

**COUNCIL WORKSHOP MEETING
MONDAY, APRIL 3, 2023 – 6:00 p.m.
COUNCIL CHAMBER
405 JEFFERSON STREET
WASHINGTON, MO**

INTRODUCTORY ITEMS:

Roll call/Pledge of Allegiance

ACTION:

1. APPROVAL OF MINUTES:

Approval of the March 6, 2023, Workshop minutes

Approve/Mayor

2. PRESENTATIONS:

3. REPORT OF DEPARTMENT HEADS:

A. Administration Department -

- a. Northern Star Homes, LLC Purchase Agreement
- b. Payroll, Timekeeping and HRIS Software

Discuss-Send to Council
Discuss-Send to Council

B. Community & Economic Development Department -

- a. Oldenburg Industrial Park Quit Claim Deed
- b. Oldenburg Industrial Park Quit Claim Deed of Release

Discuss-Send to Council
Discuss-Send to Council

C. Emergency Management Department -

- a. Cell on Wheels Equipment

Discuss-Send to Council

D. Parks Department -

- a. Fairgrounds Operating Agreement
- b. Midwest Pool Management Agreement

Discuss-Send to Council
Discuss-Send to Council

E. Police Department -

- a. Code Amendment - Tall Grass Violations
- b. Livescan Fingerprint System

Discuss-Send to Council

4. EXECUTIVE SESSION:

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

ROLL CALL VOTE

5. ADJOURNMENT:

**MINUTES OF THE
CITY OF WASHINGTON, MISSOURI
COUNCIL WORKSHOP MEETING
MONDAY, MARCH 6, 2023**

The Council Workshop Meeting was held on Monday, March 6, 2023, at 6:00 p.m. in the Council Chamber, 405 Jefferson Street, Washington, Missouri. Mayor Hagedorn opened the meeting with roll call and Pledge of Allegiance.

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

Also Present:	City Administrator	Darren Lamb
	City Clerk	Sherri Klekamp
	Human Resources Manager	Shauna Pfitzinger
	Library Director	Nelson Appell
	Building Official	Blake Marquart
	Street Superintendent	Tony Bonastia
	Public Works Director	John Nilges
	Parks Director	Wayne Dunker
	Emergency Management Director	Mark Skornia
	Fire Chief	Tim Frankenberg
Police Chief	Jim Armstrong	

Approval of Minutes

A motion to approve the minutes from the February 6, 2023, Workshop meeting as presented made by Wessels, seconded by Behr, passed without dissent.

Report of Department Heads

**A. Community & Economic Development Department-
a. Oldenburg Industrial Park Highway 100 Improvements**

March 1, 2023

Mayor & City Council

City of Washington

Washington, MO 63090

Re: Contracts for Engineering Services

Mayor & City Council,

On your agenda for March 6th are two contracts with Cochran Engineering. They both relate to the engineering, environmental review services, and construction administration needed for the

March 6, 2023

improvements to the Oldenburg Industrial Park, however, with the project coming from two funding sources we are requesting two separate contracts with them.

The first contract is for approximately \$207,000 and is specifically for the design and administration of the improvements needed to Highway 100 for the project. These funds will be 100% reimbursed by the MODOT Cost Share Program that the City put an application in for in January.

The second contract is for approximately \$157,000 and is specifically for the improvements needed for the internal infrastructure for Oldenburg Industrial Park including the water, sewer, and roads. The City has an application with the Economic Development Administration for the actual construction of these improvements, however engineering costs are not covered by the grant. These funds are proposed to come from the economic development budget of the Capital Improvements Sales Tax.

We went out for RFQ's for engineering services and received two submittals. After review, staff scored Cochran the highest and felt the most confident with offering them the contracts.

Feel free to reach out with any questions.

Sincerely,

Sal Maniaci

Community and Economic Development Director

City Administrator Darren Lamb discussed the Highway 100 and Infrastructure Improvement Contracts for Oldenburg Industrial Park. After a brief discussion, a motion to forward to Council made by Behr, seconded by Holtmeier, passed without dissent.

b. Oldenburg Industrial Park Infrastructure Improvements

March 1, 2023

Mayor & City Council

City of Washington

Washington, MO 63090

Re: Contracts for Engineering Services

Mayor & City Council,

On your agenda for March 6th are two contracts with Cochran Engineering. They both relate to the engineering, environmental review services, and construction administration needed for the improvements to the Oldenburg Industrial Park, however, with the project coming from two funding sources we are requesting two separate contracts with them.

The first contract is for approximately \$207,000 and is specifically for the design and administration of the improvements needed to Highway 100 for the project. These funds will be 100% reimbursed by the MODOT Cost Share Program that the City put an application in for in January.

The second contract is for approximately \$157,000 and is specifically for the improvements needed for the internal infrastructure for Oldenburg Industrial Park including the water, sewer, and roads. The City has an application with the Economic Development Administration for the actual construction of these improvements, however engineering costs are not covered by the grant. These funds are proposed to come from the economic development budget of the Capital Improvements Sales Tax.

We went out for RFQ's for engineering services and received two submittals. After review, staff scored Cochran the highest and felt the most confident with offering them the contracts.

Feel free to reach out with any questions.

March 6, 2023

Sincerely,
Sal Maniaci
Community and Economic Development Director

With no further discussion, a motion to forward to Council made by Behr, seconded by Holtmeier, passed without dissent.

B. Engineering Department-
a. 2023 I&I Reduction Project

February 28, 2023
Honorable Mayor and City Council
City of Washington
Washington, MO 63090
RE: Sanitary Sewer Replacement and Rehabilitation
Insituform

Dear Mayor and City Council Members:
Attached you will find an ordinance/contract for maintenance and rehabilitation of sanitary sewers and storm sewers utilizing Cast-in-Place (CIPP) methods. The project scope was competitively bid, we received two bids.

Bid 1:	Insituform Technologies:	\$249,241.06
Bid 2:	SAK Construction, LLC:	\$263,354.00
Engineers Estimate:		\$281,324.00

We have successfully utilized Insituform on many projects in the past. CIPP is a process that involves pulling a resin "sock" through an existing pipe to make it watertight and structurally sound. It is completed on pipes that normally would require traditional excavation, remove, and replace. By utilizing this technology, we are able to repair underground piping with very little disruption to the travelling public or users of the system. This process is one part of our efforts to reduce infiltration into the sanitary sewer system and repair stormwater pipe that is meeting the end of its design life. This project will line approximately 5,163 ft of sanitary sewer located under Elm Street, Cedar Street, and along Lions Lake. Also, we will be lining a 30" corrugated metal storm sewer with substantial utility conflicts in the Brookview Subdivision.

We have additional budget, and I'm working with the contractor on an additive change order to line more sanitary sewer near MacArthur/7th Street and a problematic sanitary in Dawn Valley. Once I have the Change Order scope finalized, I will present at a future date.

Thank you for your consideration.
Respectfully submitted,
John Nilges, P.E.
Public Works Director

Public Works Director John Nilges discussed the contract. After a brief discussion, a motion to forward to Council made by Holtmeier, seconded by Briggs, passed without dissent.

*Public Works Director John Nilges introduced Blake Marquart as the new Building Official.

C. Parks Department-
a. Fairgrounds Pavilion Concrete Pad Project

March 6, 2023

March 6, 2023

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

RE: Fairgrounds Pavilion Concrete Pad bid
Honorable Mayor and City Council,

As you may recall from the January 17th Council meeting, the Town & Country Fair Board is proposing a new metal pavilion on the site where the Entertainment Tent is located during the Town & Country Fair. In the past, rental tents have been placed on the asphalt pad but rental tents are becoming harder to find and the asphalt pad is deteriorating. The Fair Board is proposing to fund a new metal pavilion structure to replace the use of tents and the Parks and Recreation Department is proposing a 160'x70' concrete pad and sidewalks for the new pavilion. The new pavilion and concrete pad could then serve the ever-growing local Pickleball population with four covered Pickleball Courts when the pavilion is not being used during the Fair. The project will be funded by the \$26,379.00 the City received from the 2022 Fair Contract and \$73,621.00 from ARPA funds. With your permission the Parks Department bid out the concrete portion of the project.

On February 21, the City received the following bids for this project:

Curb Appeal Landscapes \$81,875.00

Next Level Construction \$87,882.00

K.J. Unnerstall Construction \$98,305.00

TPC Infrastructure \$129,257.00

Find in this packet an ordinance for your consideration that would enter the City into a contract with Curb Appeal Landscapes for \$81,875.00 for a new concrete pad and sidewalks at the Entertainment Tent site in the Fairgrounds. Asphalt removal and site grading will be done inhouse by Staff.

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

Respectfully,

Wayne Dunker, MA, CPRP

Director of Parks & Recreation

Parks Director Wayne Dunker discussed the project. After a brief discussion, a motion to forward to Council made by Wessels, seconded by Coulter, passed without dissent.

b. Highway 100 Median Maintenance Services

March 6, 2023

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

RE: Recommendation – Highway 100 Median Maintenance Service bid
Honorable Mayor and City Council,

At the December 5, 2022 City Council meeting I asked for permission to re-bid the Highway 100 Median Maintenance services contract. This solution will allow an outside source to spruce up the medians to a higher level than they are being maintained now. By hiring an experienced contractor, citizens should see visible results after the first year. After a year of contractor

March 6, 2023

maintenance, if the desired outcome is not what everyone envisioned, other options can be explored, including renovating one median bed at a time to see if the public likes the improvements. Future improvements and maintenance of the medians have the potential of being supported by funding from local service organizations. The Highway 100 Median Maintenance Committee met on February 24 and recommends the process detailed above.

The maintenance of the Highway 100 median beds can be funded by Stormwater Funds, as the native plantings in the medians help absorb water in an all-asphalt environment. Since the beds reduce stormwater runoff and help with MS4 Program compliance, the funding for the maintenance of the beds can come from the local use tax in the Stormwater Fund.

Median Maintenance Services was put out to bid and the City received two bids. The winning bid was from Go Green Lawn and Landscape for \$26,500 per year and the other was from DJM Ecological Services for \$37,110 per year. The contract is for three years but Go Green Lawn and Landscape stated they could go year to year if the City needed to change some of the median beds in a future year.

Accordingly, the Highway 100 Median Maintenance Committee and Staff recommends that Council consider the approval of Go Green Lawn and Landscapes bid in the amount of \$26,500.00.

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

Respectfully,

Wayne Dunker, MA, CPRP

Director of Parks & Recreation

Public Works Director John Nilges and Parks Director Wayne Dunker presented to Council the Highway 100 Median Update. Topics included the history of the medians, design details, City cost to maintain medians, Highway 100 Median Committee, potential solutions and committee recommendation, Parks Department extra man hours and civic group sponsor. After discussion, a motion to forward to Council made by Holtmeier, seconded by Wessels with Reed and Hidritch voting nay.

D. Police Department-

a. 2015 Ford Flex AWD Sport Utility Vehicle

February 28, 2023

To: City Council

Mayor Hagedorn

From: Chief Armstrong

RE: Purchase or replacement vehicle – 2022/2023 Budget Year

Respected Council Members and Honorable Mayor:

For the year 2022/2023 budget, I am requesting the purchase of one (1) police vehicle:

2015 Ford Flex SEL AWD SUV

The vehicle will be assigned to the detective division for use and will replace a vehicle that was recently involved in a motor vehicle crash. After evaluation of the vehicle by an insurance adjuster, it was determined a total loss. Since it could not be repaired, the police department needs a vehicle to replace it in the fleet.

The insurance payout for the totaled vehicle is \$13,305.50. This vehicle was used by the detective division and was an unmarked unit. When looking for a replacement vehicle our goal was to find a similar vehicle, an all-wheel drive mid to full size SUV. We attempted to locate a replacement

March 6, 2023

vehicle within those parameters and budget, but nothing was found that met our needs and priced less than or equal to the insurance payout. We did find a vehicle that both met our needs and has a good service history. The vehicle is a 2015 Ford Flex AWD SUV. The vehicle is listed for sale by Chris Auffenberg Ford Washington. After negotiation the final sale price offered was \$18,000. I recently requested approval for the purchase and outfitting of three new patrol vehicles under the vehicle replacement fund. The approved amount for those vehicles came in well under budget. I am requesting to use \$4,694.50 from that fund to supplement the purchase of the replacement vehicle.

Given the fact that Chris Auffenberg Ford is in town and has the vehicle that meets our needs, I consider them to be the sole source and recommend we purchase from them.

I request approval of an ordinance and a sales contract with Chris Auffenberg Ford of Washington for the purchase of one (1) Ford Flex AWD SUV at a total purchase price of \$18,000. After the insurance payout of \$13,305.50 the amount used from the current budget will be \$4,694.50.

Should you have any questions or concerns, feel free to contact me prior to the City Council meeting.

Respectfully submitted,

Chief James Armstrong, DSN 256

Police Chief Jim Armstrong discussed the purchase. After a brief discussion, a motion to forward to Council made by Hidritch, seconded by Coulter, passed without dissent.

Adjournment

With no further business to discuss, a motion to adjourn made at 6:53 p.m. by Behr, seconded by Coulter passed without dissent.

March 6, 2023



March 30, 2023

Honorable Mayor and City Council
Washington MO 63090

Dear Mayor and Council,

This ordinance is a purchase agreement between the City and Northern Star Homes for the development of a portion of the East West Parkway Roadway. The roadway has been a part of the City's Comprehensive Plan dating back to the mid 1980's. This agreement would allow for the purchase 8.78 acres to construct a 40' wide roadway for 1,100 feet east of Bieker Road and extend the right of way for future construction 1,700 feet. The right of way meets the previously approved plans of 80' right of way as well as not to exceed a 7% grade.

In addition, the City will be able to sell the excess property at a future date.

Sincerely,

Darren Lamb, AICP
City Administrator

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 NORTHERN STAR HOMES, 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 Northern Star Homes, 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 _____, 2023 (the "Effective Date"), by and between Norther Star Homes, LLC, a Missouri limited liability company, hereinafter referred to as "SELLER", and the City of Washington, Missouri, a Missouri municipal corporation, 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 containing in the aggregate approximately 8.78 acres 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 Three Hundred Fifty One Thousand, Two Hundred and 00/100 Dollars (\$351,200.00) (the "Purchase Price"). Within five (5) business days after the Effective Date, Buyer shall deposit with U.S. Title Company, Washington, Missouri ("Title Company") as a partial payment of the Purchase Price, the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) (the "Deposit"). The Deposit shall be refunded to the 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 and until each of the following requirements of Buyer is satisfied as to the Premises. The decision as to whether the Premises are suitable for Buyer's intended purposes and the requirements have been fulfilled 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 fifteen (15) 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 or to a failure of fulfillment of any one of the requirements. If Buyer has not completed its review and determinations under this Paragraph 3 within fifteen (15) days after the Effective Date, Buyer may, at its election, extend the Review Period for up to one (1) additional period of fifteen (15) days (an "Extension Period") by providing Seller with notice no later than the last day of the initial Review Period, that Buyer is extending such Review Period. The term "Review Period" includes both the initial fifteen (15) day period and the Extension Period, if any, exercised by Buyer.

REQUIREMENTS TO BE ACCOMPLISHED

(a) **Adaptability to Construction:** The Premises must be adaptable to construction of the improvements envisioned by Buyer, at costs satisfactory to Buyer. The Premises must not contain any harmful, toxic or polluting substance.

(b) **Soil Test:** Any and all soil tests conducted on the Premises, including any conducted by Buyer, must yield a result satisfactory to accomplish the site plan development and the construction of improvements planned by Buyer.

(c) **Title Insurance:** Buyer must be able to obtain at the Closing (as defined below) an ALTA owner's policy of title insurance for the Premises (the "Owner's Title Policy") from a title insurance company selected by Buyer ("Title Company"), at Buyer's cost and expense, based upon a satisfactory commitment for title insurance for the Premises ("Commitment") to be furnished to Buyer by the Title Company following execution of this Agreement by both Parties. The Commitment shall identify the Premises and easements appurtenant thereto by the legal description set forth on the Survey (as defined below). The Commitment shall only contain exceptions for liens, encumbrances, claims, easements or other matters that have been approved by Buyer in writing (the "Permitted Encumbrances"). Seller shall cooperate fully with Buyer in helping Buyer to eliminate such exceptions from Buyer's title insurance binder as Buyer may desire eliminated, and further, Seller shall cooperate fully with Buyer in order for all requirements of closing outlined in the Commitment to be accomplished in all respects.

(d) **Environmental Conditions:** Buyer must be satisfied that the Premises is free of any pollutants, contaminants, chemical or industrial, toxic or Hazardous Substances as defined in Paragraph 14.

(e) **Right of Entry and Hold Harmless.** Seller hereby grants permission to Buyer to enter on the Premises to conduct such investigations, inspections, testing, including soil tests, and such other review as Buyer may deem necessary or desirable during the Review Period. Unless stated to be the responsibility of Seller under this Agreement, Buyer agrees to pay the costs and expenses associated with its investigation or testing, and Buyer will repair and restore any damage to the Premises caused by Buyer's investigations or testing, at Buyer's expense. Buyer also agrees to defend and hold Seller harmless from all costs, expenses and liabilities arising out of Buyer's negligence or willful misconduct or that of its employees, agents, consultants or contractors in performing its evaluation of the Premises, except that Buyer shall have no responsibility to Seller and Seller hereby releases Buyer and agrees to

defend and hold Buyer harmless from all costs, expenses and liabilities arising in connection with environmental conditions, Hazardous Materials Release (as defined herein) or underground structures or utilities that were not disclosed to Buyer.

(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) **ENVIRONMENTAL DISCLOSURE AND INVESTIGATION.** No later than five (5) days after the Effective Date, Seller shall inform Buyer of any Hazardous Materials or Release (as defined herein), and of any underground structures or utilities which are or may be present on the Premises, and Seller shall deliver to Buyer any documentation (for example, any title evidence, surveys, reports, studies, test results, engineering drawings, permits or tank registrations) Seller has within its possession or control regarding such conditions, structures or utilities other than the Environmental Reports. Seller acknowledges that Buyer needs this information in order to properly evaluate the Premises, to avoid damaging underground structures and utilities and to avoid causing, contributing to or exacerbating the Release of a Hazardous Substance in the course of Buyer's investigations. Any and all soil, rock, water, asbestos, and other samples taken from the Premises shall remain the property of Seller. At Seller's request and expense, Buyer will assist in making arrangements for the lawful disposal of any contaminated samples and will pay any related transportation or disposal fees, but only if Seller signs the manifest and any other documents required in connection with the disposal of contaminated samples. If Seller is not willing to sign the required documentation, Buyer's only obligation shall be to return the contaminated samples to Seller.

(6) **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 May 15, 2023 (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 deed conveying the Premises to Buyer, which deed shall contain covenants of title satisfactory to Buyer, which covenants of title shall state that Seller is seized of the Premises in fee simple, and that Seller has granted, bargained, sold and conveyed unto Buyer and its successors and/or assigns in title the Premises in fee simple; and

that Seller will warrant and defend title against the claims of all persons or entities whatsoever. Title to the Premises at Closing shall be marketable and good of record. 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; and

(ii) Permitted Encumbrances

(c) **Brokers' Commissions.** Seller 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 Seller, and Buyer shall have no obligation or responsibility toward the payment of any such costs. Seller shall indemnify and hold Buyer harmless from any claims of brokers or real estate agents engaged by Seller for fees or commissions arising out of this sale of the Premises to Buyer. Buyer represents to Seller that Buyer has not employed nor engaged any real estate agents or brokers to be involved in this transaction.

(7) **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.

(8) **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.

(9) **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.

(10) **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: Northern Star Homes, LLC
Attn: Lorie Freitag
3423 Springcrest
Washington, Missouri 63090

and to Buyer: City of Washington, Missouri
Attn: City Administrator
405 Jefferson Street
Washington, Missouri 63090

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

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.

(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, including but not limited to those contained in Paragraphs 14, 15 and 29, 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.

(n) Hazardous-Materials. Seller has undertaken an appropriate inquiry into the previous ownership and uses of the Premises consistent with good commercial or customary practice in an effort to minimize liability with respect to Hazardous Materials and represents and warrants to Buyer that except as disclosed in the Environmental Reports:

(i) The Premises are now free from contamination by Hazardous Materials, and the Premises and the activities conducted thereon do not pose any significant hazard to human health or the environment or violate any Environmental Laws (as defined in this Paragraph 14 (n)(i)). There is no evidence of Release of Hazardous Materials at the Premises.

(ii) There has been no generation, treatment or storage of any Hazardous Materials at the Premises nor any activity at the Premises that could have produced Hazardous Materials.

(iii) There are no surface impoundments, lagoons, waste piles, landfills, injection wells, underground storage areas, tanks, storage vessels, drums, containers or other man-made facilities at the Premises which may have accommodated Hazardous Materials at the Premises. Neither Seller, nor any third person, has stored, placed, buried or Released Hazardous Materials at the Premises, including the soil, surface water and ground water.

(iv) There has been no treatment, storage or Release of any Hazardous Materials on land adjacent or near to the Premises which may constitute a risk of contamination of the Premises or surface water or, ground water flowing to the Premises.

(v) No inspection, audit, inquiry or other investigation has been or is being conducted by any Governmental Authority (as hereinafter defined) or other third person with respect to the presence or discharge of Hazardous Materials at the Premises or the quality of the air, or surface or subsurface conditions at the Premises. Seller has not received notice that any such inspection, audit, inquiry or investigation is pending or proposed. Neither Seller, nor to Seller's knowledge, any previous owner of the Premises has received any warning, notice, notice of violation, administrative complaint, judicial complaint or other formal or informal notice or request for information alleging that Hazardous Materials have been stored or Released at the Premises or that conditions at the Premises are in violation of any Environmental Laws or requesting information regarding the use, storage, release or potential Release of Hazardous Materials at the Premises.

(vi) Definitions. For purposes of this Paragraph 14 and this Agreement: "Environmental Laws" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety and Health Act (29 U.S.C. Section 655 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 11001 et seq.).

"Hazardous Materials" means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law. Without limiting the generality of the foregoing, the term shall mean and include:

"Hazardous Substances" as defined in CERCLA, the Superfund Amendments and Reauthorization Act of 1986, or Title III of the Superfund Amendment and Reauthorization Act, each as amended, and regulations promulgated thereunder including, but not limited to, asbestos or any substance containing asbestos, polychlorinated biphenyls, any explosives, radioactive materials, chemicals known or suspected to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions, infectious wastes, any petroleum or petroleum-derived waste or product or related materials and any items defined as hazardous, special or toxic materials, substances or waste;

“Hazardous Waste” as defined in the Resource Conservation and Recovery Act of 1976, as amended, and regulations promulgated thereunder;

Materials as defined as “Hazardous Materials” in the Hazardous Materials Transportation Act, as amended, and regulations promulgated thereunder;

“Chemical Substance or Mixture” as defined in the Toxic Substances Control Act, as amended, and regulations promulgated thereunder.

“Governmental Authorities” means the United States, the State of Missouri and any political subdivision thereof, and any and all agencies, departments, commissions, boards, bureaus, bodies, councils, offices, authorities, or instrumentality of any of them, of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence, including, without limitation, the MDNR and the EPA.

“Release” shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaching, dumping, discarding, burying, abandoning, or disposing into the environment.

Seller further agrees to execute any documents as may be required by Buyer at Closing to evidence the continued effectiveness of the warranties, representations and covenants contained within this Paragraph 14.

(15) **SELLER'S ENVIRONMENTAL INDEMNIFICATION.** Seller shall indemnify, defend, and hold Buyer and its respective officers, directors, employees, and agents (collectively the “Buyer Indemnified Parties”), harmless from, against, and in respect of any and all rights, claims, demands, liabilities, obligations, orders, assessments, interest, penalties, fines, settlement payments, costs, expenses and damages, including, without limitation, reasonable legal fees and out-of-pocket expenses (“Damages”) imposed upon or incurred by any Buyer Indemnified Party and that arise from claims asserted by third parties or by Seller concerning any Hazardous Materials except as placed on the Premises by Buyer or its agents.

(16) **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.

(17) **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.

(18) **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.

(19) **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 affect 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.

(20) **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.

(21) **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.

(22) **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 22 prior to or at the Closing.

(23) **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.

(24) **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.

(25) **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.

(26) **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.

(27) **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.

(28) **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.

(29) **MISCELLANEOUS.**

(a) **Construction of East-West Parkway.** After the Closing Date, Seller shall construct the roadway depicted as the "East-West Parkway" on the attached Exhibit A pursuant to plans prepared by, or on behalf of, the Buyer. The plans shall include all necessary excavation and grading, storm inlets, and street lighting, as well as curbing, pavement, and base rock to comply with current City Codes. All costs of construction of the "East-West Parkway" and preparation of plans shall be at Buyer's sole cost and expense. In lieu of Seller constructing the

“East-West Parkway”, construction may be bid. Construction of the East-West Parkway shall be completed on or before September 15, 2023.

(b) Right to Material. Seller retains the right to harvest material from the Premises outside of the area devoted to the “East-West Parkway” until October 15, 2023. Seller shall restore the Premises to a stabilized condition by November 15, 2023.

(c) Stormwater. Seller shall have the right to construct a detention/retention basin on the Premises outside of the area devoted to the “East-West Parkway” as may be required by Buyer.

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

“SELLER”

Northern Star Homes, L.L.C.

By: _____

Name: _____

Title: _____

Date: _____

“BUYER”

City of Washington, Missouri

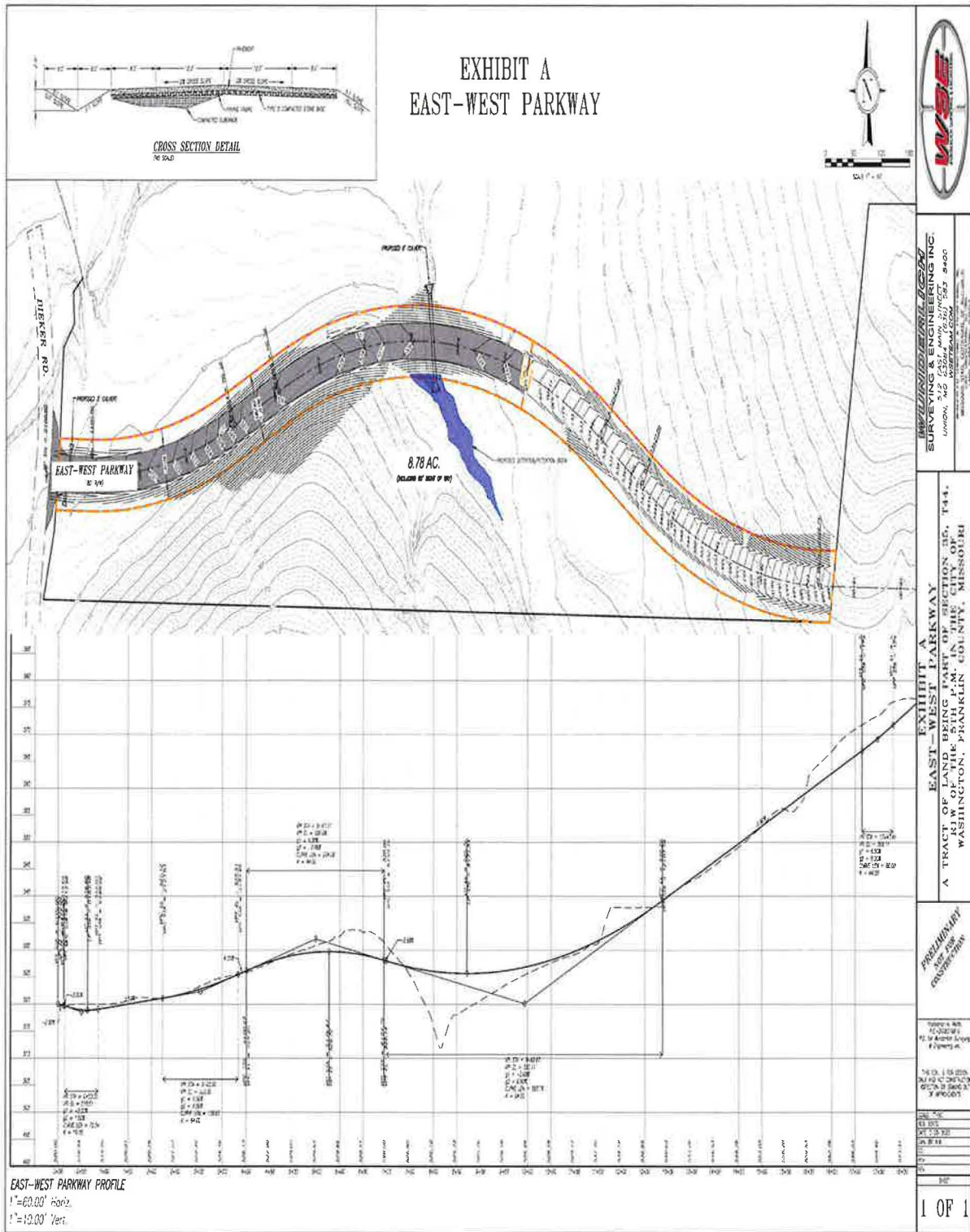
By: _____

Name: James D. Hagedorn

Title: Mayor

Date: _____

**EXHIBIT A
DEPICTION OF PREMISES**



WSE ENGINEERING & SURVEYING INC.
 SURVEYING & ENGINEERING INC.
 LONDON, MO 63001
 636.333.1100
 www.wse-inc.com

**EXHIBIT A
EAST-WEST PARKWAY**
 A TRACT OF LAND BEING PART OF SECTION 35, T44,
 R12W OF THE 5TH P.M. IN THE CITY OF
 WASHINGTON, FRANKLIN COUNTY, MISSOURI

**PRELIMINARY
FOR CONSTRUCTION**

DATE: 12/15/2010
 BY: J. HARRIS
 CHECKED BY: J. HARRIS
 APPROVED BY: J. HARRIS

SCALE: 1" = 100'

1 OF 1

3Aa



City of Washington, MO

Memo

To: Mayor and City Council

From: Shauna Pfitzinger, Human Resources Manager
Mary Sprung, Finance Director

Date: March 27, 2023

Re: Payroll, Timekeeping, and HRIS software

The current timekeeping software, initially purchased in October 2017, is cumbersome and ineffective. This product took almost 4 years to be fully implemented due to many issues with platform compatibility and upgrade glitches. Now that it's up and running the system is cumbersome to staff and often takes longer to process than its previous 15-year-old software predecessor. With more complaints than benefits, we set out almost 1 year ago, to research a better software that could improve upon our current software systems, as well as expand to give our employees newer technology that has the capability for them to access their own Payroll and HR information from anywhere.

A review panel was created that included Payroll Specialist Marcie Sullentrup, Finance Director Mary Sprung, and me. We also gathered input from department staff that handle time and attendance matters. We began researching firms that could integrate HR, Payroll, and Timekeeping software into one user-friendly system that also offered an employee portal. We narrowed the search down to 3 companies that fit what we were looking for and began to meet with them, watch demos, compare product offerings, check references, and eventually solicited quotes from them.

After careful review, the panel determined that Paycor HCM, Inc. was the best fit for what the City of Washington needs in terms of product and value. Paycor has been in business for over 30 years and provides a more modern way to manage people and their pay. The purchase of this software and hardware will save significant staff time and has many new features including cloud-based payroll, a mobile app with employee portal login, an integrated HRIS system that will communicate with our online benefits portal, and enhanced time off management and scheduling.

Included and approved in the 2023 budget, is \$70,000 for a new Payroll and Timekeeping and HRIS software, hardware components, and implementation fees. With the Paycor quote the City will receive a promotion of 4 months free of the HCM core product fee (that is a value of \$10 per employee per month an approximate savings of \$1,300-\$1,500 per month.) As well as a 3-year price lock on our quote.

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Expected initial costs this budget year would be \$28,500 for software and implementation fees, up to \$10,000 for hardware rental costs and approximately \$10,000 for setup/integration fees from our current financial software system. Then the subsequent annual fees would be \$26,500 for software and services and \$9,900 (or less if we need fewer time clocks) for hardware rentals.

The savings of payroll and HR staff time realized along with the new employee-friendly features available will be a real asset to the City. We are excited to modernize and innovate this benefit for staff and employees alike.

Thank You.

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE
EXECUTION OF AN ORDER FOR SERVICES AGREEMENT
BY AND BETWEEN THE CITY OF WASHINGTON,
MISSOURI AND PAYCOR HCM, INC FOR PAYROLL,
TIMEKEEPING AND HRIS SOFTWARE AND HARDWARE

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

SECTION 1: The Mayor is hereby authorized and directed to accept the Order for Services Agreement by and between the City of Washington, Missouri and Paycor HCM, Inc for Payroll, Timekeeping and HRIS Software and Hardware. A copy of said agreement is marked Exhibit A and is attached hereto and incorporated herein by reference.

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

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

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Client:
City of Washington
 405 Jefferson St
 0
 Washington, MO 63090
 (636) 390-1000

Order for Services
 Prepared by Sophie Smith

Pricing Summary

 One Time Fees		 Annualized Fees		 First Year Investment	
Setup Fees	\$2,000.00	Service Fees	\$25,650.00	One Time Fees	\$2,000.00
Clock Purchase	\$0.00	Year End Fees	\$850.00	Annualized Fees	\$26,500.00
Net One Time Fees	\$2,000.00	Net Annualized	\$26,500.00	Net Total	\$28,500.00

Pricing Detail

	Payrolls	Employees	Processes per Year
City of Washington	1	150	26
City of Washington		150	26
	1	150	26

City of Washington
 New Hire Filing Fees (Incurred per new employee)

Service	Unit	Qty	\$ Cost Per	\$ Total
E-Verify Service	Per Active Employee	1	\$0.00	\$0.00
Subtotal:				\$0.00

City of Washington
 Monthly Fees

Service	Unit	Qty	\$ Cost Per	\$ Total
HCM Cor	Per Active Employee	150	\$10.00	\$1,500.00
ACA Per EE Fee			Included	0
Check Stuffing			Included	0
Electronic Custom Data File			Included	0
Employee Import			Included	0
General Ledger Report			Included	0

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<i>HR Support Ctr</i>			<i>Included</i>	0
<i>HR Support Ctr On Demand</i>			<i>Included</i>	0
<i>Labor Distribution</i>			<i>Included</i>	0
<i>Labor Law Poster</i>			<i>Included</i>	0
<i>New Hire Filing EVS</i>			<i>Included</i>	0
<i>Off-Cycle Payrun Fee</i>			<i>Included</i>	0
<i>Onboarding</i>			<i>Included</i>	0
<i>Online Check Stub</i>			<i>Included</i>	0
<i>Online Reporting</i>			<i>Included</i>	0
<i>Pay Options</i>			<i>Included</i>	0
<i>Paycor Analytics Plus</i>			<i>Included</i>	0
<i>Paycor Analytics Pro</i>			<i>Included</i>	0
<i>Paycor Compensation Planning</i>			<i>Included</i>	0
<i>Paycor Expense Management</i>			<i>Included</i>	0
<i>Paycor HR</i>			<i>Included</i>	0
<i>Paycor Pulse</i>			<i>Included</i>	0
<i>Paycor Report Builder</i>			<i>Included</i>	0
<i>Payroll and Tax Service</i>			<i>Included</i>	0
<i>Reporting Options</i>			<i>Included</i>	0
Workforce Management Pro Bundle	Per Active Time User	150	\$4.00	\$600.00
<i>Paycor Scheduling Pro</i>			<i>Included</i>	0
<i>Paycor Time</i>			<i>Included</i>	0
<i>Paycor Time Geovalidation</i>			<i>Included</i>	0
<i>Paycor Time Points & Incidents</i>			<i>Included</i>	0
360 401k Integration	Each	150	\$0.00	\$0.00
401(k) EDI Processing	Each	150	\$0.00	\$0.00
Electronic GL Monthly	Per Active Employee	150	\$0.00	\$0.00
Electronic GL Per Run	Per Active Employee	150	\$0.00	\$0.00
Employee Navigator	Per Active Employee	150	\$0.25	\$37.50
Job Costing Electronic GL	Per Active Employee	150	\$0.00	\$0.00
OnDemand Pay	Per Active Employee	1	\$0.00	\$0.00
The Work Number	Per Active Employee	1	\$0.00	\$0.00
Time Off Manager	Per Active Employee	150	\$0.00	\$0.00
			Subtotal:	\$2,137.50

City of Washington

Estimated Year End Fees (Actual value based on quantity of W2's processed. Amount varies by yearly number of employees)

Service	Unit	Qty	\$ Cost Per	\$ Total
ACA YE 1094 Fee	Each	1	\$50.00	\$50.00
ACA YE 1095 Fee	Each	150	\$1.00	\$150.00
W2 Base Fee	Each	1	\$50.00	\$50.00
W2 Processing	Each	150	\$4.00	\$600.00
			Subtotal:	\$850.00

City of Washington Implementation

Implementation Fees	Qty	\$ Cost Per	\$ Total
401KEDI Setup Fee	1	\$0.00	\$0.00
ACA Setup Fee	150	\$0.00	\$0.00

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Electronic GL Setup Fee	1	\$0.00	\$0.00
Employee Navigator Setup Fee	1	\$0.00	\$0.00
Onboarding Setup Fee	150	\$0.00	\$0.00
Paycor HR Setup Fee	150	\$0.00	\$0.00
Paycor Time Setup Fee	150	\$0.00	\$0.00
Payroll Setup Fee	150	\$13.33	\$2,000.00
Subtotal:			\$2,000.00

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Order Summary for City of Washington
 405 Jefferson St
 0, Washington, MO 63090
 (636) 390-1000

City of Washington (Bi-weekly processing on MM - HCM Core Pricing solution)

	Occurrences	\$ Cost Per	\$ Total
Per Payroll Processing Fees	26	\$0.00	\$0.00
Monthly Fees	12	\$2,137.50	\$25,650.00
Estimated Year End Fees	1	\$850.00	\$850.00
Annualized Total			\$26,500.00

City of Washington Total

	\$ Total
Per Payroll Processing Fees – Annual Total	\$0.00
Monthly Fees – Annual Total	\$25,650.00
Estimated Year End Fees – Annual Total	\$850.00
Annualized Total	\$26,500.00
Implementation Fees	\$2,000.00

The client specified above ("You," "Your," or "Client"), has executed this Order for Services ("Order") as of the date set forth below for the products and services identified herein and any subsequent Order issued hereunder. This Order, and any subsequent Orders provided thereunder, and Your receipt of any products or services are governed by and subject to the Provider Terms and all applicable additional terms (each as defined in the Provider Terms, collectively 'Provider Terms'), a copy of which can be accessed at <https://www.paycor.com/terms-and-conditions-01feb2023/> (which may be updated from time to time). You acknowledge and agree that Your signature below constitutes Your consent to be bound by this Order, the Provider Terms and any Third-Party Terms (if applicable, as defined in the Provider Terms), and all other applicable terms for services You order. All capitalized terms herein as defined in the Provider Terms.

Monthly Fees

Bundled Pricing: If Client purchases Paycor Services that are subject to bundled pricing, Paycor will begin billing Client monthly Fees for the month during which Client first processes payroll.

Non-Bundled Pricing: If Client purchases Paycor Services which are not subject to bundled pricing, Paycor will begin billing Client for Fees either for the month during which the Paycor Service is activated or when Client first processes payroll, whichever occurs later. Paycor will bill all recurring monthly and per processing fees at minimum once per month.

Prices for in-application purchases are not included in this Order and will be included in the invoice following the in-application purchase.

Year End Fees: Paycor will bill year end fees following the provision of year-end services.

Miscellaneous Fees: Any miscellaneous fees accrued will be included on Client's next regular invoice.

Payment Terms: Client will pay all invoices in accordance with the due date set forth on such invoice.

Volume Based Pricing: The prices for certain Services as set forth on this Order may be volume and/or transaction based and totals reflected on the Order are based upon estimated volumes as specified by the Client. You will be invoiced based upon the actual quantity of Units as outlined in this Order.

3A6



Minimum Volume or Fee Requirements: Certain Services may also be subject to a minimum employee count or minimum fee requirement. If You do not meet the minimum requirement for the applicable Services, You may be assessed a minimum fee for such monthly period. Any minimum fee will be considered a Miscellaneous Fee.

Clocks: If Client rents or purchases Clocks with time services, the following language shall apply:

Rented Clocks: Unless otherwise set forth in the applicable Order, all fees for Rented Clocks shall begin (and shall be invoiced from) the first day of the month in which the Rented Clock is shipped to Client (unless that Rented Clock has been returned) regardless of when in the month those Rented Clock(s) are ordered and shipped to Client.

Purchased Clocks: The purchase price for the Purchased Clocks is the amount set forth on the Order (which includes the clock price and an extended warranty), which will be billed and shall be paid by the last day of the month in which the Purchased Clock is shipped to the Client.

Additional Terms

Implementation Recovery Fee. Notwithstanding anything to the contrary in the Agreement, You understand and acknowledge that as a result of entering into this Agreement: (a) Paycor will expend material time and effort to onboard You into Paycor systems; (b) any Implementation Fees paid by You to Paycor do not fully cover the cost of such onboarding; and (c) that You will owe Paycor a fee ('Implementation Recovery Fee') as consideration for such onboarding efforts in the event that:

(i) Unless otherwise mutually agreed by the parties, You do not commence processing of payroll prior to the six-month anniversary of the effective date of this Agreement, in which case, Paycor may bill the Implementation Recovery Fee after the six-month anniversary of the effective date of this Agreement;

(ii) You request to terminate the Agreement prior to your first payroll run date, in which case, Paycor may bill the Implementation Recovery Fee upon your request to terminate the Agreement prior to your first payroll run date, or;

(iii) You fail to reasonably participate in or cooperate with Paycor's implementation of the Services as determined within Paycor's reasonable discretion, in which case, Paycor may bill the Implementation Recovery Fee upon your failure to reasonably cooperate with or respond in a reasonably timely manner to Paycor's efforts to implement the Services prior to your first payroll run date.

The foregoing Implementation Recovery Fee will be not charged if any of (i) (ii) or (iii) result from an uncured material breach of this Agreement by Paycor, as determined within Paycor's reasonable discretion.

Such Implementation Recovery Fee will be in an amount equal to one-half of the 'Annualized Total' provided above, less any amounts actually paid by You under this Agreement (other than Implementation Fees). For the purposes of this section Annualized Total is defined as \$26,500.00. Paycor's collection of the Implementation Recovery Fee shall not limit Paycor's right to collect any such amounts as otherwise provided in the terms of the Agreement.

Early Termination Fee Acknowledgement. Initial Here: _____

Implementation Fees. Notwithstanding anything to the contrary in the Provider Terms, Paycor will bill Client fifty percent (50%) of the total Implementation Fees within seven (7) days of Client signing the Agreement and the remaining fifty percent (50%) of the total Implementation Fees will be billed when Client first processes payroll. If Client and Paycor have signed a Statement of Work, Paycor will bill for services monthly as delivered. Implementation Fees are non-refundable.

Provider will provide You with promotional credits (the 'Credits') equal to any monthly fees incurred in using Provider's HCM Cor service for the first 4 (four) months commencing the month of Your first payroll run date. The parties understand and agree that neither Implementation Fees nor any other Payroll-related fees (including without limitation paycheck shipping and handling fees) are a part of the offer and that all fees other than the monthly or per-processing payroll fees (excluding delivery) will remain payable by You according to the terms of this Order and the Provider Terms. Prices may be subject to change if this Order is not accepted 2023-03-09

Except for miscellaneous fees and certain other costs, including but not limited to delivery fees, NSF fees, wire transfer fees and EFT reissue fees, the prices set forth on this Order are guaranteed for 36 (thirty-six) months from the date of Your first payroll run date (the "Price Lock Period").

Notwithstanding anything to the contrary in the Agreement, Provider will provide You with Provider's W2 Processing Fee associated with W2s for calendar year 2023 at no cost. Thereafter, the Provider W2 Processing shall be billed at the rate(s) set forth in the Order. The parties understand and agree that neither Implementation Fees nor any other service fees (including without limitation paycheck shipping and handling fees) are a part of this offer and that all fees will remain payable by You according to the terms of this Order and the Agreement.

OnDemand Pay. As part of the services to which you are subscribing, you will have access to Pay on Demand ('Payactiv Services') provided by Third-Party Provider, PayActiv, Inc ('PayActiv'). In order to access any of the services offered by PayActiv, please executed the Program Summary Form. By accessing any of the Payactiv Services, you confirm that you have read, understand, and agree with the Program Summary Form and the terms and conditions referenced therein. You acknowledge that Payactiv Services are 'Third-Party Products' as provided under the Provider Terms and consents to Provider sending the Program Summary Form and the data included therein to PayActiv.



The Work Number Service. The Work Number service (the 'The Work Number Service') is a service that provides subscribing employers with an automated method of providing employment and income verifications to authorized third parties. If Client subscribes to The Work Number Service, it consents to data transmissions between Provider and the third-party provider, TALX Corporation, a wholly owned subsidiary of Equifax, Inc. and a provider of Equifax Workforce Solutions. By subscribing to The Work Number Services, Client agrees to allow TALX Corporation to act on the behalf of the Client when working with an authorized third party ('Verifier') making a request with a federal Fair Credit Reporting Act ('FCRA') permissible purpose to verify employment and/or income information ('Employment Data') in connection with The Work Number Service. The type of Employment Data that may be exchanged under The Work Number Service may be found at <https://www.paycor.com/wp-content/uploads/2021/12/The-Work-Number-Employment-Data-List.pdf>. Client authorizes Provider to transmit Employment Data entered into Provider Products and Services to TALX Corporation on behalf of Client in order to furnish TALX Corporation with the data needed to provide The Work Number Service. As the furnisher, Client further agrees to comply with its obligations as a furnisher as defined in FCRA and as set forth in the NOTICE TO FURNISHERS OF INFORMATION: OBLIGATIONS OF FURNISHERS UNDER THE FCRA which may be found at <https://www.paycor.com/wp-content/uploads/2021/12/The-Work-Number-Notice-to-Furnisher-of-Information.pdf>.

Labor Law Poster. With the Labor Law Poster service, you will have access to Poster Elite's E-Update Service ('Poster Elite Service') provided by Third-Party Provider, Elite Business Ventures, Inc. To activate the Labor Law Poster service, you must fill out an information request form that will be provided or made available to you as part this service. By accessing the Poster Elite Service, you confirm that you have read, understand, and agree with the terms and conditions for the Poster Elite Service located at www.PosterElite.com/eupdate_terms_of_use. You also acknowledge that the Poster Elite Service is a 'Third-Party Product' as provided under the Provider Terms and consent to Provider sending information needed to fulfill your order, including contact and shipping information to Elite Business Ventures, Inc.

Client Acknowledgements; Representation. You acknowledge and agree that: (i) this Order may be considered an application for credit; (ii) You authorize Provider to investigate Your credit including vendor references, bank account status and history, and the personal credit of the owner(s) and/or principal(s); and (iii) Provider may elect not to provide certain Provider Services (as defined in the Provider Terms) requested by You based upon factors determined to be relevant by Provider in its sole discretion, including, without limitation, Provider's review of Your credit history.

No Order, Supplement Agreement, Other Agreement or the Provider Terms may be modified or amended except by a separate written amendment executed by authorized representatives of each party. Handwritten changes and modifications, even if initialed, are invalid and shall be of no force or effect.

Client is properly authorized to execute this Order and all internal approvals that the Client may require have been obtained prior to the Order being executed. By signing this Order, I certify that I am authorized to sign on behalf of the Client and agree to the terms of this Order and any documents incorporated herein.

Paycor Inc.

By
Name
Title
Date

Client: City of Washington

By
Name Shauna Pfitzinger
Title Human Resources Manager
Date

3A6



April 3, 2023

Mayor & City Council
City of Washington
Washington, MO 63090

Re: Oldenburg Industrial Park Deeds of Release

Mayor & City Council,

On your agenda for approval are two ordinances issuing deeds of the release related to the Oldenburg Industrial Park. The first of which is to release any City interest in Lot 1 and finalize the sale to AZZ Precoat Metals.

The second of which is finalize the ownership of land dedicated to the City in the final plat and release the remaining acreage solely back to the 353 Redevelopment Corporation. The plat demonstrates approximately 29% of the park to remain under City ownership. This includes the road right-of-way, the retention basin, and the conservation easement around the creek. This deed of release certifies that the City owns those portions of land and releases the remaining acreage back to 353.

Neither of these documents require any payments or changes in the existing loan to 353, but are the necessary paperwork to allow Precoat to close on Lot 1.

Feel free to reach out with any questions.

Sincerely,

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

Sal Maniaci
Community and Economic Development Director

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE
EXECUTION OF A QUIT CLAIM DEED BY AND BETWEEN
THE CITY OF WASHINGTON, MISSOURI AND THE
WASHINGTON MISSOURI REDEVELOPMENT
CORPORATION

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 Quit Claim Deed by and between the City of Washington, Missouri and Washington Missouri Redevelopment Corporation, 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 Deed 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

QUIT-CLAIM DEED

This Deed Witnesseth that, on _____, 2023, the City of Washington, Missouri, a municipal corporation, of Franklin County, Missouri, Grantor, for and in consideration of Ten Dollars (\$10) and other good and valuable consideration, in hand paid, does by these presents, REMISE, RELEASE and FOREVER QUIT-CLAIM unto the Washington, Missouri Redevelopment Corporation, a Missouri redevelopment corporation, Grantee, its successors and assigns, c/o Robert A. Zick, Zick, Voss, Politte, Richardson & Brinker, P.C. 438 West Front St., P.O. Box 2114, Washington, Missouri 63090, the following land situated in Franklin County, Missouri:

All of Grantor's undivided twenty-nine percent (29%) tenancy in common interest in the following land:

TRACT I

A PARCEL OF LAND BEING A PORTION OF THE SOUTH HALF OF SECTION 18, TOWNSHIP 44 NORTH, RANGE 1 WEST OF THE 5TH P.M., FRANKLIN COUNTY, MISSOURI, SAID PARCEL BEING A PORTION OF THAT PARCEL CONVEYED TO WATERMAN FARMS, INC. BY DEED RECORDED IN BOOK 1232, PAGE 565 OF THE FRANKLIN COUNTY, MISSOURI RECORDER OF DEEDS OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND STONE AT THE WEST QUARTER CORNER OF SECTION 18, TOWNSHIP 44 NORTH, RANGE 1 WEST, THENCE N88°57'55"E ALONG THE EAST-WEST CENTERLINE OF SECTION 18, 952.36 FEET TO A POINT ON THE EAST LINE OF LOT 4 OF THE PLAT OF HICKORY CREEK EAST AS RECORDED IN PLAT BOOK N, PAGE 654 OF SAID RECORDER OF DEEDS OFFICE AND THE NORTHWEST CORNER OF THE SAID WATERMAN FARMS, INC PARCEL AND THE POINT OF BEGINNING, THENCE CONTINUING ALONG THE EAST-WEST CENTERLINE OF SECTION 18, N88°57'55"E 2915.58 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL CONVEYED TO UNNERSTALL LP BY DEED RECORDED AS DOCUMENT NO. 1904302 OF SAID RECORDER OF DEEDS OFFICE, SAID POINT ALSO BEING ON THE SOUTHWESTERN RIGHT OF WAY LINE OF MISSOURI HIGHWAY 100, FROM WHICH AN IRON ROD AT THE NORTHWEST CORNER OF LOT 2 OF THE PLAT OF BAKER ESTATES

PLAT 3 AS RECORDED IN PLAT BOOK N, PAGE 179 OF SAID RECORDER OF DEEDS OFFICE BEARS N88°57'55"E 1354.60 FEET; THENCE ALONG SAID RIGHT OF WAY LINE, 152.54 FEET ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 2128.07 FEET, AND A CHORD THAT BEARS S59°49'03"E 152.50 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE AND CROSSING SAID WATERMAN FARMS, INC. PARCEL, S30°03'53"W 1018.87 FEET; THENCE S59°56'07"E 950.95 FEET TO A POINT ON THE WESTERN LINE OF THAT PARCEL CONVEYED TO HILKE BY DEED RECORDED AS DOCUMENT NO. 20031804 OF SAID RECORDER OF DEEDS OFFICE; THENCE ALONG THE WESTERN LINE OF SAID HILKE PARCEL, S30°03'53"W 932.37 FEET TO A POINT IN THE CENTERLINE OF A CREEK; THENCE ALONG THE CENTERLINE OF SAID CREEK, N10°45'31"W 46.40 FEET; THENCE S84°08'28"W 113.86 FEET; THENCE N40°52'02"W 162.24 FEET; THENCE S73°37'42"W 85.57 FEET; THENCE N73°30'46"W 46.09 FEET; THENCE N50°57'18"W 43.59 FEET; THENCE N11°33'21"W 51.87 FEET; THENCE N86°07'45"W 68.74 FEET; THENCE N73°15'45"W 131.49 FEET; THENCE S69°08'44"W 136.32 FEET; THENCE N57°11'31"W 328.33 FEET; THENCE S78°00'03"W 228.22 FEET; THENCE N65°35'10"W 283.16 FEET; THENCE N38°58'59"W 181.92 FEET; THENCE N48°49'28"W 227.65 FEET; THENCE N54°02'50"W 174.04 FEET TO A 24" OAK TREE; THENCE N63°44'40"W 515.56 FEET; THENCE N74°05'21"W 364.82 FEET; THENCE S81°31'42"W 83.55 FEET; THENCE N79°08'10"W 54.52 FEET TO A POINT THAT BEARS S02°12'44"E 95.42 FEET FROM AN EXISTING 48" OAK TREE AT THE SOUTHEAST CORNER OF LOT 5 OF SAID PLAT OF HICKORY CREEK EAST; THENCE LEAVING SAID CREEK AND ALONG THE COMMON LINE WITH SAID LOTS 4 AND 5 OF HICKORY CREEK EAST AND WATERMAN FARMS, INC. PARCEL, N02°12'44"W 1005.01 FEET TO THE POINT OF BEGINNING, CONTAINING 4,782,996 SQUARE FEET, OR 109.81 ACRES, MORE OR LESS.

TRACT II

A PARCEL OF LAND BEING A PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 44 NORTH, RANGE 1 WEST OF THE 5TH P.M., FRANKLIN COUNTY, MISSOURI, SAID PARCEL BEING A PORTION OF THAT PARCEL CONVEYED TO WATERMAN FARMS, INC. BY DEED RECORDED IN BOOK 1232, PAGE 565 OF THE FRANKLIN COUNTY, MISSOURI RECORDER OF DEEDS OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 2 OF THE PLAT OF BAKER ESTATES PLAT 3 AS RECORDED IN PLAT BOOK N, PAGE 179 OF SAID RECORDER OF

DEEDS OFFICE, FROM WHICH A FOUND STONE AT THE WEST QUARTER CORNER OF SECTION 18 BEARS S88°57'55"W 5222.54 FEET, AND STONE BEARS S11°58'45"W 1417.49 FEET, THENCE S11°58'45"W ALONG THE WEST LINE OF LOTS 1 AND 2 OF SAID PLAT OF BAKER ESTATES PLAT 3,355.51 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE NORTHERN RIGHT OF WAY LINE OF MISSOURI HIGHWAY 100; THENCE N 78°07'27" W ALONG SAID RIGHT OF WAY LINE, 599.99 FEET; THENCE 581.22 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1935.93 FEET, AND A CHORD THAT BEARS N69°31'24"W 579.04 FEET TO THE SOUTHWEST CORNER OF LOT 21 OF THE PLAT OF HEIDMANN INDUSTRIAL PARK PLAT 8 AS RECORDED AS DOCUMENT NO. 1004504 OF SAID RECORDER OF DEEDS OFFICE SAID POINT ALSO BEING ON THE EAST-WEST CENTERLINE OF SECTION 18; THENCE N88°57'55"E ALONG THE EAST-WEST CENTERLINE AND SOUTH LINE OF SAID PLAT, 1203.58 FEET TO THE POINT OF BEGINNING, CONTAINING 242,839 SQUARE FEET, OR 5.57 ACRES, MORE OR LESS.

THIS DOCUMENT, INCLUDING THE LEGAL DESCRIPTION, WAS PREPARED BY ZICK, VOSS, POLITTE, RICHARDSON & BRINKER, P.C., SOLELY UPON INFORMATION FURNISHED BY THE PARTIES OR THEIR AGENTS, AND WITHOUT TITLE SEARCH OR EXAMINATION, PER THEIR REQUEST.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the said Grantee and to the successors and assigns of such Grantee forever; so that neither the Grantor nor the successors and assigns of the Grantor, nor any other persons for or in the name of the Grantor, shall or will hereafter claim or demand any right or title to the aforesaid premises, or any part thereof, but they and every one of them shall by these presents be excluded and forever barred.

THE CITY OF WASHINGTON, MISSOURI

By: _____
James D. Hagedorn, Mayor

ATTEST:

Sherri Klekamp, City Clerk

STATE OF MISSOURI)
) ss.
COUNTY OF FRANKLIN)

On this _____, 2023, before me personally appeared James D. Hagedorn, to me known, who being by me duly sworn, did say that he is the Mayor of the City of Washington, Missouri, a municipal corporation, and that said instrument was signed in behalf of said corporation, by authority of its City Council, and acknowledged said instrument to be the free act and deed of said corporation.

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.

Notary Public, State of Missouri
Commissioned in _____ County
Commission No.

My Commission Expires:
_____.

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April 3, 2023

Mayor & City Council
City of Washington
Washington, MO 63090

Re: Oldenburg Industrial Park Deeds of Release

Mayor & City Council,

On your agenda for approval are two ordinances issuing deeds of the release related to the Oldenburg Industrial Park. The first of which is to release any City interest in Lot 1 and finalize the sale to AZZ Precoat Metals.

The second of which is finalize the ownership of land dedicated to the City in the final plat and release the remaining acreage solely back to the 353 Redevelopment Corporation. The plat demonstrates approximately 29% of the park to remain under City ownership. This includes the road right-of-way, the retention basin, and the conservation easement around the creek. This deed of release certifies that the City owns those portions of land and releases the remaining acreage back to 353.

Neither of these documents require any payments or changes in the existing loan to 353, but are the necessary paperwork to allow Precoat to close on Lot 1.

Feel free to reach out with any questions.

Sincerely,

Sal Maniaci
Community and Economic Development Director

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE
EXECUTION OF A QUIT CLAIM DEED OF RELEASE BY
AND BETWEEN THE CITY OF WASHINGTON, MISSOURI
AND THE WASHINGTON MISSOURI REDEVELOPMENT
CORPORATION

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 Quit Claim Deed of Release by and between the City of Washington, Missouri and the Washington Missouri Redevelopment Corporation, 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 Deed of Release and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

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

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

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

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

EXHIBIT I

QUIT-CLAIM DEED OF RELEASE

This Deed Witnesseth that, on _____, 2023, the City of Washington, Missouri, a municipal corporation, of Franklin County, Missouri, Grantor, for and in consideration of Ten Dollars (\$10) and other good and valuable consideration, in hand paid, does by these presents, REMISE, RELEASE and FOREVER QUIT-CLAIM unto the Washington, Missouri Redevelopment Corporation, a Missouri redevelopment corporation, Grantee, its successors and assigns, c/o Robert A. Zick, Zick, Voss, Politte, Richardson & Brinker, P.C. 438 West Front St., P.O. Box 2114, Washington, Missouri 63090, the following land situated in Franklin County, Missouri:

Lot One (1) of Oldenburg Industrial Park Plat 1, a subdivision in the City of Washington being part of the South half of Section 18, Township 44 North, Range 1 West of the 5th P.M., as per plat of record in Document No. 231108 in the office of the Recorder of Deeds.

THIS DOCUMENT, INCLUDING THE LEGAL DESCRIPTION, WAS PREPARED BY ZICK, VOSS, POLITTE, RICHARDSON & BRINKER, P.C., SOLELY UPON INFORMATION FURNISHED BY THE PARTIES OR THEIR AGENTS, AND WITHOUT TITLE SEARCH OR EXAMINATION, PER THEIR REQUEST.

This Deed is made in partial release of, and satisfaction for, a certain Deed of Trust dated October 27, 2021, recorded on October 28, 2021, as Document No. 2120405 with the Franklin County, Missouri Recorder of Deeds.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging, unto the said Grantee and to the successors and assigns of such Grantee forever; so that neither the Grantor nor the successors or assigns of the Grantor, nor any other persons for or in the name of the Grantor, shall or will hereafter claim or demand any right or title to the aforesaid premises, or any part thereof, but they and every one of them shall by these presents be excluded and forever barred.

THE CITY OF WASHINGTON, MISSOURI

By: _____
James D. Hagedorn, Mayor

ATTEST:

Sherri Klekamp, City Clerk

STATE OF MISSOURI)
) ss.
COUNTY OF FRANKLIN)

On this _____, 2023, before me personally appeared James D. Hagedorn, to me known, who being by me duly sworn, did say that he is the Mayor of the City of Washington, Missouri, a municipal corporation, and that said instrument was signed in behalf of said corporation, by authority of its City Council, and acknowledged said instrument to be the free act and deed of said corporation.

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.

Notary Public, State of Missouri

Commissioned in _____ County
Commission No.

My Commission Expires:
_____.



March 20, 2023

City Council,

For the past several years, the Washington Town and Country Fair Board has requested AT&T to bring back the Cell on Wheels equipment to the fairgrounds to improve mobile communications during the Fair without success. AT&T had previously provided the Cell on Wheels equipment for a number of years at the Fair, but two to three years ago, they set up a new permanent site on West Main Street to improve coverage and volume in the area, believing the new site would be able to handle the demand during the Fair. That assumption has proven inaccurate.

After the 2022 Fair, Jennifer Geisike and myself began joint meetings with AT&T representatives to bring the Cell on Wheels equipment back in an attempt to improve coverage during peak times. Our meetings were met with success and AT&T has agreed to return the equipment for this year's Fair. It is important to point out that Washington Emergency Services use AT&T FirstNet, and communications during that event are critical.

We are asking Council to approve the attached Temporary Site License with AT&T in order to get the equipment here before August.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Skornia".

Mark Skornia
Emergency Management Director

3Ca

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A TEMPORARY SITE LICENSE AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI AND NEW CINGULAR WIRELESS PCS, 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 Temporary Site License by and between the City of Washington, Missouri and New Cingular Wireless PCS, 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 License 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

Site Name: WashTCFair23

Site No: MOU3333 (FA10015187)

Exhibit I

TEMPORARY SITE LICENSE

LICENSOR: City of Washington, Missouri
c/o James D. Hagedorn, Mayor
405 Jefferson St., Washington, MO 63090

LICENSEE: New Cingular Wireless PCS, LLC and its affiliates

TERM: **15 June 2023** through **15 August 2023** as may be extended pursuant to this License.

LICENSE FEE: \$500.00 per month (prorated for any partial month)

COMMENCEMENT DATE: **15 June 2023**

LICENSED SITE: Bernie E. Hillerman Park
1194 North Park Drive
Washington, MO 63090
(See Site Plan – Attachment A – for location in Park)

1. License of Site. During the Term hereof, Licensor hereby licenses a certain portion of Licensor’s property (the “**Property**”) at the Licensed Site and grants to Licensee the right to install, operate and maintain at Licensee’s expense and risk, temporary communications transmitting and receiving equipment, including (without limitation) antennas, poles, masts, transmission line(s), vehicles and accessories (collectively, the “**Equipment**”) at the Licensed Site. Licensee shall at all times have the unrestricted right to enter or leave the Licensed Site with full and complete access to its Equipment on a 24-hour, seven (7) day per week basis. At its discretion, Licensee may take at its expense measures and precautions necessary to protect the Equipment

2. License Fee. Within thirty (30) days after the date of this License, Licensee shall pay Licensor the License Fee for the first full month of the Term plus, if the Term shall commence on a date other than the first day of a month, the prorated License Fee due for such initial partial month. The License Fee for each subsequent month shall be due and payable in full by not later than the first day of that month.

3. Extension of Term. At the sole discretion of Licensee, Licensee may extend the Term for additional periods of 1 month each upon the same terms and conditions by providing Licensor with written notice prior to the end of the Term. If Licensee remains in possession of the Licensed Site after the expiration of this License, then Licensee will be deemed to be occupying the Licensed Premises on a month-to-month basis. Notwithstanding anything contained herein to the contrary, Licensee shall not be permitted to extend the Term beyond October 31, 2023.

4. Removal of Equipment and Site Condition. Except as set forth herein, Licensee takes the Licensed Site as it finds it and Licensor shall have no responsibility for its condition or any damage suffered by Licensee or any

Site Name: WashTCFair23

Site No: MOU3333 (FA10015187)

other person due to such condition. Unless otherwise mutually agreed by the parties, Licensee shall remove all of the Equipment prior to the end of the Term, and any extensions thereof, and shall leave the Licensed Site in substantially the same condition that existed as of the date of this License, ordinary wear and tear and occurrences for which Licensee is not responsible hereunder, excepted.

5. Indemnification; No Consequential or Indirect Damages. Licensee shall indemnify and hold Licensor harmless against any liability or loss from personal injury or property damage resulting from or arising out of the use or occupancy of the Property by Licensee or its employees or agents, provided, however, Licensee shall have no obligation to indemnify or hold harmless against any such liabilities and losses as may be due to or caused by the acts or omissions of Licensor or its employees or agents. To the extent permitted by law, Licensor shall indemnify and hold Licensee harmless against any liability or loss from personal injury or property damage resulting from or arising out of (1) the use or occupancy of the Property by Licensor or its employees or agents or (2) contamination of the Property subsurface or structures with hazardous substances; provided, however, Licensor shall have no obligation to indemnify or hold harmless against any such liabilities and losses as may be due to or caused by the acts or omissions of Licensee or its employees or agents. Except for the indemnity obligations set forth in this Agreement, and otherwise notwithstanding anything to the contrary in this Agreement, Licensor and Licensee each waives any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based on any theory of liability.

6. Operation of Equipment. Licensee will install, operate and maintain its Equipment in accordance with applicable laws and regulations so as not to cause interference (as that term is defined in the rules and regulations of the Federal Communications Commission), with any radio or television transmitting or receiving equipment whether or not such equipment is located on the Licensed Site. In the event that Licensee's Equipment causes interference with other radio or television transmissions, Licensee will promptly take all reasonable steps necessary to correct and eliminate the same. If Licensee is unable to eliminate the interference within a reasonable period of time, Licensee agrees to remove the Equipment from the Licensed Site and this License shall be terminated.

7. Assignment. Licensee shall have the right to assign this License to any present or future affiliate of Licensee, without securing the consent of Licensor and may grant to any such assignee the same rights and privileges Licensee enjoys under this License.

8. Electrical Service/Telephone Service. Licensee agrees, at Licensee's sole cost and expense, to pay for the electric service and fees needed for the operation of Licensee's equipment. Licensor agrees to grant the electric utility company any necessary permission, including temporary easement, for the electric line and meter installation, should the electric utility company require written permission or temporary easement. Licensee will be allowed to leave the facility compound in place at the end of the Term unless otherwise directed to remove it by the Licensor in writing.

9. Damage to Licensed Site. If the Licensed Site or any portion thereof is damaged for any reason so as to render the Licensed Site unusable for Licensee's intended purpose, the License Fee shall abate for such period as the Licensed Site is unusable. In addition, Licensee may at its option, elect to terminate this Agreement.

Site Name: WashTCFair23

Site No: MOU3333 (FA10015187)

10. Notices. Any notice or demand required or permitted to be given or made hereunder shall be deemed given when received. Notices may be sent by messenger delivery, overnight delivery, or by certified mail in a sealed envelope, postage prepaid, addressed in the case of Licensor to:

City of Washington, Missouri
Attention: City Administrator
405 Jefferson Street
Washington, MO 63090

With a copy to:

Mark C. Piontek
Sandberg Phoenix & von Gontard PC
1200 Jefferson St.
Washington, MO 63090

and addressed in the case of Licensee, to:

AT&T Network Real Estate Administration
Re: Site No. MOU3333, Name: WashTCFair 2023 (MO)
FA#: 10015187
575 Morosgo Drive
Atlanta, GA 30324

With a copy to:

By U.S. Postal Service or Overnight Courier
AT&T Legal Department- Network
Attn: Network Counsel
Re: Site No. MOU3333, Name: WashTCFair23 (MO)
FA#: 10015187
208 S. Akard Street
Dallas, Texas 75202-4206

11. Waiver. Failure or delay on the part of Licensor or Licensee to exercise any right, power or privilege hereunder shall not operate as a waiver thereof.

12. Prior Negotiations. This License constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and shall supersede all prior offers, negotiations and agreements.

13. Amendment. No revision of this contract shall be valid unless made in writing and signed by duly authorized officers or representatives of Licensee and Licensor.

14. Licensor's Representations. Licensor represents and warrants that it owns or otherwise controls the Licensed Site during the Term of this License, and that Licensor has full authority to execute and deliver this License.

Site Name: WashTCFair23

Site No: MOU3333 (FA10015187)

15. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State in which the Licensed Site is located.

IN WITNESS WHEREOF, the parties have executed this License as of the ____ day of _____, 20__.

LICENSOR:

City of Washington, Missouri

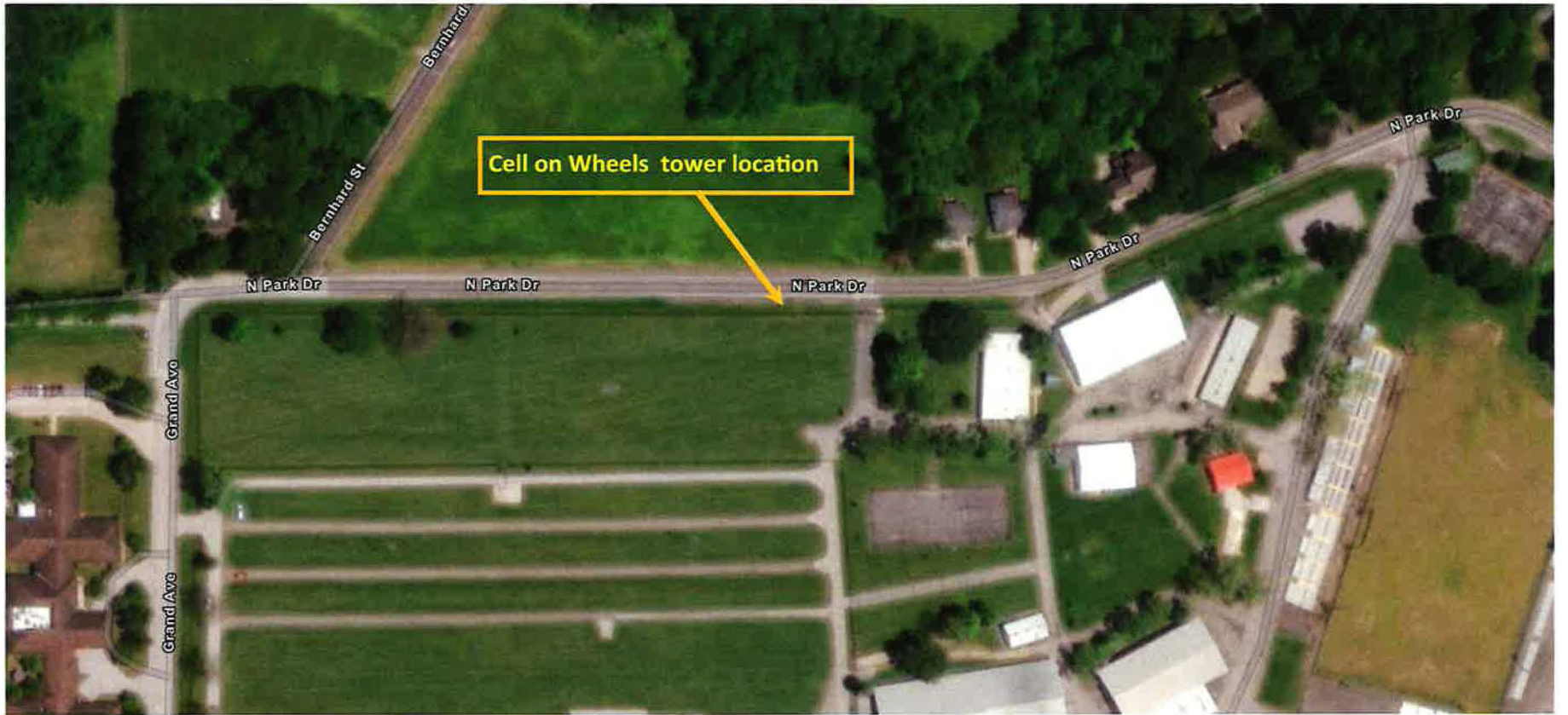
By: _____
James D. Hagedorn, Mayor

LICENSEE:

New Cingular Wireless PCS, LLC
By: **AT&T Mobility Corporation**
Its Manager

By: _____
Name: Michael Bridwell
Title: Area Manager Construction and Engineering

Attachment A





April 3, 2023

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

RE: Town & Country Fair Agreement

Honorable Mayor and City Council,

Attached is an updated three-year Town & Country Fair Agreement with the Chamber of Commerce for the years 2023 – 2025. This will be the second official agreement the City has entered into with The Chamber of Commerce for the Fair.

The City will continue to provide the Fairgrounds and surrounding areas in Hillermann Park in addition to police and support services that it has historically provided in the past. The City will receive a payment of \$20,000 each year of the agreement. In addition, the City will receive 10% of the net profit the Chamber of Commerce earns from the Fair each year this Agreement is in effect, in excess of \$200,000.

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

Respectfully,

Wayne Dunker

Wayne Dunker, MA, CPRP
Director of Parks & Recreation

3Da

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A FAIRGROUNDS OPERATING AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON AND THE WASHINGTON CHAMBER OF COMMERCE, A/K/A WASHINGTON AREA CHAMBER OF COMMERCE, D/B/A WASHINGTON TOWN & COUNTRY FAIR

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 Fairgrounds Operating Agreement by and between the City of Washington, Missouri and the Washington Chamber of Commerce, a/k/a Washington Area Chamber of Commerce, d/b/a Washington Town & Country Fair, 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
FAIRGROUNDS OPERATING AGREEMENT

This Agreement made and entered into this _____ day of _____, 2023 by and between the **City of Washington, Missouri**, a Third-Class City and Municipal Corporation of the State of Missouri (hereinafter the “City”) and the **Washington Chamber of Commerce, a/k/a Washington Area Chamber of Commerce, d/b/a Washington Town & Country Fair**, a Missouri benevolent corporation (hereinafter the “Chamber”).

WHEREAS, the City owns and operates public parks including, but not limited to, an area that is commonly referred to as the Washington Fairgrounds (the “Fairgrounds”) as shown on Exhibit A attached hereto and incorporated herein by reference.

WHEREAS, the Chamber owns and operates the Washington Town & Country Fair (the “Fair”) at the Fairgrounds; and

WHEREAS, the Chamber desires to contract with the City for the continued use of the Fairgrounds and the City desires to contract with the Chamber.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained the parties hereto do agree as follows:

Article One – Term

The term of this Agreement shall be for a period of three (3) years commencing on the 5th day of July 2023 and shall terminate on the 31st day of August 2025.

Article Two – Services to be Provided

1. Electric Service. Chamber shall pay for electric service for all meters listed on Exhibit B for use from July 5 to August 31 of each year this Agreement is in effect.
2. Rental Fee. The Chamber shall have exclusive access to the Fairgrounds during the term specified in Article 1 hereof in return for the payment of an annual rental fee of Twenty Thousand and 00/100 Dollars (\$20,000.00), which shall be payable on or before October 1 of each year this Agreement is in effect. Also, as additional rent hereunder, the Chamber shall pay the City Ten percent (10%) of the net profit the Chamber earns from the Fair each year this Agreement is in effect in excess of Two Hundred Thousand and 00/100 Dollars (\$200,000.00). The additional rent shall be paid by the Chamber to the City on or before January 15 of the following year.

3. Police Services. Any law enforcement services required by the Chamber to be provided at the Fair shall be billed by the City to the Chamber. The invoice shall be due and payable within thirty (30) days after the date of the invoice.
4. Support Services. The City shall provide such support equipment as the Chamber may request and as the City may reasonably have available upon such terms as the parties may mutually agree.
5. Condition of the Fairgrounds. On or before August 31 or each year that this Agreement is in effect the Chamber shall restore the Fairgrounds to the condition it was in prior to that year's Fair as nearly as is reasonably possible.
6. Parking. The City shall permit parking for the Fair at the City's Team Track property located at 2010 W. Main Street, Washington, Missouri.
7. Signage. The Chamber shall be permitted to place temporary signage at the Fairgrounds including, but not limited to, placards, advertisements, or inscriptions. All temporary signage shall be removed not later than August 31 of each year this Agreement is in effect. If any of the aforementioned items are left longer than the set period, the City shall have the authority to have the above items removed at the Chamber's cost and expense.

Article Three – Insurance

During the term of this Agreement the Chamber shall maintain insurance providing the following coverages naming the City as an additional insured with endorsement:

- (1) Worker's Compensation – as required by law.
- (2) Commercial Comprehensive General Liability – with a limit of not less than \$3,000,000.00 for all claims arising out of a single act or occurrence and not less than \$1,000,000.00 for any one person in a single accident or occurrence.
- (3) Comprehensive Automobile Liability – including owned, non-owned and hired cars, with a limit of not less than \$3,000,000.00 for all claims arising out of a single act or occurrence and not less than \$1,000,000.00 for any one person in a single accident or occurrence.

Each policy shall provide for a waiver of subrogation and contain a severability of interest provision.

The Chamber shall furnish the City with a Certificate of Insurance evidencing that such insurance is in force with companies acceptable to the City and will continue in force during the term of this Agreement. Each Certificate of Insurance shall contain a clause to the effect that the policy shall not be subject to cancellation or reduction of amounts of coverage without thirty (30) days prior written notice to the City. Any attempt by the Chamber to cancel or modify such insurance coverage, or any failure by

the Chamber to maintain such coverage, will be a default hereunder and, upon such default, the City will have the right to terminate this Agreement and/or exercise any of its rights at law or at equity.

Article Five – Indemnification

The Chamber shall save and hold the City harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which arise out of or are connected with, or are claimed to arise out of or be connected with, the services performed by the Chamber, or its agents, servants, subcontractors or employees, pursuant to this Agreement including without limiting the generality of the foregoing, all liability, damages, loss, claims, demands and actions on account of personal injury, death or property loss to the City, its employees, agents, subcontractors or frequenters, the Chamber, its employees, agents, subcontractors or frequenters, or to any other persons, whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, workmen's compensation), contractual, tort, or other liability of the Chamber caused or claimed to have been caused by active or inactive negligence or other breach of duty by the Chamber, its employees, agents, subcontractors or frequenters. Without limiting the generality of the foregoing, the liability, damage, loss, claims, demands and actions indemnified against shall include all liability, damage, loss, claims, demands and actions for trademark, copyright or patent infringement, for unfair competition or infringement of any other so-called "intangible" property right, for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatever.

The Chamber shall at its own expense investigate all such claims and demands as set forth above, attend to their settlement or other disposition, defend all action based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

Article Six – Termination for Breach

If either party shall fail to keep any of the agreements herein by him to be kept or to make any payments herein provided for, the other party may, by giving the party in default written notice, cancel and terminate this agreement as and from the expiration of thirty (30) days from the receipt of said notice unless the failure of violation is corrected within said thirty (30) day period.

Article Seven – Miscellaneous

- (1) This agreement and all rights of the parties thereunder shall be governed by the laws of the State of Missouri.
- (2) All notices required or permitted hereunder and required to be in writing may be given by first class mail addressed as follows:

If to the City:
City Administrator
City of Washington
405 Jefferson Street
Washington, Missouri 63090

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

If to the Chamber:
Washington Chamber of Commerce
c/o President/CEO
323 W. Main Street
Washington, Missouri 63090

- (3) This Agreement shall not be assigned or transferred by the Chamber.
- (4) This Agreement may not be modified in whole or in part except by an instrument in writing signed by the parties hereto.
- (5) This Agreement shall be binding upon the parties hereto, their heirs, personal and legal representatives, successors and assigns.

In Witness Whereof, the parties hereto have affixed their hand and seal the day and year first above written.

**CITY OF WASHINGTON,
MISSOURI**

**WASHINGTON CHAMBER OF
COMMERCE**

By: _____
James D. Hagedorn, Mayor

By: _____
President

Seal:

Seal:

Attest:

Attest:

Sherri Klekamp, City Clerk

Secretary

EXHIBIT A



Exhibit B

Ameren UE Meters in the Fairgrounds

Meters that the Chamber pays for during the year

#	Meter #	Location
1	38707422	Asphalt pad by North Gate
2	22503224	On North Park outside of fairgrounds fence – services the Midway
3	95343808	On North Park outside of fairgrounds fence across from Squeaky Marquart’s house – services streetlight/Midway
4	95371353	On LeMenagerie in trees – services lights for Otto Field
5	99996068	Ronsick Field Parking Lot – services fair camping
6	95416300	Cell Tower/Midway/N-Fence
7	71498046	Camper Meter

Meters that the City bills the Chamber for use during the Fair

#	Meter #	Location
1	18331545	1261 Veterans Drive – services the Main Stage Building
2	99608625	Home Ec – Rear of the building
3	15153510	Home Ec – Rear of the building
4	9503432	
5	38411967	Administration Building
6	94261147	Administration Building
7	15350008/85383744	YMCA parking lot (Lakeview Parking Lot)
8	18331490/99608569	Fair Pavilion
9	17532495	Behind Tennis Courts
10	94260781/95416308/2GE89193	Fountain/Main Stage/Pavilion
11	97093217	All Abilities Restroom
12	99608418	Behind Cattle Barn
13	16791451/95406609	Swine Pavilion
14	58336923	Tennis Court Restrooms
15	96522938	Borgia Stand
16	7935750	Lakeview
17	18454349	Barklage
18	6873680	West Main Stage
19	5585186	West Main Stage 2
20	93393147	Team Track (2010 West Main Street by roll gate)



April 3, 2023

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

RE: Pool Contract Amendment – Midwest Pool Management

Honorable Mayor and City Council,

Attached is an ordinance and first amendment to the Midwest Pool Management (MPM) lifeguard and pool management contract for 2023. The amendment was necessary due to an increase in maintenance costs and labor. The combined maintenance and labor increase is \$39,300.

To help offset these increases, Staff have increased pool programming and rental fees approximately ten percent. In addition, Staff will adjust food prices at the pool concession stand and the pool will be open one less week in 2023. The week the pool was open before Washington School District started classes in 2022, has been removed from the 2023 pool schedule.

The 2023 pool season schedule will be:

- May 27-August 13
- August 19-20, August 26-27, September 2-4 * Saturdays & Sundays Only
- Last day of the 2023 pool season – Monday, September 4 (Labor Day)
- Splash Pad continues to be open after September 4 while the weather is warm

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

Respectfully,

Wayne Dunker

Wayne Dunker, MA, CPRP
Director of Parks & Recreation

306

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE EXECUTION OF A FIRST AMENDMENT TO CITY-CONTRACTOR AGREEMENT BY AND BETWEEN THE CITY OF WASHINGTON, MISSOURI AND MODERN POOL MANAGEMENT CORPORATION D/B/A MIDWEST POOL MANAGEMENT OF AMERICA

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 First Amendment to City-Contractor Agreement by and between the City of Washington, Missouri and Modern Pool Management Corporation d/b/a Midwest Pool Management of America, a copy of which is marked Exhibit A and is attached hereto and incorporated herein by reference, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the said Amendment and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

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

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

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

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A

**FIRST AMENDMENT TO CITY-CONTRACTOR AGREEMENT BY AND BETWEEN
THE CITY OF WASHINGTON, MISSOURI AND MODERN POOL MANAGEMENT
CORPORATION D/B/A MIDWEST POOL MANAGEMENT OF AMERICA**

THIS FIRST AMENDMENT TO CITY-CONTRACTOR AGREEMENT (this "First Amendment") is made and entered into as of _____, 2023, by and between the City of Washington, Missouri (the "City") and Modern Pool Management Corporation d/b/a Midwest Pool Management of America ("MPM")

WHEREAS, the City and MPM previously entered into a certain Agreement for MPM to provide maintenance and management services of the Agnes Nolting Aquatic Complex ("Aquatic Complex") (the "Agreement"); and

WHEREAS, the City and MPM desire to amend certain provisions of the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements set forth herein, the City and MPM hereby agree as follows:

I. Section 1.6 of Exhibit A to the Agreement is hereby amended to read as follows:

1.6 Operational Supplies/Utilities

Contractor shall purchase, provide, maintain and repair cleaning equipment necessary for the operations of the facility. This shall include, but not be limited to pool vacuums, aqua max, power washers, pool pumps or motors or other filtration equipment, etc. Contractor shall be responsible for the repair or replacement of any of the following equipment due to a negligent act: chemical feed pumps, chemical controllers, etc.

Contractor shall furnish all chemicals, not to exceed Six Thousand and 00/100 Dollars (\$6,000.00), first-aid supplies, cleaning agents, tools, materials, equipment (power washers, leaf blowers and gas/oil, etc.), lifeguard umbrellas, toilet paper, paper towels, trash bags, hand soap, body shampoo, janitorial supplies, life saving devices, deck vacuums, water hoses, deck brushes, vacuum hoses, extension poles, office supplies, brooms etc. for the pool operation during the season.

II. Section 1.9 of Exhibit A to the Agreement is hereby amended to read as follows:

Management Fee

The "Management Fee" shall encompass all management, insurance, recruitment, hiring, supervising staff, licenses/permits, services, activities, payroll taxes, etc. However, the "Management Fee" does not include fees associated with hourly rates for personnel assigned to the daily operations of the Aquatic Complex, swim lessons, swim and dive practices and meets, aquatic programs, or rentals.

2021	2022	2023
\$22,835	\$23,385	\$23,970

Maintenance Fee

The "Maintenance Fee" shall encompass all maintenance items such as supplies, tools and equipment, and opening and closing of the Aquatic Complex.

Manager will monitor, order and provide chemicals.

2021	2022	2023
\$16,664	\$21,995	\$61,890

*Pool opening and start up is included in the new construction contract with Westport Pools in 2021

Maximum Not-to-Exceed Amounts

The City's obligation for compensation paid to the Contractor for the provision of hourly staffing (see "Hourly Staff Rates") for the general operation of the Aquatic Complex (i.e. times that are open to the general public for open swim, general maintenance and/or janitorial) shall not exceed the "Maximum Not-to-Exceed Amount" as listed below. Although this "Maximum Not-to-Exceed Amount" has been established, a minimum level of compensation to the contractor has not been established for hourly personnel, as the City shall not be prohibited from limiting hours of operations and/or staffing levels due to low attendance, inclement weather or pool closings. All compensation paid to the Contractor in this category shall be based off the "Hourly Staff Rates" for work actually performed.

2021	2022	2023
\$104,595	\$111,670	\$119,150

Hourly Staff Rates

Contractor shall provide staff at the following hourly rates. This shall include hours that are open to the public for open swim, swim lessons, swim and dive team practices/meets, aquatic programs, and rentals.

Position	Hourly Rate 2021	2022	2023
Manager	\$19.39	\$19.98	\$20.60
Assistant Manager	\$16.96	\$17.57	\$18.18
Lifeguard	\$13.21	\$14.24	\$18.79
Swim Lesson Director	\$16.96	\$17.57	\$18.18
Swim Lesson Instructor	\$13.94	\$15.15	\$15.75

Time and Material

In addition to the aforementioned rates/fees for "Basic Services", this Contract also establishes maintenance rates/fees on a "Time and Material" basis for the repair of items not covered within the scope and provisions of the "Basic Services". As such, the City shall pay the Contractor on a "Time and Material" basis as set forth herein in accordance with the figures and schedule of payments for the repair of items not covered within the scope and provisions of the "Basic Services".

Description	Hourly Rate
Service: One Man	\$125.00
Service: Two Man	\$165.00

Extended Weekends

Open swim on Saturdays and Sundays and Labor Day (Monday) after the regular pool season concludes on select dates in August and September, 12:00PM - 6:30PM.

2021	2022	2023
\$8,265	\$8,820	\$9,375

Equipment Cost:

Contractor shall provide equipment rates based on need for repair.

Material Cost:

Material Prices will be marked up 30% plus shipping with accompanying receipt verifying total product cost. Time and material work shall be performed with written approval from the City.

Salary expenses shall be invoiced monthly with payroll records subject to City review. Salary, expenses will be recapped in October.

III. Except as set forth herein, all other terms and conditions of the Agreement not expressly amended herein shall remain in full force and effect.

MODERN POOL MANAGEMENT
CORPORATION D/B/A MIDWEST POOL
MANAGEMENT OF AMERICA

CITY OF WASHINGTON, MISSOURI

By: _____

By: _____

Name: _____

Name: James D. Hagedorn

Its: _____

Its: Mayor



POLICE
CITY OF WASHINGTON

Washington Police Department

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

March 2, 2023

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

Re: Ordinance Amendment- Tall Grass Violations

Dear Mayor and City Council Members:

For your consideration, this letter, with the attached ordinance amendment, was reviewed and approved by the Police Department, City Administration, and City Attorney as they relate to the enforcement of tall grass and weed violations.

If approved, the amendment will modify our current code to require that notice of violation only be given to property owners once per growing season. After an initial notice is given, immediate action may be taken by the city for subsequent violations during the same season. The amended code also adds the following penalty enhancement for repeat offenders during the same twelve-month period:

First Violation- \$200.00
Second Violation- \$275.00
Third Violation- \$350.00
Fourth and any Subsequent Violation- \$450.00

The intent of this amendment is to expedite the process of handling complaints of tall grass and weeds, while encouraging repeat offenders to maintain their property on a regular basis. If approved, this amendment should reduce resident complaints as well as the significant burden that these violations create on city staff year after year.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Grissom".

Sgt. Michael Grissom #299
Washington Police Department

3Ea

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 71.285 OF THE
CODE OF THE CITY OF WASHINGTON, MISSOURI AND
ENACTING IN LIEU THEREOF A NEW SECTION 71.285

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

SECTION 1: Section 71.285 of the Code of the City of Washington, Missouri is
hereby repealed and a new Section 71.285 is hereby enacted to read as follows:

A. No owner, lessee, occupant or any agent, servant, representative or
employee of such owner, lessee or occupant having control of any lot or tract of
ground or any part of any lot or tract of ground situated within two hundred (200)
feet of any dwelling shall allow or maintain on any such lot any growth of grass,
weeds or brush to a height of over one (1) foot in height.

B. Whenever weeds or trash, in violation of this Section, are allowed to grow
or accumulate, as the case may be, on any part of any lot or ground within the
City of Washington, the owner of the ground, or in case of joint tenancy, tenancy
by entireties or tenancy in common, each owner thereof, shall be liable. The
Chief of Police or other City Official or employee, as designated by the Mayor,
shall give a hearing after four (4) days' notice thereof, either personally or by
United States mail to the owner or owners, or the owner's agents, or by posting
such notice on the premises; thereupon, the Chief of Police or other City Official
or employee, as designated by the Mayor, may declare the weeds or trash to be a
nuisance and order the same to be abated within five (5) days; and in case the
weeds or trash are not removed within the five (5) days, the Chief of Police or
other City Official or employee, as designated by the Mayor, shall have the weeds
or trash removed, and shall certify the costs of same to the City Clerk, who shall
cause a special tax bill therefor against the property to be prepared and to be

collected by the County Collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the City Clerk and delivered to the County Collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum.

C. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of this Section more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, the Chief of Police or City Official or employee, as designated by the Mayor, may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection B of this Section. The provisions of subsection B and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

D. Penalties for violations of this Section committed within a twelve-month period beginning with the first violation are \$200.00 for the first violation, \$275.00 for the second violation, \$350.00 for the third violation, and \$450.00 for the fourth and any subsequent violations.

E. Conviction of a violation under this Section shall in no way be construed to be a prerequisite to the recovery by the City of costs expended under subsection (B) and any fine imposed shall be in addition to payment by such person of the costs of such cutting and removal. Such cutting and removal by the City is not required and shall not be construed as a prerequisite to a conviction under this Section.

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



POLICE
CITY OF WASHINGTON

Washington Police Department
Chief Jim Armstrong DSN 256

301 Jefferson Street
Washington, MO 63090
Police Dispatch: 636 390-1050
Direct Line: 636 390-1207
Fax: 636 390-2455

Date: March 27, 2023
To: Honorable Mayor and City Council
Subject: Live Scan contract

Honorable Mayor and City Council Members,

For more than 15 years the department has utilized Livescan. This is an electronic fingerprinting system. Arrestees are fingerprinted via a network link through the Livescan system. The fingerprints are sent immediately to the Missouri Criminal Records Division (CRD). Within minutes, a reply is received from CRD confirming or denying the identity of the subject fingerprinted. The reply also lists any caution indicators associated with the arrestee, if they are on probation or parole and if there are any active warrants. Livescan also allows the fingerprints to be stored electronically with an arrest report along with the booking photo and information. Additionally, Livescan provides other functions of identity and criminal history checks.

In the years since the department first started using Livescan, all software, hardware, maintenance, etc. was paid for through a grant from the Missouri State Highway Patrol. Our department recently received and signed a grant award agreement with the Missouri Highway Patrol. The agreement was to indicate that our department would incur all subscription costs after the first year; the first of a five (5) year contract with Idemia Identity and Security to service the Livescan being paid for by the Missouri State Highway Patrol. It should be noted that during the past five-year contract our department received grant funding for all five years with no cost to the city. This is typically decided year to year as funds are available. Therefore, we budget the cost of the contract to ensure that we can pay if necessary.

For your approval is a five (5) year contract with Idemia Identity and Security USA LLC for a service agreement for the Livescan fingerprint system. The year one cost is covered by the Missouri State Highway Patrol. The agreement lists a cost of \$5,928 per year, billed annually, for the remaining four (4) years for a total cost of \$23,712 over five (5) years. This agreement covers software, fingerprint scanner, computer and peripherals, printer, on-site training, and all service related to operation of the system.

Your approval ensures that the Department stays connected to the statewide criminal records and fingerprinting system. The system is integral in identifying arrestees, maintaining arrest records,

3E6

providing immediate records collection for the MSHP Criminal Records Division, and maintaining other identifying and criminal history functions.

Thank you for your consideration.

Respectfully,

Chief James Armstrong

Jim Armstrong, Chief of Police

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING
THE EXECUTION OF A SERVICE AGREEMENT BY
AND BETWEEN THE CITY OF WASHINGTON, MISSOURI
AND IDEMIA IDENTITY AND SECURITY USA LLC FOR
A LIVSCAN FINGERPRINT SYSTEM

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 Service Agreement by and between the City of Washington, Missouri and Idemia Identity and Security USA LLC, for a Livescan Fingerprint System. A copy of said agreement is marked Exhibit A and is attached hereto and incorporated herein by reference.

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

Idemia Identity and Security USA LLC ("IDEMIA"), (formerly MorphoTrak, LLC) a Delaware limited liability corporation, having a principal place of business at 5515 East La Palma Avenue, Suite 100, Anaheim, California 92807, and the City of Washington, Missouri ("Customer"), a [State of incorporation and type of entity], having a place of business at 301 Jefferson Street, Washington, Missouri, 63090, enter into this Service Agreement ("Agreement"), pursuant to which Customer will purchase and IDEMIA will sell the services as described below and in the attached exhibits. IDEMIA and Customer may be referred to individually as "party" and collectively as "parties."

For good and valuable consideration, the parties agree as follows.

SECTION 1. EXHIBITS

The Exhibits listed below are incorporated into and made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed below.

Exhibit A	"Description of Covered Products"
Exhibit B	"Statement of Work"
Exhibit C	"Payment Schedule"
Exhibit D	"Software License Agreement"

SECTION 2. DEFINITIONS

"Agreement Price" means the price for the Services, exclusive of any applicable sales or similar taxes and freight charges.

"Default" means failure by either party to perform a material obligation under this Agreement.

"Effective Date" means that date upon which the last party to sign this Agreement has executed it.

"Equipment" means the physical hardware supplied by IDEMIA as outlined in the attached Description of Covered Products, and any related goods or material used by the IDEMIA to provide the Services.

"Infringement Claim" means a third-party claim alleging that the Equipment manufactured by IDEMIA or the IDEMIA Software infringes upon the third party's United States patent or copyright.

"IDEMIA" means IDEMIA, LLC.

"IDEMIA Software" means Software that IDEMIA owns. The term includes Product Releases, Standard Releases, and Supplemental Releases.

"Non-IDEMIA Software" means Software that a party other than IDEMIA owns.

"Operational Use" means when Customer first uses the System to perform functions as outlined in the attached Statement of Work.

"Optional Technical Support Services" means fee-based technical support services that are not covered as part of the standard Services.

"Patch" means a specific change to the Software that does not require a Release.

"Principal Period of Maintenance" or "PPM" means the specified days and times, as set forth in the Statement of Work, that Services will be provided under this Agreement.

"Products" means the Equipment (if applicable as indicated in the Description of Covered Products) and Software provided by IDEMIA.

"Proprietary Rights" means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by IDEMIA under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by IDEMIA or another party.

"Releases" means an Update or Upgrade to the IDEMIA Software and are characterized as "Supplemental Releases," "Standard Releases," or "Product Releases." A "Supplemental Release" is defined as a minor release of IDEMIA Software that contains primarily error corrections to an existing Standard Release and may contain limited improvements that do not affect the overall structure of the IDEMIA Software. Depending on Customer's specific configuration, a Supplemental Release might not be applicable. Supplemental Releases are identified by the third digit of the three-digit release number, shown here as underlined: "1.2.3". A "Standard Release" is defined as a major release of IDEMIA Software that contains product enhancements and improvements, such as new databases, modifications to databases, or new servers. A Standard Release may involve file and database conversions, System configuration changes, hardware changes, additional training, on-site installation, and System downtime. Standard Releases are identified by the second digit of the three-digit release number, shown here as underlined: "1.2.3". A "Product Release" is defined as a major release of IDEMIA Software considered to be the next generation of an existing product or a new product offering. Product Releases are identified by the first digit of the three-digit release number, shown here as underlined: "1.2.3". If a question arises as to whether a Product offering is a Standard Release or a Product Release, IDEMIA's opinion will prevail, provided that IDEMIA treats the Product offering as a new Product or feature for its end user customers generally.

"Residual Error" means a software malfunction or a programming, coding, or syntax error that causes the Software to fail to conform to the Specifications.

"Services" means those services described in the Statement of Work and provided under this Agreement.

"Site" means the premises where Products are delivered and/or installed, or where the Services are performed, not including IDEMIA's premises from which it performs remote Services.

"Software" means the IDEMIA Software and Non-IDEMIA Software that is furnished with the System or Equipment.

"Specifications" means the design, form, functionality, or performance requirements described in published descriptions of the Software, and if also applicable, in any modifications to the published specifications as expressly agreed to in writing by the parties.

"Start Date" means the date on which the term of this Agreement begins on Effective Date. This is the date when Services commence, and Service Fees are due.

"System" means the Products and Services provided by IDEMIA as a system as more fully described in the Statement of Work.

"System Acceptance" means the date on which installation and training has been completed at Customer site. Customer will sign an acceptance letter at this time.

"Technical Support Services" means the remote telephonic support provided by IDEMIA on a standard and centralized basis concerning the Products, including diagnostic services and troubleshooting to assist Customer in ascertaining the nature of a problem being experienced by the Customer, minor assistance concerning the use of the Software (including advising or assisting the Customer in attempting data/database recovery, database set up, client-server advice), and assistance or advice on installation of Releases provided under this Agreement.

"Update" means a Supplemental Release or a Standard Release.

"Upgrade" means a Product Release.

Section 3. SCOPE AND TERM OF SERVICES

3.1. **SCOPE OF SERVICES.** In accordance with the provisions of this Agreement and in consideration of payment by Customer of the Service Fee, IDEMIA will provide, ship, and install (if applicable) the Equipment described in the Description of Covered Products, and perform its other contractual responsibilities, all in accordance with this Agreement and the attached Statement of Work. As explained in further detail below, notwithstanding the placement of the Equipment in the Customer's facility, title to and ownership of the Equipment shall remain in IDEMIA's name, and Customer shall act as a responsible bailee for the Equipment. Customer will perform its contractual responsibilities in accordance with this Agreement and the attached Statement of Work.

3.2. **CHANGE ORDERS.** IDEMIA will provide the products as outlined in the attached Description of Covered Products and perform the Services as outlined in the attached Statement of Work. Either party may request changes outside the scope of work detailed in this Agreement. If a requested change causes an increase or decrease in the annual Service Fee or time required to perform this Agreement, IDEMIA and Customer will agree to an equitable adjustment of the Agreement Price, schedule, or both, and will reflect such adjustment in a change order. Neither party is obligated to perform requested changes unless both parties execute a written change order.

3.3. **TERM.** Unless otherwise terminated in accordance with the provisions of this Agreement or extended by mutual agreement of the parties, the term of this Agreement shall begin on the Effective Date and shall continue for a period of five (5) years from the date of Initial System Acceptance (the "Term"). Upon expiration of this Term, the Customer shall have the following options:

- Customer may renew the LSaaS Agreement at the end of Year 5 at the same rate and receive a new unit with the same configuration.
- Purchase the unit outright for \$3,200.00 at the end of Year 5 and optionally enter into a maintenance agreement at the current maintenance rates at the time of "buy out"; maintenance options for 9x5 and 24x7.
- Let the Agreement expire at the end of Year 5; IDEMIA will remove the equipment.

3.4. **IDEMIA SOFTWARE.** Any IDEMIA Software, including subsequent Releases, is licensed to Customer for the Term of this Agreement solely in accordance with the Software License Agreement, attached hereto as Exhibit D. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.5. **NON-IDEMIA SOFTWARE.** Any Non-IDEMIA Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to IDEMIA the right to sublicense the Non-IDEMIA Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. IDEMIA makes no representations or warranties of any kind regarding Non-IDEMIA Software. Non-IDEMIA Software may include Open-Source Software. All Open-Source Software is licensed to Customer in accordance with, and Customer agrees to abide by, the provisions of the standard license of the copyright owner and not the Software License Agreement.

3.6. **SUBSTITUTIONS.** At no additional cost to Customer, IDEMIA reserves the right to substitute any Equipment, Software, or services to be provided by IDEMIA, provided that the substitute meets or exceeds the specifications outlined in the Statement of Work and is of equivalent or better quality to the Customer. Any such substitution will be reflected in a written change order signed by both parties.

3.7. When IDEMIA performs Services at the Customer Site, Customer agrees to provide to IDEMIA, at no charge, a non-hazardous environment for work with shelter, heat, light, and power, and with full and free access to the covered Products. The Customer shall cooperate to provide all information pertaining to the hardware and software with which the Products are interfacing to enable IDEMIA to perform its obligations under this Agreement.

3.8. IDEMIA will provide to Customer Technical Support Services and Releases as follows:

3.8.1. IDEMIA will provide Technical Support Services and correction of Residual Errors during the PPM in accordance with the Statement of Work. Any Technical Support Services that are performed by IDEMIA outside the contracted PPM and any Residual Error corrections that are outside the scope shall be billed at the then current hourly rates. Technical Support Services will be to investigate specifics about the functioning of covered Products to determine whether there is a defect in the Product and will not be used in lieu of training on the covered Products.

3.8.2. IDEMIA will provide Customer, without additional license fees, an available Supplemental or Standard Release after receipt of a request from Customer, but Customer must pay for any installation or other services and any necessary Equipment or Non-IDEMIA Software provided by IDEMIA in connection with such Supplemental or Standard Release. Any services will be performed in accordance with a mutually agreed schedule.

3.8.3. IDEMIA will provide to Customer an available Product Release after receipt of a request from Customer, but Customer must pay for all additional license fees, any installation or other services, and any necessary Equipment provided by IDEMIA in connection with such Product Release. Any services will be performed in accordance with a mutually agreed schedule.

3.8.4. IDEMIA does not warrant that a Release will meet Customer's particular requirement, operate in the combinations that Customer will select for use, be uninterrupted or error-free, be backward compatible, or that all errors will be corrected. Full compatibility of a Release with the capabilities and functions of earlier versions of the Software may not be technically feasible. If it is technically feasible, services to integrate these capabilities and functions to the updated or upgraded version of the Software may be purchased at Customer's request on a time and materials basis at IDEMIA's then current rates for professional services.

3.8.5. IDEMIA's responsibilities under this Agreement to provide Technical Support Services shall be limited to the current Standard Release plus the two (2) prior Standard Releases (collectively referred to in this section as "Covered Standard Releases."). Notwithstanding the preceding sentence, IDEMIA will provide Technical Support Services for a Severity Level 1 or 2 (defined in the Statement of Work) error concerning a Standard Release that precedes the Covered Standard Releases unless such error has been corrected by a Covered Standard Release (in which case Customer shall install the Standard Release that fixes the reported error or terminate this Agreement as to the applicable Software).

3.9. The Services described in this Agreement are the only covered services. These Services specifically exclude and IDEMIA shall not be responsible for:

3.9.1. Any service work required due to environmental conditions, incorrect, or faulty operational conditions, including but not limited to Equipment not connected directly to an electric surge protector, or not properly maintained in accordance with the manufacturer's guidelines.

3.9.2. The repair or replacement of Products or parts resulting from failure of the Customer's facilities, Customer's personal property and/or devices connected to the System (or interconnected to devices) whether or not installed by IDEMIA's representatives.

3.9.3. The repair or replacement of Equipment that has become defective or damaged due to physical or chemical misuse or abuse, Customer's negligence, or from causes such as lightning, power surges, or liquids.

3.9.4. Any transmission medium, such as telephone lines, computer networks, or the worldwide web, or for Equipment malfunction caused by such transmission medium.

3.9.5. Accessories, custom or special products; modified units; or modified Software.

3.9.6. The repair or replacement of parts resulting from the tampering by persons unauthorized by IDEMIA or the failure of the System due to extraordinary uses.

3.9.7. Operation and/or functionality of Customer's personal property, equipment, and/or peripherals and any application software not provided by IDEMIA.

3.9.8. Services for any replacement of Products or parts directly related to the removal, relocation, or reinstallation of the System or any System component.

3.9.9. Services to diagnose technical issues caused by the installation of unauthorized components or misuse of the System.

3.9.10. Services to diagnose malfunctions or inoperability of the Software caused by changes, additions, enhancements, or modifications in the Customer's platform or in the Software.

3.9.11. Services to correct errors found to be caused by Customer-supplied data, machines, or operator failure.

3.9.12. Operational supplies, including but not limited to, printer ink, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any and all consumable items and supplies in addition to that delivered with the System; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.

3.9.13. Non-IDEMIA software unless specifically listed on the Description of Covered Products.

3.9.14. Support of any interface(s) beyond IDEMIA-provided port or cable, or any services that are necessary because Non-IDEMIA hardware, software or supplies fail to conform to the specifications concerning the Products.

3.9.15. Services related to customer's failure to back up its data or failure to use an UPS system to protect against power interruptions.

3.9.16. Any design consultation such as, but not limited to, configuration analysis, consultation with Customer's third-party provider(s), and System analysis for modifications or Upgrades or Updates which are not directly related to a Residual Error report.

3.9.17. Requests for IDEMIA assistance / completion of any agency or governing body required security documentation, surveys or questionnaires; and requests for IDEMIA support and potential resolution of issues resulting from agency vulnerability assessments, penetration testing and/or security audits.

3.10. The Customer hereby agrees to:

3.10.1. Maintain any and all electrical and physical environments in accordance with the System manufacturer's specifications.

3.10.2. Provide standard industry precautions (e.g., back-up files) ensuring database security, per IDEMIA's recommended backup procedures.

3.10.3. Ensure System accessibility, which includes physical access to buildings as well as remote electronic access. Remote access can be stipulated and scheduled with customer; however, remote access is required and will not be substituted with on-site visits if access is not allowed or available.

3.10.4. Appoint one or more qualified employees to perform system administration duties, including acting as a primary point of contact to IDEMIA's customer support organization for reporting and verifying problems, and performing System backup. At least one member of the system administrator group should have completed IDEMIA's training. The combined skills of this system administrator group should include proficiency with the Products, the system platform upon which the Products operate, the operating system, database administration, network capabilities such as backing up, updating, adding, and deleting System and user information, and the client, server and standalone personal computer hardware. The system administrator shall follow the Residual Error reporting process described herein and make all reasonable efforts to duplicate and verify problems and assign a Severity Level, as defined in the Statement of Work. Customer agrees to use reasonable efforts to ensure that all problems are reported and verified by the system administrator before reporting them to IDEMIA. Customer shall assist IDEMIA in determining that errors are not the product of the operation of an external system, data links between system, or

network administration issues. If a Severity Level 1 or 2 Residual Error occurs, any Customer representative may contact IDEMIA's Customer Support Center by telephone, but the System administrator must follow up with IDEMIA's Customer Support as soon as practical thereafter.

3.11. Customer shall permit and cooperate with IDEMIA so that IDEMIA may periodically conduct audits of Customer's records and operations pertinent to the Services, Products, and usage of application and data base management software. IDEMIA will limit the number of audits to no more than one (1) per year; provided that the IDEMIA may audit more frequently to the extent necessary to ensure the Operational Use of the System.

3.12. If Customer replaces, upgrades, or modifies software that interfaces with the covered Products, IDEMIA will have the right to adjust the annual Service Fee to reflect any changes necessary to the IDEMIA provided Equipment or related Services.

3.13. Customer shall agree not to attempt or apply any update(s), alteration(s), or change(s) to the database software without the prior approval of the IDEMIA.

SECTION 4. PRICING, PAYMENT AND TERMS

4.1. **AGREEMENT PRICE.** The total Agreement Price in U.S. dollars is **\$23,712** and shall be paid on an annual Service Fee basis as outlined in the Exhibit C, Payment Schedule. The first annual Service Fee payment has been paid by the Missouri State Highway Patrol under PO **PV172301147.**

4.2. **INVOICING AND PAYMENT.** IDEMIA will submit invoices to Customer according to the Payment Schedule. Except for a payment that is due on the Effective Date, Customer will make payments to IDEMIA within twenty (20) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate. For Customer's reference, the IDEMIA Federal Tax Identification Number for is 27-4388807.

4.3. **FREIGHT, TITLE, AND RISK OF LOSS.** All freight charges will be pre-paid by IDEMIA and added to the invoices. Title to the Equipment and Software shall not pass to Customer at any time. Risk of loss will pass to Customer upon delivery of the Equipment to the Customer Site. IDEMIA will pack and ship all Equipment in accordance with good commercial practices.

4.4. **INVOICING AND SHIPPING ADDRESSES.** Invoices will be sent to the Customer at the following address:

301 Jefferson Street
Washington, MO 63090
Attention: Chief Jim Armstrong

The city which is the ultimate destination where the Equipment will be delivered to Customer is:
Washington

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

301 Jefferson Street
Washington, MO 63090
Attention: Chief Jim Armstrong

Customer may change this information by giving written notice to IDEMIA.

4.5 **CUSTOMER AS BAILEE.** IDEMIA makes available for use to Customer, and Customer accepts such bailment from IDEMIA, the Equipment for the duration of the Term, and subject to the conditions, of this Agreement. For the avoidance of doubt, title to the Equipment is and will remain

vested in IDEMIA, and Customer will not (i) acquire any title or other interest in the Equipment, or any right except the limited and conditional right to use as expressly set forth herein, (ii) permit any lien, encumbrance or security interest of any kind and in any amount to attach to the Equipment, (iii) permit the Equipment to be subjected to any interchange or pooling agreement, or (iv) permit the Equipment to be operated by or to be in the possession of any person other than Customer. Upon the expiration of this Agreement for any reason whatsoever, Customer shall return the Equipment to IDEMIA and assist IDEMIA in any actions reasonably required for IDEMIA to obtain physical possession of the Equipment.

4.6. **AUTHORIZING FILING OF UCC STATEMENTS.** Customer authorizes IDEMIA to file UCC-1 statements, and any other financing statements or related documents naming Customer as "Debtor" and describing the Equipment in all appropriate jurisdictions and, if applicable, to notify, in accordance with applicable law, any existing creditors of Customer with respect to the consignment arrangements contemplated hereby. Such documents will be filed for the purpose of providing notice of Customer's limited and conditional right to use the Equipment hereunder. The cost of such filing will be paid by the Customer.

SECTION 5. SITES AND SITE CONDITIONS

5.1. **ACCESS TO SITES.** In addition to its responsibilities described elsewhere in this Agreement, Customer will provide (i) a designated project manager; (ii) all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the Sites; and (iii) access to the Sites identified in the Statement of Work or as reasonably requested by IDEMIA so that it may perform its duties in accordance with the Statement of Work.

5.2. **SITE CONDITIONS.** Customer will ensure that all Sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work specifically states to the contrary, Customer will ensure that these Sites will have (i) adequate physical space for the installation, use and maintenance of the System; (ii) adequate air conditioning and other environmental conditions; (iii) adequate electrical power outlets, distribution and equipment for the installation, use and maintenance of the System; and (iv) adequate telephone or other communication lines for the installation, use and maintenance of the System, including modem access, and adequate interfacing networking capabilities. Before installing the Equipment or Software at a Site, IDEMIA will inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section 5.

5.3. **SITE ISSUES.** If IDEMIA or Customer determines that the Sites identified in the Statement of Work are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Statement of Work, IDEMIA and Customer will promptly investigate the conditions and will select replacement sites or adjust the installation plans and Statement of Work as necessary. If such change in Sites or adjustment to the installation plans and Statement of Work causes a change in the cost or time to perform, the parties will equitably amend the annual Service Fee or schedule, or both, by a change order.

SECTION 6. TRAINING

Any training to be provided by IDEMIA to Customer under this Agreement will be included as part of system installation. Customer will notify IDEMIA immediately if a date change for a scheduled training program is required. If IDEMIA incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, IDEMIA is entitled to recover these additional costs.

SECTION 7. ACCEPTANCE

7.1. SYSTEM ACCEPTANCE

System Acceptance will occur upon completion of installation, training and testing indicating that the system is ready for Operational Use. Operational Use occurs when the System has been fully implemented and the Customer may begin use of the System in the operational

environment. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance. These minor omissions or variances will be corrected according to a mutually agreed schedule by Customer and IDEMIA.

SECTION 8. LIMITED WARRANTY AND DISCLAIMERS OF WARRANTY

8.1. IDEMIA warrants to Customer that the Equipment: (a) upon System Acceptance will be operable, and (b) when properly installed, operated, and maintained in accordance with IDEMIA's and manufacturer's recommendations and the terms of the Agreement, will remain operable. As more fully set forth in Article 4 of this Agreement, ownership of the Equipment shall remain with IDEMIA throughout the Term of the Agreement. IDEMIA also warrants to Customer that any Services IDEMIA is required to perform pursuant to the Agreement will be performed in a competent manner. If any failure to meet these warranties appears during the Term, or any failure to meet the Services warranty described above appears within thirty (30) days of performance of the particular Services and during the Term of the Agreement, Customer shall promptly notify IDEMIA in writing and IDEMIA shall within a reasonable amount of time under the circumstances, in its own discretion: (i) repair or replace, at IDEMIA's option, Equipment that does not meet the Equipment warranty and/or (ii) re-perform the defective Service to the extent practicable. This Section 8 sets forth the sole and exclusive remedies for all claims based on failure of or defect in Equipment or Services whether a claim, however instituted, is based on contract, indemnity, warranty, tort (including negligence), or other contractual or extra contractual liability of any nature, strict liability or otherwise, and under any system, theory or principle of law.

8.2. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES AND GUARANTEES WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION, IDEMIA MAKES NO REPRESENTATIONS OR WARRANTIES TO CUSTOMER OR ANY OTHER PERSON, INCLUDING, WITHOUT LIMITATION, WARRANTIES REGARDING THE SIZE, DESIGN, CAPACITY, CONDITION, QUALITY, DURABILITY, SUITABILITY, MANUFACTURE OR PERFORMANCE OF THE EQUIPMENT OR SERVICES, OR PATENT OR INTELLECTUAL PROPERTY INFRINGEMENT OR THE LIKE. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

SECTION 9. DELAYS

9.1. FORCE MAJEURE. Neither party will be liable for its non-performance or delayed performance if caused by a "Force Majeure" which means an event, circumstance, or act of a third party that is beyond a party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes or other labor disturbances, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause. Each party will notify the other if it becomes aware of any Force Majeure that will significantly delay performance. The notifying party will give such notice promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the parties will execute a change order to extend the Performance Schedule for a time period that is reasonable under the circumstances.

9.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER. If the Performance Schedule is delayed because of Customer (including any of its other contractors), (i) Customer will make the promised payments according to the Payment Schedule as if no delay occurred; and (ii) the parties will execute a change order to extend the schedule and, if requested by IDEMIA, compensate IDEMIA for all reasonable charges incurred because of such delay. Delay charges may include costs incurred by IDEMIA or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

SECTION 10. DISPUTES

10.1. SETTLEMENT PREFERRED. IDEMIA and Customer, through their respective project managers, will attempt to settle any dispute arising from this Agreement (except for a claim relating to intellectual property or breach of confidentiality provisions) through

consultation and negotiation in good faith and a spirit of mutual cooperation. The dispute will be escalated to appropriate higher-level managers of the parties, if necessary. If cooperative efforts fail, the dispute will be mediated by a mediator chosen jointly by IDEMIA and Customer within thirty (30) days after notice by one of the parties demanding non-binding mediation. IDEMIA and Customer will not unreasonably withhold consent to the selection of a mediator, and they will share the cost of the mediation equally. If the dispute is of technical nature, either party may request for the matter to be referred to a panel of subject matter experts, using as guidelines characteristics of similar systems or technology, as well as industry standards.

The parties may postpone mediation until they have completed some specified but limited discovery about the dispute. The parties may also replace mediation with some other form of non-binding alternative dispute resolution ("ADR").

10.2. **LITIGATION.** Any claim relating to intellectual property or breach of confidentiality provisions and any dispute that cannot be resolved between the parties through negotiation or mediation within two (2) months after the date of the initial demand for non-binding mediation as described above in Section 10.1 may be submitted by either party to a court of competent jurisdiction in the state of Delaware. Each party consents to jurisdiction over it by such a court, and specifically waives any right to raise a jurisdictional or venue related defense to such a court. The use of ADR procedures will not be considered under the doctrine of laches, waiver, or estoppel to affect adversely the rights of either party. Either party may resort to the judicial proceedings described in this section before the expiration of the two-month ADR period if (i) good faith efforts to resolve the dispute under these procedures have been unsuccessful; or (ii) interim relief from the court is necessary to prevent serious and irreparable injury to such party or any of its affiliates, agents, employees, customers, suppliers, or subcontractors.

SECTION 11. DEFAULT AND TERMINATION

11.1. **DEFAULT BY A PARTY.** If either party fails to perform a material obligation under this Agreement, the other party may consider the non-performing party to be in Default (unless a Force Majeure causes such failure) and may assert a Default claim by giving the non-performing party a written and detailed notice of Default. Except for a Default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting party will have thirty (30) days after receipt of the notice of Default to either (i) cure the Default or (ii) if the Default is not curable within thirty (30) days, to provide a written cure plan. The defaulting party will begin implementing the cure plan immediately after receipt of notice by the other party that it approves the plan. If Customer is the defaulting party, IDEMIA may stop work on the project until it approves the Customer's cure plan. For technical matters, the determination of failure to perform a material obligation may be referred by either party to a panel of subject matter experts, using as guidelines characteristics of similar systems or technology, as well as industry standards.

11.2. **FAILURE TO CURE.** If, within thirty (30) days of receiving notice of a claim of Default, a defaulting party fails to cure the Default, or fails to provide a written cure plan as provided in Section 11.1 above, unless otherwise agreed to in writing, the non-defaulting party may terminate any unfulfilled portion of this Agreement. In the event of such termination, the defaulting party will promptly return to the non-defaulting party any of its Confidential Information (as defined in Section 14.1).

11.3. **FAILURE TO CURE BY CUSTOMER.** In the event that Customer fails to immediately cure any past due Service Fee when due; or cure any Default, or provide a written cure plan, each as provided in Section 11.1 above then IDEMIA may terminate this Agreement and Customer will indemnify the IDEMIA for the Service Fee due up to the date of termination. In addition, Customer must immediately return, at Customer's expense, all IDEMIA provided Equipment to IDEMIA.

11.4. **TERMINATION BY CUSTOMER.** Customer may terminate this Agreement for IDEMIA's Default, failure to cure, or failure to provide a written cure plan, as outlined in Section 11.1 above only. Customer will indemnify the IDEMIA for costs incurred up to the point of termination.

11.5. EFFECT OF TERMINATION.

11.5.1. In the event that IDEMIA terminates this Agreement for Customer's Default as in this Section 11.1 above, IDEMIA may, in addition to the rights listed in 11.3 above, require Customer, at Customer's expense, to promptly return all or any portion of Equipment provided by IDEMIA to Customer. In addition, IDEMIA may enter the Customer's Site(s) where the Equipment is located and take immediate possession and remove some or all of it, all without any IDEMIA liability to Customer; or IDEMIA may exercise any other right or remedy available to it under any applicable law. No right or remedy of IDEMIA referred to in this Section 11 is exclusive, but each is cumulative and in addition to any other right or remedy otherwise available to IDEMIA at law or in equity.

11.5.2. In the event that Customer terminates this Agreement for IDEMIA's Default as outlined in Section 11.1 above, Customer will allow IDEMIA to immediately remove and take possession of all IDEMIA provided Equipment located at the Customer's Site(s). Title to IDEMIA provided Equipment will not pass to Customer in the event of IDEMIA Default. No right or remedy of Customer referred to in this Section 11 is exclusive, but each is cumulative and in addition to any other right or remedy otherwise available to Customer at law or in equity.

11.6 BUYOUT OPTION. Upon expiration of this Agreement after the Term and any subsequent renewals as outlined in Section 3.3 above, the Customer shall have the option to purchase the IDEMIA provided Equipment at a discounted rate upon the agreement of IDEMIA. If Customer elects this Buyout Option, Customer and IDEMIA will enter into a separate agreement for the provision of maintenance services related to the Equipment. The Buyout option at the end of the initial 5-year term is \$3,200. If at the end of the initial 5 year term the Customer does not extend this Agreement or exercise the Buyout option IDEMIA will remove the items listed in Exhibit A Description of Covered Products.

SECTION 12. INDEMNIFICATION

12.1. GENERAL INDEMNITY BY CUSTOMER. Customer will indemnify and hold IDEMIA harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against IDEMIA to the extent it is caused by the Customer's mishandling of the Equipment or the System, or the Customer's negligence or willful misconduct, or any of those actions by the Customer's subcontractors, or their employees or agents, while performing their duties under this Agreement, provided that IDEMIA gives Customer prompt, written notice of any such claim or suit. IDEMIA shall cooperate with Customer in its defense or settlement of such claim or suit. This section sets forth the full extent of Customer's general indemnification of IDEMIA from liabilities that are in any way related to this Agreement.

12.3. PATENT AND COPYRIGHT INFRINGEMENT.

12.3.1. IDEMIA will defend at its expense any suit brought against Customer to the extent that it is based on an Infringement Claim, and IDEMIA will indemnify Customer for those costs and damages finally awarded against Customer for an Infringement Claim. IDEMIA's duties to defend and indemnify are conditioned upon: (i) Customer promptly notifying IDEMIA in writing of such Infringement Claim; (ii) IDEMIA having sole control of the defense of such suit and all negotiations for its settlement or compromise; (iii) Customer providing to IDEMIA cooperation and, if requested by IDEMIA, reasonable assistance in the defense of the Infringement Claim.

12.3.2. If an Infringement Claim occurs, or in IDEMIA's opinion is likely to occur, IDEMIA may at its option and expense procure for Customer the right to continue using the Equipment or IDEMIA Software, replace or modify it so that it becomes non-infringing while providing functionally equivalent performance, or grant Customer a credit for such Equipment or IDEMIA Software as depreciated and accept its return. The depreciation amount will be calculated based upon generally accepted accounting standards for such Equipment and IDEMIA Software.

12.3.3. IDEMIA will have no duty to defend or indemnify for any Infringement Claim that is based upon (i) the combination of the Equipment or IDEMIA Software with any software, apparatus

or device not furnished by IDEMIA; (ii) the use of ancillary equipment or software not furnished by IDEMIA and that is attached to or used in connection with the Equipment or IDEMIA Software; (iii) any Equipment that is not IDEMIA's design or formula; (iv) a modification of the IDEMIA Software by a party other than IDEMIA; or (v) the failure by Customer to install an enhancement release to the IDEMIA Software that is intended to correct the claimed infringement. The foregoing states the entire liability of IDEMIA with respect to infringement of patents and copyrights by the Equipment and IDEMIA Software or any parts thereof.

SECTION 13. LIMITATION OF LIABILITY

13.1. IDEMIA LIABILITY. This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, IDEMIA's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or services with respect to which losses or damages are claimed. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT IDEMIA WILL NOT be liable for any commercial loss; inconvenience; loss of use, time, data, goodwill, revenues, profits or savings; or other SPECIAL, incidental, punitive, INDIRECT, OR consequential damages IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY IDEMIA PURSUANT TO THIS AGREEMENT.** This limitation of liability will survive the expiration or termination of this Agreement. No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account.

13.2. CUSTOMER LIABILITY. Customer shall be liable to IDEMIA for all loss of or damage to Equipment, as described in the attached Description of Covered Products, during the term of this Agreement. Customer shall give IDEMIA prompt notification of any such loss or damage. In the event of such loss or damage and upon demand by IDEMIA, Customer shall pay to IDEMIA the cost either, at IDEMIA's option, to repair or to replace the Equipment. Customer shall also be liable for the total value of the System in the event that this Agreement is terminated for any reason prior to the Term of the Agreement as outlined in Section 3.3.

SECTION 14. INSURANCE REQUIREMENTS

14.1. LIABILITY INSURANCE. Customer shall obtain, at its expense, and shall at all times during which Equipment is at the Customer's Site or otherwise in Customer's possession or control maintain, comprehensive commercial general/public liability insurance, in broad form including coverage for liability assumed under contract, providing coverage for bodily injury, including death, and property damage of any person or persons, including, but not limited to, agents or employees of Buyer, arising from Equipment or its possession, use, operation, maintenance, storage, transportation, installation, dismantling or servicing, with a combined single limit of not less than \$1,000,000.00. The deductible for the liability insurance shall not exceed \$25,000.00. IDEMIA shall be named as an additional insured, and the liability insurance shall be primary with respect to any other liability insurance maintained by IDEMIA.

14.2. PROPERTY INSURANCE. Customer shall obtain, at its expense, and shall at all times during which the Equipment is at the Customer's Site or otherwise in Customer's possession or control maintain, property insurance covering Equipment against all risks, loss or damage, in such form and with such insurers as shall be satisfactory to or specified by IDEMIA, in an amount not less than the full replacement cost of all Equipment. The deductible for the property insurance shall not exceed \$25,000.00. IDEMIA shall be named as an additional named insured and loss payee as IDEMIA's interests may appear upon the property insurance and the property insurance shall be primary with respect to any other property insurance maintained by IDEMIA.

14.4. Customer shall, at least two business days prior to the arrival of Equipment at the Customer's Site, and upon demand by IDEMIA from time to time thereafter, furnish IDEMIA with a certificate of insurance demonstrating that the required insurance coverages are in effect.

14.5. SUBROGATION. In the event of any loss or damage to Equipment, in addition to its other rights, IDEMIA will be subrogated to any right of Customer to recover against any person or entity with respect to such loss or damage. Customer will cooperate fully in the prosecution of such rights and will neither take nor permit to be taken any action to prejudice such rights.

SECTION 15. CONFIDENTIALITY, PROPRIETARY RIGHTS, AND RIGHTS IN DATA

15.1. CONFIDENTIAL INFORMATION.

15.1.1. During the term of this Agreement, the parties may provide each other with Confidential Information. For the purposes of this Agreement, "Confidential Information" is any information disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential or its equivalent; or if in verbal form is identified as confidential or proprietary at the time of disclosure and confirmed in writing within thirty (30) days of such disclosure. Notwithstanding any other provisions of this Agreement, Confidential Information shall not include any information that: (i) is or becomes publicly known through no wrongful act of the receiving party; (ii) is already known to the receiving party without restriction when it is disclosed; (iii) is, or subsequently becomes, rightfully and without breach of this Agreement, in the receiving party's possession without any obligation restricting disclosure; (iv) is independently developed by the receiving party without breach of this Agreement; or (v) is explicitly approved for release by written authorization of the disclosing party.

15.1.2. Each party will: (i) maintain the confidentiality of the other party's Confidential Information and not disclose it to any third party, except as authorized by the disclosing party in writing or as required by a court of competent jurisdiction; (ii) restrict disclosure of Confidential Information to its employees who have a "need to know" and not copy or reproduce such Confidential Information; (iii) take necessary and appropriate precautions to guard the confidentiality of Confidential Information, including informing its employees who handle such Confidential Information that it is confidential and not to be disclosed to others, but such precautions shall be at least the same degree of care that the receiving party applies to its own confidential information and shall not be less than reasonable care; and (iv) use such Confidential Information only in furtherance of the performance of this Agreement. Confidential Information is and shall at all times remain the property of the disclosing party, and no grant of any proprietary rights in the Confidential Information is hereby given or intended, including any express or implied license, other than the limited right of the recipient to use the Confidential Information in the manner and to the extent permitted by this Agreement.

15.2. PRESERVATION OF PROPRIETARY RIGHTS.

15.2.1. IDEMIA, the third-party manufacturer of any Equipment, and the copyright owner of any Non-IDEMIA Software own and retain all of their respective Proprietary Rights in the Equipment and Software. Nothing in this Agreement is intended to restrict the Proprietary Rights of IDEMIA, any copyright owner of Non-IDEMIA Software, or any third-party manufacturer of Equipment. All intellectual property developed, originated, or prepared by IDEMIA in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in IDEMIA, and this Agreement does not grant to Customer any shared development rights of intellectual property.

15.2.2. Except as explicitly provided in the Software License Agreement, nothing in this Agreement will be deemed to grant, either directly or by implication, estoppel, or otherwise, any right, title or interest in the Proprietary Rights of IDEMIA. Customer agrees not to modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, or export the Software, or permit or encourage any third party to do so. The preceding sentence shall not apply to Open-Source Software which is governed by the standard license of the copyright owner.

15.3 RIGHTS IN DATA

15.3.1. All materials, documents, data or information obtained from the Customer data files or any Customer medium furnished to the IDEMIA in the performance of this Agreement will at all times remain the property of the Customer. Such data or information may not be used or copied for direct or indirect use by the IDEMIA after completion or termination of this Agreement without the express written consent of the Customer. All materials, documents, data or information, including copies, must be returned to the Customer at the end of this Agreement.

SECTION 16. MISCELLANEOUS

16.1. **TAXES.** The Agreement Price does not include any amount for federal, state, or local excise, sales, lease, service, rental, use, property, occupation, or other taxes, assessments or duties (other than federal, state, and local taxes based on IDEMIA's income or net worth), all of which will be paid by Customer except as exempt by law. If IDEMIA is required to pay or bear the burden of any such taxes, it will send an invoice to Customer and Customer will pay to it the amount of such taxes (including any applicable interest and penalties) within twenty (20) days after the date of the invoice.

16.2. **ASSIGNABILITY.** Customer may not assign this Agreement without the prior written consent of IDEMIA. Any attempted assignment in contravention of this Section 16.2 shall be null and void. IDEMIA may assign this Agreement without the prior written consent of Customer.

16.3. **SUBCONTRACTING.** IDEMIA may subcontract any portion of the work, but such subcontracting will not relieve IDEMIA of its duties under this Agreement.

16.4. **WAIVER.** Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of such right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (i) a future or continuing waiver of that same right or power, or (ii) the waiver of any other right or power.

16.5. **SEVERABILITY.** If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed, and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement.

16.6. **INDEPENDENT CONTRACTORS.** Each party shall perform its activities and duties hereunder only as an independent contractor. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this Agreement shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This Agreement shall not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

16.7. **HEADINGS AND SECTION REFERENCES.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either party.

16.8. **GOVERNING LAW.** This Agreement, and any issues relating hereto or disputes arising hereunder, and the rights and duties of the parties will be governed by and interpreted in accordance with the laws of the state of Delaware.

16.9. **ENTIRE AGREEMENT.** This Agreement, including all Exhibits, constitutes the entire agreement of the parties regarding the subject matter hereof and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to such subject matter. This Agreement may be altered, amended, or modified only by a written instrument signed by authorized representatives of both parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each party signs such document.

16.10. NOTICES. Notices required under this Agreement to be given by one party to the other must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service with an asset tracking system, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and shall be effective upon receipt:

IDEMIA

Customer

5515 East La Palma Avenue, Suite 100

301 Jefferson Street

Anaheim, CA 92807

Washington, MO 63090

ATT: Inside Sales

ATT: Chief Jim Armstrong

16.11. COMPLIANCE WITH APPLICABLE LAWS. Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the Equipment.

16.12. AUTHORITY TO EXECUTE AGREEMENT. Each party represents to the other that (i) it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; (ii) the person executing this Agreement on its behalf has the authority to do so; (iii) upon execution and delivery of this Agreement by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and (iv) the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any governing authority of the party.

16.13. APPROPRIATION: Any party to this Agreement's obligations under this Agreement shall cease immediately, without penalty of further payment being required, in any year for which funding for the subject of this Agreement fails to be appropriated and that party's obligations under this Agreement shall cease immediately without penalty of further payment being required at any time where there are not sufficient authorized funds lawfully available to meet such obligations. Any such party shall give notice of such termination of funding as soon as practicable after it becomes aware of the failure of funding.

16.14. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.

16.15. PREVAILING PARTY. In the event of any dispute arising out of the subject matter of this Agreement, the prevailing party shall recover, in addition to any other damages assessed, its reasonable attorneys' fees and court costs incurred in arbitrating, litigating, or otherwise settling or resolving such dispute.

16.16. SURVIVAL OF TERMS. The following provisions shall survive the expiration or termination of this Agreement for any reason: Section 3.4 (IDEMIA Software); Section 3.5 (Non-IDEMIA Software); if any payment obligations exist, Sections 4.1, 4.2 (Agreement Price and Invoicing and Payment), 4.5 (Customer as Bailee) and 4.6 (Authorizing Filing of UCC Statements); Section 10 (Disputes); Section 13 (Limitation of Liability); Section 15 (Confidentiality, Proprietary Rights, and Rights in Data); and all of the provisions in Section 16.

SECTION 17. AGREEMENT EXECUTION

The parties hereby enter into this Agreement as of the Effective Date.

Idemia Identity & Security USA LLC

NAME ("CUSTOMER")

Signed _____

Signed _____

Name Casey Mayfield

Name _____

Title Vice President Justice & Public Safety

Title _____

Date _____

Date _____

Phone (714) 238-2000

Phone _____

Email Noemi Islas

Email _____



Exhibit A DESCRIPTION OF COVERED PRODUCTS

The following table lists the Products that will be provided by IDEMIA and covered under the Agreement:

IDEMIA LiveScan System Software
FBI Appendix F Certified Tenprint/Palmprint 500PPI Scanner
Computer, monitor, keyboard
FBI Certified Duplex Card printer (Finger & Palm)
Foot pedal for hands free advancement
Standard Missouri Workflows and Profiles
2-Finger FAST ID
Installation / On-site Training
Freight

Exhibit B STATEMENT OF WORK

This Support Plan is a Statement of Work that provides a description of the support to be performed.

1. **Services Provided.** The Services provided are based on the Severity Levels as defined herein. Each Severity Level defines the actions that will be taken by Seller for Response Time, Target Resolution Time, and Resolution Procedure for reported errors. Because of the urgency involved, Response Times for Severity Levels 1 and 2 are based upon voice contact by Customer, as opposed to written contact by facsimile or letter. Resolution Procedures are based upon Seller's procedures for Service as described below.

SEVERITY LEVEL	DEFINITION	RESPONSE TIME	TARGET RESOLUTION TIME
1	Total System Failure - occurs when the System is not functioning and there is no workaround, such as a Central Server is down or when the workflow of an entire agency is not functioning.	Telephone conference within 1 hour of initial voice notification	Resolve within 24 hours of initial notification
2	Critical Failure - Critical process failure occurs when a crucial element in the System that does not prohibit continuance of basic operations is not functioning and there is usually no suitable work-around. Note that this may not be applicable to intermittent problems.	Telephone conference within 3 Standard Business Hours of initial voice notification	Resolve within 7 Standard Business Days of initial notification
3	Non-Critical Failure - Non-Critical part or component failure occurs when a System component is not functioning, but the System is still useable for its intended purpose, or there is a reasonable workaround.	Telephone conference within 6 Standard Business Hours of initial notification	Resolve within 180 days in a Seller-determined Patch or Release.
4	Inconvenience - An inconvenience occurs when System causes a minor disruption in the way tasks are performed but does not stop workflow.	Telephone conference within 2 Standard Business Days of initial notification	At Seller's discretion, may be in a future Release.
5	Customer request for an enhancement to System functionality is the responsibility of Seller's Product Management.	Determined by Seller's Product Management.	If accepted by Seller's Product Management, a release date will be provided with a fee schedule, when appropriate.

1.1 **Reporting a Problem.** Customer shall assign an initial Severity Level for each error reported, either verbally or in writing, based upon the definitions listed above. Because of the urgency involved, Severity Level 1 or 2 problems must be reported verbally to the Seller's call intake center. Seller will notify the Customer if Seller makes any changes in Severity Level (up or down) of any Customer-reported problem.

1.2 **Seller Response.** Seller will use best efforts to provide Customer with a resolution within the appropriate Target Resolution Time and in accordance with the assigned Severity Level when Customer allows timely access to the System and Seller diagnostics indicate that a Residual Error is present in the Software. Target Resolution Times may not apply if an error cannot be reproduced on a regular basis on either Seller's or Customer's Systems. Should Customer report an error that Seller cannot reproduce, Seller may enable a detail error capture/logging process to monitor the System. If Seller is unable to correct the reported Residual Error within the specified Target Resolution Time, Seller will escalate its procedure and assign such personnel or designee to correct such Residual Error promptly. Should Seller, in its sole discretion, determine that such Residual Error is not present in its Release, Seller will verify: (a) the Software operates in conformity to the System Specifications, (b) the Software is being used in a manner for which it was intended or designed, and (c) the Software is used only with approved hardware or software. The Target Resolution Time shall not commence until such time as the verification procedures are completed.

1.3 **Error Correction Status Report.** Seller will provide verbal status reports on Severity Level 1 and 2 Residual Errors. Written status reports on outstanding Residual Errors will be provided to System Administrator on a monthly basis.

3EB

2. Customer Responsibility.

2.1 Customer is responsible for running any installed anti-virus software.

2.2 Operating System ("OS") Upgrades. Unless otherwise stated herein, Customer is responsible for any OS upgrades to its System. Before installing any OS upgrade, Customer should contact Seller to verify that a given OS upgrade is appropriate.

3. Seller Responsibility.

3.1 Anti-virus software. At Customer's request, Seller will make every reasonable effort to test and verify specific anti-virus, anti-worm, or anti-hacker patches against a replication of Customer's application. Seller will respond to any reported problem as an escalated support call.

3.2 Customer Notifications. Seller shall provide access to (a) Field Changes; (b) Customer Alert Bulletins; and (c) hardware and firmware updates, as released and if applicable.

3.3 Account Reviews. Seller shall provide annual account reviews to include (a) service history of site; (b) downtime analysis; and (c) service trend analysis.

3.4 Remote Installation. At Customer's request, Seller will provide remote installation advice or assistance for Updates.

3.5 Software Release Compatibility. At Customer's request, Seller will provide: (a) current list of compatible hardware operating system releases, if applicable; and (b) a list of Seller's Software Supplemental or Standard Releases

3.6 On-Site Correction. Unless otherwise stated herein, all suspected Residual Errors will be investigated and corrected from Seller's facilities. Seller shall decide whether on-site correction of any Residual Error is required and will take appropriate action.

4. Compliance to Local, County, State and/or Federal Mandated Changes. *(Applies to Software and interfaces to those Products)* Unless otherwise stated herein, compliance to local, county, state and/or federally mandated changes, including but not limited to IBR, UCR, ECARS, NCIC and state interfaces are not part of the covered Services.

(The below listed terms are applicable only when the Maintenance and Support Agreement includes (a) Equipment which is shown on the Description of Covered Products, Exhibit A to the Maintenance.)

5. On-site Product Technical Support Services. Seller shall furnish labor and parts required due to normal wear to restore the Equipment to good operating condition.

5.1 Seller Response. Seller will provide telephone and on-site response to Central Site, defined as the Customer's primary data processing facility, and Remote Site, defined as any site outside the Central Site, as shown in Support Plan Options and Pricing Worksheet.

5.2 At Customer's request, Seller shall provide continuous effort to repair a reported problem beyond the PPM. Provided Customer gives Seller access to the Equipment before the end of the PPM, Seller shall extend a two (2) hour grace period beyond PPM at no charge. Following this grace period, any additional on-site labor support shall be invoiced on a time and material basis at Seller's then current rates for professional services.

Exhibit C Payment Schedule

5 Year Agreement with 9 x 5 (Monday through Friday, excluding holidays) On-site *Advantage* Solution Maintenance:

- Year 1 payment of \$0 (paid by Missouri State Highway Patrol)
- Year 2 payment of \$5,928 due 12 months after Effective Date of this Agreement
- Year 3 payment of \$5,928 due 12 months after Year 2 payment
- Year 4 payment of \$5,928 due 12 months after Year 3 payment
- Year 5 payment of \$5,928 due 12 months after Year 4 payment

- Cumulative 5-year cost to Customer for service provided by this Agreement = \$23,712

Exhibit D SOFTWARE LICENSE AGREEMENT

In this Exhibit D, the term "Licensor" means IDEMIA, LLC, ("IDEMIA"); "Licensee," means the Customer; "Primary Agreement" means the agreement to which this exhibit is attached (Service Agreement); and "Agreement" means this Exhibit and the applicable terms and conditions contained in the Primary Agreement. The parties agree as follows:

For good and valuable consideration, the parties agree as follows:

SECTION 1 DEFINITIONS

1.1 "Designated Products" means products provided by IDEMIA to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open-Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open-Source Software License" means the terms or conditions under which the Open-Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached (Service Agreement).

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by IDEMIA; and (iii) may contain one or more items of software owned by a third-party supplier. The term "Software" does not include any third-party software provided under separate license or third party software not licensable under the terms of this Agreement.

SECTION 2 SCOPE

IDEMIA and Licensee enter into this Agreement in connection with IDEMIA's delivery of certain proprietary Software or products containing embedded or pre-loaded proprietary Software, or both. This Agreement contains the terms and conditions of the license IDEMIA is providing to Licensee, and Licensee's use of the Software and Documentation.

SECTION 3 GRANT OF LICENSE

3.1 Subject to the provisions of this Agreement and the payment of applicable license fees, IDEMIA grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under IDEMIA's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2 If the Software licensed under this Agreement contains or is derived from Open-Source Software, the terms and conditions governing the use of such Open-Source Software are in the Open-Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open-Source Software Licenses governing Licensee's use of the Open-Source Software, the terms and conditions of the license grant of the applicable Open-Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, IDEMIA will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; (ii) identify the Open Source

Software and provide Licensee a copy of the applicable Open Source Software License (or specify where that license may be found); and, (iii) provide Licensee a copy of the Open Source Software source code, without charge, if it is publicly available (although distribution fees may be applicable).

SECTION 4 LIMITATIONS ON USE

4.1 Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

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