



# **CITY OF CAPE GIRARDEAU, MISSOURI**

## **City Council Agenda**

Bob Fox, Mayor  
Dan Presson, Ward 1  
Shelly Moore, Ward 2  
Victor Gunn, Ward 3  
Robbie Guard, Ward 4  
Ryan Essex, Ward 5  
Stacy Kinder, Ward 6

City Council Chambers  
City Hall  
401 Independence

Agenda Documents, Videos  
Minutes, and Other Information:  
[www.cityofcape.org/citycouncil](http://www.cityofcape.org/citycouncil)

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**September 16, 2019**  
**5:00 PM**

### **Invocation**

Dr. Bruce Baxter, Superintendent of Southeast District- United Methodist Church

### **Pledge of Allegiance**

### **Study Session**

No action will be taken during the study session

### **Presentations**

- Recognition of Cape Girardeau Police Officers for Outstanding Performance
- Recognition of the Cape Catfish Baseball Team
- Recognition of Corvettes of Southeast Missouri for the 2019 Corvette Caravan
- Cape Central Baseball Softball Complex Renovation Update

### **Communications/Reports**

- City Council  
Staff

### **Items for Discussion**

- Planning and Zoning Commission Report
- Appearances regarding items not listed on the agenda  
This is an opportunity for the City Council to listen to comments regarding items not listed on the agenda. The Mayor may refer any matter brought up to the City Council to the City Manager if action is needed. Individuals who wish to make comments must first be recognized by the Mayor or Mayor Pro Tem. Each speaker is allowed 5 minutes. The timer will buzz at the end of the speaker's time.
- Agenda review

## **Regular Session**

### **Call to Order/Roll Call**

### **Adoption of the Agenda**

### **Public Hearings**

1. [A public hearing to consider a request for approval of a modified site plan as part of the existing Special Use Permit for Rivendell Court at 3071, 3095, and 3117 Lexington Avenue.](#)

### **Appearances regarding Items Listed on the Agenda**

Individuals who wish to make comments regarding items listed on the agenda must first be recognized by the Mayor or Mayor Pro Tem. Each speaker is allowed 5 minutes and must stand at the public microphone and state his/her name and address for the record. The timer will buzz at the end of the speaker's time.

### **Consent Agenda**

The Consent Agenda is a meeting method to make City Council meetings more efficient and meaningful to the members of the audience. All matters listed within the Consent Agenda have been distributed to each member of the Cape Girardeau City Council for reading and study, are considered to be routine, and will be enacted by one motion of the council with no separate discussion. Staff recommends approval of the Consent Agenda. If separate discussion is desired, that item may be removed from the Consent Agenda and placed on the Regular Agenda by request of a member of the City Council.

2. [Approval of the August 19, 2019, City Council regular session and closed session minutes.](#)
3. [BILL NO. 19-137, an Ordinance approving the Preliminary Development Plan of Ramsay's Run, for a proposed residential development in the City of Cape Girardeau, Missouri. Second and Third Readings.](#)
4. [BILL NO. 19-138, an Ordinance authorizing the City Manager to execute Amendment #1 to a State Block Grant Agreement with the Missouri Highways and Transportation Commission for a Snow Removal Equipment Vehicle, at the Cape Girardeau Regional Airport. Second and Third Readings.](#)
5. [BILL NO. 19-139, an Ordinance amending Chapter 30 of the Code of Ordinances of the City of Cape Girardeau, Missouri, by changing the zoning of property located on Bloomfield Road, in the City and County of Cape Girardeau, Missouri, from R-4 to PD. Second and Third Readings.](#)
6. [BILL NO. 19-140, an Ordinance accepting a Permanent Utility Easement and Temporary Construction Easement from Mary Beth Kenkel, for 2574 Boutin Drive, in the City of Cape Girardeau, Missouri. Second and Third Readings.](#)
7. [BILL NO. 19-141, an Ordinance accepting a Collector's Deed from Cape Girardeau County, for property located at 0 North Main Street, in the City of Cape Girardeau, Missouri. Second and Third Readings.](#)
8. [BILL NO. 19-143, an Ordinance authorizing the issuance of Waterworks System Refunding Revenue Bonds, series 2019, of the City of Cape Girardeau, Missouri; prescribing the form and details of the bonds and the covenants and agreements to provide for the payment and security thereof; and authorizing certain actions and documents and prescribing other matters relating thereto. Second and Third Readings](#)

9. [BILL NO. 19-144, a Resolution authorizing the City Manager to execute Amendment #1 to the Hangar Facility Lease Agreement with DSW Development Corporation, at the Cape Girardeau Regional Airport. Reading and Passage.](#)
10. [BILL NO. 19-145, a Resolution authorizing the City Manager to execute a Land Lease Agreement with DSW Development Corporation, at the Cape Girardeau Regional Airport. Reading and Passage.](#)
11. [BILL NO. 19-146, a Resolution authorizing the City Manager to execute a Wrecker Service Agreement with Sperlings, Inc., in the City of Cape Girardeau, Missouri. Reading and Passage.](#)
12. [BILL NO. 19-149, a Resolution authorizing the City Manager to execute an Agreement with Phillip B. Smith, L.L.C., for general facility improvement projects, in the City of Cape Girardeau, Missouri. Reading and Passage.](#)
13. [Approval of a modified site plan as part of the existing special use permit for Rivendell Court at 3071, 3095, and 3117 Lexington Avenue.](#)

## **Items Removed from Consent Agenda**

### **New Ordinances**

14. [BILL NO. 19-147, an Ordinance authorizing the City Manager to execute Amendment #4 to the State Block Grant Agreement with the Missouri Highways and Transportation Commission for design and construction of the Runway 10/28 Lighting Rehabilitation Project, at the Cape Girardeau Regional Airport. First Reading.](#)
15. [BILL NO. 19-148, an Ordinance authorizing the City Manager to execute Amendment #3 to the State Block Grant Agreement with the Missouri Highways and Transportation Commission to fund the acquisition of an Aircraft Rescue Fire Fighting Vehicle, at the Cape Girardeau Regional Airport. First Reading.](#)
16. [BILL NO. 19-150, an Ordinance approving the Record Plat of Tara Estates. First Reading.](#)

### **Appointments**

### **Other Business**

### **Meeting Adjournment**

### **Closed Session**

The City Council of the City of Cape Girardeau, Missouri, may, as a part of a study session or regular or special City Council meeting, vote to hold a closed session to discuss issues listed in RSMo. Section 610.021, including but not limited to: legal actions, causes of legal action or litigation, leasing, purchasing or sale of real estate, hiring, firing, disciplining, personnel issues, or confidential or privileged communications with its attorneys.

- Personnel, pursuant to RSMo. Section 610.021(3).

### **Advisory Board Minutes**

- [Advisory Board Minutes](#)

**Staff:** Ryan Shrimplin, AICP - City  
**Agenda:** Planner  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-205**

**SUBJECT**

A public hearing to consider a request for approval of a modified site plan as part of the existing special use permit for Rivendell Court at 3071, 3095, and 3117 Lexington Avenue.

**EXECUTIVE SUMMARY**

A public hearing has been scheduled for September 16, 2019 to consider a request for approval of a modified site plan as part of the existing special use permit for the Rivendell Court development at 3071, 3095, and 3117 Lexington Avenue. The special use permit was granted on October 20, 2004.

**BACKGROUND/DISCUSSION**

A request for approval of a modified site plan for the Rivendell Court development has been submitted. The property, located at 3071, 3095, and 3117 Lexington Avenue, is zoned R-1 (Single-Family Suburban Residential). A special use permit for Rivendell Court was granted on October 20, 2004. The original site plan approved as part of the special use permit showed three buildings. The two northernmost buildings (Building A and Building B) and related site improvements were constructed years ago. The current owner of the development wishes to move forward with plans to construct the third building (Building C) and related site improvements. The modified site plan for Building C proposed by the current owner is significantly different from the original site plan. The key differences are as follows:

1. The modified site plan shows a dumpster in the front yard, between Building C and Northchurch Street. The dumpster is not shown on the original site plan.
2. The modified site plan shows a drive aisle on the west side of Building C, with parking spaces on both sides at the north end and tapering down to parking on one side only at the south end. The original site plan shows parking spaces on both sides of the drive aisle from the north end to the south end, with no taper.
3. The modified site plan shows angled parking spaces on the south and east sides of Building C. No parking is shown in these areas on the original site plan.
4. The modified site plan shows a much smaller building footprint than the one shown on the original site plan.
5. The original site plan shows a roofed accessory structure near the east property line, across the drive aisle from Building C. This structure is not shown on the modified site plan.

In commercial zoning districts, dumpsters are required to be located in the rear or side yard. Although this property is zoned residential, Rivendell Court is a commercial use, and logic would dictate that the dumpster should be located in the rear or side yard in the same manner as uses in commercial districts. However, in this case, it is not feasible to locate the dumpster in the rear or side yard due to an existing retaining wall along the drive aisle on the east side of Building C. Locating the dumpster on the other side of the drive aisle would result in the loss of several parking spaces. The modified site plan contains a note indicating that the dumpster will be screened. The



screening is required per Section 25-807(a) of the Development Code (Chapter 25 of the City’s Code of Ordinances). The screening materials are subject to approval by staff. For these reasons, staff has no concerns with the proposed dumpster location.

Staff also has no concerns with the other changes. The changes to the parking layout amount to merely shifting parking spaces from the west side of Building C to the south and east sides. While the addition of parking on the south side removes a large amount of landscaping, the reduction is offset by the fact that the building footprint is being significantly reduced, which provides for additional landscaping on the east side of the building.

A public hearing on the modified site plan has been scheduled for September 16, 2019. The letter requesting approval of the modified site plan, the modified and original site plans, and the existing special use permit are attached.

**STAFF RECOMMENDATION**

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The staff report to the Planning & Zoning Commission recommended approval of the modified site plan.

**BOARD OR COMMISSION RECOMMENDATION**

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The Planning & Zoning Commission, at its September 11, 2019 meeting, recommended approval of the modified site plan with a vote of 6 in favor, 0 in opposition, and 0 abstaining.

**PUBLIC OUTREACH**

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The City Council's public hearing was advertised in the Southeast Missourian on September 6, 2019.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Ltr to Ryan Shrimplin 9.3.19.pdf</a>	Letter Requesting Approval of Modified Site Plan for Rivendell Court
 <a href="#">Rivendell Site Plan C2.1.pdf</a>	Rivendell Court - Modified Site Plan
 <a href="#">Approved Site Plan - Rivendell SUP.pdf</a>	Rivendell Court - Original Site Plan
 <a href="#">Special Use Permit - Rivendell.pdf</a>	Rivendell Court - Existing Special Use Permit

# THE LIMBAUGH FIRM

## ATTORNEYS AT LAW

EST. 1916

September 3, 2019

**Via email only: [rshrimplin@cityofcapegirardeau.org](mailto:rshrimplin@cityofcapegirardeau.org)**

Mr. Ryan Shrimplin, AICP

City Planner

City of Cape Girardeau

401 Independence Street

Cape Girardeau, MO 63703

**Re: Rivendell Properties, L.L.C./Rhodes Properties, LC  
Special Use Permit for Rivendell Court**

Dear Ryan:

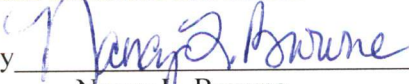
As you know, we represent Rhodes Properties, LC (Scott and Mark Rhodes). Our client owns the development known as Rivendell Court located at 3095 and 3117 Lexington Avenue in the City of Cape Girardeau.

The former owner of the property (Rivendell Properties, LLC) was granted a Special Use Permit on October 20, 2004 to develop this property for office and retail use based on an approved site plan that was submitted at that time. The site plan included three buildings, two of which have been built. The developer is now ready to build the third building and is requesting approval of a modified site plan in connection with the third building (Building "C"). A copy of the amended site plan is attached for review, along with the original Special Use Permit and original site plan.

It is my understanding that this request will be reviewed by the Planning and Zoning Committee on September 11<sup>th</sup> and then by the City Council with a public hearing on September 16<sup>th</sup>. Rhodes Properties will be submitting a check for the cost for the ad for the public hearing directly to your office. Should you need anything further from me or Rhodes Properties, please let me know.

Sincerely,

**THE LIMBAUGH FIRM**

By   
Nancy L. Browne

NLB:djg

Attachments

cc: Rhodes Properties, LC (via email only)

NANCY L. BROWNE

JOHN W. GRIMM

LUCAS M. HALEY

JOHN D. HARDING

BOB I. HOWARD

DIANE C. HOWARD

R. MICHAEL HOWARD

JEFFREY J. KOCH

DAVID S. LIMBAUGH

STEPHEN N. LIMBAUGH, SR.

J. MICHAEL PAYNE

CURTIS O. POORE

CHRISTOPHER B. SIDES

JOHN C. STEFFENS

EDWIN DEAN WHITE

RUSH H. LIMBAUGH

1891-1996

RUSH H. LIMBAUGH, JR.

1918-1990

JOSEPH J. RUSSELL

1923-2006

407 N. KINGSHIGHWAY

SUITE 400

P.O. BOX 1150

CAPE GIRARDEAU

MISSOURI

63702-1150

TELEPHONE

(573) 335-3316

FACSIMILE

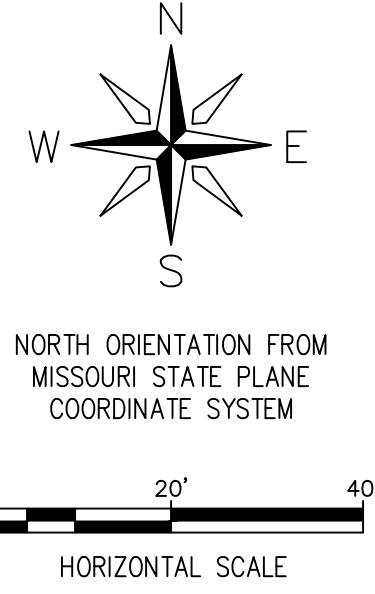
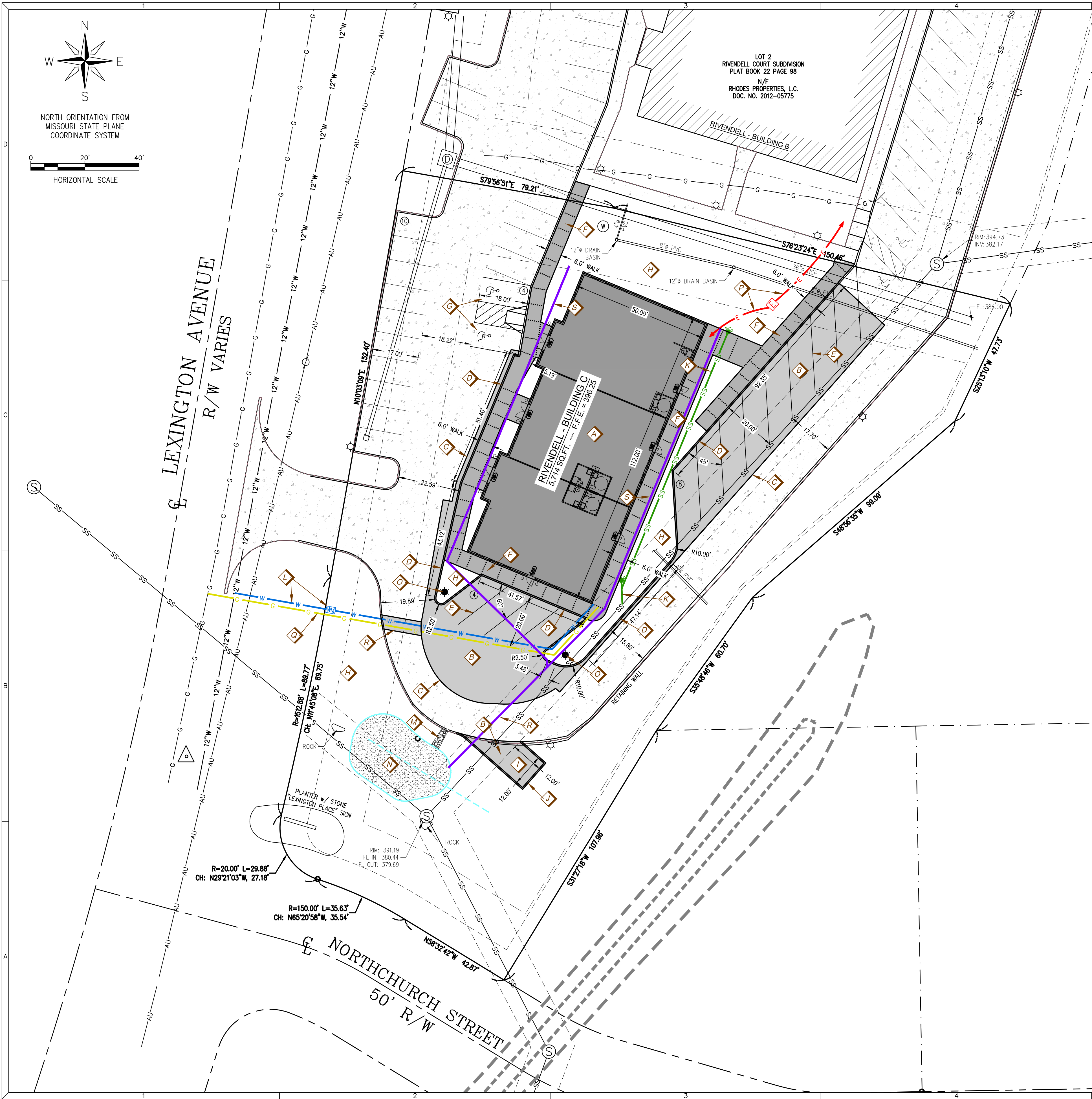
(573) 335-0621

[www.limbaughlaw.com](http://www.limbaughlaw.com)

[nbrowne@limbaughlaw.com](mailto:nbrowne@limbaughlaw.com)

OVER  
100  
YEARS





SITE PLAN NOTES

- 1. ALL DIMENSIONS INDICATED HEREON ARE TO FACE OF CURB, OR EDGE OF PAVEMENT WHERE NO CURB IS PRESENT, UNLESS NOTED OTHERWISE.
- 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF CAPE GIRARDEAU STANDARD SPECIFICATIONS.
- 3. ALL DISTURBED AREAS NOT INDICATED AS PAVEMENT SHALL BE SOD OR SEEDED AND STRAWED PER EROSION AND SEDIMENT CONTROL REQUIREMENTS IN SECTION 23-8 (12).
- 4. FULL TRENCH DEPTH GRANULAR BACKFILL WHERE PROPOSED PIPES CROSS UNDER PAVEMENT. REFER TO TYPICAL UTILITY TRENCH DETAIL ON SHEET C2.2.
- 5. REFER TO SHEET C1.1 FOR EXISTING SITE CONDITIONS AND DEMOLITION PLAN.
- 6. REFER TO SHEET C3.1 FOR GRADING AND STORMWATER MANAGEMENT PLAN.
- 7. REFER TO SHEET C2.2 FOR CIVIL SITE DETAILS.
- 8. REFER TO MEP PLANS FOR SITE LIGHTING PLAN, INCLUDING PHOTOMETRIC PLAN.
- 9. PARKING REQUIREMENTS:  
ANTICIPATED USE (TOTAL FLOOR AREA = 5,714 SQ. FT.): BUSINESS OR PROFESSIONAL OFFICES, EXCEPT MEDICAL AND DENTAL OFFICES.  
SECTION 25-203 REQUIREMENT: 1 FOR EACH 350 SQ. FT. OF TOTAL BUILDING FLOOR AREA, OR 1 FOR EACH EMPLOYEE PLUS 10 PERCENT ADDITIONAL SPACES; PLUS 1 FOR EACH VEHICLE KEPT ON THE PREMISES FOR THE BUSINESS.  
REQUIRED: 17 SPACES  
PROVIDED: 26 SPACES (INCLUDES 2 HANDICAP SPACES)

KEYED NOTES

- | ITEM | NOTE  |
|------|---|
| A    | PROPOSED BUILDING FOOTPRINT. REFER TO BUILDING PLANS FOR MORE DETAILS.  |
| B    | PROPOSED 6" THICK CONCRETE PAVEMENT. REFER TO TYPICAL CONCRETE PAVEMENT DETAIL ON SHEET C2.2.   |
| C    | MATCH EXISTING GRADE WHERE PROPOSED CONCRETE MEETS EXISTING CONCRETE PAVEMENT. REFER TO TYPICAL CONCRETE CONNECTION DETAIL ON SHEET C2.2.   |
| D    | PROPOSED 6" INTEGRAL CONCRETE CURB. TYP. REFER TO TYPICAL CURB DETAIL ON SHEET C2.2.  |
| E    | PROPOSED 4" PAINTED PARKING STRIPE. TYP.  |
| F    | PROPOSED CONCRETE SIDEWALK. WIDTH INDICATED HEREON. GROSS SLOPE SHALL NOT EXCEED 2% ALONG ADA PATHS. REFER TO TYPICAL SIDEWALK DETAIL ON SHEET C2.2.  |
| G    | EXISTING HANDICAP PARKING SPACE AND ACCESS AISLE WITH PAINTED HANDICAP SYMBOL AND SIGN (TYP.). CONTRACTOR SHALL VERIFY GRADE OF SPACES (SHALL NOT EXCEED 2.08%) AND CONDITION OF STRIPING. REFER TO SYMBOL AND SIGN DETAILS ON SHEET C2.2. ACCESS AISLE TO BE MARKED SO AS TO DISCOURAGE PARKING IN IT (ICC/ANSI A117.1-1998 SEC. 503.3.3). SIGN TO BE POLE MOUNTED ON BACK SIDE OF CURB.   |
| H    | PROPOSED GRASS OR LANDSCAPE AREA. COORDINATE ALL LANDSCAPING WITH OWNER. REFER TO LANDSCAPE PLAN FOR MORE DETAILS.  |
| I    | PROPOSED 12' X 12' DUMPSTER ENCLOSURE. REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL INFORMATION.   |
| J    | PROPOSED CONCRETE STEM WALL UNDER DUMPSTER ENCLOSURE. REFER TO RETAINING WALL DETAILS ON SHEET C2.2.  |
| K    | PROPOSED 4" SDR-35 SANITARY SEWER SERVICE LINE AT 1% MINIMUM SLOPE. MAINTAIN MINIMUM OF 3' OF COVER OVER PROPOSED SERVICE LINE. REFER TO MEP PLANS FOR CONNECTION(S) TO BUILDING AND ADDITIONAL DETAILS. PROPOSED SERVICE LINE SHALL CONNECT TO EXISTING SANITARY SEWER MAIN. COORDINATE CONNECTIONS TO MAIN WITH CITY OF CAPE GIRARDEAU SANITARY SEWER DEPARTMENT. INSTALL SEWER CLEANOUTS TO FINISHED GRADE WITH MAXIMUM 100 FEET BETWEEN CLEANOUTS AND AT ALL BENDS. REFER TO TYPICAL CLEANOUT DETAIL ON SHEET C2.2. |
| L    | PROPOSED WATER SERVICE LINE AND METER AS SHOWN. COORDINATE CONNECTION TO EXISTING WATER MAIN AND METER INSTALLATION WITH ALLIANCE WATER. MAINTAIN A MINIMUM OF 42" OF COVER OVER WATERLINE. WATERLINE TO CONNECT TO BUILDING AT BACK OF BUILDING. REFER TO MEP PLANS FOR CONNECTION LOCATION AT BUILDING.   |
| M    | PROPOSED ROCK LINING (RIP-RAP) FROM CURB OUTLET TO INFILTRATION TRENCH AREA.  |
| N    | PROPOSED INFILTRATION TRENCH WITH 6" PERFORATED PVC PIPE. INFILTRATION TRENCH SHALL BE 2" CLEAN STONE WITH A DEPTH OF 1.5 FEET AND 1.0 FOOT OF PONDING AREA ABOVE STONE. REFER TO INFILTRATION TRENCH DETAIL ON SHEET C2.2. OUTLET PIPE SHALL BE 6" PERFORATED PVC WITHIN INFILTRATION TRENCH AREA AND SOLID PVC BETWEEN INFILTRATION TRENCH AREA AND DITCH. END OF OUTLET PIPE SHALL DAYLIGHT TO EXISTING DRAINAGE DITCH ON EAST SIDE OF SITE.   |
| O    | PROPOSED LIGHT POLE. LIGHT AND LIGHT POLE SHALL MATCH EXISTING LIGHT POLES ON SOUTH SIDE OF BUILDING B.   |
| P    | PROPOSED SITE ELECTRIC. CONNECT TO EXISTING SITE ELECTRIC AT BACK OF BUILDING "B" AND REFER TO MEP PLANS FOR CONNECTION AT BACK OF PROPOSED BUILDING "C", TRANSFORMER TO BE ENCLOSED AND LOCATED BETWEEN BUILDINGS "B" & "C". COORDINATE CONNECTION TO EXISTING ELECTRIC AND LOCATION OF PROPOSED TRANSFORMER WITH AMEREN AND SITE ELECTRICAL PLAN.   |
| Q    | PROPOSED BURIED GAS LINE WITH CONNECTION TO BUILDING AND METER(S) AT BACK OF BUILDING. COORDINATE INSTALLATION WITH AMEREN AND REFER TO THE MEP PLANS FOR CONNECTION LOCATION AT BUILDING.  |
| R    | REMOVE AND REPLACE CONCRETE PAVEMENT FOR UTILITY LINES, DOWEL INTO EXISTING CONCRETE. REFER TO TYPICAL CONCRETE CONNECTION DETAIL ON SHEET C2.2.  |
| S    | PROPOSED 8" HDPE STORM PIPE AND NECESSARY FITTINGS. ROOF DRAINS SHALL CONNECT TO PROPOSED PIPE USING INSERT-A-TEE FITTINGS. REFER TO SHEET C2.2 FOR PIPE BEDDING DETAIL. PROPOSED PIPE SHALL RUN ALONG BACK AND FRONT SIDES OF THE BUILDING AND TO INFILTRATION TRENCH AS SHOWN HEREON.   |

LEGEND

- |           |                               |
|-----------|-------------------------------|
| [Pattern] | PROPOSED CONCRETE PAVEMENT    |
| [Pattern] | PROPOSED BUILDING FOOTPRINT   |
| [Pattern] | PROPOSED SIDEWALK             |
| SS        | PROPOSED SSWR SERVICE LINE    |
| [Symbol]  | PROPOSED SSWR CLEANOUT        |
| W         | PROPOSED WATER SERVICE LINE   |
| [Symbol]  | PROPOSED WATER METER          |
| G         | PROPOSED GAS SERVICE LINE     |
| E         | PROPOSED BURIED ELECTRIC LINE |
| [Symbol]  | PROPOSED ELECTRIC TRANSFORMER |
| [Pattern] | PROPOSED RIP RAP              |

CoCG DIGITAL STAMP

**KOEHLER**  
ENGINEERING AND LAND SURVEYING, INC.

MO LS COA: LS 000262    MO ENGINEERING COA: 2003019634  
Civil Engineering and Surveying Services  
194 Coker Lane - Cape Girardeau, MO 63701  
Phone: 573.335.3026 - Fax: 573.335.3049  
www.koehlerengineering.com

SITE IMPROVEMENT PLANS FOR

**RIVENDELL - BUILDING C**

LOT 1 OF RIVENDELL COURT SUBDIVISION

3117 LEXINGTON AVENUE, CAPE GIRARDEAU, MISSOURI

RHODES PROPERTIES, L.C.  
C/O: MR. SCOTT RHODES, 573-225-3062  
P.O. BOX 779, CAPE GIRARDEAU, MO 63702

SEAL

RYAN M. ROTH - ENGINEER  
PE 2016001295  
08/20/19

THIS DRAWING IS NOT TO BE REPRODUCED WITHOUT THE PERMISSION OF KOEHLER ENGINEERING. NOT VALID FOR PROFESSIONAL PURPOSES UNLESS SIGNED AND SEALED.

REV	DATE	DESCRIPTION

CIVIL SITE PLAN	
KELS PJCT NO. 37573	OWNR PJCT NO.
DESIGNED BY RR	
DRAWN BY RR	SHEET NO.
CHECKED BY CK	C2.1
DATE 08.28.2019	



# RIVENDELL COURT



Rivendell Court designed &  
Developed by Rivendell Properties  
LLC

10/4/04

\$30 chg  
City of Cape



2004-17301

REC FEE: \$30.00  
PAGES: 3

JANET ROBERT, Recorder of  
Deeds, Cape Girardeau  
County MO, certify that  
this document was filed  
for record at 11:11AM  
and official seal affixed  
at Jackson, MO. 11/09/2004

JANET ROBERT  
Recorder of Deeds

Sherry Watson Deputy

[The above 3 inch blank space is reserved for the Recorder of Deeds Office. Do not alter or use]

## RECORDER OF DEEDS COVER PAGE

**Title of Document:** SPECIAL USE PERMIT

**Date of Document:** October 20, 2004

**Grantor(s) Name & Address:** City of Cape Girardeau, MO  
401 Independence, P.O. Box 617  
Cape Girardeau, MO 63702-0617

**Grantee(s) Name & Address:** Rivendell Properties, L.L.C.  
517 N. Silver Springs Rd.  
Cape Girardeau, MO 63701

### Legal Description:

Tract No. 1: All of Lot 1 of Lexington Place Fourth Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 21 at page 82, land records of Cape Girardeau County, Missouri.

Tract No. 2: All of Lots 1, 2, 3, 4 and 5 of Lexington Place First Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 17 at page 63, land records of Cape Girardeau County, Missouri.

**Reference Book & Page, if Required:**

## **SPECIAL USE PERMIT**

Rivendell Properties, L.L.C., is hereby granted a Special Use Permit for purposes of constructing, maintaining and operating an office and retail unit located at the entrance of Lexington Place Subdivision, in the City and County of Cape Girardeau, Missouri, on the following described property for an indefinite period of time:

Tract No. 1: All of Lot 1 of Lexington Place Fourth Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 21 at page 82, land records of Cape Girardeau County, Missouri.

Tract No. 2: All of Lots 1, 2, 3, 4 and 5 of Lexington Place First Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 17 at page 63, land records of Cape Girardeau County, Missouri.

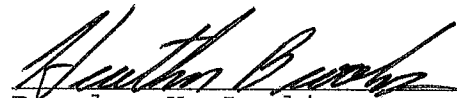
This Special Use Permit is granted upon the condition that the Applicant be bound by all City Ordinances which pertain to the Special Use Permit and that the Applicant be bound by the following conditions which are imposed as a condition of issuance of this Special Use Permit. Upon the failure of the Applicant to comply with these special conditions, the Special Use Permit will automatically terminate and the City of Cape Girardeau shall have the right to enter upon the land to abate such special use.

### **SPECIAL CONDITIONS:**

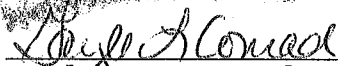
1. Additions or modifications from the original building permit must be approved by the City Council.
2. Special use shall meet all applicable zoning regulations.
3. This Special Use Permit shall automatically terminate in twelve (12) months upon the failure to develop the use of the land for which the Special Use Permit has been issued.
4. This Special Use Permit is not transferrable without consent of the City Council.
5. This professional office and retail space shall be limited to: health care professionals, legal services, accounting and bookkeeping, financial service industries, insurance providers, real estate and property management companies, consulting and counseling services, 501(C)3 and faith-based organizations, spa/salon, limited food

(i.e. sandwich shop, Starbucks coffee or a My Daddy's Cheesecake, etc.) with no more than eight (8) persons in a single shift on the premises and hours be limited to normal defined as not before 5:00 a.m. and no later than 11:00 p.m.; limited retail boutique shop (i.e. Piccadilly's, Annie EM's, Patricia Ann's, Renaissance, etc.)

IN WITNESS WHEREOF, the City Manager of the City of Cape Girardeau, Missouri, affixes his signature this 20th day of October, 2004.

  
Douglas K. Leslie *Heather D. Brooks*  
Acting City Manager

ATTEST:

  
Gayle L. Conrad  
City Clerk

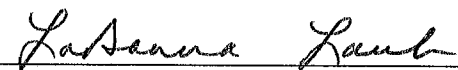
STATE OF MISSOURI )

) ss.

COUNTY OF CAPE GIRARDEAU )

On this 20th day of October, 2004, before me appeared ~~Douglas K. Leslie~~ *Heather D. Brooks* to me personally known, who, being by me duly sworn, did say that she is the City Manager of the City of Cape Girardeau, Missouri, a Municipal Corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City and that the said instrument was signed and sealed in behalf of said City by authority of its City Council and acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Cape Girardeau, Missouri, the day and year first above written.

  
LaDonna Laub, Notary Public

My Commission Expires:  
August 4, 2007

**LADONNA LAUB**  
Notary Public-Notary Seal  
State of Missouri  
County of Scott  
My Commission Expires Aug. 4, 2007

**Staff:** Bruce Taylor, Deputy City  
**Agenda:** Clerk  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**SUBJECT**

Approval of the August 19, 2019, City Council regular session and closed session minutes.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">2019.08.19 RegularsessionMinutes.docx</a>	Minutes 2019-08-19 Regular
 <a href="#">2019.08.19 ClosedSessionMinutes1.docx</a>	Minutes 2019-08-19 Closed



**STUDY SESSION – August 19, 2019****NO ACTION TAKEN DURING THE STUDY SESSION**

The Cape Girardeau City Council held a study session at the Cape Girardeau City Hall on Monday, August 19, 2019, starting at 5:00 p.m. with Mayor Bob Fox presiding and Council Members Ryan Essex, Robbie Guard, Stacy Kinder, Shelly Moore, and Dan Presson present.

**REGULAR SESSION – August 19, 2019****CALL TO ORDER**

The Cape Girardeau City Council convened in regular session at the Cape Girardeau City Hall on Monday, August 19, 2019, at 5:25 p.m., with Mayor Bob Fox presiding and Council Members Ryan Essex, Robbie Guard, Stacy Kinder, Shelly Moore, and Dan Presson present.

**ADOPTION OF THE AGENDA**

A Motion was made by Robbie Guard, Seconded by Shelly Moore, to approve and adopt the Agenda as amended with Bill No. 19-123 removed from the Consent Agenda.

Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

**APPEARANCES**

None.

**CONSENT AGENDA**

Approval of the August 5, 2019, City Council regular session and closed session minutes, and of the August 12, 2019, City Council special meeting minutes.

BILL NO. 19-118, an Ordinance authorizing the City Manager to execute a State Block Grant Agreement with the Missouri Highways and Transportation Commission to fund the Promotion of Scheduled Passenger Air Service at the Cape Girardeau Regional Airport. Second and Third Readings.

BILL NO. 19-119, an Ordinance approving the Record Plat of LaFont's First Amended. Second and Third Readings.

BILL NO. 19-120, an Ordinance approving the Record Plat of Sabella's First Subdivision. Second and Third Readings.

BILL NO. 19-124, an Ordinance amending Schedule F of Section 26-247 of the City Code, by establishing no parking anytime on the north side of Jim Drury Way. Second and Third Readings.

BILL NO. 19-125, an Ordinance amending Schedule A of Section 26-228 of the City Code, by repealing certain speed limits on South West End Boulevard and establishing new speed limits on South West End Boulevard, in the City of Cape Girardeau, Missouri. Second and Third Readings.

BILL NO. 19-121, a Resolution authorizing the City Manager to execute an Agreement with Koehler Engineering and Land Surveying, Inc., for general engineering and infrastructure projects, in the City of Cape Girardeau, Missouri. Reading and Passage.

BILL NO. 19-122, a Resolution authorizing the City Manager to execute an Agreement with Bowen Engineering and Land Surveying, Inc., for general engineering and infrastructure projects, in the City of Cape Girardeau, Missouri. Reading and Passage.

Bill No. 19-128, a Resolution authorizing application to the Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2019 Local Solicitation, and authorizing the City Manager to execute all necessary grant program documents. Reading and Passage.

BILL NO. 19-134, a Resolution authorizing the City Manager to execute an Agreement with M-B Companies, Inc., for snow removal equipment at the Cape Girardeau Regional Airport, in the City of Cape Girardeau, Missouri. Reading and Passage.

BILL NO. 19-135, a Resolution of support for the proposal from MACO Development Company, LLC, for the Silver Springs II Apartments housing development. Reading and Passage.

Bill No. 19-136, a Resolution authorizing the City Manager to submit a letter of recommendation to the United States Department of Transportation for SkyWest Airlines to provide air carrier service under the Essential Air Service Program at the Cape Girardeau Regional Airport. Reading and Passage.

A Motion was made by Ryan Essex, Seconded by Dan Presson, to approve and adopt. Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-118 will be Ordinance No. 5214; BILL NO. 19-119 will be Ordinance No. 5215; BILL NO. 19-120 will be Ordinance No. 5216; BILL NO. 19-124 will be Ordinance No. 5217; BILL NO. 19-125 will be Ordinance No. 5218; BILL NO. 19-121 will be Resolution No. 3277; BILL NO. 19-122 will be Resolution No. 3278; BILL NO. 19-128 will be Resolution No. 3279; BILL NO. 19-134 will be Resolution No. 3280; BILL NO. 19-135 will be Resolution No. 3281; and BILL NO. 19-136 will be Resolution No. 3282.

#### **ITEMS REMOVED FROM CONSENT AGENDA**

BILL NO 19-123, an Ordinance providing for the levying of the annual City revenue tax; public health tax; Special Business District No. 2 tax; for the fiscal year ending on the 30th day of June, 2020. Second and Third Readings. (Council Report Amended)

City Council asked for an explanation of City staff's recommendation to amend the Ordinance from the First Reading. Finance Director Victor Brownlees spoke about the process required by State regulations, the assessment made by Cape Girardeau County, and the timing of the County's report to the City. He noted that the changes were marginal.

A Motion was made by Dan Presson, Seconded by Robbie Guard, to amend the Ordinance as recommended and to approve and adopt as amended.

Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-123 will be Ordinance No. 5219.

**NEW ORDINANCES**

Bill No 19-129, an Ordinance amending Chapter 7 of the Code of Ordinances of the City of Cape Girardeau, Missouri, regarding Automatic Pool Covers. First Reading.

Council Member Stacy Kinder asked when the automatic pool cover option was approved. Deputy City Manager Molly Mehner stated that automatic pool covers are allowed in the 2015 International Swimming Pool and Spa Code, which is referenced in the City Code. City staff and the Board of Appeals believe that the effectiveness of an automatic swimming pool cover depends on someone operating the device and having electricity. There have been no reported cases of faulty self-latching gates used with fences as pool barriers in the City. The proposed Ordinance prohibits the use of the automatic pool cover as the only barrier method.

A Motion was made by Robbie Guard, Seconded by Dan Presson, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

Bill No 19-130, an Ordinance amending Chapter 7 of the Code of Ordinances of the City of Cape Girardeau, Missouri, regarding Storm Shelters. First Reading.

Council Member Ryan Essex asked staff to explain. City Manager Scott Meyer said that the School Board recently applied for a building addition, and with the current building code they would be required to provide a storm shelter with the addition. The School Board asked for a waiver of this requirement to the Board of Appeals based on undue hardship. Deputy City Manager Molly Mehner explained that this amendment would remove this requirement from the City's Building Code. Gary Hill added that this code amendment would also affect fire and police stations, and communication centers.

A Motion was made by Robbie Guard, Seconded by Stacy Kinder, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

Bill NO. 19-131, an Ordinance of the City of Cape Girardeau, Missouri, extending the imposition of the present one-quarter of one percent Capital Improvement Sales Tax from its expiration date of December 31, 2019, to December 31, 2034. First Reading.

A Motion was made by Robbie Guard, Seconded by Dan Presson, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-132, an Ordinance authorizing the Mayor to execute a Special Warranty Deed to Jerry Collins and Brenda Collins, for property located at 3207 Bernice Street, in the City of Cape Girardeau, Missouri. First Reading.

A Motion was made by Ryan Essex, Seconded by Stacy Kinder, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

BILL NO. 19-133, an Ordinance accepting a Temporary Construction Easement from Terry and Cynthia McDowell, for the Hopper Road Box Culvert Project, in the City of Cape Girardeau, Missouri. First Reading.

A Motion was made by Ryan Essex, Seconded by Robbie Guard, to approve.  
Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

**OTHER BUSINESS**

Consideration of Appeal of Denial for Liquor License Renewal Application for Ricky Lynn Werner, d/b/a River Valley Banquet Center, LLC 631 South Sprigg Street.

Mayor Bob Fox called for the appeal applicant to appear before the City Council. Ronald Garms appeared to represent Ricky Lynn Werner. Mr. Garms began his statement to rescind the denial for Liquor License Renewal for Ricky Lynn Werner, d/b/a River Valley Banquet Center, LLC. He argued that the City Code of Ordinance regulating Liquor Licenses, included the Liquor License Review Board, may violate State and Federal laws. He also disputed the facts present to the City Manager cited as the reason for denial. Mayor Fox called upon the Police Department representative to appear regarding the Department's recommendation to the City Manager to deny the Liquor License renewal. Lieutenant Bradley Smith appeared. He read the information that had been presented to the City Manager stating reasons that the department recommended the denial of liquor license renewal.

City Council discussed the information presented and asked clarifying questions of both parties that appeared. Mr. Garms noted that the City Council could direct issuance of a provisional license such as a six-month license to be re-evaluated at its expiration. City Attorney Eric Cunningham confirmed that the City Council could do something like the suggested provisional license, it could move to uphold the denial, or it could rescind the denial and direct that an annual license be issued.

A Motion was made by Dan Presson, Seconded by Shelly Moore, to direct the issuance of a six-month Liquor License so that Mr. Werner could correct the cited problems.

Motion failed roll call vote: 3-2. Ayes: Fox, Moore, Presson. Nays: Essex, Kinder. Abstain: Guard, for financial reasons, due to his employment with MRV Bank.

Mr. Cunningham pointed out that pursuant to Section 3.13 of the City Charter, all actions of the Council shall require an affirmative vote of at least four (4) members. City Attorney Eric Cunningham further advised the City Council that since the Motion for the provisional license had failed, the Council must act to either uphold or rescind the denial of Liquor License.

A Motion was made by Ryan Essex, Seconded by Stacy Kinder to uphold the denial for Liquor License.

Motion failed: 2-3. Ayes: Essex, Kinder. Nays: Fox, Moore, Presson. Abstain: Guard, for financial reasons, due to his employment with MRV Bank.

[Pursuant to City Charter, all actions of the Council shall require an affirmative vote of at least four (4) members.]

City Attorney Eric Cunningham explained that since the Motion to uphold the denial failed, the denial was reversed, and the Liquor License would be renewed.

Appointment of Ward 3 unexpired term

Mayor Bob Fox spoke about the process, and he discussed that they had received nine applicants that the Council had narrowed down to three finalists. Council Member Ryan Essex spoke about going through a similar process just last year, and that he could relate to them. He thanked them for putting themselves out for public service. The Mayor noted that in an informal tally vote, Christina Mershon and Nate Thomas had tied. City Attorney Eric Cunningham noted that a vote following a Motion and Second would determine who would be appointed.

A Motion was made by Robbie Guard, Seconded by Ryan Essex, to appoint Nate Thomas as Council Member Ward 3, for a term expiring April 2020.

After Council discussion, the Motion passed by roll call. 5-1. Ayes: Essex, Fox, Guard, Kinder, Moore. Nays: Presson.

#### **MEETING ADJOURNMENT**

A Motion was made by Ryan Essex, Seconded by Stacy Kinder to adjourn from regular session and to convene to closed session for legal actions and litigation, confidential communications with legal counsel, and property transactions, pursuant to RSMo. Sections 610.021(1), and (2).

Motion passed. 6-0. Ayes: Essex, Fox, Guard, Kinder, Moore, Presson.

The Regular Session ended at 6:30 p.m.

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Bob Fox, Mayor

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Bruce Taylor, Deputy City Clerk



**Staff:** Ryan Shrimplin, AICP - City  
**Agenda:** Planner  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-197**

**SUBJECT**

An Ordinance approving the Preliminary Development Plan of Ramsay's Run, for a proposed residential development in the City of Cape Girardeau, Missouri.

**EXECUTIVE SUMMARY**

The attached ordinance approves the preliminary development plan of Ramsay's Run in conjunction with an ordinance establishing a Planned Development District (PD) zoning designation for a 53.68 acre property on Bloomfield Road. The ordinance rezoning the property to PD is on this agenda as a separate item. A public hearing to consider the rezoning request was held on April 1, 2019.

**BACKGROUND/DISCUSSION**

An application has been submitted to rezone a 53.68 acre site, located on Bloomfield Road, from R-4 (Medium Density Multifamily Residential District) to PD (Planned Development District). As required for PD rezoning requests, a preliminary development plan has also been submitted. The site is north of and adjacent to the Dalhousie Golf Club. The adjacent properties are zoned R-1 (Single-Family Suburban Residential District) to the north and east, and R-4 (Medium Density Multifamily Residential District) to the south and west. One adjacent property, to the southeast, is not in the city limits and therefore is not zoned. Some of these properties contain single-family detached dwellings; the rest are undeveloped.

The proposed planned development, named Ramsay's Run, is a retirement community consisting of a mix of housing types, including single-family detached dwellings, duplexes, townhouses, and multifamily dwellings. The development will also include several amenities, including a clubhouse, a swimming pool, tennis and pickleball courts, community gardens, pavilions, walking trails, and several small lakes. For security purposes, the development will be fenced along the perimeter. Primary access to the development will be via a main entrance and exit on Bloomfield Road, which will be constructed as part of the first phase. A secondary access will be established as additional lots/units are sold. This access is proposed to connect to a future street on the adjacent Dalhousie property and out to Bloomfield Road. Depending on market demand, a third access may be established in the northwest corner of the development.

Ramsay's Run is proposed to be developed in six phases. The nature and timing of each phase will depend on market demand, so the preliminary development plan has been prepared to incorporate flexibility. The developer anticipates the ultimate buildout will contain approximately 123 dwelling units.

Two variances are being sought as part of the request for preliminary development plan approval. The first variance is for a reduction in the required amount of common open space area. Section 30-341(p) of the Zoning Code requires 20% of the gross area of the total development to be comprised of common open space. Staff supports the variance because over 3 acres of common area are being provided within the development and because the development is adjacent to the Dalhousie Golf Club which together meets the spirit and intent of the common open space requirement. The second variance is for the omission of the required bufferyard. Section 30-341(q) of the Zoning Code requires a 30 foot wide bufferyard where the development is adjacent to an existing residential area or an area

zoned for residential uses. Staff supports the variance because in standard zoning districts, a bufferyard is not required for single-family detached, duplex, and townhouse uses and because a 20 foot wide bufferyard is already required for multifamily and clubhouse uses (per Section 25-805 of the Development Code).

In addition to the variances, there are several exceptions being sought, including: fence height, street tangent length, bay parking, street width, and street intersection radius. These exception requests are discussed in detail in the narrative document. Staff supports the exceptions due to the design intent of the development and the anticipated traffic volumes and speeds.

In considering a rezoning request, both the Planning and Zoning Commission and the City Council must determine if the proposed zoning district is reasonable and in reasonable conformity with the existing uses and value of the immediately surrounding properties. The proposed planned development, like the surrounding area, contains residential uses as well as open space and other amenities. As such, the proposed PD district is reasonable and in reasonable conformity with the surrounding properties.

An ordinance approving the preliminary development plan is attached, along with the plan itself. The plan consists of a narrative document and an exhibit (set of drawings).

A public hearing to consider the rezoning request was held on April 1, 2019.

**SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

The Planned Development District provides for greater flexibility in the development of land that is not possible to achieve in conventional zoning districts. The proposed preliminary development plan offers a variety of housing options to meet the needs of seniors.

**STAFF RECOMMENDATION**

The staff report to the Planning and Zoning Commission recommended approval of the rezoning request and the preliminary development plan.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its March 13, 2019 meeting, held a public hearing and recommended approval of the rezoning request and the preliminary development plan with a vote of 9 in favor, 0 in opposition, and 0 abstaining.

**PUBLIC OUTREACH**

Notice of the City Council's public hearing was advertised in the Southeast Missourian on March 17, 2019. In addition, a sign containing the date, time, location, and subject of the public hearing was posted on the property.

**ATTACHMENTS:**

Name:	Description:
<a href="#">Preliminary Development Plan Ramsay s Run.doc</a>	Ordinance
<a href="#">Staff Review-Referral-Action Form.pdf</a>	Ramsay's Run - Staff RRA Form
<a href="#">Map - Zoning - The Chateau at Ramsay s Runj.pdf</a>	Ramsay's Run - Zoning Map
<a href="#">Map - FLU- The Chateau at Ramsay s Runj.pdf</a>	Ramsay's Run - FLU Map
<a href="#">Application - The Chateau at Ramsay s Run PD Rezoning.pdf</a>	Ramsay's Run - Application
<a href="#">37328 Planned Development (8-26-19) Document.pdf</a>	Ramsay's Run - Narrative
<a href="#">37328 Chateau -Ramsay s Run 8-13-19 PD1.pdf</a>	Ramsay's Run - PD-1.0
<a href="#">37328 Chateau -Ramsay s Run 8-26-19 PD-3.pdf</a>	Ramsay's Run - PD-3.0

BILL NO. 19-137

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

AN ORDINANCE APPROVING THE PRELIMINARY  
DEVELOPMENT PLAN OF RAMSAY'S RUN, FOR A  
PROPOSED RESIDENTIAL DEVELOPMENT IN THE CITY  
OF CAPE GIRARDEAU, MISSOURI

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The Preliminary Development Plan of Ramsay's Run, for a proposed residential development in the City of Cape Girardeau, Missouri, is hereby approved. A copy of said Preliminary Development Plan is attached hereto, and is incorporated herein by reference.

ARTICLE 2. City Officials are hereby directed to sign the Preliminary Development Plan of Ramsay's Run, with the date of Council approval, and affix thereto the seal of the City of Cape Girardeau, Missouri.

ARTICLE 3. This ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk



CCO Form: MO18

Approved: 05/94 (MLH)

Revised: 03/17 (MWH)

Modified:

Sponsor: City of Cape Girardeau

Project No.: 13-077A-2

CFDA Number: CFDA #20.106

CFDA Title: Airport Improvement Program

Federal Agency: Federal Aviation Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
AMENDMENT TO STATE BLOCK GRANT AGREEMENT**

**AMENDMENT #1**

THIS AGREEMENT AMENDMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Cape Girardeau (hereinafter, "Sponsor").

WITNESSETH:

WHEREAS, the parties entered into an Original Agreement executed by the Commission on February 4, 2019, (hereinafter, "Original Agreement") under which the Commission granted the sum not to exceed Twenty-Eight Thousand Six Hundred Fifty-Five Dollars (\$28,655) to the Sponsor to assist with Acquire Snow Removal Equipment; and

WHEREAS, the Commission previously approved funds for Acquire Snow Removal Equipment; and

WHEREAS, the level of funding originally approved is not sufficient to cover the costs associated with Acquire Snow Removal Equipment.

WHEREAS, the Commission has sufficient funds to increase the grant amount for Acquire Snow Removal Equipment.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) **ADDITIONAL GRANT:** The Commission grants to the Sponsor an additional sum not to exceed Six Hundred Thirty-Three Thousand Four Hundred Forty-Six Dollars (\$633,446) for Acquire Snow Removal Equipment subject to the following conditions:

(A) The Sponsor shall provide matching funds of not less than Thirty-Three Thousand Three Hundred Forty Dollars (\$33,340) toward the project in addition to those previously committed by the Sponsor in the Original Agreement.

(B) The project will be carried out in accordance with the assurances (Exhibit 1) given by the Sponsor to the Commission as specified in the Original Agreement.

(C) This Amendment shall expire and the Commission shall not be obligated to pay any part of the costs of the project unless this grant amendment has been executed by the Sponsor on or before October 15, 2019, or such subsequent date as may be prescribed in writing by the Commission.

(D) Based upon the revised project schedule, the original project time period of November 30, 2020, will be extended to June 30, 2021, to allow for completion of the work. Paragraph (2) of the Original Agreement is hereby amended accordingly.

(E) All other terms and conditions of the Original Agreement entered into between the parties shall remain in full force and effect.

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

Executed by the Sponsor this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION**

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Commission

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

**CITY OF CAPE GIRARDEAU**

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)

## **CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing grant Agreement under the laws of the State of Missouri. Further, I have examined the foregoing grant Agreement and the actions taken by said Sponsor and Sponsor's official representative have been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said state and the Airport and Airway Improvement Act of 1982, as amended. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

### **CITY OF CAPE GIRARDEAU**

\_\_\_\_\_  
Name of Sponsor's Attorney (typed)

\_\_\_\_\_  
Signature of Sponsor's Attorney

Date \_\_\_\_\_

**Staff:** Bruce W Loy, Airport Manager  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-199**

**SUBJECT**

Amendment #1 to State Block Grant Agreement with the Missouri Highways and Transportation Commission, Project 13-077A-2, to acquire Snow Removal Equipment at the Cape Girardeau Regional Airport.

**EXECUTIVE SUMMARY**

At the August 19, 2019 City Council Meeting, the Council approved the purchase of airport multi-tasking snow removal equipment consisting of one multi-tasking snow removal carrier vehicle, one high-speed rotary plow, one 16-foot wide runway broom and one 18-foot wide flared snow plow. The total purchase approved was for \$698,939.00. The 18-foot plow is to be purchased with 100% City funds, leaving \$666,786.00. The attached Amendment #1 to the original grant agreement with the Missouri Highways and Transportation Commission (MoDOT), (which funded a grant of \$28,655.00 on February 4, 2019, for the equipment design specifications), is a 95% grant agreement in the amount of \$633,446.00, leaving a City share of \$33,340.00.

**BACKGROUND/DISCUSSION**

For many years the Cape Girardeau Regional Airport has needed additional snow removal equipment, especially a snow blower to displace snow berms away from the runway edges after plowing. This equipment provides the airport with the necessary equipment to plow and sweep the snow more effectively and more timely and to finally blow the snow berms away from our runway and taxiway edges.

**FINANCIAL IMPACT**

This Amendment #1 agreement provides a 95% grant for snow removal equipment to be utilized at the Cape Girardeau Regional Airport for an amount of \$633,446.00, leaving a 5% City Share of \$33,340.00. Because the City is acquiring the 18-foot plow at a 100% cost of \$32,153.00, the City's total cost for the equipment is \$65,593.00

**STAFF RECOMMENDATION**

It is recommended the City Council authorize the City Manager to sign and execute the attached Amendment #1 to the original State Block Grant Agreement with the Missouri Highways and Transportation Commission in the amount of \$633,446.00, with a City match of \$33,340.00 to acquire one airport multi-tasking snow removal carrier vehicle and various multi-tasking attachments at the Cape Girardeau Regional Airport, Project No. 13-077A-2.

**ATTACHMENTS:**

Name:	Description:
<a href="#">MODOT Block Grant Amendment 1- AARF Airport.doc</a>	Ordinance
<a href="#">Amend 1 to SBGA City of Cape Girardeau 13-077A-2.pdf</a>	Block Grant Amend #1, Airport Snow Removal Equipment



BILL NO. 19-138

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

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT #1 TO A STATE BLOCK GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION FOR A SNOW REMOVAL EQUIPMENT VEHICLE, AT THE CAPE GIRARDEAU REGIONAL AIRPORT

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, AS FOLLOWS:

Article 1. The City Manager is hereby authorized and directed to execute, on behalf of the City, Amendment #1 to a State Block Grant Agreement between the City of Cape Girardeau and the Missouri Highways and Transportation Commission, for additional funding to procure a new snow removal equipment vehicle (snow blower), Project No. 13-077A-2, at the Cape Girardeau Regional Airport. The City Clerk is hereby authorized and directed to attest to said document and to affix the seal of the City thereto. The Amendment shall be in substantially the form attached hereto, which document is hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

Article 2. This Ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

CCO Form: MO18

Approved: 05/94 (MLH)

Revised: 03/17 (MWH)

Modified:

Sponsor: City of Cape Girardeau

Project No.: 13-077A-2

CFDA Number: CFDA #20.106

CFDA Title: Airport Improvement Program

Federal Agency: Federal Aviation Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
AMENDMENT TO STATE BLOCK GRANT AGREEMENT**

**AMENDMENT #1**

THIS AGREEMENT AMENDMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Cape Girardeau (hereinafter, "Sponsor").

WITNESSETH:

WHEREAS, the parties entered into an Original Agreement executed by the Commission on February 4, 2019, (hereinafter, "Original Agreement") under which the Commission granted the sum not to exceed Twenty-Eight Thousand Six Hundred Fifty-Five Dollars (\$28,655) to the Sponsor to assist with Acquire Snow Removal Equipment; and

WHEREAS, the Commission previously approved funds for Acquire Snow Removal Equipment; and

WHEREAS, the level of funding originally approved is not sufficient to cover the costs associated with Acquire Snow Removal Equipment.

WHEREAS, the Commission has sufficient funds to increase the grant amount for Acquire Snow Removal Equipment.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) **ADDITIONAL GRANT:** The Commission grants to the Sponsor an additional sum not to exceed Six Hundred Thirty-Three Thousand Four Hundred Forty-Six Dollars (\$633,446) for Acquire Snow Removal Equipment subject to the following conditions:

(A) The Sponsor shall provide matching funds of not less than Thirty-Three Thousand Three Hundred Forty Dollars (\$33,340) toward the project in addition to those previously committed by the Sponsor in the Original Agreement.

(B) The project will be carried out in accordance with the assurances (Exhibit 1) given by the Sponsor to the Commission as specified in the Original Agreement.

(C) This Amendment shall expire and the Commission shall not be obligated to pay any part of the costs of the project unless this grant amendment has been executed by the Sponsor on or before October 15, 2019, or such subsequent date as may be prescribed in writing by the Commission.

(D) Based upon the revised project schedule, the original project time period of November 30, 2020, will be extended to June 30, 2021, to allow for completion of the work. Paragraph (2) of the Original Agreement is hereby amended accordingly.

(E) All other terms and conditions of the Original Agreement entered into between the parties shall remain in full force and effect.

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

Executed by the Sponsor this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION**

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Commission

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

**CITY OF CAPE GIRARDEAU**

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)



## **CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing grant Agreement under the laws of the State of Missouri. Further, I have examined the foregoing grant Agreement and the actions taken by said Sponsor and Sponsor's official representative have been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said state and the Airport and Airway Improvement Act of 1982, as amended. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

### **CITY OF CAPE GIRARDEAU**

\_\_\_\_\_  
Name of Sponsor's Attorney (typed)

\_\_\_\_\_  
Signature of Sponsor's Attorney

Date \_\_\_\_\_

**Staff:** Ryan Shrimplin, AICP - City  
**Agenda:** Planner  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-198**

**SUBJECT**

An Ordinance amending Chapter 30 of the Code of Ordinances of the City of Cape Girardeau, Missouri, by changing the zoning of property located on Bloomfield Road, from R-4 to PD.

**EXECUTIVE SUMMARY**

The attached ordinance rezones property on Bloomfield Road from R-4 (Medium Density Multifamily Residential District) to PD (Planned Development District). A public hearing to consider the rezoning request was held on April 1, 2019.

**BACKGROUND/DISCUSSION**

An application has been submitted to rezone a 53.68 acre site, located on Bloomfield Road, from R-4 (Medium Density Multifamily Residential District) to PD (Planned Development District). As required for PD rezoning requests, a preliminary development plan has also been submitted. The site is north of and adjacent to the Dalhousie Golf Club. The adjacent properties are zoned R-1 (Single-Family Suburban Residential District) to the north and east, and R-4 (Medium Density Multifamily Residential District) to the south and west. One adjacent property, to the southeast, is not in the city limits and therefore is not zoned. Some of these properties contain single-family detached dwellings; the rest are undeveloped.

The proposed planned development, named Ramsay’s Run, is a retirement community consisting of a mix of housing types, including single-family detached dwellings, duplexes, townhouses, and multifamily dwellings. The development will also include several amenities, including a clubhouse, a swimming pool, tennis and pickleball courts, community gardens, pavilions, walking trails, and several small lakes. For security purposes, the development will be fenced along the perimeter. Primary access to the development will be via a main entrance and exit on Bloomfield Road, which will be constructed as part of the first phase. A secondary access will be established as additional lots/units are sold. This access is proposed to connect to a future street on the adjacent Dalhousie property and out to Bloomfield Road. Depending on market demand, a third access may be established in the northwest corner of the development.

Ramsay’s Run is proposed to be developed in six phases. The nature and timing of each phase will depend on market demand, so the preliminary development plan has been prepared to incorporate flexibility. The developer anticipates the ultimate buildout will contain approximately 123 dwelling units.

Two variances are being sought as part of the request for preliminary development plan approval. The first variance is for a reduction in the required amount of common open space area. Section 30-341(p) of the Zoning Code requires 20% of the gross area of the total development to be comprised of common open space. Staff supports the variance because over 3 acres of common area are being provided within the development and because the development is adjacent to the Dalhousie Golf Club which together meets the spirit and intent of the common open space requirement. The second variance is for the omission of the required bufferyard. Section 30-341(q) of the Zoning Code requires a 30 foot wide bufferyard where the development is adjacent to an existing residential area or an area zoned for residential uses. Staff supports the variance because in standard zoning districts, a

bufferyard is not required for single-family detached, duplex, and townhouse uses and because a 20 foot wide bufferyard is already required for multifamily and clubhouse uses (per Section 25-805 of the Development Code).

In addition to the variances, there are several exceptions being sought, including: fence height, street tangent length, bay parking, street width, and street intersection radius. These exception requests are discussed in detail in the narrative document. Staff supports the exceptions due to the design intent of the development and the anticipated traffic volumes and speeds.

In considering a rezoning request, both the Planning and Zoning Commission and the City Council must determine if the proposed zoning district is reasonable and in reasonable conformity with the existing uses and value of the immediately surrounding properties. The proposed planned development, like the surrounding area, contains residential uses as well as open space and other amenities. As such, the proposed PD district is reasonable and in reasonable conformity with the surrounding properties.

The attached ordinance rezones the property from R-4 (Medium Density Multifamily Residential District) to PD (Planned Development District). Also attached is the preliminary development plan, which consists of a narrative document and an exhibit (set of drawings).

A public hearing to consider the rezoning request was held on April 1, 2019.

**SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

The Planned Development District provides for greater flexibility in the development of land that is not possible to achieve in conventional zoning districts. The proposed preliminary development plan offers a variety of housing options to meet the needs of seniors.

**STAFF RECOMMENDATION**

The staff report to the Planning and Zoning Commission recommended approval of the rezoning request and the preliminary development plan.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its March 13, 2019 meeting, held a public hearing and recommended approval of the rezoning request and the preliminary development plan with a vote of 9 in favor, 0 in opposition, and 0 abstaining.

**PUBLIC OUTREACH**

Notice of the City Council's public hearing was advertised in the Southeast Missourian on March 17, 2019. In addition, a sign containing the date, time, location, and subject of the public hearing was posted on the property.

**ATTACHMENTS:**

Name:	Description:
<a href="#">Bloomfield Rd-Ramsay s Run Rezone.doc</a>	Ordinance
<a href="#">Staff Review-Referral-Action Form.pdf</a>	Ramsay's Run - Staff RRA Form
<a href="#">Map - Zoning - The Chateau at Ramsay s Runj.pdf</a>	Ramsay's Run - Zoning Map
<a href="#">Map - FLU- The Chateau at Ramsay s Runj.pdf</a>	Ramsay's Run - FLU Map
<a href="#">Application - The Chateau at Ramsay s Run PD Rezoning.pdf</a>	Ramsay's Run - Application
<a href="#">37328 Planned Development (8-26-19) Document.pdf</a>	Ramsay's Run - Narrative
<a href="#">37328 Chateau -Ramsay s Run 8-13-19 PD1.pdf</a>	Ramsay's Run - PD-1.0
<a href="#">37328 Chateau -Ramsay s Run 8-26-19 PD-3.pdf</a>	Ramsay's Run - PD-3.0

BILL NO. 19-139

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

AN ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF CAPE GIRARDEAU, MISSOURI, BY CHANGING THE ZONING OF PROPERTY LOCATED ON BLOOMFIELD ROAD, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, FROM R-4 TO PD

---

WHEREAS, the City Planning and Zoning Commission has recommended rezoning all of the property described in Article 1 of this Ordinance from R-4, Medium Density Multifamily Residential District, to PD, Planned Development District; and

WHEREAS, Public Notice of such change was given as prescribed in Chapter 30 of the Code of Ordinances of the City of Cape Girardeau, Missouri, and a public hearing was held on Monday, April 1, 2019; and

WHEREAS, the City Council of the City of Cape Girardeau, Missouri, has elected to rezone the property described in Article 1 from R-4, Medium Density Multifamily Residential District, to PD, Planned Development District.

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

ARTICLE 1. Chapter 30 of the Code of Ordinances of the City of Cape Girardeau, Missouri, is hereby amended to change the zoning from the present R-4, Medium Density Multifamily Residential District, to PD, Planned Development District, for the following described property:

ALL OF THAT PART OF UNITED STATES PRIVATE SURVEYS #193 AND #317, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Begin at a found ½" dia. Iron rod marking the common corner of United States Private Survey Numbers 193, 194, 317 and 787, thence South 84°08'09" East, with the North line of said USPS #317, 1135.44 feet; thence leaving said USPS line, South 06°38'11" West, 443.72 feet; thence South 45°17'56" East, 299.38 feet; thence South 82°25'41" East, 509.00 feet; to a set ½"

diameter iron rod at a point on the west line of Bloomfield Road, thence with said west line, along the arc of a non-tangent curve concave to the west having a radius of 3,970.00 feet, a distance of 160.20 feet (the chord across said arc bears South 8°50'08" West, 160.19 feet; thence continuing southerly along the west line of Bloomfield Road, South 09°59'29" West, 280.36 feet; then South 09°18'58" West, 73.79 feet; thence South 08°38'27" West, 243.26 feet, to the point of a curvature of a curve to the right having a radius of 870.00 feet; thence along the arc of said curve, a distance of 65.95 feet; to the intersection of the west line of said Bloomfield Road and the North line of a tract now or formerly held in the name of Mary Elizabeth Auer and John B. Auer, conveyed in Document 2004-10542; thence leaving the west line of Bloomfield Road, and along the north and west lines of said Auer tract, North 86°04'21" West 261.88 feet, thence North 18°45'54" West , 258.03 feet; thence South 46°45'06" West, 167.95 feet; thence South 13°38'54" East, 163.09 feet; thence South 04°24'06" West, 255.26 feet, to the most southwesterly corner of said Auer tract, and thence leaving the west line of said tract, South 89°54'18" West, 78.46 feet; thence North 67°51'28" West, 591.85 feet, to the point of curvature of a curve to the right having a radius of 22.00 feet, thence along the arc of said curve a distance of 34.56 feet, thence North 22°08'32" East, 31.69 feet; thence North 67°51'28" West, 159.51 feet; thence North 39°08'03" West, 250.48 feet; thence North 11°50'00" West, 58.31 feet; thence North 24°52'49" East, 91.77 feet; thence North 49°21'02" West, 679.28 feet thence North 07°03'19" East, 334.45 feet to the point of curvature of a curve to the left having a radius of 635.00 feet, thence along the arc of said curve a distance of 241.66 feet, thence North 14°44'58" West, 76.99 feet, thence North 60°42'48" East, 225.17 feet, thence North 08°40'19" East, 38.77 feet, to the place of beginning and containing 53.68 acres, more or less, as shown on the accompanying plat, which is incorporated into and made a part of this description, and being subject to any easements of record.

ARTICLE 2. The City Council hereby finds and declares that the property described in Article 1 hereof is at the present time particularly suitable for the purposes and uses of the PD, Planned Development District, and that such changes authorized

hereby are reasonable and in reasonable conformity with the existing uses and value of the immediately surrounding properties.

ARTICLE 3. This ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

# CITY OF CAPE GIRARDEAU, MISSOURI

City Staff Review, Referral and Action on Rezoning/Special Use Permit Application

FILE NO. 1382

LOCATION: Bloomfield Road north of Cords Way

## STAFF REVIEW & COMMENTS:

Cape Retirement Community, Inc. is requesting to rezone property along Bloomfield Road north of Cords Way from the R-4 (Medium Density Multi-family Residential) district to a PD (Planned Development) district. SEE STAFF REPORT FOR FURTHER INFORMATION

[Signature]  
City Planner

3/5/19  
Date

W. (RICK) LUNNINGHAM  
City Attorney

MARCH 5, 2019  
Date

## CITY MANAGER REFERRAL TO THE PLANNING AND ZONING COMMISSION:

[Signature]  
City Manager

3-6-19  
Date

## **Planning & Zoning Commission**

Public Hearing Sign Posting Date: 3-1-19 Public Hearing Date: 12/12/18

## RECOMMENDED ACTION:

	Favor	Oppose	Abstain
Larry Dowdy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jeff Glenn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Greaser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Derek Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Patrick Koetting	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Favor	Oppose	Abstain
Bruce Skinner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Doug Spooler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Thompson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Welch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**VOTE COUNT:** 9 Favor 0 Oppose 0 Abstain

## COMMENTS:

## CITIZENS COMMENTING AT MEETING:

[Signature]  
Kevin Greaser  
Planning & Zoning Commission Secretary

## **City Council Action**

Posting Dates: Sign 3-14-19 Newspaper 3-17-19 Public Hearing Date: 4-4-19  
Ordinance 1<sup>st</sup> Reading \_\_\_\_\_ Ordinance 2<sup>nd</sup> & 3<sup>rd</sup> Reading: \_\_\_\_\_

**VOTE COUNT:** \_\_\_\_\_ Favor \_\_\_\_\_ Oppose \_\_\_\_\_ Abstain

**ORDINANCE #** \_\_\_\_\_ **Effective Date:** \_\_\_\_\_



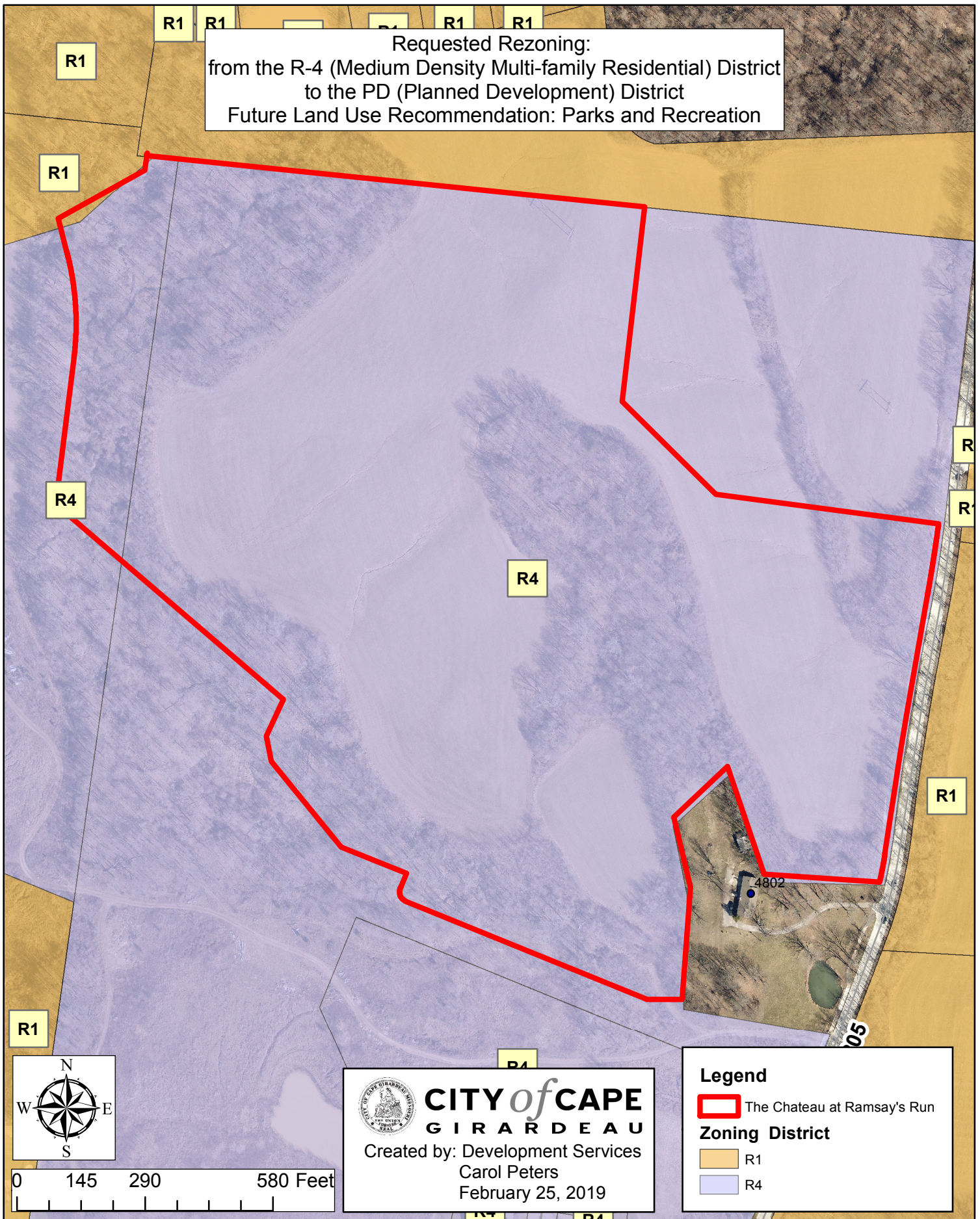
# Rezoning Request

## Bloomfield Road north of Cord's Way

Requested Rezoning:

from the R-4 (Medium Density Multi-family Residential) District  
to the PD (Planned Development) District

Future Land Use Recommendation: Parks and Recreation

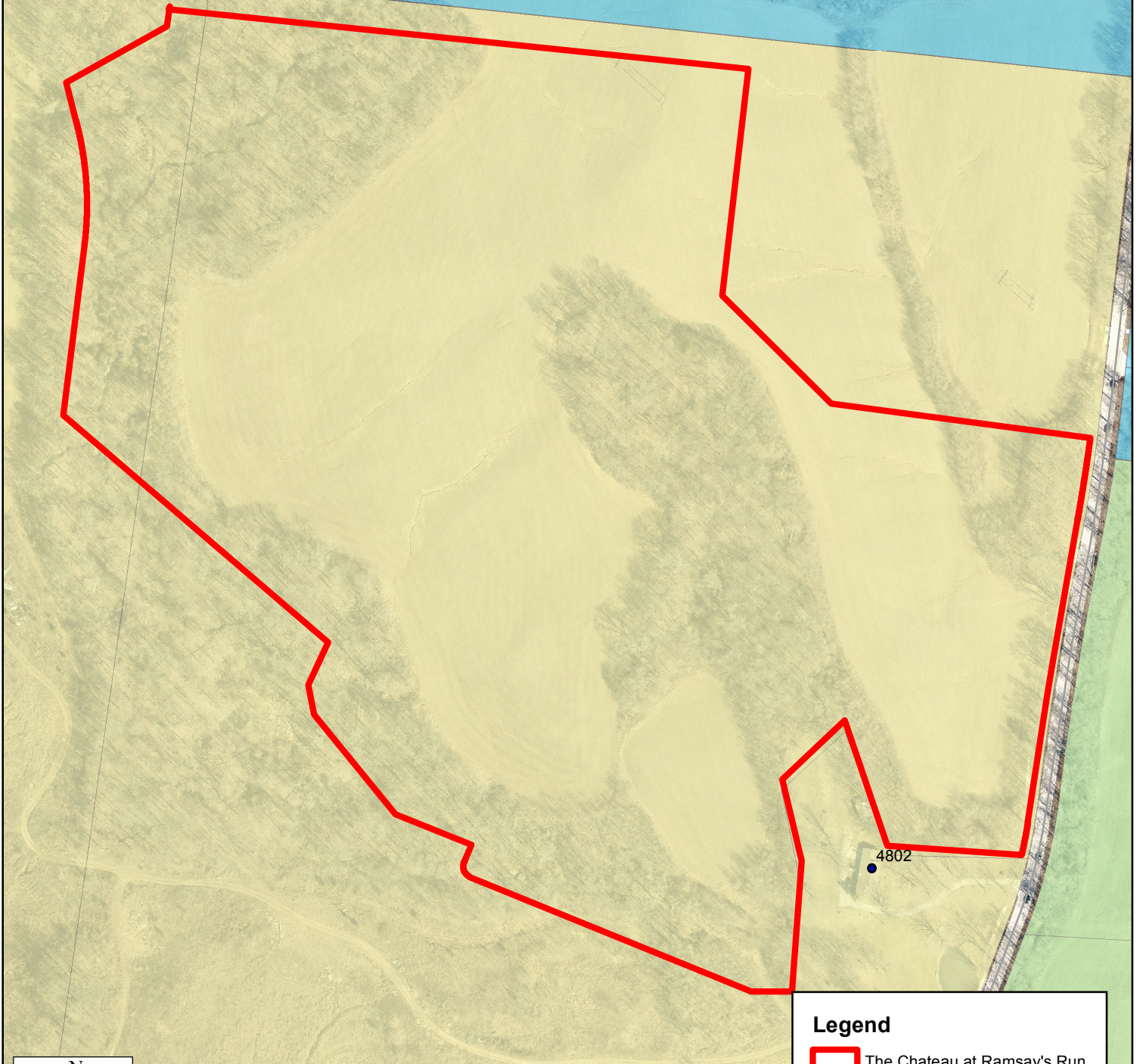




# Rezoning Request

## Bloomfield Road north of Cord's Way

Requested Rezoning:  
from the R-4 (Medium Density Multi-family Residential) District  
to the PD (Planned Development) District  
Future Land Use Recommendation: Parks and Recreation




0 145 290 580 Feet




**CITY of CAPE**  
**GIRARDEAU**

Created by: Development Services  
Carol Peters  
February 25, 2019

### Legend


 The Chateau at Ramsay's Run

#### FLU Recommendation

 Low Density Residential

 Medium Density Residential

 Mixed Use

 Parks and Recreation

**PRELIMINARY DEVELOPMENT PLAN  
PLANNED DEVELOPMENT DISTRICT**

For

**RAMSAY'S RUN**  
Bloomfield Road  
Cape Girardeau, Missouri

PREPARED FOR:

Cape Retirement Community, Inc.  
(Chateau Girardeau Retirement Community)  
c/o: Mr. Keith Boeller, President, CEO  
3120 Independence Street  
Cape Girardeau, MO 63703

PREPARED BY:

Koehler Engineering & Land Surveying, Inc.  
194 Coker Lane  
Cape Girardeau, Missouri, 63701  
Phone: 573-335-3026

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Revised August 26, 2019

1.     **APPLICANT:**           Cape Retirement Community Inc. (AKA “The Chateau” or Chateau Girardeau)  
  c/o Mr. Keith Boeller, Pres. / CEO  
  3120 Independence Street  
  Cape Girardeau, MO 63703  
  573-651-8186

2.     **PROFESSIONAL CONSULTANTS:**

      CIVIL ENGINEERING:  
          Christopher Koehler, PE, PLS  
          Koehler Engineering and Land Surveying, Inc.  
          194 Coker Lane  
          Cape Girardeau, Missouri 63701  
          [ckoehler@koehlerengineering.com](mailto:ckoehler@koehlerengineering.com)  
          573-335-3026

      DEVELOPMENT CONSULTANT:  
          Phil Penzel  
          Penzel Construction Company, Inc.  
          325 West Jackson Blvd.  
          Jackson, MO 63755  
          [philp@penzel.com](mailto:philp@penzel.com)  
          573-243-8191

      ARCHITECTURAL CONSULTANT:  
          Brian Paul, RA  
          Gray Design Group  
          9 Sunnen Drive  
          Saint Louis, MO 63143  
          [bpaul@graydesigngroup.com](mailto:bpaul@graydesigngroup.com)  
          314-884-7169

      LEGAL CONSULTANT:  
          Jonah Ted Yates  
          Osburn Hine & Yates, LLC  
          3071 Lexington Avenue  
          Cape Girardeau, Missouri, 63701  
          [tyates@ohylaw.com](mailto:tyates@ohylaw.com)  
          573-651-9000

3.     **LEGAL DESCRIPTION OF SUBJECT PROPERTY:**

ALL OF THAT PART UNITED STATES PRIVATE SURVEYS #193 AND #317, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Begin at a found ½” dia. Iron rod marking the common corner of United States Private Survey Numbers 193, 194, 317, and 787, thence South 84°08'09” East, with the North



line of said USPS #317, 1135.44 feet; thence leaving said USPS line, South 06°38'11" West, 443.72 feet; thence South 45°17'56" East, 299.38 feet; thence South 82°25'41" East, 509.00 feet; to a set ½" diameter iron rod at a point on the west line of Bloomfield Road, thence with said west line, along the arc of a non-tangent curve concave to the west having a radius of 3,970.00 feet, a distance of 160.20 feet (the chord across said arc bears South 8°50'08" West, 160.19 feet; thence continuing southerly along the west line of Bloomfield Road, South 09°59'29" West, 280.36 feet; thence South 09°18'58" West, 73.79 feet; thence South 08°38'27" West, 243.26 feet, to the point of curvature of a curve to the right having a radius of 870.00 feet; thence along the arc of said curve, a distance of 65.95 feet; to the intersection of the west line of said Bloomfield Road and the North line of a tract now or formerly held in the name of Mary Elizabeth Auer and John B. Auer, conveyed in Document 2004-10542; thence leaving the west line of Bloomfield Road, and along the north and west lines of said Auer tract, North 86°04'21" West, 261.88 feet, thence North 18°45'54" West, 258.03 feet; thence South 46°45'06" West, 167.95 feet; thence South 13°38'54" East, 163.09 feet; thence South 04°24'06" West, 255.26 feet, to the most southwesterly corner of said Auer tract, and thence leaving the west line of said tract, South 89°54'18" West, 78.46 feet; thence North 67°51'28" West, 591.85 feet, to the point of curvature of a curve to the right having a radius of 22.00 feet, thence along the arc of said curve a distance of 34.56 feet; thence North 22°08'32" East, 31.69 feet; thence North 67°51'28" West, 159.51 feet; thence North 39°08'03" West, 250.48 feet; thence North 11°50'00" West, 58.31 feet; thence North 24°52'49" East, 91.77 feet; thence North 49°21'02" West, 679.28 feet thence North 07°03'19" East, 334.45 feet to the point of curvature of a curve to the left having a radius of 635.00 feet, thence along the arc of said curve a distance of 241.66 feet, thence North 14°44'58" West, 76.99 feet, thence North 60°42'48" East, 225.17 feet, thence North 08°40'19" East, 38.77 feet, to the place of beginning and containing 53.68 acres, more or less, as shown on the accompanying plat, which is incorporated into and made a part of this description, and being subject to any easements of record.

#### **4. ADJACENT PROPERTY OWNERS:**

**Patrick Evans**  
898 Elmwood Lane  
Cape Girardeau MO 63701

**Dalhousie LLC**  
c/o: Cordell Dombrowski  
4751 Cords Way  
Cape Girardeau, MO 63701

**EED Development, LLC**  
124 Cross Hill CT  
Cape Girardeau, MO 63701

**Mary Elizabeth Auer**  
4802 County Road #205  
Cape Girardeau, MO 63701

**Earl H. Norman Trust**  
276 S. Mt. Auburn Road  
Cape Girardeau, MO 63703

**Ruth Ann Norman Trust**  
276 S. Mt. Auburn Road  
Cape Girardeau, MO 63703

**Earl H. & Ruth Ann Norman Trust**  
276 S. Mt. Auburn Road,  
276 S. Mt. Auburn Road  
Cape Girardeau, MO 63703

## 5. CURRENT ZONING AND PRESENT USE:

The subject property is presently located within the city limits of Cape Girardeau and is Zoned R-4; Medium Density Multi-Family Residential. The adjacent properties to the west and south are zoned R-4, and R-1 Single Family Suburban Residential respectively. Properties across Bloomfield Road are also zoned R-1. All other adjoining or nearby properties are either zoned R-1 or are located in the unincorporated areas of Cape Girardeau County and are un-zoned.

The property is undeveloped and has been used heretofore for agricultural purposes with the cleared ground used for row crops and hay crops, while the timbered ground has been previously timbered at some point, but the present stands of timber are generally mature.

This property's terrain is rolling with a mix of crop land, open grass land and wooded areas. The land is bordered on the west and south by property owned by Dalhousie LLC or one of their affiliated companies. These properties are being developed as a golf course community adjacent to the Dalhousie Golf Course. The adjacent property in the northeast corner is owned by Dalhousie as well, but the Chateau has an option to secure that property in the future, and if this option is executed, that area would be folded into the proposed planned development district at that time. The property is bordered along the east side by Bloomfield Road, all remaining un-zoned property is used for either agricultural or single-family residential purposes.

## 6. MAP DELINEATING THE EXISTING PHYSICAL CHARACTERISTICS OF THE SITE:

An exhibit showing the existing site conditions of the subject property, together with an aerial photograph of the property, is included with this preliminary development plan. The following list describes what is shown on the existing site conditions exhibit or the aerial photograph:

- a. Topography at contours not more than five feet:* Contours at one and five-foot intervals are shown on the attached exhibit.
- b. Slopes of fifteen percent or more:* This data can be determined based on the contours supplied on the attached exhibit.
- c. Property boundary lines and dimensions, available utilities and dimensions, roadways, rail lines and public rights-of-way crossing and adjacent to the subject property:* Shown on the attached exhibit if applicable. Note there are no rail lines on or adjacent to this property.
- d. Watercourse, drainage ways, sinkholes, groundwater recharge areas, ponds, lakes and bodies of water.* Shown on the attached exhibit if applicable. There are no known sink holes, ponds or lakes located on this property. There are two drainage ways on the subject property, one crossing the northeast corner of the site, and one generally running around the western and southern limits of the site.
- e. A generalized description of vegetation and tree cover.* A slight majority (55%) of the subject property is cleared with grass cover or seasonal row crops. The balance of the site is in wooded / brush areas. Vegetation cover is shown on the attached aerial photograph.
- f. Marshes and floodplains, including the delineation of the 100-year floodplain:* There is a small area of the site within 100-year floodplain located at the most southerly section of the

subject property. There is no development, other than outdoor open space and part of a water feature, intended for use in this area.

**g.** *Drainage patterns:* Drainage on this site generally flows to the south and southeast sides of the property. These drainage patterns are evident from the contours shown on the attached exhibit. There are two principal locations where drainage leaves the subject property, through a culvert under Bloomfield Road just north of the proposed main entrance on Bloomfield Road, and the other drainage way running along the west and south limits of the property leaves the property near the southeast corner of the site at the location of the future extension of North Dalhousie Drive.

**h.** *Other physical features that may affect the development of the property:* None known.

## **7. MAP DEPICTING EXISTING DEVELOPMENT OF SUBJECT PROPERTY AND APPROPRIATE ADJACENT PROPERTY:**

The existing site is vacant and has not previously been developed. Existing streets, property lines, easements, water mains, and storm and sanitary sewers have been shown on the existing site conditions exhibit referenced in Item 6. There are no gravity sewers presently serving the subject property, however there are existing lines located approximately 350 feet and 725 feet south of the new development that can be extended northerly to serve the development (as shown on exhibit from Item 6). The City of Cape Girardeau has an existing 12" PVC watermain running along the west line of Bloomfield Road, and existing storm sewer drains along both sides of Bloomfield Road.

## **8. WRITTEN STATEMENT GENERALLY DESCRIBING PROPOSED DEVELOPMENT:**

Generally, this proposed planned development is a continuing care retirement community with mixed types and densities of housing units. The development will include single-family lots, and multi-family apartments. The development will include a mixture of housing types, including single-family detached, duplex, townhouse, and multi-family dwelling units. Property owners will typically own their property in fee simple, but with provisions for the Chateau to purchase back property or approve sale to other entities.

Site planning in the development has been designed to adapt to the site conditions. Proposed common areas will preserve and build upon some of the site-specific natural features of the land. New open space amenities are planned which could include small lakes, walking trails, pavilions, tennis and pickleball courts, and community gardens. An approximately 10,000 square foot clubhouse is planned, as well as a pool and related aquatic facilities. The PD provides a layout that calms traffic for a safer walking and motoring environment and provides efficient and effective traffic circulation for the residents.

The market this planned development is intended to serve consists of residents in Cape Girardeau as well as the surrounding regions. The community is intended to serve as a hub for active lifestyles primarily oriented to seniors and those approaching their senior years. The proximity of the Dalhousie Golf Club and community provides additional opportunities for joint facilities and uses that are still being explored.

The architectural design of improvements constructed within the development must be approved by an Architectural Control Committee consisting a minimum of three Chateau Girardeau Board

members or their appointees. The board members are not required to be lot owners, although they may be after a time once the community becomes established. The initial three (minimum) members will be appointed by the Chateau Girardeau Board. A variety of architectural styles following a consistent theme is anticipated, utilizing only high-quality materials and finishes. Proposed private covenants and restrictions ("CCRs") are being prepared for the development, and a copy of the current draft is included herewith for reference. The CCRs include a property owners association (HOA) with annual assessments; and the ability to assess special assessments if needed, to care for the common areas located within the development.

Proposed lot lines for Phase 1 of the development are shown within the preliminary development plan set included with this application. The general layout of future phases is indicated on this exhibit as well.

## **9. MAP AND WRITTEN DESCRIPTION OF PROPOSED PLANNED DEVELOPMENT:**

An exhibit showing a preliminary site plan for the planned development has been included with this preliminary development plan. The following list provides written descriptions of the features of the project and notes what is shown on the preliminary site plan exhibit:

- a. *A general land use plan with a description of the type, location, and nature of land use within each area of the development:*

The use of the proposed planned development is residential property with common amenities as noted earlier. The residential options will include single-family detached, duplexes, townhouses, and multi-family homes. The first and final phases are intended to be detached single family homes on individual lots. Up to 24 apartment units in two to four buildings with parking under the buildings are anticipated near the proposed clubhouse. The balance of the residential areas (phases 2-5 on the exhibit) will be market driven, and may be single-family detached or attached (duplexes, townhomes, etc.) Open spaces, recreational features, etc. are anticipated to be generally located around the clubhouse, but isolated pavilions, pickleball courts, and similar amenities may also be located at various locations throughout the development.

- b. *A proposed traffic circulation concept which illustrates both external and internal trafficways related to the development, including proposed rights-of-way, travel lanes and other transportation improvements:*

Roads as shown on the preliminary site plan exhibit submitted herewith. Ultimately two, or possibly three entrances / exits will be provided for the development. The initial and primary entrance / exit will be the one at Bloomfield Road. At a certain point in the future when conditions dictate, a secondary entrance / exit will be provided to the south and out to Bloomfield Road via a future section of North Dalhousie Drive. Near the ultimate buildout of the development, if market conditions allow, a third entrance / exit may be added as indicated in the northwest corner of the planned development. If conditions do not exist which would make construction of an entrance in this location desirable at that time, then the adjacent lots will be enlarged to absorb the road right of way indicated.

A few development code exceptions are anticipated with respect to the roadways within the community. These will be more fully presented in the final planned development submission, but will include, at a minimum, the following:

- The limits of the property along Bloomfield Road will be fenced with a black ornamental aluminum fence. The southern and northern limits of Phase 1 will be fenced with a black polyclad chain link fence. All fences are intended to be 6 feet in height. As future phases are developed, the chain link fencing will extend along the outer periphery of the developed phases. No front yard fencing is planned.
- Street tangents extending back from intersections will be less than 100 feet in certain instances.
- Bay parking will be provided from City streets in certain locations. The Chateau / Community HOA will operate and maintain these parking areas attached to public streets. City staff has indicated this may require a license and indemnity agreement, which the developer is prepared to enter into if required. The final determination regarding the license and indemnity agreement will be made when the final development plan is submitted and reviewed. The parking spaces will be angled to facilitate access to the spaces, and any streets with bay parking will not have on-street parking for a minimum distance of 100 feet in either direction from any bay parking spaces. The final arrangement and considerations for bay parking spaces will be coordinated with the City Engineering Department during the design plan submission stage, and will be subject to their approval.
- The street width for a section of Ramsay's Run which will serve the clubhouse and main entry from Bloomfield Road will be 36 feet back to back of curb, in lieu of the standard 40 feet. There will be no on-street parking allowed at any location along this section of street.
- The street intersection in the most southeasterly part of Phase 1 will be constructed at a right angle in lieu of the typical 100 foot centerline radius.

c. *A generalized layout and description of water service, sanitary sewerage, utilities, refuse collection, management of storm water runoff and similar essential services:*

Water service will be provided to the development through the proposed water main extensions shown on the exhibit. The main line from Bloomfield Road to the Clubhouse, along the southern loop to North Dalhousie Drive, and back out to Bloomfield Road will be an 8" PVC main. In conjunction with providing sprinklers in all structures, the City has indicated all other mains may be 6-inch mains. Additionally, the spacing for fire hydrants will be adjusted from the typical 400 feet on-center up to a maximum of 600 feet on center.

Sanitary sewer service will be provided to the development by connecting to the existing City sanitary sewer mains located south of the property. Preliminary locations for new sanitary sewer main extensions are shown on the exhibit.

Electric and gas will be brought to the site from Bloomfield Road by or in conjunction with Ameren UE. Extension of these utilities will be coordinated with their respective utility companies and shown on final improvement plans.

Trash collection for the proposed development will be provided by the City of Cape Girardeau Public Works Solid Waste and Recycling department. Each single-family detached residential unit and duplex unit will have separate trash and recycling bins to be collected by the City on scheduled trash days. Any dead end streets will have a hammer-head turnaround incorporated into their parking and drive areas to allow for trash vehicles to turn around. Multi-family units and the clubhouse building will have separate private trash collection. The Chateau will coordinate trash collection with the City of Cape Girardeau Solid Waste Superintendent, once residences are occupied.



Stormwater runoff management has previously been provided for this entire development as noted later in this submission on page 11. Additional stormwater measures will be provided in conjunction with the small lakes indicated on the preliminary plan. Storm inlets and piping will be designed along streets, and will convey waters to the proposed lakes or natural drainage ways. Stormwater treatment will be provided through a combination of settling in the water features indicated, biofiltration by flowing over natural drainage ways, infiltration trenches, and hydrodynamic filters located prior to the discharge location of some storm pipes.

*d. A generalized landscape plan for the development, including buffer and perimeter area:*

A landscape plan for each phase of the development will be included in the final development plan for such phase, where applicable. Generally, the landscape plan will consist of trees, shrubs and grass/sod in the common areas and open spaces.

*e. A delineation and description of the minimum open space area, including buffer and perimeter areas:*

In standard residential zoning, there are no minimum common open space areas, buffers or perimeter areas, as much of the development consists of residential yards, which by their nature are open space areas, although private. **The Applicant is requesting a variance** for the development, except for the area indicated for the clubhouse and apartments, **from Section 30-341(p)**, which requires 20% of the gross area of the total development to be comprised of common open space, based on the same principle — that most of the development will consist of residential yards, which are open space and "green area." Common open space area for this development is provided in the common area green spaces around the water features, and is planned around proposed amenities as well. In the first phase, the only common area will be the area adjacent to the mail drop off, and potentially a pickleball court (Lot A and potentially B). Common areas for future phases will be presented as each phase is developed. The area to be developed for the clubhouse and apartment buildings will follow current City of Cape Girardeau zoning regulations as to minimum open space area, including buffer and perimeter areas.

Additionally, **the Applicant is requesting a variance** for the development, except for the area indicated for the clubhouse, **from Section 30-341(q)**, which requires a 30-foot buffer yard requirement. The intent of this section is to protect residential areas from impacts from adjacent non-residential uses, and in this case, the entire Ramsay's Run development with the exception of the clubhouse area is intended for residential purposes.

Additionally, the Ramsay's Run development's close proximity to the Dalhousie Golf Club will provide residents with access to additional open space which will offset the reduction in common open space within the development.

*f. A description of screening adjacent to existing residential areas:*

This PD is a residential development which will contain single-family detached, duplex, and townhouse units in certain sections which are proposed to be developed adjacent to an existing single-family home near the southeast corner of the development. A bufferyard is not required for these uses in standard zoning districts. A twenty-foot-wide bufferyard

will be provided for the multi-family sections of the development in accordance with the development code.

- g. *A sign plan that coordinates the size, location, and illumination of proposed signage within the development:*

A sign plan for each phase of the development will be provided with the final development plan for such phase, where applicable. For the first phase, monument signs made into the entry structures adjacent to Bloomfield Road are planned. These structures will likely be on City right of way, and as such will require a license and indemnity agreement with the City of Cape Girardeau. The Chateau proposes that these details be completed and submitted when the final plans of Phase 1 are completed and submitted.

#### 10. TABULATION OF THE FOLLOWING INFORMATION:

- a. *The approximate total number of dwelling units proposed, by type of structure and approximate number of bedrooms for multifamily units:*

<b><u>Land Use</u></b>	<b><u>Approximate No. of Dwelling Units</u></b>	<b><u>Percent of Total Development</u></b>
<b>Single-family Detached</b>	<b>55 - 80</b>	<b>45 – 65%</b>
<b>Duplex and Townhouse</b>	<b>20 – 44</b>	<b>16 – 36%</b>
<b>Multi-family</b>	<b>24 (2 bdrm. per unit)</b>	<b>19.5%</b>
<b>Total:</b>	<b>123</b>	<b>100%</b>

- b. *The approximate total square feet of building floor area proposed for each general type of nonresidential uses:*

The proposed clubhouse is anticipated to be approximately 10,000 square feet. There are no other nonresidential uses proposed in this planned development.

- c. *The total land area, expressed in acres and as a percent of the total development area, proposed to be devoted to residential and nonresidential uses including types of structures, streets, public and private open space, and off-street parking and loading areas:*

<b><u>Land Use</u></b>	<b><u>Area (acres)</u></b>	<b><u>Percent of Total Development</u></b>
<b>Single-family Detached</b>	<b>15.69 — 22.83 acres</b>	<b>29.23 — 42.53%</b>
<b>Duplex and Townhouse</b>	<b>4.50 — 11.64 acres</b>	<b>8.38 — 21.68%</b>
<b>Multi-family and Clubhouse</b>	<b>3.76 acres</b>	<b>7.00%</b>
<b>Common Open Space</b>	<b>3.10 – 13.03 acres</b>	<b>5.77 – 24.27%</b>
<b>Street Right of Way</b>	<b>9.56 acres</b>	<b>17.81%</b>

<b>TOTAL</b>	<b>53.68 acres</b>	<b>100.0%</b>
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- d. *The proposed number of off-street parking and loading spaces for each proposed type of land use:*

Off-street parking and loading spaces will be provided for each dwelling unit in accordance with the development code. Each single-family detached, duplex, and townhouse unit will have an attached garage with a driveway parking space in front, for a total of at least 2 parking spaces per unit. The multi-family units will be served by parking lots providing at least 2 parking spaces per unit. The parking lots will be off-street except for bay parking at the locations shown on the preliminary site plan (to serve the clubhouse and the potentially a pickleball court). The bay parking is conceptual and will be refined for the final development plan submission. The parking spaces will be angled to facilitate access to the spaces, and any streets with bay parking will not have on-street parking for a minimum distance of 100 feet in either direction from any bay parking spaces. The final arrangement and considerations for bay parking spaces will be coordinated with the City Engineering Department during the design plan submission stage, and will be subject to their approval.

## 11. CONSTRUCTION IN PHASES:

The Chateau and their development partners reserve the right to modify the layout within each phase (including the layout of streets, lot sizes and shapes) until a final development plan is approved for such phase by the City, which can be amended upon approval by the City. Subject to such reservations, it is anticipated that construction will take place in six phases.

Phase 1 will begin at the main entry from Bloomfield Road, and will consist of 18 single-family detached residential lots, one lot for multiple duplex and / or townhouse units, and one common lot, with the common lot being for a common mailbox location. When the final plans for the duplex and / or townhouse units are developed, an additional common lot may be included in that region for a pickle ball court. All streets, sidewalks and utilities for these lots and landscaping for all common areas and open spaces, including the construction of the storm water treatment facilities and the lake west of the residential lots, will be included in this phase. While the lake is to be constructed in this phase, the roadway over the dam is not to be constructed, and the area for the lake will not be platted in Phase 1. Phase 1 construction is anticipated to begin upon approval of the final development plan by the City (Summer of 2019) and to be completed in the Fall of 2019.

It is noted that some of the phases will result in streets that temporarily form dead ends until they are extended in future phases. For any such instance where a street is constructed with a temporary dead end, a temporary turnaround will be provided. The design and time frame of each temporary turnaround shall be subject to approval by City staff.

Phases 2-6 will be as shown on the preliminary development plan. The Chateau reserves the right to modify the phasing order as market demands dictate. Common areas will be determined after housing unit locations are established. The streets, sidewalks, utilities, common area landscaping, and storm water treatment facilities will be installed on a per phase basis. The clubhouse facility is anticipated to be constructed in Phase 2 or Phase 3,

depending on how rapidly demand for lots is realized. Ideally, the Chateau is hoping to develop a minimum of one phase per year.

The Chateau and the City have had discussions regarding trade-offs for installing a fire sprinkler system in each residential unit. Some of these trade-offs are noted in the previous sections. If possible, The Chateau would like to defer installation of the secondary entrance / exit shown on the preliminary site plan until Phase 2 or Phase 3, allowing Phase 1 to have more than 30 units as a trade-off for home sprinklers. Based upon review with the Fire Marshal, the development may have an unlimited number of residential units from a single entrance, as long as every unit is fully sprinklered. After further discussion with the Fire Marshal, the developers have agreed to provide a second access point in conjunction with the development stage that would exceed sixty residential units in the total development.

## **12. TRAFFIC IMPACT ANALYSIS:**

Ramsay's Run will potentially add as many as 123 new residential units which will ultimately access existing Bloomfield Road via two streets. The total number of trips and peak number of trips to be added to Bloomfield Road by this development was generated using TripGen 2014, which uses the Institute of Traffic Engineers Version 9 database and equations. Using this program, the following traffic impacts were noted (a copy of the trip generation summary is attached hereto for reference):

1. Based on ITE category 255 (Continuum of Care Residential Community), there will be a total of 308 new trips generated on the average weekday basis (a trip is counted entering or exiting the development). The weekday trips exceeded the weekend trip condition, so the weekday trips control the impacts to Bloomfield Road. The analysis assumes an equal daily distribution of trips entering and exiting the facility (154 trips each way per day).
2. The ITE does not provide data for peak trips, however based on similar residential uses (ITE Category 270, planned development), the PM peak would be expected to control, and would be expected to reflect approximately 10% of the daily flow, with 2/3 of that number entering, and 1/3 exiting. Based on the average trip number of 308 trips, this would equate to a PM peak hour of 31 trips, with 21 entering, and 10 exiting the development.

Existing traffic counts were not available for Bloomfield Road; however, traffic congestion along this route was not noted to be of concern. Bloomfield Road has a posted speed of 35 MPH, and has two 12-foot wide lanes (28' of pavement back to back of curb).

The City of Cape Girardeau is responsible for the maintenance of Bloomfield Road. The City has recently completed a project to widen and enhance the pavement section adjacent to the Ramsay's Run project, and the addition of a peak demand of one car every two minutes will not have any significant detrimental impact on the roadway function.

## **13. LAND DISTURBANCE AND FLOODPLAIN MITIGATION:**

Because the size of the proposed development is over one (1) acre, a land disturbance permit is required from the Missouri Department of Natural Resources (MoDNR). A permit will be on file with the City prior to the beginning of construction.

**14. STORMWATER MANAGEMENT PLAN:**

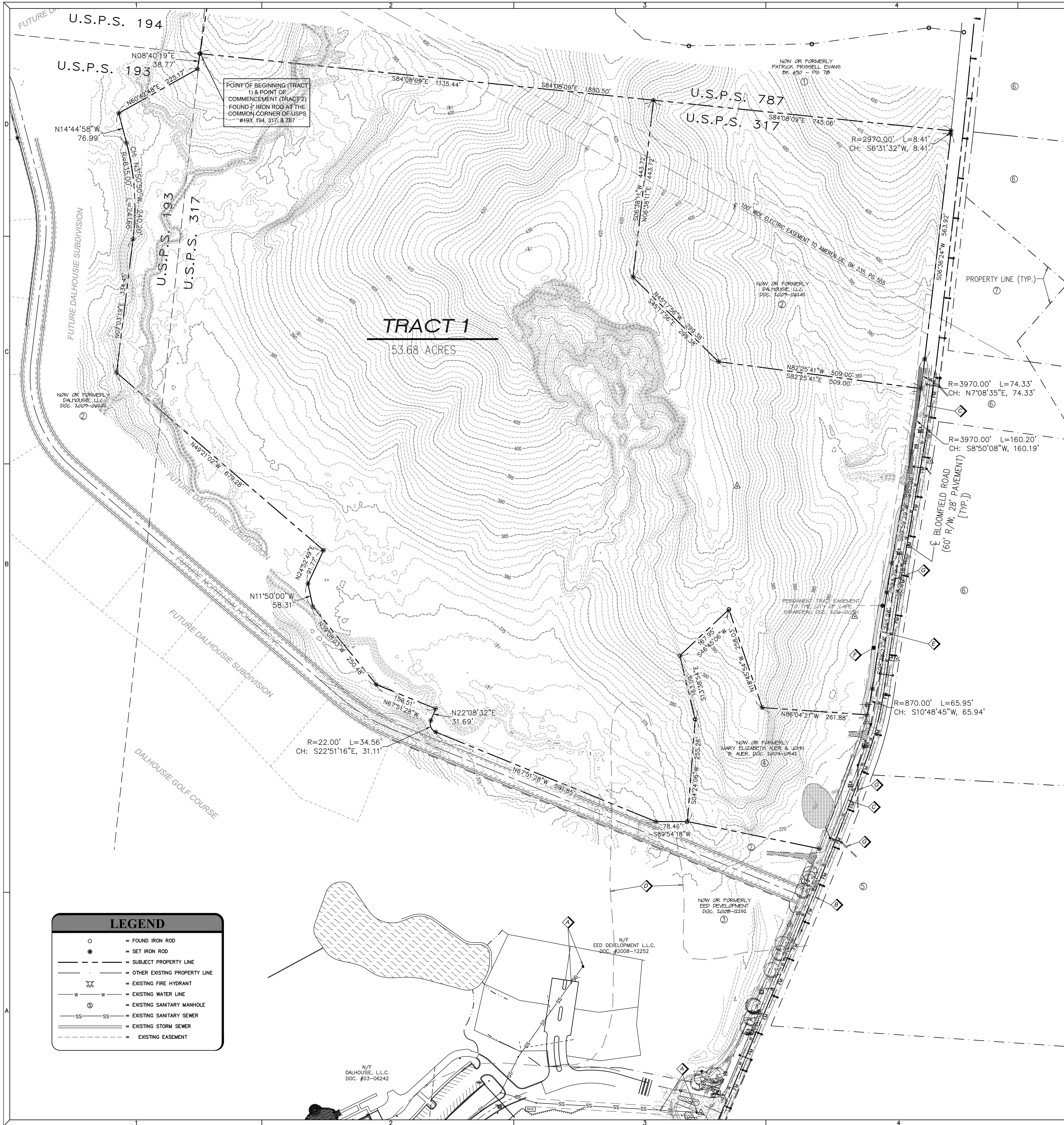
The entire area of the proposed Ramsay's Run development falls within a previously approved stormwater plan that was submitted and approved as part of the Dalhousie Golf Course and Community.

In addition to the previously approved plan, additional small lakes are to be provided in the development to function as an aesthetic feature. These lakes will also be designed with freeboard and regulated discharge, which will further reduce the rate of developed stormwater discharge from the project, and will provide settling to improve the quality of water leaving the site. Additional measures will be provided in the final design to address water quality issues in accordance with the City of Cape Girardeau Development Code.

**15. CONCLUSION:**

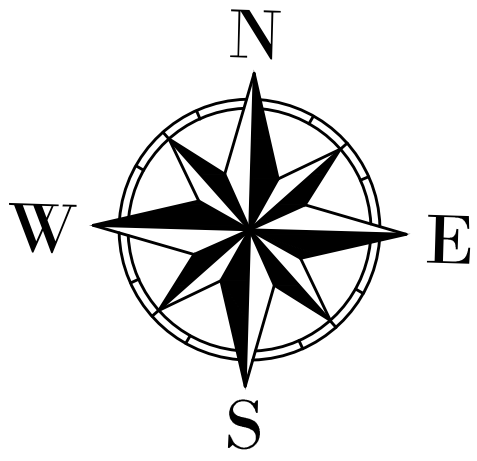
The Chateau realizes that certain aspects of the proposed planned development do not comply with the zoning and development standards. These deviations, however, are essential to creating the unique development the Chateau envisions. The proposed planned development will be an enhancement to the Dalhousie community and the surrounding area. It will benefit the city by offering seniors a neighborhood with character where they can enjoy their late career and retirement years and be active in the community.





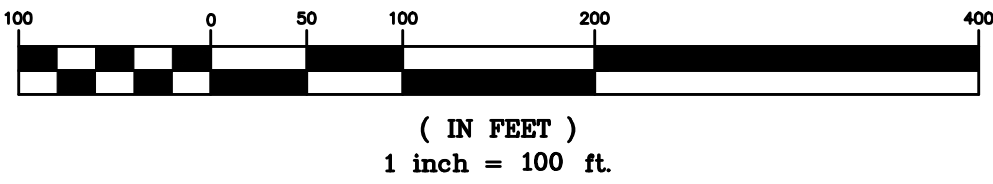
PLANNED DEVELOPMENT EXHIBIT OF  
RAMSAY'S RUN

PART OF UNITED STATES PRIVATE SURVEYS #193 AND #317,  
TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN,  
CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI.



North Orientation In Accordance with the  
Missouri State Plane Coordinate System  
Eastern Zone, Grid North, Derived from GPS  
Observations From the MoDOT Virtual  
Reference System  
(Convergence at the Point of Beginning  
= 0°32'50")

GRAPHIC SCALE



DEVELOPMENT DESCRIPTION

TRACT 1 (THE CHATEAU AT RAMSAY'S RUN)

ALL OF THAT PART UNITED STATES PRIVATE SURVEYS #193 AND #317, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY AND COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
Begin at a found 1/2" dia. iron rod marking the common corner of United States Private Survey Numbers 193, 194, 317, and 787, thence South 84°08'09" East, with the North line of said USPS #317, 1135.44 feet; thence leaving said USPS line, South 06°38'11" West, 443.72 feet; thence South 45°17'56" East, 299.38 feet; thence South 82°25'41" East, 509.00 feet; to a set 1/2" diameter iron rod at a point on the west line of Bloomfield Road, thence with said west line, along the arc of a non-tangent curve concave to the west having a radius of 3,970.00 feet, a distance of 160.20 feet (the chord across said arc bears South 8°50'08" West, 160.19 feet; thence continuing southerly along the west line of Bloomfield Road, South 09°59'29" West, 280.36 feet; thence South 09°18'58" West, 73.79 feet; thence South 08°38'27" West, 243.26 feet, to the point of curvature of a curve to the right having a radius of 870.00 feet; thence along the arc of said curve, a distance of 65.95 feet; to the intersection of the west line of said Bloomfield Road and the North line of a tract now or formerly held in the name of Mary Elizabeth Auer and John B. Auer, conveyed in Document 2004-10542; thence leaving the west line of Bloomfield Road, and along the north and west lines of said Auer tract, North 86°04'21" West, 261.88 feet, thence North 18°45'54" West, 258.03 feet; thence South 46°45'06" West, 167.95 feet; thence South 13°38'54" East, 163.09 feet; thence South 04°24'06" West, 255.26 feet, to the most southwesterly corner of said Auer tract, and thence leaving the west line of said tract, South 89°54'18" West, 78.46 feet; thence North 67°51'28" West, 591.85 feet, to the point of curvature of a curve to the right having a radius of 22.00 feet, thence along the arc of said curve a distance of 34.56 feet; thence North 22°08'32" East, 31.69 feet; thence North 67°51'28" West, 159.51 feet; thence North 39°08'03" West, 250.48 feet; thence North 11°50'00" West, 58.31 feet; thence North 24°52'49" East, 91.77 feet; thence North 49°21'02" West, 679.28 feet thence North 07°03'19" East, 334.45 feet to the point of curvature of a curve to the left having a radius of 635.00 feet, thence along the arc of said curve a distance of 241.66 feet, thence North 14°44'58" West, 76.99 feet, thence North 60°42'48" East, 225.17 feet, thence North 08°40'19" East, 38.77 feet, to the place of beginning and containing 53.68 acres, more or less, as shown on the accompanying plat, which is incorporated into and made a part of this description, and being subject to any easements of record.

This description creates a new parcel from a parent tract set out in a quitclaim deed dated 04/07/2003 recorded in Book 1319 at Page 770 as Document 06-06244 and by General Warranty Deed dated 04/07/2003 and recorded 04/11/2003 in Book 1319 at Page 757 as Document No. 03-06242, held in the name of Dalhouse, LLC, in the land records of Cape Girardeau County, MO.

SURVEY REFERENCES

- Record Deed(s) to the Subject Parcel, quitclaim deed dated 04/07/2003 recorded in Book 1319 at Page 770 as Document 06-06244 and by General Warranty Deed dated 04/07/2003 and recorded 04/11/2003 in Book 1319 at Page 757 as Document No. 03-06242, held in the name of Dalhouse, LLC, in the land records of Cape Girardeau County, MO.
- Prior Survey of the parent tract to the surveyed parcels, conducted for Prestwick Group, prepared by Missouri PLS #1627, dated 4/28/2000.
- Deeds of Adjacent Properties as noted hereon.
- City of Cape Girardeau Ordinance #4650 dated 12-1-14, and #4802 recorded in document 2016-00779, acquiring right of way and easements for Bloomfield Road.
- Construction and Right of Way plans for Bloomfield Road, as prepared by BFA Consulting Engineers and Surveyors, Dated June 13, 2016.
- Cape Girardeau County Assessors file for Parcel Number 20-500-00-02-001.00-0000

LEGEND

- = FOUND IRON ROD
- = SET 1/2" IRON ROD

FLOODPLAIN NOTE

THE ENTIRE LIMITS OF THE SUBJECT PROPERTY FALLS WITHIN ZONE "X", DEFINED AS BEING OUTSIDE THE 100 AND 500 YEAR FLOOD PLAINS WITH MINIMAL FLOODING; AS INDICATED ON THE FLOOD INSURANCE RATE MAP NUMBERS 2903IC0263E & 2903IC0264E WITH EFFECTIVE DATES OF SEPT. 29, 2011 EXCEPT FOR THE SMALL AREA INDICATED HEREON AT THE SOUTHERN LIMITS OF THE PROPERTY.

PLANNED DEVELOPMENT DOCUMENT NOTES

- ① = PROPERTY ADJOINER KEY (# MATCHES # IN PD SUBMISSION APPLICATION)
- ② = NEAREST EXISTING SANITARY SEWER GRAVITY MAINS / MANHOLES
- ③ = EXISTING 6" DIA. PVC SEWER FORCEMAIN
- ④ = EXISTING 12" DIA. PVC WATER MAIN
- ⑤ = LIMITS OF THE 100 YEAR FLOODPLAIN
- ⑥ = EXISTING NATURAL GAS MAIN
- ⑦ = EXISTING HIKING / BIKING TRAIL
- ⑧ = EXISTING STORM SEWER (TYP.)

**KE KOEHLER**  
ENGINEERING AND LAND SURVEYING, INC.

Civil Engineering and Surveying Services  
194 Coker Lane - Cape Girardeau, MO 63701  
Phone: 573.335.3026 - Fax: 573.335.3049  
www.keengineering.com  
CORP. LS. CERT. #000262 - CORP. ENGR. CERT. #2003019634



PLANNED DEVELOPMENT EXHIBIT FOR:  
RAMSAY'S RUN  
IN C/O: CAPE GIRARDEAU RETIREMENT INC.  
MR. KEITH BOELLER, CEO  
3120 INDEPENDENCE STREET  
CAPE GIRARDEAU, MO 63703

REV	DATE	DESCRIPTION	SEAL
1	7-1-19	Revised to Address City Comments	
2	7-1-19	Revised to Address City Comments	
3	7-1-19	Revised to Address City Comments	
4	7-1-19	Revised to Address City Comments	
5	7-1-19	Revised to Address City Comments	
6	7-1-19	Revised to Address City Comments	
7	7-1-19	Revised to Address City Comments	
8	7-1-19	Revised to Address City Comments	
9	7-1-19	Revised to Address City Comments	
10	7-1-19	Revised to Address City Comments	

PD EXHIBIT\_EXISTING  
CONDITIONS: SHEET 1 OF 4

KELS PJCT NO. 37328 OWN'R PJCT NO. 37328

DESIGNED BY CLK

DRAWN BY CLK

CHECKED BY CLK

PLAN DATE 4-01-19

SHEET NO. PD-1.0



**Staff:** Kelly Green, P.E., City Engineer  
**Agenda:** 9/16/2019

**SUBJECT**

An Ordinance accepting a Permanent Utility Easement and Temporary Construction Easement for 2574 Boutin Drive, from Mary Beth Kenkel, a single person, in the City of Cape Girardeau, Missouri.

**BACKGROUND/DISCUSSION**

The City will be constructing a water main extension for the Boutin Drive area. A Permanent Utility Easement and Temporary Construction Easement is needed to be able to access the water main area.

**FINANCIAL IMPACT**

Mary Beth Kenkel is selling to the City of Cape a Permanent Utility Easement for \$5,000. SkyValt, LLC the contractor performing the work is paying \$2,500 and the City of Cape Girardeau is responsible for the remainder \$2,500. Ms. Kenkel is donating the Temporary Construction Easement.




**SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

The easements are necessary to grant the City the right to excavate, build, construct, operate, maintain, and repair the systems and its related components in the easement area.

**STAFF RECOMMENDATION**

Staff recommends Council approve the attached Ordinance accepting a Permanent Utility Easement and Temporary Construction Easement for 2574 Boutin Drive, from Mary Beth Kenkel, a single person, in the City of Cape Girardeau, Missouri.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">2574 Boutin signed PUE.pdf</a>	Permanent Utility Easement
 <a href="#">Perm Utility Temp Construction Easement 2574 Boutin Drive.doc</a>	Ordinance
 <a href="#">2574 Boutin signed TCE.pdf</a>	Temporary Construction Easement

BILL NO. 19-140

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

AN ORDINANCE ACCEPTING A PERMANENT  
UTILITY EASEMENT AND A TEMPORARY  
CONSTRUCTION EASEMENT FROM MARY BETH  
KENKEL, FOR 2574 BOUTIN DRIVE, IN THE  
CITY OF CAPE GIRARDEAU, MISSOURI

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The City of Cape Girardeau, Missouri,  
hereby accepts, and agrees to accept a Permanent Utility  
Easement from Mary Beth Kenkel, a single person, for 2574  
Boutin Drive, in the City of Cape Girardeau, Missouri,  
described as follows:

THOSE PORTIONS OF THE NORTH HALF OF THE NORTHWEST  
QUARTER AND THE NORTH HALF OF THE NORTHEAST  
QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE  
13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, COUNTY  
OF CAPE GIRARDEAU, STATE OF MISSOURI, DESCRIBED  
AS FOLLOWS:

COMMENCE a 1" Iron Pipe at the Southeast Corner  
of Lot 11 of The Amended LaCroix Industrial Park  
Plat, as shown in Plat Book 15 at Page 38 of the  
Land Records of the County Recorder's Office,  
said point being on the North Right of Way Line  
of Missouri State Route "W"; thence  
Southwesterly, along a Curve to the Left, having  
a Radius of 864.02 feet, a Length of 203.36 feet  
(the Chord of said Curve bears S 68°59'20" W, a  
distance of 202.89 feet to the Point of  
Beginning; thence continue, along said Curve, a  
Length of 70.22 feet; thence S 55°41'35" W, a  
distance of 117.88 feet to a point, thence  
departing from said Right of Way, N 34°42'59" W,  
a distance of 10.00 feet; thence  
N 55°17'50" E, a distance of 99.93 feet; thence N  
57°38'27" E, a distance of 38.44 feet; thence N  
59°40'16" E, 30.01 feet to a point on the North  
Line of a tract of Land found in Document Number  
2014-09394 of the aforementioned Land Records,  
thence N 88°02'50" E, along the North Line  
thereof, 23.31 feet to the Point of Beginning  
containing 1837 square feet, more or less.



ARTICLE 2. The City of Cape Girardeau, Missouri, hereby accepts, and agrees to accept a Temporary Construction Easement from Mary Beth Kenkel, for 2574 Boutin Drive, in the City of Cape Girardeau, Missouri, described as follows:

THAT PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI DESCRIBED AS FOLLOWS:

COMMENCE at the Southeast Corner of Lot 2 of Peaceable Acres as shown in Plat Book 17 at Page 24 of the Land Records of the County Recorder's Office; thence S 03°52'48" W, 40.99 feet to a point; thence S 07°18'23" W, 107.59 feet to a point; thence S 39°13'00" W, 33.63 feet to the POINT OF BEGINNING; thence continue, S 39°13'00" W, 47.63 feet to a point on the Northerly Right of Way Line of Missouri State Route "W" also known as Boutin Drive; thence along said Right of Way the following courses:  
N 57°34'24" E, 30.92 feet to a point; N 66°06'14" E, 101.12 feet to a point; N 57°34'24" E, 150.00 feet to a point being 35 feet opposite and normal to station 442+50 of said highway; thence departing from said Right of Way, N 32°25'36" W, 30.00 feet; thence S 57°34'24" W, 235.71 feet to the POINT OF BEGINNING containing 6875 square feet, more or less.

ARTICLE 3. This ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

---

Bob Fox, Mayor

ATTEST:

---

Gayle L. Conrad, City Clerk

**PERMANENT UTILITY EASEMENT**  
**2574 Boutin Drive**  
**Cape Girardeau MO**

KNOW ALL PERSONS BY THESE PRESENTS: **Mary Beth Kenkel, a single person**, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the **CITY OF CAPE GIRARDEAU, MISSOURI**, a Municipal Corporation, hereinafter referred to as the "City", the right, privilege, permission and authority to enter on and upon the following described property, located at **2574 Boutin Drive**, which is solely owned by the undersigned located in the City and County of Cape Girardeau, Missouri, to-wit:

**THOSE PORTIONS OF THE NORTH HALF OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, DESCRIBED AS FOLLOWS:**

**COMMENCE** a 1" Iron Pipe at the Southeast Corner of Lot 11 of The Amended LaCroix Industrial Park Plat, as shown in Plat Book 15 at Page 38 of the Land Records of the County Recorder's Office, said point being on the North Right of Way Line of Missouri State Route "W"; thence Southwesterly, along a Curve to the Left, having a Radius of 864.02 feet, a Length of 203.36 feet (the Chord of said Curve bears S 68°59'20" W, a distance of 202.89 feet to the **Point of Beginning**; thence continue, along said Curve, a Length of 70.22 feet; thence S 55°41'35" W, a distance of 117.88 feet to a point, thence departing from said Right of Way, N 34°42'59" W, a distance of 10.00 feet; thence N 55°17'50" E, a distance of 99.93 feet; thence N 57°38'27" E, a distance of 38.44 feet; thence N 59°40'16" E, 30.01 feet to a point on the North Line of a tract of Land found in Document Number 2014-09394 of the aforementioned Land Records, thence N 88°02'50" E, along the North Line thereof, 23.31 feet to the Point of Beginning containing 1837 square feet, more or less.

Said right, privilege, permission and authority to enter in and upon said property above described is granted for the purpose of enabling the City, its agents, servants, and assigns to use said property to excavate, build, and construct certain improvements, in, on, upon, or across said described property, together with all the useful, necessary and proper adjuncts, appurtenances, and appliances in connection therewith, as shown on the plans and specifications on file in the Office of the City Engineer. This easement and the right, privilege, permission and authority herein granted are perpetual and shall run with the land.

The undersigned covenant that they are the owners in fee simple of the above described property and have the legal right to convey the same.

IN WITNESS WHEREOF, the undersigned have executed this easement this 23 day of August, 2019.



LORETTA L. KINCAID  
My Commission Expires  
November 28, 2021  
Cape Girardeau County  
Commission #13400043

Mary Beth Kenkel

Mary Beth Kenkel  
Signature

STATE OF MISSOURI                     )  
   )  
COUNTY OF CAPE GIRARDEAU )       SS.

On this 23 day of August, 2019, before me personally appeared Mary Beth Kenkel, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

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

Loretta L. Kincaid  
(Notary Public Signature)

Loretta L. Kincaid  
(Typed Name of Notary Public)

My Commission Expires: 11-28-2021

DESCRIPTION

THOSE PORTIONS OF THE NORTH HALF OF THE NORTHWEST QUARTER AND THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 13 EAST, OF THE FIFTH PRINCIPAL MERIDIAN, COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, DESCRIBED AS FOLLOWS:

COMMENCE a 1" Iron Pipe at the Southeast Corner of Lot 11 of The Amended LaCroix Industrial Park Plat, as shown in Plat Book 15 at Page 38 of the Land Records of the County Recorder's Office, said point being on the North Right of Way Line of Missouri State Route "W", thence Southwesterly, along a Curve to the Left, having a Radius of 864.02 feet, a Length of 203.36 (the Chord of said Curve bears S 68°59'20" W, a Length of 70.22 feet; thence S 55°41'35" W, a distance of 117.88 feet to a point, thence departing from said Right of Way, N 34°42'59" W, a distance of 10.00 feet; thence N 55°17'50" E, a distance of 99.93 feet; thence N 57°38'27" E, a distance of 38.44 feet; thence N 59°40'16" E, a distance of 30.01 feet to a point on the North Line of a tract of Land found in Document Number 2014-09394 of the aforementioned Land Records, thence N 88°02'50" E, along the North Line thereof, 23.31 feet to the Point of Beginning containing 1837 square feet, more or less.

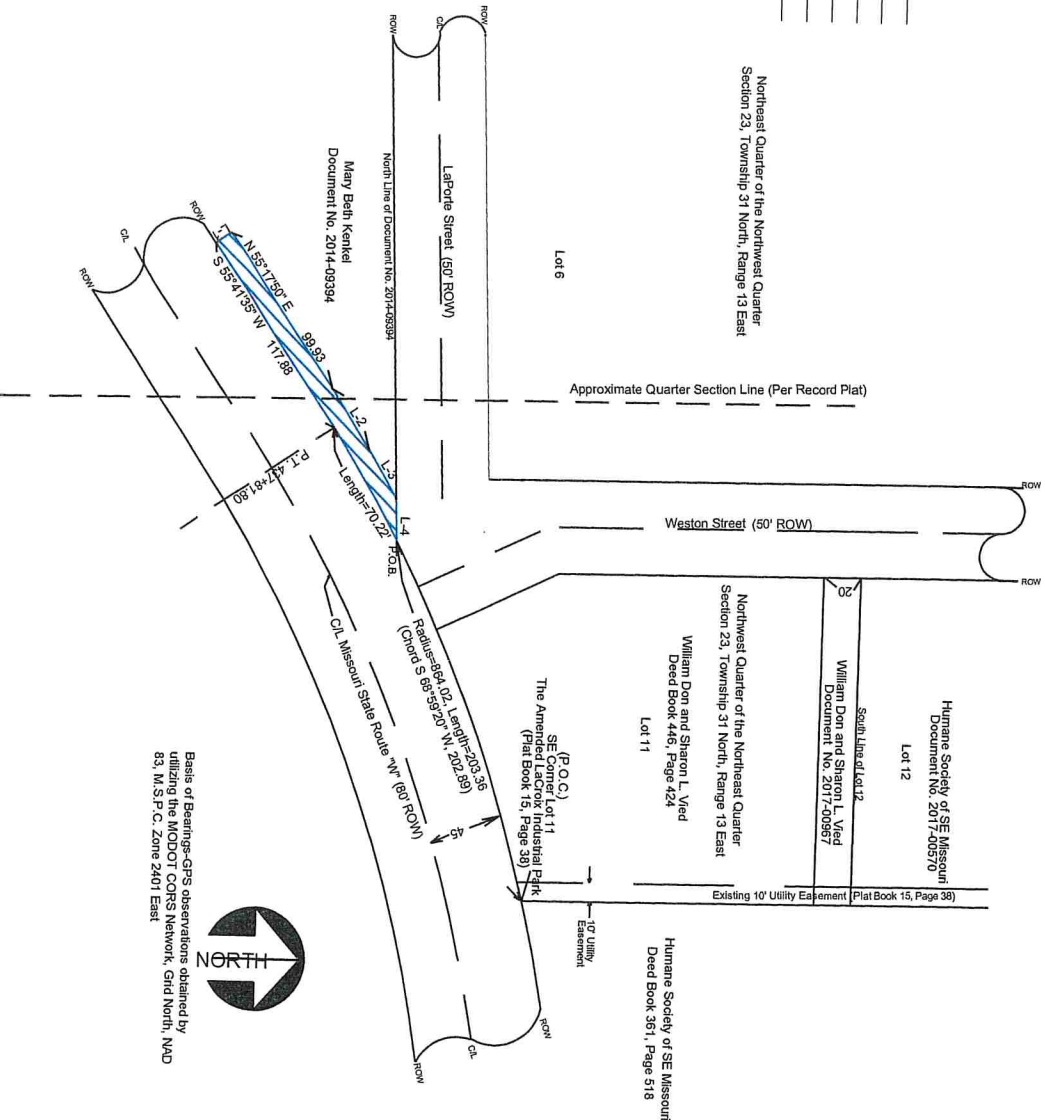
LINE TABLE

Line	Bearing	Distance
L-1	N 34°42'59" W	10.00
L-2	N 57°38'27" E	38.44
L-3	N 59°40'16" E	30.01
L-4	N 88°02'50" E	23.31

REFERENCES

1. Record Plat of The Amended LaCroix Industrial Park Plat Book 15, Page 38.
2. Aerial Photograph 15-600
3. Online Mapping Records for Cape Girardeau County  
<http://gis.capecounty.net/MapInfoViewer>
4. Water Main Extension Plans for Boulton Drive dated 4-20-2018 and prepared by Koehler Engineering and Land Surveying (KELS) project number 35983
5. Improvement Plans for a temporary building for the Humane Society of Southeast Missouri dated 1-20-2017 and prepared by Koehler Engineering and Land Surveying (KELS) project number 36556
6. General Warranty Deed, Document No. 2017-00570

Note: Hatched area contains 1837 square feet, more or less



## **TEMPORARY CONSTRUCTION EASEMENT**

Boutin Water Main Extension  
2574 Boutin Drive.  
Cape Girardeau, MO 63701

KNOW ALL MEN BY THESE PRESENTS: **Mary Beth Kenkel**, hereinafter referred to as "Grantor", and the **CITY OF CAPE GIRARDEAU, MISSOURI**, a Municipal Corporation of the County of Cape Girardeau, State of Missouri, herein referred to as GRANTEE:

WITNESSETH, that Grantors, in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, to be paid by Grantee, the receipt of which is hereby acknowledged, do by these presents, remise and convey unto Grantee the following **TEMPORARY CONSTRUCTION EASEMENT** on the property described as follows:

**THAT PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI DESCRIBED AS FOLLOWS:**

**COMMENCE** at the Southeast Corner of Lot 2 of Peaceable Acres as shown in Plat Book 17 at Page 24 of the Land Records of the County Recorder's Office; thence S 03°52'48" W, 40.99 feet to a point; thence S 07°18'23" W, 107.59 feet to a point; thence S 39°13'00" W, 33.63 feet to the **POINT OF BEGINNING**; thence continue, S 39°13'00" W, 47.63 feet to a point on the Northerly Right of Way Line of Missouri State Route "W" also known as Boutin Drive; thence along said Right of Way the following courses:

N 57°34'24" E, 30.92 feet to a point; N 66°06'14" E, 101.12 feet to a point; N 57°34'24" E, 150.00 feet to a point being 35 feet opposite and normal to station 442+50 of said highway; thence departing from said Right of Way, N 32°25'36" W, 30.00 feet; thence S 57°34'24" W, 235.71 feet to the **POINT OF BEGINNING** containing 6,875 square feet, more or less.

The above described parcel contains 6,875 sq. ft., more or less, of temporary easement for construction.

Said right, privilege, permission and authority to enter in and upon said property above described is granted for the purpose of enabling the City, its agents, servants, and assigns to use said property to excavate, build, and construct certain land improvements for the Boutin Water Main Extension, in, on, upon, or across said described property, together with all the useful, necessary and proper adjuncts, appurtenances, and appliances in connection therewith, as shown on the plans and specification of file in the Office of the City Engineer. Said privilege is valid from the date this easement is accepted by the City Council through the date those improvements are accepted by the City Council.

The undersigned covenants that it is the owner in fee simple of the above-described property and has the legal right to convey this easement.

IN WITNESS WHEREOF, the undersigned have executed this easement on this 23 day of August, 2019.

By: Mary Beth Kenkel  
Mary Beth Kenkel

STATE OF Missouri )  
COUNTY OF Cape Girardeau ) ss.



LORETTA L. KINCAID  
My Commission Expires  
November 28, 2021  
Cape Girardeau County  
Commission #13400043

BE IT REMEMBERED, that on this 23 day of August, 2019, before me, the undersigned notary public, personally appeared Mary Beth Kenkel, who is known to me to be the person who executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date last above written.

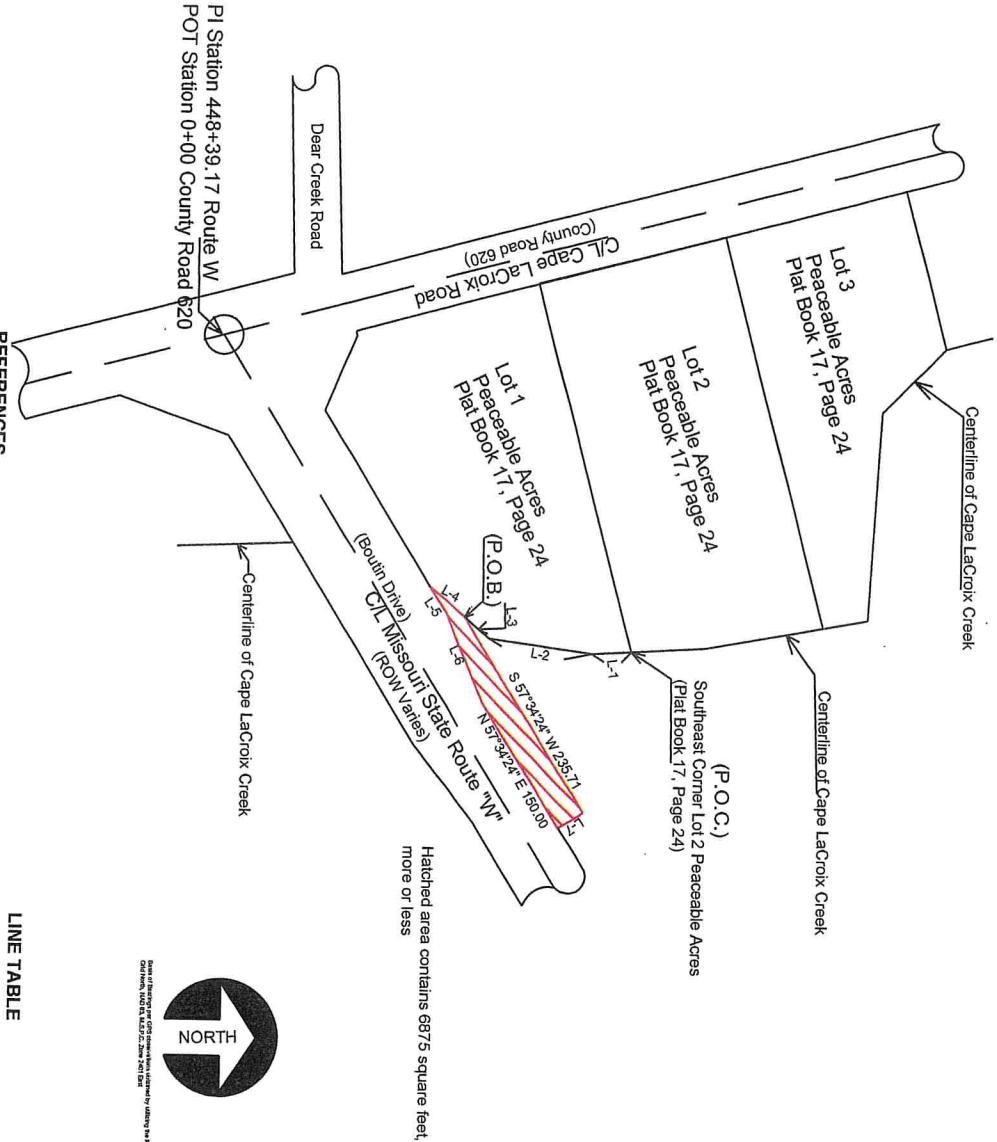
Loretta L. Kincaid  
Notary Public

My Commission Expires:  
11.28.2021

THE PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 31 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI DESCRIBED AS FOLLOWS:

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N 57°34'24" E, 30.92 feet to a point; N 66°06'14" E, 101.12 feet to a point; N 57°34'24" E, 150.00 feet to a point being 35 feet opposite and normal to station 442+50 of said highway; thence departing from said Right of Way, N 32°25'36" W, 30.00 feet; thence S 57°34'24" W, 235.71 feet to the POINT OF BEGINNING containing 6875 square feet, more or less.



REFERENCES

1. Record Plat of Peaceable Acres Plat Book 17, Page 24
2. Aerial Photograph 15-600
3. Online Mapping Records for Cape Girardeau County

LINE TABLE

Line	Bearing	Distance
L-1	S 03°52'48" W	40.99
L-2	S 07°18'23" W	107.59
L-3	S 39°13'00" W	33.63

Drawn by: [Name] and [Name] Licensed Surveyors by the State of Missouri

**Staff:** Kelly Green., City Engineer  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-201**

**SUBJECT**

An Ordinance accepting a Collector's Deed from the Cape Girardeau County Collector for Lands Sold for Delinquent Taxes at First Offering for property located on North Main Street in the City of Cape Girardeau, Missouri.

**EXECUTIVE SUMMARY**

The attached ordinance conveys a tract of land at 0 N. Main street from Cape Girardeau County Collector for Lands Sold for Delinquent Taxes at First Offering for property located at N. Main Street in the City of Cape Girardeau, Missouri.

**BACKGROUND/DISCUSSION**

The property located at 0 N. Main Street adjoins a tract of land already owned by the City of Cape Girardeau in the Red Star district. A Collectors Deed has been prepared for this purpose and is attached, along with a location map.



**FINANCIAL IMPACT**

The cost to the City for the land was \$160.38 for back taxes and \$200 for title search and \$60 in recording fees.

**STAFF RECOMMENDATION**

Staff recommends approval of the ordinance accepting the Collector's Deed from Cape Girardeau County Tax Collector for 0 N. Main Street, Cape Girardeau MO.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Tax Collectors Deed_0 North Main Street.doc</a>	Ordinance
 <a href="#">Main N Tax Sale Deed.pdf</a>	Deed
 <a href="#">Map.ONMain.docx</a>	map



BILL NO. 19-141

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

AN ORDINANCE ACCEPTING A COLLECTOR'S DEED  
FROM CAPE GIRARDEAU COUNTY, FOR PROPERTY  
LOCATED AT 0 NORTH MAIN STREET, IN THE CITY  
OF CAPE GIRARDEAU, MISSOURI

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The City of Cape Girardeau, Missouri, hereby  
accepts, and agrees to accept, a Collector's Deed from Cape  
Girardeau County for lands sold for delinquent taxes, for  
property located at 0 North Main Street, in the City of Cape  
Girardeau, Missouri, described as follows:

As described in Book #591 Page #256.  
All of Lot Two (2) in block Twelve (12) of Robertson  
and Gale's Addition in the City of Cape Girardeau,  
Missouri.  
County Parcel No16-716-00-20-00900-0000

ARTICLE 2. This ordinance shall be in full force and  
effect ten days after its passage and approval.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

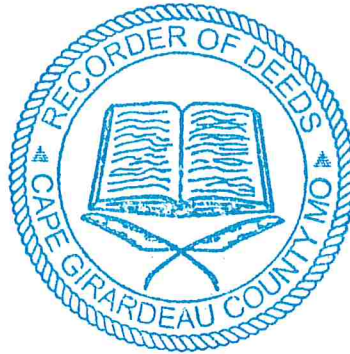
ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

CL



8 2 5 8 2 1 5  
Tx:4133171



DOCUMENT #  
2019-08242

ANDREW DAVID BLATTNER  
RECORDER OF DEEDS  
CAPE GIRARDEAU COUNTY, MO  
RECORDED ON  
08/28/2019 12:53:10 PM  
REC FEE: 30.00  
PAGES: 3

## COLLECTOR'S DEED FOR TAXES

Diane Diebold, former

Grantor: Barbara Gholson, current , Collector of Revenue Document Date: August 28, 2019  
Grantor: Smith J D  
Grantee: City of Cape Girardeau  
Mailing Address: 401 Independence , Cape Girardeau MO 63703

Whereas on this 28th day of August, 2019, Barbara Gholson  
the undersigned Collector of the County of CAPE GIRARDEAU, State of Missouri, (known as "Grantor"),  
did receive from City of Cape Girardeau, whose mailing address is  
401 Independence, Cape Girardeau MO 63703, of the county of CAPE GIRARDEAU,  
State of Missouri "known as "Grantee(s)", a certificate of purchase, in writing bearing the date, 27th day of  
August 2018, signed by Diane Diebold who at the last mentioned date was Collector of  
said county, from which it appears that the said City of Cape Girardeau did  
on the 27th day of August, 2018, purchase at public auction at the the County Administration Building, in  
Jackson, in said county, the tract, parcel or lot of land lastly in the indenture described, and which lot was sold to  
City of Cape Girardeau for the sum of \$ 101.98  
One Hundred One Dollars and Ninety-Eight Cents  
being the amount due on the following tracts or lots of land, returned delinquent in the name of  
Smith J D Grantor(s) for the non-payment of taxes, costs and charges  
for the years: 2016, 2017

Witnesseth: That the said Grantor, for and in consideration of the premises, has granted, bargained and sold  
unto the said Grantee, successors and assigns, forever, the tract or parcel of land mentioned in said  
certificate, situated in the County of Cape Girardeau and State of Missouri, and described as follows:

### Legal Description

LOT 2 BLK 12 ROBERTSON - GALE ADDN  
See attached Exhibit "A" for full legal description

County Parcel Number: 16-716-00-20-00900-0000 Book # 591 Page # 256

Said lands have been recorded, among other tracts, in the office of said Collector as delinquent for the  
non-payment of taxes, costs and charges due for the year last aforesaid, and legal publication made of the sale  
of said lands, and it appearing that the said City of Cape Girardeau  
is the legal owner of said certificate of purchase and the time fixed by law for redeeming the land therein  
described having now expired, the said Smith J D  
nor any person in his/her/their behalf having paid or tendered the amount due the said  
Smith J D on account of the aforesaid purchase, and for the  
taxes by him/her/them since paid, and the said City of Cape Girardeau  
having demanded a deed for the tract of land last mentioned in said certificate, and which was the least

quantity of the tract above described that would sell for the amount due thereon for taxes, costs and charges, as above specified, and it appearing from the records of said County Collector's office that the aforesaid lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book with taxes for the years: 2016 , 2017

To have and to hold the said last mentioned tract or parcel of land, with the appurtenances thereto belonging, to the said Grantee, successors and assigns forever, in as full and ample a manner as the Collector of said county is empowered by law to sell same.

In testimony Whereof, the said Barbara Gholson ,Collector of said county of  
CAPE GIRARDEAU , has hereunto set his/her hand, the day and year last above written. (Document Date)



Barbara Gholson (L.S.)  
Barbara Gholson  
Collector of Cape Girardeau County

STATE OF MISSOURI

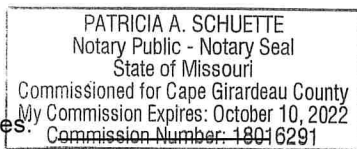
County of Cape Girardeau

} ss

Before me the undersigned, Patricia A. Schuette in and for said county, this day,  
personally came the above named, Barbara Gholson Collector of said county, and  
acknowledged that he/she executed the foregoing deed for the uses and purposes therein mentioned.

In Witness Whereof, I have hereunto set my hand and seal, this 28th day of August 2019

My commission expires:



Patricia A. Schuette (L.S.)  
Name of Notary Public

# Exhibit A

**2018**

**TAX SALE ATTACHMENT**

**LEGAL DESCRIPTION**

AS DESCRIBED IN      Book # 591      Page # 256

All of Lot two (2) in block Twelve (12) of Roberson and Gale's Addition in the City of  
Cape Girardeau, Missouri

COUNTY PARCEL NO.      16-716-00-20-00900-0000





**Staff:** W. Victor Brownlees, Finance  
**Agenda:** Director.  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-202**

**SUBJECT**

This ordinance approves the issuance and terms of approximately \$8,515,000 of Waterworks System Refunding Revenue Bonds currently planned on being sold on September 16, 2019.

**EXECUTIVE SUMMARY**

This ordinance approves the issuance and terms of approximately \$8,515,000 of Waterworks System Refunding Revenue Bonds currently planned on being sold on September 16, 2019. Final rates and terms will be included in the final readings of this ordinance at the Council meeting scheduled for September 16, 2019.

**BACKGROUND/DISCUSSION**

The proposed bonds are being issued to provide funds to repay a portion of existing Waterworks System Revenue Bonds, Series 2012A with an original value of \$9,285,000; it will also provide funding for the costs of issuing the Bonds. The proposed bond issue will allow us to take advantage of interest rate reductions.






**FINANCIAL IMPACT**

The repayments of the proposed bonds are to be made from the revenue generated by the rates charged to users of the waterworks system. Current projections show that future revenue from this repayment source will be adequate to repay these bonds. With issuance of these bonds, based on current interest rates, the City will realize future debt service payment reductions with a Net Present Value Benefit of around \$725,000 (value of future reductions in today's dollars).

**STAFF RECOMMENDATION**

Staff recommends approval of this ordinance.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Ordinance.Waterworks Revenue Bonds (prepared by G B).doc</a>	Ordinance
 <a href="#">POS.docx</a>	Preliminary Official Statement
 <a href="#">CDU.docx</a>	Continuing Disclosure Undertaking
 <a href="#">FTC.doc</a>	Federal Tax Certificate
 <a href="#">ETA.docx</a>	Escrow Trust Agreement



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**BILL NO. 19-143**

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

**OF THE**

**CITY COUNCIL**

**OF THE**

**CITY OF CAPE GIRARDEAU, MISSOURI**

**PASSED**

**SEPTEMBER 16, 2019**

---

**AUTHORIZING**

**\$[\*\*PRINCIPAL AMOUNT\*\*]  
WATERWORKS SYSTEM REFUNDING REVENUE BONDS  
SERIES 2019**

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**AN ORDINANCE AUTHORIZING THE ISSUANCE OF  
WATERWORKS SYSTEM REFUNDING REVENUE BONDS,  
SERIES 2019, OF THE CITY OF CAPE GIRARDEAU,  
MISSOURI; PRESCRIBING THE FORM AND DETAILS OF THE  
BONDS AND THE COVENANTS AND AGREEMENTS TO  
PROVIDE FOR THE PAYMENT AND SECURITY THEREOF;  
AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS  
AND PRESCRIBING OTHER MATTERS RELATING THERETO**

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**RECITALS**

1. The City of Cape Girardeau, Missouri (the “City”), is a constitutional charter city and political subdivision duly created, organized and existing under and by virtue of its Charter and the laws of the State of Missouri, and pursuant to Chapter 91 of the Revised Statutes of Missouri, as amended (the “Act”), owns and operates a revenue producing waterworks system serving the City and its inhabitants and others within its service area (the “System,” as hereinafter more fully defined).

2. The City has heretofore issued and has outstanding the following series of revenue bonds payable out of the revenues derived from the operation of the System:

<u>Series of Bonds</u>	<u>Date of Bonds</u>	<u>Amount Issued</u>	<u>Amount Outstanding</u>
Waterworks System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA) Series 2010 (the “Series 2010 Bonds”)	January 15, 2010	\$ 1,000,000	\$ 592,100
Waterworks System Refunding Revenue Bonds, Series 2012A (the “Series 2012A Bonds”)	April 17, 2012	13,955,000	9,905,000

3. The City desires to refund the Series 2012A Bonds maturing on and after January 1, 2021 (the “Refunded Bonds”) and is authorized under the provisions of Section 108.140(2) of the Revised Statutes of Missouri, as amended (the “Refunding Law”), to issue and sell refunding revenue bonds for the purpose of refunding, in whole or in part, its valid outstanding revenue bonds, which refunding revenue bonds may be payable from the same sources as were pledged to the payment of the bonds refunded.

4. Upon the issuance of the Bonds, the City will not have outstanding any other bonds or obligations payable from the revenues derived from the operation of the System other than the Series 2010 Bonds and the Series 2012A Bonds that are not being refunded.

5. It is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants at this time to authorize the issuance and delivery of revenue bonds pursuant to the Act as herein provided to provide funds for such purposes.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, AS FOLLOWS:**

## **ARTICLE I**

### **DEFINITIONS**

**Section 101. Definitions of Words and Terms.** In addition to words and terms defined elsewhere herein, the following capitalized words and terms as used in this Ordinance shall have the following meanings:

**“Act”** means Chapter 91 of the Revised Statutes of Missouri, as amended.

**“Bond Counsel”** means Gilmore & Bell, P.C., St. Louis, Missouri, or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the City.

**“Bond Payment Date”** means any date on which principal of or interest on any Bond is payable at the Maturity thereof or on any Interest Payment Date.

**“Bond Register”** means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

**“Bondowner,” “Owner” or “Registered Owner”** when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

**“Bonds”** means the City’s Waterworks System Refunding Revenue Bonds, Series 2019, in the original aggregate principal amount of \$[\*\*PRINCIPAL AMOUNT\*\*], authorized and issued pursuant to this Ordinance.

**“Business Day”** means a day, other than a Saturday, Sunday or holiday, on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

**“City”** means the City of Cape Girardeau, Missouri, and any successors or assigns.

**“Code”** means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

**“Consultant”** means an independent engineer or engineering firm having a favorable reputation for skill and experience in the construction, financing and operation of public utilities and the preparation of management studies and financial feasibility studies in connection therewith, selected by the City for the purpose of carrying out the duties imposed on the Consultant by this Ordinance.

**“Continuing Disclosure Undertaking”** means the Continuing Disclosure Undertaking dated as of October 1, 2019, in substantially the form attached hereto as **Exhibit C**.

**“Costs of Issuance Account”** means the Costs of Issuance Account for the Bonds ratified by **Section 501** hereof.



**“Debt Service Account”** means the Debt Service Account for the Bonds created by **Section 501** hereof.

**“Debt Service Requirements”** means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on all System Revenue Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State of Missouri and having full trust powers.

**“Defaulted Interest”** means interest on any Bond which is payable but not paid on any Interest Payment Date.

**“Defeasance Obligations”** means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (A) not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations serving as security for the obligations, plus any cash in the escrow fund, are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations serving as security for the obligations, are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) the obligations are rated in the same rating category or higher as United States Government Obligations by a nationally recognized rating service.

**“Depreciation and Replacement Account”** means the account by that name referred to in **Section 501** hereof.

**“Escrow Agent”** means UMB Bank, N.A., St. Louis, Missouri, and any successors or assigns.

**“Escrow Agreement”** means the Escrow Trust Agreement between the City and the Escrow Agent, in substantially the form attached hereto as **Exhibit E**.

**“Escrow Fund”** means the fund by that name referred to in **Section 501** hereof.

**“Escrowed Securities”** means the direct, noncallable obligations of the United States of America, as described in the Escrow Agreement.

**“Expenses”** means all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on System Revenue Bonds and depreciation and amortization charges during the period of determination), including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, Paying Agent fees and expenses, annual audits, periodic Consultant’s reports, properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, deposits required to be made to a rebate fund for any System Revenue Bonds, short-term obligations incurred and payable within a particular fiscal year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, but shall exclude all general administrative expenses of the City not related to the operation of the System.

**“Federal Tax Certificate”** means the Federal Tax Certificate, in substantially the form attached hereto as **Exhibit D**, executed by the City on the date of issuance of the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

**“Insurance Consultant”** means an individual or firm selected by the City qualified to survey risks and to recommend insurance coverage for entities engaged in operations similar to those of the System and having a favorable reputation for skill and experience in making such surveys and recommendations.

**“Interest Payment Date”** means the Stated Maturity of an installment of interest on any Bond.

**“Maturity”** when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for optional or mandatory redemption or otherwise.

**“Net Revenues”** means all Revenues less all Expenses.

**“Operation and Maintenance Account”** means the account by that name ratified in **Section 501** hereof.

**“Ordinance”** means this Ordinance, as it may be amended from time to time in accordance with the terms hereof.

**“Outstanding”** means, when used with reference to Bonds, as of any particular date, all Bonds theretofore issued and delivered hereunder, except the following Bonds:

- (a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1101** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered hereunder.

**“Parity Bonds”** means the Series 2010 Bonds, the Series 2012A Bonds and any additional bonds or other obligations hereafter issued or incurred pursuant to **Section 902** hereof and standing on a parity and equality with the Bonds with respect to the payment of principal and interest from the Net Revenues of the System.

**“Parity Ordinances”** means the Series 2010 Ordinance, the Series 2012A Ordinance and any additional ordinance or ordinances under which any Parity Bonds are hereafter issued pursuant to **Section 902** hereof.

**“Paying Agent”** means UMB Bank, N.A., St. Louis, Missouri, and any successors and assigns.

**“Permitted Investments”** means any of the following securities and obligations, if and to the extent the same are at the time legal for investment of the City’s moneys held in the funds and accounts referred to in **Section 501** hereof:

(a) United States Government Obligations;

(b) bonds, notes or other obligations of the State of Missouri, or any political subdivision of the State of Missouri, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;

(c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the City;

(d) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c) above, inclusive, which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits; and

(f) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State of Missouri.

**“Person”** means any natural person, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

**“Purchaser”** means [**\*\*Original Purchaser\*\***], \_\_\_\_\_, \_\_\_\_\_, the original purchaser of the Bonds.

**“Record Date”** for the interest payable on any Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

**“Redemption Date”** when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Ordinance.

**“Redemption Price”** when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

**“Refunded Bonds”** means the Series 2012A Bonds maturing on and after January 1, 2021, aggregating the principal amount of \$9,285,000.

**“Replacement Bonds”** means Bonds issued to the beneficial owners of the Bonds in accordance with **Section 211(c)** hereof.

**“Revenue Fund”** means the fund by that name ratified in **Section 501** hereof.

**“Revenues”** means all income and revenues derived from the operation of the System, including investment income, sales tax revenues which have been annually appropriated by the City or which are limited solely to the payment of improvements to or expenses of the System, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of facilities to be applied during the period of determination to pay interest on System Revenue Bonds, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets and any other moneys of the City which have been appropriated by the City Council to pay expenses of the System or other Debt Service Requirements.

**“Securities Depository”** means The Depository Trust Company, New York, New York, and its successors and assigns.

**“Series 2010 Bonds”** means the City’s Waterworks System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA), Series 2010.

**“Series 2010 Ordinance”** means Ordinance No. 4096 of the City adopted on January 4, 2010, authorizing the issuance of the Series 2010 Bonds.

**“Series 2012A Bonds”** means the City’s Waterworks System Refunding Revenue Bonds, Series 2012A.

**“Series 2012A Ordinance”** means Ordinance No. 4305 of the City adopted on April 2, 2012, authorizing the issuance of the Series 2012A Bonds.

**“Special Record Date”** means the date prior to the payment date of Defaulted Interest fixed by the Paying Agent pursuant to **Section 204** hereof.

**“Stated Maturity”** when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Ordinance as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

**“System”** means the entire waterworks plant and system owned and operated by the City for the production, storage, treatment and distribution of water, to serve the needs of the City and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

**“System Revenue Bonds”** means, collectively, the Bonds, the Parity Bonds and all other revenue bonds or other obligations which are payable out of, or secured by the Net Revenues of the System.

**“United States Government Obligations”** means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the same rating category or higher as the United States of America by a nationally recognized rating service and such obligations are held in a custodial account for the City’s benefit.

## ARTICLE II

### AUTHORIZATION OF BONDS

**Section 201. Authorization of Bonds.** The City is authorized and directed to issue a series of bonds of the City, designated “Waterworks System Refunding Revenue Bonds, Series 2019”, in the principal amount of \$[\*\*PRINCIPAL AMOUNT\*\*] (the “Bonds”), for the purpose of providing funds to refund the Refunded Bonds and pay the costs of issuing the Bonds.

#### **Section 202. Description of Bonds.**

(a) The Bonds shall consist of fully-registered bonds, numbered from **R-1** upward, in denominations of \$5,000 or any integral multiple thereof. The Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in **Exhibit A** attached hereto, and shall be subject to registration, transfer and exchange as provided in **Section 205** hereof.

(b) The Bonds shall be dated the date of original delivery thereof, shall be due in the amounts on the Stated Maturities (subject to redemption prior to their Stated Maturities as provided in **Article III** hereof), and shall bear interest at the rates per annum, as follows:

## SERIAL BONDS

<u>Stated Maturity</u> <u>(January 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
20__	\$	%
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		
20__		

## [\*\*TERM BONDS\*\*]

<u>Stated Maturity</u> <u>(January 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
20__	\$	%
20__		

(c) The Bonds shall bear interest at the above-specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the dated date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on January 1 and July 1 in each year, beginning on July 1, 2020.

### **Section 203. Designation of Paying Agent.**

(a) UMB Bank, N.A., St. Louis, Missouri, is hereby designated as the City's Paying Agent for the payment of principal of and interest on the Bonds and as bond registrar with respect to the registration, transfer and exchange of Bonds (herein called the "Paying Agent").

(b) The City will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The City reserves the right to appoint a successor Paying Agent by (1) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (2) causing notice of the appointment of the successor Paying Agent to be given by first class mail to each Bondowner. The Paying Agent may resign upon giving written notice by first class mail to the City and the Bondowners not less than 60 days prior to the date such resignation is to take effect. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of the Paying Agent.

(c) Every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company located in the State of Missouri, organized and in good standing and doing business under the laws of the United States of America or of the State of Missouri,

authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority.

(d) The Paying Agent shall be paid its fees and expenses for its services in connection herewith, which fees and expenses shall be paid as other Expenses are paid.

**Section 204. Method and Place of Payment of Bonds.**

(a) The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency of the United States of America that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

(b) The principal or Redemption Price of each Bond shall be paid at Maturity by check, draft or electronic transfer to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal payment office of the Paying Agent or such other payment office designated by the Paying Agent.

(c) The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (1) by check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register or (2) by electronic transfer to such Registered Owner upon written notice signed by such Registered Owner and given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank, its ABA routing number and the account number to which such Registered Owner wishes to have such transfer directed and an acknowledgment that an electronic transfer fee is payable.

(d) Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds, the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed by first class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

(e) The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and shall upon the written request of the City at least annually forward a copy or summary of such records to the City.



## **Section 205. Registration, Transfer and Exchange of Bonds.**

(a) The City covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the principal payment office of the Paying Agent or such other payment office designated by the Paying Agent for the registration, transfer and exchange of Bonds as herein provided. Each Bond when issued shall be registered in the name of the owner thereof on the Bond Register.

(b) Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal payment office of the Paying Agent or such other office as the Paying Agent shall designate, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

(c) In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The City shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

(d) The City and the Paying Agent shall not be required (1) to register the transfer or exchange of any Bond after notice calling such Bond or portion thereof for redemption has been given or during the period of 15 days next preceding the first mailing of such notice of redemption, or (2) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the City of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

(e) The City and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

(f) At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

## **Section 206. Execution, Authentication and Delivery of Bonds.**

(a) Each of the Bonds, including any Bonds issued in exchange or as substitution for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Mayor or City Manager, attested by the manual or facsimile signature of the City Clerk, and shall have the official seal of the City affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bond ceases to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

(b) The Mayor, the City Manager and the City Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Paying Agent for authentication.

(c) The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually executed by an authorized signatory of the Paying Agent, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to or upon the order of the Purchaser, upon payment to the City of the purchase price of the Bonds plus accrued interest thereon to the date of their delivery, if any.

## **Section 207. Mutilated, Destroyed, Lost and Stolen Bonds.**

(a) If (1) any mutilated Bond is surrendered to the Paying Agent, or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (2) there is delivered to the City and the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the City and the Paying Agent that such Bond has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

(b) If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Paying Agent in its discretion may pay such Bond instead of delivering a new Bond.

(c) Upon the issuance of any new Bond under this Section, the City or the Paying Agent may require the payment by the Registered Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

(d) Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

**Section 208. Cancellation and Destruction of Bonds Upon Payment.** All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and

surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and shall file an executed counterpart of such certificate with the City.

#### **Section 209. Preliminary and Final Official Statement.**

(a) The Preliminary Official Statement, in the form attached hereto as **Exhibit B**, is hereby ratified and approved, and the final Official Statement is hereby authorized and approved by supplementing, amending, and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor or City Manager is hereby authorized to execute the final Official Statement as so supplemented, amended and completed, and the use and public distribution of the final Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

(b) For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the "Rule"), the City hereby deems the Preliminary Official Statement to be "final" as of its date, except for the omission of such information as is permitted by the Rule. The appropriate officers of the City are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of such Rule.

(c) The City agrees to provide to the Purchaser within seven Business Days of the date of the sale of the Bonds an electronic copy of the final Official Statement to enable the Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

**Section 210. Sale of Bonds.** The sale of the Bonds to the Purchaser at a purchase price of \$\_\_\_\_\_ (representing the original principal amount of the Bonds, plus **[\*\*a net\*\*]** original issue premium of \$\_\_\_\_\_ and less an underwriting discount of \$\_\_\_\_\_), plus accrued interest to the date of delivery, if any, is hereby ratified and confirmed. The City shall deliver the Bonds to or upon the order of the Purchaser as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of sale.

#### **Section 211. Securities Depository.**

(a) For purposes of this Section, the following terms shall have the following meanings:

"Beneficial Owner" means, whenever used with respect to a Bond, the person in whose name such Bond is recorded as the beneficial owner of such Bond by a Participant on the records of such Participant, or such person's subrogee.

"Cede & Co." means Cede & Co., the nominee of the Securities Depository, and any successor nominee of the Securities Depository with respect to the Bonds.

"Participant" means any broker-dealer, bank or other financial institution for which the Securities Depository holds Bonds as securities depository.

“Representation Letter” means, collectively, the Representation Letter from the City to the Securities Depository and the Representation Letter from the Paying Agent to the Securities Depository.

(b) The Bonds shall be initially issued as one single authenticated fully-registered bond for each Stated Maturity. Upon initial issuance, the ownership of such Bonds shall be registered in the Bond Register kept by the Paying Agent in the name of Cede & Co., as nominee of the Securities Depository. The Paying Agent and the City may treat the Securities Depository (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal or Redemption Price of and interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners of Bonds under this Ordinance, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Paying Agent nor the City shall be affected by any notice to the contrary. Neither the Paying Agent nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Bonds under or through the Securities Depository or any Participant, or any other person which is not shown on the Bond Register kept by the Paying Agent as being a Registered Owner of any Bonds, with respect to the accuracy of any records maintained by the Securities Depository or any Participant, with respect to the payment by the Securities Depository or any Participant of any amount with respect to the principal or Redemption Price of and interest on the Bonds, with respect to any notice which is permitted or required to be given to the Registered Owners of Bonds under this Ordinance, with respect to the selection by the Securities Depository or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by the Securities Depository as Registered Owner of the Bonds. The Paying Agent shall pay all principal or Redemption Price of and interest on the Bonds only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal or Redemption Price of and interest on the Bonds to the extent of the sum or sums so paid. No person other than the Securities Depository (or the Paying Agent as “FAST Agent”) shall receive an authenticated Bond for each separate stated maturity evidencing the City’s obligation to make payments of principal and interest. Upon delivery by the Securities Depository to the Paying Agent of written notice to the effect that the Securities Depository has determined to substitute a new nominee in place of Cede & Co., the Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) If Participants holding a majority interest in the Bonds determine that it is in the best interest of the Beneficial Owners that they be able to obtain certificated Bonds, such Participants may notify the Securities Depository and the Paying Agent, whereupon the Securities Depository shall notify the Participants of the availability through the Securities Depository of Bond certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. The Securities Depository may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the City and the Paying Agent and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of the Securities Depository, all payments with respect to the principal or Redemption Price of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Securities Depository as provided in the Representation Letter.

(e) If any transfer or exchange of Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Paying Agent from the Registered Owners thereof of the Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Ordinance. If bonds are issued to holders

other than Cede & Co., its successor as nominee for the Securities Depository as holder of all the Bonds, or other securities depository as holder of all the Bonds, the provisions of this Ordinance shall also apply to all matters relating thereto, including, without limitation, the printing of such bonds and the method of payment of the principal or Redemption Price of and interest on such bonds. If Bonds are issued to holders other than the Securities Depository, the Paying Agent may rely on information provided by the Securities Depository or any Participant as to the names, addresses of and principal amounts held by the Beneficial Owners of the Bonds.

**Section 212. Authorization of Escrow Agreement.** The City is hereby authorized to enter into the Escrow Agreement between the City and the Escrow Agent, in substantially the form attached hereto as **Exhibit E**, and the Mayor or City Manager is hereby authorized and directed to execute the Escrow Agreement with such changes therein as such official may deem appropriate, for and on behalf of and as the act and deed of the City. The Escrow Agent is hereby authorized to carry out, on behalf of the City, the duties, terms and provisions of the Escrow Agreement. The Escrow Agent, the Purchaser and Bond Counsel are authorized to take all necessary actions for the acquisition of the Escrowed Securities described therein, if any.

### ARTICLE III

#### REDEMPTION OF BONDS

**Section 301. Redemption of Bonds.**

(a) *Optional Redemption.* At the option of the City, the Bonds or portions thereof maturing on January 1, 20\_\_ and thereafter may be called for redemption and payment prior to their Stated Maturities on January 1, 20\_\_ and thereafter in whole or in part at any time in such amounts for each Stated Maturity as shall be determined by the City at the Redemption Price of 100% of the principal amount thereof, plus accrued interest thereon to the Redemption Date.

[\*\*(b) *Mandatory Redemption.* The Bonds maturing in the years 20\_\_ and 20\_\_ (collectively, the “Term Bonds”) shall be subject to mandatory redemption and payment prior to their Stated Maturities pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The payments specified in **Section 602(b)** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the City shall redeem on January 1 in each year, the following principal amounts of the Term Bonds:

**Term Bonds maturing January 1, 20\_\_**

<u><b>Year</b></u>	<u><b>Principal Amount</b></u>
20__	\$
20__ <sup>†</sup>	

<sup>†</sup> Final Maturity

**Term Bonds maturing January 1, 20\_\_**

<u>Year</u>	<u>Principal Amount</u>
20__	\$
20__	
20__ <sup>†</sup>	

<sup>†</sup> Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Registered Owner thereof, whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the City under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which prior to such date have been redeemed (other than through the operation of the mandatory redemption requirements of this Section) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this Section. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the City to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity in chronological order, and the principal amount of Term Bonds of the same Stated Maturity to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the City intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the City will, on or before the 45th day next preceding each mandatory Redemption Date, furnish to the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.\*\*]

**Section 302. Selection of Bonds to Be Redeemed.**

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date of written instructions from the City specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. If any Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the City or by the escrow agent on behalf of the City not less than 45 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** hereof are met. [\*\*The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Bonds hereunder, and, Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the City and whether or not the City shall hold in the Debt Service Account moneys available and sufficient to affect the required redemption.\*\*]

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Outstanding Bonds are to be redeemed, such Bonds shall be redeemed

from the Stated Maturities selected by the City, and Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount by lot or in such other equitable manner as the Paying Agent may determine.

(c) In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

### **Section 303. Notice and Effect of Call for Redemption.**

(a) Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 30 days prior to the Redemption Date to each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register.

(b) All official notices of redemption shall be dated and shall contain the following information:

(1) the Redemption Date;

(2) the Redemption Price;

(3) if less than all Outstanding Bonds are to be redeemed, the identification number and Stated Maturity (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;

(4) a statement that on the Redemption Date the Redemption Price will become due and payable upon each Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and

(5) the place where such Bonds are to be surrendered for payment of the Redemption Price.

(c) The failure of any Registered Owner to receive notice given as heretofore provided or any defect therein shall not invalidate any redemption.

(d) Prior to any Redemption Date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of the Bonds that are to be redeemed on that date.



(e) Official notice of redemption having been given as aforesaid, the Bonds or portions of the Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portions of the Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been redeemed shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

(f) In addition to the foregoing notice, further notice shall be given by the Paying Agent on behalf of the City as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed.

(1) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the Bonds as originally issued; (C) the rate of interest borne by each Bond being redeemed; (D) the Stated Maturity of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed.

(2) Each further notice of redemption shall be sent at least one day before the mailing of notice to Bondowners by first class, registered or certified mail or overnight delivery as determined by the Paying Agent to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(3) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed, shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

(g) The Paying Agent is also directed to comply with any mandatory standards established by the Securities and Exchange Commission then in effect for processing redemptions of municipal securities. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

(h) For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Paying Agent shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Paying Agent, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

(i) Any notice of optional redemptions may be conditioned upon moneys being on deposit with the Paying Agent on or prior to the Redemption Date in an amount sufficient to pay the Redemption Price on the Redemption Date. If such notice is conditional and either the Paying Agent receives written notice from the City that moneys sufficient to pay the Redemption Price will not be on deposit on the

Redemption Date, or such moneys are not received on the Redemption Date, then such notice shall be of no force and effect, the Paying Agent shall not redeem such Bonds and the Paying Agent shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not or will not be so received and that such Bonds will not be redeemed.

## **ARTICLE IV**

### **SECURITY FOR BONDS**

#### **Section 401. Security for Bonds.**

(a) The Bonds shall be special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System and the City hereby pledges said Net Revenues to the payment of the principal of and interest on the Bonds. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Bonds, either as to principal or interest.

(b) The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Ordinance. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the net income and revenues derived from the operation of the System and in all other respects with any Parity Bonds. The Bonds shall not have any priority with respect to the payment of principal or interest from said net income and revenues or otherwise over the Parity Bonds, and the Parity Bonds shall not have any priority with respect to the payment of principal or interest from said net income and revenues or otherwise over the Bonds.

## **ARTICLE V**

### **CREATION AND RATIFICATION OF FUNDS AND ACCOUNTS; DEPOSIT AND APPLICATION OF BOND PROCEEDS AND OTHER MONEY**

**Section 501. Establishment of Funds and Accounts.** There are hereby created or ratified and ordered to be established and maintained in the treasury of the City the following separate funds and accounts to be known respectively as the:

- (a) Waterworks System Revenue Fund (the "Revenue Fund").
- (b) Waterworks System Operation and Maintenance Account (the "Operation and Maintenance Account").
- (c) Debt Service Account for Waterworks System Refunding Revenue Bonds, Series 2019 (the "Debt Service Account").
- (d) Waterworks System Depreciation and Replacement Account (the "Depreciation and Replacement Account").

(e) Waterworks System Costs of Issuance Account (the “Costs of Issuance Account”).

In addition to the funds described above, the Escrow Agreement establishes the Escrow Fund to be held and administered by the Escrow Agent in accordance with the provisions of the Escrow Agreement.

The funds and accounts referred to in paragraphs (a) through (e) of this Section shall be maintained and administered by the City solely for the purposes and in the manner as provided in the Act and in this Ordinance, the Series 2012A Ordinance and the Series 2010 Ordinance so long as any of the Bonds or the Series 2012A Bonds or the Series 2010 Bonds remain outstanding within the meaning of this Ordinance, the Series 2012A Ordinance and the Series 2010 Ordinance, respectively.

**Section 502. Deposit of Bond Proceeds and Other Money.** The net proceeds received from the sale of the Bonds, together with other legally available funds, shall be deposited simultaneously with the delivery of the Bonds as follows:

(a) Any accrued interest on the Bonds shall be deposited in the Debt Service Account and applied in accordance with **Section 602(b)** hereof.

(b) The sum of \$\_\_\_\_\_ from the proceeds of the Bonds will be deposited in the Costs of Issuance Account to pay the costs and expenses incident to the issuance of the Bonds. Any such money not used to pay costs of issuing the Bonds by February 1, 2020, shall be transferred and deposited to the credit of the Debt Service Account.

(c) The sum of \$\_\_\_\_\_ (consisting of \$\_\_\_\_\_ from the debt service account for the Series 2012A Bonds and \$\_\_\_\_\_ from the proceeds of the Bonds) will be transferred to the Escrow Agent for deposit in the Escrow Fund to be applied in accordance with the Escrow Agreement.

**Section 503. Redemption of Refunded Bonds.** The Refunded Bonds shall be called for redemption and payment prior to maturity on January 1, 2020. The Refunded Bonds shall be redeemed at the principal payment office of UMB Bank, N.A, the paying agent for the Refunded Bonds, by the payment on said redemption date of the principal thereof, together with any redemption premium and accrued interest thereon to the redemption date. In accordance with the requirements of the Series 2012A Ordinance, the City hereby ratifies and confirms the authorization to cause notice of the call for redemption and payment of the Refunded Bonds to be given in the manner provided in the Series 2012A Ordinance. The officers of the City and the paying agent for the Refunded Bonds are hereby authorized and directed to take such other action as may be necessary in order to effect the redemption and payment of the Refunded Bonds as herein provided.

**Section 504. Application of Money in the Escrow Fund.** Under the Escrow Agreement, the Escrow Agent will apply money in the Escrow Fund to purchase the Escrowed Securities and to establish an initial cash balance, if necessary, in accordance with the Escrow Agreement. The cash and Escrowed Securities held in the Escrow Fund will be applied by the Escrow Agent solely to the payment of the principal of, redemption premium, if any, and interest on the Refunded Bonds. All money deposited with the Escrow Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance, the Series 2012A Ordinance and the Escrow Agreement.

## ARTICLE VI

### APPLICATION OF REVENUES

**Section 601. Revenue Fund.** The City covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding hereunder, all of the Revenues derived and collected from the operation of the System shall as and when received be paid and deposited into the Revenue Fund unless otherwise specifically provided by this Ordinance. Said Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and shall not be commingled with any other moneys, revenues, funds and accounts of the City. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Ordinance.

**Section 602. Application of Moneys in Funds and Accounts.** The City covenants and agrees that from and after the delivery of the Bonds and continuing so long as any of the Bonds shall remain Outstanding, it will on the first day of each month administer and allocate all of the moneys then held in the Revenue Fund as follows:

(a) *Operation and Maintenance.* There shall first be paid and credited from month to month as a first charge against the Revenue Fund the Expenses of the System as the same become due and payable.

(b) *Debt Service Account.* There shall next be paid and credited monthly to the Debt Service Account, to the extent necessary to meet on each Bond Payment Date the payment of all interest on and principal of the Bonds, the following sums:

(1) Beginning with the first of said monthly deposits and continuing on the first day of each month thereafter to and including June 1, 2020, an equal pro rata portion of the amount of interest becoming due on the Bonds on July 1, 2020, and thereafter, beginning on July 1, 2020, and continuing on the first day of each month thereafter so long as any of the Bonds remain Outstanding and unpaid, an amount not less than 1/6 of the amount of interest that will become due on the Bonds on the next succeeding Interest Payment Date; and

(2) Beginning with the first of said monthly deposits and continuing on the first day of each month thereafter to and including December 1, 2020, an equal pro rata portion of the amount of principal becoming due on the Bonds on January 1, 2021, and thereafter, beginning on January 1, 2021, and continuing on the first day of each month thereafter so long as any of the Bonds remain Outstanding and unpaid, an amount not less than 1/12 of the amount of principal that will become due on the Bonds on the next succeeding Maturity date.

The amounts required to be paid and credited to the Debt Service Account pursuant to this Section shall be paid at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service accounts established for the payment of principal and interest on the Parity Bonds under the provisions of the Parity Ordinances.

Any amounts deposited in the Debt Service Account as accrued interest in accordance with **Section 502(a)** hereof shall be credited against the City's payment obligations as set forth in subsection (b)(1) of this Section.

All amounts paid and credited to the Debt Service Account shall be expended and used by the City for the sole purpose of paying the interest on and principal of the Bonds as and when the same become due on each Bond Payment Date.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Account and to the debt service accounts established to pay the principal of and interest on the Parity Bonds, the available moneys in the Revenue Fund shall be divided among such debt service accounts in proportion to the respective principal amounts of said series of bonds at the time outstanding which are payable from the moneys in said debt service accounts.

(c) *Depreciation and Replacement Account.* Except as hereinafter provided in **Section 603**, moneys in the Depreciation and Replacement Account shall be expended and used by the City, if no other funds are available therefor, solely for the purpose of making emergency repairs and replacements in and to the System as may be necessary to keep the System in good repair and working order and to assure the continued effective and efficient operation thereof. So long as the Depreciation and Replacement Account aggregates the sum of \$150,000, no payments into said Account shall be required, but if the City is ever required to expend a part of the moneys in said Account for its authorized purposes and such expenditure reduces the amount of said Account below the sum of \$150,000, then the City shall make monthly payments of \$2,500 into said Account until said Account again aggregates the sum of \$150,000.

(d) *Surplus Moneys.* After all payments and credits required at the time to be made under the provisions of paragraphs (a), (b) and (c) of this Section have been made, all moneys remaining in the Revenue Fund may be expended and used for the following purposes as determined by the governing body of the City:

(1) Paying the cost of the operation, maintenance and repair of the System to the extent that may be necessary after the application of the moneys held in the Operation and Maintenance Account under the provisions of paragraph (a) of this Section;

(2) Paying the cost of extending, enlarging or improving the System;

(3) Preventing default in, anticipating payments into or increasing the amounts in the Debt Service Account or the Depreciation and Replacement Account referred to in paragraphs (b) and (c) of this Section, or any one of them, or establishing or increasing the amount of any debt service account or debt service reserve account created by the City for the payment of the Parity Bonds;

(4) Calling, redeeming and paying prior to Stated Maturity, or, at the option of the City, purchasing in the open market at the best price obtainable not exceeding the Redemption Price (if any bonds are callable), the Bonds or the Parity Bonds, including principal, interest and redemption premium, if any;

(5) Any other lawful purpose in connection with the operation of the System and benefiting the System; or

(6) Any lawful purpose of the City.

(e) *Deficiency of Payments into Funds and Accounts.* If at any time the Revenues are insufficient to make any payment on the date or dates hereinbefore specified, the City will

make good the amount of such deficiency by making additional payments or credits out of the first available Revenues thereafter received from the operation of the System, such payments and credits being made and applied in the order hereinbefore specified in this Section.

**Section 603. Transfer of Funds to Paying Agent.** The Finance Director or other authorized officer of the City is hereby authorized and directed to withdraw from the Debt Service Account, and, to the extent necessary to prevent a default in the payment of either principal of or interest on the Bonds, from the Depreciation and Replacement Account as provided in **Section 602** hereof, sums sufficient to pay the principal of and interest on the Bonds as and when the same become due on any Bond Payment Date, and to forward such sums to the Paying Agent in a manner which ensures the Paying Agent will have available funds in such amounts on or before the Business Day immediately preceding each Bond Payment Date. If, through lapse of time, or otherwise, the Registered Owners of Bonds are no longer entitled to enforce payment of their obligations, it shall be the duty of the Paying Agent forthwith to return said funds to the City. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

**Section 604. Payments Due on Saturdays, Sundays and Holidays.** In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

**Section 605. Nonpresentment of Bonds.** If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the City to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due at Maturity, the Paying Agent shall, without liability for interest thereon, repay to the City the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

## **ARTICLE VII**

### **DEPOSIT AND INVESTMENT OF MONEYS**

#### **Section 701. Deposit and Investment of Moneys.**

(a) Moneys in each of the funds and accounts created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions located in the State of Missouri that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the banks or financial institutions holding such deposits as provided by the laws of the State of Missouri.

(b) Moneys held in any fund or account referred to in this Ordinance may be invested in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the moneys invested may be needed for the purpose for which such fund or account was created. All earnings on any investments held in any fund or account shall accrue to and become a part of such fund or account. In determining the amount held in any fund or account under any of the provisions of this Ordinance, obligations shall be valued at the lower of the cost or the market value thereof. If and when the amount held in any fund or account shall be in excess of the amount required by the provisions of this Ordinance, the City shall direct that such excess be paid and credited to the Revenue Fund.

(c) So long as any of the Parity Bonds remain outstanding and unpaid, any investments made pursuant to this Section shall be subject to any restrictions in the Parity Ordinances with respect to the funds and accounts created by and referred to in the Parity Ordinances.

## ARTICLE VIII

### GENERAL COVENANTS AND PROVISIONS

The City covenants and agrees with each of the Registered Owners of any of the Bonds that so long as any of the Bonds remain Outstanding and unpaid it will comply with each of the following covenants:

**Section 801. Efficient and Economical Operation.** The City will continuously own and will operate the System as a revenue producing facility in an efficient and economical manner and will keep and maintain the same in good repair and working order. The City will establish and maintain such rules and regulations for the use of the System as may be necessary to assure maximum utilization and most efficient operation of the System.

**Section 802. Rate Covenant.** The City in accordance with and subject to applicable legal requirements will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the System which, together with other Revenues, will be sufficient to (a) pay the costs of the operation and maintenance of the System; (b) pay the principal of and interest on the Bonds as and when the same become due at the Maturity thereof or on any Interest Payment Date; (c) enable the City to have in each fiscal year Net Revenues not less than 110% of the actual Debt Service Requirements for such fiscal year; and (d) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the System as provided in this Ordinance. The City will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The City will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Net Revenues will be sufficient to cover the obligations under this Section and otherwise under the provisions of this Ordinance. If in any fiscal year Net Revenues are an amount less than as hereinbefore provided, the City will immediately employ a Consultant to make recommendations with respect to such rates and charges. A copy of the Consultant's report and recommendations shall be filed with the City Clerk and the Purchaser of the Bonds and shall be furnished to any Registered Owner of the Bonds requesting a copy of the same, at the cost of such Registered Owner. The City shall, to the extent feasible, follow the recommendations of the Consultant.

**Section 803. Reasonable Charges for all Services.** None of the facilities or services provided by the System will be furnished to any user (excepting the City itself) without a reasonable



charge being made therefor. If the Revenues derived from the System are at any time insufficient to pay the reasonable Expenses of the System and also to pay all interest on and principal of the Bonds as and when the same become due, then the City will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates and charges for all services furnished to the City or any of its departments by the System, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the interest on or principal of the Bonds.

**Section 804. Restrictions on Mortgage or Sale of System.** The City will not mortgage, pledge or otherwise encumber the System or any part thereof, nor will it sell, lease or otherwise dispose of the System or any material part thereof; provided, however, the City may:

(a) sell at fair market value any portion of the System which has been replaced by other similar property of at least equal value, or which ceases to be necessary for the efficient operation of the System, and in the event of sale, the City will apply the proceeds to either (1) redeem Outstanding Bonds in accordance with the provisions governing repayment of Bonds in advance of Stated Maturity, or (2) replace the property so disposed of by other property the revenues of which shall be incorporated into the System as hereinbefore provided;

(b) cease to operate, abandon or otherwise dispose of any property which has become obsolete, nonproductive or otherwise unusable to the advantage of the City;

(c) lease, (1) as lessor, any real or personal property which is unused or unimproved, or which has become obsolete, nonproductive or otherwise unusable to the advantage of the City, or which is being acquired as a part of a lease/purchase financing for the acquisition and/or improvement of such property; and/or (2) as lessee, with an option of the City to purchase, any real or personal property for the extension and improvement of the System. Property being leased as lessor and/or lessee pursuant to this subparagraph (c) shall not be treated as part of the System for purposes of this **Section 804** and may be mortgaged, pledged or otherwise encumbered; and

(d) sell, lease or convey all or substantially all of the System to another entity or enter into a management contract with another entity if:

(1) The transferee entity is a political subdivision organized and existing under the laws of the State of Missouri, or instrumentality thereof, or an organization described in Section 501(c)(3) of the Code, and expressly assumes in writing the due and punctual payment of the principal of and premium, if any, and interest on all outstanding System Revenue Bonds according to their tenor, and the due and punctual performance and observance of all of the covenants and conditions of this Ordinance;

(2) If there remains unpaid any System Revenue Bond which bears interest that is not includable in gross income under the Code, the City receives an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that under then existing law the consummation of such sale, lease or conveyance, whether or not contemplated on any date of the delivery of such System Revenue Bond, would not cause the interest payable on such System Revenue Bond to become includable in gross income under the Code;

(3) The City receives a certificate of the Consultant which demonstrates and certifies that immediately upon such sale or conveyance the transferee entity will not, as a

result thereof, be in default in the performance or observance of any covenant or agreement to be performed or observed by it under this Ordinance;

(4) Such transferee entity possesses such licenses to operate the System as may be required if it is to operate the System; and

(5) The City receives an opinion of Bond Counsel, in form and substance satisfactory to the City, as conclusive evidence that any such sale, lease or conveyance, and any such assumption, is permitted by law and complies with the provisions of this Section.

**Section 805. Insurance.** The City will carry and maintain insurance with respect to the System and its operations against such casualties, contingencies and risks (including but not limited to property and casualty, fire and extended coverage insurance upon all of the properties forming a part of the System insofar as the same are of an insurable nature, public liability, business interruption or workers' compensation and employee dishonesty insurance), such insurance to be of the character and coverage and in such amounts as would normally be carried by other enterprises engaged in similar activities of comparable size and similarly situated. In the event of loss or damage, the City, with reasonable dispatch, will use the proceeds of such insurance in reconstructing and replacing the property damaged or destroyed, or in paying the claims on account of which such proceeds were received, or if such reconstruction or replacement is unnecessary or impracticable, then the City will pay and deposit the proceeds of such insurance into the Revenue Fund. The City will annually review the insurance it maintains with respect to the System to determine that it is customary and adequate to protect its property and operations. The City may elect to be self-insured for all or any part of the foregoing requirements if (a) the City annually obtains a written evaluation with respect to such self-insurance program from an Insurance Consultant, (b) the evaluation is to the effect that the self-insurance program is actuarially sound, (c) unless the evaluation states that such reserves are not necessary, the City deposits and maintains adequate reserves for the self-insurance program with a corporate trustee, who may be the Paying Agent, and (d) in the case of workers' compensation, adequate reserves created by the City for such self-insurance program are deposited and maintained in such amount and manner as are acceptable to the State of Missouri. The City shall pay any fees and expenses of such Insurance Consultant in connection therewith. The cost of all insurance obtained pursuant to the requirements of this Section shall be paid as an Expense out of the Revenues.

**Section 806. Books, Records and Accounts.** The City will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the City) in which complete and correct entries will be made of all dealings and transactions of or in relation to the System. Such accounts shall show the amount of Revenues of the System, the application of such Revenues, and all financial transactions in connection therewith. Said books shall be kept by the City according to standard accounting practices as applicable to the operation of facilities comparable to the System.

**Section 807. Annual Budget.** Prior to the commencement of each fiscal year, the City will cause to be prepared and filed with the City Clerk a budget setting forth the estimated receipts and expenditures of the System for the next succeeding fiscal year. The City Clerk, promptly upon the filing of said budget in the City Clerk's office, will mail a copy of said budget to the Purchaser of the Bonds, upon request. Said annual budget shall be prepared in accordance with the requirements of the laws of Missouri and shall contain all information that is required by such laws.

**Section 808. Annual Audit.**

(a) Not later than the last day of the sixth month after the end of the fiscal year, the City will cause an audit to be made of the System for the preceding fiscal year by a certified public accountant or firm of certified public accountants to be employed for that purpose and paid from the Revenues. Said annual audit shall cover in reasonable detail the operation of the System during such fiscal year and shall evidence compliance with the rate covenant contained in **Section 802** hereof.

(b) Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the City Clerk, and a duplicate copy of the audit shall be mailed to the Purchaser, upon request. Such audits shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any user of the services of the System, any Registered Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer, user or Registered Owner.

(c) As soon as possible after the completion of the annual audit, the governing body of the City shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Ordinance and the Act, the City will promptly cure such deficiency and will promptly proceed to increase the rates and charges to be charged for the use and services furnished by the System as may be necessary to adequately provide for such requirements.

**Section 809. Right of Inspection.** The Purchaser and any Registered Owner or Owners of not less than 10% of the principal amount of the Bonds then Outstanding shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto, and shall be furnished all such information concerning the System and the operation thereof which the Purchaser or such Registered Owner or Owners may reasonably request.

**Section 810. Administrative Personnel.** The City shall use its best efforts to employ at all times administrative personnel experienced and well qualified to operate the System. The City further agrees that such administrative personnel shall be employed in sufficient numbers to ensure that the System will be operated in a prudent and efficient manner, following procedures generally accepted within the United States of America.

**Section 811. Performance of Duties and Covenants.** The City will faithfully and punctually perform all duties, covenants and obligations with respect to the operation of the System now or hereafter imposed upon the City by the Constitution and laws of the State of Missouri and by the provisions of this Ordinance.

**Section 812. Tax Covenants.**

(a) The City covenants and agrees that it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from federal gross income of the interest on the Bonds.

(b) The City also covenants and agrees to comply with all provisions and requirements of the Federal Tax Certificate, which is hereby approved, with such changes therein as shall be approved by the Mayor or City Manager, which officer is hereby authorized to execute the Federal Tax Certificate for and on behalf of the City, such officer's signature thereon being conclusive evidence of his approval thereof.

**Section 813. Continuing Disclosure.** The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking (in substantially the same form attached hereto as **Exhibit C**), as originally executed and as it may be amended from time

to time in accordance with the terms thereof. Upon the City's failure to comply with the Continuing Disclosure Undertaking, any Registered Owner may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section.

**Section 814. Parity Bond Certification.** The City hereby represents and covenants that the Bonds directed to be issued by this Ordinance are so issued in full compliance with the restrictions and conditions upon which the City may issue additional bonds payable out of the revenues derived from the operation of the System and which stand on a parity with the Series 2012A Bonds and the Series 2010 Bonds heretofore issued and outstanding, as set forth and contained in the Series 2012A Ordinance and the Series 2010 Ordinance, and that the Bonds herein directed to be issued are so issued in all respects on a parity and equality with the Series 2012A Bonds and the Series 2010 Bonds.

## **ARTICLE IX**

### **ADDITIONAL BONDS AND OBLIGATIONS**

**Section 901. Senior Lien Bonds.** The City covenants and agrees that so long as any of the Bonds remain Outstanding, the City will not issue any additional bonds or incur or assume any other debt obligations appearing as liabilities on the balance sheet of the System for the payment of moneys determined in accordance with generally accepted accounting principles consistently applied including capital leases as defined by generally accepted accounting principles, payable out of the Net Revenues of the System or any part thereof which are superior to the Bonds.

**Section 902. Parity Lien Bonds and Other Obligations.** The City covenants and agrees that so long as any of the Bonds remain Outstanding, it will not issue any additional bonds or other long-term obligations payable out of the Net Revenues of the System or any part thereof which stand on a parity or equality with the Bonds ("Parity Bonds") unless the following conditions are met:

(a) The City shall not be in default in the payment of principal of or interest on any Bonds or any Parity Bonds at the time outstanding or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in this Ordinance or any Parity Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default); and

(b) The City shall either:

(1) Certify that the average annual Net Revenues as set forth in the two most recent annual audits for fiscal years preceding the issuance of additional bonds have been equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the Net Revenues for the purpose of this subsection, the City may retain a Consultant who may adjust said Net Revenues by adding thereto, in the event the City has made any increase in rates for the use and services of the System and such increase has been in effect at any time during the two fiscal years for which annual audits are available preceding the issuance of additional bonds, the amount, as estimated by the Consultant, of the additional Net Revenues which would have resulted from the operation of the

System during said fiscal years had such rate increase been in effect for the entire period;  
or

(2) Obtain a certificate from a Consultant that the average annual Net Revenues projected to be derived by the City for the two fiscal years immediately following the fiscal year in which the improvements to the System, the cost of which is being financed by such additional bonds, are to be in commercial operation, shall be equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year following such commercial operation on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the projected Net Revenues for the purpose of this subsection, the Consultant may adjust said Net Revenues by adding thereto any estimated increase in Net Revenues resulting from any increase in rates for the use and services of the System which, in the opinion of the Consultant, are economically feasible and reasonably considered necessary based on projected operations of the System.

(c) Additional revenue bonds of the City issued under the conditions set forth in this Section shall stand on a parity with the Bonds and shall enjoy complete equality or lien on and claim against the Net Revenues with the Bonds, and the City may make equal provision for paying said bonds and the interest thereon out of the Revenue Fund and may likewise provide for the creation of reasonable debt service accounts and debt service reserve accounts for the payment of such additional bonds and the interest thereon out of moneys in the Revenue Fund.

**Section 903. Junior Lien Bonds and Other Obligations.** Nothing contained in this Section shall prohibit or restrict the right of the City to issue additional revenue bonds or other revenue obligations for any lawful purpose in connection with the operation of the facility and benefiting the System and to provide that the principal of and interest on said revenue bonds or obligations shall be payable out of the Net Revenues of the System, provided at the time of the issuance of such additional revenue bonds or obligations the City is not in default in the performance of any covenant or agreement contained in this Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default), and provided further that such additional revenue bonds or obligations shall be junior and subordinate to the Bonds so that if at any time the City shall be in default in paying either interest on or principal of the Bonds, or if the City is in default in making any payments required to be made by it under the provisions of paragraphs (a), (b) and (c) of **Section 602** hereof, the City shall make no payments of either principal of or interest on said junior and subordinate revenue bonds or obligations until said default or defaults be cured. In the event of the issuance of any such junior and subordinate revenue bonds or obligations, the City, subject to the provisions aforesaid, may make provision for paying the principal of and interest on said revenue bonds or obligations out of moneys in the Revenue Fund.

**Section 904. Refunding Bonds.** The City shall have the right, without complying with the provisions of **Section 902** hereof, to refund any of the Bonds under the provisions of any law then available, and the refunding bonds so issued shall enjoy complete equality of pledge with any of the Bonds which are not refunded, if any, upon the Net Revenues; provided, however, that if only a portion of the Bonds are refunded and if said Bonds are refunded in such manner that the refunding bonds bear a higher average rate of interest or become due on a date earlier than that of the Bonds which are refunded, then said Bonds may be refunded without complying with the provisions of **Section 902** hereof only by and with the written consent of the Registered Owners of a majority in principal amount of the Bonds not refunded.

## ARTICLE X

### DEFAULT AND REMEDIES

**Section 1001. Acceleration of Maturity Upon Default.** The City covenants and agrees that if it defaults in the payment of the principal of or interest on any of the Bonds as the same become due on any Bond Payment Date, or if the City or its governing body or any of the officers, agents or employees thereof fail or refuse to comply with any of the provisions of this Ordinance or of the Constitution or statutes of the State of Missouri, and such default continues for a period of 60 days after written notice specifying such default has been given to the City by the Registered Owner of any Bond then Outstanding, then, at any time thereafter and while such default continues, the Registered Owners of not less than 25% in principal amount of the Bonds then Outstanding may, by written notice to the City filed in the office of the City Clerk or delivered in person to said City Clerk, declare the principal of all Bonds then Outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said Bonds shall become and be immediately due and payable, anything in this Ordinance or in the Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Outstanding Bonds has been so declared to be due and payable, all arrears of interest upon all of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of principal upon all of said Bonds has been paid in full and all other defaults, if any, by the City under the provisions of this Ordinance and under the provisions of the statutes of the State of Missouri have been cured, then and in every such case the Registered Owners of a majority in principal amount of the Bonds then Outstanding, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

**Section 1002. Other Remedies.** The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the Constitution and laws of the State of Missouri;
- (b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

**Section 1003. Limitation on Rights of Bondowners.** No one or more Bondowners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

**Section 1004. Remedies Cumulative.** No remedy conferred herein upon the Bondowners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy

conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Bondowner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Bondowner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Bondowner, then, and in every such case, the City and the Registered Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Bondowners shall continue as if no such suit, action or other proceedings had been brought or taken.

**Section 1005. No Obligation to Levy Taxes.** Nothing contained in this Ordinance shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

**Section 1006. Exception for Continuing Disclosure.** This **Article X** shall not apply to **Section 813** of this Ordinance regarding continuing disclosure requirements, and Bondowners or Beneficial Owners of Bonds shall have no remedies for enforcement of **Section 813** other than the remedies provided in **Section 813**.

## **ARTICLE XI**

### **DEFEASANCE**

#### **Section 1101. Defeasance.**

(a) When any or all of the Bonds or the interest payments thereon have been paid and discharged, then the requirements contained in this Ordinance and the pledge of Net Revenues made hereunder and all other rights granted hereby shall terminate with respect to the Bonds or interest payments so paid and discharged. Bonds or the interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State of Missouri and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned thereon, will be sufficient for the payment of the principal or Redemption Price of said Bonds, and/or interest to accrue on such Bonds to the Stated Maturity or Redemption Date, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds shall be redeemed prior to the Stated Maturity thereof, (1) the City shall have elected to redeem such Bonds, and (2) either notice of such redemption shall have been given, or the City shall have given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to redeem such Bonds in compliance with **Section 302(a)** hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or the interest payments thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Bonds, and such money shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Defeasance

Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

(b) In the event the Bonds are not redeemed within 90 days of the deposit referred to in (a) above, in order to accomplish defeasance of the Bonds, the City shall cause to be delivered to the Paying Agent (1) a report of an independent firm of nationally recognized certified public accountants verifying the sufficiency of the escrow established to pay the Bonds in full at Maturity ("Verification Report"), (2) an escrow trust agreement between the City and an escrow agent, and (3) an opinion of Bond Counsel to the effect that the Bonds are no longer "Outstanding" under this Ordinance; each Verification Report and defeasance opinion shall be acceptable in form and substance, and addressed to the City. Bonds shall be deemed "Outstanding" under this Ordinance unless and until they are in fact paid and retired or the criteria of this Section are met.

## **ARTICLE XII**

### **MISCELLANEOUS PROVISIONS**

#### **Section 1201. Amendments.**

(a) The rights and duties of the City and the Bondowners, and the terms and provisions of the Bonds or of this Ordinance, may be amended or modified at any time in any respect by ordinance of the City with the written consent of the Registered Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk, but no such modification or alteration shall:

- (1) extend the maturity of any payment of principal or interest due upon any Bond;
- (2) effect a reduction in the amount which the City is required to pay by way of principal of or interest on any Bond;
- (3) permit the creation of a lien on the Net Revenues of the System prior or equal to the lien of the Bonds or Parity Bonds;
- (4) permit preference or priority of any Bonds over any other Bonds;
- (5) alter the optional Redemption Date of any Bond; or
- (6) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

(b) Any provision of the Bonds or of this Ordinance may, however, be amended or modified by Ordinance duly adopted by the governing body of the City at any time in any respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

(c) Without notice to or the consent of any Bondowners, the City may amend or supplement this Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Bondowners.



(d) Every amendment or modification of the provisions of the Bonds or of this Ordinance to which the written consent of the Bondowners is given, as above provided, shall be expressed in an ordinance adopted by the governing body of the City amending or supplementing the provisions of this Ordinance and shall be deemed to be a part of this Ordinance. A certified copy of every such amendatory or supplemental ordinance, if any, and a certified copy of this Ordinance shall always be kept on file in the office of the City Clerk, and shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or of this Ordinance will be sent by the City Clerk to any such Bondowner or prospective Bondowner.

(e) Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

(f) The City shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance made hereunder which affects the duties or obligations of the Paying Agent under this Ordinance.

#### **Section 1202. Notices, Consents and Other Instruments by Bondowners.**

(a) Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond, as provided for in the form of Bond attached hereto as **Exhibit A**), if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

(b) In determining whether the Registered Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Bonds owned by the City shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Bondowners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Bondowners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Bondowners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City.

**Section 1203. Further Authority.** The officers of the City, including the Mayor, the City Manager, the Finance Director and the City Clerk, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

**Section 1204. Severability.** If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

**Section 1205. Governing Law.** This Ordinance shall be governed by and constructed in accordance with the applicable laws of the State of Missouri.

**Section 1206. Effective Date.** This Ordinance shall take effect 10 days from and after its final passage.

[Remainder of Page Intentionally Left Blank.]

**PASSED AND APPROVED** by the City Council of the City of Cape Girardeau, Missouri, this  
16th day of September, 2019.

---

Bob Fox, Mayor

ATTEST:

---

Gayle Conrad, City Clerk

First reading: September 3, 2019.

**EXHIBIT A TO ORDINANCE**

**(FORM OF BONDS)**

**EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE (DESCRIBED HEREIN), THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (DESCRIBED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.**

**UNITED STATES OF AMERICA  
STATE OF MISSOURI**

**Registered  
No. R-\_\_\_\_\_**

**Registered  
\$\_\_\_\_\_**

**CITY OF CAPE GIRARDEAU, MISSOURI**

**WATERWORKS SYSTEM REFUNDING REVENUE BOND**

**SERIES 2019**

**Interest Rate**

**Maturity Date**

**Dated Date**

**CUSIP Number**

January 1, 20\_\_\_\_

October 15, 2019

**REGISTERED OWNER:      CEDE & CO.**

**PRINCIPAL AMOUNT:      \_\_\_\_\_ DOLLARS**

The **CITY OF CAPE GIRARDEAU, MISSOURI**, a constitutional charter city and a political subdivision of the State of Missouri (the "City"), for value received, promises to pay to the registered owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the principal amount shown above on the maturity date shown above, unless called for redemption prior to said maturity date, and to pay interest thereon, but solely from the source and in the manner herein specified, at the interest rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on January 1 and July 1 in each year, beginning on July 1, 2020, until said principal amount has been paid.

The principal or redemption price of this Bond shall be paid at maturity by check, draft or electronic transfer or upon earlier redemption to the person in whose name this Bond is registered at the maturity or redemption date thereof, upon presentation and surrender of this Bond at the principal payment office of UMB Bank, N.A., in Kansas City, Missouri (the "Paying Agent") or any other payment

office designated by the Paying Agent. The interest payable on this Bond on any interest payment date shall be paid to the Person in whose name this Bond is registered on the Bond Register at the close of business on the Record Date for such interest by (a) check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner or (b) by electronic transfer to such Registered Owner upon written notice signed by such Registered Owner and given to the Paying Agent by such Registered Owner not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank, its ABA routing number and the account number to which such Registered Owner wishes to have such transfer directed, and an acknowledgment that an electronic transfer fee is payable.

This Bond is one of a duly authorized series of bonds of the City designated "Waterworks System Refunding Revenue Bonds, Series 2019," aggregating the principal amount of \$[\*\*PRINCIPAL AMOUNT\*\*] (the "Bonds"), issued by the City for the purpose of (a) refunding certain outstanding waterworks system revenue bonds of the City (said waterworks system, together with all future improvements and extensions thereto hereafter constructed or acquired by the City, being herein called the "System"), and (b) paying the costs of issuing the Bonds, all under authority of and in full compliance with the City's Charter, the Constitution and laws of the State of Missouri, including particularly Chapter 108 and Chapter 91 of the Revised Statutes of Missouri, as amended, and an ordinance duly adopted by the governing body of the City (herein called the "Ordinance"). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Ordinance.

At the option of the City, the Bonds or portions thereof maturing on January 1, 20\_\_ and thereafter may be called for redemption and payment prior to their Stated Maturities on January 1, 20\_\_ and thereafter in whole or in part at any time in such amounts for each Stated Maturity as shall be determined by the City (Bonds of less than a full maturity to be selected in multiples of \$5,000 principal amount by lot or in such other equitable manner as the Paying Agent shall designate) at the redemption price of 100% of the principal amount thereof, plus accrued interest thereon to the redemption date.

[\*\*Bonds maturing on January 1, 20\_\_, are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements of the Ordinance on January 1, 20\_\_, and on each January 1 thereafter prior to maturity, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.

Bonds maturing on January 1, 20\_\_, are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements of the Ordinance on January 1, 20\_\_, and on each January 1 thereafter prior to maturity, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date.\*\*]

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first class mail at least 30 days prior to the redemption date, to each Registered Owner of each of the Bonds to be redeemed at the address shown on the Bond Register. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

The Bonds are special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System, and the taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the

meaning of any constitutional, statutory or charter provision, limitation or restriction. The Bonds stand on a parity and are equally and ratably secured with respect to the payment of the principal and interest from the Net Revenues of the System and in all other respects with the City's (a) Waterworks System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA), Series 2010 and (b) Waterworks System Refunding Revenue Bonds, Series 2012A. Under the conditions set forth in the Ordinance, the City has the right to issue additional parity bonds and other obligations payable from and secured by the Net Revenues; provided, however, that such additional bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Ordinance.

The City hereby covenants and agrees with the Registered Owner of this Bond that it will keep and perform all covenants and agreements contained in the Ordinance, and will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, as will produce revenues sufficient to pay the costs of operation and maintenance of the System, pay the principal of and interest on the Bonds as and when the same become due, and provide reasonable and adequate reserve funds. Reference is made to the Ordinance for a description of the covenants and agreements made by the City with respect to the collection, segregation and application of the Revenues, the nature and extent of the security for the Bonds, the rights, duties and obligations of the City with respect thereto, and the rights of the Registered Owners thereof.

The Bonds are issuable in the form of fully-registered Bonds in the denomination of \$5,000 or any integral multiple thereof.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody or its agent's custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants. The Paying Agent and the City will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (a) payments of the principal of, redemption premium, if any, and interest on, this Bond, (b) notices and (c) voting. Transfers of principal, interest and any redemption premium payments to participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Paying Agent and the City will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of the principal of and interest on this Bond shall be made in accordance with existing arrangements among the Securities Depository, the Paying Agent and the City.

**EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.**

This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register kept for that purpose at the principal payment office of the Paying Agent or such other payment office designated by the Paying Agent, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the

Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The City and the Paying Agent may deem and treat the Person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication hereon has been executed by the Paying Agent.

**IT IS HEREBY CERTIFIED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, happened and been performed in due time, form and manner as required by law, and that before the issuance of the Bonds, provision has been duly made for the collection and segregation of the Revenues and for the application of the same as provided in the Ordinance.

**IN WITNESS WHEREOF**, the **CITY OF CAPE GIRARDEAU, MISSOURI** has executed this Bond by causing it to be signed by the manual or facsimile signature of its Mayor or City Manager and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed hereto or imprinted hereon.

**CERTIFICATE OF AUTHENTICATION**

**CITY OF CAPE GIRARDEAU, MISSOURI**

This Bond is one of the Bonds  
of the issue described in the  
within-mentioned Ordinance.

By: \_\_\_\_\_  
Scott A. Meyer, City Manager

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

(Seal)

**UMB BANK, N.A.,**  
Paying Agent

ATTEST:

By: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Gayle Conrad, City Clerk

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**ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Type Name, Address and Social Security Number  
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ agent to transfer the within Bond on the Bond Register kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Medallion Signature Guarantee:



**EXHIBIT B  
TO ORDINANCE**

**PRELIMINARY OFFICIAL STATEMENT**

[On file in the Office of the City Clerk]

**EXHIBIT C  
TO ORDINANCE**

**CONTINUING DISCLOSURE UNDERTAKING**

[On file in the Office of the City Clerk]

**EXHIBIT D  
TO ORDINANCE**

**FEDERAL TAX CERTIFICATE**

[On file in the Office of the City Clerk]

**EXHIBIT E  
TO ORDINANCE**

**ESCROW TRUST AGREEMENT**

[On file in the Office of the City Clerk]

## **CERTIFICATE**

I, the undersigned, hereby certify that the above and foregoing is a true and correct copy of the Ordinance of the City of Cape Girardeau, Missouri, adopted by the City Council on September 16, 2019, authorizing the issuance of \$[\*\*PRINCIPAL AMOUNT\*\*] principal amount of Waterworks System Refunding Revenue Bonds, Series 2019, as the same appears of record in my office, and that said Ordinance has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: October 15, 2019.

(Seal)

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Gayle Conrad, City Clerk of the City of Cape  
Girardeau, Missouri

**PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 4, 2019.**

**NEW ISSUE  
BOOK-ENTRY ONLY**

**S&P RATING: A+**  
**See “BOND RATING” herein.**

*In the opinion of Gilmore & Bell, P.C., Bond Counsel to the City, under existing law and assuming continued compliance with certain requirements of the Internal Revenue Code of 1986, as amended (the “Code”), the interest on the Bonds (including any original issue discount properly allocable to an owner thereof) (1) is excludable from gross income for federal income tax purposes, and is not an item of tax preference for purposes of the federal alternative minimum tax and (2) is exempt from income taxation by the State of Missouri. The Bonds are “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code. See “TAX MATTERS” in this Official Statement.*

**CITY OF CAPE GIRARDEAU, MISSOURI**  
**\$8,735,000\***  
**WATERWORKS SYSTEM REFUNDING REVENUE BONDS**  
**SERIES 2019**

**Dated: Date of Delivery**

**Due: January 1, as shown on the inside cover**

The Waterworks System Refunding Revenue Bonds, Series 2019 (the “**Bonds**”) will be issued by the City of Cape Girardeau, Missouri (the “**City**”) for the purpose of providing funds, together with other legally available funds of the City, to (1) currently refund a portion of the City’s outstanding Waterworks System Refunding Revenue Bonds, Series 2012A and (2) pay the costs of issuing the Bonds. The Bonds will be issued as fully-registered bonds in denominations of \$5,000 or any integral multiple thereof.

Principal will be payable annually on January 1, as shown on the inside cover. Interest will be payable semi-annually on January 1 and July 1 in each year, beginning on July 1, 2020.

The Bonds are subject to redemption prior to maturity as described herein. See “**THE BONDS – Redemption Provisions**” herein.

**The Bonds are special limited obligations of the City, payable solely from the Net Revenues (as defined herein) derived by the City from the operation of its System (as defined herein). The Bonds are on a parity with two series of the City’s outstanding waterworks system revenue bonds. The Bonds do not constitute a general obligation of the City and do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Bonds or the interest thereon.**

The Bonds are subject to certain risks. See “**BONDHOLDERS’ RISKS**” herein.

*The Bonds are offered when, as and if issued by the City, subject to the approval of legality by Gilmore & Bell, P.C., St. Louis, Missouri, Bond Counsel. Certain legal matters related to this Official Statement will be passed upon by Gilmore & Bell, P.C., St. Louis, Missouri. It is expected that the Bonds will be available for delivery through the facilities of The Depository Trust Company in New York, New York, on or about October 15, 2019.*

The date of this Official Statement is September \_\_, 2019.

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\* Preliminary; subject to change.

**CITY OF CAPE GIRARDEAU, MISSOURI**

**\$8,735,000\***

**WATERWORKS SYSTEM REFUNDING REVENUE BONDS  
SERIES 2019**

**BASE CUSIP 139477**

**MATURITY SCHEDULE\***

<b><u>Maturity (January 1)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Price</u></b>	<b><u>CUSIP</u></b>
2021	\$530,000	%	%	
2022	615,000			
2023	640,000			
2024	665,000			
2025	690,000			
2026	720,000			
2027	750,000			
2028	775,000			
2029	800,000			
2030	825,000			
2031	850,000			
2032	875,000			

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\* Preliminary; subject to change.

## **CITY OF CAPE GIRARDEAU, MISSOURI**

401 Independence Street  
P.O. Box 617  
Cape Girardeau, Missouri 63702  
(573) 339-6300

### **ELECTED OFFICIALS**

Bob Fox, *Mayor*  
Dan Presson, *Councilmember*  
Shelly Moore, *Councilmember*  
Robbie Guard, *Councilmember*  
Ryan Essex, *Councilmember*  
Stacy Kinder, *Councilmember*

### **CITY ADMINISTRATION**

Scott A. Meyer, *City Manager*  
Molly Mehner, *Deputy City Manager*  
W. Eric Cunningham, *City Attorney*  
W. Victor Brownlees, *Finance Director*  
Gayle Conrad, *City Clerk*  
Bruce Taylor, *Deputy City Clerk*

### **CERTIFIED PUBLIC ACCOUNTANTS**

Beussink, Hey, Roe & Stroder, L.L.C.  
Cape Girardeau, Missouri

### **BOND COUNSEL**

Gilmore & Bell, P.C.  
St. Louis, Missouri

### **MUNICIPAL ADVISOR**

Piper Jaffray & Co.  
Leawood, Kansas

### **PAYING AGENT**

UMB Bank, N.A.  
St. Louis, Missouri



## **REGARDING USE OF THIS OFFICIAL STATEMENT**

No dealer, broker, salesman or other person has been authorized by the City or the Underwriter to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been furnished by the City and other sources which are believed to be reliable, but such information is not guaranteed as to accuracy or completeness, and is not to be construed as a representation, by the Underwriter. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City since the date hereof.

The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of that information.

In connection with this offering, the Underwriter may over-allot or effect transactions that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.

The Bonds have not been registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended, or under any state securities or "blue sky" laws. The Bonds are offered pursuant to an exemption from registration with the Securities and Exchange Commission.

## **CAUTIONARY STATEMENTS REGARDING FORWARD-LOOKING STATEMENTS IN THIS OFFICIAL STATEMENT**

Certain statements included in or incorporated by reference in this Official Statement that are not purely historical are "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended, and reflect the City's current expectations, hopes, intentions, or strategies regarding the future. Such statements may be identifiable by the terminology used such as "plan," "expect," "estimate," "budget," "intend" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. INCLUDED IN SUCH RISKS AND UNCERTAINTIES ARE (1) THOSE RELATING TO THE POSSIBLE INVALIDITY OF THE UNDERLYING ASSUMPTIONS AND ESTIMATES, (2) POSSIBLE CHANGES OR DEVELOPMENTS IN SOCIAL, ECONOMIC, BUSINESS, INDUSTRY, MARKET, LEGAL AND REGULATORY CIRCUMSTANCES, AND (3) CONDITIONS AND ACTIONS TAKEN OR OMITTED TO BE TAKEN BY THIRD PARTIES, INCLUDING CUSTOMERS, SUPPLIERS, BUSINESS PARTNERS AND COMPETITORS, AND LEGISLATIVE, JUDICIAL AND OTHER GOVERNMENTAL AUTHORITIES AND OFFICIALS. ASSUMPTIONS RELATED TO THE FOREGOING INVOLVE JUDGMENTS WITH RESPECT TO, AMONG OTHER THINGS, FUTURE ECONOMIC, COMPETITIVE, AND MARKET CONDITIONS AND FUTURE BUSINESS DECISIONS, ALL OF WHICH ARE DIFFICULT OR IMPOSSIBLE TO PREDICT ACCURATELY. FOR THESE REASONS, THERE CAN BE NO ASSURANCE THAT THE FORWARD-LOOKING STATEMENTS INCLUDED IN THIS OFFICIAL STATEMENT WILL PROVE TO BE ACCURATE.

UNDUE RELIANCE SHOULD NOT BE PLACED ON FORWARD-LOOKING STATEMENTS. ALL FORWARD-LOOKING STATEMENTS INCLUDED IN THIS OFFICIAL STATEMENT ARE BASED ON INFORMATION AVAILABLE TO THE CITY ON THE DATE HEREOF, AND THE CITY ASSUMES NO OBLIGATION TO UPDATE ANY SUCH FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR OR FAIL TO OCCUR.

THIS PRELIMINARY OFFICIAL STATEMENT IS DEEMED TO BE FINAL (EXCEPT FOR PERMITTED OMISSIONS) BY THE CITY FOR PURPOSES OF COMPLYING WITH RULE 15c2-12 OF THE SECURITIES AND EXCHANGE COMMISSION.

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**OFFICIAL STATEMENT**  
**CITY OF CAPE GIRARDEAU, MISSOURI**  
**\$8,735,000\***  
**WATERWORKS SYSTEM REFUNDING REVENUE BONDS**  
**SERIES 2019**

**INTRODUCTION**

*This introduction is only a brief description and summary of certain information contained in this Official Statement and is qualified in its entirety by reference to the more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. Capitalized words and terms not defined in this Official Statement shall have the meanings as defined in the Bond Ordinance. A full review should be made of the entire Official Statement.*

**Purpose of the Official Statement**

The purpose of this Official Statement is to furnish information relating to (1) the City of Cape Girardeau, Missouri (the “**City**”) and (2) the City’s Waterworks System Refunding Revenue Bonds, Series 2019, to be issued in the principal amount of \$8,735,000\* (the “**Bonds**”).

**The City**

The City is a constitutional charter city and political subdivision duly created, organized and existing under and by virtue of its Charter and the laws of the State of Missouri. The City owns and operates a revenue-producing waterworks system for the collection, treatment and distribution of potable water, serving the City and its inhabitants (the “**System**”). See the captions “**GENERAL AND ECONOMIC INFORMATION CONCERNING THE CITY**” and “**THE SYSTEM**” herein for a general description of the City and the System.

**The Bonds**

The Bonds are being issued pursuant to an ordinance (the “**Bond Ordinance**”) expected to be adopted by the City Council of the City on September 16, 2019 for the purpose of providing funds, together with other legally available funds of the City, to (1) currently refund a portion of the City’s outstanding Waterworks System Refunding Revenue Bonds, Series 2012A, being those bonds maturing on January 1, 2021 and thereafter and outstanding in the aggregate principal amount of \$9,285,000 (the “**Refunded Bonds**”), and (2) pay the costs of issuing the Bonds. See the caption “**THE BONDS**” herein.

**Security and Source of Payment**

The Bonds will be special, limited obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the net income and revenues derived by the City from the operation of the System after the payment of the costs of operation and maintenance thereof, including operating income, investment income, and other moneys made available to the City with respect to the System from sources other than funds raised by taxation (the “**Net Revenues**”). The City has pledged the Net Revenues to the payment of the principal of and interest on the Bonds.

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\* Preliminary; subject to change.

The City maintains a Depreciation and Replacement Account for the System, which is fully funded in the amount of \$150,000.

After the refunding of the Refunded Bonds, the City will have outstanding, in addition to the Bonds, the following obligations payable from System revenues: (1) \$592,100 aggregate principal amount of Waterworks System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA), Series 2010 (the “**Series 2010 Bonds**”), which have a final maturity of January 1, 2030 and (2) \$645,000 principal amount of Waterworks System Refunding Revenue Bonds, Series 2012A (the “**Series 2012A Bonds**” and, together with the Series 2010 Bonds, the “**Prior Bonds**”), which have a final maturity of January 1, 2020. The City has the right under the Bond Ordinance to issue additional bonds on a parity with the Bonds, the Series 2010 Bonds and the Series 2012A Bonds payable from the same sources and secured by the same revenues as the Bonds and the Prior Bonds, but only in accordance with and subject to the terms and conditions set forth in the Bond Ordinance. See the caption “**SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**” herein.

### **Financial Statements**

Audited financial statements of the City for the fiscal year ended June 30, 2018, are included in the City’s Comprehensive Annual Financial Report in *Appendix A* to this Official Statement. The financial statements have been audited by Beussink, Hey, Roe & Stroder, L.L.C., independent auditors.

### **Bondholders’ Risks**

Payment of the principal of and interest on the Bonds is dependent on Net Revenues to be derived by the City from the operation of the System. Certain risks inherent in the production of such Net Revenues are discussed herein. See the caption “**BONDHOLDERS’ RISKS**” herein.

### **Summary of the Bond Ordinance**

A summary of the Bond Ordinance, including definitions of certain words and terms used herein and in the Bond Ordinance, is included herein and in *Appendix B* to this Official Statement. Such summary and definitions do not purport to be comprehensive or definitive. All references herein to the Bond Ordinance are qualified in their entirety by reference to the Bond Ordinance. Copies of the Bond Ordinance and this Official Statement may be viewed at the office of Piper Jaffray & Co., 11150 Rosewood Street, Leawood, Kansas 66211, or will be provided to any prospective purchaser requesting the same, upon payment by such prospective purchaser of the cost of complying with such request.

### **Continuing Disclosure Undertaking**

The City has covenanted in the Continuing Disclosure Undertaking that it will provide a copy of its audited financial statements, certain operating data and notices of the occurrence of certain material events to the Municipal Securities Rulemaking Board, in compliance with Rule 15c2-12 promulgated by the Securities and Exchange Commission. See the caption “**CONTINUING DISCLOSURE UNDERTAKING**” herein.

## **PLAN OF FINANCING**

### **Authorization of the Bonds**

The Bonds are being issued pursuant to and in full compliance with the Constitution and statutes of the State of Missouri, including in particular Section 108.140 of the Revised Statutes of Missouri and the Bond Ordinance. The Bonds are being issued to provide funds, together with other legally available funds of the City, to refund the Refunded Bonds and pay the costs of issuing the Bonds.

## The Refunding

The City will enter into an Escrow Trust Agreement dated as of October 1, 2019 (the “**Escrow Trust Agreement**”), with UMB Bank, N.A., St. Louis, Missouri, as escrow agent (the “**Escrow Agent**”). Pursuant to the Escrow Trust Agreement, the City will transfer a portion of the proceeds of the Bonds, together with other legally available funds of the City (all as shown below under the caption “**PLAN OF FINANCING – Sources and Uses of Funds**”) to the Escrow Agent for deposit in the Escrow Fund (the “**Escrow Fund**”) established under the Escrow Trust Agreement. Those moneys will be used to purchase direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (the “**Escrowed Securities**”). The Escrowed Securities will mature in such amounts and at such times as shall be sufficient, together with interest to accrue thereon and any cash deposit to the Escrow Fund, to pay the principal of, redemption premium, if any, and interest on the Refunded Bonds on January 1, 2020 at a redemption price of 100% of the principal amount thereof, plus accrued interest thereon to the redemption date.

### Sources and Uses of Funds

The following table itemizes the estimated sources of funds, including the proceeds from the sale of the Bonds, and the uses of such funds, in connection with the plan of financing:

#### Sources of Funds:

Par Amount of the Bonds	\$
Net Original Issue Premium	
Debt Service Fund for Refunded Bonds	
Total:	<u><u>\$</u></u>

#### Uses of Funds:

Deposit to the Escrow Fund	\$
Costs of Issuance (including underwriter’s discount)	
Total:	<u><u>\$</u></u>

## THE BONDS

*The following is a summary of certain terms and provisions of the Bonds. Reference is hereby made to the Bonds and the Bond Ordinance for the detailed terms and provisions thereof.*

### General Description

The Bonds will consist of fully-registered bonds in the denomination of \$5,000 or any integral multiple thereof. The Bonds will be dated as of the date of delivery thereof. The Bonds will mature, subject to redemption as described below, on January 1 in the years and in the principal amounts set forth on the inside cover page of this Official Statement. Interest on the Bonds will be payable semiannually on January 1 and July 1 in each year, beginning on July 1, 2020.

Principal will be payable upon presentation and surrender of the Bonds by the Registered Owners thereof at the principal payment office of UMB Bank, N.A., St. Louis, Missouri (the “**Paying Agent**”) or such other payment office designated by the Paying Agent. Interest shall be paid to the Registered Owners of the Bonds as shown on the Bond Register at the close of business on the Record Date for such interest by (1) check or draft mailed by the Paying Agent to the address of such Registered Owners shown on the Bond Register or (2) electronic transfer to such Registered Owner upon written notice signed by the Registered

Owner and given to the Paying Agent not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank, its ABA routing number and the account number to which such Registered Owner wishes to have such transfer directed, and an acknowledgment that an electronic transfer fee is payable.

### **Redemption Provisions**

***Optional Redemption.*** At the option of the City, the Bonds or portions thereof maturing on January 1, 2028 and thereafter may be called for redemption and payment prior to the Stated Maturity thereof on January 1, 2027 and thereafter, in whole or in part at any time, in such amounts for each Stated Maturity as shall be determined by the City, at the Redemption Price of 100% of the principal amount thereof, plus accrued interest thereon to the Redemption Date.

***Selection of Bonds to be Redeemed.*** Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount by lot or in such other equitable manner as the Paying Agent may determine.

***Notice and Effect of Call for Redemption.*** Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 30 days prior to the Redemption Date to each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register. Official notice of redemption having been given as provided in the Bond Ordinance, the Bonds or portions of the Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portions of the Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as provided in the Bond Ordinance for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal.

So long as DTC (as defined herein) is affecting book-entry transfers of the Bonds, the Paying Agent shall provide the notices specified in the Bond Ordinance to DTC. It is expected that DTC will, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of DTC or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Paying Agent, DTC, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, will not affect the validity of the redemption of such Bond.

### **Book-Entry Only System**

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over

100 countries) that DTC's participants ("**Direct Participants**") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("**DTCC**"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("**Indirect Participants**"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("**Beneficial Owner**") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).



Payment of principal of and interest on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Paying Agent, on the payment date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Paying Agent, or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal of and interest on the Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the City or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Direct Participants holding a majority position in the Bonds may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the City believes to be reliable, but the City takes no responsibility for the accuracy thereof.

#### **Registration, Transfer and Exchange of Bonds**

The City will cause the Bond Register to be kept at the principal payment office of the Paying Agent or such other office designated by the Paying Agent for the registration, transfer and exchange of Bonds. Upon surrender of any Bond at the principal payment office of the Paying Agent or such other office designated by the Paying Agent, the Paying Agent shall transfer or exchange such Bond as provided in the Bond Ordinance.

Any Bond may be transferred upon the Bond Register by the person in whose name it is registered and shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent. The Owner requesting such transfer or exchange will be required to pay any additional costs or fees that might be incurred in the secondary market with respect to such exchange. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure.

### **SECURITY AND SOURCES OF PAYMENT FOR THE BONDS**

#### **Special Limited Obligations**

The Bonds are special, limited obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System and the City has pledged such Net Revenues to the payment of the principal of and interest on the Bonds.

**The Bonds will not be or constitute a general obligation of the City, nor will they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision,**

**limitation or restriction. The taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest.**

### **The Bond Ordinance**

***Pledge of Revenues.*** The Bonds are payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System. Pursuant to the Bond Ordinance, the City has pledged the Net Revenues to the payment of the principal of and interest on the Bonds. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest.

The covenants and agreements of the City contained in the Bond Ordinance and in the Bonds shall be for the equal benefit, protection and security of the legal Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds pledged to the payment of the principal of and interest on the Bonds, or otherwise, except as to rate of interest, Stated Maturity and right of redemption prior to Stated Maturity as provided in the Bond Ordinance. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Net Revenues and in all other respects with any Parity Bonds (except with respect to the Debt Service Reserve Account that secures only the Series 2010 Bonds). The Bonds shall not have any priority with respect to the payment of principal or interest from the Net Revenues or otherwise over Parity Bonds, and Parity Bonds shall not have any priority with respect to the payment of principal or interest from the Net Revenues or otherwise over the Bonds.

***Parity Obligations.*** The Bonds will stand on a parity with the Series 2012A Bonds and the Series 2010 Bonds (except with respect to the Debt Service Reserve Account that secures only the Series 2010 Bonds). The City has the right under the Bond Ordinance to issue additional bonds on a parity with the Bonds, the Series 2012A Bonds and the Series 2010 Bonds (hereinafter referred to as “**Parity Bonds**”) payable from the same sources and secured by the same revenues as the Bonds, the Series 2012A Bonds and the Series 2010 Bonds, but only if the following conditions are met:

(1) The City is not in default in the payment of principal of or interest on any Bonds or any Parity Bonds at the time outstanding or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in the Bond Ordinance or any Parity Bond Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default); and

(2) The City either:

(a) Certifies that the average annual Net Revenues as set forth in the two most recent annual audits for fiscal years preceding the issuance of additional bonds have been equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the Net Revenues for the purpose of this subsection, the City may retain a Consultant who may adjust said Net Revenues by adding thereto, in the event the City has made any increase in rates for the use and services of the System and such increase has been in effect at any time during the two fiscal years for which annual audits are available preceding the issuance of additional bonds, the amount, as estimated by the Consultant, of the additional Net Revenues which would have resulted from the operation of the System during said fiscal years had such rate increase been in effect for the entire period; or

(b) Obtains a certificate from a Consultant that the average annual Net Revenues projected to be derived by the City for the two fiscal years immediately following the fiscal year in which the improvements to the System, the cost of which is being financed by such additional bonds, are to be in commercial operation, shall be equal to at least 110% of the average annual debt service required to be paid out of said revenues in any succeeding fiscal year following such commercial operation on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the projected Net Revenues for the purpose of this subsection, the Consultant may adjust said Net Revenues by adding thereto any estimated increase in Net Revenues resulting from any increase in rates for the use and services of the System which, in the opinion of the Consultant, are economically feasible and reasonably considered necessary based on projected operations of the System.

***Depreciation and Replacement Account.*** The Bond Ordinance ratifies a Depreciation and Replacement Account that has been funded in the amount of \$150,000. Except as required to prevent a default in the payment of either principal of or interest on the Prior Bonds and the Bonds, moneys in the Depreciation and Replacement Account shall be expended and used by the City solely for the purpose of making emergency repairs and replacements in and to the System as may be necessary from time to time to keep the System in good repair and working order and to assure the continued effective and efficient operation thereof. So long as the Depreciation and Replacement Account aggregates the sum of \$150,000, no payments into said Account shall be required, but if the City shall ever be required to expend and use a part of the money in said Account for its authorized purposes and such expenditure reduces the amount of the Depreciation and Replacement Account below the sum of \$150,000, then the City shall make monthly payments into the Depreciation and Replacement Account in the amount of \$2,500 until said Account again aggregates the sum of \$150,000.

The amounts required to be paid and credited to the Depreciation and Replacement Account shall be inclusive of any amounts at the time required to be paid and credited to said Account under the provisions of the ordinances authorizing the Prior Bonds.

***Rate Covenant.*** The City will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the System which, together with other Revenues, will be sufficient to:

- (1) pay the costs of the operation and maintenance of the System;
- (2) pay the principal of and interest on the Bonds as and when the same become due at the Maturity thereof or on any Interest Payment Date;
- (3) enable the City to have in each fiscal year Net Revenues not less than 110% of the actual Debt Service Requirements for such fiscal year; and
- (4) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the system as provided in the Bond Ordinance.

The City will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The City will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Net Revenues will be sufficient to cover the obligations of the City under the Bond Ordinance.

If in any fiscal year Net Revenues are an amount less than as provided in the Bond Ordinance, the City will immediately employ a Consultant to make recommendations with respect to such rates and charges. A copy of the Consultant's report and recommendations shall be filed with the City Clerk and with the

Underwriter of the Bonds and shall be furnished to any Registered Owner of the Bonds requesting a copy of the same, at the cost of such Registered Owner. The City shall, to the extent feasible, follow the recommendations of the Consultant.

See *Appendix B* for a summary of certain other provisions of the Bond Ordinance.

## **BONDHOLDERS' RISKS**

*The following is a discussion of certain risks that could affect payments to be made by the City with respect to the Bonds. Such discussion is not, and is not intended to be, exhaustive and should not be considered as a complete description of all risks that could affect such payments. Prospective purchasers of the Bonds should analyze carefully all the information contained in this Official Statement, including the Appendices hereto, and additional information in the form of the complete documents summarized herein and in the Appendices hereto, copies of which are available as described herein.*

### **Limited Obligations**

The Bonds are special, limited obligations of the City and are payable solely out of the Net Revenues of the System. The Bonds do not constitute a general obligation of the City and do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. The Bonds are not payable by and have no recourse to the power of taxation. The Bondholders have no lien on or security interest in any of the physical assets of the City, including the System.

Although the City has agreed in the Bond Ordinance and is required by law to charge rates sufficient to pay, among other things, the principal of and interest on the Bonds (see the caption “**SECURITY AND SOURCES OF PAYMENT FOR THE BONDS – The Bond Ordinance – Rate Covenant**” herein), there is no assurance that, because of adverse economic conditions, unexpected repairs, replacements or improvements to the System, or other unanticipated circumstances, the City will be successful in collecting sufficient revenues to pay debt service on the Bonds on a timely basis.

### **Factors Affecting the Revenues of the System**

One or more of the following factors or events, or the occurrence of other unanticipated factors or events, could adversely affect the operation and financial performance of the System to an extent that cannot be determined at this time:

(1) *Changes in Management.* Changes in key management personnel could affect the operations of the System. Since the City acquired the System in 1992, the City has contracted with Alliance Water Resources, Inc. (“**Alliance**”), a regional utility management firm, to operate and manage the System. Under its current agreement with the City, which expires on June 30, 2021, Alliance is responsible for providing the labor for all operation and maintenance services. However, in conjunction with the construction of its new wastewater treatment plant, the City plans to re-evaluate the scope of services to be provided by Alliance in the future. For more information regarding the City’s current agreement with Alliance, see the caption “**THE SYSTEM – History and Organization of the System**” herein.

(2) *Future Economic Conditions.* Increased unemployment or other adverse economic conditions or changes in demographics in the service area of the City; cost and availability of energy; an inability to control expenses in periods of inflation and difficulties in increasing charges.

(3) *Insurance Claims.* Increases in the cost of general liability insurance coverage and the amounts paid in settlement of liability claims not covered by insurance.

(4) *Organized Labor Efforts.* Efforts to organize employees of the City into collective bargaining units could result in adverse labor actions or increased labor costs.

(5) *Environmental Regulation.* Utilities are subject to continuing environmental regulation. Federal, state and local standards and procedures which regulate the environmental impact of utilities are subject to change. These changes may arise from continuing legislative, regulatory and judicial action regarding such standards and procedures. Consequently, there is no assurance that facilities in operation will remain subject to the regulations currently in effect, will always be in compliance with further regulations, or will always be able to obtain all required operating permits. An inability to comply with environmental standards could result in reduced operating levels or the complete shutdown of facilities not in compliance. Legislative, regulatory, administrative or enforcement action involving environmental controls could adversely affect the operation of the facilities of the City. For example, if property of the City is determined to be contaminated by hazardous materials, the City could be liable for significant clean-up costs even if it were not responsible for the contamination.

(6) *Natural Disasters.* The occurrence of natural disasters, such as floods or droughts, could damage the facilities of the City, interrupt services or otherwise impair operations and the ability of the City to produce revenues.

(7) *Variations in Weather.* Water usage is normally the highest in the hotter and dryer months of the year. Variations in rain and temperature patterns can adversely affect water usage and therefore, the revenues of the System.

(8) *Competing Providers.* Missouri law does not prohibit other providers of water and sewer services from operating within the boundaries of the City. For-profit providers of water and sewer services, however, are subject to regulation by the Missouri Public Service Commission (the “PSC”) and are limited to operations within certificated service areas. There are currently no other service providers in the area, and the City does not believe it would be cost-effective for another service provider to compete with the City. Although the City is not aware of any initiative by any other service provider to compete with the City, there can be no assurance that, at some time in the future, the PSC will not permit such competition. Increased competition within the City’s boundaries could adversely affect the City’s ability to impose rates or otherwise generate revenues at a level sufficient to meet its debt obligations.

(9) *Miscellaneous Factors.* The utility industry in general has experienced, or may in the future experience, problems including (a) the effects of inflation upon the costs of operation of facilities, (b) uncertainties in predicting future demand requirements, (c) increased financing requirements coupled with the increased cost and uncertain availability of capital, and (d) compliance with rapidly changing environmental, safety, rate and licensing regulations and requirements.

### **Factors Relating to Security for the Bonds**

Enforcement of the remedies under the Bond Ordinance may be limited or restricted by state and federal laws relating to bankruptcy, fraudulent conveyances, and rights of creditors and by application of general principles of equity affecting the enforcement of creditors’ rights and liens securing such rights, and the exercise of judicial authority by state or federal courts, and may be subject to discretion and delay in the event of litigation or statutory remedy procedures. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies, and by general principles of equity and by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors. In the event of a default, no assurance can be given that the exercise of remedies provided in the Bond Ordinance will provide proceeds sufficient to make timely payments of principal of, premium, if any and interest on the Bonds.

## **Market for the Bonds**

There is no established secondary market for the Bonds, and there is no assurance that a secondary market will develop for the purchase and sale of the Bonds. It is the present practice of the Underwriter to make a secondary market as a dealer in issues of municipal bonds which the Underwriter distributes. The Underwriter intends to continue this practice with respect to the Bonds although it is not obligated to do so. However, prices of municipal bonds traded by the Underwriter in the secondary market are subject to adjustment upward and downward in response to changes in the credit markets and changes in operating performance of the entity operating facilities subject to bond indebtedness. From time to time it may be necessary for the Underwriter to suspend indefinitely secondary market trading in selected issues of municipal bonds as a result of the financial condition or market position of the Underwriter, prevailing market conditions, lack of adequate current financial information about the entity operating the subject facilities, or a material adverse change in the operations of that entity, whether or not the subject bonds are in default as to principal and interest payments, and other factors which, in the opinion of the Underwriter, may give rise to certainty concerning prudent secondary market practices.

Municipal bonds are generally viewed as long-term investments, subject to material unforeseen changes in the investor's circumstances, and may require commitment of the investor's funds for an indefinite period of time, perhaps until maturity.

## **Tax-Exempt Status of the Bonds**

The failure of the City to comply with certain covenants of the City set forth in the Bond Ordinance (see the caption "**TAX MATTERS**" herein) could cause the interest on the Bonds to become includible in federal gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The Bond Ordinance does not provide for the payment of any additional interest or penalty in the event that the interest on the Bonds becomes includible in federal gross income for federal income tax purposes.

## **The Hancock Amendment**

An amendment to the Missouri Constitution limiting taxation and government spending was approved by Missouri voters on November 4, 1980. This amendment limits the ability of the City to impose new or increased taxes to provide funding for the payment of the Bonds, or other governmental purposes of the City, without voter approval. The amendment (popularly known as the Hancock Amendment) limits the rate of increase and the total amount of taxes that may be imposed in any fiscal year, and the limit may not be exceeded without voter approval. Provisions are included in the amendment for rolling back property tax rates to produce an amount of revenue equal to that of the previous year if the definition of tax base is changed or if property is reassessed. The tax levy on the assessed valuation of new construction is exempt from this limitation. The limitation on local governmental units does not apply to taxes imposed for the payment of principal of and interest on general obligation bonds approved by the requisite percentage of voters.

The Hancock Amendment also requires political subdivisions of the State to obtain voter approval in order to increase any "*tax, license or fee.*" The precise meaning and application of the phrase "*tax, license or fee*" is unclear, but decisions of the Missouri Supreme Court have indicated that it does not apply to traditionally set user fees, including rates imposed by the City's System. The limitations imposed by the Hancock Amendment restrict the City's ability to increase many but not all taxes, licenses and certain fees without obtaining voter approval.

The City believes that, based on the Missouri Supreme Court's decisions, volume-based increases in charges for users of the System are not subject to the voter approval requirement of the Hancock Amendment. Nevertheless, if the Missouri Supreme Court were to subsequently change its interpretation of the Hancock Amendment, or if future initiatives limited the ability of the City to raise its charges without voter approval, the City's ability to raise revenues to pay the Bonds could be adversely impacted.

## **Risk of Audit**

The Internal Revenue Service (the “**Service**”) has established an ongoing program to audit tax-exempt obligations to determine whether interest on such obligations should be included in gross income for federal income tax purposes. No assurance can be given that the Service will not commence an audit of the Bonds. Owners of the Bonds are advised that, if an audit of the Bonds were commenced, in accordance with its current published procedures, the Service would likely treat the City as the taxpayer, and the Owners of the Bonds may not have a right to participate in such audit. Public awareness of any audit could adversely affect the market value and liquidity of the Bonds during the pendency of the audit, regardless of the ultimate outcome of the audit.

## **No Reserve Fund**

The City has not established a reserve account to secure the payment of the principal of and interest on the Bonds. There is no assurance that the Net Revenues of the System will be sufficient or that the City will have other funds available for the timely payment of the principal of and interest on the Bonds. The Debt Service Reserve Account established in connection with the Series 2010 Bonds secures only those bonds.

## **Loss of Premium from Early Redemption**

Any person who purchases a Bond at a price in excess of its principal amount or who holds such a Bond trading at a price in excess of par should consider the fact that the Bonds are subject to redemption at the redemption prices described herein in the event such Bonds are redeemed prior to maturity. See the caption “**THE BONDS – Redemption Provisions**” herein.

## **Investment Ratings**

The lowering or withdrawal of the investment rating initially assigned to the Bonds could adversely affect the market price for and the marketability of the Bonds.

## **Defeasance Risks**

When all of the Bonds are deemed paid as provided in the Bond Ordinance, the requirements contained in the Bond Ordinance and all other rights granted to bond owners thereby shall terminate. Bonds or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of the Bond Ordinance if there has been deposited with the Paying Agent, or other commercial bank or trust company and having full trust powers, at or prior to the stated maturity or redemption date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of said Bonds and interest accrued to the stated maturity or redemption date, or if default in such payment has occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds are to be redeemed prior to their stated maturity, (1) the City has elected to redeem such Bonds, and (2) either notice of such redemption shall have been given, or the City shall have given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption in compliance with the Bond Ordinance. Defeasance Obligations include, in addition to cash and obligations pre-refunded with cash, bonds, notes, certificates of indebtedness, treasury bills and other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America. There is no legal requirement in the Bond Ordinance that Defeasance Obligations consisting of such United States obligations be or remain rated in the highest rating category by any rating agency. Prices of municipal securities in the secondary market are subject to adjustment upward and downward in response to changes in the credit markets and that could include the rating of Bonds defeased with Defeasance Obligations to the extent the Defeasance Obligations have a change or downgrade in rating.

## GENERAL AND ECONOMIC INFORMATION CONCERNING THE CITY

### General Information

The City is located in the southeast portion of the State of Missouri, approximately 115 miles south of St. Louis, along the Mississippi River. The City encompasses approximately 28.49 square miles. According to the U.S. Census Bureau, the City's estimated population as of July 1, 2018 was 39,853.

### Government and Organization of the City

The City was founded as a French trading post in 1793 and was incorporated in 1808. The City established a Council-Manager form of government in 1965. The City has operated as a constitutional charter city since 1981.

The City Charter provides for a non-partisan municipal government consisting of a Mayor, six Councilmembers and a City Manager. The Mayor is elected at large by the voters of the City once every four years. The City is divided into six wards, and one Councilmember is elected from each ward for a four-year term. City elections are held every other year on the first Tuesday in April, with a primary election to be held if more than two candidates seek the same seat on the Council. Citizen participation in City government is provided for in the Charter through initiative, referendum and recall.

The City Manager serves as the administrative head of the City and is selected by the Mayor and City Council on the basis of administrative qualifications and experience. Scott A. Meyer, P.E. was appointed the City Manager on July 1, 2009. Prior to becoming the City Manager, Mr. Meyer worked as the Director of Facilities Management at Southeast Missouri State University for five years and as the District Engineer for the Southeast District of the Missouri Department of Transportation for nine years.

The current Mayor and City Council members are as follows:

<u>Elected Officials<sup>(1)</sup></u>	<u>Service Began</u>	<u>Current Term Expires</u>
Dr. Bob Fox, Mayor	4/18	4/22
Dan Presson, Ward 1	4/18	4/22
Shelly Moore, Ward 2	4/14	4/22
Robbie Guard, Ward 4	4/16	4/20
Ryan Essex, Ward 5	5/18	4/20
Stacy Kinder, Ward 6	4/18	4/22

<sup>(1)</sup> On July 8, 2019, Victor R. Gunn, Councilmember for Ward 3, resigned because he is moving out of the Ward. Gunn's replacement has not been named.

### Employee Relations

The City currently has approximately 421 full-time and 498.77 full-time equivalent part-time employees. Benefits provided to full-time employees include health insurance and life insurance, a retirement plan (see the caption "**Pension and Employee Retirement Plans**" herein), paid vacation and sick leave. In May 2007, the Missouri Supreme Court held that public employees have a constitutional right to collectively bargain under Missouri's Constitution, but no City employees are covered by any collective bargaining agreements. The City has no record of any work stoppages or labor disputes.



## Population

According to the U.S. Bureau of the Census, the population patterns for the City, Cape Girardeau County and the State of Missouri have been as follows:

<u>Year</u>	<u>City of Cape Girardeau</u>		<u>Cape Girardeau County</u>		<u>State of Missouri</u>	
	<u>Population</u>	<u>Percentage Change</u>	<u>Population</u>	<u>Percentage Change</u>	<u>Population</u>	<u>Percentage Change</u>
1980	34,361	--	58,837	--	4,916,686	--
1990	34,438	+0.2%	61,633	+4.8%	5,117,073	+4.1%
2000	35,349	+2.6	68,693	+11.5	5,595,211	+9.3
2010	37,941	+7.3	75,674	+10.2	5,988,927	+7.0
2018	39,853	+5.0	78,753	+4.1	6,126,452	+2.3

Source: U.S. Bureau of the Census.

The following table sets forth the population by age categories for the City, Cape Girardeau County and the State of Missouri:

<u>Age</u>	<u>City of Cape Girardeau</u>	<u>County of Cape Girardeau</u>	<u>State of Missouri</u>
Under 5	1,990	4,472	373,141
5-19 years	7,198	15,197	1,176,263
20-24 years	5,982	8,258	425,687
25-44 years	8,764	18,608	1,536,109
45-64 years	8,817	19,254	1,608,068
65 and over	<u>6,341</u>	<u>12,224</u>	<u>956,032</u>
Total	<u>39,092</u>	<u>78,013</u>	<u>6,075,300</u>

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates.

## Risk Management

The City is exposed to various risks of loss from tort; theft of, damage to and destruction of assets; errors and omissions; natural disasters; and employee injuries and illnesses. Commercial insurance coverage is purchased for claims arising from such matters. For more details, see “**Note O – Risk Management**” to the City’s financial statements included in *Appendix A* to this Official Statement.

## Pensions and Other Postemployment Benefits

The City contributes to the Missouri Local Government Employees Retirement System (“**LAGERS**”), an agent multiple-employer, statewide public employee pension plan for entities of local government which is legally separate and fiscally independent from the State of Missouri. The City also provides other postemployment benefits as part of the total compensation offered to attract and retain the services of qualified employees. Future required contribution increases beyond the current fiscal year may require the City to increase its revenues, reduce its expenditures, or some combination thereof, which may impact the City’s operations or limit the City’s ability to generate additional revenues in the future.

For more information specific to the City’s participation in LAGERS, including the City’s past contributions, net pension liability, and pension expense, see “**Note G – Pension Plan**” to the City’s financial

statements included in **Appendix A** to this Official Statement. For more information about other postemployment benefits for the City's employees, see "**Note H – Postretirement Healthcare Benefits**" to the City's financial statements included in **Appendix A** to this Official Statement.

### **Municipal Services and Utilities**

The City provides its citizens with typical municipal services, such as police and fire protection, highway and street maintenance, water, sanitation, health and social services, parks and recreation, public improvements, engineering, planning and zoning, building inspections and other administrative services. These services are financed from general revenues of the City. The City library and health department are financed by their own separate tax levies.

The City owns and operates several enterprises and internal service operations. Enterprise operations derive their revenues from user fees and special property tax levies. The golf course, softball complex operations, waterworks system, sanitary sewer utility and solid waste operations are financed by self-sustaining usage charges. Internal service operations consist of fleet maintenance and data processing, which provide services to all City departments and assess charges to departments based upon usage in amounts sufficient to cover costs of operation.

Ameren Missouri, an investor-owned utility that is Missouri's largest electric utility, provides the City with electricity and natural gas. Ameren Missouri's operations are regulated by the Missouri Public Service Commission.

### **Transportation and Communication Facilities**

The City is located along Interstate 55 and is bordered by the Mississippi River. The Bill Emerson Memorial Bridge, a four-lane suspension bridge, carries traffic across the Mississippi River from Illinois into the City and connects to Interstate 55. Other highways serving the City include U.S. Highway 61, Missouri Highways 34 and 177, and Illinois Highways 3 and 146. Regular bus service is available in the City.

The City owns the Cape Girardeau Regional Airport located approximately 7 miles from downtown. The airport, situated on 557 acres, consists of two runways, one terminal, an avionics shop, a pilots club and a growing industrial park. SkyWest Airlines serves the airport (on behalf of United) by providing two round-trip flights daily during the week from Cape Girardeau to Chicago O'Hare and two round-trip flights daily on the weekends.

Media coverage is provided by one local newspaper, four major network affiliate television stations, one independent television station and seven radio stations. The *Southeast Missourian*, the local newspaper, is published daily. Charter Communications and AT&T provide cable television service to the City.

### **Educational Institutions and Facilities**

Cape Girardeau School District No. 63 provides education to the largest portion of the City. The Missouri Department of Elementary and Secondary Education awarded the school district "accredited" status, which is the highest accreditation status given. The school district has five elementary schools, one middle school, one junior high school, one senior high school, a vocational technical school, and an alternative education center. In addition, the Catholic, Lutheran and Assembly of God churches of the community operate parochial schools.

The Southeast Missouri State University (the "**University**") campus is located in the City and has an approximate enrollment of 11,000. The campus also includes the joint City-University owned and operated Show-Me Center, which has a total seating capacity of over 7,000. The University's facilities also include

various performing arts venues, such as a 950-seat performance hall, a 205-seat recital hall and a 200-seat theatre.

### **Medical and Health Facilities**

The City has the largest regional medical centers between St. Louis and Memphis. Southeast Missouri Hospital, a 263-bed regional medical complex, and Saint Francis Medical Center, a 306-bed regional medical center, provide services for general health care and acute illnesses. SoutheastHEALTH provides numerous other services at various sites in the region, including Southeast Medical Plaza, Southeast Cancer Center, Southeast Hospice, Southeast Home Health and HealthPoint Fitness. Saint Francis Medical Center also provides other services at various sites in the region, including the Healing Arts Center, the Health and Wellness Center and the Heart Hospital and Cancer Institute. The Doctor's Park, a comprehensive health care complex, provides medical, dental, ambulatory and diagnostic services to the region as well.

Special services for physically and mentally disabled children and adults are offered by the Parkview State School for Severely Handicapped. Vocational and self-development training programs are also offered by Parkview. A variety of nursing and retirement facilities provide the City's elderly with care and medical assistance.

### **Recreation and Culture**

Year-round activity programs are sponsored by the City's Parks and Recreation Department, which maintains 23 city and neighborhood parks covering 662.5 acres. Park facilities in the City include a fishing lake, picnic areas, playgrounds, year-round swimming facilities (indoor/outdoor pool), lighted tennis courts and a municipal golf course.

The Cape Girardeau SportsPlex is a state-of-the-art facility located along Interstate 55. The 121,000 square foot facility features 2 regulation indoor turf fields and 6 high school regulation hardwood basketball courts which convert to 12 regulation volleyball courts. It also has full-service concessions and multiuse space for team meetings, coach's clinics, and team parties. In recent years, the City has also completed construction of the Osage Community Centre, a multi-use recreational building, a softball/soccer complex, and a family aquatic center. Several other recent park facilities and improvements include the construction of a community center in the southern portion of the City, improvements to the Shawnee Sports Complex, and the renovation of the A.C. Brase Arena Building. The Trail of Tears State Park and county parks are also located within a few miles of the City limits.

The Discovery Play House, a children's museum, opened in the spring of 2010 in the downtown area of the City. The Discovery Play House has over 7,500 square feet of interactive learning exhibits for children.

Private clubs and commercial enterprises offer dance, bowling, gymnastics, tennis and golf. The University's recreational facilities are also open to the public when classes are not in session.

The Cape Girardeau Council on the Arts promotes the work of local artists in conjunction with its operation of the Cape Girardeau River Heritage Museum.

Both the Cape Girardeau Public Library and Kent Library at the University provide activities such as children's programs, art exhibits and community group meetings.

## Employment Information

**Major Employers.** Listed below are the major employers located within approximately 20 miles of the City and the approximate number of employees employed by each:

<u>Name</u>	<u>Product or Service</u>	<u>Employment</u>
1. Saint Francis Healthcare Systems	Hospital	2,817
2. SoutheastHEALTH	Hospital	2,430
3. Procter & Gamble Paper Products	Paper products manufacturer	1,200
4. Southeast Missouri State University	Public university	1,107
5. Cape Girardeau School District No. 63	Public schools	713
6. Jackson R-II School District	Public schools	479
7. Robinson Construction	Construction	475
8. Isle Casino Cape Girardeau	Casino	450
9. Mondi Jackson, Inc.	Flexible film packaging	428
10. Delta Companies, Inc.	Stone and rock manufacturer	425

Source: Cape Girardeau Chamber of Commerce.

**Unemployment.** The following table sets forth estimates of the total labor force, number of employed and unemployed workers in the City and, for comparative purposes, the unemployment rates for the City, Cape Girardeau County, the State of Missouri and the United States for the years 2015 through 2019:

<b>City of Cape Girardeau</b>				<b>Unemployment Rates</b>			
<b>Labor Force</b>				<b>City of Cape</b>	<b>Cape Girardeau</b>	<b>State of</b>	<b>United</b>
<u>Year</u>	<u>Employed</u>	<u>Unemployed</u>	<u>Total</u>	<u>Girardeau</u>	<u>County</u>	<u>Missouri</u>	<u>States</u>
2015	19,194	934	20,128	4.6%	4.3%	5.0%	5.3%
2016	19,169	968	20,137	4.8	4.3	4.6	4.9
2017	18,854	735	19,589	3.8	3.5	3.8	4.4
2018	19,053	567	19,620	2.9	2.8	3.2	3.9
2019 <sup>(1)</sup>	19,169	578	19,747	2.9	2.8	3.1	3.4

<sup>(1)</sup> Figures are preliminary and for the month of May, not an annualized calculation.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

## Income

**Income Statistics.** The following table presents certain income statistics from the American Community Survey for the City, Cape Girardeau County, State of Missouri and the United States of America:

	<b>Per Capita Income</b>	<b>Median Family Income</b>
	<b>(dollars)</b>	<b>(dollars)</b>
City of Cape Girardeau	\$24,339	\$62,320
Cape Girardeau County	25,965	64,443
State of Missouri	28,282	64,776
United States	31,177	70,850

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates.

The following table presents per capita personal income<sup>(1)</sup> for Cape Girardeau County and the State of Missouri for the years 2013 through 2017, the latest date for which such information is available:

<u>Year</u>	<u>Cape Girardeau County Per Capita Income</u>	<u>State of Missouri Per Capita Income</u>
2013	\$38,751	\$40,152
2014	39,383	41,538
2015	41,601	42,839
2016	41,799	43,587
2017	43,556	44,978

<sup>(1)</sup> “Per Capita Personal Income” is the annual total personal income of residents divided by the resident population as of July 1. “Personal Income” is the sum of net earnings by place of residence, rental income of persons, personal dividend income, personal interest income, and transfer payments. “Net Earnings” is earnings by place of work - the sum of wage and salary disbursements (payrolls), other labor income, and proprietors’ income - less personal contributions for social insurance, plus an adjustment to convert earnings by place of work to a place-of-residence basis. Personal Income is measured before the deduction of personal income taxes and other personal taxes and is reported in current dollars (no adjustment is made for price changes).

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

### **Housing**

The following table sets forth information from the American Community Survey regarding the median (owner-occupied) house values for the City, Cape Girardeau County and the State of Missouri:

	<u>Median House Value</u>
City of Cape Girardeau	\$141,500
Cape Girardeau County	151,900
State of Missouri	145,400

Source: U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates.

### **Agriculture, Commerce and Industry**

The Cape Girardeau area (which includes the City, Cape Girardeau County and an approximate 20-mile surrounding area) has 14 manufacturing firms with 100 or more employees and 40 non-manufacturing entities with 100 or more employees. The two largest employers are Saint Francis Healthcare Systems and SoutheastHEALTH, each employing 2,400 or more employees. Other major employers include Procter & Gamble Paper Products and Southeast Missouri State University, each employing 1,100 or more employees. Isle of Capri Casinos operates a casino along the City’s riverfront that employs approximately 450 people.

The City is a regional shopping center for Southeastern Missouri, Southern Illinois and Western Kentucky. There are three major shopping areas in the City: West Park Mall/Interstate 55 area, Town Plaza Shopping Center, and the downtown shopping district located along the Mississippi River.

The Cape Girardeau area is one of the most productive farming areas in the state. Major livestock includes cattle, hogs and poultry. Major crop production includes soybeans, wheat, milo, cotton and corn.

## Building Construction

The following table indicates the number of building permits and total estimated valuation of these permits issued within the City in the past five fiscal years. These numbers reflect permits issued either for new construction or for major renovation.

	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
<i>Residential</i>					
Number of Permits	254	127	240	119	96
Estimated Cost	\$76.7 million	\$24.1 million	\$37.2 million	\$16.4 million	\$19.3 million
<i>Non-Residential</i>					
Number of Permits	128	100	128	70	59
Estimated Cost	\$52.8 million	\$38.4 million	\$250.5 million	\$73.9 million	\$20.2 million

Source: The City.

## THE SYSTEM

### History and Organization of the System

The System was originally built in 1894 by the Cape Girardeau Water Works and Electric Light Company, which later became Missouri Utilities Company (“**Missouri Utilities**”). In 1931, Missouri Utilities constructed the main water treatment plant on Cape Rock Drive, which remains in service today. This plant was expanded in 1954, 1967 and 2002. In 1983, Union Electric Company (the predecessor of AmerenUE) acquired the System as part of a merger with Missouri Utilities, in which Union Electric Company was the major stockholder. The City acquired the System in 1992.

The System is operated as a division of the City’s Department of Public Works. The City has entered into an agreement with Alliance to operate and manage the System, although the City handles billings and collections. Alliance was founded in 1976 to provide specialty services to the water and wastewater industry. Its corporate office is located in Columbia, Missouri. Alliance’s clients include municipal water and wastewater operations, investor-owned utilities, water districts and not-for-profit utilities. Among the clients for which it provides complete operation and management services are: the Missouri cities of Bonne Terre, Troy, Bowling Green, Elsberry, Parkville, Cameron, Lake Ozark, Lexington and Ste. Genevieve; Public Water Supply District No. 1 of Lincoln County, Missouri; Public Water Supply District No. 2 of DeKalb County, Missouri; Public Water Supply District No. 3 of Franklin County, Missouri; Henry County Water Company; Public Water Supply District No. 1 of Ralls County, Missouri; Public Water Supply District No. 2 of Phelps County, Missouri; Public Water Supply No. 1 of Franklin County, Missouri; and the Iowa cities of Maquoketa and Tipton.

Pursuant to its agreement with the City, Alliance provides the labor for all operations and maintenance services of the City’s entire water supply and distribution system. Alliance’s duties include emergency response and repair, water testing, valve location and exercising and preventive maintenance. Alliance will receive a base fee of \$2,492,908 in the current fiscal year, which is subject to adjustment under certain circumstances described in the agreement. This fee includes all labor costs of operating and maintaining the System. The City’s current agreement with Alliance expires on June 30, 2021 unless it is further extended by its terms. See the caption “**BONDHOLDERS’ RISKS – Factors Affecting the Revenues of the System**” herein.

## **Description of Existing Facilities of the System**

The System includes two water supply and treatment plants. The main plant on Cape Rock Drive has a capacity of 7.5 million gallons per day and an average daily flow of 6.5 million gallons per day, drawing from 4 alluvial wells. A second plant in the southern part of the City draws water from 3 alluvial wells and has a capacity of 2.8 million gallons per day. One additional well serves the Cape Rock Village subdivision and is part of the City System proper. Two additional wells serve the Greater Cape Girardeau Industrial Park, located outside of the City.

The System's 12 water storage tanks have a total capacity of 9.265 million gallons. The tanks range in capacity from 80,000 to 1.75 million gallons. The System also includes approximately 300 miles of water lines, 2,338 fire hydrants and 9 booster pumping stations.

The City Charter requires the City Manager to annually submit a five-year capital improvement plan (the "CIP") to the Council. The CIP is a comprehensive planning instrument that drives the evaluation of capital infrastructure projects in need of construction, renovation and/or repair. The Council adopted the most recent CIP on March 4, 2019, covering the five-year period from July 1, 2019 through June 30, 2024. It includes numerous improvements to the System, including upgrading water lines; constructing a booster pump station and installing a generator; rehabilitating the six existing filters and repairing the secondary settling basins at the main plant; and replacing the air conditioning units in the motor control center serving the main plant and four water wells. The City intends to fund these projects on a pay-as-you-go basis using a portion of the proceeds of a one-quarter of one percent capital improvement sales tax, which was renewed by the voters in August 2019 and will expire on December 31, 2034.

## **Description of Service Area**

The System is divided into a main system and a smaller, separate service area. The main system serves the 24 square miles within the current City limits, plus an additional area of approximately one square mile to the immediate north of the City along State Route W, Old Sprigg Street and Cape Rock Drive in the Cape Rock Village/Tanglewood Subdivisions. The separate service area totals approximately one-half square mile and serves the Greater Cape Girardeau Industrial Park along Nash Road, which lies southwest of the City.

## **Customers and Usage**

As of June 30, 2018, the System had 16,547 customers, consisting of 14,251 residential customers and 2,296 non-residential customers.

During the 2018 fiscal year, the City sold approximately 2,022,190 CCF (100 Cubic Feet, which equals 748 gallons) of water, consisting of 1,079,470 CCF for residential customers and 942,720 for non-residential customers.

Below is a list of the 10 largest customers of the System, on the basis of usage for the 2018 fiscal year.

<u>Customer</u>	<u>Water Usage</u>	<u>% of Total</u>
Southeast Missouri State University	109,054.50	5.40%
St. Francis Medical Center	85,247.80	4.22
Southeast Hospital	60,134.20	2.98
Lonestar Cement	37,780.30	1.87
Lutheran Home	23,606.50	1.17
Cape LaCroix Apartments	16,150.50	0.80
Tipton Linen	13,516.50	0.67
Cape Girardeau Public Schools	12,512.30	0.62
Missouri Veterans Home	11,449.20	0.57
Chateau Girardeau	<u>10,085.70</u>	<u>0.50</u>
TOTAL	<u>379,537.50</u>	<u>18.80%</u>

The following table sets forth the total number of customers of the System for the fiscal years ended June 30, 2016 through June 30, 2018:

<u>Year</u>	<u>Total Number of Customers</u>
2016	16,924
2017	16,500
2018	16,547

The following table sets forth total sales of water by the City for the fiscal years ended June 30, 2016 through June 30, 2018:

<u>Year</u>	<u>Gallons Sold</u>
2016	1,425,107,028
2017	1,435,433,692
2018	1,512,598,120

## Water Rates

The following table shows the current monthly water rates:

<u>Meter Charge (5/8" meter)</u>	<u>Rate per CCF<sup>(1)</sup></u>
\$8.65	\$2.628

<sup>(1)</sup> One CCF equals 100 cubic feet or 748 gallons.

Prior to the beginning of each fiscal year, the City analyzes its water rates to determine whether increases are needed. In recent years the City imposed the following annual rate increases: 3% for the 2017 fiscal year; 2% for the 2018 fiscal year; 0% for the 2019 fiscal year; and 2% for the 2020 fiscal year. The City's Charter restricts the City from increasing water rates by more than 5% in any fiscal year except (1) as may be required by voter-approved revenue bonds, (2) as authorized by a simple majority voter approval or (3) in the event of an emergency.



## Collections

The following table shows the amounts billed for water service and amounts collected by the City for the last five fiscal years:

<u>Year</u>	<u>Amount Billed</u>	<u>Amount Collected</u>	<u>Percentage Collected</u> <sup>(1)</sup>
2014	\$6,175,787.97	\$6,222,671.59	100.76%
2015	5,940,184.56	5,890,592.82	99.17
2016	6,251,287.16	6,214,769.40	99.42
2017	6,481,517.30	6,421,247.83	99.07
2018 <sup>(2)</sup>	6,662,022.47	6,500,781.00	97.58

<sup>(1)</sup> Delinquent fees collected are shown in the year payment is actually received, which may cause the Percentage Collected to exceed 100%. The City sends a disconnect notice to all customers after they become delinquent for a second month.

<sup>(2)</sup> The most recently completed fiscal year for which data is available.

## FINANCIAL AND OPERATING INFORMATION CONCERNING THE SYSTEM

### Accounting, Budgeting and Auditing Procedures

An annual budget of estimated receipts and disbursements for the System for the coming fiscal year is prepared by the Director of Public Works and is included in the City's budget. The budget is presented to the City Council in June for approval after a public hearing. The fiscal year of the System is July 1 through June 30. The budget lists estimated receipts by fund and sources and estimated disbursements by fund and purposes and includes a statement of the rates required to raise each amount shown on the budget as coming from System revenues.

## Historical Debt Service Coverage

The following table shows historical debt service coverage for all obligations of the System prepared from audits of the City for the last three fiscal years for which audited financial information is available:

	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Operating Revenues	\$6,545,914	\$6,787,707	\$7,031,962
Total Non-Operating Revenues <sup>(1)</sup>	<u>\$2,683,328</u>	<u>\$2,202,347</u>	<u>\$ 22,795</u>
Total Revenues	<u>\$9,229,242</u>	<u>\$8,990,054</u>	<u>\$7,054,757</u>
Total Expenses <sup>(2)</sup>	<u>\$5,169,381</u>	<u>\$5,274,369</u>	<u>\$5,445,716</u>
Net Revenues Available for Debt Service	<u>\$4,059,861</u>	<u>\$3,715,685</u>	<u>\$1,609,041</u>
Debt Service <sup>(3)</sup>	<u>\$1,020,826</u>	<u>\$1,022,141</u>	<u>\$1,020,230</u>
Debt Service Coverage	3.98x	3.64x	1.58x

<sup>(1)</sup> Includes revenues from a one-quarter of one percent capital improvement sales tax available to pay the waterworks system revenue bonds. The tax was scheduled to expire in 2017; the City's voters extended the tax, but only to pay debt service on sewerage system revenue bonds. This figure does not include interest and handling costs or amortization.

<sup>(2)</sup> Less depreciation and including payments on annual appropriation debt.

<sup>(3)</sup> Represents debt service on the City's Series 2012A and the Series 2010 Bonds.

Source: City's Annual Report for the fiscal year ended June 30, 2018.

## Summary of Balance Sheets

Shown below is a summary of revenues, expenditures and fund balance for the water operations portion of the Enterprise Fund (consisting of sewer, water, solid waste, golf course, and indoor sports complex funds) for the last three fiscal years for which audited financial information is available. Based on its monthly financial statements, the City believes the results for 2019 will not be materially different from 2018. With respect to the fiscal year ended June 30, 2018, the information shown below should be read in conjunction with the audited financial statements of the City contained in **Appendix A** hereto. Copies of the audited financial statements of the City for prior years are available upon request from the City.

**SUMMARY STATEMENT OF REVENUES, EXPENDITURES AND  
CHANGES IN FUND BALANCES  
Fiscal Years Ended June 30**

	<u>2016</u>	<u>2017</u>	<u>2018</u>
<b><u>Operating Revenues</u></b>			
Residential charges	\$ 3,765,899.97	\$ 3,887,741.98	\$ 4,081,216.08
Commercial charges	2,518,048.02	2,589,293.51	2,629,572.71
Other fees and charges	233,765.17	279,816.75	297,448.79
Miscellaneous	<u>28,201.16</u>	<u>30,855.12</u>	<u>23,724.15</u>
Total Operating Revenues	<u>\$ 6,545,914.32</u>	<u>\$ 6,787,707.36</u>	<u>\$ 7,031,961.65</u>
<b><u>Operating Expenses</u></b>			
Personnel services	\$ 257,590.31	\$ 256,449.06	\$ 252,706.08
Materials and supplies	1,072,393.83	1,095,124.99	1,408,358.51
Contractual services	2,912,056.80	2,959,678.61	3,051,397.58
General operating expenses	396,550.48	414,730.61	437,158.89
Special programs	354,057.02	371,217.08	139,368.45
Internal service expenses	176,732.49	177,168.57	156,726.29
Depreciation	<u>1,676,418.61</u>	<u>1,762,708.06</u>	<u>1,825,123.66</u>
Total Operating Expenses	<u>\$ 6,845,799.54</u>	<u>\$ 7,037,076.98</u>	<u>\$ 7,270,839.46</u>
<b><u>Operating Income (Loss)</u></b>	\$ (299,885.22)	\$ (249,369.62)	\$ (238,877.81)
<b><u>Non-Operating Revenues (Expenses)</u></b>			
Intergovernmental	\$ 7,692.30	\$ -	\$ -
Investment revenue	83,762.51	38,954.98	22,794.98
Gain from sale of assets	23,510.70	8,974.91	1,162.42
Compensation for damages	-	-	3,792.57
Interest and other costs	<u>(394,358.68)</u>	<u>(385,530.47)</u>	<u>(373,161.77)</u>
Total Non-Operating Revenue (Expenses)	<u>\$ (279,393.17)</u>	<u>\$ (337,600.58)</u>	<u>\$ (345,411.80)</u>
Income (loss) before contributions and transfers	\$ (579,278.39)	\$ (586,970.20)	\$ (584,289.61)
Contributed Capital:			
Developers	\$ 487,910.49	\$ 172,218.48	\$ 95,360.84
Government	3,617.79	184,762.20	-
Transfers In	\$ 3,084,593.69	\$ 474,063.35	\$ 1,610,040.59
Transfers Out	-	(8,000.00)	-
Change in Net Position	\$ 2,996,843.58	\$ 236,073.83	\$ 1,221,111.82
<b>Total Net Assets - beginning</b>	\$37,238,007.17	\$40,451,758.71	\$40,894,321.30
Prior Period Adjustment	<u>216,907.96</u>	<u>206,488.76</u>	<u>(34,227.06)</u>
<b><u>Total Net Assets - ending</u></b>	<u>\$40,451,758.71</u>	<u>\$40,894,321.30</u>	<u>\$42,081,206.06</u>

Source: Audited Financial Statements of the City for the fiscal years ended June 30, 2016-2018.

## DEBT STRUCTURE OF THE CITY

### Debt Ratios and Related Information

Population (2018):	39,853
Assessed Valuation (2018) <sup>(1)</sup> :	\$653,404,065
Estimated Actual Value (2018):	\$2,662,670,464
Outstanding General Obligation Debt:	\$0
Outstanding Lease Obligations	\$3,238,522
Total Direct Debt (General Obligation Debt and Lease Obligations)	\$3,238,522
Overlapping General Obligation Debt <sup>(2)</sup> :	\$59,969,715
Total Direct and Overlapping Debt:	\$63,208,237
Per Capita Direct Debt:	\$81.26
Ratio of Direct Debt to Assessed Valuation:	0.50%
Ratio of Direct Debt to Estimated Actual Valuation:	0.12%
Per Capita Direct Debt and Overlapping General Obligation Debt:	\$1,586.03
Ratio of Direct Debt and Overlapping General Obligation Debt to Assessed Valuation:	9.67%
Ratio of Direct Debt and Overlapping General Obligation Debt to Estimated Actual Valuation:	2.37%

<sup>(1)</sup> Includes state and locally assessed real estate and personal property.

<sup>(2)</sup> For further details see the caption “**DEBT STRUCTURE OF THE CITY – Overlapping Indebtedness.**”

Source: Cape Girardeau County Clerk’s Office.

### General Obligation Indebtedness

The City has no general obligation bonds outstanding.

### Overlapping Indebtedness

The following table sets forth the approximate overlapping indebtedness, excluding lease obligations, of political subdivisions with boundaries overlapping the City as of July 1, 2019 and the percentage attributable (on the basis of assessed valuation) to the City. The table was compiled from information furnished by the jurisdictions responsible for the debt, and the City has not independently verified the accuracy or completeness of such information. Furthermore, political subdivisions may have ongoing programs requiring the issuance of substantial additional bonds, the amounts of which cannot be determined at this time.

<u>Taxing Jurisdiction</u>	<u>Outstanding General Obligation Indebtedness</u>	<u>Approximate Percent Applicable to City</u>	<u>Amount Applicable to City</u>
Cape Girardeau School District No. 63	\$ 62,025,758	94.43%	\$58,570,923
Jackson R-II School District	<u>40,080,000</u>	3.49	<u>1,398,792</u>
Total	<u>\$102,105,758</u>		<u>\$59,969,715</u>

Source: Cape Girardeau County Assessor’s Office, taxing jurisdictions’ records and Municipal Securities Rulemaking Board (EMMA).

## Special Obligation Bonds

The following table sets for the outstanding special obligations of the City as of July 1, 2019:

<u>Category of Indebtedness</u>	<u>Amount Authorized</u>	<u>Amount Outstanding</u>
Special Obligation Bonds, Series 2018	\$ 8,710,000	\$ 8,710,000
Special Obligation Bonds, Series 2016	27,350,000	18,590,000
Special Obligation Bonds, Series 2015A	<u>9,625,000</u>	<u>7,525,000</u>
Totals	<u>\$45,685,000</u>	<u>\$34,825,000</u>

## Revenue Obligations

The following table sets forth the outstanding revenue obligations of the City as of July 1, 2019:

<u>Category of Indebtedness</u>	<u>Amount Authorized</u>	<u>Amount Outstanding</u>
Sewerage System Revenue Bonds (State Revolving Fund Program), Series 2000B	\$ 8,355,000	\$ 3,275,000
Waterworks System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA) Series 2010	1,000,000	592,100
Sewerage System Revenue Bonds (State of Missouri – Direct Loan Program) Series 2012	31,000,000	25,097,000
Waterworks System Refunding Revenue Bonds, Series 2012A <sup>(1)</sup>	13,955,000	9,905,000
Sewerage System Revenue Bonds (State of Missouri – Direct Loan Program), Series 2013A	3,250,000	2,623,000
Sewerage System Revenue Bonds (State of Missouri – Direct Loan Program), Series 2013B	<u>35,750,000</u>	<u>28,850,000</u>
Totals	<u>\$93,310,000</u>	<u>\$70,342,100</u>

<sup>(1)</sup> As of January 1, 2020, none of these bonds will be outstanding. The City will pay the 2020 maturity on its stated maturity date, and the bonds maturing in 2021 and thereafter will be redeemed on their first optional redemption date with a portion of the proceeds of the Bonds.

## Lease Obligations

The following table sets forth the outstanding lease obligations of the City as of June 30, 2019:

<u>Category of Indebtedness</u>	<u>Amount Issued</u>	<u>Amount Outstanding</u>
Southeast Missouri State Foundation (dated March 14, 2013 and amended during the fiscal year ended June 30, 2017)	<u>\$5,382,698.69</u>	<u>\$3,238,521.59</u>
Total	<u>\$5,382,698.69</u>	<u>\$3,238,521.59</u>

## Debt Service Requirements of the System

The following table shows the annual debt service requirements of the System, including the Bonds and excluding the Refunded Bonds:

<u>Fiscal Year Ending June 30</u>	<u>Outstanding Waterworks Revenue Bonds</u>	<u>The Bonds</u>			
		<u>Principal</u>	<u>Interest</u>	<u>Total</u>	<u>TOTAL</u>
2020	\$ 866,473.43 <sup>(1)</sup>				
2021	59,357.59				
2022	59,791.72				
2023	60,207.99				
2024	60,606.36				
2025	60,986.87				
2026	61,449.48				
2027	61,891.99				
2028	62,415.13				
2029	62,818.14				
2030	63,301.05				
2031	0.00				
2032	<u>0.00</u>				
Totals	<u>\$1,479,299.75</u>				

<sup>(1)</sup> Includes the debt service paid on July 1, 2019 in the amount of \$204,462.28. The remaining debt service for the fiscal year ending June 30, 2020 is \$662,011.15.

## Future Debt Plans

On August 6, 2019, the City's voters approved a 15-year extension of a one-quarter of one percent capital improvement sales tax that was scheduled to expire on December 31, 2019. The City intends to use the proceeds of the sales tax to fund approximately \$15-20 million of special obligation bonds to pay for critical infrastructure improvements, including the restoration of and additions to the Common Pleas Courthouse and annex for use as a City Hall and improvements to the Cape Girardeau Regional Airport. The City expects to issue those bonds in 2020.

## No Prior Defaults

The City has never defaulted on any indebtedness.

## FINANCIAL INFORMATION CONCERNING THE CITY

### Accounting, Budgeting and Auditing Procedures

The financial statements of the City have been prepared in conformity with generally accepted accounting principles, as applied to government units. The Governmental Accounting Standards Board is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant accounting policies of the City are described below.

Government resources are allocated to and accounted for in individual funds based upon the purposes for which they are to be spent and the means by which spending activities are controlled. The various funds are grouped in the financial statements into fund types as described in “**Note A – Summary of Significant Accounting Policies**” to the City’s financial statements included in *Appendix A* to this Official Statement.

***Government-Wide and Fund Financial Statements.*** The government-wide financial statements (i.e., the statement of net assets and the statement of activities) report information on all of the nonfiduciary activities of the primary government and its component units. The effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include (1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and (2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds, proprietary funds, and fiduciary funds, even though the latter are excluded from the government-wide financial statements. Major individual governmental funds and major individual enterprise funds are reported as separate columns in the fund financial statements.

***Measurement Focus, Basis of Accounting, and Financial Statement Presentation.*** The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the proprietary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met. With the economic resources measurement focus, all assets and liabilities associated with operations are reflected in the statement of net assets.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the City considers revenues to be available if they are collected within 30 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under

accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due. Those revenues susceptible to accrual are property taxes, franchise taxes, special assessments, licenses, interest revenue, and charges for services. Sales taxes collected and held by the state at year-end on behalf of the City are also recognized as revenue. Fines and permit revenues are not susceptible to accrual because, generally, they are not measurable until received in cash. With the current financial resources measurement focus, only current assets and current liabilities are generally included on the balance sheet.

An annual budget is prepared under the direction of the City Manager and submitted to the City Council for consideration prior to the commencement of each fiscal year. The operating budget includes proposed expenditures and revenue sources. Public hearings are conducted to obtain taxpayer comments. The budget is legally enacted through the adoption of an ordinance. The primary basis of budgetary control is at the departmental level. The City Manager is authorized to transfer budgeted amounts between programs within any department; however, any revisions that alter the total expenditures of any department must be approved by the City Council. Formal budgetary integration is employed as a management control device during the year for all funds. Budgets for all funds are adopted on a budgetary basis.

City budgeting is predicated upon the fundamental principle of prudential financial stewardship. Thus, a conservative approach is adopted in estimating future revenues, rigorous analysis is applied to expenditure estimates and there is regular reporting within departments as well as to the City Manager and City Council.

The financial records of the City are audited annually by a firm of independent certified public accountants in accordance with generally accepted governmental auditing standards.

### **Sources of Revenue**

The City finances its general operations through sales taxes, local property taxes, license and permit fees and other miscellaneous sources as indicated below for the fiscal year ended June 30, 2020:

	<u><b>Amount</b></u>	<u><b>Percent of Total</b></u>
Property Tax	\$ 2,112,206	8.0%
Sales Tax	10,875,000	41.2
Franchise Tax	4,665,819	17.7
Cigarette Tax	150,000	0.6
Licenses and Permits	1,671,600	6.3
Intergovernmental	579,260	2.2
Service Charges	597,700	2.3
Fines and Forfeitures	687,600	2.6
Interest	115,325	0.4
Miscellaneous	393,225	1.5
Internal Service Charges	1,192,056	4.5
Motor Fuel Tax Transfer	1,431,045	5.4
Public Safety Trust Transfer	1,315,875	4.9
Other Transfers	<u>622,906</u>	<u>2.4</u>
Total	<u>\$26,409,617</u>	<u>100.0%</u>

Source: City's Budget for the fiscal year ending June 30, 2020.



## **The General Fund**

In accordance with established accounting procedures of governmental units, the City records its financial transactions under various funds. The largest is the General Fund, from which all general operating expenses are paid and to which taxes and all other revenues not specifically allocated by law or contractual agreement to other funds are deposited. The following table sets forth the revenues, expenditures and fund balances for the City's General Fund for the last three fiscal years for which audited financial information is available. Based on its monthly financial statements, the City believes the results for 2019 will not be materially different from 2018.

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**GENERAL FUND  
SUMMARY OF OPERATIONS  
FISCAL YEARS ENDED JUNE 30**

	<u>2018</u>	<u>2017</u>	<u>2016</u>
<b>REVENUES</b>			
Taxes	\$17,866,334.64	\$17,193,712.47	\$17,232,591.39
Licenses and permits	1,649,227.01	1,613,500.38	1,609,166.00
Intergovernmental	911,897.94	828,689.59	610,556.93
Charges for services	364,749.57	285,614.21	237,337.05
Internal charges	1,145,715.50	1,161,341.29	1,023,643.58
Fines and forfeitures	600,446.25	712,267.50	687,997.00
Miscellaneous	538,537.30	335,287.26	328,174.89
Investment revenue	45,777.00	48,299.98	95,561.60
Special assessments	17,485.68	17,892.20	136,212.41
Total Revenues	<u>\$23,140,170.89</u>	<u>\$22,196,604.88</u>	<u>\$21,961,240.85</u>
<b>EXPENDITURES</b>			
Administrative services	\$ 2,776,743.88	\$ 2,631,588.26	\$ 2,591,612.76
Development services	2,488,862.56	2,347,504.72	2,346,079.65
Parks and recreation	1,656,263.04	1,703,900.49	1,655,656.64
Public safety	14,188,872.26	13,779,540.09	13,404,649.83
Public works	2,538,334.64	2,531,642.49	2,738,873.31
Debt service			
Interest	\$ 19,700.00	\$ 19,700.00	\$ 25,102.88
Principal	985,000.00	0.00	1,120,000.00
Administrative charges	583.00	318.00	291.50
Issuance cost	0.00	0.00	11,068.17
Capital outlay			
Administrative charges	\$ 0.00	\$ 0.00	\$ 0.00
Development services	1,527.45	30,683.08	0.00
Parks and recreation	8000.00	20,800.00	5,887.20
Public safety	93,256.36	27,780.29	12,495.27
Public works	3,637.35	8,023.25	27,082.32
Total Expenditures	<u>\$24,760,780.54</u>	<u>\$23,101,480.67</u>	<u>\$23,938,799.53</u>
<b>EXCESS OF REVENUES OVER EXPENDITURES</b>	\$(1,620,609.65)	\$ (904,875.79)	\$(1,977,558.68)
<b>OTHER FINANCING SOURCES (USES)</b>			
Operating transfers in	\$ 6,478,345.97	\$ 5,433,446.42	\$ 5,393,190.38
Operating transfers out	(5,728,300.26)	(4,628,089.03)	(4,494,065.67)
Asset disposition	354,605.99	111,601.20	94,828.64
Bond proceeds	0.00	0.00	1,008,039.15
Compensation for damages	461.87	17,834.13	0.00
Total Other Financing Sources (Uses)	<u>\$ 1,105,113.57</u>	<u>\$ 934,792.72</u>	<u>\$ 2,001,992.50</u>
<b>REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES</b>	<u>\$ (515,496.08)</u>	<u>\$ 29,916.93</u>	<u>\$ 24,433.82</u>
<b>FUND BALANCE -- BEGINNING OF YEAR</b>	\$ 7,805,256.75	\$ 7,714,458.77	\$ 7,690,024.95
Prior period adjustment	597.36	60,881.05	0.00
<b>FUND BALANCE -- END OF YEAR</b>	<u>\$ 7,290,358.03</u>	<u>\$ 7,805,256.75</u>	<u>\$ 7,714,458.77</u>

Source: Audited Financial Statements of the City for the fiscal years ended June 30, 2016-2018.

## Summary of General Fund Balances

The unappropriated General Fund balance on June 30 for each of the previous fiscal years was as follows:

<u>Year</u>	<u>General Fund Balance</u>
2014	\$8,405,608
2015	7,690,025
2016	7,714,459
2017	7,805,257
2018	7,290,358

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Source: City's Annual Report for the fiscal year ended June 30, 2018.

## BOND RATING

S&P Global Ratings, a division of S&P Global Inc. (the “**Rating Agency**”), has assigned the Bonds a rating of “A+” (Stable Outlook) based on the creditworthiness of the City. The rating reflects only the view of the Rating Agency at the time the rating is given, and the Underwriter and the City make no representation as to the appropriateness of such rating. An explanation of the significance of the rating may be obtained from the Rating Agency.

The City has furnished the Rating Agency with certain information and materials relating to the Bonds and the City that have not been included in this Official Statement. Generally, rating agencies base their ratings on the information and materials so furnished and on investigations, studies and assumptions made by the rating agencies. There is no assurance that a particular rating will be maintained for any given period of time or that it will not be lowered or withdrawn entirely if, in the judgment of the rating agency originally establishing the rating, circumstances warrant.

The Underwriter has not undertaken any responsibility to bring to the attention of the holders of the Bonds any proposed revision or withdrawal of any rating of the Bonds or to oppose any such proposed revision or withdrawal. Pursuant to the Continuing Disclosure Undertaking, the City is required to bring to the attention of the holders of the Bonds any rating changes but has not undertaken any responsibility to disclose any rating revisions proposed by the Rating Agency or to oppose any such proposed revision or withdrawal of the rating of the Bonds. See the caption “**CONTINUING DISCLOSURE UNDERTAKING**” herein. Any downward revision or withdrawal of the rating may have an adverse effect on the market price and marketability of the Bonds.

## LEGAL MATTERS

### General

There is not now pending or, to the City's knowledge, threatened any litigation (1) seeking to restrain or enjoin the delivery of the Bonds, (2) challenging the proceedings or authority under which the Bonds are to be issued, (3) materially affecting the security for the Bonds, (4) challenging or threatening the City's powers to enter into or carry out the transactions contemplated by the Bond Ordinance and this Official Statement, or (5) that would otherwise materially adversely affect the City's financial condition or its ability to repay the Bonds.

## **Approval of Legality**

All legal matters incident to the authorization and issuance of the Bonds are subject to the approval of Gilmore & Bell, P.C., St. Louis, Missouri, Bond Counsel to the City. Bond Counsel has participated in the preparation of this Official Statement, but the factual and financial information appearing herein has been supplied or reviewed by certain officials of the City and certified public accountants, as referred to herein. Certain legal matters related to the Official Statement will be passed upon by Bond Counsel.

## **TAX MATTERS**

The following is a summary of the material federal and State of Missouri income tax consequences of holding and disposing of the Bonds. This summary is based upon laws, regulations, rulings and judicial decisions now in effect, all of which are subject to change (possibly on a retroactive basis). This summary does not discuss all aspects of federal income taxation that may be relevant to investors in light of their personal investment circumstances or describe the tax consequences to certain types of owners subject to special treatment under the federal income tax laws (for example, dealers in securities or other persons who do not hold the Bonds as a capital asset, tax-exempt organizations, individual retirement accounts and other tax deferred accounts, and foreign taxpayers), and, except for the income tax laws of the State of Missouri, does not discuss the consequences to an owner under any state, local or foreign tax laws. The summary does not deal with the tax treatment of persons who purchase the Bonds in the secondary market. Prospective investors are advised to consult their own tax advisors regarding federal, state, local and other tax considerations of holding and disposing of the Bonds.

### **Opinion of Bond Counsel**

In the opinion of Gilmore & Bell, P.C., Bond Counsel to the City, under the law existing as of the issue date of the Bonds:

***Federal and State of Missouri Tax Exemption.*** The interest on the Bonds (including any original issue discount properly allocable to an owner thereof) is excludable from gross income for federal income tax purposes and is exempt from income taxation by the State of Missouri.

***Alternative Minimum Tax.*** The interest on the Bonds is not an item of tax preference for purposes of computing the federal alternative minimum tax.

***Bank Qualification.*** The Bonds are “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code.

Bond Counsel’s opinions are provided as of the date of the original issue of the Bonds, subject to the condition that the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The City has covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal and State of Missouri income tax purposes retroactive to the date of issuance of the Bonds. Bond Counsel is expressing no opinion regarding other federal, state or local tax consequences arising with respect to the Bonds but has reviewed the discussion under the heading “**TAX MATTERS.**”

### **Other Tax Consequences**

***Original Issue Discount.*** For federal income tax purposes, original issue discount is the excess of the stated redemption price at maturity of a Bond over its issue price. The issue price of a Bond is generally the first price at which a substantial amount of the Bonds of that maturity have been sold to the public. Under

Section 1288 of the Code, original issue discount on tax-exempt bonds accrues on a compound basis. The amount of original issue discount that accrues to an owner of a Bond during any accrual period generally equals (1) the issue price of that Bond, plus the amount of original issue discount accrued in all prior accrual periods, multiplied by (2) the yield to maturity on that Bond (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), minus (3) any interest payable on that Bond during that accrual period. The amount of original issue discount accrued in a particular accrual period will be considered to be received ratably on each day of the accrual period, will be excludable from gross income for federal income tax purposes, and will increase the owner's tax basis in that Bond. Prospective investors should consult their own tax advisors concerning the calculation and accrual of original issue discount.

***Original Issue Premium.*** For federal income tax purposes, premium is the excess of the issue price of a Bond over its stated redemption price at maturity. The issue price of a Bond is generally the first price at which a substantial amount of the Bonds of that maturity have been sold to the public. Under Section 171 of the Code, premium on tax-exempt bonds amortizes over the term of the Bond using constant yield principles, based on the purchaser's yield to maturity. As premium is amortized, the owner's basis in the Bond and the amount of tax-exempt interest received will be reduced by the amount of amortizable premium properly allocable to the owner, which will result in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes on sale or disposition of the Bond prior to its maturity. Even though the owner's basis is reduced, no federal income tax deduction is allowed. Prospective investors should consult their own tax advisors concerning the calculation and accrual of bond premium.

***Sale, Exchange or Retirement of Bonds.*** Upon the sale, exchange or retirement (including redemption) of a Bond, an owner of the Bond generally will recognize gain or loss in an amount equal to the difference between the amount of cash and the fair market value of any property received on the sale, exchange or retirement of the Bond (other than in respect of accrued and unpaid interest) and such owner's adjusted tax basis in the Bond. To the extent a Bond is held as a capital asset, such gain or loss will be capital gain or loss and will be long-term capital gain or loss if the Bond has been held for more than 12 months at the time of sale, exchange or retirement.

***Reporting Requirements.*** In general, information reporting requirements will apply to certain payments of principal, interest and premium paid on the Bonds, and to the proceeds paid on the sale of the Bonds, other than certain exempt recipients (such as corporations and foreign entities). A backup withholding tax will apply to such payments if the owner fails to provide a taxpayer identification number or certification of foreign or other exempt status or fails to report in full dividend and interest income. The amount of any backup withholding from a payment to an owner will be allowed as a credit against the owner's federal income tax liability.

***Collateral Federal Income Tax Consequences.*** Prospective purchasers of the Bonds should be aware that ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Bonds. Bond Counsel expresses no opinion regarding these tax consequences. Purchasers of Bonds should consult their tax advisors as to the applicability of these tax consequences and other federal income tax consequences of the purchase, ownership and disposition of the Bonds, including the possible application of state, local, foreign and other tax laws.

## CONTINUING DISCLOSURE UNDERTAKING

The City has covenanted in the Continuing Disclosure Undertaking to file certain financial information and operating data relating to the City as described herein. Not later than the last day of the sixth month after the end of the City's fiscal year, commencing with the fiscal year ending June 30, 2019, the City shall file with the Municipal Securities Rulemaking Board (the "**MSRB**"), through the Electronic Municipal Market Access system ("**EMMA**"), the following financial information and operating data (the "**Annual Report**") (unless the City changes its fiscal year, in which case the City shall file the Annual Report by the last day of the sixth month after the end of the new fiscal year):

### Provision of Annual Reports

- (1) The audited financial statements of the City for the prior fiscal year, prepared in accordance with accounting principles generally accepted in the United States. If audited financial statements are not available by the time the Annual Report is required to be filed, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in this Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available.
- (2) Updates as of the end of the most recent fiscal year of the financial information and operating data set forth in the tables contained in this Official Statement under the following captions: "**THE SYSTEM – Customers and Usage,**" "**– Water Rates**" and "**– Collections,**" "**FINANCIAL AND OPERATING INFORMATION CONCERNING THE SYSTEM – Historical Debt Service Coverage,**" "**DEBT STRUCTURE OF THE CITY – Special Obligation Bonds**" and "**– Revenue Obligations**" and "**FINANCIAL INFORMATION CONCERNING THE CITY – Sources of Revenue**" and "**– Summary of General Fund Balances.**"

### Reporting of Material Events

Pursuant to the Continuing Disclosure Undertaking, within 10 business days after the occurrence of any of the following events, the City shall give, or cause to be given to the MSRB through EMMA, notice of the occurrence of any of the following events with respect to the Bonds ("**Material Events**"):

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions; the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of bondholders, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the City;
- (13) the consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business,

- the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of the trustee, if material;
  - (15) incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a financial obligation of the City, any of which affect bondholders, if material; and
  - (16) default, event of acceleration, termination event, modification of terms or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

### **Termination of Reporting Obligation**

The City's obligations under the Continuing Disclosure Undertaking with respect to the Bonds will terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds.

### **Dissemination Agent**

The City may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under the Continuing Disclosure Undertaking and may discharge any such dissemination agent, with or without appointing a successor dissemination agent. The dissemination agent will not be responsible in any manner for the content of any notice or report prepared by the City pursuant to the Continuing Disclosure Undertaking.

### **Additional Information**

Nothing in the Continuing Disclosure Undertaking will be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in the Continuing Disclosure Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by the Continuing Disclosure Undertaking. If the City chooses to include any information in any Annual Report or notice of occurrence of a Material Event in addition to that which is specifically required, the City will have no obligation to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

### **Default**

If the City fails to comply with any provision of the Continuing Disclosure Undertaking, the Underwriter or any Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under the Continuing Disclosure Undertaking. A default under the Continuing Disclosure Undertaking will not be deemed an event of default under the Bond Ordinance, and the sole remedy under the Continuing Disclosure Undertaking for the City's failure to comply is an action to compel performance.

### **Beneficiaries**

The Continuing Disclosure Undertaking shall inure solely to the benefit of the City, the Underwriter and Beneficial Owners from time to time of the Bonds and shall create no rights in any other person or entity.

### **Electronic Municipal Market Access System (EMMA)**

All Annual Reports and notices of Material Events required to be filed by the City pursuant to the Continuing Disclosure Undertaking must be submitted to the MSRB through EMMA. EMMA is an internet-based, online portal for free investor access to municipal bond information, including offering documents,

material event notices, real-time municipal securities trade prices and MSRB education resources, available at [www.emma.msrb.org](http://www.emma.msrb.org). Nothing contained on EMMA relating to the City or the Bonds is incorporated by reference in this Official Statement.

These covenants have been made in order to assist the Underwriter in complying with Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “**Rule**”). The Continuing Disclosure Undertaking is being entered into by the City to enhance the efficiency of the administration of the City’s obligations, including the Bonds, and to promote timely secondary market disclosure by the City.

### **Prior Compliance**

The City believes it has complied during the past five years with its prior undertakings under the Rule, except as follows:

- The City’s audited financial statements and operating data for the fiscal year ended June 30, 2015, were not properly linked to the City’s Special Obligation Refunding Bonds, Series 2015B.
- The City’s operating data for the fiscal year ended June 30, 2015 did not include the City’s restaurant license tax collections.
- Although the City timely filed its unaudited financial statements for the fiscal year ended June 30, 2016, the City did not promptly file its audited financial statements for that fiscal year after they became available (the audited financial statements were filed on December 22, 2017).
- Although the City timely filed its unaudited financial statements for the fiscal year ended June 30, 2017, the City did not promptly file its audited financial statements for that fiscal year after they became available (the audited financial statements were filed on July 23, 2018).

On September 4, 2018, the City engaged Gilmore & Bell, P.C. to assist the City with complying with the City’s continuing disclosure obligations.

## **MISCELLANEOUS**

### **Financial Statements**

Audited financial statements of the City, as of and for the fiscal year ended June 30, 2018, are included in *Appendix A* to this Official Statement. These financial statements have been audited by Beussink, Hey, Roe & Stroder, L.L.C., Cape Girardeau, Missouri.

### **Municipal Advisor**

Piper Jaffray & Co., Leawood, Kansas, has been employed by the City as municipal advisor (the “**Municipal Advisor**”) to provide certain professional services in connection with the Bonds. The Municipal Advisor has not undertaken an independent investigation into the accuracy of the information presented in this Official Statement.

### **Underwriting**

Based upon bids received by the City on September 16, 2019, the Bonds were awarded to \_\_\_\_\_ (the “**Underwriter**”). The Bonds are being purchased for reoffering by the Underwriter. The Underwriter has agreed to purchase the Bonds from the City at a price equal to \$\_\_\_\_\_, (representing the par amount of the Bonds, less an underwriter’s discount of \$\_\_\_\_\_, plus original issue



premium of \$\_\_\_\_\_). The Underwriter is purchasing the Bonds from the City for resale in the normal course of the Underwriter's business activities. The Underwriter may sell certain of the Bonds at a price greater than such purchase price, as shown on the inside cover page hereof. The Underwriter reserves the right to offer any of the Bonds to one or more purchasers on such terms and conditions and at such price or prices as the Underwriter, in its discretion, shall determine. The Underwriter reserves the right to join with dealers and other purchasers in offering the Bonds to the public. The Underwriter may offer and sell Bonds to certain dealers (including dealers depositing Bonds into investment trusts) at prices lower than the public offering prices.

#### **Certification and Other Matters Regarding Official Statement**

The references, excerpts and summaries of all documents referred to herein do not purport to be complete statements of the provisions of such documents, and reference is made to all such documents for full and complete statements of all matters of fact relating to the Bonds, the security for the payment of the Bonds and the rights of the Owners thereof. During the period of the offering, copies of drafts of such documents may be examined at the office of the Municipal Advisor; following delivery of the Bonds, copies of such documents may be examined at the principal payment office of the Paying Agent. The information contained in this Official Statement has been compiled from official and other sources that are deemed to be reliable, and while not guaranteed as to completeness or accuracy, is believed to be correct as of this date.

Any statement made in this Official Statement involving matters of opinion or of estimates, whether or not expressly so stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the information presented herein since the date hereof. This Official Statement is not to be construed as a contract or agreement between the City, the Paying Agent, or the Underwriter and the purchasers or Owners of any Bonds.

The form of this Official Statement, and its distribution and use by the Underwriter, have been approved by the City. Neither the City nor any of its officers, directors or employees, in either their official or personal capacities, has made any warranties, representations or guarantees regarding the financial condition of the City or the City's ability to make payments required of it; and further, neither the City nor its officers, directors or employees assumes any duties, responsibilities or obligations in relation to the issuance of the Bonds other than those either expressly or by fair implication imposed on the City by the Bond Ordinance.

#### **CITY OF CAPE GIRARDEAU, MISSOURI**

By: \_\_\_\_\_  
City Manager

**APPENDIX A**  
**ANNUAL FINANCIAL REPORT**

## **APPENDIX B**

### **SUMMARY OF THE BOND ORDINANCE**

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**CONTINUING DISCLOSURE UNDERTAKING**

**Dated as of October 1, 2019**

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**by the**

**CITY OF CAPE GIRARDEAU, MISSOURI**

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**\$[\*\*PRINCIPAL AMOUNT\*\*]  
Waterworks System Refunding Revenue Bonds  
Series 2019**

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## CONTINUING DISCLOSURE UNDERTAKING

This **CONTINUING DISCLOSURE UNDERTAKING** dated as of October 1, 2019 (this “*Undertaking*”), is executed and delivered by the **CITY OF CAPE GIRARDEAU, MISSOURI** (the “*City*”).

### RECITALS

1. This Undertaking is executed and delivered in connection with the issuance by the City of \$[\*\*PRINCIPAL AMOUNT\*\*] aggregate principal amount of Waterworks System Refunding Revenue Bonds, Series 2019 (the “*Bonds*”), pursuant to Ordinance No. \_\_\_\_\_ adopted by the governing body of the City on September 16, 2019 (the “*Ordinance*”).

2. The City is entering into this Undertaking for the benefit of the Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the “*Rule*”). The City is the only “*obligated person*” (as defined by the Rule) with responsibility for continuing disclosure hereunder.

In consideration of the foregoing, the City covenants and agrees as follows:

**Section 1. Definitions.** In addition to the definitions set forth in the Ordinance, which apply to any capitalized term used in this Undertaking unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” means any Annual Report filed by the City pursuant to, and as described in, **Section 2** of this Undertaking.

“*Beneficial Owner*” means any registered owner of any Bonds and any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“*Business Day*” means a day other than (a) a Saturday, Sunday or legal holiday, (b) a day on which banks located in any city in which the principal corporate trust office or designated payment office of the trustee, any paying agent or the Dissemination Agent, as applicable, is located are required or authorized by law to remain closed, or (c) a day on which the Securities Depository or the New York Stock Exchange is closed.

“*Dissemination Agent*” means any entity designated in writing by the City to serve as dissemination agent pursuant to this Undertaking and which has filed with the City a written acceptance of such designation.

“*EMMA*” means the Electronic Municipal Market Access system for municipal securities disclosures established and maintained by the MSRB, which can be accessed at [www.emma.msrb.org](http://www.emma.msrb.org).

“*Financial Obligation*” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;

or (c) guarantee of (a) or (b) in this definition; *provided however*, the term Financial Obligation shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“*Fiscal Year*” means the 12-month period beginning on **July 1** and ending on **June 30** or any other 12-month period selected by the City as its Fiscal Year for financial reporting purposes.

“*Material Events*” means any of the events listed in **Section 3** of this Undertaking.

“*MSRB*” means the Municipal Securities Rulemaking Board, or any successor repository designated as such by the Securities and Exchange Commission in accordance with the Rule.

“*Participating Underwriter*” means any of the original underwriter(s) of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

## ***Section 2. Provision of Annual Reports.***

(a) The City shall, not later than the last day of the **sixth** month after the end of the City’s Fiscal Year, commencing with the Fiscal Year ending June 30, 2019, file with the MSRB, through EMMA, the following financial information and operating data (the “*Annual Report*”):

(1) The audited financial statements of the City for the prior Fiscal Year, prepared in accordance with accounting principles generally accepted in the United States. If audited financial statements are not available by the time the Annual Report is required to be filed pursuant to this Section, the Annual Report shall contain unaudited financial statements in a format similar to the audited financial statements contained in the final Official Statement relating to the Bonds, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available.

(2) Updates as of the end of the Fiscal Year of certain financial information and operating data contained in the final Official Statement relating to the Bonds, as described in **Exhibit A**, in substantially the same format contained in the final Official Statement with such adjustments to formatting or presentation determined to be reasonable by the City; provided, any substantive change to information provided shall be effected only in accordance with **Section 6**.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an “*obligated person*” (as defined by the Rule), which have been filed with the MSRB and are available through EMMA or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the MSRB on EMMA. The City will clearly identify each such other document so included by reference.

In each case, the Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in this Section; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the City’s Fiscal Year changes, it will give notice of the change in the same manner as for a Material Event under **Section 3**.

(b) The Annual Report will be filed with the MSRB in such manner and format as is prescribed by the MSRB.

(c) In addition to the foregoing requirements of this Section, the City agrees to provide copies of the most recent Annual Report to any requesting Beneficial Owner or prospective Beneficial Owner, but only after the same has been filed with the MSRB on EMMA.

***Section 3. Reporting of Material Events.***

Not later than **10** Business Days after the occurrence of any of the following events, the City shall give, or cause to be given, to the MSRB, through EMMA, notice of the occurrence of any of the following events with respect to the Bonds ("*Material Events*"):

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions; the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of bondholders, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the obligated person;
- (13) the consummation of a merger, consolidation or acquisition involving the obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of the trustee, if material;

(15) incurrence of a Financial Obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights or other similar terms of a Financial Obligation of the obligated person, any of which affect bondholders, if material; and

(16) default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the obligated person, any of which reflect financial difficulties.

If the City has not submitted the Annual Report to the MSRB by the date required in **Section 2(a)**, the City shall send a notice to the MSRB of the City's failure to file the Annual Report on a timely basis, in accordance with this **Section 3**.

**Section 4. Termination of Reporting Obligation.** The City's obligations under this Undertaking shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If the City's obligations under this Undertaking are assumed in full by some other entity, such entity shall be responsible for compliance with this Undertaking in the same manner as if it were the City, and the City shall have no further responsibility hereunder. If such assumption occurs prior to the final maturity of the Bonds, the City shall give notice of such assumption in the same manner as for a Material Event under **Section 3**.

**Section 5. Dissemination Agent.** The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Undertaking and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign as dissemination agent hereunder at any time upon **30** days prior written notice to the City. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report (including without limitation the Annual Report) prepared by the City pursuant to this Undertaking.

**Section 6. Amendment; Waiver.**

(a) Notwithstanding any other provision of this Undertaking, the City may amend this Undertaking and any provision of this Undertaking may be waived, provided that Bond Counsel or other counsel experienced in federal securities law matters provides the City with its written opinion that the undertaking of the City contained herein, as so amended or after giving effect to such waiver, is in compliance with the Rule and all current amendments thereto and interpretations thereof that are applicable to this Undertaking.

(b) In the event of any amendment or waiver of a provision of this Undertaking, the City shall describe such amendment or waiver in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (1) notice of such change shall be given in the same manner as for a Material Event under **Section 3**, and (2) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.



**Section 7. Additional Information.** Nothing in this Undertaking will be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is required by this Undertaking. If the City chooses to include any information in any Annual Report or notice of occurrence of a Material Event, in addition to that which is specifically required by this Undertaking, the City will have no obligation under this Undertaking to update such information or include it in any future Annual Report or notice of occurrence of a Material Event.

**Section 8. Default.** If the City fails to comply with any provision of this Undertaking, any Participating Underwriter or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Undertaking. A default under this Undertaking will not be deemed an event of default under the Ordinance or the Bonds, and the sole remedy under this Undertaking if there is any failure of the City to comply with this Undertaking will be an action to compel performance.

**Section 9. Beneficiaries.** This Undertaking shall inure solely to the benefit of the City, the Participating Underwriter and the Beneficial Owners from time to time of the Bonds and shall create no rights in any other person or entity.

**Section 10. Severability.** If any provision in this Undertaking, the Ordinance or the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 11. Electronic Transactions.** The arrangement described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 12. Governing Law.** This Undertaking shall be governed by and construed in accordance with the laws of the State of Missouri.

[Remainder of Page Intentionally Left Blank.]

**IN WITNESS WHEREOF**, the City has caused this Undertaking to be executed as of the day and year first above written.

**CITY OF CAPE GIRARDEAU, MISSOURI**

By: \_\_\_\_\_  
Title: Mayor

## **EXHIBIT A**

### **REQUIRED CONTENT OF ANNUAL REPORT**

- 1. Audited financial statements of the City for the Fiscal Year.**
- 2. Financial information and operating data set forth in the tables contained in the following-captioned sections of the Official Statement, updated as of the end of the Fiscal Year:**
  - (1) THE SYSTEM – Customers and Usage.**
  - (2) THE SYSTEM – Water Rates.**
  - (3) THE SYSTEM – Collections.**
  - (4) FINANCIAL AND OPERATING INFORMATION CONCERNING THE SYSTEM – Historical Debt Service Coverage.**
  - (5) DEBT STRUCTURE OF THE CITY – Special Obligation Bonds.**
  - (6) DEBT STRUCTURE OF THE CITY – Revenue Obligations.**
  - (7) FINANCIAL INFORMATION CONCERNING THE CITY – Sources of Revenue.**
  - (8) FINANCIAL INFORMATION CONCERNING THE CITY – Summary of General Fund Balances.**

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**ESCROW TRUST AGREEMENT**

**Dated as of October 1, 2019**

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**Between the**

**CITY OF CAPE GIRARDEAU, MISSOURI**

**and**

**UMB BANK, N.A.,  
as Escrow Agent**

**Entered in Connection with the Refunding and/or Payment and Discharge  
of Certain Maturities of the City's Waterworks System Refunding Revenue Bonds, Series 2012A**

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## ESCROW TRUST AGREEMENT

**THIS ESCROW TRUST AGREEMENT** dated as of October 1, 2019 (the “Agreement”), between the **CITY OF CAPE GIRARDEAU, MISSOURI** (the “City”), and **UMB BANK, N.A.**, a national banking association duly organized and existing under the laws of the United States of America, with a corporate trust office located in St. Louis, Missouri, and having full trust powers, as escrow agent (the “Escrow Agent”).

### RECITALS:

1. The City has heretofore duly authorized and issued, among others, \$13,955,000 aggregate principal amount of Waterworks System Refunding Revenue Bonds, Series 2012A, dated April 17, 2012 (the “Series 2012A Bonds”), which are currently outstanding in the principal amount of \$9,905,000.

2. The City desires to currently refund all of the outstanding Series 2012A Bonds maturing on January 1, 2021 and thereafter, in the aggregate principal amount of \$9,285,000 (the “Refunded Bonds”).

3. The Refunded Bonds will mature (or will be subject to redemption prior to maturity) in the amounts and on the dates shown on **Schedule 1** attached hereto.

4. Pursuant to an ordinance adopted by the City on September 16, 2019 (the “Refunding Bond Ordinance”), the City has heretofore authorized the issuance and delivery of \$[\*\*PRINCIPAL AMOUNT\*\*] principal amount of Waterworks System Refunding Revenue Bonds, Series 2019 (the “Refunding Bonds”), a portion of the proceeds of which, together with other legally available funds of the City, will be used to refund the Refunded Bonds.

5. With a portion of the proceeds of the sale of the Refunding Bonds, the City intends to provide for the payment of the principal of and redemption premium, if any, on the Refunded Bonds through the purchase of non-callable United States Treasury Obligations described in **Schedule 2** attached hereto.

**NOW, THEREFORE**, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

**Section 1. Definitions.** The following words and terms used in this Agreement shall have the following meanings:

“**Agreement**” means this Escrow Trust Agreement.

“**Bond Counsel**” means Gilmore & Bell, P.C., or other firm of attorneys nationally recognized on the subject of municipal bonds.

“**Bond Payment Date**” means any date on which any principal of the Refunded Bonds is due and payable, including the Redemption Date.

“**City**” means the City of Cape Girardeau, Missouri.

“**Code**” means the Internal Revenue Code of 1986, as amended.

**“Escrow Agent”** means UMB Bank, N.A., St. Louis, Missouri, and its successor or successors at the time acting as the Escrow Agent under this Agreement.

**“Escrow Fund”** means the fund by that name referred to in **Section 3** hereof.

**“Escrowed Securities”** means the direct non-callable obligations of the United States of America listed on **Schedule 2** attached hereto and any Substitute Escrowed Securities.

**“Paying Agent”** means UMB Bank, N.A., St. Louis, Missouri, and any successor or successors at the time acting as paying agent for the Refunded Bonds.

**“Redemption Date”** means January 1, 2020.

**“Refunded Bonds”** means the Series 2012A Bonds maturing in 2021 and thereafter, in the aggregate principal amount of \$9,285,000.

**“Refunding Bond Ordinance”** means the Ordinance adopted by the City Council on September 16, 2019, authorizing the issuance of the Refunding Bonds.

**“Refunding Bonds”** means the \$[\*\*PRINCIPAL AMOUNT\*\*] Waterworks System Refunding Revenue Bonds, Series 2019, authorized and issued by the City pursuant to the Refunding Bond Ordinance.

**“Series 2012A Bond Ordinance”** means Ordinance No. 4305 of the City passed on April 2, 2012, which authorized the issuance of the Series 2012A Bonds.

**“Series 2012A Bonds”** means the City’s \$13,955,000 original principal amount of Waterworks System Refunding Revenue Bonds, Series 2012A.

**“Substitute Escrowed Securities”** means non-callable direct obligations of the United States of America which have been acquired by the Escrow Agent and substituted for Escrowed Securities in accordance with **Section 7** hereof.

**Section 2. Receipt of Documents.** The Escrow Agent hereby acknowledges receipt of true and correct copies of the Refunding Bond Ordinance and the Series 2012A Bond Ordinance as certified by the City Clerk, and reference herein to or citation herein of any provisions of said documents shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if they were fully set forth herein.

**Section 3. Creation of Escrow Fund.** There is hereby created and established with the Escrow Agent the following special and irrevocable trust fund to be held in the custody of the Escrow Agent and designated the “Escrow Fund for the City of Cape Girardeau, Missouri, Waterworks System Refunding Revenue Bonds, Series 2012A” (the “Escrow Fund”).

**Section 4. Deposits to the Escrow Fund.** Concurrently with the execution and delivery of this Agreement and pursuant to the provisions of the Refunding Bond Ordinance, the City herewith deposits with the Escrow Agent, and the Escrow Agent acknowledges receipt and deposit into the Escrow Fund \$\_\_\_\_\_ (consisting of \$\_\_\_\_\_ from the debt service account for the Series 2012A Bonds and \$\_\_\_\_\_ of proceeds of the sale of the Refunding Bonds). The Escrow Agent shall apply such amount as follows:

(a) \$\_\_\_\_\_ shall be used to purchase the Escrowed Securities described in **Schedule 2** hereto, which shall be delivered to and deposited in the Escrow Fund.

(b) \$\_\_\_\_\_ shall be held uninvested in the Escrow Fund as a beginning cash balance.

**Section 5. Creation of Lien.** The escrow created hereby shall be irrevocable. The holders of the Refunded Bonds are hereby given an express lien on and security interest in the Escrowed Securities and the cash in the Escrow Fund and all earnings thereon until used and applied in accordance with this Agreement. The matured principal of and earnings on the Escrowed Securities and any cash in the Escrow Fund are hereby pledged and assigned and except as otherwise provided herein shall be applied solely for the payment of the principal of and redemption premium, if any, on the Refunded Bonds.

**Section 6. Application of Cash and Escrowed Securities in the Escrow Fund.**

(a) Except as otherwise expressly provided in this Section or in **Section 7** hereof, the Escrow Agent shall have no power or duty to invest any cash held hereunder or to sell, transfer or otherwise dispose of any Escrowed Securities.

(b) On or prior to each Bond Payment Date, the Escrow Agent shall withdraw from the Escrow Fund an amount equal to the principal of and redemption premium, if any, on the Refunded Bonds becoming due and payable on such Bond Payment Date, as set forth in **Schedule 1** attached hereto, and shall forward such amount to the office of the Paying Agent, so that immediately available funds will reach the office of the Paying Agent on or before 12:00 Noon, Central Time, on such Bond Payment Date. In order to make the payments required by this subsection, the Escrow Agent is hereby authorized to redeem or otherwise dispose of Escrowed Securities in accordance with the maturity schedules in **Schedule 2** attached hereto. The liability of the Escrow Agent to make the payments required by this subsection shall be limited to the cash and Escrowed Securities in the Escrow Fund.

(c) Notwithstanding any other provisions of this Agreement, the City and the Escrow Agent hereby covenant that no part of the proceeds of the Refunding Bonds or of the money or funds in the Escrow Fund shall be used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of the Refunding Bonds would have caused any of the Refunding Bonds to be an "arbitrage bond" under Section 148 of the Code, provided, however, that the Escrow Agent shall be deemed in full compliance with this **Section 6(c)** upon following the direction of the City and the terms of this Agreement.

(d) Upon the payment in full of the principal of and redemption premium, if any, on the Refunded Bonds, all remaining cash and Escrowed Securities in the Escrow Fund, together with any interest thereon, shall be transferred by the Escrow Agent to the City for deposit in the Debt Service Fund.

(e) Cash held from time to time in the Escrow Fund shall be held uninvested.

**Section 7. Substitute Escrowed Securities.**

(a) If any of the Escrowed Securities are not available for delivery on the date of the issuance of the Refunding Bonds, the Escrow Agent is directed to accept substitute securities in lieu thereof, provided: (1) the substitute securities are non-callable direct obligations of the United States of America; (2) the maturing principal of and interest on such substitute securities is equal to or greater than the maturity value of such unavailable Escrowed Securities; (3) principal of and interest on the substitute

securities is payable on or before the maturity date of the unavailable Escrowed Securities; and (4) the City and Bond Counsel approve such substitution in writing. If the original Escrowed Securities become available and are tendered to the Escrow Agent by or on behalf of the original purchaser of the Refunding Bonds, the Escrow Agent shall accept such Escrowed Securities, shall return the substitute securities as directed in writing by such original purchaser and shall notify Bond Counsel and the City of the transaction.

(b) At the written request of the City and upon compliance with the conditions hereinafter stated, the Escrow Agent shall have the power to sell, transfer, request the redemption of or otherwise dispose of the Escrowed Securities and to substitute for the Escrowed Securities solely cash or Substitute Escrowed Securities. The Escrow Agent shall purchase such Substitute Escrowed Securities with the proceeds derived from the sale, transfer, disposition or redemption of the Escrowed Securities together with any other funds available for such purpose. The substitution may be effected only if: (1) the substitution of the Substitute Escrowed Securities for the original Escrowed Securities occurs simultaneously; (2) the Escrow Agent receives a certification from an independent certified public accountant to the effect that after such substitution, (A) the principal of and interest on the Escrowed Securities to be held in the Escrow Fund after giving effect to the substitution (including Substitute Escrowed Securities to be acquired), together with any other money to be held in the Escrow Fund after such transaction, will be sufficient to pay all remaining principal of and redemption premium, if any, on the Refunded Bonds as set forth on **Schedule 1** hereto, and (B) the amounts and dates of the anticipated transfers from the Escrow Fund to the Paying Agent for the Refunded Bonds will not be diminished or postponed thereby; and (3) the Escrow Agent receives a written opinion of Bond Counsel to the effect that such substitution is permitted under this Agreement and will not cause the interest on either the Refunding Bonds or the Refunded Bonds to become included in gross income for purposes of federal income taxation under then existing law. If any such substitution results in cash held in the Escrow Fund in excess of the amount required to fully fund the escrow, as certified in (2) above, the Escrow Agent shall, at the written request of the City, withdraw such excess from the Escrow Fund and pay such excess to the City for deposit in the Debt Service Fund, to be applied as provided by law; provided that, a written opinion of Bond Counsel shall be delivered to the Escrow Agent to the effect that such withdrawal and application will not be contrary to State law and will not cause the interest on the Refunding Bonds or the Refunded Bonds to become included in gross income for purposes of federal income taxation.

## **Section 8. Redemption of Refunded Bonds.**

(a) Pursuant to the Series 2012A Bond Ordinance and the Refunding Bond Ordinance, the City has elected to call the Refunded Bonds for redemption and payment prior to maturity on the Redemption Date. In accordance with the provisions of the Series 2012A Bond Ordinance, the City has provided the Paying Agent with irrevocable instructions to provide notice of redemption of the Refunded Bonds as required by the Series 2012A Bond Ordinance.

(b) The City hereby directs the Escrow Agent to direct the Paying Agent in writing, not more than 90 days prior to the Redemption Date, to give additional notice of redemption of the Refunded Bonds as provided in the Series 2012A Bond Ordinance, said notice to be given not more than 60 days nor less than 30 days prior to the Redemption Date of the Refunded Bonds, it being understood, however, that said additional notice is for convenience in facilitating said redemption and failure to give any such notice shall not affect the validity of the call for redemption of the Refunded Bonds. The City hereby directs the Escrow Agent to take such further action as may be necessary under the Series 2012A Bond Ordinance to redeem the Refunded Bonds in the principal amounts and at the times set forth in **Schedule 1** hereof.



**Section 9. Reports of the Escrow Agent.** As long as any of the Refunded Bonds have not been paid in full, the Escrow Agent shall, at least 60 days prior to each Bond Payment Date, determine the amount of money which will be available in the Escrow Fund to pay the principal of and redemption premium, if any, on the Refunded Bonds on the next Bond Payment Date. If the Escrow Agent determines that sufficient funds will not be available on such Bond Payment Date to pay the principal of and redemption premium, if any, on the Refunded Bonds, then the Escrow Agent shall certify in writing to the City the amount so determined and shall provide a list of the money and Escrowed Securities held by it in the Escrow Fund on the date of such certification.

**Section 10. Liability of Escrow Agent.**

(a) The Escrow Agent shall not be liable for any loss resulting from any investment, sale, transfer or other disposition made pursuant to this Agreement in compliance with the provisions hereof. The Escrow Agent shall have no lien whatsoever on any of the money or Escrowed Securities on deposit in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Agent under this Agreement or otherwise.

(b) The Escrow Agent shall not be liable for the accuracy of the calculations as to the sufficiency of the Escrowed Securities and money to pay the Refunded Bonds. So long as the Escrow Agent applies the Escrowed Securities and money as provided herein, the Escrow Agent shall not be liable for any deficiencies in the amounts necessary to pay the Refunded Bonds caused by such calculations. Notwithstanding the foregoing, the Escrow Agent shall not be relieved of liability arising from and proximate to its failure to comply fully with the terms of this Agreement.

(c) If the Escrow Agent fails to account for any of the Escrowed Securities or money received by it, said Escrowed Securities or money shall be and remain the property of the City in trust for the holders of the Refunded Bonds, and, if for any reason such Escrowed Securities or money are not applied as herein provided, the assets of the Escrow Agent shall be impressed with a trust for the amount thereof until the required application shall be made.

(d) The Escrow Agent shall not be responsible for any action or failure to take action on the part of the Paying Agent.

(e) The Escrow Agent may rely and shall be protected in acting upon or refraining from acting upon in good faith any ordinance, certificate, statement, instrument, opinion, report, notice, request, direction, consent, verification, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(f) The Escrow Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement.

(g) No provision of this Agreement shall be construed to relieve the Escrow Agent from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that the Escrow Agent shall not be liable for any error of judgment made in good faith by an authorized officer, employee or agent of the Escrow Agent, unless it shall be proved that the Escrow Agent was negligent in ascertaining the pertinent facts.

(h) Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Escrow Agent shall be subject to the provisions of this section.

## **Section 11. Fees and Costs of the Escrow Agent.**

(a) The aggregate amount of the costs and fees of the Escrow Agent in connection with the creation of the escrow described in and created by this Agreement and in carrying out any of the duties, terms or provisions of this Agreement is \$\_\_\_\_, which amount shall be paid by the City upon receipt of an invoice from the Escrow Agent.

(b) In addition, the Escrow Agent shall be entitled to reimbursement from the City of reasonable out-of-pocket, legal or extraordinary expenses incurred in carrying out the duties, terms or provisions of this Agreement. Claims for such reimbursement may be made to the City and in no event shall such reimbursement be made from funds held by the Escrow Agent pursuant to this Agreement.

## **Section 12. Resignation or Removal of Escrow Agent; Successor Escrow Agent.**

(a) The Escrow Agent at the time acting hereunder may at any time resign and be discharged from its duties and responsibilities hereby created by giving written notice by registered or certified mail to the City and to the Paying Agent (who shall cause notice to be given to all of the owners of record of the Refunded Bonds) not less than 60 days prior to the date when the resignation is to take effect. Such resignation shall take effect immediately upon the City's acceptance of the resignation, the City's appointment of a successor Escrow Agent (which may be a temporary Escrow Agent), the acceptance of such successor Escrow Agent of the terms, covenants and conditions of this Agreement, the transfer of the Escrow Fund, including the cash and Escrowed Securities held therein, to such successor Escrow Agent and the completion of any other actions required for the principal of and interest on the Escrowed Securities to be made payable to such successor Escrow Agent rather than the resigning Escrow Agent.

(b) The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and the City and signed by the owners of a majority in principal amount of the Refunded Bonds then outstanding; provided that written notice thereof is mailed by or on behalf of the City on or before the date of such removal by registered or certified mail, postage prepaid, to all registered owners of such Refunded Bonds, who are not parties to such instruments. The Escrow Agent may also be removed by the City if the Escrow Agent fails to make timely payment on any Bond Payment Date to the Paying Agent of the amounts required to be paid by it on such Bond Payment Date by **Section 6(b)** hereof; provided that written notice thereof is mailed by or on behalf of the City on or before the date of such removal by registered or certified mail, postage prepaid, to the Paying Agent and to all registered owners of the Refunded Bonds then outstanding. Any removal pursuant to this paragraph shall become effective upon the appointment of a successor Escrow Agent (which may be a temporary successor Escrow Agent) by the City, the acceptance of such successor Escrow Agent of the terms, covenants and conditions of this Agreement, the transfer of the Escrow Fund, including the cash and Escrowed Securities held therein, to such successor Escrow Agent and the completion of any other actions required for the principal of and interest on the Escrowed Securities to be made payable to such successor Escrow Agent rather than the Escrow Agent being removed.

(c) If the Escrow Agent resigns or is removed, or is dissolved, or is in the course of dissolution or liquidation, or otherwise becomes incapable of acting hereunder, or if the Escrow Agent is taken under the control of any public officer or officers, or of a receiver appointed by a court, the City shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent is appointed by the City in the manner above provided, and any such temporary Escrow Agent so appointed by the City shall immediately and without further act be superseded by the successor Escrow Agent so appointed.

(d) If no appointment of a successor Escrow Agent or a temporary successor Escrow Agent has been made by such holders or the City pursuant to the foregoing provisions of this Section within 60 days after written notice of resignation of the Escrow Agent has been given to the City, the holder of any of the Refunded Bonds or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

(e) No successor Escrow Agent shall be appointed unless such successor Escrow Agent is a corporation with trust powers authorized to do business in the State of Missouri and organized under the banking laws of the United States or the State of Missouri and has at the time of appointment capital and surplus of not less than \$25,000,000.

(f) Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the City an instrument in writing accepting such appointment hereunder, and thereupon such successor Escrow Agent without any further act, deed or conveyance shall become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor, but such predecessor shall, nevertheless, on the written request of such successor Escrow Agent or the City, execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trusts of such predecessor hereunder, and every predecessor Escrow Agent shall deliver all securities and money held by it to its successor. Should any transfer, assignment or instrument in writing from the City be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(g) Any corporation into which the Escrow Agent, or any successor to it of the duties and responsibilities created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or reorganization to which the Escrow Agent or any successor to it may be a party, or any entity to which the Escrow Agent may sell or transfer all or substantially all of its corporate trust business, shall, if satisfactory to the City, be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of the parties hereto, anything herein to the contrary notwithstanding.

**Section 13. Limitation on Liability of the City.** The City shall not be liable (a) for any loss resulting from any investment made pursuant to this Agreement, (b) for the accuracy of the calculations as to the sufficiency of the Escrowed Securities and money in the Escrow Fund to pay the principal of and redemption premium, if any, on the Refunded Bonds, or (c) for any acts of the Escrow Agent.

**Section 14. Amendments to this Agreement.** This Agreement is made for the City's benefit and the holders from time to time of the Refunded Bonds, and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Agent and the City; provided, however, that the City and the Escrow Agent may, without the consent of or notice to such holders, enter into agreements supplemental to this Agreement if such supplemental agreements do not adversely affect the rights of such holders and are not inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Agreement;

(b) to grant to, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and

(c) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified written opinion of Bond Counsel with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section.

**Section 15. Termination.** This Agreement shall terminate when all transfers required to be made by the Escrow Agent under the provisions hereof shall have been made.

**Section 16. Notices.** Except as otherwise provided herein, it shall be sufficient service of any notice, request, complaint, demand or other paper required by the Refunding Bond Ordinance, the Series 2012A Bond Ordinance or this Agreement to be given to or filed with the following parties if the same is duly mailed by certified or registered mail (return receipt requested) addressed:

(a) To the City at:

City of Cape Girardeau, Missouri  
401 Independence Street  
P.O. Box 617  
Cape Girardeau, Missouri 63702  
Attention: Finance Director

(b) To the Paying Agent and Escrow Agent at:

UMB Bank, N.A.  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attention: Corporate Trust Department

**Section 17. Indemnification.**

(a) Except as provided in **Section 13** hereof, and only to the extent permitted by law, the City hereby assumes liability for and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and hold harmless the Escrow Agent and its respective successors, assigns, agents and servants from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, at any time, the Escrow Agent (whether or not also indemnified against the same by the City or any other person under any other agreement or instrument) and in any way relating to or arising out of the execution and delivery of this Agreement, the establishment of the Escrow Fund established hereunder, the acceptance of the cash and securities deposited therein, the purchase of the Escrowed Securities, the retention of the Escrowed Securities or the proceeds thereof and any payment, transfer or other application of cash or securities by the Escrow Agent in accordance with the provisions of this Agreement; provided however, that the City shall not be required to indemnify the Escrow Agent against its own negligence or willful misconduct. In no event shall the City be liable to any person by reason of

the transactions contemplated hereby other than to the Escrow Agent as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

(b) Except as provided in **Section 10** hereof, the Escrow Agent and its respective successors, assigns, agents, directors, officers, employees and servants shall not be held to any personal liability whatsoever, in tort, contract or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the money deposited therein, the purchase of the Escrowed Securities, the retention of the Escrowed Securities or the proceeds thereof or any payment, transfer or other application of the money or Escrowed Securities held by the Escrow Agent in accordance with the provisions of this Agreement or by reason of any non-negligent act, omission or error of the Escrow Agent made in good faith in the conduct of its duties. The duties and obligations of the Escrow Agent shall be determined by the express provisions of this Agreement. The Escrow Agent may consult with counsel who may or may not be counsel to the City and in reliance upon the opinions of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the City.

**Section 18. Severability.** If any one or more of the covenants or agreements provided in this Agreement on the part of the City or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

**Section 19. Successors and Assigns.** All of the covenants, promises and agreements in this Agreement contained by or on behalf of the City or the Escrow Agent shall be binding upon and inure to the benefit of their respective successors and assigns whether so expressed or not.

**Section 20. Electronic Storage.** The transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 21. Governing Law.** This Agreement shall be governed by the applicable law of the State of Missouri.

**Section 22. Counterparts.** This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[Remainder of Page Intentionally Left Blank.]

**IN WITNESS WHEREOF**, the parties hereto have each caused this Agreement to be executed by their duly authorized officers or elected officials as of the date first above written.

**CITY OF CAPE GIRARDEAU, MISSOURI**

\_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

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

**UMB BANK, N.A.,**  
as Escrow Agent

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

**SCHEDULE 1  
TO ESCROW TRUST AGREEMENT**

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**BOND PAYMENT SCHEDULE FOR THE REFUNDED BONDS**

<b><u>Bond Payment Date</u></b>	<b><u>Amount</u></b>
01/01/2020	\$9,285,000.00



**SCHEDULE 2  
TO ESCROW TRUST AGREEMENT**

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**SCHEDULE OF ESCROWED SECURITIES**

**Staff:** Bruce W. Loy, Airport Manager  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-206**

**SUBJECT**

Amendment #1 to the hangar facility lease with DSW Development Corporation to reduce the size of the land lease associated with the hangar lease and adjust the terms of termination.

**EXECUTIVE SUMMARY**

DSW Development Corporation desires to lease land to the west of their current hangar in order to build a new hangar facility. Their current hangar was leased to them by the City of Cape Girardeau after their land lease expired, and the facility reverted back to the City. In order to provide enough land availability to the west of their current hangar, their current land lease needs to be reduced by 9,538 square feet. This Amendment #1 to their current hangar lease will provide that reduction without any loss in revenue to the City. Additionally, the attached Amendment #1 revises the terms of termination.

**BACKGROUND/DISCUSSION**

In February, 1981, the Drury Development Corporation (Drury) entered into an agreement with the City of Cape Girardeau to lease land in an effort to build a hangar for their aircraft. That lease, which included total terms of 25 years, expired in January, 2006. Following negotiations with the Airport, on June 19, 2006, the City leased their hangar and the property it sits on back to the Drury's. The terms of that agreement were for a ten (10) year initial term with two (2) additional five (5) year options. We are currently in the first, five (5) year optional term of that agreement.

Recently, the Drury's have announced plans to build a new hangar, to be located just West of their current hangar. During negotiations for that facility, we discovered that the current hangar lease includes 9,538 square feet of additional property, located to the west and not necessary for the current hangar lease (See Exhibit A). Apparently, the Drury's had included this additional property in their original 1981 land lease agreement to allow for future expansion.

This error of including this additional property did not affect the Drury's financial terms, however, the additional land is a part of the property they need to build their new hangar on. Therefore, we are asking the City Council to approve the attached Amendment #1 to reduce 9,538 square feet from the Drury's current hangar lease agreement. Additionally, the amendment provides a 30 day written notification for the Drury's to terminate their current lease when they are ready to move into their new hangar facility. These new terms were allowed due the Airport's major need for additional hangar space.

**FINANCIAL IMPACT**




There is no real financial impact to approving the attached Amendment #1, as the Drury's will continue to pay their current lease rate until they are ready to relocate to their new hangar.

**STAFF RECOMMENDATION**

It is recommended the City Council approve a resolution authorizing the City Manager to execute Amendment #1 to the hangar lease agreement, signed June 19, 2006, between the City of Cape Girardeau and DSW Development Corporation, in an effort to reduce the amount of land lease

associated with that agreement and revise the terms of termination.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Amendment to Hangar Lease DSW Development.doc</a>	Resolution
 <a href="#">Amendment to Original Airport Lease - DSW Development Corporation Hangar.docx</a>	Amendment #1 to the DSW Development Corporation Hangar Lease
 <a href="#">Drury Existing Lease Tract.pdf</a>	Exhibit A - Existing Drury Lease Tract

BILL NO. 19-144

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
EXECUTE AMENDMENT NO. 1 TO THE HANGAR  
FACILITY LEASE AGREEMENT WITH DSW DEVELOPMENT  
CORPORATION, AT THE CAPE GIRARDEAU REGIONAL  
AIRPORT

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The City Manager, for and on behalf of the City  
of Cape Girardeau, Missouri, is hereby authorized to execute  
Amendment No. 1 to the Hangar Facility Lease Agreement with DSW  
Development Corporation, at the Cape Girardeau Regional Airport,  
in the City of Cape Girardeau, Missouri. The Agreement shall be  
in substantially the form attached hereto, which documents are  
hereby approved by the City Council, and incorporated herein by  
reference, with such changes therein as shall be approved by the  
officers of the City executing the same.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

## AMENDMENT #1 TO AIRPORT LEASE AGREEMENT

THIS AMENDMENT #1 TO THE AIRPORT LEASE AGREEMENT ("**Amendment**") is made effective this \_\_\_\_ day \_\_\_\_\_, 2019 ("**Effective Date**"), by and between the City of Cape Girardeau, Missouri, a Municipal Corporation, ("**Lessor**") and DSW Development Corporation, a Missouri corporation, ("**Lessee**").

A. Lessor and Lessee entered into that certain Lease Agreement dated June 19, 2006 (the "**Lease**") for those certain Premises owned by the City of Cape Girardeau, Missouri located at the Cape Girardeau Regional Airport in Scott County, Missouri, as more particularly described in the Lease.

B. Lessor and Lessee have mutually agreed to modify the Lease effective as of the Effective Date, to (a) adjust the acreage defined as the Premises, (b) revise Lessee's right of termination, and (c) memorialize their agreement herein.

Intending to be legally bound, Lessor and Lessee agree as follows:

1. Adjustment to Premises. The Premises leased to Lessee is hereby amended to exclude .22 acres (9,538 square feet) from the .54 acres (23,522 square feet) in the Lease (the "**Excluded Premises**"). The Excluded Premises are more particularly identified in **Exhibit A** and incorporated herein by reference. Lessee is hereby released of any and all obligations and covenants contained in the Lease regarding the Excluded Premises.
2. Lessee's Right of Termination. The Term of the Lease shall be immediately terminable upon Lessee providing Lessor thirty (30) days' written notice of its intent to terminate ("**Lessee's Notice**"). Upon delivery of Lessee's Notice, Lessee shall be released of any and all obligations and covenants contained in the Lease and/or this Amendment.
3. No Other Modifications. Lessor and Lessee hereby agree that, except as solely as hereinabove modified, changed and amended, that the terms, conditions, and provisions of the Lease dated June 19, 2006 shall apply to and govern the conduct of the parties. Capitalized terms used but not defined herein shall have the meaning prescribed to such terms in the Original Lease.
4. Counterpart Copies. This Agreement may be executed and delivered by facsimile signature or electronic transmission (PDF file), and in more than one counterpart, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

In Witness Whereof, the parties have executed this Amendment of Lease Agreement as of the Effective Date.

LESSOR:

**CITY OF CAPE GIRARDEAU**

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

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

Its; \_\_\_\_\_

LESSEE:

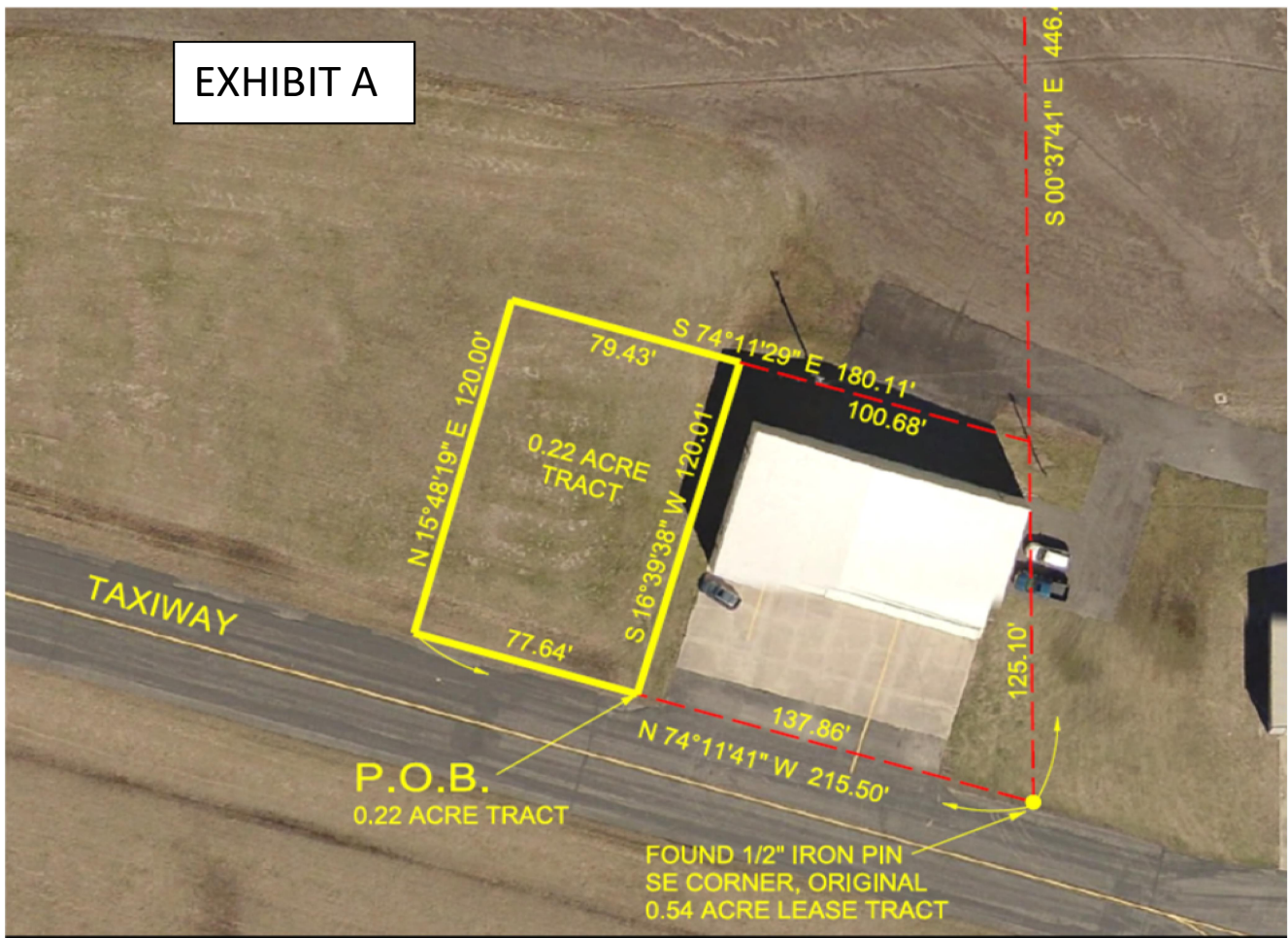
**DSW Development Corporation**

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

Name: Larry J. Westrich

Its: Sr. Vice President

# EXHIBIT A



**Bowen**

**ENGINEERING & SURVEYING, P.C.**

Engineering Corporation Land Surveying Corporation  
MO State Cert. of Authority #000383 MO State Cert. of Authority #000166

2121 Megan Drive  
Cape Girardeau, MO 63701  
Ph 573 339 5900  
Fax 573 339 1391  
www.bowenengsurvey.com

**EXISTING LEASE TRACT**

DSW HANGAR  
CAPE GIRARDEAU  
REGIONAL AIRPORT

JOB NO: E19-030

DATE: 07/19/2019

SHEET: 1 OF 1

**Staff:** Bruce W. Loy, Airport Manager  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-207**

**SUBJECT**

A land lease agreement with DSW Development Corporation which will provide the necessary property to build a new aircraft hangar facility at the Cape Girardeau Regional Airport.

**EXECUTIVE SUMMARY**

Currently, DSW Development Corporation (Drury) leases a hangar facility from the City of Cape Girardeau to store their aircraft. This facility was built by the Drury's in 1981 and reverted to the ownership of the City in 2006. While they are in their thirteenth year of leasing this hangar since the facility reverted to the City, they have recently announced their plans to build a new hangar immediately west of their current hangar. The attached map (Exhibit A) showing their planned layout and the new land lease agreement is attached. The agreement is a 20 year lease agreement, with three (3) additional five (5) year options. The parcel the hangar will sit on is 19,980 square feet and will be leased at a rate of \$0.18 per square foot per year, totaling \$3,596.40 per year, or \$299.70 per month. The lease includes a 10% escalation clause every five (5) years.

**BACKGROUND/DISCUSSION**

In February, 1981, the Drury Development Corporation (Drury) entered into an agreement with the City of Cape Girardeau to lease land in an effort to build a hangar for their aircraft. That lease, which included total terms of 25 years, expired in January, 2006. Following negotiations with the Airport, on June 19, 2006, the City leased their hangar and the property it sits on back to the Drury's. The terms of that agreement were for a ten (10) year initial term with two (2) additional five (5) year options. We are currently in the first, five (5) year optional term of that agreement.

Recently, the Drury's have announced plans to build a new hangar, to be located just west of their current hangar. The Airport has negotiated a land lease agreement, which will lease the Drury's 19,980 square feet of property to build their new hangar on at a rate of \$0.18 per square foot per year, or \$3,596.40 annually. The Drury's will continue to lease their current hangar facility from the City until they are ready to move into their new hangar, once it is constructed. Because the Airport is in need of additional hangar space, and we own their current hangar, we have provided them a 30 day written notice provision under their termination section of their current lease agreement.




**FINANCIAL IMPACT**

The attached lease agreement will provide new revenue in the amount of \$3,596.40 per year. Over the course of the initial twenty (20) year term of the lease agreement, the City will see \$71, 928, NOT including the 10% escalation every five (5) years.

**STAFF RECOMMENDATION**

It is recommended the City Council approve a resolution authorizing the City Manager to execute the attached agreement with DSW Development Corporation, in the amount of \$3,596.40 annually, for a ground lease at the Cape Girardeau Regional Airport.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Land Lease Agreement DSW Airport.doc</a>	Resolution
 <a href="#">DSW Development Corporation New Hangar Land Lease - Sept 2019.doc</a>	Land Lease Agreement with DSW Development Corporation
 <a href="#">DSW Hangar - New Lease Tract.pdf</a>	Exhibit A - DSW Development - New Lease Tract



BILL NO. 19-145

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
EXECUTE A LAND LEASE AGREEMENT WITH DSW  
DEVELOPMENT CORPORATION, AT THE CAPE  
GIRARDEAU REGIONAL AIRPORT

---

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The City Manager, for and on behalf of the City  
of Cape Girardeau, Missouri, is hereby authorized to execute a  
Land Lease Agreement with DSW Development Corporation, at the  
Cape Girardeau Regional Airport. The Agreement shall be in  
substantially the form attached hereto, which document is hereby  
approved by the City Council, and incorporated herein by  
reference, with such changes therein as shall be approved by the  
officers of the City executing the same.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

# AIRPORT GROUND LEASE

This Agreement made and entered into this \_\_\_\_ day of September, 2019, by and between the City of Cape Girardeau, Missouri, a Municipal Corporation, hereinafter called "Lessor" and DSW Development Corporation, a corporation organized and existing under the laws of the State of Missouri, , hereinafter referred to as "Lessee".

For and in consideration of the mutual covenants, terms and conditions contained herein, the parties agree as follows:

1. **PREMISES.** Lessor hereby leases to Lessee the following described property:

A tract of land situated in the Northeast Quarter, Section 35, Township 30 North, Range 13 East of the Fifth Principal Meridian, County of Scott, State of Missouri, being more particularly described as follows:

Commencing at the Northwest corner of the Northeast Quarter of Section 35; Thence S 00° 37' 41" E, 50.00 feet to a point on the South right of way line of the Little River Drainage District Ditch No. 1; Thence N 89° 22' 19" E, 2,204.60 feet along said South right of way line to a point on the West right of way line of the Airport Access Road; Thence S 46° 52' 41" E, 637.50 feet along said West right of way line to a 1 1/2" pipe (found); Thence leaving said line, S 00° 37' 41" E, 446.49 feet to a 1/2" iron pin (found) at the Southeast corner of a 0.54 acre lease tract; Thence N 74° 11' 41" W, 137.86 feet along the south line of said lease tract, to the true Point of Beginning:

Thence N 74° 11' 41" W, 148.02 feet;

Thence N 16° 39' 38" E, 135.02 feet;

Thence S 74° 11' 29" E, 148.02 feet;

Thence S 16° 39' 38" W, 135.01 feet to the Point of Beginning, containing 0.46 acres, more or less.

2. **TERM.** The original term of this agreement shall be Twenty (20) years and shall commence on the \_\_\_\_ day of \_\_\_\_\_, 2019 and shall expire on the \_\_\_\_ day of \_\_\_\_\_, 2039. Lessee shall have the option to renew this lease on the same terms and conditions for three (3) additional terms of five (5) years each by serving written notice of its election to renew upon the Lessor at least ninety (90) days prior to the expiration of the original term. If the three (3) five (5) year options are exercised and upon its expiration, Lessee shall then have the option of negotiating with Lessor for a separate and new lease for the premises.

3. **RENTAL.** Lessee shall pay Lessor monthly, beginning the first day of the month following final inspection of the completed hangar construction, the rental amount as hereinafter provided, on or before the 10th day of each month during the term of this lease.

For the first five (5) years of the term of this lease the monthly rental amount shall be Two Hundred Ninety-Nine and 70/100Dollars (\$ 299.70) which is the product of \$.18 per square foot times the number of square feet leased herein (19,980 square feet) divided by twelve (12).

For each successive five (5) year period during the remainder of this agreement, the rental amount shall equal the rental amount for the preceding twelve (12) month period plus 10 percent (10%) of

said preceding rental amount.

All payments are to be made at the office of the City Collector of the City of Cape Girardeau or at such other place as Lessor may direct.

4. **USE OF THE PREMISES.** The premises are to be used for the purpose of constructing and maintaining a hangar for Lessee's airplane(s). Lessee shall not use or permit the use of all or any portion of the leased premises in any other manner than herein set forth, without the prior written consent of Lessor.
5. **UTILITIES.** Lessee shall assume and pay for all costs and charges for utility services furnished to Lessee during the term of this lease, and Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense, and Lessee shall pay for any and all service charges incurred therefore.
6. **CUSTODIAL SERVICES.** Lessee agrees to provide the necessary materials, equipment and labor to provide all necessary janitorial and custodial services, and to maintain the premises in a clean, safe, orderly, and sanitary condition. Lessee shall provide a complete and proper arrangement for the adequate sanitary handling and disposal of all trash and other refuse caused by its operations under this lease.
7. **MAINTENANCE AND REPAIR.** Lessee shall at its sole cost and expense, keep and maintain the demised premises, all improvements, additions or alterations thereto, equipment and landscaping constructed or installed by Lessee upon the demised premises, in first class condition, which condition shall at all times be based on a standard of care reflecting prudent property management, reasonable wear and tear accepted.
8. **INGRESS AND EGRESS.** Lessor shall provide a right of ingress and egress to the demised premises for the Lessee, its officers, employees and agents.
9. **IMPROVEMENTS.** In the event Lessee desires to construct buildings or facilities on the demised premises, Lessee shall submit to Lessor, final plans, specifications and architectural renderings prepared by registered architects and engineers. Lessee shall hold the Lessor harmless and reimburse it for any and all expenses of any nature whatsoever arising out of any claim from said improvements. Lessee agrees not to construct any buildings or facilities on the demised premises without prior written consent of Lessor; however such approval shall not be unreasonably withheld. Lessee shall keep the real estate leased hereunder free and clear of any and all liens or encumbrances of any kind in any way arising out of any such construction.

In the event any buildings or facilities are constructed upon the premises, Lessee shall purchase and maintain insurance on said buildings or facilities against damage or loss by fire or risk of a similar nature which are on or shall be customarily covered under standard policies of fire insurance having standard extended coverage endorsements.

In the event any buildings or facilities constructed upon the demised premises are totally destroyed by fire or other casualty loss, Lessee shall have the option of either restoring the buildings or facilities and continuing under the terms of this lease, or terminating this lease as hereinafter provided, with no further liability or obligation.

At the termination of this lease for any reason, except as hereinbefore provided, Lessor has the

first option to purchase all real property improvements at 75% of the Fair Market Value of the improvements, as set by a local appraiser to be selected mutually by the parties; or Lessor may require Lessee to remove said improvements and restore the land substantially to its original condition, all at Lessee's expense. Lessor shall give notice to Lessee of its decision within thirty (30) days of termination of the lease.

If Lessor elects to not purchase the said improvements or request their removal by the Lessee, the Lessee may, within sixty (60) days of the date of mailing of notice from Lessor, a) negotiate with Lessor for a separate and new lease for the premises, b) sell the said improvements to another party, in which case the purchaser will either be subject to removing the improvements or attempting to negotiate a new lease with Lessor, or c) remove said improvements and restore the land substantially to its original condition, all at Lessee's expense. In the event Lessee has not performed any of the above options within sixty (60) days of date of mailing of notice from Lessor, Lessor may retain as its sole property all real property improvements which have been constructed by Lessee, as well as all remaining personal property, but Lessee shall have the right to lease the improvements from the Lessor at a Fair Market Value rate.

During the periods referred to in this section, Lessee shall continue to be liable for rent at the regular monthly rate. Further, upon termination of this lease for any reason, Lessor shall have a lien upon and against all of Lessee's property, real and personal, and located on the lease premises, for any sums due Lessor from Lessee.

10. **RIGHT OF ENTRY.** Lessor shall have at all reasonable times during business hours, the full and unrestricted right to enter the leased premises for the purpose of inspection, and for the purpose of doing any and all things which it is obligated or has a right to do under this agreement or by law.
11. **TAXES.** Lessee shall pay all personal property taxes which may be assessed against equipment, merchandise or other personal property owned or used by Lessee located on the demised premises.
12. **REHABILITATION ACT REQUIREMENTS.** Lessee shall operate and maintain its facilities in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and will assure that no qualified handicapped person shall, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination, including discrimination in employment under any program or activity that receives funds or benefits from a Federal Grant. Lessee further assures that it shall comply with the requirements imposed by or pursuant to 49 C.F.R., Part 27.
13. **NON DISCRIMINATION.** Lessee shall not, on the grounds of race, color, creed or national origin, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title VI of the Civil Rights Act of 1964, and Part 21 of the Regulations of the Office of the Secretary of Transportation in the use of the leased premises. Lessor reserves the right to take such action as the United States Government may direct to enforce this covenant.

The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered by 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on the grounds from participating in or receiving the services or benefits of any program or activity covered by this

subpart. The Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E., to the same effect.

It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

Lessee agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that Lessee may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

14. **ASSIGNMENT AND SUBLEASE.** Lessee shall have the right, with the prior written consent of Lessor, to assign this lease, or to sublease any portion of the demised premises, but in such event Lessee shall remain liable to Lessor for the remainder of the term of the lease to pay to Lessor any portion of the rent and fees provided for herein upon failure of the assignee or sub-lessee to pay the same when due. Said assignee or sub-lessee shall not assign or sublease without the prior written consent of Lessor and Lessee. Any such assignment by Lessee shall contain a clause to this effect. Lessee hereby agrees that any sublease or assignment shall be solely for the purpose of conducting a business of the same general nature and purposes as specified herein.
15. **NO WAIVER OF FUTURE BREACH.** The failure of Lessor or Lessee to insist, in any one or more instances, on a strict performance of any of the terms or the conditions of this Lease, or to exercise any right herein contained, shall not be construed as a future waiver or a relinquishment of the provisions or right, but the same shall continue and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of the breach and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor. Should Lessor at some time consent to an assignment of this Lease or to a sublease of the whole or any part of the demised premises, no further assignment and no further sublease shall be made without the express consent in writing by Lessor. None of the terms or conditions of this Lease shall be altered, waived, or modified in any manner except by written instrument executed by both parties.
16. **INDEMNIFICATION.** Lessee agrees to indemnify, defend and hold harmless the Lessor from all claim, actions, suits, and demands because of any bodily injury, including death, and because of damages to property or losses which may arise out of or result from Lessee's operations or use of the demised premises whether such operations or use are by Lessee, its agents, employee or anyone directly or indirectly employed by Lessee. Lessee shall procure and maintain in effect for the term of this Agreement, liability insurance in an amount not less than \$300,000.00 for one person and \$2,000,000.00 for any one occurrence involving injury, including death, to more than one person, with property damage insurance of not less than \$300,000.00 for any one occurrence. In addition, Lessee shall procure hangar keepers insurance covering non-owned aircraft in custody of Lessee or any sub-tenant of Lessee on the demised premises, if applicable under Lessee's or Lessee's sub-tenant's current use. If, however, the State of Missouri raises the liability limits for municipalities contained in Section 537.610 et seq., Revised Statutes of Missouri or elsewhere, Lessee shall increase the liability insurance required by this paragraph to an amount equal to those increased liability limits.

**17. LESSEE'S RIGHT OF TERMINATION.** Lessee shall have the right to terminate this lease upon the happening of one or more of the following events:

- A. The permanent abandonment of the Airport,
- B. The lawful assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part thereof, in such a manner as to substantially restrict Lessee's use of the premises for a period of forty-five (45) days.
- C. Issuance by any Court of competent jurisdiction of any injunction in any way preventing or restricting the use of the Airport, and the remaining in force of such injunction for a period of at least forty-five (45) days,
- D. The default by Lessor in the performance of any covenant or agreement herein required to be performed by Lessor, and the failure of Lessor to remedy such default for a period of thirty (30) days after receipt from Lessee of written notice to remedy said default.

Lessee may exercise the right of termination by written notice to Lessor at any time within thirty (30) days after any of the events mentioned in the preceding subparagraphs (A) through (D) above.

**18. LESSOR'S RIGHT OF TERMINATION.** This lease shall be subject to termination by Lessor upon the happening of any one or more of the following events:

- A. Lessee shall be in arrears in the payment of rent for a period of thirty (30) days after the time such payment shall be due,
- B. Lessee shall make a general assignment for the benefit of creditors,
- C. Lessee shall file a voluntary, or have filed against it an involuntary, petition in bankruptcy, provided such petition whether voluntary or involuntary shall not be dismissed within fifteen (15) days after it is filed,
- D. Lessee shall abandon the demised premises,
- E. Lessee shall discontinue its use of the premises for a period of thirty (30) days,
- F. Lessee shall default in the performance of any of the other covenants, agreements and conditions required to be kept and performed by Lessee, and such default continue for a period of thirty (30) days after receipt of written notice from Lessor of said default.
- G. Lessee shall violate any portion of the "Cape Girardeau Regional Airport Rules and Regulations" in effect at any time during the term of this lease.

Lessor may exercise the right of termination provided for herein by written notice to Lessee of its intention to terminate, and this lease shall terminate fifteen (15) days after the date of such notice.

In the event of termination Lessor may take possession of the demised premises upon the effective date of said termination. Default under this lease shall entitle Lessor to declare all remaining installments or rentals to be due and payable immediately, and in the event Lessor shall take possession of the demised premises, it may relet the same upon such terms and conditions as it shall deem appropriate, and any deficiency in the rental payments shall be and remain the obligation of the Lessee.

**NOTICES.** Any notice or other communication to Lessor or Lessee referred to in this lease agreement shall be deemed validly given, served and delivered upon deposit in the United States Mail, registered and with proper postage and registration fee prepaid, addressed as follows:

LESSOR: City Clerk  
City Hall  
401 Independence  
P. O. Box 617  
Cape Girardeau, Missouri 63702-0617

LESSEE: DSW Development Corporation  
  
101 S. Farrar Drive  
Cape Girardeau, MO 63701  
Attention: Larry J. Westrich  
Email: [larry.westrich@drurysouthwest.com](mailto:larry.westrich@drurysouthwest.com)

Copy to:  
DSW Development Corporation  
101 S. Farrar Drive  
Cape Girardeau, MO 63701  
Attention: Herbert J. Wedemeier  
Email: [herb.wedemeier@drurysouthwest.com](mailto:herb.wedemeier@drurysouthwest.com)

20. **PARTIES BOUND.** All of the terms, covenants and conditions herein contained shall be binding upon and shall inure to the benefit of the parties, their successors, heirs, executors, administrators and assigns.

**IN WITNESS WHEREOF**, the parties here to have caused this agreement to be executed as of the day and year first above written at Cape Girardeau, Missouri.

CITY OF CAPE GIRARDEAU, MISSOURI

\_\_\_\_\_  
Scott Meyer  
City Manager

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad  
City Clerk

LESSEE

DSW DEVELOPMENT CORPORATION

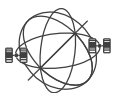
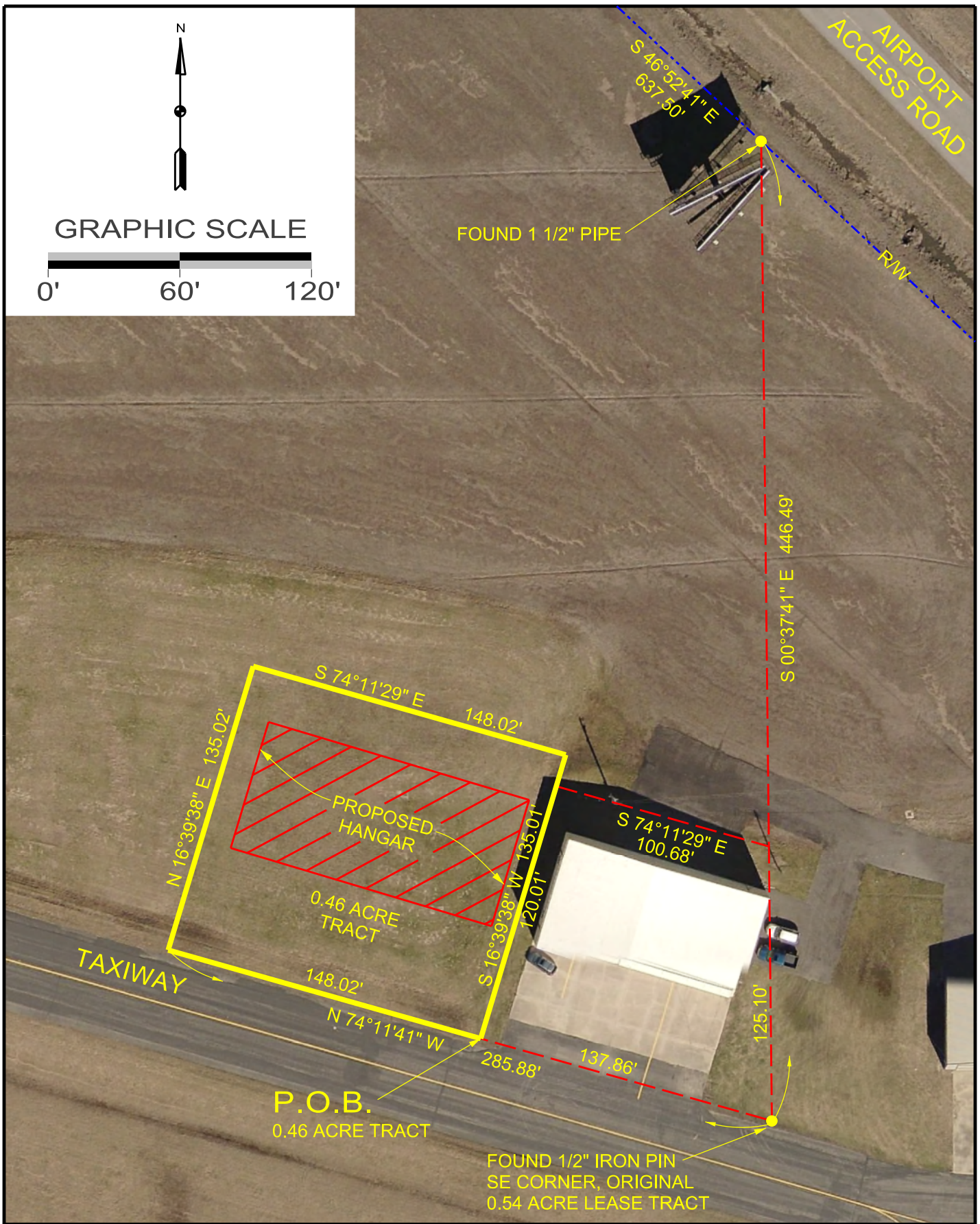
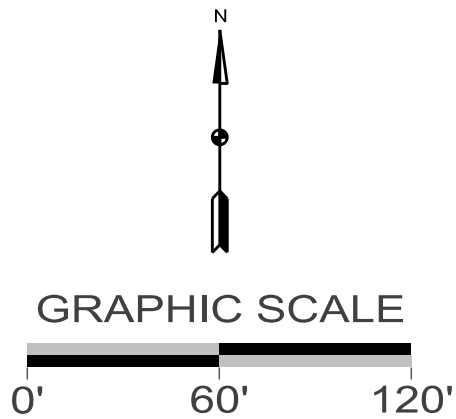
By:\_\_\_\_\_  
Carolyn F. Bohnert, Sr. Vice President

\_\_\_\_\_

ATTEST:

\_\_\_\_\_





**Bowen**

ENGINEERING & SURVEYING, P.C.

Engineering Corporation Land Surveying Corporation  
MO State Cert. of Authority #000383 MO State Cert. of Authority #000166

2121 Megan Drive  
Cape Girardeau, MO 63701  
Ph 573 339 5900  
Fax 573 339 1391  
www.bowenengsurvey.com

## PROPOSED LEASE TRACT

DSW HANGAR  
CAPE GIRARDEAU  
REGIONAL AIRPORT

JOB NO: E19-030

DATE: 07/31/2019

SHEET: 1 OF 1

**Staff:** Police/Chief W. Blair  
**Agenda:** 9/16/2019

**SUBJECT**

Wrecker Service Agreement for towing of vehicles.



**EXECUTIVE SUMMARY**

Bids were recently solicited, and one local company responded to the request for proposals. Sperlings, Inc.'s proposal detailed a higher number and quality of vehicles available to respond in order to satisfy the needs specified. The contract will run for a term of one year, and allows for 2 one-year renewals.

**STAFF RECOMMENDATION**

Staff recommends adopting the resolution approving the Wrecker Service Agreement with Sperlings, Inc.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Wrecker Service Agreement.pdf</a>	Wrecker Service Agreement
 <a href="#">Pages from WreckerService.Agr.ExhA.pdf</a>	Exhibit A
 <a href="#">Pages from WreckerService.Agr.ExhB.pdf</a>	Exhibit B
 <a href="#">Res.Wrecker Service Agreement Sperlings Inc..doc</a>	Resolution

BILL NO. 19-146

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
EXECUTE A WRECKER SERVICE AGREEMENT WITH  
SPERLINGS INC., IN THE CITY OF CAPE  
GIRARDEAU, MISSOURI

---

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The City Manager, for and on behalf of the City  
of Cape Girardeau, Missouri, is hereby authorized to execute a  
Wrecker Service Agreement with Sperlings Inc., in the City of  
Cape Girardeau, Missouri. The Agreement shall be in  
substantially the form attached hereto, which document is hereby  
approved by the City Council, and incorporated herein by  
reference, with such changes therein as shall be approved by the  
officers of the City executing the same.

PASSED AND APPROVED THIS 16<sup>th</sup> DAY OF September, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

## **WRECKER SERVICE AGREEMENT**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Cape Girardeau, Missouri, a Municipal Corporation, hereinafter referred to as "City", and Sperlings Inc., hereinafter referred to as "Firm".

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1. The City hereby designates the Firm as the official wrecker service to be called by the Cape Girardeau Police Department to provide wrecker services including winching, towing and storage (A) for vehicles involved in motor vehicle accidents whenever a car owner or operator does not state a preference for some other firm, (B) for vehicles to be used as evidence in court or for vehicles owned or operated by persons taken into Police custody, (C) for vehicles obstructing traffic, (D) for City-owned automobiles, and (E) for abandoned or derelict vehicles, whether on public or private property.

2. With respect to wrecker service for (A), (B), (C), and (D) above, the Firm shall provide 24-hour per day, 7-day per week wrecker service within the City Limits, and shall dispatch an appropriate wrecker unit within five (5) minutes after receiving a Police call for service during the term of this agreement. With respect to wrecker service for (E) above, the Firm will provide wrecker service within at least 24-hours from the time of the call. Unless otherwise directed by the investigating officer, a Police call for wrecker service at the scene of an accident shall be deemed to cover all of the vehicles involved in the accident. For vehicles towed pursuant to (C) or (E), the investigating officer may cancel a Police originated call for wrecker service from the Firm if the owner or operator of the vehicle claims his vehicle before the Firm begins to tow it to the storage site.

3. The Firm will also store all vehicles towed pursuant to (A), (B), (C), (D) and (E) of Paragraph 1 above in a lighted and secure storage area with a security fence, and will provide necessary additional security to prevent the loss or damage to impounded or stored vehicles. Said storage site shall be located in an area satisfactory to the City, and in compliance with applicable zoning ordinances and regulations. The Firm shall not park an impounded or stored vehicle outside the lighted and fenced storage area without the prior express consent of the

Cape Girardeau Police Department or the owners of the particular vehicle. The Firm shall provide access to the vehicles by the owners thereof for the purpose of reclaiming said vehicles, 24-hours per day 7-days per week. There shall not be a reclaim charge of any sort imposed on the City or the owner of said vehicle. Personal property may be claimed on the same basis and under the same conditions as the vehicle itself, provided, however, that the Firm will not authorize the removal of any personal property from a vehicle which has been impounded by order of the Police Department without first obtaining permission from a Police Department official. With this exception, access shall be available to the owner within one (1) hour from the time of his request for both vehicle and personal property. The Firm shall, if so directed, deliver vehicles towed pursuant to (B) of Paragraph 1 above to the Cape Girardeau Police Department lot for processing and at a later date towed to the storage site.

4. The Firm shall indemnify, defend, and hold harmless the City from and against any and all claims, demands, suits, judgments, costs and expenses asserted by any person or persons, including agents or employees of the City or the Firm, by reason of death or injury to persons, or loss or damage to property, resulting from the Firm's operations hereunder, or as a result of anything claimed to be done or omitted to be done by the Firm hereunder.

5. The Firm shall obtain and maintain continuously in effect at all times during the term of this Agreement at its sole expense General Liability Insurance protecting the City against liability which may accrue against the City by reason of the Firm's wrongful or negligent conduct incident to, or arising out of, the provision of services under the terms of this Agreement. Such insurance shall provide minimum liability limits of \$430,000.00 for personal injury or property damage to anyone person in anyone occurrence, and \$3,000,000.00 for personal injury or property damage in the aggregate for anyone occurrence; and shall also name the City as a co-insured thereunder. The Firm shall provide a copy of the Certificate of Insurance to the City within ten (10) days after award of the Contract, and prior to providing any services under this Contract.

6. The Firm shall impose no charge against the City for wrecker or storage costs of non-City vehicles, but shall collect all charges from the owner of the vehicle at the time the vehicle is reclaimed. If the vehicle is not claimed within thirty (30) days, it shall be deemed an abandoned vehicle and disposed of as detailed later in this Agreement.



7. The Firm shall maintain full and complete records of all vehicles towed or stored by the Firm under the terms of this contract. This record shall identify each vehicle by the name of its owner of record if known, the date towed, the vehicle identification number, the license number, both state and year, and the make, model and year of the vehicle. The records shall also indicate a statement of the towing and storage charges due and a statement as to whether the owner or his agent has claimed the vehicle. The Firm shall provide a copy of this record to the Cape Girardeau, Missouri Police Department on the first day of each month. In addition, this reporting requirement shall be an on-going requirement and the Firm shall provide updated information on each vehicle in its monthly report. This monthly report shall also include information as to whether each vehicle has been disposed of and by what method it has been disposed of.

Whenever the Firm impounds a vehicle under the provisions of this agreement and such vehicle remains unclaimed after ninety (90) days, such vehicle may be sold by the Firm in accordance with the provisions of Sections 26-76 through 26-81 inclusive of the Code of Ordinances of Cape Girardeau, Missouri. A copy of the relevant City ordinances is marked Exhibit "A", attached hereto and made part hereof by reference as though fully set out herein.

Whenever the Firm impounds a vehicle under the provisions of this agreement and such vehicle remains unclaimed after sixty (60) days, such vehicle may be disposed of by the Firm in accordance with the provisions of Chapter 304.155 et seq. Revised Statutes of Missouri, a copy of which is marked Exhibit "B", attached hereto and made part hereof by reference as though fully set out herein. The Firm must elect to use one or the other of these disposal methods and must dispose of all vehicles by one of these methods as set out in Exhibit "A" or Exhibit "B". The Firm shall have the option to determine which of the two methods it will employ but in no instance shall any disposition of the vehicles be made except as provided by law as set out in Exhibits "A" and "B".

8. The Firm will provide a third party Surety Bond in the amount of Five Hundred Dollars (\$500.00) to indemnify the City for the payment of towing and storage services in the event that the Firm fails or refuses to provide said wrecker services when requested, or in the event the Firm fails to complete this agreement during the term hereof. Said bond shall be provided to the City within ten (10) days after award of this Contract and prior to any operations hereunder.

9. The City may cancel and terminate this Agreement in any of the following events:

A. If on any occasion the Firm charges more than is authorized by this Contract, or

B. If the Firm fails, or refuses to carry out or perform any one or more of the obligations, terms or conditions of this Agreement.

The City may exercise its right of termination by depositing in the United States Mail Certified its notice of termination ten (10) days in advance of the effective date of termination.

10. The Firm will also provide site clean-up, including the removal of all loose debris on the street surface for all Police originated calls.

11. The Firm's storage site as required in Paragraph 2 above shall be at the following address:

317 N. Broadview St., Cape Girardeau, Missouri

The Firm agrees to make this site available for Police inspection at the time of submission of a bid hereunder, and if awarded the Contract, at all reasonable times thereafter.

12. The following are the maximum charges which the Firm may impose, payable by the vehicle owner, for the wrecker services rendered herein. The rates quoted herein shall apply whenever the towing services are called for by an employee of the Cape Girardeau Police Department, or Cape Girardeau Fire Department, while said employee is exercising the responsibilities of his position as a Police or Fire Department employee. The rates quoted herein shall apply and remain the same regardless of the time of day the service is provided, and no additional charge shall be made for winching for distances less than twenty-five (25) feet. Furthermore, no charge may be imposed for dollying unless it can be shown that three (3) or more wheels on the towed vehicle are inoperable.

TOWING:	\$ <u>35.00</u>	per unit to storage site.
	\$ <u>45.00</u>	per unit to other delivery point.
	\$ <u>25.00</u>	per unit from the Police Station to the storage site.
DOLLYING	\$ <u>35.00</u>	three or more wheels inoperable.
WINCHING	\$ <u>45.00</u>	winching for distance greater than twenty-five (25) feet.

STORAGE \$ 25.00 per unit for daily storage.

13. Firm agrees that it shall not assign or sublet all or any portion of this Agreement without the prior written consent of the City.

14. This agreement will be effective from and after the date of this contract through September 1, 2021. This agreement may be extended without any change in service or cost for two additional one-year terms upon agreement of the Firm and City. The firm shall notify the City on or before June 1 of each year of their intention to continue with the existing agreement.

15. Operator agrees to provide all equipment necessary to perform this contract in a workmanlike manner and operator assumes all responsibility for damage to any vehicle through improper towing.

Sharon A. Sperling  
Signature of Firm's Officer

PRESIDENT  
Title of Official Position

Sperlings Inc.  
(Name of Firm)

8-27-19  
Date Signed

ACCEPTED:

CITY OF CAPE GIRARDEAU, MISSOURI

Scott A. Meyer, City Manager

Date Accepted



Cape Girardeau, Missouri, Code of Ordinances >> PART II - CODE OF ORDINANCES >> Chapter 26 - TRAFFIC >> ARTICLE II. - TRAFFIC ADMINISTRATION >> DIVISION 3. IMPOUNDMENT OF VEHICLES >>

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DIVISION 3. IMPOUNDMENT OF VEHICLES

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Sec. 26-76. Definitions.

Sec. 26-77. Authority of police department—Towing abandoned property on right-of-way and public lands.

Sec. 26-78. Same—Towing abandoned property on private lands.

Sec. 26-79. Disposition of towed abandoned property.

Sec. 26-80. Redemption of abandoned property.

Sec. 26-81. Reserved.

Secs. 26-82—26-100. Reserved.

**Sec. 26-76. Definitions.**

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this division, except where the context clearly indicates a different meaning:

*Abandoned property* means any unattended motor vehicle, trailer, all-terrain vehicle, outboard motor, or vessel removed or subject to removal from public or private property as provided in this chapter, whether or not operational.

*Freeway* means any divided state highway with four or more lanes, with no access to the throughways except the established interchanges and with no at-grade crossings.

*Interstate highway* means a state highway included in the national system of interstate highways located within the boundaries of the city, as officially designated or as may be hereafter designated by the Missouri Highway and Transportation Commission with the approval of the United States Secretary of Transportation, pursuant to Title 23, United States Code, as amended.

*Off-road vehicle* means any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail;

(1) Including, without limitation, the following:

- a. Jeeps;
- b. All-terrain vehicles;
- c. Dune buggies;
- d. Multi-wheel drive or low-pressure tire vehicles;
- e. Vehicles using an endless belt, or tread or tread wheels, or a combination of tread and low pressure tires;
- f. Motorcycles, trail bikes, minibikes and related vehicles;
- g. Any other means of transportation deriving power from any source other than muscle or wind; and

(2)

Excluding the following:

- a. Registered motorboats;
- b. Aircraft;
- c. Any military, fire, or law enforcement vehicles;
- d. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;
- e. Any vehicle being used for farm purposes, earth moving, or construction while being used for such purposes on the work site;
- f. Self-propelled lawnmowers, or lawn or garden tractors, or golf carts, while being used exclusively for their design purpose; and
- g. Any vehicle being used for the purpose of transporting a handicapped person.

*Right-of-way* means the entire width of land between the boundary lines of a state highway, city street or alley, including any roadway.

*Roadway* means that improved portion of a state highway, city street or alley used for vehicular travel, exclusive of any berm or shoulder.

*State highway* means a highway constructed or maintained by the Missouri Highway and Transportation Commission with the aid of state or federal funds, or any highway included by authority of law in the state highway system, including all right-of-way.

*Towing company* means any person or entity which tows, removes, or stores abandoned property.

(Code 1967, § 26-159; Ord. No. 2105, art. 1, 12-16-96)

#### **Sec. 26-77. Authority of police department—Towing abandoned property on right-of-way and public lands.**

- (a) Any law enforcement official within the official's jurisdiction may authorize a towing company to remove to a place of safety:
  - (1) Any abandoned property on the right-of-way of:
    - a. Any interstate highway, freeway or other state highway left unattended for more than forty-eight (48) hours;
    - b. Any other public street, alley, or city-owned property for a period of forty-eight (48) hours or more. Provided, however, that a law enforcement official shall conspicuously pose upon the vehicle, at least forty-eight (48) hours prior to impoundment, a notice stating the intention to impound and the date and time after which impoundment will occur. Unlicensed or inoperable vehicles shall be removed from the street, alley, or city-owned property whether attended or not; provided that a vehicle shall not be considered to be unlicensed for purposes of this section if it has a valid certificate of origin; and provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subsection to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;
  - (2) Any unattended abandoned property illegally left standing upon any highway, street, alley or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no

- reasonable indication that the person in control of the property is arranging for its immediate control or removal;
- (3) Any abandoned property which has been abandoned under section 577.080, R.S.Mo.;
  - (4) Any abandoned property which has been reported as stolen or taken without consent of the owner;
  - (5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the official is required to take the person into custody and where such person is unable to arrange for the property's timely removal;
  - (6) Any abandoned property which due to any other state law or city ordinance is subject to towing because of the owner's outstanding traffic or parking violations;
  - (7) Any abandoned property left unattended in violation of a state law or city ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or
  - (8) Any abandoned property illegally left standing on the waters of the city and state as defined in section 306.010, R.S.Mo., where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or floating loose on the water.
- (b) Neither the law enforcement official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this division other than damages occasioned by negligence or by willful or wanton acts or omissions.
  - (c) The owner of abandoned property removed as provided in this division shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in subsection (g) of this section.
  - (d) Upon the towing of the abandoned property under this division, the police department shall make an inquiry with the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. The police department shall submit a crime inquiry and inspection report to the Missouri Department of Revenue, on any unclaimed abandoned property, within ten working days of the towing of the abandoned property. The crime inquiry and inspection report shall include the following:
    - (1) The year, model, make and property identification number of the abandoned property;
    - (2) A description of any damage to the property noted by the law enforcement official;
    - (3) The license plate or registration number and the state of issuance, if available;
    - (4) The storage location of the towed abandoned property;
    - (5) The name, telephone number, and address of the towing company;
    - (6) The date, place and reason for towing of the abandoned property;
    - (7) The date of the inquiry of the National Crime Information Center, any statewide law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property has been stolen;
    - (8) The signature and printed name of the law enforcement official and the towing company; and
    - (9) Any additional information the Missouri Department of Revenue deems appropriate.
  - (e) The police department shall utilize any uniform "authorization to tow" form provided by the Missouri Department of Revenue. The completed form shall be issued by the authorizing law enforcement official to the tow company for that company's records as proof of authorization

to tow particular abandoned property. One copy of the crime inquiry and inspection report shall remain with the police department. One copy shall be provided to and retained by the towing company in an accessible format in its business records for a period of three (3) years from the date of the tow or removal.

- (f) The owner of towed abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.
- (g) Any towing company who removes abandoned property at the direction of a law enforcement official as provided in this division shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Such lien shall be enforced in the manner described in section 304.156, R.S.Mo.
- (h) Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain a copy of the law enforcement official's authorization to tow, copies of all correspondence with the Missouri Department of Revenue concerning the abandoned property, and information concerning the final disposition of the possession of the abandoned property.
- (i) Any personal property within the towed abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping of the abandoned property have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The towing company or law enforcement official holding or storing the property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide and itemized receipt for the contents. The towing company holding or storing the personal property shall be strictly liable for the condition and safe return of the property. Stolen, unidentified or impounded personal property, other than the abandoned property, which is removed or caused to be removed by the police department shall be stored at the law enforcement center, unless because of its size, nature or condition it should reasonably be stored elsewhere. Such personal property may be subject to the actual cost of removal and administrative and storage fees, provided that the storage fee for such unclaimed personal property shall not be less than one dollar per day of storage.

(Code 1967, § 26-160; Ord. No. 2105, art. 2, 12-16-96; Ord. No. 2681, art. 1, 3-6-00)

#### **Sec. 26-78. Same—Towing abandoned property on private lands.**

- (a) If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any law enforcement official within the official's jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:
  - (1) The abandoned property is left unattended for more than forty-eight (48) hours; or
  - (2) In the judgment of the law enforcement official, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.
- (b) Neither the law enforcement official or anyone having custody of the abandoned property under his or her direction shall be liable for any damage to such abandoned property

occasioned by a removal authorized by this division other than damages occasioned by negligence or by willful or wanton acts or omissions.

- (c) When the owner of real property or a lessee in lawful possession of the real property authorizes a towing company to remove abandoned property without the authorization of a law enforcement official, pursuant to section 304.157, R.S.Mo., and a towing company submits an abandoned property report to the police department, the police department must record the date the abandoned property report was filed with the department and within five (5) days of such filing make an inquiry into the National Crime Information Center and any statewide law enforcement computer system to determine if the abandoned property has been reported as stolen. The police department shall enter the information pertaining to the towed abandoned property into the statewide law enforcement computer system.

(Code 1967, § 26-161; Ord. No. 732, § 3, 7-24-89; Ord. No. 2105, art. 3, 12-16-98)

#### Sec. 26-79. Disposition of towed abandoned property.

- (a) Upon causing the removal of any abandoned property under this division, if the police department knows the registered owner or lienholder of the abandoned property, it shall within five (5) working days give notice in writing to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and indicate the place to which the property has been removed. If the abandoned property is stored with a tow company, a copy of the notice shall be given to the tow company. The notice provided for in this subsection shall include the amount of mileage, if available, shown on the abandoned property at the time of removal.
- (b) A tow company storage facility where abandoned property is stored pursuant to this division shall accept cash, a cashier's check or a valid bank credit card for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property, except where the tow and impoundment of the abandoned property was the result of an arrest or accident whereby the towing company may then demand payment in the form of cash or cashier's check. A tow company who refuses to accept a valid bank credit card pursuant to this subsection is liable to the registered owner of the abandoned property for four (4) times the amount of the towing and storage charges, but not to exceed five hundred dollars (\$500.00), as provided by section 304.158.7, R.S.Mo. In addition, persons operating or in charge of a tow company storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.
- (c) Any towing company which comes into possession of abandoned property pursuant to this division and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other state. The towing company shall notify the owner and/or lienholder(s) within ten (10) business days of the date of mailing indicated on the Missouri Department of Revenue notice to the towing company of the names and addresses of the owner and/or lienholder(s) ascertained. The notice shall contain the following:
- (1) The name, address and telephone number of the tow company storage facility;
  - (2) The date, reason and place from which the abandoned property was removed;
  - (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
  - (4) A statement that the tow company claims a possessory lien for all such charges;

- (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- (6) A statement that, should the owner or holder of a valid security interest consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in subsection (f) of this section to contest the propriety of such towing or removal;
- (7) A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
- (8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

A towing company may assess storage charges for abandoned property only for the time in which it complies with the procedural requirements of this division.

- (d) In the event that the records of the Missouri Department of Revenue fail to disclose the name of the owner or any lienholder of record for the abandoned property, upon notification by the Department of Revenue to the towing company of such failure, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents and that a good faith effort was made. For purposes of this subsection, "good faith effort" means that the following checks have been performed by the tow company to establish the proper state of registration and title:

- (1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;
- (2) Check the police report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement official;
- (3) Check the tow ticket/report of the tow company operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
- (4) If there is no address of the owner on the impound report, check the police report to see if an out-of-state address is indicated on the drivers license information.

If no ownership information is discovered, the Missouri Department of Revenue shall be notified in writing by the tow company. Title may then be obtained in accordance with section 304.156, R.S.Mo., and subsection (e) of this section.

- (e) Thirty (30) days after the notification form has been mailed by the towing company to the abandoned property owner and any holder(s) of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or any holder(s) of a security agreement has not requested a hearing as provided in subsection (f) of this section, the lienholder in possession may apply to the Missouri Department of Revenue for a salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report. The application for title shall be accompanied by:

- (1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty (30) days and the owner of the abandoned

property or any holder of a security agreement has not made arrangements for payment of towing and storage charges:

- (2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in subsection (f) of this section;
- (3) A copy of the abandoned property report or crime inquiry and inspection report;
- (4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and/or lienholder(s) of record received notice as required in this section.

If notice to the owner and/or holder of a security agreement has been returned marked "not forwardable" or "addressee unknown," the lienholder in possession shall comply with subsection (d) of this section.

- (f) The owner of abandoned property removed pursuant to the provisions of this division or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to subsection (c) of this section may file a petition in the Associate Division of the Cape Girardeau County Circuit Court to determine if the abandoned property was wrongfully taken or withheld from the owner, as provided in section 304.156.5, R.S.Mo.

(Code 1967, § 26-162; Ord. No. 2105, art. 4, 12-16-96)

#### Sec. 26-80. Redemption of abandoned property.

The owner of abandoned property removed as provided in this article shall be responsible for the payment of all reasonable charges for towing and storage of such abandoned property. Upon presentation of a written application, including proof of ownership, and a receipt from the towing company showing all claims satisfied against the abandoned property, the police department shall authorize the release of the abandoned property to the owner, except where the abandoned property is held pursuant to another law.

(Code 1967, § 26-163; Ord. No. 2105, art. 5, 12-16-96)

#### Sec. 26-81. Reserved.

*Editor's note—*

Ord. No. 2105, art. 6, adopted Dec. 16, 1996, repealed § 26-81, which pertained to disposition of unclaimed vehicles. See the Code Comparative Table.

#### Secs. 26-82—26-100. Reserved.

## *Missouri Revised Statutes*

### **Chapter 304 Traffic Regulations Section 304.155**

August 28, 2013

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**Abandoned motor vehicles on public property, removal--hazards on land and water, removal, limited liability, when--towing of property report to highway or water patrol or crime inquiry and inspection report when, owner liable for costs--check for stolen vehicles procedure--reclaiming vehicle--lien for charges--record maintenance by towing companies--lienholder repossession, procedure.**

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or immediately if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for twenty-four hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than twenty-four hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer takes the person into custody and where such person is unable to arrange for the property's timely removal;



(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard;

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010 where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water; or

(9) Any abandoned property for which the person operating such property or vehicle eludes arrest for an alleged offense for which the officer would have taken the offender into custody.

2. The department of transportation or any law enforcement officer within the officer's jurisdiction may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the right-of-way of any interstate highway, freeway, or state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the interstate highway, freeway, or state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, the tower who has online access to the department of revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of subsection 3 of section 304.156. If the tower does not have online access, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company that does not have online access to the department's records and that is in possession

of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the officer authorizing the tow;
- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;
- (8) The signature and printed name of the officer authorizing the tow;
- (9) The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the towler has online access to the department's records; and
- (10) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, including copies of any online records of the towing company accessed and information concerning the final disposition of the

possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

12. Notwithstanding the provisions of section 301.227, any towing company who has complied with the notification provisions in section 304.156 including notice that any property remaining unredeemed after thirty days may be sold as scrap property may then dispose of such property as provided in this subsection. Such sale shall only occur if at least thirty days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in section 304.156. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of revenue within two weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three years that shall be available for inspection by law enforcement and authorized department of revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in section 301.227. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in section 301.227 on vehicles purchased on a bill of sale pursuant to this section.

(L. 1965 p. 487 §§ 1 to 3, A.L. 1982 S.B. 665, A.L. 1985 H.B. 288, et al., A.L. 1987 S.B. 290, A.L. 1988 H.B. 1581, A.L. 1992 H.B. 1794, A.L. 1996 S.B. 560, A.L. 1997 H.B. 257, A.L. 1999 S.B. 19, A.L. 2004 S.B. 1233, et al., A.L. 2005 H.B. 487, A.L. 2009 H.B. 683)

**CROSS REFERENCE:**

Removal of abandoned motor vehicles from roadways pursuant to section 304.155 moved to shoulder or berm, limitations on department employees, 226.1115

© Copyright



Missouri General Assembly

**Staff:** Kelly Green, P.E., City Engineer  
**Agenda:** 9/16/2019

**SUBJECT**

A Resolution authorizing the City Manager to execute an agreement for a General Services Agreement for general facility improvement projects with Phillip B. Smith, LLC.

**EXECUTIVE SUMMARY**

The attached General Services Agreement will allow the Engineering Division to issue task orders to Phillip B. Smith, LLC. for professional services necessary to complete any general facility improvement projects.

**BACKGROUND/DISCUSSION**

The purpose of the attached General Services Agreement is to set the general contract provisions between the consultant and the City. From the General Services Agreement, Task Orders will be issued for defining the specific work, scope, and fee for each task. The City Manager will be authorized to sign the task orders on behalf of the City.

**FINANCIAL IMPACT**



All costs will be generated per the Task Orders and will be charged to the specific projects utilizing various funds necessary.

**SUSTAINABILITY: ECONOMIC, ENVIRONMENTAL AND SOCIAL IMPACTS**

**STAFF RECOMMENDATION**

Staff recommends the Council approve a Resolution authorizing the City Manager to enter into an Agreement with Phillip B. Smith, LLC. for general facility improvement projects.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Agreement_Phillip_B_Smith_Engineering_General_Projects.doc</a>	Resolution
 <a href="#">Phillip_Smith_General_Services_for_facilities.pdf</a>	General Services Agreement

**Staff:** Ryan Shrimplin, AICP - City  
**Agenda:** Planner  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-209**

**SUBJECT**

Approval of a modified site plan as part of the existing special use permit for Rivendell Court at 3071, 3095, and 3117 Lexington Avenue.

**EXECUTIVE SUMMARY**

The owner of the Rivendell Court development has requested approval of a modified site plan. The original site plan was approved as part of a special use permit that was granted on October 20, 2004. A public hearing on the modified site plan was held on September 16, 2019.

**BACKGROUND/DISCUSSION**

A request for approval of a modified site plan for the Rivendell Court development has been submitted. The property, located at 3071, 3095, and 3117 Lexington Avenue, is zoned R-1 (Single-Family Suburban Residential). A special use permit for Rivendell Court was granted on October 20, 2004. The original site plan approved as part of the special use permit showed three buildings. The two northernmost buildings (Building A and Building B) and related site improvements were constructed years ago. The current owner of the development wishes to move forward with plans to construct the third building (Building C) and related site improvements. The modified site plan for Building C proposed by the current owner is significantly different from the original site plan. The key differences are as follows:

1. The modified site plan shows a dumpster in the front yard, between Building C and Northchurch Street. The dumpster is not shown on the original site plan.
2. The modified site plan shows a drive aisle on the west side of Building C, with parking spaces on both sides at the north end and tapering down to parking on one side only at the south end. The original site plan shows parking spaces on both sides of the drive aisle from the north end to the south end, with no taper.
3. The modified site plan shows angled parking spaces on the south and east sides of Building C. No parking is shown in these areas on the original site plan.
4. The modified site plan shows a much smaller building footprint than the one shown on the original site plan.
5. The original site plan shows a roofed accessory structure near the east property line, across the drive aisle from Building C. This structure is not shown on the modified site plan.

In commercial zoning districts, dumpsters are required to be located in the rear or side yard. Although this property is zoned residential, Rivendell Court is a commercial use, and logic would dictate that the dumpster should be located in the rear or side yard in the same manner as uses in commercial districts. However, in this case, it is not feasible to locate the dumpster in the rear or side yard due to an existing retaining wall along the drive aisle on the east side of Building C. Locating the dumpster on the other side of the drive aisle would result in the loss of several parking spaces. The modified site plan contains a note indicating that the dumpster will be screened. The

screening is required per Section 25-807(a) of the Development Code (Chapter 25 of the City’s Code of Ordinances). The screening materials are subject to approval by staff. For these reasons, staff has no concerns with the proposed dumpster location.

Staff also has no concerns with the other changes. The changes to the parking layout amount to merely shifting parking spaces from the west side of Building C to the south and east sides. While the addition of parking on the south side removes a large amount of landscaping, the reduction is offset by the fact that the building footprint is being significantly reduced, which provides for additional landscaping on the east side of the building.

A public hearing on the modified site plan was held on September 16, 2019. The letter requesting approval of the modified site plan, the modified and original site plans, and the existing special use permit are attached.

**STAFF RECOMMENDATION**

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The staff report to the Planning & Zoning Commission recommended approval of the modified site plan.

**BOARD OR COMMISSION RECOMMENDATION**

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The Planning & Zoning Commission, at its September 11, 2019 meeting, recommended approval of the modified site plan with a vote of 6 in favor, 0 in opposition, and 0 abstaining.

**PUBLIC OUTREACH**

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The City Council's public hearing was advertised in the Southeast Missourian on September 6, 2019.

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Ltr to Ryan Shrimplin 9.3.19.pdf</a>	Letter Requesting Approval of Modified Site Plan for Rivendell Court
 <a href="#">Rivendell Site Plan C2.1.pdf</a>	Rivendell Court - Modified Site Plan
 <a href="#">Approved Site Plan - Rivendell SUP.pdf</a>	Rivendell Court - Original Site Plan
 <a href="#">Special Use Permit - Rivendell.pdf</a>	Rivendell Court - Existing Special Use Permit

# THE LIMBAUGH FIRM

## ATTORNEYS AT LAW

EST. 1916

September 3, 2019

**Via email only: [rshrimplin@cityofcapegirardeau.org](mailto:rshrimplin@cityofcapegirardeau.org)**

Mr. Ryan Shrimplin, AICP

City Planner

City of Cape Girardeau

401 Independence Street

Cape Girardeau, MO 63703

**Re: Rivendell Properties, L.L.C./Rhodes Properties, LC  
Special Use Permit for Rivendell Court**

Dear Ryan:

As you know, we represent Rhodes Properties, LC (Scott and Mark Rhodes). Our client owns the development known as Rivendell Court located at 3095 and 3117 Lexington Avenue in the City of Cape Girardeau.

The former owner of the property (Rivendell Properties, LLC) was granted a Special Use Permit on October 20, 2004 to develop this property for office and retail use based on an approved site plan that was submitted at that time. The site plan included three buildings, two of which have been built. The developer is now ready to build the third building and is requesting approval of a modified site plan in connection with the third building (Building "C"). A copy of the amended site plan is attached for review, along with the original Special Use Permit and original site plan.

It is my understanding that this request will be reviewed by the Planning and Zoning Committee on September 11<sup>th</sup> and then by the City Council with a public hearing on September 16<sup>th</sup>. Rhodes Properties will be submitting a check for the cost for the ad for the public hearing directly to your office. Should you need anything further from me or Rhodes Properties, please let me know.

Sincerely,

**THE LIMBAUGH FIRM**

By   
Nancy L. Browne

NLB:djg

Attachments

cc: Rhodes Properties, LC (via email only)

NANCY L. BROWNE

JOHN W. GRIMM

LUCAS M. HALEY

JOHN D. HARDING

BOB I. HOWARD

DIANE C. HOWARD

R. MICHAEL HOWARD

JEFFREY J. KOCH

DAVID S. LIMBAUGH

STEPHEN N. LIMBAUGH, SR.

J. MICHAEL PAYNE

CURTIS O. POORE

CHRISTOPHER B. SIDES

JOHN C. STEFFENS

EDWIN DEAN WHITE

RUSH H. LIMBAUGH

1891-1996

RUSH H. LIMBAUGH, JR.

1918-1990

JOSEPH J. RUSSELL

1923-2006

407 N. KINGSHIGHWAY

SUITE 400

P.O. BOX 1150

CAPE GIRARDEAU

MISSOURI

63702-1150

TELEPHONE

(573) 335-3316

FACSIMILE

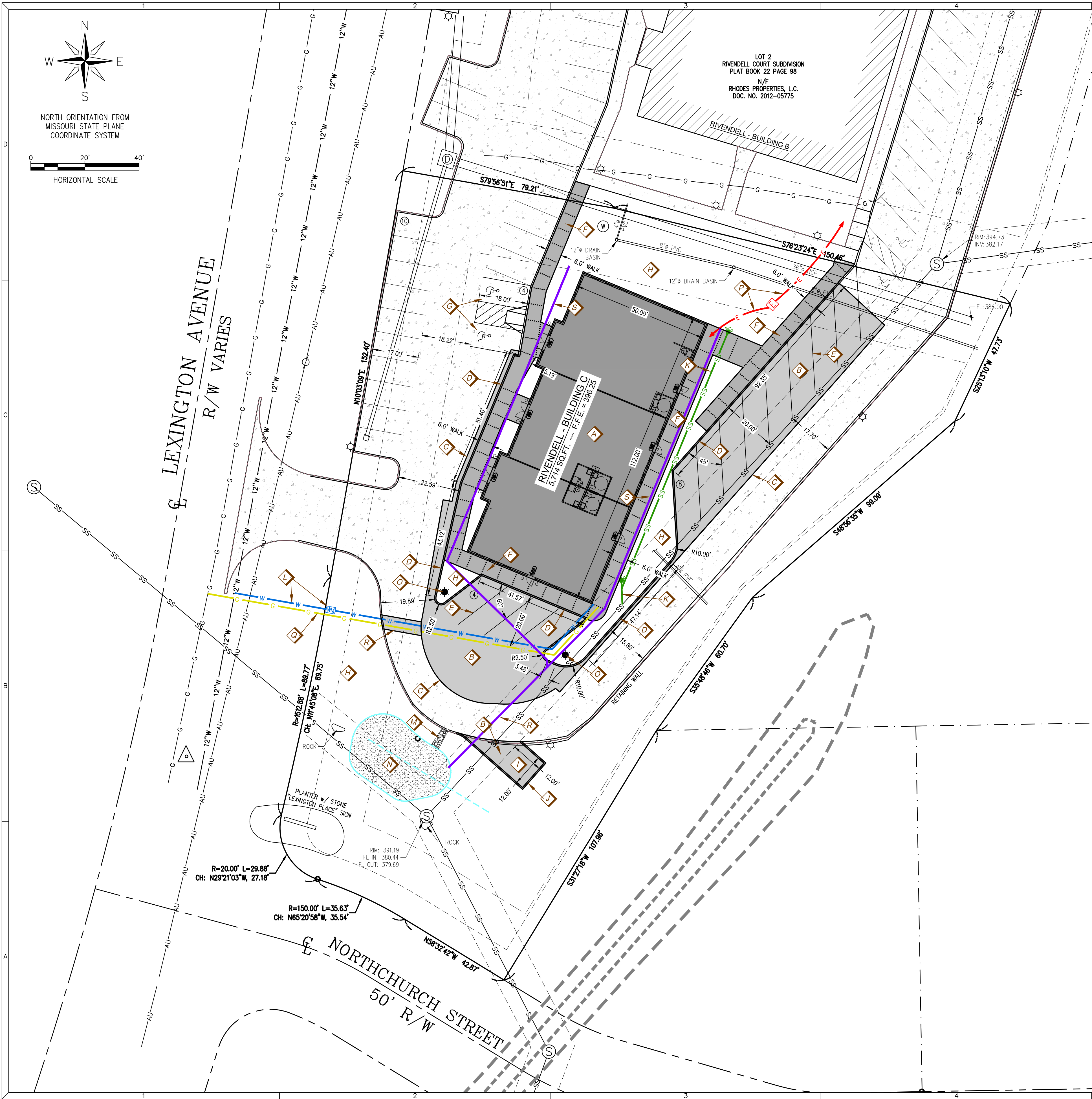
(573) 335-0621

[www.limbaughlaw.com](http://www.limbaughlaw.com)

[nbrowne@limbaughlaw.com](mailto:nbrowne@limbaughlaw.com)

OVER  
100  
YEARS





SITE PLAN NOTES

- ALL DIMENSIONS INDICATED HEREON ARE TO FACE OF CURB, OR EDGE OF PAVEMENT WHERE NO CURB IS PRESENT, UNLESS NOTED OTHERWISE.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF CAPE GIRARDEAU STANDARD SPECIFICATIONS.
- ALL DISTURBED AREAS NOT INDICATED AS PAVEMENT SHALL BE SOD OR SEEDED AND STRAWED PER EROSION AND SEDIMENT CONTROL REQUIREMENTS IN SECTION 23-8 (12).
- FULL TRENCH DEPTH GRANULAR BACKFILL WHERE PROPOSED PIPES CROSS UNDER PAVEMENT. REFER TO TYPICAL UTILITY TRENCH DETAIL ON SHEET C2.2.
- REFER TO SHEET C1.1 FOR EXISTING SITE CONDITIONS AND DEMOLITION PLAN.
- REFER TO SHEET C3.1 FOR GRADING AND STORMWATER MANAGEMENT PLAN.
- REFER TO SHEET C2.2 FOR CIVIL SITE DETAILS.
- REFER TO MEP PLANS FOR SITE LIGHTING PLAN, INCLUDING PHOTOMETRIC PLAN.
- PARKING REQUIREMENTS:  
ANTICIPATED USE (TOTAL FLOOR AREA = 5,714 SQ. FT.): BUSINESS OR PROFESSIONAL OFFICES, EXCEPT MEDICAL AND DENTAL OFFICES.  
SECTION 25-203 REQUIREMENT: 1 FOR EACH 350 SQ. FT. OF TOTAL BUILDING FLOOR AREA, OR 1 FOR EACH EMPLOYEE PLUS 10 PERCENT ADDITIONAL SPACES; PLUS 1 FOR EACH VEHICLE KEPT ON THE PREMISES FOR THE BUSINESS.  
REQUIRED: 17 SPACES  
PROVIDED: 26 SPACES (INCLUDES 2 HANDICAP SPACES)

KEYED NOTES

- | ITEM | NOTE  |
|------|---|
| A    | PROPOSED BUILDING FOOTPRINT. REFER TO BUILDING PLANS FOR MORE DETAILS.  |
| B    | PROPOSED 6" THICK CONCRETE PAVEMENT. REFER TO TYPICAL CONCRETE PAVEMENT DETAIL ON SHEET C2.2.   |
| C    | MATCH EXISTING GRADE WHERE PROPOSED CONCRETE MEETS EXISTING CONCRETE PAVEMENT. REFER TO TYPICAL CONCRETE CONNECTION DETAIL ON SHEET C2.2.   |
| D    | PROPOSED 6" INTEGRAL CONCRETE CURB. TYP. REFER TO TYPICAL CURB DETAIL ON SHEET C2.2.  |
| E    | PROPOSED 4" PAINTED PARKING STRIPE. TYP.  |
| F    | PROPOSED CONCRETE SIDEWALK. WIDTH INDICATED HEREON. CROSS SLOPE SHALL NOT EXCEED 2% ALONG ADA PATHS. REFER TO TYPICAL SIDEWALK DETAIL ON SHEET C2.2.  |
| G    | EXISTING HANDICAP PARKING SPACE AND ACCESS AISLE WITH PAINTED HANDICAP SYMBOL AND SIGN (TYP.). CONTRACTOR SHALL VERIFY GRADE OF SPACES (SHALL NOT EXCEED 2.08%) AND CONDITION OF STRIPING. REFER TO SYMBOL AND SIGN DETAILS ON SHEET C2.2. ACCESS AISLE TO BE MARKED SO AS TO DISCOURAGE PARKING IN IT (ICC/ANSI A117.1-1998 SEC. 503.3.3). SIGN TO BE POLE MOUNTED ON BACK SIDE OF CURB.   |
| H    | PROPOSED GRASS OR LANDSCAPE AREA. COORDINATE ALL LANDSCAPING WITH OWNER. REFER TO LANDSCAPE PLAN FOR MORE DETAILS.  |
| I    | PROPOSED 12' X 12' DUMPSTER ENCLOSURE. REFER TO ARCHITECTURAL PLANS FOR ADDITIONAL INFORMATION.   |
| J    | PROPOSED CONCRETE STEM WALL UNDER DUMPSTER ENCLOSURE. REFER TO RETAINING WALL DETAILS ON SHEET C2.2.  |
| K    | PROPOSED 4" SDR-35 SANITARY SEWER SERVICE LINE AT 1% MINIMUM SLOPE. MAINTAIN MINIMUM OF 3' OF COVER OVER PROPOSED SERVICE LINE. REFER TO MEP PLANS FOR CONNECTION(S) TO BUILDING AND ADDITIONAL DETAILS. PROPOSED SERVICE LINE SHALL CONNECT TO EXISTING SANITARY SEWER MAIN. COORDINATE CONNECTIONS TO MAIN WITH CITY OF CAPE GIRARDEAU SANITARY SEWER DEPARTMENT. INSTALL SEWER CLEANOUTS TO FINISHED GRADE WITH MAXIMUM 100 FEET BETWEEN CLEANOUTS AND AT ALL BENDS. REFER TO TYPICAL CLEANOUT DETAIL ON SHEET C2.2. |
| L    | PROPOSED WATER SERVICE LINE AND METER AS SHOWN. COORDINATE CONNECTION TO EXISTING WATER MAIN AND METER INSTALLATION WITH ALLIANCE WATER. MAINTAIN A MINIMUM OF 42" OF COVER OVER WATERLINE. WATERLINE TO CONNECT TO BUILDING AT BACK OF BUILDING. REFER TO MEP PLANS FOR CONNECTION LOCATION AT BUILDING.   |
| M    | PROPOSED ROCK LINING (RIP-RAP) FROM CURB OUTLET TO INFILTRATION TRENCH AREA.  |
| N    | PROPOSED INFILTRATION TRENCH WITH 6" PERFORATED PVC PIPE. INFILTRATION TRENCH SHALL BE 2" CLEAN STONE WITH A DEPTH OF 1.5 FEET AND 1.0 FOOT OF PONDING AREA ABOVE STONE. REFER TO INFILTRATION TRENCH DETAIL ON SHEET C2.2. OUTLET PIPE SHALL BE 6" PERFORATED PVC WITHIN INFILTRATION TRENCH AREA AND SOLID PVC BETWEEN INFILTRATION TRENCH AREA AND DITCH. END OF OUTLET PIPE SHALL DAYLIGHT TO EXISTING DRAINAGE DITCH ON EAST SIDE OF SITE.   |
| O    | PROPOSED LIGHT POLE. LIGHT AND LIGHT POLE SHALL MATCH EXISTING LIGHT POLES ON SOUTH SIDE OF BUILDING B.   |
| P    | PROPOSED SITE ELECTRIC. CONNECT TO EXISTING SITE ELECTRIC AT BACK OF BUILDING "B" AND REFER TO MEP PLANS FOR CONNECTION AT BACK OF PROPOSED BUILDING "C", TRANSFORMER TO BE ENCLOSED AND LOCATED BETWEEN BUILDINGS "B" & "C". COORDINATE CONNECTION TO EXISTING ELECTRIC AND LOCATION OF PROPOSED TRANSFORMER WITH AMEREN AND SITE ELECTRICAL PLAN.   |
| Q    | PROPOSED BURIED GAS LINE WITH CONNECTION TO BUILDING AND METER(S) AT BACK OF BUILDING. COORDINATE INSTALLATION WITH AMEREN AND REFER TO THE MEP PLANS FOR CONNECTION LOCATION AT BUILDING.  |
| R    | REMOVE AND REPLACE CONCRETE PAVEMENT FOR UTILITY LINES, DOWEL INTO EXISTING CONCRETE. REFER TO TYPICAL CONCRETE CONNECTION DETAIL ON SHEET C2.2.  |
| S    | PROPOSED 8" HDPE STORM PIPE AND NECESSARY FITTINGS. ROOF DRAINS SHALL CONNECT TO PROPOSED PIPE USING INSERT-A-TEE FITTINGS. REFER TO SHEET C2.2 FOR PIPE BEDDING DETAIL. PROPOSED PIPE SHALL RUN ALONG BACK AND FRONT SIDES OF THE BUILDING AND TO INFILTRATION TRENCH AS SHOWN HEREON.   |

LEGEND

- |  |                               |
|--|-------------------------------|
|  | PROPOSED CONCRETE PAVEMENT    |
|  | PROPOSED BUILDING FOOTPRINT   |
|  | PROPOSED SIDEWALK             |
|  | PROPOSED SSWR SERVICE LINE    |
|  | PROPOSED SSWR CLEANOUT        |
|  | PROPOSED WATER SERVICE LINE   |
|  | PROPOSED WATER METER          |
|  | PROPOSED GAS SERVICE LINE     |
|  | PROPOSED BURIED ELECTRIC LINE |
|  | PROPOSED ELECTRIC TRANSFORMER |
|  | PROPOSED RIP RAP              |

CoCG DIGITAL STAMP



RYAN M. ROTH - ENGINEER  
PE-2016001295  
THIS DRAWING IS NOT TO BE REPRODUCED  
WITHOUT THE PERMISSION OF KOEHLER  
ENGINEERING. NOT VALID FOR PROFESSIONAL  
PURPOSES UNLESS SIGNED AND SEALED.

REV	DATE	DESCRIPTION

CIVIL SITE PLAN	
KELS PJCT NO. 37573	OWNR PJCT NO.
DESIGNED BY RR	
DRAWN BY RR	SHEET NO.
CHECKED BY CK	C2.1
DATE 08.28.2019	



# RIVENDELL COURT



Rivendell Court designed &  
Developed by Rivendell Properties  
LLC

10/4/04

\$30 chg  
City of Cape



2004-17301

REC FEE: \$30.00  
PAGES: 3

JANET ROBERT, Recorder of Deeds, Cape Girardeau County MO, certify that this document was filed for record at 11:11AM and official seal affixed at Jackson, MO. 11/09/2004

JANET ROBERT  
Recorder of Deeds

Sherry Watson Deputy

[The above 3 inch blank space is reserved for the Recorder of Deeds Office. Do not alter or use]

## RECORDER OF DEEDS COVER PAGE

**Title of Document:** SPECIAL USE PERMIT

**Date of Document:** October 20, 2004

**Grantor(s) Name & Address:** City of Cape Girardeau, MO  
401 Independence, P.O. Box 617  
Cape Girardeau, MO 63702-0617

**Grantee(s) Name & Address:** Rivendell Properties, L.L.C.  
517 N. Silver Springs Rd.  
Cape Girardeau, MO 63701

### Legal Description:

Tract No. 1: All of Lot 1 of Lexington Place Fourth Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 21 at page 82, land records of Cape Girardeau County, Missouri.

Tract No. 2: All of Lots 1, 2, 3, 4 and 5 of Lexington Place First Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 17 at page 63, land records of Cape Girardeau County, Missouri.

**Reference Book & Page, if Required:**

## **SPECIAL USE PERMIT**

Rivendell Properties, L.L.C., is hereby granted a Special Use Permit for purposes of constructing, maintaining and operating an office and retail unit located at the entrance of Lexington Place Subdivision, in the City and County of Cape Girardeau, Missouri, on the following described property for an indefinite period of time:

Tract No. 1: All of Lot 1 of Lexington Place Fourth Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 21 at page 82, land records of Cape Girardeau County, Missouri.

Tract No. 2: All of Lots 1, 2, 3, 4 and 5 of Lexington Place First Subdivision in the City of Cape Girardeau, Missouri, as shown by plat recorded in Plat Book 17 at page 63, land records of Cape Girardeau County, Missouri.

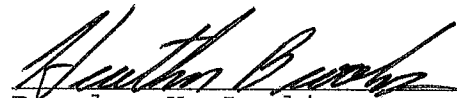
This Special Use Permit is granted upon the condition that the Applicant be bound by all City Ordinances which pertain to the Special Use Permit and that the Applicant be bound by the following conditions which are imposed as a condition of issuance of this Special Use Permit. Upon the failure of the Applicant to comply with these special conditions, the Special Use Permit will automatically terminate and the City of Cape Girardeau shall have the right to enter upon the land to abate such special use.

### **SPECIAL CONDITIONS:**

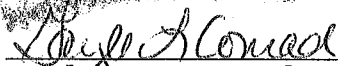
1. Additions or modifications from the original building permit must be approved by the City Council.
2. Special use shall meet all applicable zoning regulations.
3. This Special Use Permit shall automatically terminate in twelve (12) months upon the failure to develop the use of the land for which the Special Use Permit has been issued.
4. This Special Use Permit is not transferrable without consent of the City Council.
5. This professional office and retail space shall be limited to: health care professionals, legal services, accounting and bookkeeping, financial service industries, insurance providers, real estate and property management companies, consulting and counseling services, 501(C)3 and faith-based organizations, spa/salon, limited food

(i.e. sandwich shop, Starbucks coffee or a My Daddy's Cheesecake, etc.) with no more than eight (8) persons in a single shift on the premises and hours be limited to normal defined as not before 5:00 a.m. and no later than 11:00 p.m.; limited retail boutique shop (i.e. Piccadilly's, Annie EM's, Patricia Ann's, Renaissance, etc.)

IN WITNESS WHEREOF, the City Manager of the City of Cape Girardeau, Missouri, affixes his signature this 20th day of October, 2004.

  
Douglas K. Leslie *Heather D. Brooks*  
Acting City Manager

ATTEST:

  
Gayle L. Conrad  
City Clerk

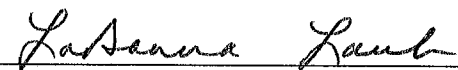
STATE OF MISSOURI )

) ss.

COUNTY OF CAPE GIRARDEAU )

On this 20th day of October, 2004, before me appeared ~~Douglas K. Leslie~~ *Heather D. Brooks* to me personally known, who, being by me duly sworn, did say that she is the City Manager of the City of Cape Girardeau, Missouri, a Municipal Corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City and that the said instrument was signed and sealed in behalf of said City by authority of its City Council and acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Cape Girardeau, Missouri, the day and year first above written.

  
LaDonna Laub, Notary Public

My Commission Expires:  
August 4, 2007

**LADONNA LAUB**  
Notary Public-Notary Seal  
State of Missouri  
County of Scott  
My Commission Expires Aug. 4, 2007

**CONTRACT  
For  
Facility Projects**

**CONSULTANT NAME: Phillip B. Smith Architect, LLC**

*THIS CONTRACT* is between City of Cape Girardeau, Missouri, hereinafter referred to as the "City", and Phillip B. Smith Architect, LLC, 423 Themis Street, Cape Girardeau, MO, 63701 hereinafter referred to as the "Consultant".

*INASMUCH* as funds have been made available by the City through its Parks and Stormwater Tax and capital planning process, the City intends to complete general facility improvement projects and requires professional design services and architectural services. The Consultant, upon the City's request through written Task Orders, will provide the City with any and all professional services hereinafter detailed for the planning, design and/or construction inspection of the desired improvements and the City will pay the Consultant as provided in this contract and subsequent Task Orders. It is mutually agreed as follows:

**ARTICLE I - SCOPE OF SERVICES**

A. **DESIGN PHASE** - The Consultant will if requested by the City:

1. determine the needs of the City for the project;
2. conduct property and utility surveys sufficient to develop plans for the project;
3. arrange for subsurface investigations if needed;
4. conduct studies, prepare alternative designs and cost estimates, develop preliminary plans, and recommend to the City the best overall general design based on these studies;
5. submit appropriate copies of preliminary plans, estimates and/or studies for review by the City;
6. prepare detailed construction plans, cost estimates, specifications and related documents as necessary for the purpose of soliciting bids for constructing the project. Provision will be made in the contract documents for that portion of the work that will be performed by City's forces;
7. ensure compliance with water quality requirements by coordinating with the Missouri Department of Natural Resources and the U.S. Army Corps of Engineers and also ensure compliance with the requirements of the Federal Emergency Management Agency (FEMA);

8. ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources, and if deemed necessary, arrange to have the site examined by a qualified archaeologist on a subcontract basis;
9. ensure compliance with all regulations City, State and Federal regulations; and
10. after making final corrections resulting from reviews by agencies involved, provide the City with the appropriate sets of completed plans, specifications, studies and/or cost estimates for the purpose of obtaining construction authorization from the City.

**B. BIDDING PHASE** - The Consultant will, if requested by the City:

1. assist the City in advertising for bids and evaluating bids.
2. Bids Exceeding Cost Estimate: If all bids exceed Consultant's Estimate, due to error or negligence on the Consultant, the Consultant shall, at the request of City and for no additional cost, prepare a report for City identifying why all the bids exceed the estimate. The City has four (4) options if all bids exceed Consultant's Estimate. The City may: (1) give written approval of an increase in the Project cost; (2) authorize rebidding of the Project, (3) terminate the Project and this Agreement, or (4) cooperate in revising the Project scope, plans, or specifications, or all as necessary to reduce the construction cost. In the case of (4), Consultant, without additional charge to City, shall consult with City and shall revise and modify the scope, plans, or specifications as necessary to achieve compliance with the "Consultant's Estimate".

**C. CONSTRUCTION PHASE** – The Consultant will, if requested by the City, serve as the City's representative for administering the terms of the construction contract between City and their Contractor. Consultant will endeavor to protect the City against defects and deficiencies in workmanship and materials in work by the Contractor. However, the furnishing of such project representation will not make Consultant responsible for the construction methods and procedures used by the Contractor or for the Contractor's failure to perform work in accordance with the contract documents. Consultant's services will include more specifically as follows if needed:

1. assist the City with a preconstruction conference to discuss project details with the Contractor;
2. make periodic site visits to observe the Contractor's progress and quality of work, and to determine if the work conforms to the contract documents. The Consultant will accompany City representatives on visits of the project site as requested;
3. check shop drawings and review schedules and drawings submitted by the Contractor;
4. reject work not conforming to the project documents;
5. prepare change orders for issuance by the City as necessary and assure that proper approvals are made prior to work being performed;

6. be present during critical construction operations, including but not limited to the following:
  - a. structure layout;
  - b. excavation and backfilling;
  - c. driving of piles;
  - d. checking of reinforcing steel prior to concrete placement;
  - e. concrete pouring;
  - f. placement of girders; and
  - g. placement of surfacing materials; and
7. participate in final inspection, provide the City with project documentation and provide as-built plans for the City's records.

## **ARTICLE II - ADDITIONAL SERVICES**

The City reserves the right to request additional work; changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of City prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

## **ARTICLE III - RESPONSIBILITIES OF CITY**

The City will cooperate fully with the Consultant in the development of the project, including the following:

- A. make available all information pertaining to the project which may be in the possession of the City;
- B. provide the Consultant with the City's requirements for the project;
- C. make provisions for the Consultant to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Consultant and render decisions thereon in a prompt manner so as not to delay the Consultant;
- E. designate a City employee to act as City's representative under this contract, such person shall have authority to transmit instructions, interpret the City's policies and render decisions with respect to matters covered by this agreement;
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way and easements needed to construct this project.

## **ARTICLE IV - PERIOD OF SERVICE**

The Consultant will commence work within two weeks after receiving a signed Task Order and notice to proceed from the City. The phases of work shall be completed in accordance with the associated Task Order.

The times are exclusive of review time by other agencies and exclusive of time needed to acquire right-of-way. The City will grant time extensions for unavoidable delays beyond the control of the Consultant. Requests for extensions of time should be requested in writing by the Consultant, stating fully the reasons for the request.

This contract shall remain in effect for five years from the date accepted by the City of Cape Girardeau City Council.

## **ARTICLE V - STANDARDS**

The Consultant shall be responsible for working with the City in determining the appropriate design parameters and construction specifications for the project using best practices and judgment based on the specific site conditions, City needs, and guidance provided in the most current version of the City of Cape Girardeau's Standard Specifications and Drawings.

## **ARTICLE VI - COMPENSATION**

For services provided under this contract, the City will compensate the Consultant as determined in the Task Order based on Consultant's Charge Out Rates as determined below:

1. Charge Out rates shall include all direct payroll, general and administrative overhead, specialized equipment costs, payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay.
2. Additional work incurred by others on a subcontract basis, said costs are to be passed through the Consultant on the basis of reasonable and actual cost as invoiced by the subcontractors, only if required and approved by the City.

**METHOD OF PAYMENT** – Unless otherwise stated in the Task Order, partial payments will be made to the Consultant for work satisfactorily completed upon receipt of itemized invoices by the City.

1. Invoices will be submitted monthly. Invoices submitted on or before the 20th day of any month shall become due and payable on the 10th day of the following month. Invoices for each Task Order shall be submitted separately.
2. City's Right to Withhold Payment. In the event the City becomes informed that any representations of the Consultant provided in its monthly billing, are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to the Consultant until the inaccuracy and the cause thereof, is corrected to the City's reasonable satisfaction. The Consultant shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due solely to Consultant's negligent acts, errors, or omissions.



**PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

#### **ARTICLE VII - COVENANT AGAINST CONTINGENT FEES**

The Consultant warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the City shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

#### **ARTICLE VIII - SUBLETTING, ASSIGNMENT OR TRANSFER**

No portion of the work covered by this contract, the contract itself, or any Task Order, except as provided herein, shall be assigned, sublet or transferred without the written consent of the City. The subletting of the work shall not relieve the Consultant of his primary responsibility for the quality and performance of the work.

#### **ARTICLE IX - PROFESSIONAL ENDORSEMENT**

All plans, specifications and other documents shall be endorsed by the Consultant and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the Plans, Specifications, and Estimate submittal, the Engineer of Record will be representing to the City that the design is meeting the intent of the program. Any review or approval by the City of any documents prepared by the Consultant and/or its subconsultants including but not limited to the plans and specifications, shall be solely for the purpose of determining whether such documents are consistent with City's construction program and intent and shall not be construed as approval of same by City. No review of such documents shall relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.

Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of the Task Order, the parties will agree on the Project Manager for the Task. This person shall be the primary contact with the City's Project Manager and shall have authority to bind Consultant.

#### **ARTICLE X - RETENTION OF RECORDS**

The Consultant shall maintain all records, survey notes, design documents, cost and accounting records, construction records, and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by City. Said records shall be made available for inspection by authorized representatives of the City during regular working hours at the Consultant's place of business.

## **ARTICLE XI - OWNERSHIP OF DOCUMENTS**

Plans, tracings, maps, and specifications prepared under this contract shall be delivered to and become the property of the City upon termination or completion of work. Basic survey notes, design computations, and other data prepared under this contract shall be made available to the City upon request. All such information produced under this contract shall be available for use by the City without restriction or limitation on its use. If the City incorporates any portion of the work into a project other than that for which it was performed, the City shall save the Consultant harmless from any claims and liabilities resulting from such use.

## **ARTICLE XII - TERMINATION**

The City may terminate the contract at any time by giving written notice. If the contract is terminated because the project is abandoned or postponed by the City, the Consultant will be paid for actual time and covered expenses incurred up to the date of termination, plus a pro-rated portion of any fixed fee.

If the contract is terminated due to the Consultant's services being unsatisfactory in the judgment of the City, or if the Consultant fails to prosecute the work with due diligence, the City may procure completion of the work in such manner as it deems to be in the best interest of the City. A Notice of Termination will be sent to the Consultant and the Consultant shall have a period of ten (10) days to remedy the cause for termination. The Consultant will be responsible for any excess cost in addition to that provided for in this contract or any damages the City may sustain by reason of the termination of this contract due to unsatisfactory performances or prosecution. When Consultant services have been so terminated, such termination shall not affect any rights or remedies of the City against the Consultant then existing or which may later accrue. Similarly, any retention or payment of monies due the Consultant shall not release the Consultant from liability.

## **ARTICLE XIII - DECISIONS UNDER THIS CONTRACT**

The City will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The City's decision shall be final and conclusive.

## **ARTICLE XIV - SUCCESSORS AND ASSIGNS**

Subject to the restrictions on assignments in Article VIII above, the City and the Consultant agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

## **ARTICLE XV - COMPLIANCE WITH LAWS**

The Consultant shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964 and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract. Consultant shall further comply with the following state law requirements:

*Work Authorization Program.* If the Contract is for services expected to cost more than \$5,000.00, the Consultant shall comply with Section 285.530 RSMo., pertaining to enrollment and participation in a federal work authorization program (as defined therein) and shall provide verification through an affidavit (attached as **Attachment C**) that the Consultant (1) does not knowingly employ any person who is an unauthorized alien in connection with the Contract and (2) is enrolled in a federal work authorization program and provide documentary proof thereof. The affidavit shall contain the notarized signature of the registered agent, legal representative or corporate officer of the Consultant including but not limited to the human resources director or their equivalent.

*Proof of Lawful Presence.* Section 208.009 RSMo., requires that all applicants at the time of application for any contract provided by a local government provide “affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States.” Consultant’s affirmative proof must be established through (i) a Missouri driver’s license, (ii) any “documentary evidence recognized by the department of revenue when processing an application for a driver’s license,” or (iii) “any document issued by the federal government that confirms an alien’s lawful presence in the United States.” §208.009.3

## **ARTICLE XVI - RESPONSIBILITY FOR CLAIMS AND LIABILITY**

The Consultant agrees to save harmless the City from all claims and liability due to his negligent acts or the negligent acts of his employees, agents, or subcontractors. The City shall be entitled to recover its actual attorneys’ fees from Consultant for the City’s enforcement of this Agreement.

## **ARTICLE XVII - INSURANCE**

The Consultant shall maintain commercial general liability, automobile liability, and worker’s compensation and employer’s liability insurance in full force and effect to protect the Consultant from claims under Worker’s Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Consultant and its employees, agents and subconsultants in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.

The Consultant shall also maintain professional liability insurance to protect the City against the negligent acts, errors, or omissions, of the Consultant and those for whom it is legally responsible, arising out of the performance of professional services under this Agreement.

Unless another amount is agreed to by the City based on the circumstances, the Consultant and his subconsultants shall procure and maintain during the life of this Agreement insurance of the types and minimum amounts as follows:

<u><b>Insurance Type</b></u>	<u><b>Amount</b></u>
------------------------------	----------------------

Worker's Compensation:	In full compliance with statutory requirements of Federal and State of Missouri
Comprehensive General Liability and Employer Liability:	430,000 each person \$2,000,000 each occurrence
Professional Liability:	\$2,000,000 each occurrence

Certificates evidencing such insurance shall be furnished to the City prior to the Consultant commencing the work on this project. The certificates, except Professional Liability, must state, "The CITY OF CAPE GIRARDEAU is an additional insured". The City reserves the right to adjust the limit coverage requirements in accordance with changes in the statutory sovereign immunity limits over the life of this contract to reflect any changes in the limits as published by the Missouri Department of Insurance in the state register pursuant to RSMo. §537.610.

The Consultant shall, upon request at any time, provide the City with certificates of insurance evidencing the Consultant's commercial general or professional liability policies and evidencing that they and all other required insurance is in effect, as to the services under this Contract.

Any insurance policy required as specified in this Article shall be written by a company that is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

#### **ARTICLE XVIII - FINDINGS CONFIDENTIAL**

To the fullest extent permitted by law, all reports, information, data, etc. prepared or assembled by the Consultant under this contract are confidential, and the Consultant agrees they shall not be made available to any individual or organization without the prior written approval of the City.

#### **ARTICLE XIX - NONDISCRIMINATION**

The Consultant, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Consultant will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Consultant will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

## ARTICLE XX - ATTACHMENTS

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A – Charge out rates for 2019, 2020, 2021, 2022, 2023, and 2024

Attachment B – Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Primary Covered Transactions

Attachment C – Affidavit of Participation in Federal Work Authorization Program

Executed by the Consultant this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Executed by the City this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

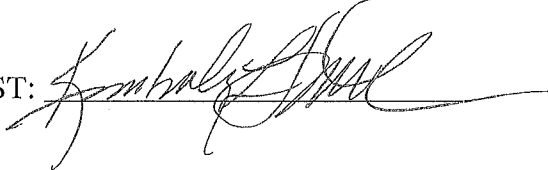
**FOR: CITY OF CAPE GIRARDEAU**

BY: \_\_\_\_\_  
City Manager, Scott Meyer

ATTEST: \_\_\_\_\_  
City Clerk

**FOR: PHILLIP B. SMITH ARCHITECT, LLC.**

BY:  \_\_\_\_\_  
Name, Title, Owner

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

## ATTACHMENT A

Break Out Rates  
For Year \_\_\_\_

## **ATTACHMENT B**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS**

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#### **INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction" provided by the department or agency

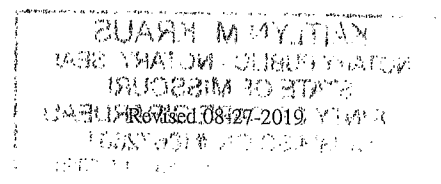


entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System.  
<https://www.epls.gov/eplsearch.do?page=A&status=current&agency=69#A>.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

#### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

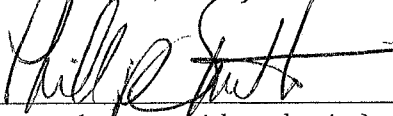


**ATTACHMENT C**  
**AFFIDAVIT OF PARTICIPATION IN**  
**FEDERAL WORK AUTHORIZATION PROGRAM**

Comes now Phillip Smith as Owner/Architect first being duly sworn, on my oath  
(name) (office held)  
affirm Phillip B. Smith Architect L.L.C. ("Consultant") is enrolled and will continue to participate in a  
(company name)  
federal work authorization program in respect to employees that will work in connection with the  
contracted services related to Facility Projects and any incidental items  
(describe project)  
associated with this work for the duration of the contract, if awarded, in accordance with Section  
285.530.2, Revised Statutes of Missouri. I also affirm that the Consultant does not and will not knowingly  
employ a person who is an unauthorized alien in connection with the contracted services for the duration  
of the contract, if awarded. Attached to this affidavit is documentation of the Consultant's participation  
in a federal work authorization program.

**(ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIPATES IN FEDERAL WORK  
AUTHORIZATION PROGRAM. ALSO ATTACH PROOF OF LAWFUL PRESENCE, AS PROVIDED IN THE  
GENERAL CONDITIONS)**

*In Affirmation thereof, the facts stated above are true and correct (The undersigned  
understands that false statements made in this filing are subject to the penalties provided under  
Section 575.040, RSMo).*

  
Signature (person with authority)

Phillip B. Smith  
Printed Name

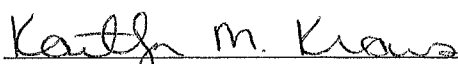
Owner / Architect  
Title

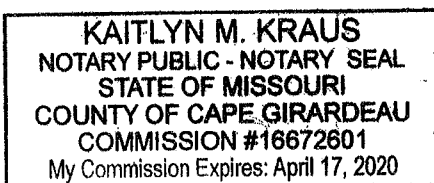
09/06/2019  
Date

State of Missouri )  
County of Cape Girardeau ) ss.

Subscribed and sworn to before me this 6<sup>th</sup> day of September, 2019

My commission expires: April 17, 2020

  
Notary Public





## Rate Schedule

	2019	2020	2021	2022	2023	2024
Architect	\$90.00	\$100.00	\$100.00	\$105.00	\$105.00	\$105.00
Drafting Technician I	50.00	55.00	55.00	60.00	60.00	60.00
Drafting Technician II	60.00	65.00	65.00	70.00	70.00	70.00
Interior Design	50.00	55.00	55.00	60.00	60.00	60.00
Administrative Secretary	45.00	50.00	50.00	55.00	55.00	55.00

### Consultants:

Consultants consist of Civil, Mechanical, Plumbing, Electrical, and Structural Engineers. Compensation for services rendered by Consultants shall be based on a multiple of one and one-tenth (1.1) times the amount billed by the consultant(s).

Reproduction Cost: Plans and Specifications 1.15 x cost

Automobile Mileage: Per published IRS Standard Mileage Rate.  
(Currently \$ 0.545/mile.)

**THE E-VERIFY  
MEMORANDUM OF UNDERSTANDING  
FOR EMPLOYERS**

**ARTICLE I  
PURPOSE AND AUTHORITY**

The parties to this agreement are the Department of Homeland Security (DHS) and the PHILLIP B. SMITH ARCHITECT LLC (Employer). The purpose of this agreement is to set forth terms and conditions which the Employer will follow while participating in E-Verify.

E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of Form I-9, Employment Eligibility Verification (Form I-9). This Memorandum of Understanding (MOU) explains certain features of the E-Verify program and describes specific responsibilities of the Employer, the Social Security Administration (SSA), and DHS.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

**ARTICLE II  
RESPONSIBILITIES**

**A. RESPONSIBILITIES OF THE EMPLOYER**

1. The Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
  - a. Notice of E-Verify Participation
  - b. Notice of Right to Work
2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted about E-Verify. The Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
3. The Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.

Company ID Number: 192354

Approved by:

<b>Employer</b> PHILLIP B. SMITH ARCHITECT LLC	
Name (Please Type or Print) PHILLIP SMITH	Title
Signature Electronically Signed	Date 02/20/2009
<b>Department of Homeland Security – Verification Division</b>	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 02/20/2009

**Staff:** Bruce W. Loy, Airport Manager  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-210**

**SUBJECT**

Amendment #4 to a State Block Grant Agreement with MoDOT to design and construct Runway 10/28 Lighting Rehabilitation, Project No. 15-077A-1.

**EXECUTIVE SUMMARY**

At the February 19, 2018, City Council meeting the Council approved Supplemental Agreement #2 to the design and construction oversight agreement with Crawford Murphy and Tilly, Project No. 15-077A-1, in the amount of \$24,254.22. As a part of this same project, and in order to relocate the airfield electrical vault, the Council also approved a Utility Agreement with Union Electric Company d/b/a/ Ameren Missouri at the Cape Girardeau Regional Airport for an amount not to exceed \$5,656.20. Additionally, the airport recently approved Change Order No. 1 for this project (attached), in the amount of \$25,600, in an effort to rewire the airport runway signage so the runway signs will be on the same, corresponding circuits with the particular runway edge lighting circuits.

At the April 16, 2018, City Council meeting, the Council approved Amendment #2 to the original agreement for this noted project with the Missouri Highways and Transportation Commission, in the amount of \$52,735, which funded 95% of the three additional project expenses. The City's 5% match equaled \$2,776. Amendment #3 to the original agreement for this project extended the project time period from December 31, 2018 to May 30, 2019 to allow for the completion of work. Due to punch list items taking longer than anticipated to complete, the work was not completed within the extended time period.

The attached Amendment #4 to the original agreement for this project with the Missouri Highways and Transportation Commission extends the project time period to allow for the completion of the work. Based upon the revised project schedule, the project time period of May 30, 2019, will be extended to December 31, 2019 to allow for the completion of the work.

**BACKGROUND/DISCUSSION**

The Runway 10/28 surface mounted edge lighting at the Cape Girardeau Regional Airport was originally installed sometime in the early 1970's. While some of the cabling and transformers have been updated, the current light fixtures are no longer manufactured, which is forcing the airport to depend on other airport surplus fixtures for repairs and maintenance.

At the February 15, 2016, City Council Meeting, the Council approved the MoDOT Grant Agreement for Project 15-077A-1, to fund the design phase of the Runway 10/28 Lighting Rehabilitation project for an amount not to exceed \$68,979.05. The project was designed and advertised for bid, with the low bidder, Reinhold Electric, coming in at \$631,564. At the June 20, 2016, City Council meeting, the Council approved Supplemental Agreement #1 for the construction services contract with our consultant, Crawford, Murphy, and Tilley for an amount of \$51,447.73. At that time, the Council also approved the contract with the low bidder totaling \$683,011.73 for the construction and the construction oversight services.

At the February 19, 2018, meeting the Council approved Supplemental Agreement #2 to the original Construction Services agreement with CMT for Project 15-077A-1, in an amount not to exceed \$24,254.22, which funded additional construction oversight services necessary for the remainder of this project. Additionally, at that same meeting the Council approved a utility agreement with Union Electric Company d/b/a/ Ameren Missouri for an amount not to exceed \$5,656.20. In an effort to match the runway lighting circuits with the corresponding runway signage circuits, the airport and MoDOT approved Change Order #1 in the amount of \$26,500, for that additional work to be completed. Those three additional expenses, which total \$55,510, were funded at 95% with the agreement Amendment #2 in the amount of \$52,735. The local City match for those grant funds was \$2,776. Amendment #2 was approved by the Council at their April 16, 2018, City Council meeting.

Amendment #3 was approved by the Council at their November 7, 2018, City Council Meeting. This amendment extended the timeline for the project, from December 31, 2018 to May 30, 2019, in an effort to allow the contractor additional time for the completion of the punch list items.

The attached Amendment #4 to the original agreement for this project with the Missouri Highways and Transportation Commission extends the project time period to allow for closeout of the project. Based upon the revised project schedule, The project time period will extend from May 30, 2019 to December 31, 2019.

**FINANCIAL IMPACT**

The attached Amendment #4 does not have any financial impact on this project, however, the total financial impact to the City for this Runway 10-28 Lighting Rehabilitation Project No. 15-077A-1 is summarized below:

		MoDOT	City
Project Design (90/10):	\$ 68,979.00	\$ 62,081.00	\$ 6,898.00
Project Const. Services (#1):	\$ 51,447.00*		
Project Construction Cost (#1):	\$631,564.00*	\$ 648,861.00	\$ 34,150.00
Project Const. Services, (#2)	\$ 24,254.00**	\$ 23,042.00	\$ 1,213.00
Project Change Order (#1)	\$ 25,600.00	\$ 24,320.00	\$ 1,280.00
Ameren Utility Agreement	\$ 5,656.00	\$ 5,373.00	\$ 283.00
TOTAL Project Cost:	\$807,500.00	\$763,677.00	\$ 43,824.00

\*Construction Services & Construction Cost combined, SA#1 = \$683,011 (95/5 grant)  
\*\*Construction Services, SA#2 = \$24,254.22 (95/5 grant)

**STAFF RECOMMENDATION**

It is recommended the City Council approve an ordinance authorizing the City Manager to execute Agreement Amendment #4 with the Missouri Highways and Transportation Commission to extend the project time period for the close out of the Runway 10/28 Lighting Rehabilitation Project, Project No. 15-077A-1, from May 30, 2019, to December 31, 2019.

**ATTACHMENTS:**

Name:	Description:
<a href="#">MODOT Block Grant Amendment 4- Airport Runway.doc</a>	Ordinance
<a href="#">Amendment 4 to SBGA City of Cape Girardeau 15-077A-1.pdf</a>	15-077A-1 Amendment #4

BILL NO.      19-147

ORDINANCE NO.      \_\_\_\_\_

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO  
EXECUTE AMENDMENT #4 TO THE STATE BLOCK  
GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS  
AND TRANSPORTATION COMMISSION FOR DESIGN AND  
CONSTRUCTION OF THE RUNWAY 10/28 LIGHTING  
REHABILITATION PROJECT, AT THE CAPE  
GIRARDEAU REGIONAL AIRPORT

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE GIRARDEAU,  
MISSOURI, AS FOLLOWS:

Article 1. The City Manager is hereby authorized and directed to execute, on behalf of the City of Cape Girardeau, Missouri, Amendment #4 to the State Block Grant Agreement with the Missouri Highways and Transportation Commission, for design and construction of the Runway 10/28 Lighting and Rehabilitation Project, Project No. 15-077A-1, at the Cape Girardeau Regional Airport. The City Clerk is hereby authorized and directed to attest to said document and to affix the seal of the City thereto. The Amendment shall be in substantially the form attached hereto, which document is hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

Article 2. This Ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Bruce Taylor, Deputy City Clerk



CCO Form: MO18

Approved: 05/94 (MLH)

Revised: 03/17 (MWH)

Modified:

Sponsor: City of Cape Girardeau

Project No.: 15-077A-1

CFDA Number: CFDA #20.106

CFDA Title: Airport Improvement Program

Federal Agency: Federal Aviation Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
AMENDMENT TO STATE BLOCK GRANT AGREEMENT**

**AMENDMENT #4**

THIS AGREEMENT AMENDMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Cape Girardeau (hereinafter, "Sponsor").

WITNESSETH:

WHEREAS, the parties entered into an Original Agreement executed by the Sponsor on February 26, 2016, and executed by the Commission on March 4, 2016, (hereinafter, "Original Agreement") under which the Commission granted the sum not to exceed Sixty-Five Thousand Four Hundred Thirty-Five Dollars (\$65,435) to the Sponsor to assist with Design Runway 10/28 Lighting Rehabilitation; and

WHEREAS, the parties entered into an Amendment #1 to the Original Agreement executed by the Sponsor on October 25, 2016, and executed by the Commission on November 4, 2016, (hereinafter, "Amendment #1") under which the Commission granted an additional sum not to exceed Six Hundred Forty-Eight Thousand Eight Hundred Sixty-One Dollars (\$648,861) to the Sponsor to assist with Design and Construct Runway 10/28 Lighting Rehabilitation; and

WHEREAS, the parties entered into an Amendment #2 to the Original Agreement executed by the Commission on May 17, 2018, (hereinafter, "Amendment #2") under which the Commission granted an additional sum not to exceed Fifty-Two Thousand Seven Hundred Thirty-Five Dollars (\$52,735) to the Sponsor to assist with Design and Construct Runway 10/28 Lighting Rehabilitation, and extended the project time period from November 30, 2017 to December 31, 2018, to allow for completion of the work; and

WHEREAS, the parties entered into an Amendment #3 to the Original Agreement executed by the Commission on January 2, 2019, (hereinafter, "Amendment #3") under which the parties agreed to extend the project time period from December 31, 2018 to May 30, 2019, to allow for completion of the work; and

WHEREAS, the parties wish to further extend the project time period to allow for completion of the work.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PROJECT TIME SCHEDULE: Based upon the revised project schedule, the project time period of May 30, 2019 will be extended to December 31, 2019, to allow for completion of the work. Paragraph (1) of Amendment #3 is hereby amended accordingly.

(A) The project will be carried out in accordance with the assurances (Exhibit 1) given by the Sponsor to the Commission as specified in Amendment #2.

(B) This Amendment shall expire and the Commission shall not be obligated to pay any part of the costs of the project unless this grant amendment has been executed by the Sponsor on or before October 31, 2019, or such subsequent date as may be prescribed in writing by the Commission.

(C) All other terms and conditions of the Original Agreement, Amendment #1, Amendment #2, and Amendment #3 entered into between the parties shall remain in full force and effect.

*[Page Intentionally Left Blank]*

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

Executed by the Sponsor this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION**

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Commission

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

**CITY OF CAPE GIRARDEAU**

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)

### **CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing grant Agreement under the laws of the State of Missouri. Further, I have examined the foregoing grant Agreement and the actions taken by said Sponsor and Sponsor's official representative have been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said state and the Airport and Airway Improvement Act of 1982, as amended. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

### **CITY OF CAPE GIRARDEAU**

\_\_\_\_\_  
Name of Sponsor's Attorney (typed)

\_\_\_\_\_  
Signature of Sponsor's Attorney

Date \_\_\_\_\_

**Staff:** Bruce W. Loy, Airport Manager  
**Agenda:** 9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-211**

**SUBJECT**

Amendment #3 to the State Block Grant Agreement with MoDOT to acquire an ARFF vehicle at the Cape Girardeau Regional Airport.

**EXECUTIVE SUMMARY**

On May 2, 2018, the ARFF vehicle was delivered and accepted by the Cape Girardeau Regional Airport. The vehicle has been in service since that time, replacing the previous ARFF truck (AP-2). The attached Amendment #3 to the original agreement for this project with the Missouri Highways and Transportation Commission extends the project time period to allow for the completion of paperwork to closeout the project. Based upon the revised project schedule, the project time period of April 1, 2019 will be extended to December 31, 2019.

**BACKGROUND/DISCUSSION**

The previous ARFF truck (AP-2) used for first response, aircraft rescue and fire fighting coverage at the Cape Girardeau Regional Airport was over 20 years old. The Federal Aviation Administration (FAA) mandated that the City replace the current ARFF truck with a new vehicle as soon as possible to continue to be in compliance with FAR Part 139. On January 20, 2015, the City of Cape Girardeau approved an agreement with Crawford, Murphy, and Tilly, Inc. (CMT) to provide the design phase services for the acquisition of an Aircraft Rescue Fire Fighting (ARFF) vehicle for the Cape Girardeau Regional Airport. Those design phase services expense of \$12,552 were funded 90% with State Block Grant Agreement, Project #14-007A-2, in the amount of \$11,296.00, with a 10% City share of \$1,256.00.

The design phase services were completed and the ARFF truck bids were opened July 19, 2016, with Rosenbauer America providing the sole bid at \$324,967.00 to manufacture a Rosenbauer Airwolf Class II ARFF Truck pursuant to design specifications. The Missouri Department of Transportation, Aviation Division, (MoDOT) agreed to fund the cost of the ARFF vehicle, with Amendment #1 to the State Block Agreement, Project #14-077A-2, a combination of 90% and 95% for the expense for this ARFF truck, in an amount equal to \$300,385, with the City funding approximately 7.56%, or \$24,582. The combination of the 90% and 95% grant percentage is due to the City of Cape Girardeau being determined as a distressed economic area in the middle of this grant process. As a result MoDOT provided us 90% funding on \$161,296.00 of the cost and 95% funding on \$159,885.00 of the cost.

Rosenbauer had 365 days to fulfill their contract obligations and deliver the truck. Although the truck was delivered and approved on May 2, 2018, there were additional fees due to CMT, as a result of additional design phase services, which were required due to a variety of issues and additions necessary to get the best use of the ARFF truck. These additional costs were addressed by Amendment #2. The attached Amendment #3 simply extends the timeline for the project, from April 1, 2019 to December 31, 2019, in an effort to allow for completion of final close-out documents.

**FINANCIAL IMPACT**

The attached Amendment #3 does not have any financial impact on this project, however, the overall financial impact of the project is summarized below:

	<u>FAA/MoDOT</u>	<u>City Share</u>	<u>TOTAL</u>
Design Phase performed by CMT:	\$ 11,296.00	\$ 1,256.00	\$ 12,552.00
Rosenbauer Airwolf ARFF truck:	\$300,385.00	\$24,582.00	\$324,967.00
Additional Design Phase services covered by Amendment #2.....	<u>\$ 8,157.00</u>	<u>\$ 906.00</u>	<u>\$ 9,063.00</u>
Total Grant Expense:	\$319,838.00	\$26,744.00	\$346,582.00

(NOTE: These numbers do not include \$20,140.00 in City expenses for optional equipment not eligible for grant funding from the State or the FAA.)

**STAFF RECOMMENDATION**

It is staff's recommendation that City Council approve Amendment #3, extending the timeline of Project No. 14-077A-2 for the acquisition of Aircraft Rescue and Fire Fighting (ARFF) Vehicle, at the Cape Girardeau Regional Airport from April 1, 2019, to December 31, 2019.

**ATTACHMENTS:**

Name:	Description:
<input type="checkbox"/> <a href="#">MODOT Block Grant Amendment 3- AARF Vehicle Airport.doc</a>	Ordinance
<input type="checkbox"/> <a href="#">Amendment 3 to SGBA City of Cape Girardeau 14-077A-2.pdf</a>	14-077A-2 Amendment #3

BILL NO. 19-148

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

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT #3 TO THE STATE BLOCK GRANT AGREEMENT WITH THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TO FUND THE ACQUISITION OF AN AIRCRAFT RESCUE FIRE FIGHTING VEHICLE, AT THE CAPE GIRARDEAU REGIONAL AIRPORT

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI, AS FOLLOWS:

Article 1. The City Manager is hereby authorized and directed to execute, on behalf of the City, Amendment #3 to the State Block Grant Agreement between the City of Cape Girardeau and the Missouri Highways and Transportation Commission to extend the timeline to finalize the completion of documents, for an Aircraft Rescue and Fire Fighting (ARFF) vehicle for the Cape Girardeau Regional Airport, in the City of Cape Girardeau, Missouri, Project No. 14-077A-2. The City Clerk is hereby authorized and directed to attest to said document and to affix the seal of the City thereto. The Amendment shall be in substantially the form attached hereto, which document is hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

Article 2. This Ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
Gayle L. Conrad, City Clerk

CCO Form: MO18  
Approved: 05/94 (MLH)  
Revised: 03/17 (MWH)  
Modified:

Sponsor: City of Cape Girardeau  
Project No.: 14-077A-2

CFDA Number: CFDA #20.106  
CFDA Title: Airport Improvement Program  
Federal Agency: Federal Aviation Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
AMENDMENT TO STATE BLOCK GRANT AGREEMENT**

**AMENDMENT #3**

THIS AGREEMENT AMENDMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Cape Girardeau (hereinafter, "Sponsor").

WITNESSETH:

WHEREAS, the parties entered into an Agreement executed by the parties on June 10, 2015, (hereinafter, "Original Agreement") under which the Commission granted the sum not to exceed Eleven Thousand Two Hundred Ninety-Six Dollars (\$11,296) to the Sponsor to assist with Acquire Air Rescue Fire Fighting (ARFF) Vehicle; and

WHEREAS, the parties entered into an Amendment #1 to the Original Agreement executed by the parties on December 16, 2016, (hereinafter, "Amendment #1") under which the Commission granted an additional sum not to exceed Three Hundred Thousand Three Hundred Eighty-Five Dollars (\$300,385) to the Sponsor to assist with Acquire Air Rescue Fire Fighting (ARFF) Vehicle; and

WHEREAS, the parties entered into an Amendment #2 to the Original Agreement executed by the parties on February 4, 2019, (hereinafter, "Amendment #2") under which the Commission granted an additional sum not to exceed Eight Thousand One Hundred Fifty-Seven Dollars (\$8,157) to the Sponsor to assist with Acquire Air Rescue Fire Fighting (ARFF) Vehicle; and

WHEREAS, the parties wish to extend the project time period to allow for completion of the project.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) **PROJECT TIME PERIOD:** Based upon the revised project schedule, the project time period of April 1, 2019 will be extended to December 31, 2019, to allow for completion of the work. Paragraph (1)(D) of Amendment #2 is hereby amended



accordingly.

(A) The project will be carried out in accordance with the assurances (Exhibit 1) given by the Sponsor to the Commission as specified in this Amendment #3.

(B) This Amendment shall expire and the Commission shall not be obligated to pay any part of the costs of the project unless this grant amendment has been executed by the Sponsor on or before October 31, 2019, or such subsequent date as may be prescribed in writing by the Commission.

(C) All other terms and conditions of the Original Agreement, Amendment #1, and Amendment #2 entered into between the parties shall remain in full force and effect.

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

Executed by the Sponsor this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION**

**CITY OF CAPE GIRARDEAU**

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
Secretary to the Commission

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Commission Counsel

\_\_\_\_\_

Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)

### **CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as attorney for the Sponsor do hereby certify that in my opinion the Sponsor is empowered to enter into the foregoing grant Agreement under the laws of the State of Missouri. Further, I have examined the foregoing grant Agreement and the actions taken by said Sponsor and Sponsor's official representative have been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said state and the Airport and Airway Improvement Act of 1982, as amended. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

### **CITY OF CAPE GIRARDEAU**

\_\_\_\_\_  
Name of Sponsor's Attorney (typed)

\_\_\_\_\_  
Signature of Sponsor's Attorney

Date \_\_\_\_\_

## **APPENDIX**

### **STATE BLOCK GRANT AGREEMENT**

#### **Purpose**

The purpose of this appendix is to provide the sponsors with sufficient information to carry out the terms of the state block grant agreement and implement their project.

The key items are listed below and are available on the MoDOT website (<http://www.modot.mo.gov/>), the FAA website (<http://www.faa.gov/index.cfm>), the State Block Grant Program Guidance Handbook or other website as indicated.

## **EXHIBIT 1**

## **Aviation - Grant Programs, Documentation, Guidance**

### **State Block Grant Program (Federal Funds)**

- **MoDOT Guidance Handbook**
  - About the Handbook (26 kb, 1 page)
  - Index (57 kb, 3 pages)
  - Section 1 - Grant Application and Project Selection (35 kb, 5 pages)
  - Section 2 - Project Environmental Requirements (27 kb, 3 pages)
  - Section 3 - Airport Planning Projects (29 kb, 4 pages)
  - Section 4 - Land Acquisition (14 kb, 3 pages)
  - Section 5 - Procurement of Engineering Services (35 kb, 4 pages)
  - Section 6 - Project Development (77 kb, 11 pages)
  - Federal-Required Documentation Checklist (Advertising) (38 kb, 1 page)
  - Federal-Required Documentation Checklist (Construction Projects) (38 kb, 1 page)
- **FAA Airport Sponsor Guide**

### **State Aviation Trust Fund Program (State Funds)**

- State Aviation Trust Fund Program Procedures (51 kb, 5 pages)
- State Required Documentation Checklist (44 kb, 1 page)

### **Sponsor CIP Submittal**

- Sponsor's Guide on Submitting CIP (980 kb, 11 pages)
- MoDOT AirportIQ System Manager (ASM) Website

### **Financial Forms**

- Grant Funding Application (424 kb, 22 pages)
- Air Service Development Application
- State Transportation Assistance Revolving (STAR) Loan Application
- Outlay Report and Request for Reimbursement (Federal 95%) (Form 271) (106 kb, 1 page)
- Request for Payment (State 90%) (100 kb, 1 page)

### **Consultant Procurement**

- Sample Advertisement Consultant Selection
- ACEC MO Qualifications Based Selection (QBS) Guidance
- MSPE Qualifications Based Selection (QBS) Guidance

### **Federally Funded Projects**

- FAA Advisory Circular 150/1500-14E-Architectural, Engineering, and Planning Consultant Services For Airport Grant Projects
- Aviation Project Consultant Agreement (256 kb, 43 pages)
  - Exhibit IV- Derivation of Consultant Project Costs (53kb, 1 page)
  - Exhibit V - Engineering Basic and Special Services-Cost Breakdown 67 kb, 1 page)
- Aviation Project Consultant Supplemental Agreement No. 1 (103 kb, 5 pages)
  - Exhibit IV- Derivation of Consultant Project Costs (Construction) (56 kb, 1 page)
  - Exhibit V - Engineering Construction Services-Cost Breakdown (65 kb, 1 page)
- Sample Letter of Recommendation of Approval for Project Consultant Agreement (22 kb, 1 page)
- Sponsor Certification for Selection of Consultants (form) (38 kb, 2 pages)

#### *State Funded Projects*

- Missouri Revised Statutes Sections 8.285-8.291 (23 kb, 2 pages)
- State Aviation Trust Fund Project Consultant Agreement (189 kb, 35 pages)
  - Exhibit IV- Derivation of Consultant Project Costs (53 kb, 1 page)
  - Exhibit V - Engineering Basic and Special Services-Cost Breakdown (67 kb, 1 page)
- Sample Letter of Recommendation of Approval for Project Consultant Agreement (22 kb, 1 page)
- Certification of Compliance (form) (33 kb, 1 page)

#### **Airports Resources**

- Obstructions Evaluation Submission (electronic 7460-1)
- Notice of Proposed Landing 7480-1 (form)
- FAA Series 150 Advisory Circulars for Airports
- FAA Airport's GIS Website
- Aeronautical GIS Survey Scope of Work
- Request for new or amended Instrument Approach Procedures
- Airport Layout Plan (ALP) and Narrative Checklist (277 kb, 10 pages)
- VGSI Data Form and Request for Flight Inspection (55 kb, 1 page)

#### **Land Acquisition**

- Land Acquisition Guidance
- MoDOT Approved Appraiser List
- Sponsor Certification for Certificate of Title (form) (85 kb, 12 pages)
- Sponsor Certification of Environmental Site Assessment (form) (43 kb, 2 pages)
- Sponsor Certification for Real Property Acquisition (form) (48 kb, 3 pages)
- Exhibit A Property Map Guidance

#### **Environmental**

- Environmental Guidance
- Undocumented Categorical Exclusion Letter (Environmental Clearance Letter) (21kb, 1 page)
- Documented Categorical Exclusion-FAA SOP 5.XX (355 kb, 8 pages)
- Documented Categorical Exclusion-MoDOT Signature Page (24 kb, 1 page)

#### **Compliance**

- Compliance Guidance
- Standard DOT Title VI Assurances (43 kb, 4 pages)
- Sponsor Questionnaire-Airport Compliance Status (130 kb, 16 pages)
- FAA/MoDOT Lease Requirements, Recommendations, and Guidance (95 kb, 5 pages)

#### **Utility Adjustments**

- Utility Agreement (71 kb, 36 pages)

#### **Engineering, Design, and Construction**

- **Sponsor Certifications For Federally Funded Projects**
  - Sponsor Certification for Conflict of Interest
  - Sponsor Certification for Drug-Free Workplace
  - Sponsor Certification for Projects Plans and Specifications (46 kb, 2 pages)
  - Sponsor Certification for Equipment/Construction Contracts (46 kb, 3 pages)
  - Sponsor Certification for Construction Project Final Acceptance (46 kb, 3 pages)
  - Sponsor Certification for Equipment Final Acceptance (38 kb, 2 pages)

- **Construction Project Items**

*Federal Projects*

- Weekly DBE Compliance Review Report (38 kb, 2 pages)

*Federal & State Projects*

- Sample Letter of Recommendation to Award for Construction Contracts (22 kb, 1 page)
- Weekly Construction Progress and Inspection Report (35 kb, 1 page)
- Weekly Wage Rate Interview Report (32 kb, 1 page)
- Change Order and Supplemental Agreement Instructions (68 kb, 3 pages)
- Change Order and Supplemental Agreement Form (Auto) (28 kb, 1 page)

- **Project Closeout Items**

*Federal Projects*

- Sample Certification Letter from Prime Contractor Regarding DBE's (24 kb, 1 page)
- DBE Documentation – Final Construction Report

*Federal & State Projects*

- Final Testing Report (Checklist) (70 kb, 3 pages)
- Electrical Systems Testing Report (36 kb, 1 page)
- Precision Approach Path Indicator (PAPI) Inspection Report (47 kb, 1 page)
- Contractor's Certification Regarding Settlement of Claims (37 kb, 12 pages)

- **MoDOT Construction Specifications**

*Federally Funded Projects*

- Federal-Preparation of Project Plans and Specifications (307 kb, 127 pages)
- Federal-Construction Observation Program (293kb, 22 pages)
- Federal-Preparation of Equipment Specifications (240 kb, 42 pages)
- AC 150/5370-10G Standards for Specifying Construction of Airports

*Federal & State Projects*

- Construction Observation Program (Non-Paving) (91 kb, 10 pages)
- Construction Observation Program-Required Tests and Certifications (75 kb, 17 pages)
- Construction Project Review Level Matrix
- Construction Plans Full Review Checklist
- Construction Plans General Review Checklist
- Safety Plan Checklist

*State Funded Projects*

- State-Preparation of Project Plans and Specifications (585 kb, 84 pages)
- State-Construction Observation Program (266 kb, 18 pages)
- MO-100 Mobilization (28 kb, 1 page)
- MO-152 Excavation and Embankment (71 kb, 11 pages)
- MO-155 Fly Ash Treated Subgrade (45 kb, 5 pages)
- MO-156 Erosion and Sediment Control (50 kb, 6 pages)
- MO-161 Woven Wire Fence with Steel Posts (37kb, 3 pages)
- MO-162 Chain-Link Fences (39 kb, 3 pages)
- MO-209 Crushed Aggregate Base Course (35 kb, 4 pages)
- MO-401S Plant Mix Bituminous Pavements (87 kb, 14 pages)
- MO-500 Joint and Crack Resealing-Concrete Pavement (36 kb, 3 pages)
- P-501 Portland Cement Concrete Pavements is now required for Aviation Projects in Missouri. Find the form on the linked FAA page. (effective May 2013)
- MO-601 Surface Preparation (38 kb, 4 pages)
- MO-602 Bituminous Prime Coat (29 kb, 2 pages)
- MO-603 Bituminous Tack Coat (29 kb, 2 pages)
- MO-610 Structural Portland Cement Concrete (45 kb, 5 pages)
- MO-620 Runway and Taxiway Painting (43 kb, 4 pages)
- MO-622 Crack and Joint Sealing-Bituminous Pavement (31 kb, 3 pages)
- MO-623 Pavement Friction Sealcoat Surface Treatment (48 kb, 5 pages)
- MO-701 Pipe for Storm Drains and Culverts (38 kb, 4 pages)

- MO-706 Prefabricated Underdrains *(54 kb, 5 pages)*
- MO-901 Seeding *(71 kb, 7 pages)*
- MO-905 Topsoiling *(25 kb, 2 pages)*
- MO-908 Mulching *(27 kb, 2 pages)*
- **MoDOT Electrical Specifications (State Funded Projects)**
  - MO-101 Airport Rotating Beacons *(39 kb, 5 pages)*
  - MO-103 Airport Beacon Towers *(36 kb, 4 pages)*
  - MO-107 Airport 8-Foot and 12-Foot Wind Cones *(36 kb, 4 pages)*
  - MO-108 Underground Power Cable for Airports *(402 kb, 12 pages)*
  - MO-109 Airport Prefabricated Housing and Equipment *(373 kb, 7 pages)*
  - MO-110 Airport Underground Electrical Duct Banks and Conduits *(56 kb, 8 pages)*
  - MO-120 Airport Precision Approach Path Indicator (PAPI) System *(41 kb, 5 pages)*
  - MO-125 Airport Lighting Systems and Guidance Signs *(51 kb, 5 pages)*



## **Airports Central Region – AIP Guide Index**

This guide has been prepared to assist Central Region airport owners and their consultants in obtaining and administering an Airport Improvement Program (AIP) grant. Users of this guidance shall note that requirements for AIP participation are established within applicable United States Code, Public Law, Federal Regulations and official FAA policy. The supplemental guidance and best practices provided within this guide are not intended to create additional participation requirements over and above that established by statute, regulation, or official FAA policy. In the event this guidance conflicts with current AIP policy, the AIP policy has precedence. Web site address  
[http://www.faa.gov/airports/central/aip/sponsor\\_guide/](http://www.faa.gov/airports/central/aip/sponsor_guide/)

### **100 - Airport Improvement Program (AIP)**

- 110 - Overview
- 120 - Checklists for Typical AIP Funded Projects
- 130 - Sponsor Eligibility
- 140 - Project Eligibility
- 150 - AIP Obligations
- 160 - FAA Standards
- 170 - Non-Primary Entitlement Funds

### **200 - Civil Rights**

- 210 - DBE Overview
- 220 - DBE Program Submittal Information
- 230 - DBE Goals
- 240 - Good Faith Efforts
- 250 - DBE Contract Provisions
- 260 - DBE Reporting Requirements
- 270 - Identifying DBE Fraud

### **300 - Procurement of Professional Services**

- 310 - Procurement Requirements and Standards for A/E Services
- 320 - Roles and Responsibilities
- 330 - Selection Guide
- 340 - Contract Establishment
- 350 - Acquiring a Surveyor for AGIS

### **400 - Procurement**

- 410 - Procurement Standards - §18.36(b)
- 420 - Competition - §18.36(c)
- 430 - Procurement Methods - §18.36(d)
- 440 - Small & Minority Firms & Womens Business Enterprises - §18.36(e)
- 450 - Cost and Price Analysis - §18.36(f)
- 460 - FAA Review of Procurement Documents - §18.36(g)
- 470 - Bond Requirements - §18.36(h)
- 480 - Federal Provisions - §18.36(i)
- 490 - Buy American Preferences - Title 49 USC 501

### **500 - Airport Planning**

- 510 - National Plan of Integrated Airport Systems (NPIAS)
- 515 - Master Plans
- 520 - Airport Layout Plans
- 530 - Environmental Review
- 540 - Airport Site Investigations
- 550 - Runway Protection Zones
- 560 - Airport Property Interests
- 570 - Apron Design
- 580 - Planning Resources

### **600 - Project Formulation**

- 610 - Requesting Aid: ACIP
- 620 - Benefit/Cost Analysis
- 630 - FAA Reimbursable Agreements

### **700 - Grant Implementation**

- 710 - Project Initiation
- 720 - Project Application
- 730 - Sponsor Assurances
- 740 - Drug Free Workplace Requirements
- 750 - Title VI Assurance
- 760 - Executing the Grant Offer

### **800 - Sponsor Certification**

### **900 - Project Design Development Projects**

- 910 - Predesign Conference
- 920 - Engineer's Design Report
- 930 - Plans and Specifications
- 940 - Regional Approved Modifications to AC 150/5370-10
- 950 - Sponsor Modifications of FAA Standards
- 960 - Operational Safety on Airport During Construction

**1000 - Construction Phase**

- 1010 - Bidding
- 1020 - Contract Award
- 1030 - Construction Observation Program
- 1040 - Preconstruction Conference
- 1050 - Notice-to-Proceed
- 1060 - Labor Provisions
- 1070 - Inspections
- 1080 - Contract Modifications

**1100 - Runway Commissioning**

- 1110 - Airports Geographic Information Systems (AGIS)
- 1120 - Revising Airport Aeronautical Information
- 1130 - Runway Commissioning Data
- 1140 - Commissioning of Non-Federal VGSI

**1200 - Equipment Projects**

- 1210 - Federal Provisions
- 1220 - Sample Bid Documents

**1300 - Airport Land Acquisition**

- 1310 - Land Acquisition Requirements
- 1320 - Environmental Site Assessment
- 1320 - Satisfactory Evidence of Good Title

**1400 - Sponsor Force Accounts**

- 1410 - Force Account Overview
- 1420 - Force Account Engineering Services
- 1430 - Construction Force Account

**1500 - Grant Payments**

- 1510 - DELPHI eInvoicing System
- 1520 - Making the Grant Drawdown
- 1530 - Invoice Summary
- 1540 - Financial Reports
- 1550 - Payment History
- 1560 - Improper Payments

**1600 - Grant Closeout**

- 1610 - Development Project Closeout
- 1620 - Equipment Project Closeout
- 1630 - Planning Grant Closeout
- 1640 - Grant Amendment

**1700 - Post Grant Obligations**

- 1710 - Record Keeping
- 1720 - Audit Requirements
- 1730 - Financial Reports
- 1740 - Compliance
- 1750 - Pavement Maintenance
- 1760 - Release of Airport Property



## ASSURANCES

### Airport Sponsors

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#### A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

#### B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

### 3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

## C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

### 1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

#### **Executive Orders**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

#### **Federal Regulations**

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- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 - Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

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#### **Specific Assurances**

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

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#### **Footnotes to Assurance C.1.**

<sup>1</sup> These laws do not apply to airport planning sponsors.

<sup>2</sup> These laws do not apply to private sponsors.

<sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

<sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

<sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

<sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

## **2. Responsibility and Authority of the Sponsor.**

### **a. Public Agency Sponsor:**

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

### **b. Private Sponsor:**

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

## **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

## **4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

## **5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.



**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
  - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

#### **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

#### **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
  - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and



roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
  - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

### **32. Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

### **33. Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

### **34. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated \_\_\_\_\_ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - 1) Describes the requests;
  - 2) Provides an explanation as to why the requests could not be accommodated; and
  - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

**CURRENT FAA ADVISORY CIRCULARS REQUIRED FOR USE IN AIP FUNDED  
AND PFC APPROVED PROJECTS**

**Updated April 18, 2019**

View the most current versions of these ACs and any associated changes at  
[http://www.faa.gov/airports/resources/advisory\\_circulars/](http://www.faa.gov/airports/resources/advisory_circulars/).

<b>NUMBER</b>	<b>TITLE</b>
70/7460-1L Change 2	Obstruction Marking and Lighting
150/5000-9A	Announcement of Availability Report No. DOT/FAA/PP/92-5, Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations
150/5000-17	Critical Aircraft and Regular Use Determination
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5070-6B Changes 1-2	Airport Master Plans
150/5070-7 Change 1	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5100-14E, Change 1	Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
150/5100-17, Changes 1-7	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5200-28E	Notices to Airmen (NOTAMs) for Airport Operators
150/5200-30D Change 1	Airport Field Condition Assessments and Winter Operation Safety
150/5200-31C Changes 1-2	Airport Emergency Plan
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-7D	Aircraft Rescue Fire and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Fire Fighting Station Building Design

150/5210-18A	Systems for Interactive Training of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVS)
150/5220-10E	Guide Specifications for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16E Change 1	Automated Weather Observing Systems (AWOS) for Non-Federal Applications
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20A	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting System (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26, Changes 1-2	Airport Ground Vehicle Automatic Dependent Surveillance –Broadcast (ADS-B) Out Squitter Equipment
150/5300-13A, Change 1	Airport Design
150/5300-14C	Design of Aircraft Deicing Facilities
150/5300-15A	Use of Value Engineering for Engineering and Design of Airport Grant Projects
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys; Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C Change 1	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B Change 1	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS; Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5D	Airport Drainage Design
150/5320-6F	Airport Pavement Design and Evaluation
150/5320-12C, Changes 1-8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management of Airport Industrial Waste



150/5320-17A	Airfield Pavement Surface Evaluation and Rating Manuals
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5C	Standardized Method of Reporting Airport Pavement Strength – PCN
150/5340-1L	Standards for Airport Markings
150/5340-5D	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26C	Maintenance of Airport Visual Aid Facilities
150/5340-30J	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specifications for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7F	Specifications for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10H	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specifications for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specifications for L-823 Plug And Receptacle, Cable Connectors
150/5345-27E	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retroreflective Markers
150/5345-42H	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43J	Specification for Obstruction Lighting Equipment
150/5345-44K	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46E	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49D	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)

150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-12F	Airport Signing and Graphics
150/5360-13A	Airport Terminal Planning
150/5360-14A	Access to Airports By Individuals With Disabilities
150/5370-2G	Operational Safety on Airports During Construction
150/5370-10H	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-12B	Quality Management for Federally Funded Airport Construction Projects
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5390-2C	Heliport Design
150/5395-1B	Seaplane Bases
150/5380-6C	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-7B	Airport Pavement Management Program (PMP)
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness

The MoDOT DBE Program is available on the MoDOT website at the following address:  
[http://www.modot.org/business/contractor\\_resources/External Civil Rights/DBE\\_program.htm](http://www.modot.org/business/contractor_resources/External_Civil_Rights/DBE_program.htm).

**Staff:** Ryan Shrimplin, AICP - City  
**Agenda:** Planner  
9/16/2019

**AGENDA REPORT**  
Cape Girardeau City Council

**19-213**

**SUBJECT**

An Ordinance approving the Record Plat of Tara Estates.

**EXECUTIVE SUMMARY**

The attached ordinance approves a record plat for a three-lot subdivision on William Street (Missouri Route K), Gordonville Road, and Edgewood Road.

**BACKGROUND/DISCUSSION**

A record plat has been submitted for Tara Estates, located on William Street (Missouri Route K), Gordonville Road, and Edgewood Road. The subdivision is zoned R-1 (Single-Family Suburban Residential). The plat subdivides a tract to form three new lots. A private cross-access easement is proposed along the common lot line between Lots 2 and 3 for a future shared driveway.

The plat shows a variance for a reduced lot width for Lots 1, 2, and 3. Staff supports this variance due to the shape of the existing tract and the limited access options (MoDOT will not allow direct access from this tract to Missouri Route K).

**STAFF RECOMMENDATION**

The staff report to the Planning and Zoning Commission recommended approval of the record plat.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission, at its June 13, 2018 meeting, recommended approval of the record plat with a vote of 8 in favor, 0 in opposition, and 0 abstaining.

**ATTACHMENTS:**

Name:	Description:
<a href="#">Record Plat Tara Estates.doc</a>	Ordinance
<a href="#">Staff Review-Referral-Action Form.pdf</a>	Tara Estates - Staff RRA Form
<a href="#">Map - Tara Estates Subdivision.pdf</a>	Tara Estates - Map
<a href="#">Application - Tara Estates Record Plat.pdf</a>	Tara Estates - Application
<a href="#">Tara Estates - Record Plat 8-22-19.pdf</a>	Tara Estates - Record Plat

BILL NO. 19-150

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

AN ORDINANCE APPROVING THE RECORD PLAT OF  
TARA ESTATES

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CAPE  
GIRARDEAU, MISSOURI, AS FOLLOWS:

ARTICLE 1. The record plat of Tara Estates, being that part of Lot 2 of the Rodney 400-Arpen Tract in United States Private Survey No. 2199, Township 30 North, Range 13 East of the Fifth Principal Meridian in the City and County of Cape Girardeau, State of Missouri, submitted by B and C Properties, LLC, bearing the certification of Brian W. Strickland, a Registered Land Surveyor, dated the 26th day of August, 2019, including all exceptions and variances, is hereby approved.

ARTICLE 2. The City Clerk is hereby directed to sign the record plat with the date of Council approval and affix thereto the seal of the City of Cape Girardeau, Missouri.

ARTICLE 3. This ordinance shall be in full force and effect ten days after its passage and approval.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Bob Fox, Mayor

ATTEST:

\_\_\_\_\_  
Bruce Taylor, Deputy City Clerk

# Tara Estates Subdivision Record Plat





STRICKLAND  
ENGINEERING

113 W. Main Street, Suite 1 Jackson, MO 63755  
Tel. 573-243-4080 Fax 573-243-2191  
[www.stricklandengineering.com](http://www.stricklandengineering.com)

May 21, 2018

City of Cape Girardeau  
401 Independence St.  
Cape Girardeau, MO 63701

RE: Tara Estates

To Mr. Ryan Shrimplin:

Enclosed for your review is the Final Plat for Tara Estates, the minor subdivision located between Gordonville Road and Edgewood Road. Enclosed are two copies of the plat, the review fee of \$100 and recording fee deposit of \$69, and the subdivision plat application. A pdf file of the plat will be emailed to you.

As I mentioned to you previously, the developer has decided to serve lot 1 with a driveway off of Gordonville Road. Lots 2 and 3 will be served by a shared driveway off of Edgewood Road.

Please contact me if you have any questions.

Sincerely,

Marc Mahnke, PE  
Project Engineer





# SUBDIVISION PLAT APPLICATION CITY of CAPE GIRARDEAU

DEVELOPMENT SERVICES DEPARTMENT, 401 INDEPENDENCE ST, CAPE GIRARDEAU, MO 63703 (573) 339-6327

<b>Name of Subdivision</b> Tara Estates		<b>Type of Plat: Preliminary, Record, or Boundary Adjustment</b> Record Plat	
<b>Applicant</b> Fruitland Estates, LLC		<b>Property Owner of Record (if other than Applicant)</b> - Same as applicant	
<b>Mailing Address</b> 9727 Highway 61 North	<b>City, State, Zip</b> Jackson, MO 63755	<b>Mailing Address</b>	<b>City, State, Zip</b>
<b>Telephone</b> (573) 450-9210	<b>Email</b> lixcolic@yahoo.com	<b>Telephone</b>	<b>Email</b>
<b>Contact Person (If Applicant is a Business or Organization)</b> Chris Lix		<i>(Attach additional owners information, if necessary)</i>	
<b>Professional Engineer/Surveyor (if other than Applicant)</b> Marc Mahnke / Brian Strickland - Strickland Engineering		<b>Developer (if other than Applicant)</b> - Same as applicant	
<b>Mailing Address</b> 113 W. Main Street	<b>City, State, Zip</b> Jackson, MO 63755	<b>Mailing Address</b>	<b>City, State, Zip</b>
<b>Telephone</b> 573-243-4080	<b>Email</b> bstrick@stricklandengineering.com	<b>Telephone</b>	<b>Email</b>

## ADDITIONAL ITEMS REQUIRED

See Instructions for more  
information.

In addition to this completed application form, the following items must be submitted:

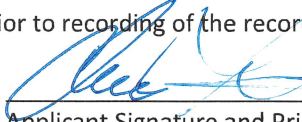
- ✓ Review Fee (payable to City of Cape Girardeau)
  - Single-Family or Two-Family Residential: \$20.00 per lot (\$100.00 minimum)
  - Multi-Family Residential: \$20.00 per dwelling unit (\$100.00 minimum)
  - Non-Residential : \$20.00 per acre (\$100.00 minimum)
- ✓ Recording Fee Deposit (payable to City of Cape Girardeau)
 

Sheet Size	Record Plat	Boundary Adjustment Plat
18" x 24"	\$44.00	\$24.00
24" x 36"	\$69.00	\$29.00

*(The City reserves the right to issue a partial refund or collect an additional fee if the actual recording cost differs from the deposit amount)*
- ✓ Two (2) full size prints of the plat
- ✓ Digital file of the plat in .pdf format (can be emailed)

## CERTIFICATION

I hereby certify that I am the sole Property Owner of Record or an agent duly authorized by the Property Owner(s) of Record to file this application on their behalf. I acknowledge that plats for subdivisions involving public improvements will be held from City Council review until the improvements are completed and ready for acceptance by the City, or an escrow agreement for the improvements is executed. I further acknowledge that plats for subdivisions involving common land and/or elements require the submission of covenants and a deed ensuring the perpetual maintenance and supervision of the common land and/or elements by trustees prior to recording of the record plat.

  
Applicant Signature and Printed Name  
CHRIS LIX

5-22-18  
Date

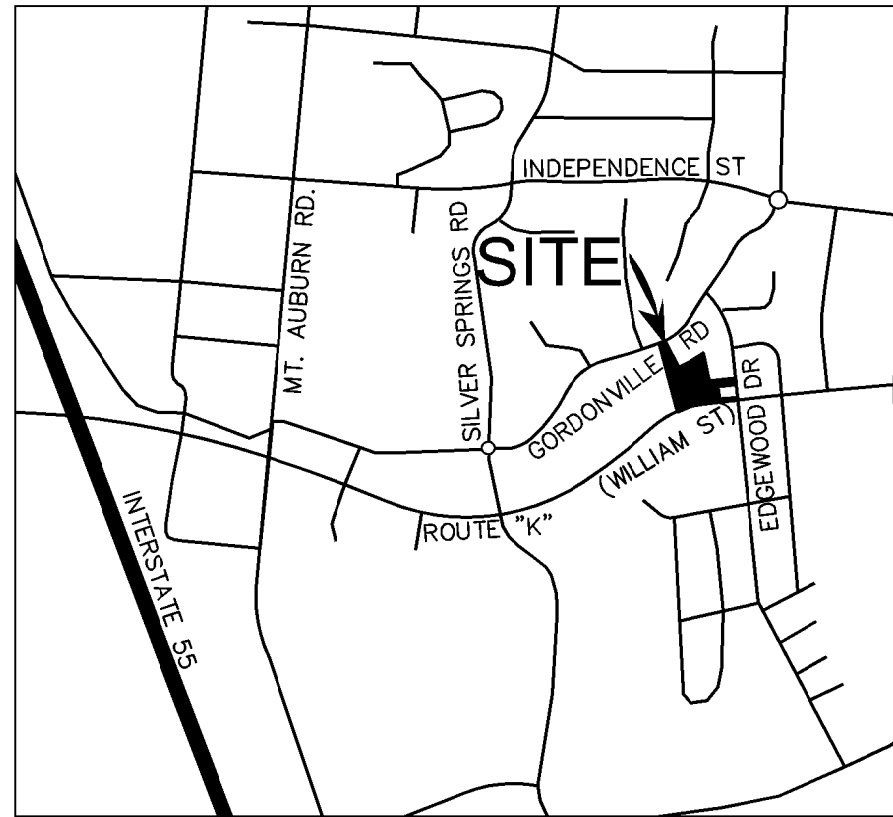
### OFFICE USE ONLY

Date Received & By 5/22/18 MUNIS Application No. 7716

Planning & Zoning Commission Recommendation \_\_\_\_\_ Date \_\_\_\_\_

City Council Final Action \_\_\_\_\_ Date \_\_\_\_\_

## VICINITY MAP



ACCURACY STANDARD: TYPE SUBURBAN

## SURVEYOR'S NOTE

1/2" IRON RODS WITH PLASTIC CAP SET AT ALL LOT CORNERS UNLESS OTHERWISE NOTED.

## FLOODPLAIN NOTE

NO LOTS IN THE SUBDIVISION ARE LOCATED WITHIN A FLOOD HAZARD ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAPS, COMMUNITY PANELS 29031C0262 E & 29031C0266 E FOR THE CITY OF CAPE GIRARDEAU, MISSOURI.

## ZONING CLASSIFICATION

"R-1" SINGLE-FAMILY SUBURBAN  
RESIDENTIAL DISTRICT  
MINIMUM LOT AREA : 10,000 SQ. FT.  
MINIMUM LOT WIDTH : 80 FT.  
MAXIMUM DENSITY : 4 UNITS / ACRE

## TARA ESTATES

NO. OF LOTS : 3  
LARGEST LOT SIZE : 45,893 SQ. FT. (LOT 3)  
SMALLEST LOT SIZE : 36,803 SQ. FT. (LOT 2)  
TOTAL LOT AREA : 122,974 SQ. FT. (2.82 ACRES)  
PROPOSED DENSITY : 1.05 UNITS / ACRE

A VARIANCE IS SHOWN FOR A REDUCED LOT WIDTH FOR LOTS 1, 2, AND 3.

## MINIMUM BUILDING SETBACKS (FOR R-1 ZONING)

30' FRONT SETBACKS  
25' REAR SETBACKS  
6' SIDE SETBACKS

ACTUAL SETBACKS FOR DEVELOPMENT AS SHOWN ON PLAT

## REFERENCES

1. DOC. NO. 2018-03478 (SUBJECT)
2. DOC. NO. 2007-07151
3. DOC. NO. 2015-08187
4. DOC. NO. 2016-09579
5. DOC. NO. 2015-11959
6. BOOK 1240 PAGE 305
7. BOOK 431 PAGE 884
8. BOOK 671 PAGE 626

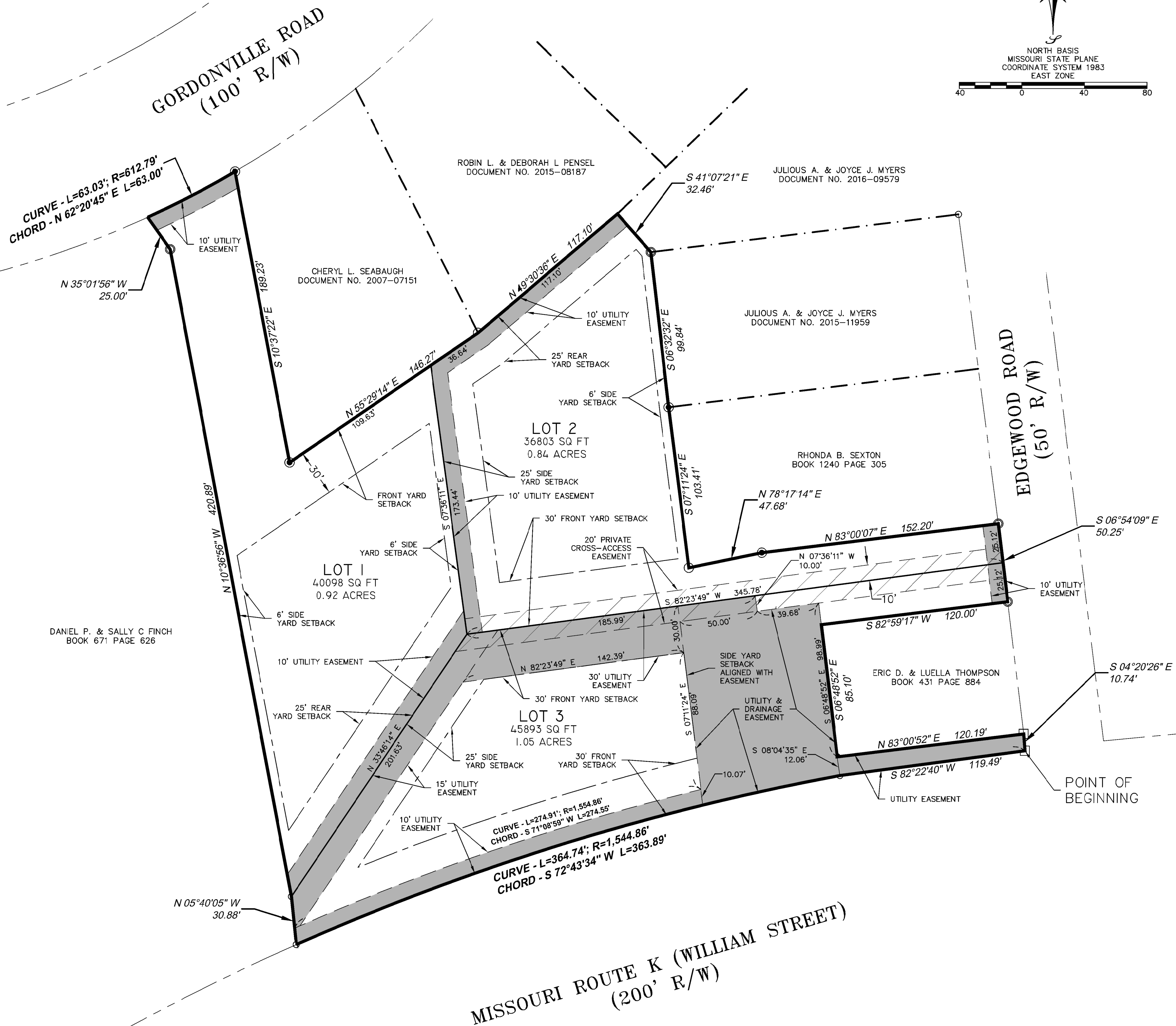
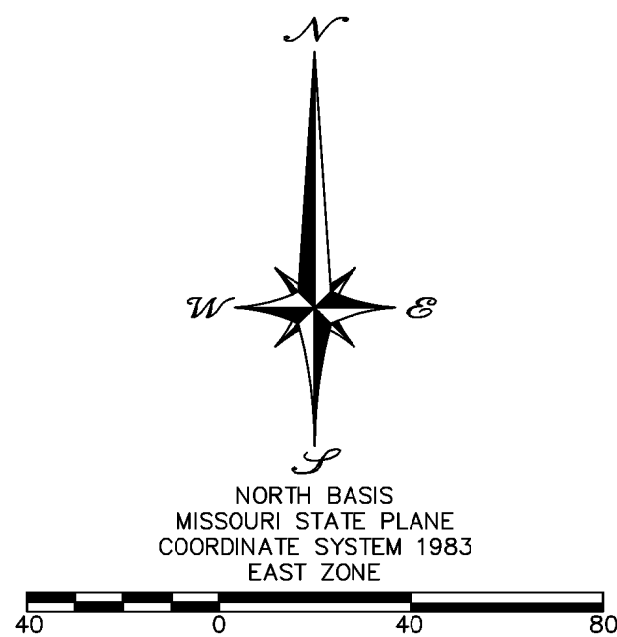
## LEGEND

1. 1/2" IRON ROD (SET)
2. 5/8" IRON ROD W/ALUM CAP (SET)
3. IRON ROD W/CAP (FOUND)
4. IRON ROD (FOUND)
5. IRON PIPE
6. STONE
7. COTTON PICKER SPINDLE
8. CHISELED CROSS
9. AXLE
10. ALUMINUM MONUMENT
11. RIGHT-OF-WAY MARKER
12. (M) MEASURED
13. (R) RECORDED

- SUBDIVISION BOUNDARY LINE  
ADJOINER BOUNDARY LINE  
NEW LOT LINE  
EASEMENT LINE  
BUILDING SETBACK LINE  
RIGHT-OF-WAY LINE  
UTILITY EASEMENT AREA  
CROSS-ACCESS EASEMENT AREA

RECORD PLAT FOR  
TARA ESTATES

PART OF LOT 2 OF THE RODNEY 400-ARPEN TRACT IN UNITED STATES PRIVATE SURVEY NO. 2199, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY AND COUNTY OF CAPE GIRARDEAU, THE STATE OF MISSOURI



## SURVEY CERTIFICATION

THIS IS TO CERTIFY THAT AT THE REQUEST OF B and C PROPERTIES, LLC, I HAVE SURVEYED PART OF LOT 2 OF THE RODNEY 400-ARPEN TRACT IN U.S.P.S. 2199, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY AND COUNTY OF CAPE GIRARDEAU, MISSOURI, AND HAVE SUBDIVIDED IT AS SHOWN ON THIS PLAT IN ACCORDANCE WITH THE CURRENT MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS.

IN WITNESS WHEREOF, I HAVE HERETO SET MY SEAL AND SIGNATURE THIS \_\_\_\_\_ DAY OF AUGUST 2019.

BRIAN W. STRICKLAND MO-PLS 2005000069  
113 W. MAIN STREET  
JACKSON, MISSOURI 63755

## SUBDIVISION DEDICATION

B and C PROPERTIES, LLC, A MISSOURI LIMITED LIABILITY COMPANY, THE OWNER OF PART OF LOT 2 OF THE RODNEY 400-ARPEN TRACT IN UNITED STATES PRIVATE SURVEY NUMBER 2199, TOWNSHIP 30 NORTH, RANGE 13 EAST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF CAPE GIRARDEAU, COUNTY OF CAPE GIRARDEAU, STATE OF MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND STONE AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EDGEWOOD ROAD AND THE NORTH RIGHT-OF-WAY LINE OF MISSOURI ROUTE "K" (WILLIAM STREET); THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF MISSOURI ROUTE "K" (WILLIAM STREET) SOUTH 82 DEGREES 22 MINUTES 40 SECONDS WEST 119.49 FEET TO AN IRON PIPE; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1,544.86 FEET, CHORD BEARING SOUTH 72 DEGREES 43 MINUTES 34 SECONDS WEST 363.89 FEET AND AN ARC LENGTH OF 364.74 FEET TO AN IRON PIPE; THENCE LEAVING SAID NORTH LINE NORTH 05 DEGREES 40 MINUTES 05 SECONDS WEST 30.88 FEET TO AN IRON PIPE; THENCE NORTH 10 DEGREES 36 MINUTES 56 SECONDS WEST 420.89 FEET TO AN IRON ROD; THENCE NORTH 35 DEGREES 01 MINUTES 56 SECONDS WEST 25.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF GORDONVILLE ROAD; THENCE ALONG SAID SOUTH LINE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 612.79 FEET, CHORD BEARING NORTH 62 DEGREES 20 MINUTES 45 SECONDS EAST 63.03 FEET AND AN ARC LENGTH OF 63.03 FEET TO AN IRON ROD WITH CAP; THENCE LEAVING SAID SOUTH LINE SOUTH 10 DEGREES 37 MINUTES 22 SECONDS EAST 189.23 FEET TO AN IRON ROD WITH CAP; THENCE NORTH 55 DEGREES 29 MINUTES 14 SECONDS EAST 146.27 FEET TO AN IRON PIPE; THENCE NORTH 49 DEGREES 30 MINUTES 36 SECONDS EAST 117.10 FEET; THENCE SOUTH 41 DEGREES 07 MINUTES 21 SECONDS EAST 32.46 FEET TO AN IRON ROD; THENCE SOUTH 06 DEGREES 32 MINUTES 32 SECONDS EAST 99.84 FEET TO AN IRON ROD WITH CAP; THENCE SOUTH 07 DEGREES 11 MINUTES 24 SECONDS EAST 103.41 FEET TO AN IRON PIPE; THENCE NORTH 78 DEGREES 17 MINUTES 14 SECONDS EAST 47.68 FEET TO AN IRON ROD WITH CAP; THENCE NORTH 83 DEGREES 00 MINUTES 07 SECONDS EAST 152.20 FEET TO AN IRON ROD ON THE WEST RIGHT-OF-WAY LINE OF EDGEWOOD ROAD; THENCE ALONG SAID WEST LINE SOUTH 06 DEGREES 54 MINUTES 09 SECONDS EAST 50.25 FEET TO AN IRON PIPE; THENCE LEAVING SAID WEST LINE SOUTH 82 DEGREES 59 MINUTES 17 SECONDS WEST 120.00 FEET; THENCE SOUTH 06 DEGREES 48 MINUTES 52 SECONDS EAST 85.10 FEET TO AN IRON ROD; THENCE NORTH 83 DEGREES 00 MINUTES 52 SECONDS EAST 120.19 FEET TO A STONE ON THE WEST RIGHT-OF-WAY LINE OF EDGEWOOD ROAD; THENCE ALONG SAID WEST LINE SOUTH 04 DEGREES 20 MINUTES 26 SECONDS EAST 10.74 FEET TO THE POINT OF BEGINNING.

THE HEREIN DESCRIBED TRACT CONTAINS 2.82 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS, RIGHTS OF WAY, RESTRICTIONS AND LICENSES AFFECTING SAME, EITHER WRITTEN OR IMPLIED.

WE HEREBY DECLARE THAT B and C PROPERTIES, LLC HAS CAUSED THE FOREGOING DESCRIBED TRACT OF LAND TO BE SUBDIVIDED INTO LOTS AS SHOWN HEREON AND HAS NAMED SAID SUBDIVISION "TARA ESTATES" AND WE DO HEREBY ESTABLISH PERMANENT UTILITY, DRAINAGE AND ACCESS EASEMENTS ACROSS CERTAIN PORTIONS OF THE AFORESAID SUBDIVISION WHICH ARE SET FORTH ON THE ANNEXED PLAT. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY GRANTED TO THE CITY OF CAPE GIRARDEAU, MISSOURI IN PERPETUITY FOR PUBLIC PURPOSES, INCLUDING THE INSTALLATION, MAINTENANCE, REPAIR, REPLACEMENT, AND EXPANSION OF CITY WATER AND SEWER SYSTEMS, AND AS MAY BE AUTHORIZED BY THE CITY OF CAPE GIRARDEAU, MISSOURI TO BE USED BY A PUBLIC OR PRIVATE UTILITY PROVIDER FOR PURPOSES RELATED TO THE INSTALLATION, MAINTENANCE, REPAIR, REPLACEMENT, AND EXPANSION OF SUCH UTILITY SYSTEMS. A NON-EXCLUSIVE PRIVATE CROSS-ACCESS EASEMENT IS HEREBY ESTABLISHED AS SHOWN HEREON. SAID CROSS-ACCESS EASEMENT IS FOR THE USE AND BENEFIT OF THE CURRENT AND FUTURE OWNERS OF LOTS 2 AND 3 IN SAID SUBDIVISION AND THEIR RESPECTIVE TENANTS AND INVITEES, FOR THE SOLE PURPOSE OF PROVIDING INGRESS AND EGRESS BETWEEN SUCH LOTS AND EDGEWOOD ROAD.

IN WITNESS WHEREOF, WE HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS \_\_\_\_\_ DAY OF AUGUST 2019.

B and C PROPERTIES, LLC  
CHRISTOPHER LIX, MEMBER

B and C PROPERTIES, LLC  
HENRY HOLYFIELD, MEMBER

STATE OF MISSOURI, COUNTY OF CAPE GIRARDEAU

ON THIS \_\_\_\_\_ DAY OF AUGUST, 2019, BEFORE ME APPEARED CHRISTOPHER LIX, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN DID SAY THAT HE IS A MEMBER OF B and C PROPERTIES, LLC, A MISSOURI LIMITED LIABILITY COMPANY, AND ACKNOWLEDGED THAT HE EXECUTED THE FOREGOING INSTRUMENT AS THE FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL IN THE STATE AND COUNTY AFORESAID ON THE DAY AND YEAR ABOVE WRITTEN.

NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

STATE OF MISSOURI, COUNTY OF CAPE GIRARDEAU

ON THIS \_\_\_\_\_ DAY OF AUGUST, 2019, BEFORE ME APPEARED HENRY HOLYFIELD, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN DID SAY THAT HE IS A MEMBER OF B and C PROPERTIES, LLC, A MISSOURI LIMITED LIABILITY COMPANY, AND ACKNOWLEDGED THAT HE EXECUTED THE FOREGOING INSTRUMENT AS THE FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL IN THE STATE AND COUNTY AFORESAID ON THE DAY AND YEAR ABOVE WRITTEN.

NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

I, \_\_\_\_\_, CITY CLERK OF THE CITY OF CAPE GIRARDEAU, MISSOURI HEREBY DECLARE THAT THIS PLAT WAS PRESENTED TO AND APPROVED BY THE CITY COUNCIL OF THE CITY OF CAPE GIRARDEAU, MISSOURI ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ BY ORDINANCE NO. \_\_\_\_\_

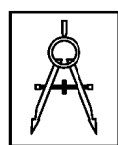
CITY CLERK

STATE OF MISSOURI  
COUNTY OF CAPE GIRARDEAU

FILED FOR RECORD THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ AND DULY

RECORDED IN DOCUMENT NUMBER \_\_\_\_\_

ANDREW DAVID BLATTNER  
RECORDER OF DEEDS, CAPE GIRARDEAU COUNTY, MISSOURI



STRICKLAND  
ENGINEERING

113 WEST MAIN STREET  
P.O. Box 159  
JACKSON, MISSOURI 63755  
TEL: 573-243-4080  
FAX: 573-243-2191

CIVIL - MECHANICAL - ELECTRICAL ENGINEERING - LAND SURVEYING

RECORD PLAT FOR  
TARA ESTATES

CAPE GIRARDEAU, MISSOURI

SCALE AS SHOWN

DATE 8-22-19

DRAWN BY MTM

CHECKED BY BS

PROJECT # 18-039



**Staff:**  
**Agenda:** 9/16/2019


**AGENDA REPORT**  
Cape Girardeau City Council

**SUBJECT**

Advisory Board Minutes

- Convention and Visitors Bureau Executive Board Minutes, August 2, 2019
- Golf Course Advisory Board Minutes, June 27, 2019
- Parks and Recreation Advisory Board Minutes, August 12, 2019
- Red House Interpretive Center Minutes, August 1, 2019
- River Campus Board of Managers Minutes, March 1, 2019
- Tree Advisory Board Minutes, August 12, 2019

**ATTACHMENTS:**

Name:	Description:
 <a href="#">Executive Committee Minutes_080219.pdf</a>	Convention and Visitors Bureau Board Minutes
 <a href="#">Golf Course Advisory Board Minutes 6 27 2019 Approved.pdf</a>	Golf Course Advisory Board Minutes
 <a href="#">PR Advisory Minutes 8.12.19.pdf</a>	Parks and Recreation Advisory Board Minutes
 <a href="#">Red House - Draft Aug 1 2019 Minutes.pdf</a>	Red House Interpretive Center Minutes
 <a href="#">River Campus Minutes 3-1-19.pdf</a>	River Campus Board of Managers Minutes
 <a href="#">Tree Advisory Board Minutes 8-12-19 - DRAFT.pdf</a>	Tree Board Minutes

# MINUTES

## Visitcape Executive Board

*FRIDAY, August 2, 2019*

*1:30 P.M.*

Cape Girardeau Convention and Visitors Bureau  
220 North Fountain Street

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Scott Meyer  
Joel Neikirk  
Quantella Noto  
Alyssa Phares

John Mehner  
Randy Kluge  
Brenda Newbern

### Executive Committee Minutes – 08/02/2019

Meeting was called to order at 1:35 by Brenda Newbern.

The minutes from the May 3 meeting were approved by John Mehner and seconded by Randy Kluge.

Scott Meyer presented the Capital Extension Sales Tax and it was open for clarification and discussion.

Brenda reviewed the Annual report and with a very conservative report the convention and visitors' bureau had an estimated impact of \$2,179,035. The year is going to start very strong with the Corvette Caravan, Shipyard Music Festival and Hoopz Showcase. There were 22 funded events out of the Tourism Development, and it ended with a zero balance. There was some discussion about the Shipyard music festival, and it has changed the format to a two-day event and there was rain in the first year. We hope to help this grow into a well-attended music festival that will draw a large following to Cape Girardeau and be a positive impact to the economy and help to differentiate us from other communities.

The hotel/motel tax was reviewed for the year and looks strong based on all of the moving parts that have taken place. Restaurants continue to show a very steady increase.

Alyssa did a presentation to show the leads that she is currently working on: NAIA Women's Golf Championship, McKendree Chapel Hotel Rooms, Great Race Hotel Rooms, Missouri Travel Council Group Travel, Missouri Press Association, RV Rally-Glenn House, Homeschool Group, -Red House, Motorsport Lunch RFP Sent, Optimist Funding Request and Missouri Realtors Association. She has attended NASC, MACVB and Destination International Conferences. She is working on certification as a CSEE in Sports Communications and DCME with Destination Leadership and Destination Branding. Alyssa is working on some new and varied strategic activities: Voices, print ideas for Shipyard, site visits, one sheet design for things to do in Cape if you have 1,2 or 4 hours just to name a view.

Brenda shared the year in review and social media highlights. More than 30,000 viewers saw the First Friday Coffee video showing the who, what and how of VisitCape. Shared the new #GetHere Campaign. Gave the board the year-end review booklet that has all of the social media activity for FY19 to take with them and review. Reviewed changed to the Mission and Vision statements and discussed the FY20-25 Strategic Plan. Shared the bicentennial Paint for a Cause project that we have sponsored, and it is endorsed by the Missouri 2021 Commission. We will get a replica of the historic panel to hang in our office. Reviewed the TSI study that will complete an analysis of what people are saying about Cape Girardeau from 500,00 peer-to-peer communication platforms for conversations about our destination and identified comp set. This is a 3-year study and will help with strategic planning and marketing direction.

Thanked Joel for all that he has done for the board and discussed potential replacements. John Echomovich will be replacing Joel at MidAmerica and it was recommended that he replace Joel for the hotel representation on the board. A replacement for Adam Kidd will be reviewed by the chamber executive committee and we hope to find someone from the restaurant industry.

Next meeting will be Friday, December 6, 2019

Meeting adjourned.

*Team work is not a virtue. It is a choice—and a strategic one!!*



Cape Girardeau Convention and Visitors Bureau  
VisitCape.com

220 N. Fountain Street  
Cape Girardeau, MO 63701-5636  
573-335-1631

## River Campus Board of Managers Minutes

March 1, 2019

Noon in River Campus Seminary Conference Room

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**Attendees:** Rhonda Weller-Stilson, Victoria Rust, Scott Meyer, Bob Cerchio, Tammy Randolph and Trudy Lee

**Absent:** None

**Minutes** from September read. Scott Meyer made a motion to approve, Trudy Lee accepted; motion accepted

**Events** – *Sister Act* just closed and was a huge success. Dance performances have been on the rise and ‘Our Town’ was very popular. We are planning a Music Recital this weekend and are watching the inclement weather. The *Paper Doll Militia* performance is tonight which is an aerial performance. Mass Media is hosting an alum event coming up on March 7, in St Louis and the Theatre and Dance department is hosting an Extravaganza on the 21, at the Isle Casino; they are moving away from the dinner auction theme and instead will have dinner and a show. There is also a *Restaurant Hop* coming up April 16, with new locations to visit. Art and Design is hosting an *Artrageous* event on April 25, that is being held to fundraise for a new Arts Facility. The event will include art that you ‘make and take’ with you. The Meal will include BBQ and will be more relaxed than some events. The Symphony Gala event is also in April, on the 23<sup>rd</sup>, and invitations will be going out soon. Our Summer River Campus Arts Festival will feature Disney’s, *Aristocats Kids* and *Newsies*. High School students can participate this summer. We have also dropped the audition age for *Aristocats* from 9 to 14 to allow for younger actors; they will have all day rehearsals. Summer High School Camp cards were distributed to the board. The week-long camps will culminate in either a performance or exhibit; these camps are separate from the summer productions which involve a 4-5-week commitment. And we have families come from as far away as Ohio. Camp attendance is about twenty per session and there is an option to stay on-campus or go home in the evenings. We also have a nurse on staff during during all camps.

**Yamaha Piano Discussions** – have been ongoing with the manufacturer who recently brought a few of their products to campus for demonstrations. They brought five pianos offering a number of features that include the capability to hear performances from remote locations. The university is interested and the Music Department is working on funding options.

**2018-19 River Campus Productions update** – *Rent* and *Evida* are our two remaining productions. Each have sold at least half a house; very good numbers for this early. It is noted that we will not have traditional touring shows in the future, but are working on more student productions. We anticipate a seamless transition, with the total number attending *Sister Act* at over 3,000 and the Symphony yielding strong guest numbers. We are also discussing phasing out the ‘Art Cuisine’ program due to low attendance (fourteen being the highest number of guests for any performance). We will have more updates in the near future.

### Discussion

- Regarding the incorporation of Chartwell’s i.e. desserts and champagne or cookies. Bob will talk with Chartwell’s again to see about other opportunities.
- Regarding numbers for freshman classes up again within our college.
- *Urinetown* is opening next week
- Next year there will be two musicals each semester
- Summer shuttle options – Scott will talk with Cape County Transit; they may be able to provide a vehicle if we pay for the driver and gas. Updates at the next meeting.

**Updated River Campus Procedures Manual** – documents provided to board. Bob explained that many changes relate to the name change of the school to a college. In addition, the board discussed:

- Removal of detail related to *security* associated with weddings.
- Inclusion of the process for rental and production cancellations i.e. television, radio, web and text announcements and phone calls when appropriate
- Omission of *marketing* through the college
- Catering section that has been divided into sections for clarity
- Removal of verbiage related to Pepsi vs. Coke products
- Name changes that would standardize the document
- Inclusion of ticketing system usage
- Exclusion of parking shuttle information
- Non-discrimination statement modifications to mirror the university’s policies

The board accepted all discussed changes and Bob agreed to make the modifications and re-submit to the board via email for approval. Dennis made a motion to finalize via email approval. Victoria seconded and the motion passed with no descenters.

Scott Meyer made a motion to adjourn, Victoria Rust seconded - meeting adjourned.

## **GOLF COURSE ADVISORY BOARD MEETING June 27, 2019**

The City of Cape Girardeau Golf Course Advisory Board held their regular meeting on June 27th, 2019, at 12:00 noon at the Osage Centre.

### **Present:**

Callie Welker, Chairman  
Nate Saverino, Vice Chairman  
JJ Schulz, Secretary  
Jerry Grim, Board Member  
Keith Sander, Board Member  
Brad Wittenborn, Board Member  
Gary Wren, Board Member

### **Absent:**

Mark Matthews, Board Member, Ken House, Board Member

### **Staff Present:**

Julia Jones, Randy Lueder, Barb Cagle, Penny Williams, Cody Hinkebein, Adam Halter,  
Jordan Eastridge

### **Opening**

Callie Welker, Chairman called the meeting to order and thanked everyone for coming.

### **Minutes**

Callie Welker, Chairman requested the approval of the April 25th, 2019, minutes. Gary Wren made a motion; seconded by Keith Sander to approve the minutes. Motion passed with no one opposed.

### **New Business**

Julia would like everyone to think about any new ideas or suggestions for the golf course to prepare for our October meeting which will be held at the golf course. Any policy changes to be discussed with the sub committees could be submitted for recommendation.

JJ asked if there were any plans to level the Tee box on Hole #15. Randy said they can level the dirt, no problem, he would put on the project list.

Cody has been working with Jordan on the marketing. The Golf Course is running specials on items they need to move as well as have had some giveaways. The course is hosting two tournaments upcoming, Glow Ball and 2 person Senior Scramble. The Pro Shop is using green carts less due to wear and tear on them.

Randy discussed updated the conditions on the sand traps. Hole #2 is by far the worst due to the 60 inches of rain we had this year. Once the course dries out Randy will take care of the issue.

Angular sand is not an option, it is too expensive and is not budgeted. Randy will have to come up with some creative financing to take the next step.

Julia asked who has played the course lately. The course is in great shape. There is a wet area by 14<sup>th</sup> green. This area stays wet during the spring. They are looking to do some French drains for a possible fix. Julia stated funding will start to be available from PRS 2. If we need immediate cash, we could consider buying property above hole 15.

Julia thanked Randy and his crew for all their help at Capaha getting the park ready for Catfish games.

Flower bed on #5 will be finished next week per Randy.

JJ stated the upcoming Jaycee tournament has 80 teams this year. The tournament has grown bigger and bigger each year.

Cody distributed monthly reports and reviewed.

Julia asked if there was any damage to the course after the storm. Cody said, that there wasn't damage, but Kimbeland closed for the week and we are getting business from their members.

Penny reviewed city activities/events for month of July. Everyone in attendance received a handout of activities.

Julia updated the board on all Parks and Rec projects. She also, reminded everyone about the 4<sup>th</sup> of July event in the Arena Park.

Julia spoke about the Capitol Improvement Fund that will be on the ballot in August.

### **Old Business**

None

### **Committee Reports/Project Updates:**

Cody discussed fishing at the golf course at the same time people are playing golf. After much discussion, all agreed this was a safety hazard and not to allow this at the course at this time.

Youth Catch and Release Program discussed to hold at Jaycee Golf Course since Capaha will be drained next year. Cody will look at cost of closing the course vs Youth Catch and Release Program.

New Tee Markers Sponsors – Applebees, Dogwood, Ihop and Ford Groves.

Cody introduced Casey Walley. She has been his intern at the Golf Course for the summer.

### **Other Business**

***Next meeting – August 20th, 2019***

### **Adjournment**

There being no other business to come before the board, Keith Sander made a motion to adjourn the meeting; seconded by Jerry Grim. Motion passed with no one opposed. The meeting was adjourned.

**(DRAFT)**

## **Parks and Recreation Advisory Board Meeting Monday, August 12, 2019**

The Parks and Recreation Advisory Board held their regular meeting on August 12, 2019, at 5:30p.m. at the Osage Centre.

### **Board Members Present:**

Kevin Noel, Chairman  
Roger Hudson, Vice Chairman  
Kenneth Stilson, Secretary  
David Cantrell, Board Member  
Anne Dohogne, Board Member  
Pete Frazier, Board Member  
Tracey Glenn, Board Member  
Gunnar Knudtson, Board Member  
Nick Snyder, Board Member  
Dan Presson, Councilman Liaison

### **Staff Present:**

Julia Jones, Director of Parks and Recreation  
Brock Davis, Parks Division Manager  
Scott Williams, Recreation Division Manager  
Penny Williams, Recreation Division Manager  
Diane Boyer, Administrative Secretary

### **Absent:**

Beverly Evans, Board Member  
Brad Labruyere, Board Member

## **1. WELCOME / INTRODUCTIONS**

Chairman, Kevin Noel welcomed everyone and called the meeting to order. The board recognized David Cantrell and welcomed him back.

## **2. OLD BUSINESS**

### **A. Approval Of Minutes**

Kenn Stilson made a motion to approve the July 8, 2019, minutes. Pete Frazier seconded the motion. All approved.

### **B. Ordinance Review**

Director Jones asked the board to review the hard copy provided and come back with suggestions at next month's meeting.

### **C. Aquatics Committee Update**

Recreation Division Manager Penny Williams reported on July 17<sup>th</sup>, the committee met with the consultant who had lots of good feedback, everything from the size of the pool to the amenities. They are preparing a list with priorities for the facility, and hopefully, the consultant will be able to provide an input on costs. There is another Aquatics Committee meeting scheduled for August 28<sup>th</sup>, at 3:00 p.m. at the Chamber of Commerce Office. The meetings are open to the public.

### **3. NEW BUSINESS**

#### **A. Parks and Recreation Foundation Liaison Recommendation**

Brad Labruyere expressed interest in the open position. The board discussed the recommendation. David Cantrell made a motion to accept Brad Labruyere's desire to be on the Parks and Recreation Foundation. Tracey Glenn seconded the motion. All approved.

### **4. REPORTS**

#### **A. Parks and Recreation Project Updates**

- i. **Capaha Park Phase 2 and Phase 3** – Parks Division Manager Brock Davis reported that the PRS2 projects are going really well. His crews are working on the parking lot increasing the spaces available from 50 to 105. They are still conversing with the Missouri Department of Conservation on the pond renovation. The splash pad company is coming in to mount the structures. They are waiting for us to finish the parking lot and get the wall up. Parks Division Manager Brock Davis explained we will have a dechlorinization box. The water will go down the pipe and in the box and filter out before going in the pond.

#### **B. Golf Course Advisory Board**

- i. Recreation Division Manager Penny Williams reported there is a board meeting coming up on August 22<sup>nd</sup>. Parks Division Manager Brock Davis reported maintenance is working on repairing the cart paths damaged by the heat.

#### **C. Tree Advisory Board**

- i. Director Jones reported the board met today. Guests asked for guidance in removing Bradford Pear Trees along the Historic Boulevard and replacing them with native trees. The Tree Board will take a look at all that project would encompass. The board also discussed applying for another T.R.I.M. Grant asking for \$25,000. There can only be one application from Cape Girardeau, so the board will need to determine whether it would be for tree inventory at Arena Park, the Historic Boulevard Project, or what direction they want to go. The Keep Cape Beautiful Tree Planting Project is almost finished. The trees have been planted and the panel design has been finalized. Parks Maintenance Staff will be putting in the concrete and uprights that will hold the panels. They are waiting for the sign to come in so they know how to design.

#### **D. Red House Interpretive Center Committee**

- i. Director Jones reported the committee met at the Cape Historic Center in Jackson on August 8<sup>th</sup>. Carla Jordan has been working hard to provide exhibits and see what resources they could receive. The committee will be teaming with the Historic Preservation students from SEMO for a winter project of re-branding the Red House.

#### **E. Parks and Recreation Foundation**

- i. Recreation Division Manager Penny Williams reported the Night Fall Glowball Tournament will be held August 17<sup>th</sup>. Recreation Division Manager Scott Williams reported the 15<sup>th</sup> Annual Cary Flanagan Memorial Softball Tournament will also be held this Saturday, August 17<sup>th</sup>. The Full Board Meeting will be held October 10<sup>th</sup> with other sub-committees meeting prior in September. He said the Southern Convenience Store Give Back Promo generated approximately \$1,600 for the Foundation.

#### **F. Council Report**

- i. Dan Presson reported he traveled to a similar size city in Nebraska and realized how thriving our city is and what a great vibe we have going on in Cape Girardeau. The Capital Improvement Tax passed. There were nine applications received for Ward 3.



**G. Monthly Staff Report/Calendar Update**

- i. Staff briefs were handed out to board members informing them of the upcoming events and projects in the Parks & Recreation Department through October 2019. Recreation Division Manager Penny Williams said Cape Splash's season is wrapping up. Reduced hours have gone into effect now through Labor Day. Recreation Division Manager Scott Williams reported registration has begun for Corporate Games and asked for someone from the board to speak at Opening Ceremonies. He reported another big weekend is coming up. There's a tournament at the SportsPlex; Shawnee Park Sports Complex will have 450 girls in town for a tournament; Garage Sale at the Osage Centre; and Scott Wright Memorial Corn Hole Tournament. The department has multiple weekends with four or five events going on.

**H. Other Items**

- i. Director Jones advised the board if they are ever interested in having a Guest Speaker come to a meeting to just let her or one of the Staff Members know.

**5. OTHER BUSINESS**

**A. Next Board Meeting**

The next board meeting is scheduled for September 9, 2019, at the Osage Centre.

**6. ADJOURNMENT**

There being no further business, the meeting was adjourned with a motion from David Cantrell and seconded by Tracey Glenn. Motion passed. Meeting adjourned.

Submitted by:

Kenneth Stilson, Secretary

(DRAFT)

## RED HOUSE INTREPRETIVE CENTER

August 1 2019

The Red House Interpretive Center Board met at the Cape County Historic Center at 3:30 p.m. on August 1, 2019.

### Present:

Brenda Schloss, Chairman	Debra Baughn, Board Member	Stan Baughn, Board Member
Dana Deisher, Board Member	Beverly Hahs, Board Member	Linda Nash, Board Member
Christy Mershon, Board Member	Julia Jones, P & R Director	Stacey Welter, Adm. Secretary

### Board Absenteeism:

Stan Downs, Board Member (NN)	Dr. Frank Nickell, Board Member (NN)
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### Guest:

### INTRODUCTIONS:

#### I. APPROVAL OF MINUTES:

The July 11, 2019 minutes were approved with exception of changing who adjourned the meeting, by a motion from Stan Baughn and seconded by Dana Deisher.

#### II. NEW BUSINESS:

Stan Baughn moved to purchase two combination pad locks to replace the old ones at the Red House. Dana Deisher seconded the motion. Motion approved.

There was also discussion of restaurant give backs. On certain nights of the week Gordonville Grill will give back 10% of their proceeds to different organizations. Stan Baughn made a motion to proceed with contacting Gordonville Grill about a give back night for the Red House. Dana Deisher seconded the motion. All approved. Christy will check on doing the same with Port Cape.

Christy Mershon reported that the proceeds from the Cemetery Haunted Tours will go to the Red House. She suggested that there would be an opportunity to earn extra money if someone would sell water at the event as well.

#### III. OLD BUSINESS

##### 1. New Display Subcommittee

The committee would look at displays in the History Center to get ideas for the new displays.

##### 2. Traveling Trunks

Christy Mershon informed everyone that Brandi Heppler wants to bring student teachers in to help build a curriculum. They would do the lesson plans. She suggested have a sensory section of the Red House for kids with autism etc. They could possibly have a sponsor for that area alone.

##### 3. New and Prospective Docent & Board member Training Workshop

Tabled

##### 4. Scouting and Lewis & Clark Historic Trails

No new updates.

##### 5. Paid Part-Time Site Manager/Internship Update

Julia will check on SEMO Students

## **RED HOUSE INTERPRETIVE CENTER MINUTES**

**August 1, 2019**

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### **6. First Friday Events at Red House**

Christy Mershon suggested partnering with Ebb and Flow Bar/Restaurant and possibly have them create a beer "Lorimier Lager" and have percentage of proceeds go to the Red House. They would like to tie more things in with the speakers series.

## **IV. REPORTS**

### **1. July Staff Briefs**

The June/July/August Staff Briefs were distributed to the members' review.

### **2. Historic Home Tour**

Christy suggested having businesses adopt rooms for decorating. The businesses could then offer coupons for those that come to the house. Examples of businesses include Trees and Trends or Art Van.

### **3. Docent Report**

The Baughns reported that there is still a lack of docents to cover events and low attendance at docent meetings. She mentioned that the river boats were going well and boats will be coming in through Christmas. They thought it would be good to decorate in French Pioneer Christmas for Christmas time.

### **7. Rose Hill Garden Report**

Beverly reported that roses were planted, and everything is weeded. She mentioned the sprinkler wasn't working. The parks crew will go out and look into it.

## **V. OTHER BUSINESS**

## **VI. ADJOURNMENT**

There being no further discussion the meeting adjourned at 4:45 pm with a motion from Stan Baughn and second from Deb Baughn . Motion passed. The next meeting will be held on Thursday, Septmeber 5, 2019 at the Osage Centre at 3:30 p.m.

Respectfully submitted,

Stacey Welter, Recording Secretary

(DRAFT)

## TREE ADVISORY BOARD MEETING August 12, 2019

The City of Cape Girardeau Tree Advisory Board held their regular meeting on August 12, 2019, at 12:00 noon at the Osage Centre.

### **Present:**

Jennifer Behnken, Chairman  
Robert Harris, Board Member

Stan Polivick, Public Works Director/Member  
Brock Davis, Parks Division Manager  
Julia Jones, Director of Parks & Recreation

### **Absent:**

Dr. Sven Svenson, Vice Chairman  
Laura Klipfel, Board Member  
Dr. Beverly Evans, Board Member

### **Staff Present:**

Diane Boyer, Recording Secretary

### **Guests:**

Casey Brunke, Assistant Public Works Director  
Bonnie Kipper  
Tom Neumeyer

## **OPENING**

Chairman Behnken called the meeting to order and welcomed our guests.

## **MINUTES**

Chairman Behnken requested the approval of the June 10, 2019, minutes. Stan Polivick made a motion; seconded by Director Jones to approve the minutes. Motion passed with no one opposed.

## **NEW BUSINESS**

### **A. Nominate Board Officers for 2020 Term**

Director Jones asked the board to think about who they would like to nominate for Board Officers and the election will be held at our next meeting in October for the 2020 Term.

### **B. Discuss Ways Citizens Can Assist on the Removal of Bradford Pear Trees and Replanting with Native Trees in Medians Downtown**

Chairman Behnken introduced our guests, Bonnie Kipper and Tom Neumeyer along with Casey Brunke from the Public Works Division. Ms. Kipper and Mr. Neumeyer discussed the scope of their project for the Historic Boulevard. This project would entail 33 trees from Marie to West North and West North to

Bloomfield. They stated the trees along the boulevard are older trees; mostly Bradford Pear Trees and are in poor condition. They would like to have all the trees removed and replanted with trees native to Missouri and asked for the board's guidance. Chairman Behnken suggested applying for a T.R.I.M. Grant for next year. Director Jones agreed and suggested the two talk to Ryan Shrimplin, City Planner, who oversees historic preservation as well as the new councilman for Ward 3 and City Manager, Scott Meyer. She explained in order for this board to be able to endorse this project we would have to meet with all departments involved. She asked Ms. Kipper and Mr. Neumeyer to do some research before our next meeting in October, put a map together of the area, get in touch with tree companies to get bids and think about the type of aftercare that will be needed. The board also discussed the possibility of using this project as part of Arbor Day in March 2020. Dr. Svenson's students volunteer manpower with planting. The board continued discussing types of native trees and sizes. Ms. Kipper and Mr. Neumeyer will do their research and return to discuss in October.

## **OLD BUSINESS**

### **A. Update on "Next Steps" for the KCB Tree Planting Project**

#### **1. Concrete Area and Interpretive Panels**

Director Jones reported the panel design has been finalized. Parks Division Manager Davis added Parks Maintenance Staff will be putting in the concrete and uprights that will hold the panels. They are waiting for the sign to come in so they know how to design.

### **B. T.R.I.M. Grant Discussion**

Director Jones reported we were not awarded the \$5,000 Keep Cape Beautiful funds, however, we will plan on applying for the T.R.I.M. Grant again next year. There can only be one application from Cape. The board felt the Historic Boulevard Project discussed earlier would be significant but a manageable project they could do well. Chairman Behnken will find out if the grant could cover irrigation which would help significantly with aftercare and maintenance.

## **REPORTS**

### **A. Staff Briefs / Project Updates**

Staff Briefs were handed out to the board members informing them of the upcoming events and projects in the Parks & Recreation Department through October 2019. Parks Division Manager Davis reported the Capaha Park Renovations for PRS2 have been keeping Parks Maintenance Staff really busy. They are currently redoing the parking lot and working on a concept for the pond renovation and how to save the trees. Director Jones reported the Urban Orchard at Shawnee Park produced pears and apples this year.

Chairman Behnken reported Cape County Park South is moving forward. The Missouri Department of Conservation will be celebrating Smoky Bear's Birthday at the SEMO District Fair on September 8<sup>th</sup>. The Thousand Cankers Disease traps have been removed.

**OTHER BUSINESS**

**A. Next Board Meeting**

The next board meeting will be held on October 14, 2019, at 12:00 p.m. at the Osage Centre.

**ADJOURNMENT**

There being no other business to come before the board, Director Jones made a motion to adjourn the meeting; seconded by Stan Polivick. Motion passed with no one opposed. The meeting was adjourned.

Transcribed by:  
Diane Boyer, Recording Secretary