises and make repairs in the Demised Premises prior to and during the Term of this Lease.

8.3 Tenant shall indemnify Landlord against any mechanic's lien or liens arising out of any work performed by or at the request of Tenant hereunder or repairs and maintenance made by or at the request of Tenant to the Demised Premises. Said indemnity shall include indemnity for all losses, liabilities, claims, damages, costs, expenses, and reasonable attorneys' fees.

9. Fixtures and Equipment; Tenant's Property.

Landlord hereby acknowledges that all Tenant's trade fixtures, and all Tenant's trade equipment, machinery, office supplies and inventory, and all other movable personal property of Tenant which may be located at the Demised Premises at any time, whether first installed at the Demised Premises at the commencement of the Term of this Lease or installed subsequently ("Tenant's Property"), shall remain at all times the property of Tenant. Tenant shall, at or just prior to the expiration or sooner termination of the Term of this Lease, remove any or all of Tenant's Property, provided Tenant

repairs any damage caused by such removal and restores the Demised Premises to their condition prior to the installation of the Tenant's Property so removed, reasonable wear and tear excepted. Any Tenant's Property remaining as of the expiration or sooner termination of the Term of this Lease shall be deemed abandoned and may be retained or disposed of at Tenant's cost in the sole and absolute discretion of Landlord without accountability to Tenant.

10. Repairs and Maintenance.

10.1 Tenant shall, at its own cost and expense, maintain in good condition and repair, and replace as necessary, interior components, of the Demised Premises, that are damaged and require repair due to negligence or fault of the tenant and their occupancy and use. All such maintenance, repairs and replacements shall be of first-class quality and sufficient for the proper maintenance and operation of the Demised Premises. Tenant shall keep and maintain the Demised Premises safe, secure, and clean, specifically including, but not by way of limitation, removal of waste and refuse matter. Tenant shall not permit anything to be done upon the Demised Premises (and shall perform all maintenance and repairs thereto so as not) to invalidate, in whole or in part, or prevent the procurement of any insurance policies which may, at any time, be required under the provisions of this Lease. Tenant shall not obstruct or permit the obstruction of any parking area, adjoining street or sidewalk. During the Term, Upon the expiration of the Term, Tenant shall surrender the Demised Premises broom clean, in as good condition as the reasonable use thereof will permit, normal wear and tear excepted. All damage or injury to the Demised Premises not caused by fire or other casualty, all violations of any codes, laws or ordinances, respecting the Demised Premises arising out of Tenant's acts or omissions, and all damage to glass, windows, walls, ceilings, flooring and doors shall be promptly repaired and corrected by Tenant; provided, however, that Tenant shall not be required to make any repairs, alterations or improvements required to comply with Applicable Laws (i) unless required as a result of Tenant's particular use of the Demised Premises, or (ii) unless required as a result of any Tenant Alterations made by or on behalf of Tenant.

10.2 Landlord shall keep, maintain, repair, and replace the parking lot, sidewalks, and appurtenances thereto, including, as necessary, snow and ice removal and make or cause to be made, all repairs and necessary replacements to the "structural components", the heating, air conditioning, and ventilation systems, and the exterior plumbing and sewage systems, of the Demised Premises. For purposes of this Lease, the phrase "structural components" shall mean the exterior roof, exterior face of the exterior walls and foundation of the Demised Premise. Landlord's obligation shall exclude the cost of any maintenance or repair required because of the act or negligence of Tenant or any of Tenant's subsidiaries or affiliates, or any of Tenant's or such subsidiaries' or affiliates' agents, contractors, employees, licensees, or invitees (collectively, "Tenant's Affiliates"), the cost of which shall be the responsibility of Tenant. Landlord shall never have any obligation to repair, maintain or replace, pursuant to this section or any other provision of this Lease, any Tenant Alterations.

10.3 Notwithstanding the foregoing, Landlord, at its cost, shall complete all maintenance, repairs, and improvements to the Demised Premises to enable the Tenant to obtain a Commercial Occupancy Permit prior to the Commencement Date. From and after the Commencement date the Landlord shall only have those obligations for maintenance, repairs, and improvements as described in Section 10.2 above.

#### 11. Compliance with Law.

11.1 Tenant shall not use or allow the Demised Premises or any part thereof to be used or occupied for any unlawful purpose or in violation of any Certificate of Occupancy or certificate of compliance covering or affecting the use of the Demised Premises or any part thereof. Tenant shall not suffer any act to be done or any condition to exist on the Demised Premises or any part thereof which may, in law, constitute a nuisance, public or private, or which may make void or voidable any insurance with respect thereto.

11.2 Tenant shall likewise comply with all applicable laws, ordinances and regulations of all governmental and public authorities and officers relating to Tenant's business and its use of the Demised Premises.

12. Eminent Domain.

If all or substantially all of the Demised Premises shall be acquired or taken by condemnation or eminent domain for any public or quasi-public use or purpose, then the Term of this Lease shall cease and terminate from the date of vesting of title in such proceeding as if such date were the date originally set forth herein for the expiration of the Term of this Lease, and the Net Rent, additional rent and other charges hereunder shall be apportioned and paid to the date of termination and Tenant shall have no further liability hereunder, except for any liability theretofore accrued. If a lesser portion of the Demised Premises shall be so taken or condemned, Landlord shall promptly, at its own sole cost and expense, perform such restoration or repairs as may be required to allow the continued and unimpaired use of the remainder of the Demised Premises not so taken, and this Lease shall continue in full force and effect and rent shall be equitably reduced to reflect the decrease in the area of the Demised Premises resulting from such taking. Tenant shall not be entitled to participate or receive any part of the damages or award which may be paid or awarded to Landlord on account of such taking or condemnation except where said damages or award shall provide for moving or other reimbursable expenses to Tenant and/or provide specifically for Tenant's Property so taken, in which event said sum shall be paid to Tenant.

13. Landlord's Right to Cure.

If Tenant shall fail to perform any of its obligations hereunder, Landlord may perform the same but, except in case of emergency, only upon the expiration of such grace period after notice to Tenant as is provided herein for the curing of such default. The cost of such performance shall be payable by Tenant to Landlord, upon demand, as additional rent, which sum shall bear interest at the rate of Eighteen percent (18%) per annum, from and after the date such sum shall have been expended by Landlord, to and until the date such sum shall have been reimbursed to Landlord by Tenant.

14. Indemnification.

14.1 Tenant shall protect, indemnify and hold Landlord harmless from and against all loss, liability, claims, damages, costs and expenses of any kind, including

reasonable attorneys' fees, arising from injuries or damages to persons or property, on or within the Demised Premises, arising out of or resulting in any way from any act or omission of Tenants, its agents, employees, independent contractors, customers, visitors or invitees, in the use, possession or occupancy of the Demised Premises during the Term of this Lease.

14.2 To the extent permitted by law, Landlord shall protect, indemnify and hold Tenant harmless from and against all loss, liability, claims, damages, costs and expenses of any kind, including reasonable attorneys' fees, arising from injuries or damages to persons or property, on or within the Demised Premises, arising out of or resulting in any way from any act or omission of Landlord, its agents, employees, independent contractors, customers, visitors or invitees, during the Term of this Lease.

14.3 Tenant, if it has acquired the information, agrees to promptly notify Landlord of any claim, action, proceeding, or suit instituted or threatened against the Landlord. In the event Landlord is made a party to any action for damages against which Tenant has herewith indemnified Landlord, Tenant shall pay all costs and shall provide counsel in such litigation.

14.4 Landlord, if it has acquired the information, agrees to promptly notify Tenant of any claim, action, proceeding, or suit instituted or threatened against Tenant. In the event Tenant is made a party to any action for damages against which Landlord has herewith indemnified Tenant, Landlord shall pay all costs and shall provide counsel in such litigation.

15. Limitation of Landlord's Liability.

Landlord shall not be liable for damage to or theft of Tenant's Property or any personal property located at the Demised Premises, nor for any injury or damage to persons or property resulting from any cause of whatsoever nature, unless due to the negligence of Landlord.

16. Bankruptcy, etc.

If, prior to or during the Term hereof, (i) Tenant shall have instituted proceedings to be adjudicated a bankrupt or insolvent or consented to the institution or bankruptcy or



insolvency proceedings against it, or filed a petition for an arrangement, reorganization or other relief under the Bankruptcy Code or any other federal or state law relating to bankruptcy or insolvency, or consented to the filing of any such petition, or made an assignment for the benefit of creditors, or admitted in writing its inability to pay its debts generally as they become due or (ii) there shall be entered by a court of competent jurisdiction a final decree or order, which decree or order shall no longer be subject to appeal and as to which no appeal shall then be pending, adjudging Tenant a bankrupt or insolvent or approving any petition filed against Tenant for arrangement or reorganization of Tenant under the Bankruptcy Code or any other federal or state law relating to bankruptcy or insolvency, or appointing a receiver or decreeing or ordering the winding up or liquidation of the affairs of Tenant, then, and in any such event, Landlord may elect, within a reasonable time after receiving notice thereof, to terminate this Lease by notice to Tenant and this Lease shall terminate and expire on the date of such notice with the same effect as if such date were the date originally set forth herein for the expiration of the Term of this Lease.

17. Other Defaults; Landlord's Remedies.

17.1 This Lease and the Term hereof are further subject to the following additional limitations: (a) if Tenant shall fail to pay any Net Rent when due, or (b) if Tenant shall fail to pay any additional rent Impositions or additional sums and charges due hereunder for a period exceeding ten (10) days after written notice from Landlord, or (c) if Tenant shall default in the performance of any other covenant or agreement of Tenant hereunder and such default shall continue for a period exceeding thirty (30) days after written notice from Landlord, or, if the default is of such a nature that the same cannot be cured with due diligence within such thirty (30) day period, and Tenant shall fail to commence in good faith to cure the same within such thirty (30) day period or shall thereafter fail to complete the curing thereof as promptly as possible with the exercise of due diligence, or (d) Tenant shall vacate the Demised Premises or fail to continuously conduct its permitted business in and on the Demised Premises for a period of thirty (30) days; then, in any such event, Landlord may terminate this Lease by serving



on Tenant a written notice specifying the nature of such default and of the date for the termination of the Lease Term, and this Lease and all rights of Tenant under this Lease, shall thereupon terminate and expire on the date of such notice as if such date were the date originally set forth herein for the expiration of the Term of this Lease. Upon any such termination, Tenant shall remain liable to Landlord as provided below and, in addition, Landlord may immediately and without notice, re-enter the Demised Premises either by force or otherwise, and dispossess Tenant or any person holding under Tenant by summary proceedings or otherwise, and remove their property and effects and hold the Demised Premises as if this Lease had not been made. In case of any such default, re-entry, expiration and/or dispossession by summary proceedings or otherwise, (i) the entire outstanding and unpaid Net Rent shall become immediately due and payable through the Expiration Date of the Term, together with such reasonable expenses as Landlord may incur for attorneys' fees, brokerage, and/or putting the Demised Premises in good order, or for preparing the same for rental; and (ii) Landlord may re-let the Demised Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms, which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease. Additionally, Landlord, in putting the Demised Premises in good order or preparing the same for re-rental may, at Landlord's option, make reasonable alterations and/or decorations in the Demised Premises for the purposes of re-letting the Demised Premises, and the same shall be at Tenant's cost. The making of such alterations and/or decorations shall not operate or be construed to release Tenant from liability for liquidated damages as aforesaid.

17.2 The remedies provided in this Lease are not exclusive but are cumulative and in addition to any remedies otherwise available under the applicable law.

17.3 Landlord may, in its sole and absolute discretion, apply the security deposit made hereunder to any damages sustained by Tenant's breach or default of any term or condition hereof.

18. Access.

Tenant shall permit Landlord and its authorized representatives access to the Demised Premises for the purpose of examining the same during regular business hours upon twenty-four (24) hours oral notice.

19. Expiration of Term.

Upon the expiration or sooner termination of this Lease, Tenant will quit and surrender the Demised Premises to Landlord in their original order and condition at the commencement of the Term hereof, except for reasonable wear and tear.

20. Quiet Enjoyment.

Landlord agrees that as long as Tenant performs all of the terms, conditions, and agreements hereof on its part to be performed and observed, Tenant shall peaceably and quietly enjoy the Demised Premises, subject to the terms and conditions hereof.

21. Estoppel Certificates.

Each party agrees that upon ten (10) days written notice from the other party it will execute and deliver a certificate, in recordable form, certifying (a) whether this Lease is in full force and effect and is unmodified (or, if modified, stating the nature of any such modification or modifications), (b) the dates to which Net Rent and additional rent have been paid, (c) whether or not any notice of default or termination is outstanding (and, if outstanding, the nature thereof) and (d) whether, to the knowledge of such party, there is any default, or any event which with the lapse of time or the giving of notice or both, would constitute a default by the other party (or, if known, the nature thereof).

22. Brokerage.

Each party represents to the other that it has dealt with no broker, finder, or similar agent in connection with the making of this Lease.

23. Waiver of Trial by Jury.

The parties waive trial by jury in any action, proceeding or counterclaim by either against the other arising out of this Lease or any matter pertaining hereto.

24. Notices.

All notices, exercises of options, requests, demands, consents, approvals, or other communications required or permitted to be given hereunder or in connection herewith (collectively, "Notices") shall be in writing and shall be sent by certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be addressed to Tenant at The Axe Depot, LLC, c/o William W. Eckelkamp, 200 West Main Street, 2nd Floor, P.O. Box 228, Washington, MO 63090. Notices to Landlord shall be addressed to Landlord at 405 Jefferson Street, Washington, Missouri 63090, Attention: Mayor. Either party may, by notice as aforesaid, change its address for all subsequent notices. Notices shall be deemed given and received on the date when deposited for mail as set forth above.

25. Signs.

Tenant shall be entitled to erect or place signs advertising Tenant's business on the exterior of the Improvements, provided such signs are in compliance with all present and future laws and ordinances applicable thereto. Tenant shall, at its own expense, remove all such signs prior to or upon the expiration or sooner termination of this Lease.

26. Captions.

The captions herein are for convenience only and are not to be given any substantive meaning or effect.

27. Net Lease.

It is the intention of Landlord and Tenant that this Lease be construed in all respects as a net lease and that the rent herein specified shall be net to Landlord in each year during the term of this Lease; all costs, expenses, and obligations of every kind relating to the Demised Premises, except as otherwise expressly provided in this Lease, which may arise or become due during or are apportionable to the Term of this Lease shall be paid by Tenant, and Landlord shall be indemnified by Tenant against such costs, expenses and obligations.

28. Entire Agreement.

This Lease contains the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions not set forth herein, and neither party has relied upon any representation, express or implied, not contained in this Lease. All prior understandings, terms or conditions are deemed merged into this Lease. This Lease shall not be amended or modified in any manner except by an instrument in writing executed by the parties.

29. General Provisions.

No failure or delay on the part of the Landlord or Tenant in exercising any right hereunder shall constitute a waiver of same or of any other right, nor shall any single partial exercise of any right preclude any further exercise thereof or of any other right, except as otherwise set forth herein. A waiver of any term or provision hereof shall apply to the particular instance and time only and shall not be deemed a continuing waiver. This Lease is a Missouri contract and shall be governed in all respects by the laws of the State of Missouri. This Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns. In the event any provision of this Lease shall be declared invalid and unenforceable, the remainder hereof shall continue in full force and effect.

30. Exhibits.

Exhibits A and B are incorporated into this Lease by reference and made a part hereof.

*(Remainder of this page intentionally left blank)*

IN WITNESS WHEREOF, the parties have duly executed this Lease as of the day and year first above written.

LANDLORD  
CITY OF WASHINGTON, MISSOURI

By: \_\_\_\_\_  
Name: James D. Hagedorn  
Title: Mayor

(Seal)

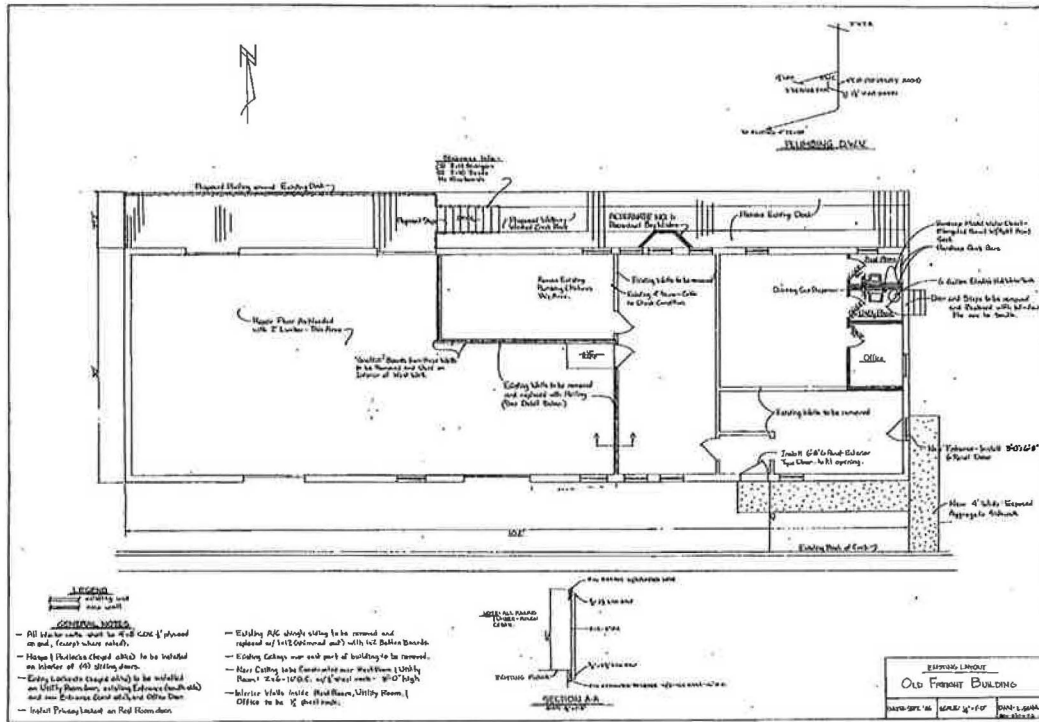
ATTEST:

\_\_\_\_\_  
Sherri Klekamp, City Clerk

TENANT  
THE AXE DEPOT, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

# Exhibit A





**Exhibit B**

FOR VALUE RECEIVED, and in consideration for, and as an inducement to City of Washington, Missouri, as Landlord, to enter into the Lease dated \_\_\_\_\_, 2022 (the "Lease"), with The Axe Depot, LLC, as Tenant, the undersigned individual(s), Jessica Hinten and Matthew Hinten, and Amanda Nilges and John Nilges, pursuant to this guaranty (this "Guaranty") hereby absolutely and unconditionally guarantees to Landlord, its successors and assigns, the prompt and full payment of all rent and all other payments to be made by Tenant under the Lease, including all sums payable as a result of a tenant holdover after the Lease expiration, all Landlord's expenses, including legal fees in connection with a tenant default under the Lease or attempting or enforcing this Guaranty and the full performance and observance by Tenant of all the other terms, covenants, conditions and agreements therein provided to be performed and observed by Tenant, for which the undersigned shall be jointly and severally liable with Tenant. The undersigned hereby waives any notice of nonpayment, nonperformance, or nonobservance, or proof of notice or demand. The undersigned agrees that in the event of a default by Tenant under the Lease, beyond all applicable notice and cure periods, Landlord may proceed against the undersigned before, after, or simultaneously with proceeding against Tenant or exhausting the Security Deposit. This Guaranty shall not be terminated, affected, or impaired in any manner by reason of: (1) the assertion by Landlord against Tenant of any of the rights or remedies reserved to Landlord pursuant to the provisions of the Lease; (2) the commencement of summary or other proceedings against Tenant; (3) the failure of Landlord to enforce any of its rights against Tenant; or (4) the granting by Landlord of any extensions of time to Tenant. The undersigned further covenants and agrees that: (1) the undersigned shall be bound by all the provisions, terms, conditions, restrictions and limitations contained in the Lease which are to be observed or performed by Tenant thereunder, the same as if the undersigned were named therein as Tenant; and (2) this Guaranty shall be absolute and unconditional and shall be in full force and effect with respect to any amendment, addition, assignment, sublease, transfer

or other modification of the Lease, whether or not the undersigned shall have knowledge or have been notified of or agreed or consented thereto. If Landlord at any time is compelled to take action, by legal proceedings or otherwise, to enforce or compel compliance with the terms of this Guaranty, the undersigned shall, in addition to any other rights or remedies to which Landlord may be entitled hereunder or as a matter of law or in equity, pay to Landlord all costs, including reasonable attorneys' fees, incurred or expended by Landlord in connection therewith. In the event the Lease is disaffirmed by a Trustee in Bankruptcy for Tenant, the undersigned agrees that it shall, at the election of Landlord, either assume the Lease and perform all of the covenants, terms, and conditions of Tenant thereunder or enter into a new lease, which said new lease shall be in form and substance identical to the Lease. All duties and obligations of the undersigned pursuant to this Guaranty shall be binding upon the successors and assigns of the undersigned. For purposes of this Guaranty, the word "Tenant" shall include the successors and assigns of the undersigned. This Guaranty shall be governed by and construed in accordance with the laws of the State of Missouri and Guarantor irrevocably submits to jurisdiction in Franklin County, Missouri.

The undersigned further agrees that, to the extent that Tenant makes a payment or payments to Landlord or Landlord receives any proceeds of collateral, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or otherwise is required to be repaid to Tenant, its estate, trustee, receiver or any other party, including, without limitation, under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligations of Tenant or part thereof which has been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction or satisfaction occurred. The undersigned shall defend and indemnify Landlord of and from any claim or loss under this paragraph including Landlord's reasonable attorneys and paralegal fees and expenses and other expenses in the defense of any such action or suit. The undersigned waives and shall have no right of subrogation, indemnification, reimbursement, or exoneration with respect to

the liabilities of Tenant under the Lease or any rights of contribution from any other guarantors of such liabilities.

This Guaranty may only be changed or terminated in writing. The invalidity or unenforceability of one or more of the terms of this Guaranty shall not affect the validity or enforceability of the remaining portions of this Guaranty. This Guaranty shall be binding and enforceable against the heirs, legal representatives, successor, and assigns and shall inure to the benefit of Landlord, its successors, and assigns. This Guaranty sets forth the entire agreement and obligations of the Guarantor to Landlord and supersedes any and all other understanding between the parties respecting the subject matter.

TO THE FULLEST EXTENT PERMITTED BY LAW, GUARANTOR WAIVES THE RIGHT TO TRIAL BY JURY IN THE EVENT OF ANY LITIGATION UNDER THE LEASE OR THIS GUARANTY.

Date: \_\_\_\_\_

JESSICA HINTEN

AMANDA NILGES

\_\_\_\_\_  
Jessica Hinten

\_\_\_\_\_  
Amanda Nilges

MATTHEW HINTEN

JOHN NILGES

\_\_\_\_\_  
Matthew Hinten

\_\_\_\_\_  
John Nilges

STATE OF MISSOURI            )  
  ) SS:  
COUNTY OF FRANKLIN         )

On this \_\_\_\_\_ day of \_\_\_\_\_, 202\_, before me personally appeared Jessica Hinten and Matthew Hinten, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

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

My Term Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF MISSOURI            )  
  ) SS:  
COUNTY OF FRANKLIN        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 202\_, before me personally appeared Amanda Nilges and John Nilges, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

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

My Term Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_



August 10, 2022

Honorable Mayor and City Council  
Washington, MO

Re: Freight Depot on Front St.

Dear Mayor and Council,

On July 21<sup>st</sup>, bids were opened for the renovations to the Freight Depot on Front St. Once it was determined to move forward with shoring up the western wall, the job estimate was approximately \$350,000. The bids exceeded that number. We received three bids with the lowest responsive bid coming from Franklin County Construction with a base bid of \$496,500. Alternate deductions included removal of the existing deck - \$5,400 and a new deck at \$7,504. See summary below.

Contractor	Base Bid	Alt 1 (deduct)	Alt 2 (deduct)
Franklin County Construction	\$496,500	\$7,504	\$5,400
Aspire Construction	\$507,540	\$13,800	\$5,100
SK Contractors	\$579,992	\$14,000	\$6,500

Staff is proposing to use \$350,000 from the Capital Improvement Sales Tax fund and the remaining balance of \$146,500 from ARPA funds.

The proposed lease for the building would generate \$3,000 monthly for a total of \$36,000 in year one. Subsequent years are subject to a cost of living increase not to exceed 3%. This would equate to \$180,000 to \$191,126 over a five year term. Staff is recommending moving forward with the project subject to the lease. It is important to note that maintenance has been deferred on this building for quite some time with the exception of a new roof in 2018 (\$23,250) and exterior painting in 2020 (\$26,700).

At the City Council workshop held on August 1<sup>st</sup>, 2022 the Council voted 6-2 in favor of moving forward with the construction contract and five year lease.

Sincerely,

Darren Lamb, AICP  
City Administrator

7a

BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A CONTRACTOR AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI AND FRANKLIN COUNTY CONSTRUCTION FOR THE WASHINGTON FREIGHT DEPOT RENOVATIONS PROJECT 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 execute a contractor agreement by and between the City of Washington, Missouri and Franklin County Construction for the Washington Freight Depot Renovation Project. A copy of said agreement is attached hereto and marked as Exhibit A.

SECTION 2: This ordinance shall amend the 2021/2022 Budget as follows:  
Capital Improvement Sales Tax – Increase of \$350,000 for Freight Depot Renovations Project (260-11-000-540200) and increase in ARPA Funds of \$146,500.

SECTION 3: Vendor shall meet all specifications as indicated in the specifications.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: 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



CONTRACTOR AGREEMENT

This is an Agreement made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between City of Washington (hereinafter called the "Owner") and Franklin County Construction, a \_\_\_\_\_ with offices located at 1179 Highway C, New Haven, MO 63068, (hereinafter called the "Contractor").

The project is identified as Washington Freight Depot Renovations, located at 325 West Front Street, Washington, MO 63090, Project No. 22-9045, (hereinafter called "Project")

The Engineer is Cochran, located at 530A East Independence Drive, Union, Missouri 63084 (hereinafter called the "Engineer").

WITNESSETH:

The Contractor and the Owner, for the consideration set forth herein, agree as follows:

ARTICLE IThe Contract Documents

The Contract Documents include the Conditions of the Contract (General Conditions of Owner-Contractor Agreement, Supplementary Conditions and other Conditions), State Wage Determination, Non-Collusion Affidavit, Performance and Payment Bond, Drawings, Specifications, the Construction Schedule, all Addenda issued prior to the execution of this Contract, and all Modifications issued after execution of this Contract, which together with this Agreement form the Contract, and are all as fully a part of the Contract as if attached to this Agreement or repeated herein. All definitions set forth in the General Conditions of Owner-Contractor Agreement are applicable to this Agreement.

The Contract represents the entire and integrated agreement between the parties, and supersedes prior negotiations, representations and agreements, whether written or oral. An enumeration of the Contract Documents, other than Modifications, is set forth in Article X.

ARTICLE IIScope of Work

The Contractor, acting as an independent contractor, shall faithfully and fully perform the Work described in, and shall do everything required by, the Contract Documents or reasonably inferable therefrom, for the complete construction of the project. The Contractor represents and warrants that he has special skills which qualify him to perform the Work in accordance with the Contract and that he is free to perform all such Work and is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

ARTICLE IIITime of Completion

(a) All time limits stated in the Contract Documents are of the essence. The Work to be performed under the Contract shall commence within seven (7) consecutive calendar days of the date of the written Notice to Proceed from the Owner to the Contractor, and shall be Substantially Completed as follows:

1. Washington Freight Depot Renovations shall be Substantially Complete by January 15, 2023.
2. Washington Freight Depot Renovations shall be Finally Complete by January 31, 2023.

#### ARTICLE IV

##### The Contract Sum and Payments

The Owner agrees to pay, and the Contractor agrees to accept, for the performance of the Contract, the sum of four hundred ninety six thousand five hundred and 00/100 dollars (\$496,500.00), subject to additions and deductions as provided in the Contract Documents. Based upon proper Applications for Payment submitted by the Contractor to the Owner on or before the twentieth day of the month for Work performed, payment will be made in the form of progress payments as follows and as provided elsewhere in the Contract Documents:

- (1) On or about the tenth day of each following month, ninety-five percent (95%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work, and ninety-five percent (95%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site to be incorporated into the Work, through the period ending up to the twentieth day of the preceding month, less the aggregate of all previous progress payments;
- (2) Final payment within 30 days after the Work is fully completed and accepted by the Owner and the Contract is fully performed.

#### ARTICLE V

##### Performance of the Work

(a) Within 10 days after being awarded the Contract, the Contractor shall prepare and submit for the Owner's approval, (1) a Construction Schedule for the Work in a Gantt Chart format, which Construction Schedule shall indicate the dates for starting and completing the various stages of construction. No Work will commence until the Contractor's Schedule is submitted and approved by the Owner.

(b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of the Contract.

(c) After commencement of the Work, and until final completion of the Work, the Contractor shall report to the Owner at such intervals as the Owner may reasonably direct, the actual progress of the Work compared to the Construction Schedule. If the Contractor falls behind the Construction Schedule for any reason, he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay, and shall submit promptly to the Owner for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable under Article VI hereof, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime premium pay or otherwise), unless the Owner shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof shall be borne by the Contractor.

#### ARTICLE VI

##### Delays Beyond Contractor's Control

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule as a result of the act or neglect of the Owner, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, then, and to the extent of such delays, the Contractor shall not be required to pay liquidated damages to the Owner pursuant to Paragraph (b) of Article III hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in Paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of work is so great that it cannot be remedied without incurring additional cost which the Owner does not authorize, then the time of completion

and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the Owner.

(b) Notwithstanding the foregoing Paragraph (a), no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefor is made in writing by the Contractor to the Owner, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather shall not constitute a cause for granting an extension of time.

(d) Except to the extent that a delay is caused by the Owner, the Contractor's sole remedy shall consist of his rights under this Article VI.

#### ARTICLE VII

##### Changes in the Work

(a) The Owner may make changes within the general scope of the Contract by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the Owner in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General Conditions.

(b) If the requested change would result in a delay in the Construction Schedule, the provisions of Paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified, to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the Owner, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost plus percentage or fixed fee.

ARTICLE VIII

Termination by Owner

(a) If the Contractor is adjudged a bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors for material or labor, or persistently disregards laws, ordinances or the instructions of the Owner, or otherwise breaches any provision of the Contract, the Owner may, without prejudice to any other right or remedy, by giving written notice to the Contractor and his Surety, terminate the Contract, take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the Owner may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the Owner promptly upon demand.

In the event of termination pursuant to this Paragraph, the Contractor, upon the request of the Owner, shall promptly

(i) assign to the Owner in the manner and to the extent directed by the Owner all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party and which relate to the Work or to construction equipment required therefor, and

(ii) make available to the Owner, to the extent directed by the Owner, all construction equipment owned by the Contractor and employed in connection with the Work.

(b) Performance of the Work hereunder may be terminated by the Owner by giving three (3) days prior written notice to the Contractor if the Owner, in its sole discretion, decides to discontinue or suspend construction. In the event of such termination, as opposed to termination pursuant to Paragraph (a) of this Article VIII, the Contract Sum shall be reduced in an equitable manner by agreement between the parties. The Contractor will not be entitled to payment of profit on work not performed.

ARTICLE IX

Contractor's Liability Insurance

The Contractor shall purchase and maintain in full force and effect the following insurance coverage with an insurance carrier acceptable to the Owner:

The policy shall be endorsed to cover the contractual liability of the Contractor under the General Conditions.

The Contractor and his Subcontractors shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:

(a) Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$2,000,000.

(b) Comprehensive General Liability and Bodily Injury

Including Death:	\$2,000,000 each person
	\$2,000,000 each occurrence

Property Damage:	\$2,000,000 each occurrence
	\$2,000,000 aggregate
(c) Comprehensive Automobile Liability, Bodily Injury	
Including Death:	\$2,000,000 each person
	\$2,000,000 each occurrence
Property Damage:	\$2,000,000 each accident
(d) Owner's Protective Bodily Injury (Separate Policy)	
Including Death:	\$2,000,000 each occurrence
Property Damage:	\$2,000,000 each occurrence
	\$2,000,000 aggregate

The Owner's Protective Policy shall name the Owner as the insured. Certificates evidencing such insurance shall be furnished to the Owner prior to Contractor commencing the Work on this Project. The certificates must state, "City of Washington, the Engineer and their Officers and Employees, are included as an additional insured as required by written contract under the General Liability Policy with respect to work performed by the named insured on the above listed project."

#### ARTICLE X

##### Enumeration of The Contract Documents

The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

- (a) Owner-Contractor Agreement
- (b) General Conditions of the Owner-Contractor Agreement
- (c) Supplementary or other Conditions of the Contract as follows:  
Job Special Provisions
- (d) The Specifications dated: June 2022
- (e) The Drawings identified as follows:  
Washington Freight Depot Renovations
- (f) Performance and Payment Bond
- (g) Construction Schedule
- (h) State Wage Determination
- (i) Non-Collusion Affidavit
- (j) Subcontractor Approval Form
- (k) Affidavit of Compliance Anti-Discrimination Against Israel Act
- (l) The Addenda, if any, are as follows:
- (m) Other documents, if any, forming part of the Contract Documents are as follows:  
Bid Form Proposal  
Project Manual

\* In making out this form the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "sole owner, a partner, secretary, etc." should be struck out.

#### ARTICLE XI

##### Anti-Discrimination Against Israel Act

In accordance with the provisions of Section 34.600 RSMo., the Contractor shall, upon execution of the Agreement, execute and deliver to the District an affidavit in the form titled Affidavit of Compliance Anti-Discrimination Against Israel Act 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 Agreement void.

THE CONTRACT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE ENFORCED BY THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

City of Washington  
Owner

By \_\_\_\_\_

\_\_\_\_\_  
Print Name

(SEAL)

Attest: \_\_\_\_\_

\_\_\_\_\_  
Print Name

Date: \_\_\_\_\_

\_\_\_\_\_  
Title

By \_\_\_\_\_  
Contractor

(SEAL)

Attest: \_\_\_\_\_

Date: \_\_\_\_\_



August 10, 2022

Honorable Mayor and City Council  
Washington, MO

Re: Freight Depot on Front St.

Dear Mayor and Council,

On July 21<sup>st</sup>, bids were opened for the renovations to the Freight Depot on Front St. Once it was determined to move forward with shoring up the western wall, the job estimate was approximately \$350,000. The bids exceeded that number. We received three bids with the lowest responsive bid coming from Franklin County Construction with a base bid of \$496,500. Alternate deductions included removal of the existing deck - \$5,400 and a new deck at \$7,504. See summary below.

Contractor	Base Bid	Alt 1 (deduct)	Alt 2 (deduct)
Franklin County Construction	\$496,500	\$7,504	\$5,400
Aspire Construction	\$507,540	\$13,800	\$5,100
SK Contractors	\$579,992	\$14,000	\$6,500

Staff is proposing to use \$350,000 from the Capital Improvement Sales Tax fund and the remaining balance of \$146,500 from ARPA funds.

The proposed lease for the building would generate \$3,000 monthly for a total of \$36,000 in year one. Subsequent years are subject to a cost of living increase not to exceed 3%. This would equate to \$180,000 to \$191,126 over a five year term. Staff is recommending moving forward with the project subject to the lease. It is important to note that maintenance has been deferred on this building for quite some time with the exception of a new roof in 2018 (\$23,250) and exterior painting in 2020 (\$26,700).

At the City Council workshop held on August 1<sup>st</sup>, 2022 the Council voted 6-2 in favor of moving forward with the construction contract and five year lease.

Sincerely,

Darren Lamb, AICP  
City Administrator

BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND DIRECTING THE  
EXECUTION OF A SALES AGREEMENT BY AND  
BETWEEN THE CITY OF WASHINGTON, MISSOURI AND  
THE MISSOURI HIGHWAYS AND TRANSPORTATION  
COMMISSION

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 Sales Agreement by and between the City of Washington, Missouri and the Missouri Highways and Transportation Commission, 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**

CCO Form: RW54  
Approved: 01/05 (BDG)  
Revised: 06/21 (BDG)  
Modified:

ROUTE 47  
COUNTY Franklin  
JOB NO.  
EXCESS NO. SL-0188

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
SALES AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Seller") and The City Of Washington (hereinafter, "Purchaser").

WITNESSETH:

WHEREAS, the Seller, in consideration of the terms and conditions hereinafter contained, hereby agrees to convey its interest to the Purchaser in a tract of land lying situated and being in the County of Franklin, State of Missouri, and described as follows in **EXHIBIT A – LEGAL DESCRIPTION** and **EXHIBIT B – LEGAL DESCRIPTION**, attached hereto and made part hereof.

A parcel of land being a portion of lots 1, 2, and 3 of block 14 of the Plat of the town of Basso RA, within Fractional Section 23, Township 44 North, Range 1 West of the 5th P.M., City of Washington, Franklin County, Missouri, said Parcel being a portion of that parcel conveyed to the state of Missouri by deed recorded as Document NO. 1513433 of the Franklin County, Missouri, Recorder of Deeds Office, and being more particularly described as follows in **Exhibit A**.

Grantor reserves an easement for utilities and access over the portion of the above described tract of land that is more particularly described in **Exhibit B**.

WHEREAS, the Seller agrees to convey its interest in the above-described property within ninety (90) days from the date hereof upon the prompt and full performance by the Purchaser.

NOW, THEREFORE, in consideration of these mutual covenants, the parties agree as follows:

- (1) PURCHASE PRICE: Nominal Consideration of One Dollar.



(2) ABUTTERS RIGHTS: The deed of conveyance will contain a reservation for limitation of abutters rights of direct access as described below.

THIS CONVEYANCE is made upon the express condition that Grantee, their successors and assigns, shall have no right of direct access from the land herein conveyed to the adjacent highway now known as State Route 47, all such rights of direct access being reserved by Grantor. However, Grantee will have the usual right of access along Missouri Avenue.

(3) UTILITIES RESERVATIONS: A utilities easement reservation clause will be included in the deed of conveyance.

(4) DEED RESTRICTION: The following clause will be included in the deed of conveyance:

The parties expressly agree that fee simple ownership in the below described property shall revert to Seller, at no cost to Seller, if any of the following conditions arise:

Purchaser attempts to convey the property to a subsequent third party.  
Purchaser attempts to market the property.  
Purchaser ceases to utilize the property for a public use.

(5) CONVEYANCE: Conveyance will be by quitclaim deed releasing any and all interest the Seller has in the above-described property. This quitclaim deed is in the nature of an abandonment of an easement for roadway purposes and, therefore, conveys no possessory interest. It is incumbent upon purchasers to seek their own professional opinion as to the resulting state of the title. The Seller will not provide a commitment for title insurance, supplemental abstract or property survey. If the Purchaser desires to obtain a commitment for title insurance or a supplemental abstract, and if in so doing the Purchaser determines that the requirements for obtaining fee title are unsatisfactory, the Purchaser shall have thirty (30) days from date of signing this Agreement in which to advise the Seller in writing of the unsatisfactory requirements and void the contract. Purchaser will be responsible for payment of all fees associated with recording the conveyance documents.

(6) ENTIRE AGREEMENT; AMENDMENTS: This Agreement constitutes the entire agreement between the parties. Any change in this Agreement, whether by modification or supplementation, must be accompanied by a formal contract amendment signed and approved by the duly authorized representative of the Purchaser and the Seller.

(7) SELLER (COMMISSION) REPRESENTATIVE: The Commission's district engineer is designated as the Seller's representative for the purpose of administering the provisions of this Agreement.

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

(9) ASSIGNMENT: The Purchaser shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Seller.

(10) NONWAIVER: No delay or failure by either party to exercise or enforce any right hereunder, and no partial or single exercise of any such right, shall constitute a waiver of that or any other right, unless otherwise provided herein.

(11) EXTENSION OF CLOSING DATE: If both parties are in agreement, the time period for closing this transaction can be extended by attaching an "Addendum" specifying a new date for closing.

(12) APPROVAL OF COMMISSION: This sale is subject to the approval of the Commission and is not final until it has been approved by the Commission. Should the Commission, in its discretion, not approve this transaction, this contract will be null and void.

IN WITNESS WHEREOF, the said parties herein have executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

---

District Engineer: Thomas K. Blair

Date

PURCHASER:

The city of Washington

---

City Mayor: James D. Hagedorn

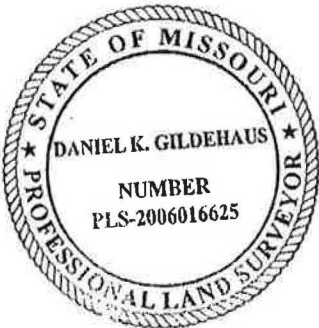
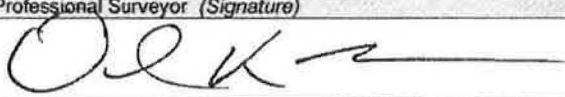
Date

Address: 405 Jefferson Street  
Washington, MO 63090  
636-390-1000

EXCESS RIGHT OF WAY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF LOTS 1, 2, AND 3 OF BLOCK 14 OF THE PLAT OF THE TOWN OF BASSORA, WITHIN FRACTIONAL SECTION 23, TOWNSHIP 44 NORTH, RANGE 1 WEST OF THE 5TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, SAID PARCEL BEING A PORTION OF THAT PARCEL CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED AS DOCUMENT NO. 1513433 OF THE FRANKLIN COUNTY, MISSOURI, RECORDER OF DEEDS OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

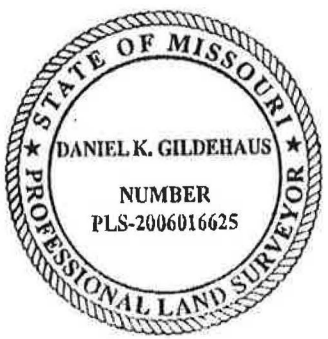
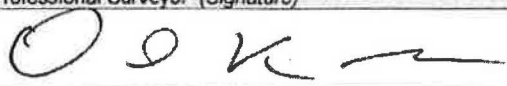
BEGINNING AT AN IRON ROD AT A POINT 109.93 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+77.60, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 4 OF BLOCK 14 OF SAID PLAT, SAID POINT ALSO BEING ON THE NORTHERN RIGHT OF WAY LINE OF MISSOURI AVENUE, THENCE N29°38'11"E ALONG THE COMMON LINE BETWEEN SAID LOTS 3 AND 4, SAME BEING THE CURRENT RIGHT OF WAY LINE OF SAID MISSOURI HIGHWAY 47 93.37 FEET TO AN IRON ROD 80.62 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 85+93.83; THENCE CROSSING SAID RIGHT OF WAY AND SAID LOTS 2 AND 3, S60°21'49"E 38.54 FEET TO AN IRON ROD 43.21 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+01.65; THENCE S12°33'28"W 50.46 FEET TO AN IRON ROD 44.34 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+46.32; THENCE S18°20'21"W 46.08 FEET TO AN IRON ROD 49.75 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+99.28, SAID POINT BEING ON THE SOUTHERN LINE OF SAID LOT 1 AND THE NORTHERN RIGHT OF WAY LINE OF MISSOURI AVENUE; THENCE N60°19'16"W ALONG THE SOUTHERN LINE OF SAID LOTS 1, 2, AND 3 AND THE SAID NORTHERN RIGHT OF WAY LINE, 62.38 FEET TO THE POINT OF BEGINNING, CONTAINING 4,829 SQUARE FEET, OR 0.11 ACRES, MORE OR LESS.

<b>Title (name or identification of project)</b>		<b>County</b>		
MISSOURI HIGHWAY 47 RIGHT OF WAY – WASHINGTON, MO SL-0188		FRANKLIN		
		<b>City (if applicable)</b>	<b>State</b>	
		WASHINGTON	MO	
		<b>Date Prepared</b>	<b>Sheet</b>	
		6-16-2022	1 of 1	
<b>Licensee Name</b> <i>(sole proprietor, partnership, corporation, LLC, or government)</i>		<b>Professional Surveyor Name (print)</b>		
CB ENGINEERING, INC D.B.A. COCHRAN LS 380		DANIEL K. GilDEHAUS		
		<b>Discipline</b>		
		Professional Land Surveyor		
		<b>License or Certificate of Authority No.</b>		
		MO #	2006016625	
<b>Professional Surveyor (Signature)</b>		<b>Date</b>		
		6-15-2022		
Only the following property description contained in this "EXHIBIT" is authenticated by this seal.				

EASEMENT DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF LOTS 1, 2, AND 3 OF BLOCK 14 OF THE PLAT OF THE TOWN OF BASSORA, WITHIN FRACTIONAL SECTION 23, TOWNSHIP 44 NORTH, RANGE 1 WEST OF THE 5TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, SAID PARCEL BEING A PORTION OF THAT PARCEL CONVEYED TO THE STATE OF MISSOURI BY DEED RECORDED AS DOCUMENT NO. 1513433 OF THE FRANKLIN COUNTY, MISSOURI, RECORDER OF DEEDS OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON ROD AT A POINT 109.93 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+77.60, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 3, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 4 OF BLOCK 14 OF SAID PLAT, SAID POINT ALSO BEING ON THE NORTHERN RIGHT OF WAY LINE OF MISSOURI AVENUE, THENCE S60°19'16"E ALONG THE SOUTHERN LINE OF SAID LOTS 2 AND 3 AND THE NORTHERN RIGHT OF WAY LINE OF MISSOURI AVENUE, 43.72 FEET TO THE POINT OF BEGINNING AT A POINT 67.85 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+93.81; THENCE CROSSING SAID RIGHT OF WAY AND SAID LOTS 2 AND 3, N22°32'03"E 42.56 FEET TO A POINT 59.26 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+43.85; THENCE N26°16'51"E 13.07 FEET TO A POINT 55.33 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+33.20; THENCE N12°33'28"E 39.88 FEET TO A POINT 80.62 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 85+55.37; THENCE S60°21'49"E 12.55 FEET TO AN IRON ROD 43.21 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+01.65; THENCE S12°33'28"W 50.46 FEET TO AN IRON ROD 44.34 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+46.32; THENCE S18°20'21"W 46.08 FEET TO AN IRON ROD 49.75 FEET RIGHT OF MISSOURI HIGHWAY 47 CENTERLINE STATION 86+99.28, SAID POINT BEING ON THE SOUTHERN LINE OF SAID LOT 1 AND THE NORTHERN RIGHT OF WAY LINE OF MISSOURI AVENUE; THENCE N60°19'16"W ALONG THE SOUTHERN LINE OF SAID LOTS 1, 2, AND 3 AND THE SAID NORTHERN RIGHT OF WAY LINE, 18.66 FEET TO THE POINT OF BEGINNING, CONTAINING 1,384 SQUARE FEET, OR 0.03 ACRES, MORE OR LESS.

<b>Title (name or identification of project)</b> MISSOURI HIGHWAY 47 RIGHT OF WAY – WASHINGTON, MO SL-0188	<b>County</b> FRANKLIN		
	<b>City (if applicable)</b> WASHINGTON	<b>State</b> MO	
	<b>Date Prepared</b> 6-16-2022	<b>Sheet</b> 1 of 1	
	<b>Licensee Name (sole proprietor, partnership, corporation, LLC, or government)</b> CB ENGINEERING, INC D.B.A. COCHRAN LS 380		
<b>Professional Surveyor Name (print)</b> DANIEL K. GILDEHAUS			
<b>Discipline</b> Professional Land Surveyor			
<b>License or Certificate of Authority No.</b> MO # 2006016625			
<b>Professional Surveyor (Signature)</b> 			
<b>Date</b> 6.15.2022			Only the following property description contained in this "EXHIBIT" is authenticated by this seal.





August 9, 2022

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

RE: Hwy 47 Bridge  
Remnant Property

Honorable Mayor and City Council,

The following is pertinent information to the subject request.

**Description:**

The ordinance and sales agreement will convey the remnant parcel of MoDOT property north of the intersection of Missouri Avenue and MO-47 to the City.

The parcel is 0.11 acres.

As part of the agreement to transfer, the City was responsible for getting the survey completed.

Approval is recommended.

**Cost of the project:**

SURVEY cost ..... \$3,400.00

**Budget Information:**

The survey fee was approved at an earlier date. The parcel is being transferred at no cost to the City.

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

Respectfully,

John Nilges, PE  
Public Works Director

# PROPERTY BOUNDARY SURVEY

A TRACT OF LAND BEING PART LOTS 1, 2, AND 3 OF BLOCK 14 OF THE PLAT OF THE TOWN OF WASHINGTON, WITH FRAGMENTAL SECTION 23, TOWNSHIP 23 NORTH, RANGE 7 WEST OF THE 6TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI



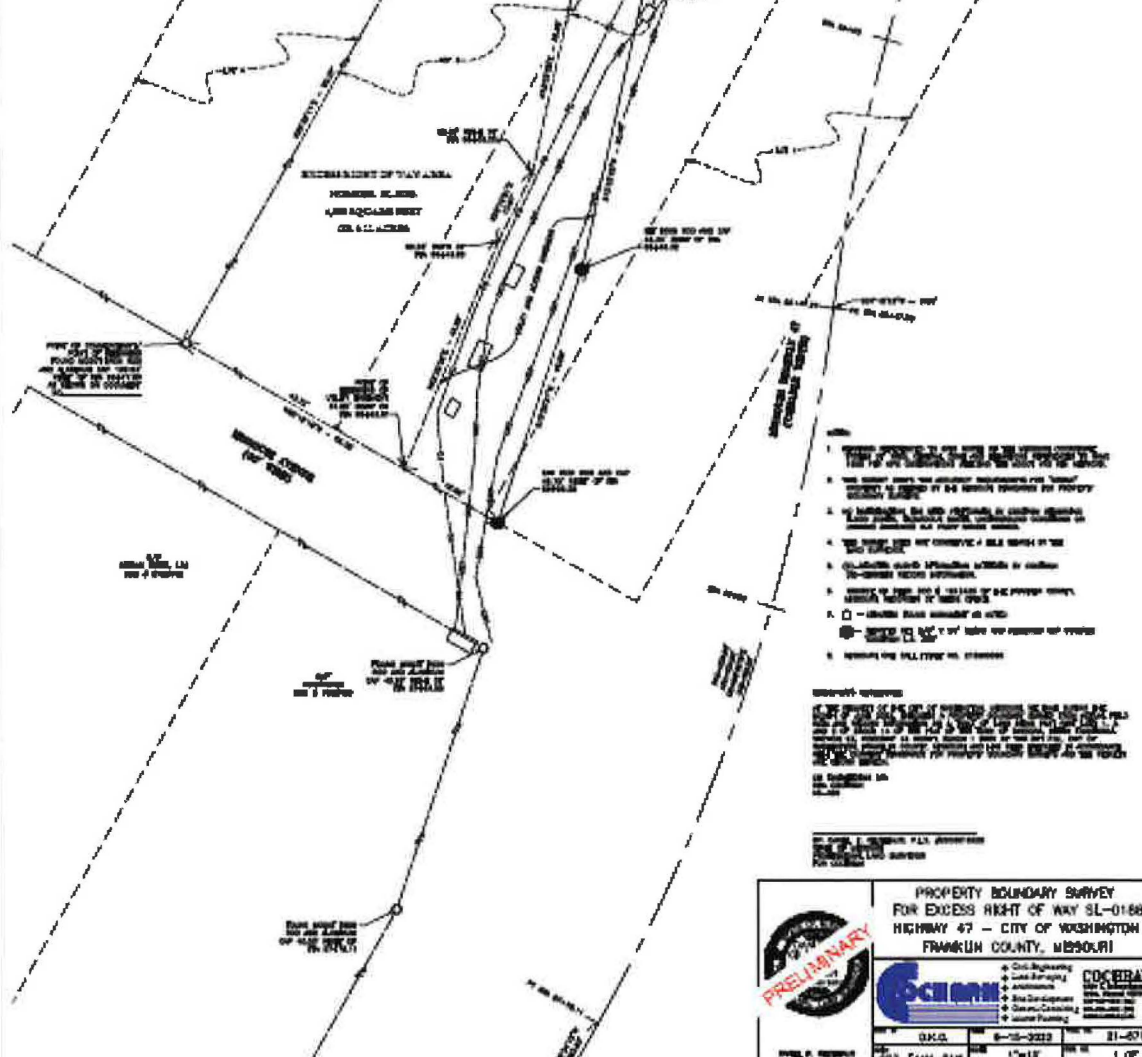
**REMARKS: - Ocular check of the plat**

A REVIEW OF EACH BOOK A PORTION OF VOLS. 1, 2, AND 3 OF BOOK 14 OF THE PLAT OF THE TOWN OF WASHINGTON, WITH FRAGMENTAL SECTION 23, TOWNSHIP 23 NORTH, RANGE 7 WEST OF THE 6TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, WAS MADE IN ORDER TO ASCERTAIN THE LOCATION AND CORNER MARKS OF THE LOTS AND BLOCKS AND TO DETERMINE THE ACCURACY OF THE PLAT. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.

COMPARING AS AN OLD PLAN OF A TOWN LOTS AND BLOCKS OF WASHINGTON, WITH CURRENT PLAN DRAWN BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND AS FOUND IN THE RECORDS OF THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, THE RESULTS ARE AS FOLLOWS: THE LOTS AND BLOCKS ARE CORRECTLY LOCATED AND THE CORNER MARKS ARE CORRECTLY LOCATED AND THE BOUNDARIES ARE CORRECTLY LOCATED AND THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.

COMPARING AS AN OLD PLAN OF A TOWN LOTS AND BLOCKS OF WASHINGTON, WITH CURRENT PLAN DRAWN BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND AS FOUND IN THE RECORDS OF THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, THE RESULTS ARE AS FOLLOWS: THE LOTS AND BLOCKS ARE CORRECTLY LOCATED AND THE CORNER MARKS ARE CORRECTLY LOCATED AND THE BOUNDARIES ARE CORRECTLY LOCATED AND THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.

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1. THIS SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
2. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
3. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
4. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
5. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
6. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
7. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.
8. THE SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.

**EXCESS RIGHT OF WAY**

A TRACT OF LAND BEING PART LOTS 1, 2, AND 3 OF BLOCK 14 OF THE PLAT OF THE TOWN OF WASHINGTON, WITH FRAGMENTAL SECTION 23, TOWNSHIP 23 NORTH, RANGE 7 WEST OF THE 6TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI

THIS SURVEY WAS MADE BY THE CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI, AND WAS FOUND TO BE CORRECT AND ACCURATE.

**PROPERTY BOUNDARY SURVEY  
FOR EXCESS RIGHT OF WAY SL-0168  
HIGHWAY 47 - CITY OF WASHINGTON  
FRANKLIN COUNTY, MISSOURI**

**PRELIMINARY**

PLAT NO. 100-100-100-100

**Cochran**

City Engineer  
Franklin County, Missouri

BOOK	PAGE	DATE	PRICE
100-100-100-100	100-100-100-100	8-15-2023	\$1-00
PLAT NO. 100-100-100-100			1 OF 1

WHICH SHEET IS THE ORIGINAL RECORD OF THIS SURVEY

70

BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AUTHORIZING AND DIRECTING THE  
EXECUTION OF AN AGREEMENT TO SELL AND  
PURCHASE REAL ESTATE BY AND BETWEEN THE CITY OF  
WASHINGTON, MISSOURI AND ELS WASHINGTON, 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 an Agreement to Sell and Purchase Real Estate by and between the City of Washington, Missouri and ELS Washington, 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.

Passed: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
President of City Council

Approved: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Mayor of Washington, Missouri

**EXHIBIT I**

**AGREEMENT TO SELL AND PURCHASE  
REAL ESTATE**

THIS AGREEMENT TO SELL AND PURCHASE REAL ESTATE ("AGREEMENT"), is made and entered into as of the date of the last execution hereof, which date is the \_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date"), by and between the City of Washington, Missouri a Missouri municipal corporation, hereinafter referred to as "SELLER", and E.L.S. Washington, LLC, a Missouri limited liability company, hereinafter referred to as "BUYER". Each of Seller and Buyer is a "Party" and collectively, they are the "Parties."

**W I T N E S S E T H:**

1. Seller warrants to Buyer that Seller is the 100% owner of the premises described hereinafter; and
2. Seller has offered to sell and Buyer has agreed to purchase the premises described hereinafter subject to the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the sufficiency of which consideration is acknowledged by all parties hereto, IT IS HEREBY AGREED AS FOLLOWS:

(1) **DESCRIPTION**. The premises which are to be purchased by Buyer are located in Franklin County, Missouri, and are more particularly described as follows:

That certain tract of land in Franklin County, Missouri as depicted on Exhibit A attached hereto and incorporated herein by reference (the "Premises"), together with any improvements currently located thereon and all and singular the rights, privileges, advantages, and appurtenances belonging or appertaining to such tracts of land, as well as all easements in or upon such tracts of land, and all roads, alleys, waters, streets, or rights-of-way bounding such tracts of land (to the centerline thereof), and rights of ingress and egress thereto, as well as any and all utility capacity, if any (and to the extent transferable), including, without limitation, water, drainage, and sanitary sewer, and other utility capacities and rights relating thereto, affecting or applicable to such tracts of land, as well as Seller's right, title and interest in and to all zoning and utility capacity applications, if any (and to the extent transferable) made to any governmental authority and all other inchoate rights affecting or applicable to the Premises (including, without limitation, any fees relating thereto and the benefits resulting therefrom) and one hundred percent (100%) of the use and control of the surface of the Premises free and clear of the rights of the owners of any mineral interests or the lessees of any surface lease relating to the Premises.

(2) **PURCHASE PRICE**. The purchase price for the Premises shall be Eighty Thousand and 00/100 Dollars (\$80,000.00) (the "Purchase Price"). Within five (5) business days after the Effective Date, Buyer shall deposit with Title Company (as defined below) as a partial payment of the Purchase Price, the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) (the "Deposit"). Title Company shall deposit the Deposit in an interest bearing account, with interest accruing to the benefit of the Buyer. The Deposit shall be refunded to Buyer in the event Buyer



rightfully terminates this Agreement under the terms and conditions herein; otherwise, the Deposit shall be applied to the total Purchase Price at the Closing.

(3) **BUYER'S REQUIREMENTS.** Buyer shall be under no obligation to purchase the Premises or otherwise perform under this Agreement unless Buyer determines, during the Review Period (as defined below), the Premises to be suitable for Buyer's intended purposes. The decision as to whether the Premises are suitable for Buyer's intended purposes shall be the sole decision of Buyer, determined in the absolute discretion of Buyer, with Buyer's decision being final and binding upon both Parties. Buyer shall have from the Effective Date until the end of business thirty (30) days thereafter (the "Review Period") to notify Seller of Buyer's cancellation of this Agreement due to Buyer's determination that the Premises are unsuitable.

(4) **DELAY IN OBTAINING PERMITS OR APPROVALS.** Except as provided herein, Buyer shall promptly commence efforts to obtain any permits and approvals, at its own expense, necessary for Buyer's Intended Use. Seller shall cooperate with Buyer in this regard and shall, if requested to do so, execute such applications or requests as may be necessary and to provide any information from Seller which may be necessary or useful in completing applications or requests. If, while in compliance with the requirements of this Agreement, Buyer shall experience delay in obtaining necessary permits or approval for the Premises for the Intended Use, Buyer will so notify Seller, and Buyer may elect one of the following in Buyer's sole discretion:

(i) To extend the Closing Date for a period not to exceed thirty (30) days to allow Buyer to obtain required permits or approvals as referred to above; or

(ii) To waive such permits and approvals and to close the transaction in accordance with the terms of this Agreement; or

(iii) To terminate this Agreement in which event neither Seller nor Buyer will have any further rights, duties or obligations under this Agreement, except as expressly provided herein.

(5) **CLOSINGS.**

(a) **Closing.** Provided all conditions and requirements of Buyer hereunder have been satisfied as set forth in this Agreement, Seller shall convey the Premises to Buyer after the expiration of the Review Period, on a date mutually acceptable to the Parties, but in any event prior to or by ten (10) days after expiration of the Review Period (the "Closing Date"), unless the Parties mutually agree to extend such date. The "Closing" shall mean the exchange of the Deed (as defined below) for the Premises and other documents required under this Agreement for the Purchase Price on the Closing Date.

(b) **Closing Date and Deeds.** Seller shall prepare, at its cost, the special warranty deed conveying the Premises to Buyer. The conveyance to Buyer under the deed shall be free and clear of any and all liens, mortgages, deeds of trust, security interests, covenants, conditions, restrictions, easements, rights-of-way, licenses, encroachments, judgments or encumbrances of any kind, except:

(i) the lien of real estate taxes for the calendar year in which the Closing occurs, none of which are then due and payable;

(ii) Permitted Encumbrances; and

(iii) Easement for public right-of-way as described on Exhibit B attached hereto to be conveyed by Buyer to Seller immediately subsequent to the Closing.

(c) Prorations. Seller shall pay all transfer taxes, documentary stamps, rollback taxes, recoupment fees or taxes occasioned by a change in use of the Premises, if any. All ad valorem taxes for the calendar year of the Closing shall be prorated between Seller and Buyer as of the Closing Date, and all taxes and assessments which were assessed or pertain to the time period on and before such Closing Date (irrespective of the actual date required to be paid) shall be the responsibility of the Seller, and either paid or given as a credit against the Purchase Price at the Closing, and Buyer is responsible for the taxes allocated to the time period after the Closing Date. Seller agrees to promptly forward to Buyer any property tax statements on the Premises received by Seller after the Closing and if Seller fails to do so, Seller shall be liable for any penalties Buyer has to pay because of Seller's failure. If the final amounts for all items to be prorated are not known at the Closing, the Parties will use the amounts that are most current and available, and to the extent of any differences with such amounts after the actual amounts for the prorated items are received, the Parties will re-prorate such items after such Closing.

(d) Brokers' Commissions. Buyer shall pay all broker's fees or real estate sales commissions or any similar fees occasioned by the sale of the Premises arising from any broker engaged by Buyer, and Seller shall have no obligation or responsibility toward the payment of any such costs. Buyer shall indemnify and hold Seller harmless from any claims of brokers or real estate agents engaged by Broker for fees or commissions arising out of this sale of the Premises to Buyer. Buyer is a Missouri licensed real estate broker but neither Seller or Buyer has employed or engaged any real estate agents or brokers to be involved in this transaction.

(e) Seller and Buyer represent to each other that neither has employed or engaged any real estate agents or brokers to be involved in this transaction.

(6) POSSESSION.

(a) Premises. Buyer shall be given sole and exclusive possession of the Premises at such time as a general warranty deed satisfactory to Buyer (the "Deed") is delivered by Seller to Buyer at the Closing, conveying the Premises in fee simple to Buyer, and Buyer pays the balance of the Purchase Price. On or prior to the Closing, Seller shall remove any and all trash and/or debris located on the Premises.

(7) ASSIGNMENT BY BUYER. This Agreement may not be assigned by Seller without the consent of Buyer. If such assignment is made, then the sale of the Premises contemplated by this Agreement will be consummated in the name of any such assignee, and, after any such assignment, Seller will look solely to such assignee for the performance and discharge of all the obligations and liabilities of Buyer hereunder, the Buyer, in such event, being relieved of any obligation and liability hereunder.

(8) **NO ASSUMPTION OF LIABILITIES.** Except as specifically set forth herein, Buyer and Seller agree that Buyer is not assuming any liability of Seller and Buyer hereby disclaims any debts, liabilities or obligations of Seller not so specifically assumed.

(9) **NOTICES.** Any notices, requests or other communications required or permitted to be given hereunder shall be in writing and shall be (i) delivered by hand or (ii) a widely recognized national overnight courier service for next business day delivery or (iii) mailed by United States registered or certified mail, return receipt requested, postage prepaid and addressed to each Party at its address as set forth below:

To Seller: City of Washington, Missouri  
405 Jefferson Street  
Washington, Missouri 63090  
Attention: Darren Lamb

with a copy to: Sandberg Phoenix & von Gontard, P.C.  
1200 Jefferson Street  
P.O. Box 1040  
Washington, Missouri 63090  
Attention: Mark C. Piontek, Esq.

and to Buyer: E.L.S. Washington, LLC  
71 E. Independence  
P.O. Box 1052  
Union, Missouri 63084  
Attention: Ed Schmelz

Any such notice, request or other communication shall be considered given or delivered, as the case may be, on the date of hand or overnight courier delivery or upon deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. By giving at least five (5) days prior written notice thereof, any party may from time to time at any time change its mailing address hereunder.

(10) **DESTRUCTION, CONDEMNATION.** In the event of any material damage to or destruction of the Premises or any material portion thereof or in the event of any taking or threat of taking by condemnation (or any conveyance in lieu thereof of the Premises or any portion thereof by anyone having the power of eminent domain), Buyer shall, by written notice to Seller delivered within fifteen (15) days of receiving written notice from Seller of such event, elect to: (i) terminate this Agreement and all of Buyer's obligations under this Agreement and this Agreement shall become null and void and no party shall have any right, duty or obligation under this Agreement, or (ii) consummate the purchase of the Premises. If Buyer does not elect to terminate this Agreement, then Seller shall on the Closing Date pay to Buyer all insurance proceeds then received by Seller plus an amount equal to any deductible, or self insurance retention related to the casualty coverage, and all condemnation awards and compensation then received by Seller. In addition, Seller shall transfer and assign to Buyer, in form reasonably satisfactory to Buyer, all rights and claims of Seller with respect to payment for damages and

compensation on account of such damage, destruction or taking. Seller will not settle any condemnation or eminent domain or any award or payment in connection with a change in grade of any street, road, highway or avenue in respect of or in connection with the Premises, or any portion thereof, without obtaining Buyer's prior consent in each case.

(11) **DEFAULT.**

(a) **Seller's Default.** One of the purposes of this Agreement is to bind Seller to sell the Premises described in Paragraph (1). If the sale and purchase of the Premises contemplated by this Agreement are not consummated on account of Seller's default hereunder. Buyer shall be entitled to all other rights or remedies of Buyer, at law or in equity, which shall include that of specific performance.

(b) **Buyer's Default.** Seller shall be entitled, as its sole and exclusive remedy hereunder, to payment of the Deposit as full and complete liquidated damages for any default of Buyer, the Parties hereto acknowledging that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Buyer's default. Seller's receipt of the Deposit is intended not as a penalty, but as liquidated damages. The right to receive the Deposit as full liquidated damages is Seller's sole and exclusive remedy in the event of default hereunder by Buyer, and Seller hereby waives and releases any right to (and hereby covenants that it shall not) sue Buyer: (i) for specific performance of this Agreement, or (ii) to recover actual damages in excess of such sums.

(12) **EASEMENTS AND RIGHT-OF-WAYS.** Seller covenants and agrees that during the term of this Agreement, it shall not grant or enter into any easements, right-of-ways, contracts for work, or other agreements affecting the Premises, or the title thereto, without first obtaining the prior written consent of Buyer.

(13) **WARRANTIES, REPRESENTATIONS AND COVENANTS TO SURVIVE CLOSING.** The warranties, representations and covenants made by the Parties shall survive the Closing of this Agreement and the Closing Date and shall continue in full force and effect without termination. Wherever in this Agreement Seller or Buyer shall have agreed or promised to perform certain acts or grant certain easements or other rights, where the context of the Agreement would require such performance to occur after the Closing, then those agreements and covenants shall survive the Closing and continue to bind Seller and Buyer.

(14) **SELLER'S WARRANTIES, REPRESENTATIONS AND COVENANTS.** As an inducement to Buyer to enter into this Agreement and to purchase the Premises, Seller warrants, represents and covenants to Buyer as of the Effective Date and as of the Closing, the following:

(a) **Authority.** Seller (i) has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein; and (ii) upon execution hereof will be legally obligated to Buyer in accordance with the terms and provisions of this Agreement.

(b) **Title of the Premises.** Seller owns 100% of the fee simple estate of the Premises.

(c) The Premises. All real property taxes and special assessments with respect to the Premises which were due and payable hereunder have been paid in full. There are no persons in possession of the Premises or any portion thereof other than Seller. No party to any reciprocal easement agreement affecting any of the Premises is in default thereunder and no event has occurred which, with the giving of notice, lapse of time or both, would constitute a default thereunder. No asset of any other person encroaches upon the Premises. All water, sewer, gas, electricity, telephone and other utilities serving the Premises are supplied directly to the Premises by facilities of public utilities. Seller has received all deeds, assignments, waivers, consents, non-disturbance and recognition or similar agreements, bills of sale and other documents, and duly effected all recordings, filings and other actions necessary to establish, protect and perfect its right, title and interest in and to the Premises

(d) Maintenance of the Premises. As of the Effective Date and through the Closing Date, Seller will: (i) not sell, lease or otherwise dispose of the Premises except to Buyer; (ii) maintain the Premises in as favorable a condition as the same is in on the Effective Date, except as otherwise set forth herein and except for normal wear and tear; and (iii) maintain insurance covering the Premises comparable to that in effect on the Effective Date.

(e) Conflicts. The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Premises as contemplated herein, are consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Seller is a party, any judicial order or judgment of any nature by which Seller is bound.

(f) Condemnation. Seller has not received any notice of, nor is Seller aware of, any pending, threatened or contemplated action by any governmental authority or agency having the power of eminent domain, which might result in any part of the Premises being taken by condemnation or conveyed in lieu thereof.

(g) Litigation. There is no action, suit or proceeding pending or, to Seller's knowledge threatened, by or against or affecting Seller or the Premises or any portion thereof which does or may affect any portion of the Premises or title thereto. Seller will defend, indemnify and otherwise hold Buyer harmless from any and all claims of any person due to, arising out of or relating to the Premises, including any and all costs, expenses, and attorneys' fees which Buyer may incur as a result of a breach of any representations hereunder. Seller will, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Buyer written notice thereof.

(h) Assessments and Taxes. No assessments have been made against any portion of the Premises which are unpaid (except ad valorem taxes for the current year), whether or not they have become liens; and Seller shall notify Buyer of any such assessments which are brought to Seller's attention after the execution of this Agreement.

(i) Boundaries. (i) There is no dispute involving or concerning the location of the lines and corners of the Premises, and such lines and corners are clearly marked; (ii) to Seller's knowledge, there are no encroachments on the Premises and no portion of the Premises is



located within any "Special Flood Hazard Area" designated by the United States Department of Housing and Urban Development and/or Federal Emergency Management Agency, or in any area similarly designated by any agency or other governmental authority; and (iii) no portion of the Premises is located within a watershed area imposing restrictions upon use of the Premises or any part thereof.

(j) No Violations. To Seller's knowledge, there are no violations of state, federal or local laws, ordinances, or other legal requirements with respect to the Premises or any portion thereof. Seller has not received notice (oral or written) that any municipality or governmental or quasi-governmental authority has determined that there are such violations. In the event Seller receives notice of any such violations prior to the Closing, Seller shall promptly notify Buyer thereof, and shall promptly and diligently defend any prosecution thereof and take any and all necessary actions to eliminate said violations.

(k) Foreign Ownership. Seller is not a "foreign person" as that term is defined in the U. S. Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto, and Buyer has no obligation under Section 1445 of the U. S. Internal Revenue Code of 1986, as amended, to withhold and pay over to the U. S. Internal Revenue Service any part of the "amount realized" by Seller in the transaction contemplated hereby (as such term is defined in the regulations issued under said Section 1445).

(l) Prior Options. No prior options or rights of first refusal have been granted by Seller to any third parties to purchase or lease any interest in the Premises, or any part thereof.

(m) Mechanics and Materialmen. On the Closing Date, Seller will not be indebted to any contractor, laborer, mechanic, materialmen, architect or engineer for work, labor or services performed or rendered, or for materials supplied or furnished, in connection with the Premises for which any person could claim a lien against the Premises and shall not have done any work on the Premises within one hundred eighty (180) days prior to such Closing Date.

(15) WAIVER. The failure to enforce any particular provision of this Agreement on any particular occasion shall not be deemed a waiver by either Party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision, unless such waiver be expressed in a writing signed by the Party to be bound.

(16) DATE FOR PERFORMANCE. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period will be automatically extended through the close of business on the next following business day.

(17) FURTHER ASSURANCES. The Parties agree that they will each take such steps and execute such documents as may be reasonably required by the other Party to carry out the intent and purposes of this Agreement.

(18) SEVERABILITY. In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not



effect the remainder hereof, and the remaining provisions shall continue in full force and effect at the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

(19) **AMENDMENT AND MODIFICATION.** No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement, nor consent to any departure herefrom, will in any event be effective unless the same is in writing and is signed by the Party against whom enforcement of the same is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

(20) **CUMULATIVE REMEDIES.** The rights, privileges and remedies granted by Seller to Buyer hereunder shall be deemed to be cumulative and may be exercised by Buyer at its discretion. In the event of any conflict or apparent conflict between any such rights, privileges or remedies, Seller expressly agrees that Buyer shall have the right to choose to enforce any or all such rights, privileges or remedies.

(21) **AUTHORITY.** The undersigned Seller and Buyer hereby represent, covenant and warrant that all actions necessary will have been obtained and that they will have been authorized to enter into this Agreement and that no additional action will be necessary by them in order to make this Agreement legally binding upon them in all respects. Buyer and Seller covenant to provide written evidence of compliance with this Paragraph 21 prior to or at the Closing.

(22) **SUCCESSORS AND ASSIGNS.** The designation Seller and Buyer as used herein shall include said parties, their heirs, successors, representatives, and permitted assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

(23) **THIRD PARTY BENEFICIARIES.** This Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns, and no other person has any right, benefit, priority or interest under or because of the existence of this Agreement.

(24) **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and shall become a binding and enforceable Agreement among the Parties hereto upon the full and complete execution and unconditional delivery of this Agreement by all Parties hereto. No prior verbal or written agreement with respect to the sale and purchase of the Premises shall survive the execution of this Agreement.

(25) **CAPTIONS.** Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

(26) **GOVERNING LAW.** This Agreement and the rights and obligations of the Parties are to be governed by and construed and interpreted in accordance with the laws of the State of Missouri.

(27) **COUNTERPARTS**. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument.

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

“SELLER”

City of Washington, Missouri

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

“BUYER”

E.L.S. Washington, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

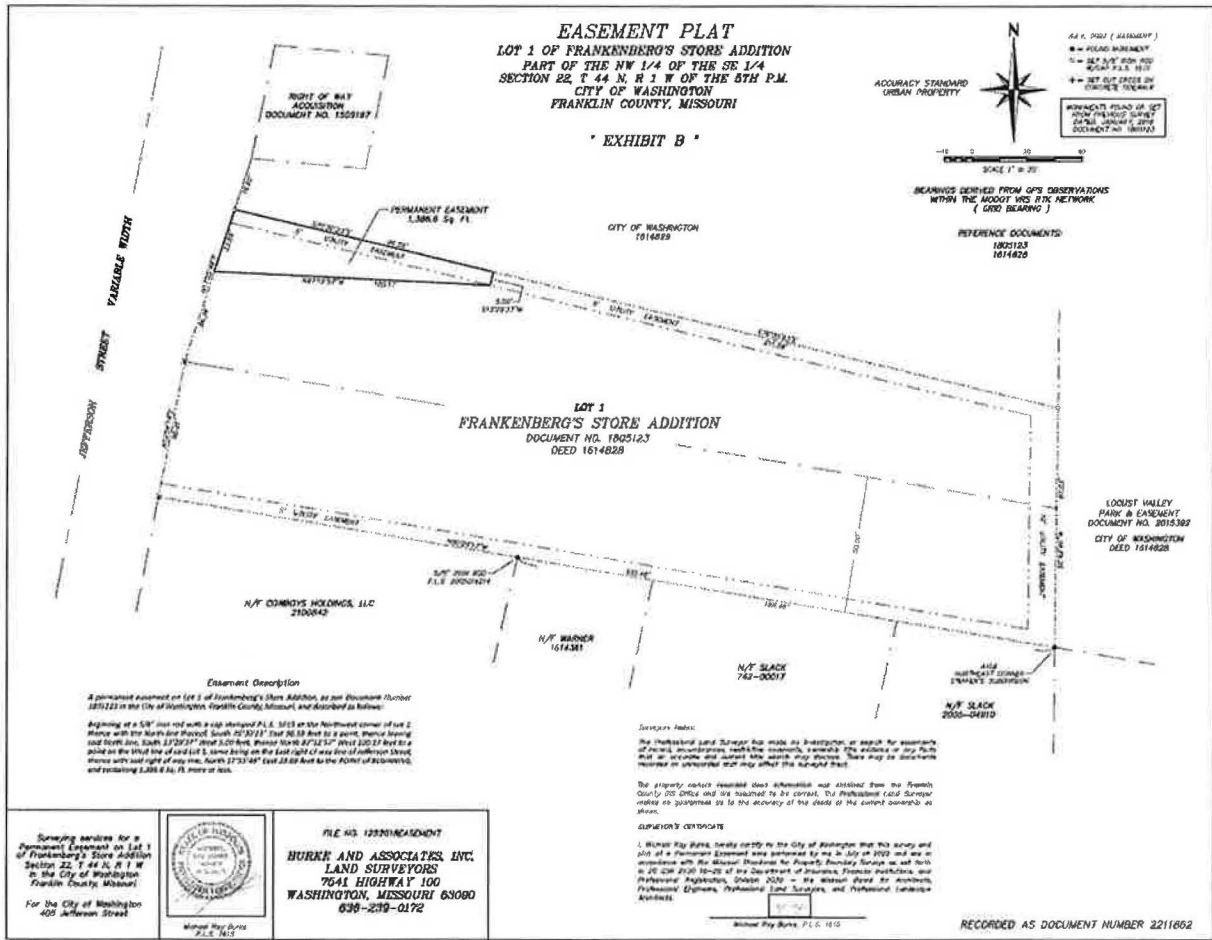
Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT A

## DEPICTION OF PREMISES

Lot 1 Frankenberg's Store Addition as per Document No. 1805123, Deed 1614828



**“EXHIBIT B”**  
( Easement Description )

A permanent easement on Lot 1 of Frankenberg’s Store Addition, as per Document Number 1805123 in the City of Washington, Franklin County, Missouri, and described as follows;

Beginning at a 5/8” iron rod with a cap stamped P.L.S. 1615 at the Northwest corner of Lot 1, thence with the North line thereof, South 76°30’23” East 96.59 feet to a point, thence leaving said North line, South 13°29’37” West 5.00 feet, thence North 87°12’57” West 100.17 feet to a point on the West line of said Lot 1, same being on the East right of way line of Jefferson Street, thence with said right of way line, North 17°55’48” East 23.69 feet to the POINT of BEGINNING, and containing 1,386.6 Sq. Ft. more or less.

Reference made to a Easement Plat recorded as Document Number 2211862.



August 8, 2022

Mayor & City Council  
City of Washington  
Washington, MO 63090

Re: Jefferson and 8<sup>th</sup> Lot

Mayor & City Council,

On your agenda for August 15<sup>th</sup>, 2022 is an ordinance approving a sale of our 0.7 acre lot at Jefferson and 8<sup>th</sup> Streets to ELS Properties for \$80,000. In 2019, the City went out for proposals for buyers with a minimum sale of \$100,000. We received no bids. ELS recently reached out with interest in the lot with a plan to build an office with two residential upper rental units. We also secured an easement for the Busch Creek Greenway on the northern edge of the lot.

Staff recommends approval of the sale, placing the property back on the tax rolls and facilitating new development.

Feel free to reach out with any questions.

Sincerely,

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

Sal Maniaci

Community and Economic Development Director

BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE APPROVING A BOUNDARY  
ADJUSTMENT FOR QUAIL RUN SUBDIVISION PLAT 8  
IN THE CITY OF WASHINGTON, FRANKLIN  
COUNTY, MISSOURI

WHEREAS, the plat, attached as Exhibit A demonstrating the boundary adjustment  
in the City of Washington, Missouri has been submitted to the City for approval; and

WHEREAS, said plat meets the requirements of the applicable ordinances of the  
City of Washington, Missouri.

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

SECTION 1: The boundary adjustment as shown in the attached Exhibit A in  
the City of Washington, Missouri is hereby approved.

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

SECTION 3: This ordinance shall be in full force and effect from and after its  
passage and approval.

Passed: \_\_\_\_\_

ATTEST: \_\_\_\_\_

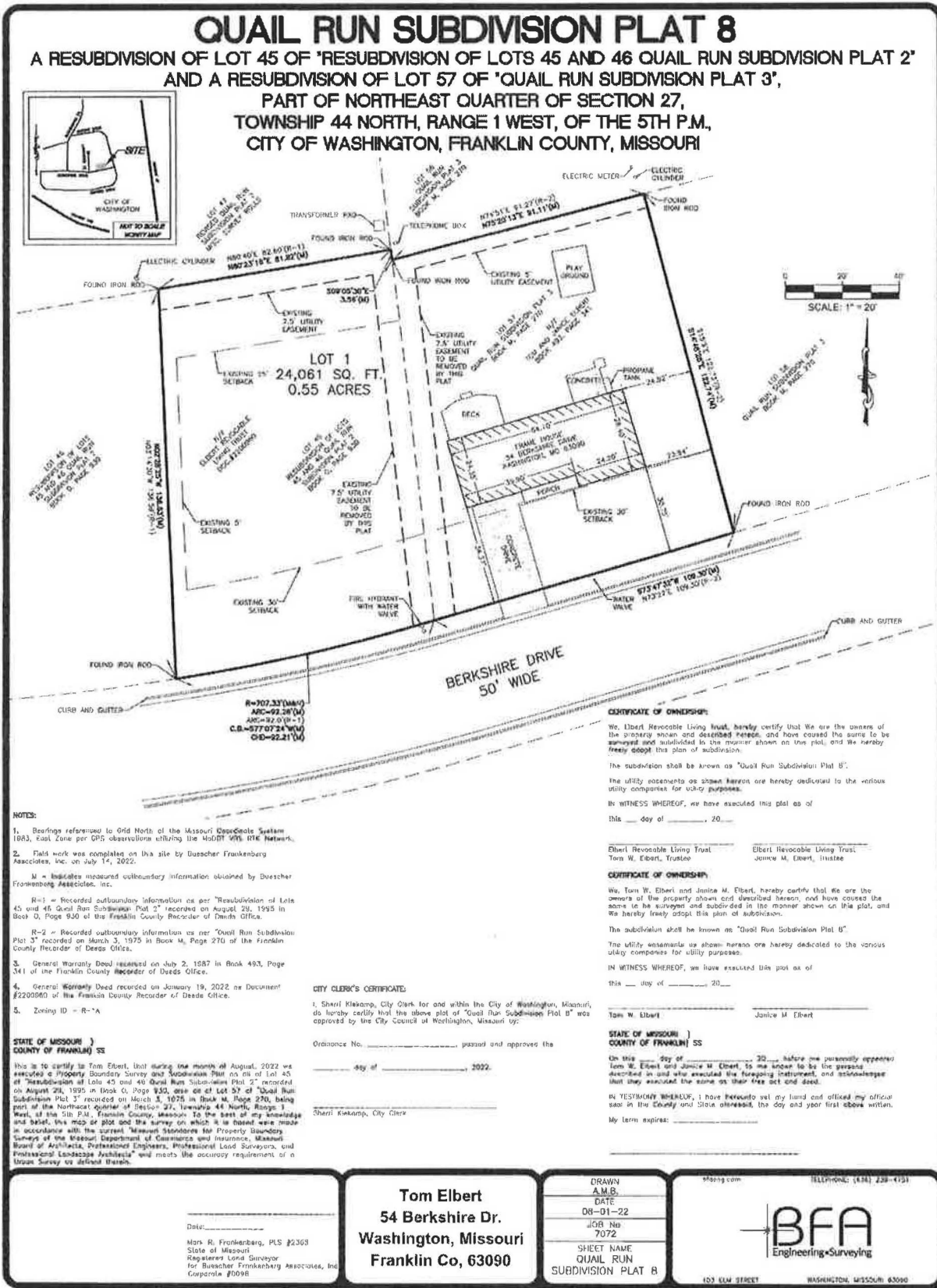
\_\_\_\_\_  
President of City Council

Approved: \_\_\_\_\_

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Mayor of Washington, Missouri





BILL NO. \_\_\_\_\_ INTRODUCED BY \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE APPROVING THE FINAL PLAT OF TERRACE IN  
WASHINGTON PLAT 3 IN THE CITY OF WASHINGTON, FRANKLIN  
COUNTY, MISSOURI

WHEREAS, the final plat of Terrace in Washington Plat 3 in the City of  
Washington, Franklin County, Missouri, has been submitted to the City for approval; and

WHEREAS, the City Council granted preliminary plat approval of this subdivision  
on Monday, September 20, 2021; and

WHEREAS, the City Clerk and City Engineer have certified that the required  
improvements have not been completed however, a Performance Contract is attached hereto  
and marked as Exhibit A to see that they shall be completed per the City Code.

NOW, THEREFORE, be it ordained by the Council of the City of Washington,  
Missouri, as follows:

SECTION 1: The final plat of Terrace in Washington Plat 3 in the City of  
Washington, Missouri, is hereby approved and the same is ordered recorded with the  
Franklin County, Missouri, Recorder of Deeds.

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

SECTION 3: 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

### PERFORMANCE CONTRACT

Whereas, the Code of the City of Washington, Missouri provides in Section 410.035(G)(5) that all minimum improvements shall be installed and approved in a subdivision before the final plat of the subdivision is submitted to the City of Washington, Missouri, unless written approval is given by the City Council to complete said improvements as the subdivision is developed; and

Whereas, pursuant to Section 410.035(G)(5), in lieu of the completion of the minimum improvements previous to the final approval of a plat, the City Council shall accept, at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited with the City, or the City may accept a surety bond and such bond shall be in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the minimum improvements; and

Whereas, the undersigned owner has requested the City Council of the City of Washington, Missouri, to grant final plat approval of "Terrace in Washington, Plat 3", even though all minimum improvements have not been installed and approved; and

Whereas, the City Engineer has determined that the amount of one million two hundred fifty-two thousand seven hundred eighty dollars (\$1,252,780) is equal to the cost of constructing, erecting and installing all improvements and utilities as shown on the Subdivision Improvement Plans not yet constructed, erected and installed.

Now, Therefore, in consideration of the acceptance and final plat approval by the City Council of the City of Washington, Missouri, of the "Terrace in Washington, Plat 3", and in accordance with Section 410.035(G)(5) of the Code of the City of Washington, Missouri, the undersigned hereby agrees to furnish the City of Washington, Missouri, at the undersigned's option, an irrevocable letter of credit or an escrow secured with cash, in the amount one million two hundred fifty-two thousand seven hundred eighty dollars (\$1,252,780), equal to the cost of constructing, erecting and installing all improvements and utilities as shown on the Subdivision Improvement Plans not yet constructed, erected and installed, as determined by the City Engineer. The City of Washington, Missouri may accept, in lieu of an irrevocable letter of credit or an escrow secured with cash, a surety bond with surety in an amount and with surety and other reasonable conditions, providing

for and securing the actual construction and installation of the improvements and utilities shown on the Subdivision Improvement Plans not yet constructed, erected and installed as determined by the City Engineer.

It is further understood and agreed the undersigned shall complete construction and installation of the improvements and shown on the Subdivision Improvement Plans not yet constructed, erected and installed as determined by the City Engineer within twenty four (24) months of the date hereof.

It is further understood and agreed to that no utility service connections or occupancy permits shall be issued to the owner, or to any other person, firm, corporation, association or partnership, for any structure, unless and until all utilities and improvements have been constructed, erected and installed in said structure and upon lots on which said structure is situated in accordance with the Subdivision Improvement Plans.

It is hereby further understood and agreed that no occupancy permit shall be issued to the owner or any other person, firm, corporation, association or partnership for any structure on any street that is not completed in front of or adjacent to such lots upon which such structure is situated.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Owner/Subdivider/Divider/Applicant

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Company Name

City of Washington, Missouri

\_\_\_\_\_  
Mayor

Seal:

Attest:

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

Ba

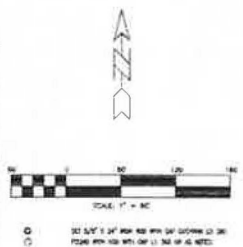
# TERRACE IN WASHINGTON - PLAT 3

A TRACT OF LAND BEING ALL OF LOTS 2 & 5 OF TERRACE IN WASHINGTON - PLAT 1 AND LOT 1 OF TERRACE IN WASHINGTON - PLAT 2, WITHIN THE SOUTH HALF OF SECTION 21 AND A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 44 NORTH, RANGE 1 WEST OF THE 5TH P.M., CITY OF WASHINGTON, FRANKLIN COUNTY, MISSOURI

LINE #	DIRECTION	LENGTH
E1	S89°50'17"E	246.20
E2	N07°16'57"E	147.17
E3	N42°20'14"E	184.90
E4	N07°20'41"W	274.89
E5	S06°52'14"W	272.28
E6	N42°20'14"W	127.19
E7	S02°34'17"W	174.09
E8	N07°16'57"E	194.58
E9	N07°20'41"W	134.17
E10	N06°02'42"E	13.89
E11	S07°34'17"E	283.82
E12	N06°27'42"E	227.28
E13	S06°27'42"E	22.21
E14	N06°00'00"E	114.12
E15	N26°20'47"E	196.21
E16	N07°32'27"W	154.15
E17	S06°27'42"E	45.24
E18	S06°20'17"E	25.01
E19	S06°20'17"E	284.11
E20	S06°42'03"E	84.01
E21	S07°27'42"E	183.27
E22	N00°14'07"E	216.72
E23	N00°14'07"E	48.92

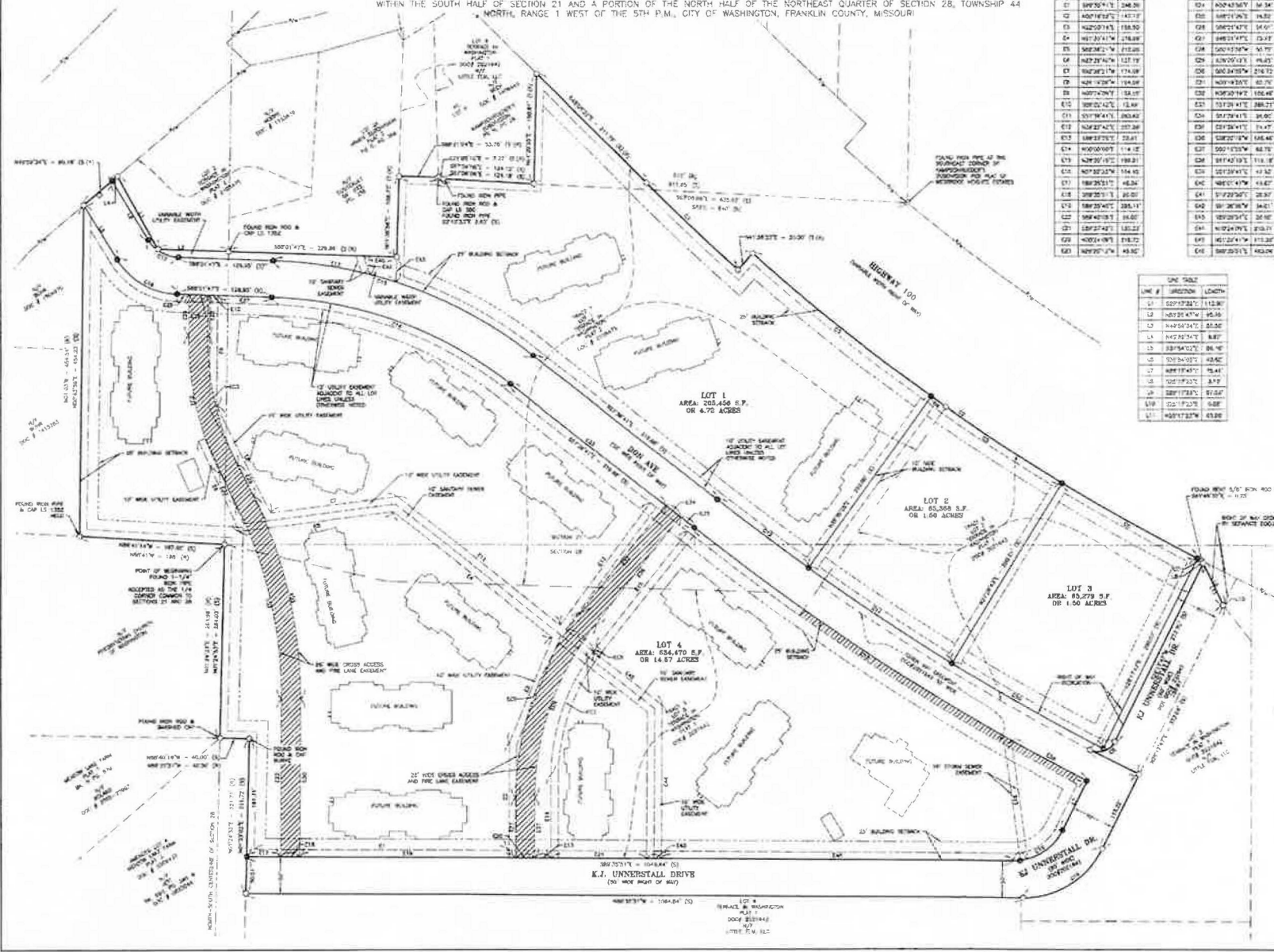
LINE #	DIRECTION	LENGTH
D1	N04°24'57"E	34.34
D2	S06°10'17"E	145.2
D3	S06°27'42"E	34.67
D4	S06°27'42"E	23.87
D5	S06°10'17"E	41.91
D6	S06°24'57"E	276.22
D7	N06°10'17"E	40.76
D8	N06°20'17"E	126.45
D9	S07°20'41"E	284.71
D10	S07°20'41"E	34.62
D11	S07°20'41"E	114.27
D12	S06°27'42"E	145.42
D13	S07°20'41"E	44.75
D14	S07°20'41"E	111.17
D15	S07°20'41"E	41.32
D16	N06°27'42"E	41.67
D17	S07°20'41"E	28.37
D18	S06°27'42"E	24.11
D19	S06°20'17"E	22.16
D20	N07°24'17"E	171.27
D21	N07°24'17"E	113.27
D22	S06°20'17"E	443.26

LINE #	DIRECTION	LENGTH
F1	S07°27'42"E	113.87
F2	N42°20'14"E	165.51
F3	N42°20'14"E	80.52
F4	N42°20'14"E	8.87
F5	S07°24'17"E	26.16
F6	S07°24'17"E	42.62
F7	N07°27'42"E	76.41
F8	S07°27'42"E	8.79
F9	S07°27'42"E	51.54
F10	S07°27'42"E	5.87
F11	N07°27'42"E	43.92



LINE #	LENGTH	BEARING	BEARING	BEARING	BEARING
G1	171.42	S04°42'E	N89°57'57"W	171.42	
G2	746.81	S04°42'E	S89°57'57"W	746.81	
G3	214.38	S04°42'E	S21°27'14"E	194.21	
G4	34.87	S04°42'E	S49°29'32"E	34.87	
G5	180.27	S04°42'E	S04°42'E	180.27	
G6	272.28	S04°42'E	S07°20'41"E	171.27	
G7	1.88	S04°42'E	S07°20'41"E	1.88	
G8	23.87	S04°42'E	N77°20'07"E	62.74	
G9	426.84	S04°42'E	S07°17'47"E	426.84	
G10	524.27	S04°42'E	S07°17'47"E	224.47	
G11	156.81	S04°42'E	S27°20'17"E	156.81	
G12	347.44	S04°42'E	S07°10'07"E	424.48	
G13	352.38	S04°42'E	S07°04'47"E	347.87	
G14	246.21	S04°42'E	S07°04'47"E	378.48	
G15	17.88	N06°20'17"E	S07°20'41"E	84.57	
G16	64.87	S04°42'E	S07°20'41"E	47.25	
G17	43.87	S04°42'E	N06°20'17"E	194.21	
G18	134.38	S04°42'E	N07°20'41"E	127.37	

LINE #	LENGTH	BEARING	BEARING	BEARING	BEARING
H1	272.28	S04°42'E	S07°17'47"E	272.28	
H2	163.24	S04°42'E	S07°17'47"E	163.24	
H3	43.87	S04°42'E	S07°17'47"E	43.87	
H4	348.81	S04°42'E	S07°17'47"E	248.81	
H5	272.28	S04°42'E	S07°17'47"E	272.28	
H6	348.81	S04°42'E	S07°17'47"E	272.28	
H7	134.38	S04°42'E	S07°17'47"E	134.38	
H8	7.66	S04°42'E	S07°17'47"E	7.66	



TERRACE IN WASHINGTON  
PLAT 3  
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