



Agenda

City Council Regular Session

Monday, February 27, 2023 - 7:00 PM
Council Chambers

I. Call to Order

II. Invocation and Pledge of Allegiance

A. COUNCIL MEMBER PAUL JENNESS

III. Roll Call

IV. Approve Minutes and Summaries

- A. REGULAR SESSION MINUTES OF JANUARY 9, 2023
- B. STUDY SESSION MINUTES OF JANUARY 17, 2023
- C. REGULAR SESSION MINUTES OF JANUARY 23, 2023
- D. SPECIAL SESSION MINUTES OF JANUARY 23, 2023
- E. EXECUTIVE SESSION MINUTES OF JANUARY 23, 2023

V. Citizens' Participation

VI. Meeting Schedule

VII. Consent Agenda

- A. RESOLUTION APPROVING A TEMPORARY EVENT LIQUOR LICENSE FOR THE LIBERTY HOSPITAL FOUNDATION FOR AN EVENT AT WILLIAM JEWELL COLLEGE, GREENE STADIUM ON MARCH 25, 2023

VIII. Public Hearings

- A. RESOLUTION AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE GENERAL PLAN OF THE CITY OF LIBERTY BY CHANGING THE LAND USE DESIGNATION OF APPROXIMATELY 27.35 ACRES LOCATED NORTH OF GARRISON RD BETWEEN HUGHES AND WITHERS, SOUTH OF SOUTH LIBERTY PARKWAY FROM COMMERCIAL TO BUSINESS (P&Z CASE 23-02A)
- B. RESOLUTION APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE TRU HOTEL AT 1820 N. CHURCH ROAD IN ROGERS PLAZA TO ALLOW A 92 ROOM HOTEL ON 2.4 ACRES WITH A VARIANCE TO ALLOW FOUR STORIES IN A C-2 ZONING DISTRICT, IN LIBERTY, CLAY COUNTY, MISSOURI (P&Z CASE 23-03PDP)
- C. ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LIBERTY, MISSOURI BY REZONING 17.3+/- ACRES AT THE NE CORNER OF SOUTH LIBERTY PARKWAY AND FLINTLOCK TO PD "PLANNED DEVELOPEMNT" DISTRICT FOR LIBERTY PARKWAY APARTMENTS (P&Z CASE 22-59R&PDP)

IX. Ordinances, Contracts and Resolutions

- A. ACKNOWLEDGEMENT OF VENDOR PAYMENTS FOR THE PERIOD OF FEBRUARY 3, 2023 TO FEBRUARY 17, 2023
- B. RESOLUTION APPROVING A PRELIMINARY PLAT FOR LIBERTY PARKWAY APARTMENTS, 2 LOTS ON 17.3 ACRES AT THE NE CORNER OF SOUTH LIBERTY PARKWAY AND FLINTLOCK., A SUBDIVISION OF LAND IN LIBERTY, CLAY COUNTY, MISSOURI (P&Z CASE 22-60PP)
- C. FINAL DEVELOPMENT PLAN FOR FULKERSON COTTAGES, 40 UNITS OF AGE RESTRICTED DUPLEX, TRIPLEX, AND FOUR-PLEXES AT LIBERTY DR, WEST OF FULKERSON CIRCLE IN LIBERTY, CLAY COUNTY, MISSOURI (P&Z CASE 23-04FDP)
- D. ORDINANCE ACCEPTING AND APPROVING A FINAL PLAT FOR FULKERSON COTTAGES, IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI (P&Z CASE 23-05FP)
- E. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH KITCH'S LAWN CARE FOR 2023 MOWING SERVICES AT FAIRVIEW, NEW HOPE AND MOUNT MEMORIAL CEMETERIES IN AN AMOUNT NOT TO EXCEED \$46,200.00
- F. ORDINANCE APPROVING A CONTRACT WITH PRECISION CONSTRUCTION & CONTRACTING, LLC FOR CITY OF LIBERTY PROJECT PW-CIP-23-002 2023 CONCRETE FLATWORK REPLACEMENT IN AN AMOUNT NOT TO EXCEED \$331,910.00
- G. ORDINANCE APPROVING A CONTRACT WITH SUPERIOR BOWEN ASPHALT COMPANY, LLC FOR CITY OF LIBERTY PROJECT PW-CIP-23-003 2023 STREET MAINTENANCE PAVEMENT RESTORATION
- H. ORDINANCE AMENDING ORDINANCE NO. 11556 APPROVING THE CONTRACT WITH VSM ENGINEERING FOR MISSISSIPPI STREET AND LIBERTY DRIVE SIDEWALK DESIGN PROJECT INCREASING THE CONTRACT BY \$36,960.00 FROM \$66,510.00 IN AN AMOUNT NOT TO EXCEED \$103,470.00
- I. ORDINANCE AMENDING CHAPTER 20, "MOTOR VEHICLES & TRAFFIC," OF THE CODE OF THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI

X. Other Business

- A. APPOINTMENT OF SARAH RANES AS DEPUTY CITY CLERK
- B. FAIRVIEW CEMETERY / BLOCK 174

XI. Miscellaneous Matters from City Administrator

XII. Miscellaneous Matters from Mayor and City Council

XIII. Adjournment

**ADA Accessible entrance is available from Missouri Street at the Police Department entrance.
An elevator will provide access to the second floor – Council Chambers**

City Council Meeting

Regular Session Minutes
January 9, 2023

I. CALL TO ORDER

A regular meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers at City Hall on January 9, 2023 with Mayor Pro Tem Kevin Graham presiding. Mayor Pro Tem Graham called the meeting to order at 7:00 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Council Member Gene Gentrup, who then led the pledge of allegiance.

III. ROLL CALL

Council Members Present: Harold Phillips and Paul Jenness, Ward I
Greg Duncan and Kelley Wrenn Pozel, Ward II
Kevin Graham and Jeff Watt, Ward III
Michael Hagan and Gene Gentrup, Ward IV

Council Members Absent: Lyndell Brenton, Mayor

Staff Present: Curt Wenson, City Administrator
Sara Cooke, Assistant City Administrator
Shawwna Funderburk, Chief Strategic Operations Officer
Vicki McClure, Finance Director
Andy Noll, Utilities Director
BJ Staab, Parks and Recreation Director
Jim Martin, Police Chief
John Mills, Fire Chief
Brandon Smith, Economic & Business Dev. Manager
Katherine Sharp, Planning and Development Director
Sherri McIntyre, Public Works Director
Janet Pittman, Deputy City Clerk

Public Present: Kellie Houx, Courier Tribune
20 members of the public

IV. APPROVE MINUTES AND SUMMARIES - NONE

V. CITIZENS' PARTICIPATION

A. JERRY CLARK - TRI-CIT TELECOMMUNICATOR OF THE YEAR AWARD

Mayor Pro Tem Graham stated that unfortunately, Mr. Clark was unable to attend the meeting and his presentation will be rescheduled to a future meeting.

Gieselle Fest, 1407 Lynette, stated mower notices are flying everywhere, it's not good. Let families grieve in peace.

Dave Langston, 1920 Carter Court, stated he is concerned about cemetery mowing notices and that mowers strike grave stones.

VI. MEETING SCHEDULE

VII. CONSENT AGENDA

A. PURCHASE OF PUBLIC SAFETY RADIO SYSTEM ENCRYPTION UPGRADES FROM MIDWEST MOBILE RADIO IN AN AMOUNT NOT TO EXCEED \$75,805.00

The Police and Fire Departments joined the Metropolitan Area Regional Radio System (MARRS) in 2013 after experiencing a major failure in the 30-year-old VHS radio system. The system allowed communication with every agency in the Mid-America Regional Council (MARC) region. In late 2020/early 2021, MARRS started to explore moving to encryption, which would prevent the channels from being heard over scanners. In late 2021, MARRS decided to move to encryption starting February 7, 2023. Through research, staff determined that if the City's system does not move to encryption, they would not be able to communicate through this system with many of the agencies they work with on a daily basis.

This is a one-time cost for equipment upgrades. In July 2021, with Budget Committee support, the City Council approved the use of one-time funding to cover this upgrade cost. Staff should be able to complete the upgrade in-house after it is purchased. Pricing was attained through Midwest Mobile Radio, which the City currently uses for radio service. The cost for the Police upgrade is \$46,480.70 and the Fire upgrade is \$29,324.30.

Council Member Hagan moved to approve the purchase. Council Member Phillips seconded the motion, which carried unanimously.

B. APPROVE PAYMENT IN AN AMOUNT NOT TO EXCEED \$36,939.10 TO HEARTLAND MECHANICAL SERVICES FOR EMERGENCY REPAIR OF THE 3RD FLOOR COMPRESSOR

Heartland Mechanical Services Inc. is the on-call contractor for Liberty building services. The original contract was executed on November 23, 2020 with annual renewal options through 2023.

The air-conditioner compressor for the third floor failed during the heatwave in late July/early August 2022. Heartland was contacted to address the loss of air conditioning and it was determined that a compressor had failed. An emergency part was found in Texas and sent to Liberty and a crane was rented to install the new compressor on the third floor roof. The majority of the work occurred as overtime and on the weekend, to get the new compressor, valves installed and the system returned to operation. The system is continuing to be monitored to evaluate compressor issues with the system.

Council Member Hagan moved to approve the payment. Council Member Phillips seconded the motion, which carried unanimously.

C. PURCHASE AND DELIVERY OF LIBERTY COMMUNITY CENTER FITNESS EQUIPMENT FROM ADVANCED EXERCISE EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$41,331.90

Included as a part of the Liberty Community Center 2023 operations budget is funding for replacement and/or purchase of new fitness equipment. To remain market-relevant, fitness centers replace commercial equipment on a regular cycle. Excluding the years of COVID, the average replacement cycle for cardio equipment for the Liberty Community Center is three to five years. Due to the decision to be fiscally conservative during the pandemic and subsequent recovery, many of the pieces being replaced date back to at least 2015.

The Liberty Community Center has used Life Fitness equipment since 2002. A bid process for equipment was completed in 2014, with the Life Fitness/Hammer Strength brand selected. The area vendor providing this brand of fitness equipment now is Advanced Exercise Equipment, which is also the approved Sourcewell Co-op vendor for fitness equipment.

The total cost of this purchase is \$41,331.90; the list of fitness equipment scheduled for purchase follows:

- Replacement 95X ST Crosstrainer (\$7,634.25)
- Replacement 95C Discovery ST Upright Lifecycle Bike quantity 2 @ \$5,391.75 (\$10,783.50)
- New Cascade Ultra Runner Plus Curved Treadmill (\$4,196.25)
- New Cascade Vertical Climber quantity 2 @ \$2,696.25 (\$5,392.50)
- New SciFit Pro1 Upper body (\$4,761.75)
- Replacement Hammer Strength Smith Machine (\$5,413.65)
- Freight and Delivery (\$3,150.00)

Council Member Hagan moved to approve the purchase. Council Member Phillips seconded the motion, which carried unanimously.

D. RESOLUTION APPROVING A TEMPORARY EVENT LIQUOR LICENSE FOR HILLCREST HOPE NIGHT OF HOPE FUNDRAISER EVENT TO BE HELD AT HERITAGE HALL LOCATED AT 117 WEST KANSAS STREET ON SATURDAY, FEBRUARY 25, 2023

In 2003, the City Code was amended, adding a temporary liquor license for events of short duration (7 days or less). Patterned after the state's license, this temporary liquor license allows any church, school, civic, service, fraternal, veteran, political or charitable club or organization to sell or serve alcohol, upon approval of the license by City Council.

Hillcrest Hope has applied for a temporary liquor license to serve alcohol for their 'Night of Hope Fundraiser' event on Saturday, February 25, 2023, to be held at Heritage Hall located at 117 West Kansas Street, Liberty, MO. The owners of Heritage Hall have given their approval for Hillcrest Hope to hold this event on February 25, 2023. Because the public will have access to the event, State statute and City ordinance require a license.

Action: Council Member Hagan moved to approve the resolution. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 3299

E. STUDY SESSION SUMMARY OF NOVEMBER 7, 2022

Council Member Hagan moved to approve the summary as distributed. Council Member Phillips seconded the motion, which carried unanimously.

F. STUDY SESSION SUMMARY OF NOVEMBER 21, 2022

Council Member Hagan moved to approve the summary as distributed. Council Member Phillips seconded the motion, which carried unanimously.

VIII. PUBLIC HEARINGS

IX. ORDINANCES, CONTRACTS AND RESOLUTIONS

A. ORDINANCE ACKNOWLEDGING VENDOR PAYMENTS FOR THE PERIOD OF DECEMBER 9, 2022 TO DECEMBER 30, 2022

Document No. 9533 was read.

Action: Council Member Watt moved to approve the vendor payments. Council Member Jenness seconded the motion.

Roll Call

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11700.

B. ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LIBERTY, MISSOURI BY REZONING 11.38+/- ACRES AT THE NE CORNER OF SOUTH LIBERTY PARKWAY & PLUMMER ROAD FROM R-1A, "SUBURBAN RESIDENTIAL" DISTRICT TO C-2 "GENERAL BUSINESS" DISTRICT FOR PROMINENCE COMMERCIAL (P&Z CASE NO. 22-58R&PDP) (2ND READING)

This is a rezoning application for Prominence Commercial, a commercial development on approximately 11.4 acres for 30,000 square feet of commercial space along South Liberty Parkway. The applicant is proposing 5 commercial lots each with buildings ranging in size from 5,000 to 10,000 sq. ft. This is a preliminary proposal to establish

commercial zoning to market the property to commercial businesses. No specific user has been identified and all of the proposed building elevations are conceptual.

The applicant proposes that the site be used for commercial purposes and is requesting the C-2 "General Business" zoning. The proposed uses include a bank, drive thru restaurant, retail and office buildings.

The preliminary plan proposes 6 commercial lots along South Liberty Parkway. There will not be direct access to South Liberty Parkway from the individual lots. Tract A from the approved Providence apartments will serve as the access point to each lot. In final development plan phase, staff will work with the applicant on final-level details to the site plan.

Document No. 9523 was read.

Action: Council Member Watt moved to approve the ordinance. Council Member Phillips seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11701.

C. **ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE MID-AMERICA REGIONAL COUNCIL SOLID WASTE MANAGEMENT DISTRICT FOR PARTICIPATION IN THE 2023 REGIONAL HOUSEHOLD HAZARDOUS WASTE PROGRAM IN AN AMOUNT NOT TO EXCEED \$33,414.70**

Included in the 2023 solid waste budget are funds for Liberty's participation in the regional Household Hazardous Waste (HHW) program offered by the Mid-America Regional Council (MARC) solid waste management district. Participation in the program allows Liberty residents to use permanent collection facilities located at 4707 Deramus, Kansas City, MO and 2101 S.E. Hamblen Road, Lee's Summit, MO, as well as to participate in mobile collection events throughout the metropolitan area without additional charge.

The City of Liberty has participated in the regional Household Hazardous Waste program since it started in 1997. Annual mobile events were held in Liberty until the COVID pandemic lead to a pause in mobile events. A mobile event was held September 10, 2022 in Liberty, at the Liberty School District Support Service Center with staffing support from Liberty Public Works staff. The event served 383 attendees and generated 36,278 lbs. of material in one morning with 282 attendees being from Liberty. Through the third quarter of 2022, 676 Liberty residents safely disposed of 65,628 lbs. of material at the permanent sites and mobile collection events.

The cost to participate in this program in 2023 is \$33,414.70, which has increased from the 2022 payment of \$32,882.03. Participation cost is dependent on population size, with each community being charged \$1.10 per resident based upon the 2021 census population estimates (Liberty pop 30,377). The 2022 charges were \$1.09 per resident.

Document No. 9534 was read.

Action: Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Jenness seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Phillips moved to approve the ordinance. Council Member Pozel seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11702.

D. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH CY YOUNG INDUSTRIES FOR FULL THEATER SEAT RENOVATIONS IN THE LIBERTY PERFORMING ARTS THEATER

The total project is being funded by the Liberty Parks and Recreation Foundation's Annual Campaign. All 678 theater seats in LPAT have been in place since the building opened in 1992 and receive a substantial amount of use due to the theater's highly active calendar. Staff works diligently to preserve the seating with scheduled preventative maintenance, cleaning and service. However, the seats have surpassed an expected lifetime of 15-20 years and are clearly showing their 30 years of use and are beginning to affect customer satisfaction. The underlying hardware, mechanical components and frames are solid and uncompromised. Rather than buy all new seating, it is most economical and sensible that the seats be renovated and reupholstered.

Cy Young Industries of Lenexa, Kan. is the chosen single source vendor due to their experience with similar projects, expertise, seat capacity and their ability to meet the extremely aggressive timeline to perform the work. Other seating manufacturer representatives that serve our area are most interested in removing existing seats and replacing with brand new ones or are not able to meet theater timelines. However, Cy Young Industries is the local provider offering superlative renovation services. The Foundation Board vote was unanimous to allocate the funds and move the project forward. This project was part of the LPR Foundation's 2022 Annual Campaign.

Document No. 9535 was read.

Action: Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Hagan seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Jenness seconded the motion.

Vote: Motion passed 8-0-0
Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 11703.

E. ORDINANCE ACCEPTING A COVENANT TO MAINTAIN STORM WATER MANAGEMENT SYSTEM AND PUBLIC STORM DETENTION FACILITIES EASEMENT AND (3) SEPARATE PUBLIC SANITARY SEWER EASEMENTS FROM THE UPPER CUT KC, LLC

To facilitate The Upper Cut KC commercial development, N. Church Rd. & S. College St., storm water quality facilities will be constructed on the property.

Per the City of Liberty's storm water discharge permit from the Missouri Department of Natural Resources, an agreement between the City and post-development landowner(s) is required to designate the responsible party(ies) and the type/frequency of maintenance activities for continued performance of storm water detention and storm water quality facilities. In response to the requirement, the Covenant to Maintain Storm Water Management System associated with The Upper Cut KC development has been executed by the property owner. This covenant is the City's standard requirement where storm water detention and storm water quality facilities are required. The Covenant was obtained at no cost to the City. City Council acceptance is required prior to recording the covenant document.

As a condition of the covenant, public storm facilities easements are required. The easements allow for access to stormwater detention and Best Management Practice facilities to allow for emergency maintenance by the City in case of property owner negligence. The storm facilities easement was obtained at no cost to the City. City Council acceptance is required prior to recording the easement.

To facilitate a public sanitary sewer main extension to The Upper Cut KC commercial development, (3) separate public sanitary sewer main easements are needed to allow for its construction and future maintenance. The public main extension is from an off-site existing City of Liberty public sanitary sewer main, south of the proposed Upper Cut commercial development. The connection will provide gravity sanitary sewer service to the proposed Upper Cut KC commercial development. Public sanitary sewer main easements are being dedicated by The Upper Cut, K.C., LLC, James D. Robertson and PG Real Estate Holdings, LLC and Sane Properties, LLC. The easements were obtained at no cost to the City.

Document No. 9536 was read.

Action: Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Watt seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Pozel seconded the motion.

Vote: Motion passed 8-0-0
Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 11704.

F. ORDINANCE APPROVING A COOPERATIVE AGREEMENT FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROL SYSTEM WITH MID-AMERICA REGIONAL COUNCIL IN AN AMOUNT NOT TO EXCEED \$19,200.00

The City has participated in Operation Green Light since the original feasibility report was completed in June of 2000. Operation Green Light provides signal timing analysis and real time timing adjustments to meet peak demand during normal traffic operations and during traffic incidents along congested routes. It also provides access to the signal timing software and signal video system. The City continues to own and maintain the signal hardware of the system. Operation Green Light operates on six traffic signals in the city. The intersections include four along the Kansas Street Corridor between Conister, Blue Jay, Forrest and Clay View, Conister at Stewart/Victory Drive, and South Withers at Liberty Drive.

The cost of participating in the program is based upon the number of signals that each participating entity has of the total number of signals on the system. The City of Liberty's cost to participate is \$4,800.00 per year. The operational costs are matched by federal funding grants allocated to the program. The cost per signal hasn't increased over the past six years of the program, remaining at \$800.00 per signal over the next 4 years with this agreement.

Document No. 9537 was read.

Action: Council Member Watt moved to waive the rules and consider the ordinance on first reading. Council Member Phillips seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Duncan seconded the motion.

Vote: Motion passed 8-0-0
Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 11705.

G. ORDINANCE OF THE CITY OF LIBERTY, MISSOURI IMPOSING AN ADDITIONAL SALES TAX ON ALL TANGIBLE PERSONAL PROPERTY RETAIL SALES OF ADULT USE MARIJUANA WITHIN THE CITY IN ACCORDANCE WITH ARTICLE XIV, SECTION 2, SUBSECTION 6 FOR PUBLIC SAFETY PURPOSES

Upon approval by Liberty voters, the City will be authorized to collect an additional 3% sales tax on all adult recreational marijuana sales within the City of Liberty. The City

will also collect the 3.375% sales tax already in place for all retail sales within the City of Liberty, which does not require voter approval.

Several metro area cities are placing the 3% adult recreational marijuana sales tax on the April 4, 2023 municipal ballot which includes Blue Springs, Excelsior Springs, Gladstone, Grain Valley, Grandview, KCMO, Kearney, Independence, Raymore, Raytown, and Sugar Creek.

Very early estimates by the Missouri Municipal League indicate cities with the additional 3% adult use recreational marijuana sales tax in place could see a projected \$150,000 in additional sales taxes, per dispensary per year. The State of Missouri holds the authority to approve any additional future dispensaries statewide. It is unknown if the state will approve any additional dispensaries to locate in Liberty. If the State were to award permits for additional dispensaries in Liberty, revenues would be expected to increase.

Medical Marijuana purchases will not be subject to the 3% additional adult use recreational marijuana sales tax. Only individuals purchasing adult use recreational marijuana will pay the additional 3% sales tax and the 3.375% City sales tax already in place on retail sales.

Each city has the authority to determine how to allocate and expend the 3% additional sales tax revenues. Staff recommends that revenues from the 3% additional sales tax in Liberty be used for public safety purposes. There are no expenditure requirements prescribed by the State of Missouri. A simple majority vote in favor of the 3% additional sales tax is required to put it in place.

Document No. 9538 was read.

Action: Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Watt seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Watt moved to approve the ordinance. Council Member Phillips seconded the motion.

Roll Call

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11706.

H. ORDINANCE APPROVING A CONTRACT WITH GUILD COMPANIES, LLC FOR PROFESSIONAL SERVICES RELATING TO THE MARKETING OF VISIT LIBERTY IN AN AMOUNT TO EXCEED \$59,100.00

In 2014, the City of Liberty passed the Transient Guest Tax for support of Tourism initiatives in Liberty, including wayfinding signage, support of festivals and events,

support for the Arts, and general marketing and promotion of Liberty's businesses, history and attractions. The Tourism Committee was established in 2018.

Staff worked with Guild Content in 2020 – 2021 to establish Visit Liberty on social media and build up a strong organic following. The primary focus of the advertising campaign was digital and we began to introduce video content to the media mix.

Highlights of 2022 partnership with Guild Content:

- Executed an advertising campaign with the theme “Stories Start Here”
- Led 16,680 website visitors from paid social ads running January – November
- Led 2,650 website visitors from Google Display ads running May – November
- Added in YouTube ads to the media mix, reaching 118,000 total views and 745 visits to the website
- Developed a new “audience persona” based on past ad results for more personal ad creation
- Assisted with content for the Visit Liberty Facebook page – now with 7,912 followers
- Assisted with content for the Visit Liberty Instagram page – now with 1,451 followers
- Drafted 22 blogs for the Visit Liberty website

The Guild Content team's work will be in addition to City staff's ongoing coordination of the Transient Guest Tax and programs supporting the TGT goals as outlined in voter education materials.

This contract will be reviewed and renewed annually for up to five years (2023 is renewal year three) as the needs for Visit Liberty and tourism in Liberty grow.

Document No. 9539 was read.

Action: Council Member Phillips moved to waive the rules and consider the ordinance on first reading. Council Member Pozel seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Jenness seconded the motion.

Vote: Motion passed 8-0-0

Yes: Council Members Phillips, Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11707.

X. OTHER BUSINESS

A. FAIRVIEW CEMETERY / BLOCK 174

Gieselle Fest, 1407 Lynette, provided an update on the lawsuit deposition.

David Langston, 1920 Carter Court, stated Block 174 is part of our history. Block 174 isn't about slavery, it's about history.

Sharon Fiene, 457 E. Franklin, spoke of Block 174 history. What will we do with these inconvenient truths?

Dwayne Holtzclaw, 113 Kevin St., Excelsior Springs, MO, threatened City Council and stated "If you touch my family's grave marker, there will be a price to pay."

David Sallee, 9531 N Laurel Ave., Kansas City, MO, stated this monument was erected to remind blacks their place was behind whites.

Shelton Ponder, 440 N. Main, Apt 2-B, stated that to him, the confederate monument soldier says "nigger stay in your place."

Robyn Painter, 12802 Mt. Olivette Rd., asked that the lawsuit be stopped. Embrace the differences and move forward.

- XI. MISCELLANEOUS MATTERS FROM CITY ADMINISTRATOR
- XII. MISCELLANEOUS MATTERS FROM MAYOR AND CITY COUNCIL
- XIII. ADJOURNMENT

The meeting adjourned at 7:36 p.m.

Attest:

Mayor

Deputy City Clerk

City Council Meeting

Study Session Summary

January 17, 2023

I. CALL TO ORDER

A study session meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers at City Hall on January 17, 2023 with Mayor Lyndell Brenton presiding. Mayor Brenton called the meeting to order at 7:00 p.m.

II. ATTENDANCE

Council Members Present: Harold Phillips and Paul Jenness, Ward I
Greg Duncan, Ward II
Kevin Graham and Jeff Watt, Ward III
Michael Hagan and Gene Gentrup, Ward IV

Council Members Absent: Kelly Wrenn Pozel, Ward II

Staff Present: Curt Wenson, City Administrator
Sara Cooke, Assistant City Administrator
Shawanna Funderburk, Chief Strategic Operations Officer
Andy Noll, Utilities Director
Jim Martin, Police Chief
Katherine Sharp, Planning and Development Director
Mike Peterman, Planning and Development City Planner
Sarah Ranes, Deputy City Clerk

Planning and Zoning Members Present: Dee Rosekrans (Chair)
Judy Dilts
Walt Holt
Donald Summers

Public Present: Kellie Houx, Courier Tribune
7 members of the public

III. TOPICS OF DISCUSSION

A. Comprehensive Plan Work Session #2:

A comprehensive plan is a vision for the future at a community scale, created by the community and for the community. The comprehensive plan records shared goals and desires. The plan examines where the city is, where it came from and crafts a coordinated road for the future. The plan will guide the city's growth and development over the next 10 years. The plan will be revisited over time to assure its relevance.

B. Project Timeline:

- Discover – June through September 2022

- Engage – June, 2022 through April 2023
- Plan – October 2022 through January 2023
- Refine/Implement – February through April 2023

C. Public Engagement Events:

- In-Person Public Pop-Up Event September 24, 2022 at Fall Festival
- Public Open House November 16, 2022 at the Second Baptist Church
- Virtual Public Open House:
 - Launched after City Wide Planning Charrete
 - Public able to review and provide feedback on all draft concepts generated during the charrete
 - Open November 23, 2022 through December 19, 2022

D. Stakeholder Engagement:

- Visioning Workshop held on October 18, 2022 from 5:30 p.m. to 8:00 p.m. in the City Hall Council Chambers to uncover needs, wants and desires
- Citywide Planning Charrete held November 15th & 16th, 2022 in the City Hall Council Chambers to generate ideas for land use, transportation, environmental preservation, etc.

E. Visioning Results:

Results were compiled after two questions were asked by the consultants. The first question was, what are three challenges we face in Liberty and the second question was, what three things make you proud of Liberty?

- Consultants revealed the needs for Liberty are:
 - Connected multi-use trail system
 - Destinations
 - Diversity
 - Affordable housing
 - Multimodal connectivity
 - Vibrant downtown
- Consultants revealed the wants for Liberty are:
 - Downtown entertainment
 - Park/community gathering spaces
 - Environmentally sustainable development
 - Public transit
 - Affordable housing
 - Diverse representation of government
 - Community Center/fieldhouse
- Consultants revealed the desires for Liberty are:
 - More arts and culture
 - Outdoor spaces – flex spaces
 - Multi-purpose center
 - 291 Hwy/210 Hwy improvements
 - Housing variety
 - Connected bike/ped community

- Diversity
- Entertainment areas
- Consultants revealed the barriers for Liberty are:
 - 291 Hwy needs redevelopment
 - City boundary/school district
 - Funding
 - Terrain and floodplain
 - Unincorporated roads
 - Lack of housing variety
 - Traffic
 - Industrial development
- Consultants revealed the obstacles for Liberty are:
 - Lack of community involvement
 - Lack of diversity/inclusion
 - Downtown parking
 - Lack of walkability
 - Resistance to density
 - Funding
- Consultants revealed the annoyances for Liberty are:
 - Resistance to change
 - Downtown parking
 - Lack of parking and transportation
 - Lack of connectivity
 - Lack of youth/young professional retention
 - Lack of entertainment/districts, etc.
 - Lack of high-end housing
 - Complacency

F. Community Survey Results:

- If you currently own a home in Liberty, would you consider downsizing or upgrading if adequate housing were available?
 - Included 703 respondents
 - More than 80% of respondents live in Liberty
 - 34.24% of respondents work in Liberty
 - 249 (or 47.44%) respondents indicated they have lived in Liberty for 21+years
 - To Downsize or Upsize if you currently own a home in Liberty:
 - 26.94% indicated they would downsize
 - 30.38% indicated they would upsize
 - 35.44% indicated they would neither
- If you would consider purchasing a home in Liberty, what size of home would best suit you and/or your family?
 - Included 109 respondents
 - 52 respondents indicated a 3-bedroom household
 - 38 respondents indicated a 4+bedroom household
 - 10 respondents indicated a 2-bedroom household
- Would you consider living in Liberty if more quality, affordable housing was available?

- Included 109 respondents
- 68 respondents indicated that “Yes”, they would
- 41 respondents indicated that “No”, they wouldn’t
- On a typical weekday, do you generally?
 - 90.63% of respondents indicated that they reside in/travel to Liberty
 - Conversely, 9.73% remain outside of Liberty during the weekdays
- Which type of destination are you most likely to visit within Liberty?
 - The top three types of destinations people are most likely to visit in Liberty are:
 - Shopping (86.89%)
 - Dining/Nightlife (72.94%)
 - Services (61.68%)
 - On a typical weekday, which types of destinations are you most likely to visit in other communities?
 - The top three types of destinations people are most likely to visit in other communities are:
 - Shopping (63.79%)
 - Dining/Nightlife (56.90%)
 - Employment (56.90%)
- On a typical weekend 85.17% of respondents indicated that they reside in/travel to Liberty
- Conversely, 14.83% remain outside of Liberty during the weekends
 - On a typical weekend, which type of destination are you most likely to visit within Liberty?
 - Shopping (86.80%)
 - Dining/Nightlife (81.74%)
 - Friend’s/Family’s place of residence (56.49%)
- On a typical weekend, which types of destinations are you most likely to visit in other communities?
 - The top three types of destinations people are most likely to visit in other communities are:
 - Dining/Nightlife (73.20%)
 - Entertainment (69.07%)
 - Shopping (69.07%)

G. What is valued most about Liberty?

- Respondents indicated that the following are the top five items that Liberty is currently doing well:
 - Liberty Public School District (62.71%)
 - Culture of family-friendliness, recreation and hometown feel (55.69%)
 - Outdoor recreation/environment (36.12%)
 - Design and appearance (28.43%)
 - Economic development (20.23%)

H. What should Liberty pursue?

- Increasing park land and access to trails (50.50%)
- Revitalizing downtown (43.14%)

- Developing cultural and/or entertainment destinations for local and regional tourism (39.46%)
- Increasing mobility and transportation resources within the City (35.62%)
- Creating community-oriented spaces (33.44%)

I. Vision Statement:

- Liberty aspires to be a vibrant, connected community that meets the needs of all people, while celebrating its history and hometown feel.

J. Core Values:

- Strong Neighborhoods
- Connected Community
- Lively Spaces
- Vibrant Economy
- Resilient Community

K. Recommendations:

- Future Land Use Framework
- Mobile and Connectivity
- Growth and Redevelopment

L. Implementation (Action Plan):

- Goals that summarize the desired future state of the City
 - Big ideas that will move the city toward its next chapter; more qualitative and answer the “what” rather than the “how”
- Strategies to advance the goals
 - Specific actions that detail the “how” rather than the “what”; continually reassessed, revisited and revised
- Framework Plans to Illustrate the Strategies
 - Illustrations of the city; help the reader understand how the strategies can be implemented

IV. SUMMARY

The consultants stated they will be bringing to the next study session on February 27, 2023 the draft plan recommendations, goals and strategies.

Mayor Brenton thanked the consultants as well as the Planning and Zoning members. Mayor Brenton stated it’s always a good collaboration with the Planning and Zoning members and City Council.

V. ADJOURNMENT

The meeting adjourned at 8:51 p.m.

Attest:

Mayor

Deputy City Clerk

City Council Meeting

Regular Session Minutes
January 23, 2023

I. CALL TO ORDER

A regular meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers at City Hall on January 23, 2023 with Mayor Lyndell Brenton presiding. Mayor Brenton called the meeting to order at 7:00 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Jeff Watt, who then led the pledge of allegiance.

III. ROLL CALL

Council Members Present: Paul Jenness, Ward I
Greg Duncan and Kelley Wrenn Pozel, Ward II
Kevin Graham and Jeff Watt, Ward III
Michael Hagan and Gene Gentrup, Ward IV

Council Members Absent: Harold Phillips, Ward I

Staff Present: Sara Cooke, Assistant City Administrator
Shawna Funderburk, Chief Strategic Operations Officer
Vicki McClure, Finance Director
Andy Noll, Utilities Director
BJ Staab, Parks and Recreation Director
Jim Martin, Police Chief
John Mills, Fire Chief
Sherri McIntyre, Public Works Director
Heather Massey, Police Lieutenant
Lori Sutton, Police Support Services Supervisor
Jerry Clark, Communications Supervisor
Janet Pittman, Deputy City Clerk

Public Present: Kellie Houx, Courier Tribune
15 members of the public

IV. APPROVE MINUTES AND SUMMARIES

V. CITIZENS' PARTICIPATION

A. JERRY CLARK - TRI-CIT TELECOMMUNICATOR OF THE YEAR AWARD

Police Chief Jim Martin congratulated Liberty Police Dept. Communications Supervisor Jerry Clark for receiving the TRI-CIT Telecommunicator of the Year Award. The TRI-CIT Awards event honors the Northland Crisis Intervention Team (CIT), a community partnership of law enforcement, mental health providers, individuals who

live with mental illness and/or substance use disorders, their families, treatment courts and other community stakeholders.

VI. MEETING SCHEDULE

VII. CONSENT AGENDA

A. MOTION TO AUTHORIZE THE PURCHASE OF A LAND PRIDE BATWING MOWER FROM HEARTLAND TRACTOR IN AN AMOUNT NOT TO EXCEED \$23,785.50

The replacement of a batwing mower for the Parks and Natural Resources Division is part of the Parks and Recreation Department's 2023 capital improvement equipment replacement program. The Land Pride batwing mower has flexible mowing decks that allow one tractor to mow a 16-foot wide path of land in one pass. This unit is vital for mowing the large open lawn areas within the parks. This unit will replace an 11-year-old implement that requires maintenance and replacement parts.

Council Member Hagan moved to approve the purchase. Council Member Jenness seconded the motion, which carried unanimously.

B. MOTION TO AUTHORIZE THE PURCHASE OF TWO JOHN DEERE Z994 MOWERS FROM LAWN AND LEISURE OF LEE'S SUMMIT, MO IN AN AMOUNT NOT TO EXCEED \$28,024.22

The replacement of two mowers for the Parks and Natural Resources Division is included as a part of the Parks and Recreation Department's 2023 capital improvement equipment replacement program. The current units have exceeded the life of work hours and are recommended for replacement. The life-hours are an indicator that maintenance costs will increase as more repairs become needed to the wearable parts of the equipment.

Council Member Hagan moved to approve the purchase. Council Member Jenness seconded the motion, which carried unanimously.

C. MOTION TO AUTHORIZE THE PURCHASE OF A 2022 NEW HOLLAND POWERSTAR 75 TRACTOR FROM ST. JOSEPH TRACTOR IN AN AMOUNT NOT TO EXCEED \$57,500.00

Purchase of a 2022 New Holland Power Star 75 Tractor for \$57,500.00. This tractor will replace the 2002 John Deere 5420 tractor, which has reached the end of its service life. The replacement tractor will primarily be utilized to operate a 16-foot mower, which maintains large areas of turf in all of the parks. Other uses for this tractor include grading, brush cutting and blading of snow in parking lots.

Council Member Hagan moved to approve the purchase. Council Member Jenness seconded the motion, which carried unanimously.

D. MOTION TO AUTHORIZE A BLANKET PURCHASE ORDER AND DELIVERY OF HYDRATED LIME FROM MISSISSIPPI LIME IN AN AMOUNT NOT TO EXCEED \$400,000.00

The City's water production plant uses certain chemicals in the production process. Lime is utilized in large quantities throughout the year for softening and coagulation. The 2023 Water Fund budget includes funds to cover this purchase throughout the year.

Mississippi Lime is the sole source provider for quality lime in the region. A proposal was received from the company that includes a separate fuel surcharge cost and a delivered price per ton for the product. The fuel surcharge is calculated monthly and reported by the US Department of Energy. This charge is based on the truck delivery charge and is a percentage additive to the delivery charge.

Council Member Hagan moved to approve the purchase. Council Member Jenness seconded the motion, which carried unanimously.

- E. MOTION TO APPROVE A PURCHASE ORDER TO HARCROS CHEMICAL FOR THE PURCHASE AND DELIVERY OF SODIUM FLUORIDE IN AN AMOUNT NOT TO EXCEED \$30,000.00

Operations at the City's water production plant require certain chemicals in the production process. Sodium Fluoride is added to maintain a fluoride residual that helps fight tooth decay. This chemical is required for water production throughout the year. Proposals were requested from three companies that provide various chemical products. The unit costs include transportation to the water production plant with deliveries anticipated to be bi-monthly, or as needed.

Council Member Hagan moved to approve the purchase. Council Member Jenness seconded the motion, which carried unanimously.

VIII. PUBLIC HEARINGS

IX. ORDINANCES, CONTRACTS AND RESOLUTIONS

- A. ORDINANCE ACKNOWLEDGING VENDOR PAYMENTS FOR THE PERIOD OF DECEMBER 30, 2022 TO JANUARY 13, 2023

Mayor Pro Tem Kevin Graham took over as Chair of the meeting.

Document No. 9540 was read.

Action: Council Member Hagan moved to approve the vendor payments. Council Member Pozel seconded the motion.

Roll Call

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11708.

Mayor Brenton resumed as chair of the meeting.

B. ORDINANCE AMENDING ORDINANCE NO. 11561, AMENDING AN AGREEMENT WITH DENALI WATER SOLUTIONS, LLC FOR THE DISPOSAL OF WATER PLANT RESIDUALS

Wastewater continually produces biosolids. These biosolids require handling. Denali has been managing/handling our beneficial reuse of biosolids. Handling of biosolids requires agronomical loading/ nutrient testing and generation of annual reports for the Wastewater Treatment Plant which goes to Missouri Department of Natural Resources (MoDNR) to demonstrate biosolid compliance.

Denali has an existing contract that expires at the end of 2023 which is currently set at \$49 per wet ton with no minimum. This amendment adds a monthly minimum of \$14,700 monthly for 350 wet tons, which is a reduction to \$42 per wet ton. The reduction in rates and a minimum monthly amount was a compromise solution for both the City and the contractor. Monthly tonnage above 351 wet tons will be at an additional rate of \$49 per wet ton. This proposal/amendment is being pursued due to contractor financial issues related to increase in fuel and labor, increased equipment and repair costs and periods of decreased production of biosolids.

Biosolid disposal exceeded 350 wet tons for seven months in the year 2022. Staff expects less biosolid disposal needs as the membrane thickening improvement project is completed however, it would be optimistic not to plan for some months that would exceed the 350 wet ton allotment.

Document No. 9541 was read.

Action: Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Watt seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Gentrup moved to approve the ordinance. Council Member Graham seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11709.

C. ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF LIBERTY AND WEATHER OR NOT WEATHER SERVICE IN AN AMOUNT NOT TO EXCEED \$21,473.00

The "Weather or Not" program is a weather tracking and alert system that the City of Liberty used by the Fire (Emergency Management), Public Works, Utilities and Parks & Rec departments as well as the City's special events teams. The contract allows for up to 35 users.

The automated system provides twice daily weather forecasts Monday - Friday and daily forecasts on the weekends. The service provides alerts and real-time calls for

severe weather, specifically for Liberty, via text and email. City staff may also call for updates and forecasts as needed

Document No. 9542 was read.

Action: Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Pozel seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Jenness moved to approve the ordinance. Council Member Graham seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11710.

D. ORDINANCE APPROVING A CONTRACT WITH J&M DISPLAYS FOR THE LIBERTY FEST FIREWORKS DISPLAY LOCATED AT CAPITOL FEDERAL SPORTS COMPLEX OF LIBERTY IN AN AMOUNT NOT TO EXCEED \$35,000.00

The City of Liberty and the Liberty Area Chamber of Commerce have co-hosted Liberty's Independence Day celebration at the Sports Complex since 2016 and over that time, the event has grown to see more than 10,000 attendees. J&M Displays has provided the fireworks for the Liberty Fest Fireworks event since 2017 and has provided not only excellent quality fireworks, but also excellent customer service.

Similar to past years, the fireworks will be a pyro-musical with the various shells timed to music. With funding from the Transient Guest Tax, the City of Liberty has budgeted \$35,000 for fireworks in 2023.

Per the outlined contract renewal schedule, staff distributed a request for proposals in December 2022 to our list of fireworks vendor contacts (three companies) and posted the RFP online (to the public bids module that has four subscribers in the Liberty Fest bids category). Only one response proposal was submitted and that was from J&M Displays.

Document No. 9543 was read.

Action: Council Member Watt moved to waive the rules and consider the ordinance on first reading. Council Member Jenness seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Gentrup moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11711.

E. ORDINANCE APPROVING A CONTRACT WITH STRATUS BUILDING SOLUTIONS IN AN AMOUNT NOT TO EXCEED \$48,600.00 FOR THIRD SHIFT CONTRACTUAL CUSTODIAL SERVICES AT THE LIBERTY COMMUNITY CENTER

In March 2013, the Liberty Community Center began utilizing third shift contractual custodial services for a deeper cleaning of the locker rooms and fitness center Monday through Friday. In addition to a deeper cleaning, third shift custodial also prevents interruption of service for Liberty Community Center guests. In March 2015, third shift contractual custodial was expanded to seven days per week in the high profile areas of the facility to further enhance the guest experience. MC Janitorial had provided third shift contractual custodial assistance for the Liberty Community since March 2016. The original three-year agreement, ending February 2019, was for \$29,920.80 per year. In March 2019, MC Janitorial began another three-year agreement for \$30,818.42. With the addition of the weight room and companion care locker room, the contracted amount was increased for years two and three of the agreement to \$35,732.42.

Although MC Janitorial was the low bidder, staff experienced service issues over the length of their previous contract. Issues included an overall failure to maintain a clean facility and missed days of service without communication. Staff met with MC Janitorial management on several occasions to express specific concerns regarding facility cleanliness and expectations for a change in the quality of service. MC Janitorial failed to make the requested changes. Staff made efforts to receive a proposal from Town & Country Building Services (approved contractor for City Hall janitorial services) but an official proposal was not received. After checking references for Stratus Building Solutions, staff recommended approval of an ordinance for a contract for third shift custodial services at the Liberty Community Center.

In December 2022, Stratus Building Solutions requested an increase of \$368.00 per month or \$4,416.00 annually for year two of the contract siting unavoidable costs to them for supplies and doing business. The requested increase is still significantly less than the next lower bidder, Hi-Gene's Janitorial. Satisfactory results were experienced by staff during year one (2022) of the contract. Staff recommends approval of an ordinance for a contract with Stratus Building Solutions to provide third shift custodial services at the Liberty Community Center for an amount not to exceed \$48,600.00. This will be year two (2023) of the potential three, one-year agreements.

Document No. 9544 was read.

Action: Council Member Jenness moved to waive the rules and consider the ordinance on first reading. Council Member Pozel seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Hagan moved to approve the ordinance. Council Member Gentrup seconded the motion.

Vote: Motion passed 7-0-0
Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup
No: None
Abstain: None
Approved by the Chair and inscribed in Ordinance No. 11712.

F. SPORTS APPAREL UNIFORMS

The Parks and Recreation Department facilitates a wide variety of youth and adult sports leagues and camps throughout the year which require the purchase of uniforms, jerseys, caps, socks, champion apparel, etc.

An RFP was advertised soliciting vendors to provide full service apparel management for each of the programs. The bid was not limited to a single-vendor award and was written with the ability to split the award among vendors offering the best price and/or service.

Six proposals were received. A “basket of goods” analysis was used to compare unit pricing proposed. Staff used FY 2021 numbers of apparel units managed to project FY 2022 annual costs per item bid, which are summarized in the tables below. Please note that not all vendors bid on all items and not all items met specifications.

- Award #1 – Challenger Teamwear – Youth Soccer - \$15,607.50
- Award #2 – Custom Graphics – Youth Baseball/Softball Jerseys, Baseball Caps, and Volleyball Jerseys - \$20,249.50
- Award #3 – TW Sportswear for Basketball Jerseys, Bitty Sports, and Adult Sports Championship Shirts - \$27,880.05

Contracts have been written for each of the awards at the amount budgeted for each set of anticipated apparel purchases.

1. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH CHALLENGER TEAMWEAR GROUP FOR FY 2023 YOUTH SPORTS APPAREL - YOUTH SOCCER IN AN AMOUNT NOT TO EXCEED \$ 15,607.50.

Document No. 9545 was read.

Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Graham seconded the motion.

Vote: Motion passed unanimously.

Council Member Watt moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 6-0-1
Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt and Duncan
No: None
Abstain: Council Member Gentrup, due to potential conflict of interest

Approved by the Chair and inscribed in Ordinance No. 11713.

2. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH CUSTOM GRAPHICS FOR FY 2023 YOUTH SPORTS APPAREL - YOUTH BASEBALL/SOFTBALL JERSEYS, BASEBALL CAPS AND VOLLEYBALL JERSEYS IN AN AMOUNT NOT TO EXCEED \$ 20,249.50.

Document No. 9546 was read.

Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Graham seconded the motion.

Vote: Motion passed unanimously.

Council Member Jenness moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 6-0-1
Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt and Duncan
No: None
Abstain: Council Member Gentrup, due to potential conflict of interest
Approved by the Chair and inscribed in Ordinance No. 11714.

3. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH TW SPORTSWEAR FOR FY 2023 ADULT AND YOUTH SPORTS APPAREL - BASKETBALL JERSEYS, BITTY SPORTS AND ADULT SPORTS CHAMPIONSHIP SHIRTS IN AN AMOUNT NOT TO EXCEED \$27,880.05.

Document No. 9547 was read.

Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Graham seconded the motion.

Vote: Motion passed unanimously.

Council Member Watt moved to approve the ordinance. Council Member Pozel seconded the motion.

Vote: Motion passed 5-0-2
Yes: Council Members Jenness, Pozel, Hagan, Watt and Duncan
No: None
Abstain: Council Members Graham and Gentrup, due to potential conflict of interest
Approved by the Chair and inscribed in Ordinance No. 11715.

- G. ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH KOHL WHOLESALE IN AN AMOUNT NOT TO EXCEED \$70,000.00 FOR FY 2023 CONCESSION FOOD AND SUPPLIES

The Parks and Recreation Department operates two concession stands during programs and events held at the Sports Complex. Independent contractors are engaged to deliver concession food, beverages, and supplies to the Sports Complex concession stands. Because the services requested are specialized, services are divided into two separate groups (concession food and supplies; beverages).

Services covered by this contract include all concession food and supplies that will be resold in FY 2023. The Sports Complex operating budget includes funding for all supplies in the amount of \$120,000, of which \$70,000 is planned for food and supplies.

Staff solicited proposals from four area food delivery vendors (Sysco, KOHL, Graves, and EVCO) as well as publicly advertised for food and supplies delivery services. One sealed proposal and one email proposal were received. A “basket of goods” analysis was used to compare unit pricing between the two to ensure competitive pricing. It is important to note that the “basket of goods” analysis does not include an exhaustive list of all products purchased but focuses on the primary products purchased each year.

Document No. 9548 was read.

Action: Council Member Hagan moved to waive the rules and consider the ordinance on first reading. Council Member Watt seconded the motion.

Vote: Motion passed unanimously.

Action: Council Member Graham moved to approve the ordinance. Council Member Hagan seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Approved by the Chair and inscribed in Ordinance No. 11716.

H. RESOLUTION APPROVING AN AMENDMENT TO ON-CALL ENGINEERING TASK ORDER NO. 7 WITH HDR ENGINEERING, INC. IN AN AMOUNT NOT TO EXCEED \$110,130.00

The proposed Whitehorse residential development requires full street improvements to Birmingham Road from Ruth Ewing Road to Lauren Street. Since there is an existing at-grade railroad crossing at Birmingham Road approximately 400 feet south of Holt Drive, the City is requiring re-alignment of approximately 2,250 feet of Birmingham Road to allow for a future flyover bridge over the existing railroad approximately 420 feet northeast of the existing crossing.

Funding for the project is intended to come from

- The Developer (as established within an approved development agreement)
- Canadian Pacific Railroad (as defined within a letter of support)
- City Capital and Transportation Sales Tax Funds (budgeted)
- Federal Grant Programs

Task Order #7 with HDR Engineering (approved November 14, 2022), in the amount of \$90,210.00, established capital funding workshops to identify grant funding opportunities and to produce preliminary designs sufficient to include in grant funding applications.

This resolution would amend Task Order #7 increasing the agreed upon amount by \$19,920.00 to \$110,130.00 and would add the following additional items to the Scope of Work:

- Environmental Services, which includes field review and technical report updates on protected species, cultural resources, section 4(f) resources, natural resources, hazardous materials, NEPA documentation and includes deliverables such as USFW/MDC protected species file review updates, section 106 updates and RER submittals.
- Utility Review, which includes the review of existing GIS maps, contact with local utility companies and includes deliverables such as utility locates in the plan view and concept plans for the grade separation.

Action: Council Member Jenness moved to approve the resolution. Council Member Watt seconded the motion.

Vote: Motion passed 7-0-0

Yes: Council Members Jenness, Pozel, Hagan, Graham, Watt, Duncan and Gentrup

No: None

Abstain: None

Inscribed in Resolution No. 3300.

X. OTHER BUSINESS

A. FAIRVIEW CEMETERY/BLOCK 174

Mayor Brenton stated that the attorney for the Sons of Confederate Veterans filed a motion for a summary judgment on January 13. A summary judgment is appropriate when the facts in a case are undisputed. The City's attorney will respond to this motion within the 30 days allowed. Based on the information provided by both attorneys, the judge can make a determination to provide a summary judgment or to move this to trial. If the latter, a trial date has been set for April 24.

Dwayne Holtzclaw, 113 Kevin St., Excelsior Springs, asked Council to stop the revestment lawsuit.

David Langston, 920 Carter Court, spoke about Martin Luther King Jr. and the Civil Rights Act.

David Sallee, 9531 N. Laurel, Kansas City, MO, stated contrary to what has been stated about Public Law 85-425, Confederate soldiers were granted pension rights but are not considered U.S. veterans.

XI. MISCELLANEOUS MATTERS FROM CITY ADMINISTRATOR

XII. MISCELLANEOUS MATTERS FROM MAYOR AND CITY COUNCIL

XIII. ADJOURNMENT

The meeting adjourned at 7:35 p.m.

Attest:

Mayor

Deputy City Clerk

City Council Meeting

Special Session Minutes

January 23, 2023

I. CALL TO ORDER

A special session meeting of the City Council of the City of Liberty, Missouri was held in the Council Chambers, on January 23, 2023 with Mayor Lyndell Brenton presiding. Mayor Brenton called the meeting to order at 6:02 p.m.

II. ATTENDEES

Council Members Present: Paul Jenness, Ward I
Greg Duncan and Kelley Pozel, Ward II
Kevin Graham and Jeff Watt, Ward III
Gene Gentrup and Michael Hagan, Ward IV

Council Members Absent: Harold Phillips, Ward I

Staff Present: Curt Wenson, City Administrator
Sara Cooke, Assistant City Administrator
Brandon Smith, Economic & Business Dev. Manager
Katherine Sharp, Planning and Development Director
Sherri McIntyre, Public Works Director
Andy Noll, Utilities Director
Janet Pittman, Deputy City Clerk

Public Present: None

III. OTHER BUSINESS

A. Authorize an Executive Session to be held Monday, January 23, 2023 in the Council Conference Room immediately following the Special Session to discuss Contract Negotiations as authorized by 610.021(12) RSMo and Real Estate Matters as authorized by 610.021(2) RSMo.

B. **Action:** Council Member Graham moved to authorize the closed session. Council Member Hagan seconded the motion, which passed unanimously.

IV. ADJOURNMENT

The meeting adjourned at 6:03 p.m.

Mayor

Attest:

Deputy City Clerk



CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-405

Department: Administration

Submitted By: Sarah Ranes, Deputy City Clerk

Subject: RESOLUTION APPROVING A TEMPORARY EVENT LIQUOR LICENSE FOR THE LIBERTY HOSPITAL FOUNDATION FOR AN EVENT AT WILLIAM JEWELL COLLEGE, GREENE STADIUM ON MARCH 25, 2023

Summary:

TEMPORARY EVENT LIQUOR LICENSE FOR THE LIBERTY HOSPITAL FOUNDATION FOR AN EVENT AT WILLIAM JEWELL COLLEGE, GREENE STADIUM ON MARCH 25, 2023

Background:

In 2003, the City Code was amended, adding a temporary liquor license for events of short duration (7 days or less). Patterned after the State's license, this temporary liquor license allows any church, school, civic, service, fraternal, veteran, political or charitable club or organization to sell or serve alcohol, upon approval of the license by City Council.

The Liberty Hospital Foundation has applied for a temporary liquor license to serve alcohol at an event located at William Jewel College, Greene Stadium. Because the public will have access to the events, State statute and City ordinance require a license. The license covers the event on March 25, 2023. The necessary certificate of liability insurance and authorization letter has been provided by the applicant.

The City Code requires all paid employees of a business with a liquor license to obtain liquor dispensing permits. Unpaid staff is exempt from this requirement. It is the responsibility of the applicant to ensure that all individuals working with alcohol and consuming alcohol at the event meet age and other requirements.

The Liberty Hospital Foundation will be utilizing 3 Halves Brewery, who will be obtaining a Catering Permit for this event. Council approval and a State license must be in place before the City will issue its temporary liquor license.

Previous Action (if applicable):

Policy/Committee Review:

Citizen Sales Tax Oversight Committee	Completed/Recommended:
Public Safety Sales Tax Oversight Committee	Completed/Recommended:
Budget Committee	Completed/Recommended:
Other:	Completed/Recommended:

Financial Considerations:

Budgeted:	Line Item:	Amount:
	Line Item:	Amount:
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

1. RESOLUTION Liberty & Jewell Marathon TLL

RESOLUTION NO. _____

A RESOLUTION APPROVING A TEMPORARY EVENT LIQUOR LICENSE
FOR THE LIBERTY HOSPITAL FOUNDATION
FOR AN EVENT AT WILLIAM JEWELL COLLEGE, GREENE STADIUM
ON MARCH 25, 2023

WHEREAS, a temporary event liquor license application has been duly and properly presented to City Council; and

WHEREAS, the City Council finds that the application duly conforms to the standards and requirements of Chapter 3, Liberty Code of Ordinances, as amended;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Clay County, Missouri, that a temporary event liquor license is hereby approved for issuance to the Liberty Hospital Foundation for the Annual Half Marathon/5K to be held at William Jewell College, Greene Stadium, benefiting the Liberty Hospital Foundation's Grant Program on Saturday, March 25, 2023, with the following stipulation:

1. No license shall be issued by the City until proof is provided of the State of Missouri having issued a temporary liquor license for the same event.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

RESOLUTION NO. _____

RESOLUTION AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE GENERAL PLAN OF THE CITY OF LIBERTY BY CHANGING THE LAND USE DESIGNATION OF APPROXIMATELY 27.35 ACRES LOCATED NORTH OF GARRISON RD BETWEEN HUGHES AND WITHERS, SOUTH OF SOUTH LIBERTY PARKWAY FROM COMMERCIAL TO BUSINESS

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Liberty, Clay County, Missouri, adopted a Comprehensive General Plan for the City of Liberty, by Resolution No. 540 according to the provisions of Section 89.360 RSMo; and

WHEREAS, said Resolution No. 540 was recorded in the Office of the Recorder of Deeds of Clay County, Missouri; and,

WHEREAS; public hearings have been held by the Planning and Zoning Commission on February 14, 2023 and by the City Council on February 27, 2023 on the subject of P&Z Case 23-02A, an amendment to said Comprehensive General Plan, being attached hereto and made a part hereof as though more fully set out herein; and

WHEREAS; the Planning and Zoning Commission recommended, on February 14, 2023 approval of said amendment to the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Clay County, Missouri, that the Comprehensive General Plan of the City of Liberty, Missouri is hereby amended by changing the land use designation of approximately 27.35 acres located north of Garrison Rd between Hughes and Withers, south of South Liberty Parkway from Commercial to Business, and that said amendment shall be filed for record with the Office of the Recorder of Deeds of Clay County, Missouri.

PASSED by the Planning and Zoning Commission the 14th day of February, 2023.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK



STAFF REPORT

Planning and Zoning Case 23-02A

Staff: Katherine Sharp, Director of Planning & Development

Date: February 27, 2023

GENERAL INFORMATION

Application:	Proposal to amend the Future Land Use Map from Commercial to Business for 23+/- acres north of Garrison Road, between Hughes and S. Withers Roads on the south side of South Liberty Parkway.
Applicant:	John R. Davis Jr. 781 Logistics Park PO Box 299 Liberty, MO 64069
Owner:	John R. Davis Jr. 781 Logistics Park PO Box 299 Liberty, MO 64069
Location:	North of Garrison Road, between Hughes and S. Withers Roads on the south side of South Liberty Parkway
Existing Land Use/Zoning:	Large lot Residential / R-1A "Suburban Residential"
Future Land Use Designation:	Commercial
Proposed Land Use:	Business
Surrounding Land Uses/Zoning:	North: Undeveloped/ R-1A "Suburban Residential" South: Liberty Commerce Center/ M-1 "Light Industrial" East: Large Lot Residential/ R-1A "Suburban Residential" West: Old Hughes Rd. and Ford Property/ BP "Business Park"
Public Notice:	Legal Notice printed in Courier Tribune- January 26 Letter sent to property owners within 185 ft. on January 26 Sign Posted on site- January 30
File Date:	January 6, 2023

PROPOSAL

Background Information

This is an application to amend the Future Land Use map, a component of the Comprehensive Plan for the City of Liberty. A city's comprehensive plan is a document which, among other things, establishes policy for making land use decisions. Unlike a zoning map, the Future Land Use (FLU) map establishes a vision for community

growth and development and is a reference for local officials to coordinate plans and prioritize areas for growth and investment. All rezoning applications are evaluated based on conformance to the FLU map and amending the map is a common precursor to a rezoning proposal. If approved, this application will facilitate an application to rezone the property to allow multifamily and commercial use on the property.

Current Land Use Designation

The current land use designations on this site is Commercial.

Commercial is described in the Comprehensive Plan, The Blueprint for Liberty, 1999:

Commercial Use includes the commercial and retail uses dependent upon the automobile or specifically for the automobile. These uses would not be appropriate for inclusion in mixed-use developments or the Historic Liberty Square. These uses should not encroach into existing residential neighborhoods. Where automobile oriented commercial uses are near residences, the principles of buffering, transitioning, and good site design should be used to reduce their impact.

Proposed Amendment

The applicant requests that the FLU map designation for the property be amended to Business which is described in the Comprehensive Plan, The Blueprint for Liberty, 1999:

“Business Use includes manufacturing businesses, warehouses, research and development, offices and commercial uses. Commercial uses are permitted in this category, but they are not intended to dominate. The Future Land Use Map does not attempt to predict where or how much land may be developed for commercial uses within Business Use areas. This provides the maximum flexibility for the City and the landowner in determining the future development of strategically located properties in Liberty. Certain locations may be more conducive to retail development such as at major intersections or in areas highly visible from major streets or highways. Also, business or industrial parks need certain amount of commercial development nearby to serve the needs of employees. Conservation Lands are commonly shown in and around the Business Use areas to provide open space and buffers.”

A rezoning application and subsequent applications, including preliminary plat and final plat applications, and development plans will analyze particular site design standards. This application is merely for analysis of proposed use on the property.

STAFF ANALYSIS

The Comprehensive Plan was updated for South Liberty Parkway (SLP) Phase I in 2016. During the 2016 SLP update, the SLP Task Force determined appropriate uses along SLP. The following is an excerpt from the 2016 South Liberty Parkway report, discussing the Task Force findings:

Although elimination of all trucks was not a reality, the incompatibility of truck traffic and residential uses were a concern. It was recommended that no residential be built along Phase I of the Parkway from I-35 to Hughes Road, commercial uses should locate where access to South Liberty Parkway is available and that industrial (potential auto-related suppliers) should locate south and off of the Parkway and west of the railroad tracks.

Evaluation of Amendment Proposal

From a land use perspective, staff believes amending the FLU map designation to Business would be appropriate given the adjacency to Commercial to the north and Business to the west and south. This proposal

still meets the intent of the task force recommendation, in that it keeps commercial along the frontage of South Liberty Parkway and industrial located south and off of the Parkway and west of the railroad tracks. Future applications will study traffic, building and site design, public infrastructure connections and storm water management.

STAFF RECOMMENDATION

Staff utilizes the Future Land Use Map, *Blueprint for Liberty*, and other plans and studies to make its recommendation, and requests a recommendation from the Commission regarding this application.

PZ RECOMMENDATION

At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 23-02A as presented in the staff report.

ATTACHMENTS

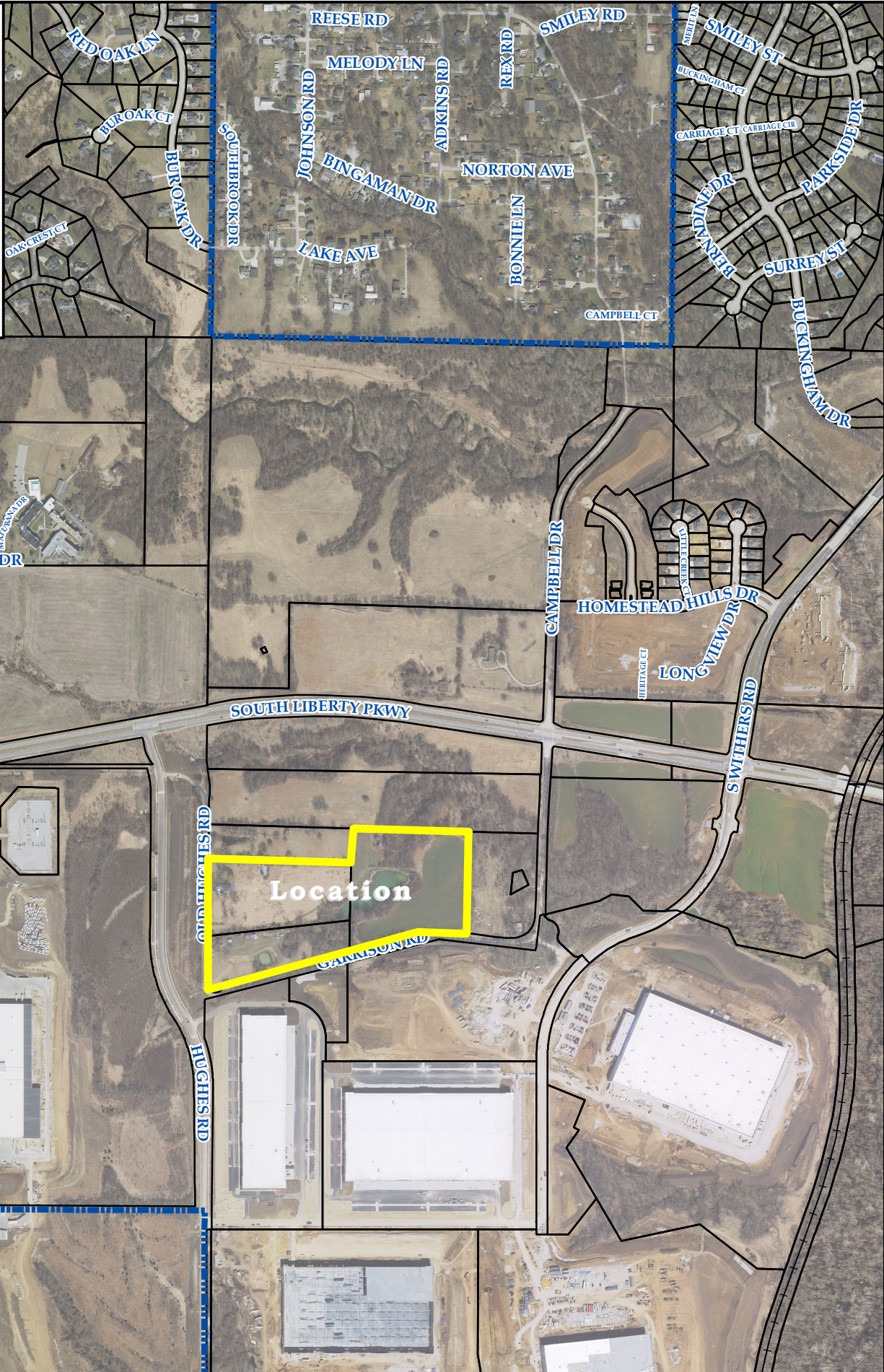
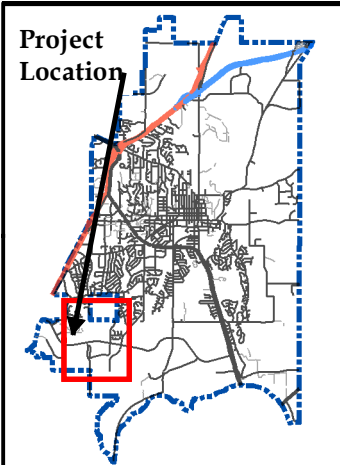
Exhibit A: Vicinity Map

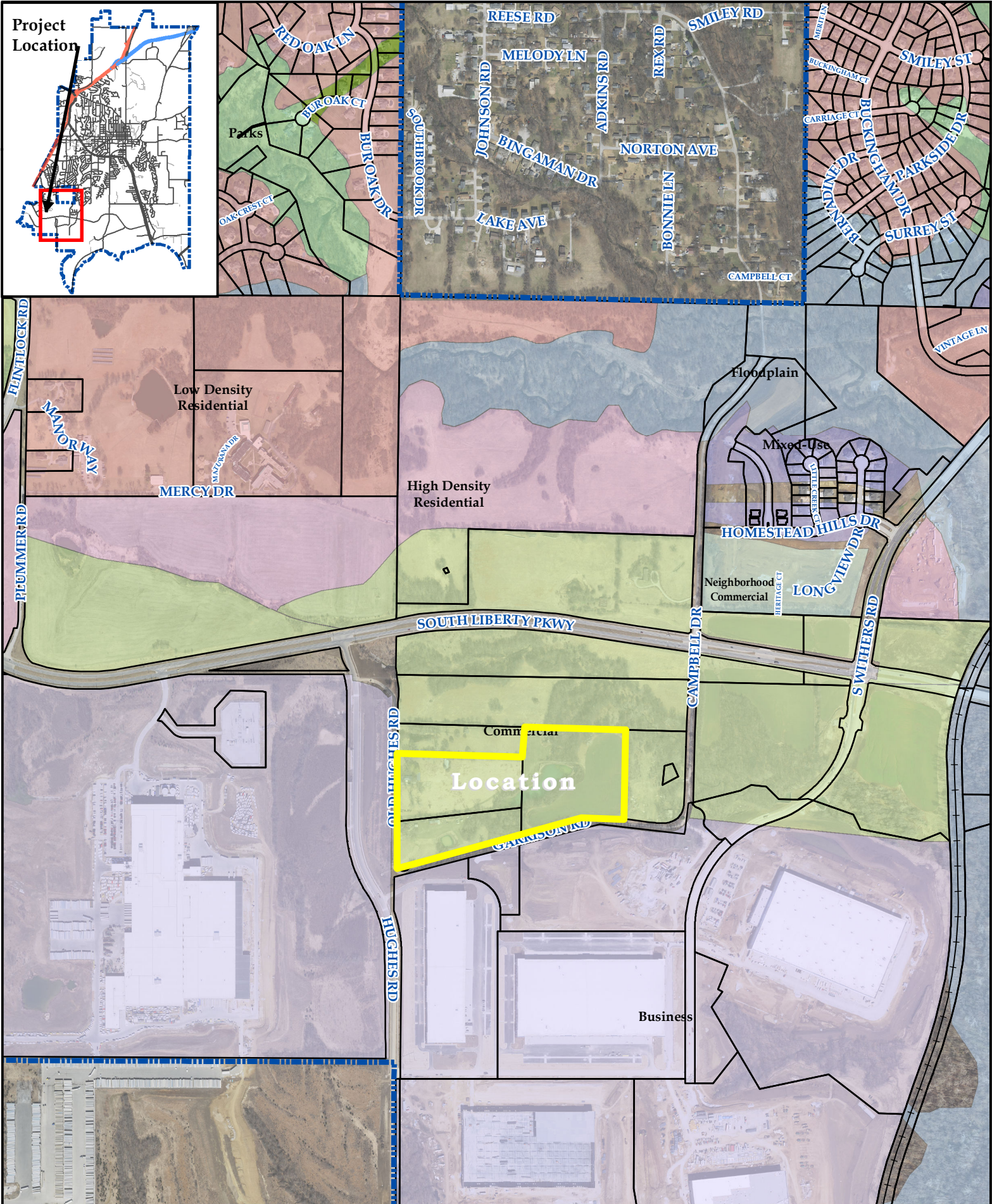
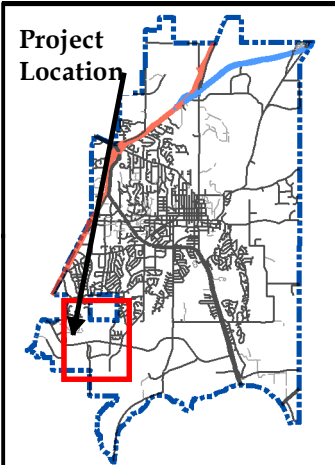
Exhibit B: Existing Future Land Use Designations

Exhibit D: Applicant's proposal

Exhibit E: Minutes Excerpt from Planning & Zoning Commission meeting

Exhibit F: Resolution





Applicants Request

The applicant requests an amendment to the South Liberty Parkway I Future Land Use Plan to change the designation of the Subject Property from Commercial (retail, service, office) to Business (manufacturing businesses, warehouses, research & development offices & employment centers). The Subject Property is adjacent to the Ford Stamping Plant and the new Liberty Commerce Center, and as such future Business uses will be consistent with surrounding development. Applicant believes that future commercial uses are not likely to become viable upon the Subject Property due to the distance this parcel is set back from the South Liberty Parkway (600+ feet), and the fact that visibility to the Subject Property from the South Liberty Parkway is hindered by topography and the existing tree line on the property immediately to the north. Applicant further believes that the proposed change is not inconsistent with the general vision expressed by the taskforce that was instrumental in the preparation of the governing Future Land Use Plan, in that the development of future Business uses upon the Subject Property will maintain an ample setback the South Liberty Parkway, and will not in and of itself inhibit future Commercial uses along the frontage of the South Liberty Parkway.



A. P&Z Case 23-02A: Land Use Amendment from Commercial to Business for 23 acres north of Garrison Rd between Hughes and Withers, south of SLP (781 Logistics)

Ms. Sharp presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions.

Commissioner Dilts asked if this request is consistent with the recommendations for the forthcoming Comprehensive Plan.

Ms. Sharp stated that yes, this proposal will be consistent but the applicant is on a time crunch to go through the process now as opposed to wait for the final approval of the Comprehensive Plan.

Chairman Rosekrans asked the applicant if they wish to speak.

John Davis, Foresight Realty, 2089 Red Oak Lane, owner, stated that if this is approved they would be coming forward with applications to continue the development process on this site. He and his development team are available for questions.

Chairman Rosekrans opened the public hearing. He asked if there was anyone in the audience that would like to speak for or against the case, seeing none he closed the public hearing.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Holt moved to approve the case as presented in the staff report. Commissioner Summers seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

RESOLUTION NO. _____

A RESOLUTION AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE GENERAL PLAN OF THE CITY OF LIBERTY BY CHANGING THE LAND USE DESIGNATION OF APPROXIMATELY 27.35 ACRES LOCATED NORTH OF GARRISON RD BETWEEN HUGHES AND WITHERS, SOUTH OF SOUTH LIBERTY PARKWAY FROM COMMERCIAL TO BUSINESS

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Liberty, Clay County, Missouri, adopted a Comprehensive General Plan for the City of Liberty, by Resolution No. 540 according to the provisions of Section 89.360 RSMo; and

WHEREAS, said Resolution No. 540 was recorded in the Office of the Recorder of Deeds of Clay County, Missouri; and,

WHEREAS; public hearings have been held by the Planning and Zoning Commission on February 14, 2023 and by the City Council on February 27, 2023 on the subject of P&Z Case 23-02A, an amendment to said Comprehensive General Plan, being attached hereto and made a part hereof as though more fully set out herein; and

WHEREAS; the Planning and Zoning Commission recommended, on February 14, 2023 approval of said amendment to the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Clay County, Missouri, that the Comprehensive General Plan of the City of Liberty, Missouri is hereby amended by changing the land use designation of approximately 27.35 acres located north of Garrison Rd between Hughes and Withers, south of South Liberty Parkway from Commercial to Business, and that said amendment shall be filed for record with the Office of the Recorder of Deeds of Clay County, Missouri.

PASSED by the Planning and Zoning Commission the 14th day of February, 2023.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

RESOLUTION NO. _____

RESOLUTION APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE TRU HOTEL
AT 1820 N. CHURCH ROAD IN ROGERS PLAZA TO ALLOW A 92 ROOM HOTEL ON
2.4 ACRES WITH A VARIANCE TO ALLOW FOUR STORIES IN A C-2 ZONING
DISTRICT, IN LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, public hearings have been held by the Planning & Zoning Commission
February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, a preliminary development plan for the Tru Hotel in Liberty, Clay County,
Missouri, has been duly and properly presented to the Planning and Zoning Commission and
the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Clay
County, Missouri, that preliminary development plan is hereby granted to allow a 92 room hotel
on 2.4 acres with a variance to allow four stories in a C-2 zoning district in the City of Liberty,
Clay County, Missouri, according to the plan on file in the Planning and Development
Department.

BE IT FURTHER RESOLVED, that any and all development within the above-described
plan shall be allowed only after a final development plan which substantially conforms to this
preliminary plan is approved, and shall comply with all other applicable standards and
requirements as set forth in the City Code of the City of Liberty, Missouri except for the following
variance:

1. to allow four stories in a C-2 zoning district.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK



STAFF REPORT

Planning and Zoning Case 23-03PDP

Staff: Mike Peterman, City Planner

Date: February 27, 2023

GENERAL INFORMATION

Application: Preliminary Development Plan for a 92 room Hotel on 2.4 acres at the 1820 N Church Road with a variance to allow up to 4 stories in height.

Applicant: Ray Patel
401 N 291 Hwy
Liberty, MO 64068

Location: North Church Rd, Rogers Plaza

Site Acreage: 1 lot on 2.4 acres

Building Area: 48,000 square feet

Parking: 96 stalls provided

Existing Land Use / Zoning: Undeveloped / C-2, "General Business"

Surrounding Land Use / Zoning: **North:** School / R-1A, "Suburban Residential"
South: Rogers Plaza/ C-2, "General Business"
East: Hotel, Rogers Plaza/ C-2, "General Business"
West: Commercial, Rogers Plaza/ C-2, "General Business" & R-2, "2Family"

File Date: January 6, 2023

PREVIOUS CASES / SITE HISTORY

P&Z Case 14-24FDP: Standard Final Development Plan for construction of an 8,112 square foot addition at Rogers Sporting Goods was approved in 2014.

P&Z Case 08-062FDP: Final development plan for construction of new 45,966 sq. ft. hotel at Rogers Plaza was approved in 2008.

P&Z Case 07-037FDP: Final Development Plan for the first phase of Rogers Plaza, including three buildings, with a total of 77,500 square feet was approved in 2007.

P&Z Case 07-036FP: Final Plat for Rogers Plaza, 4 lots was approved in 2007

P&Z Case 06-047R&PDP: Rezone 8.74 acres from R-1A, suburban residential district, to C-2, general

business district, and preliminary development plan for Rogers Sporting Goods was approved in 2006.

APPLICANT'S PROPOSAL

Use

The use is proposed as a 48,000 square foot, 92 room, four story hotel. The use as a hotel is appropriate in this zoning district, but the maximum height in the C-2 district is 3 stories. The proposal for a four-story building requires a variance request as part of this application.

Variance Request

The applicant states in the request;

"I respectfully request a variance from Liberty Ordinance No. 8804, § I, 4-11-05 which limits the height of commercial buildings to three stories. We need the 4 stories as it's a prototype. The brand does not allow new construction of 3 story building. Most upper tier hotel franchises prefer a minimum of four stories as you've seen with the last four hotels built within the City. Four stories will afford the hotel excellent visibility and the high caliber of design and construction will add to Liberty's positive image."

Site Layout/Access/Parking

The building is proposed as a four-story hotel. There are 3 access points to this lot from the private drive for Rogers Plaza. The main entrance of the building will be on the southeast corner. Parking is situated on all four sides of the building. The dumpster enclosure is in the east side of the lot adjacent to the dumpster enclosure for the existing hotel to the east and will be designed to match the building.

Parking for this project is required at a ratio of one stall for every guest room plus 4 stalls for overnight staff. The applicant is proposing 96 stalls. *UDO Section 30-83.2(4)*

Landscaping/ Open Space/ Tree Preservation

The proposal has included a preliminary landscaping table that meets the minimum requirements per the UDO. 21 trees and 96 shrubs are proposed to satisfy the landscaping requirements for the site. Final details regarding landscaping species will be provided during the Final Development Plan. The overall site will be required to meet the 20% open space standard as defined in the UDO Section 30-97.6. Further evaluation of landscaping will occur at Final Development Plan phase.

Building Design

Exterior materials consist primarily of colored EIFS. The main entrance will be a mix of glass and aluminum framing. Final details will be evaluated during the Final Development Plan.

PUBLIC INFRASTRUCTURE

Sanitary Sewer

The site will be served by an 8-inch public sanitary main which runs along the west side of the site.

Water

The site will be served by a 6-inch public main that runs along through the site.

Streets

The site will have access to N. Church Rd via a private street.

Stormwater

Stormwater will be collected by a site storm sewer system then conveyed into an underground stormwater detention system to the on the property and released into the public system at an acceptable rate.

This application meets the standards of review within our Adequate Public Facilities ordinance.

STAFF ANALYSIS

In accordance with the Liberty Unified Development Ordinance (UDO), staff's analysis of a Preliminary Development Plan application is guided by Section 30-27.3. In evaluating an application for a preliminary development plan the following three criteria are considered:

1. The plan substantially complies with the intent of the comprehensive plan;

Staff believes that this proposal satisfies the intent of the comprehensive plan by providing employment and economic development in Liberty.

2. The plan complies with the provisions of this UDO;

The use as a hotel is appropriate in the C-2, General Business District. The location of the project along I-35 also provides addition justification for the project. The proposal for a four-story building does require a variance.

3. The plan substantially complies with approved city development standards and policies

The proposed plan complies with city development standards and policies except for the variance to exceed the height of 3 stories in the C-2 zoning district.

STAFF RECOMMENDATION

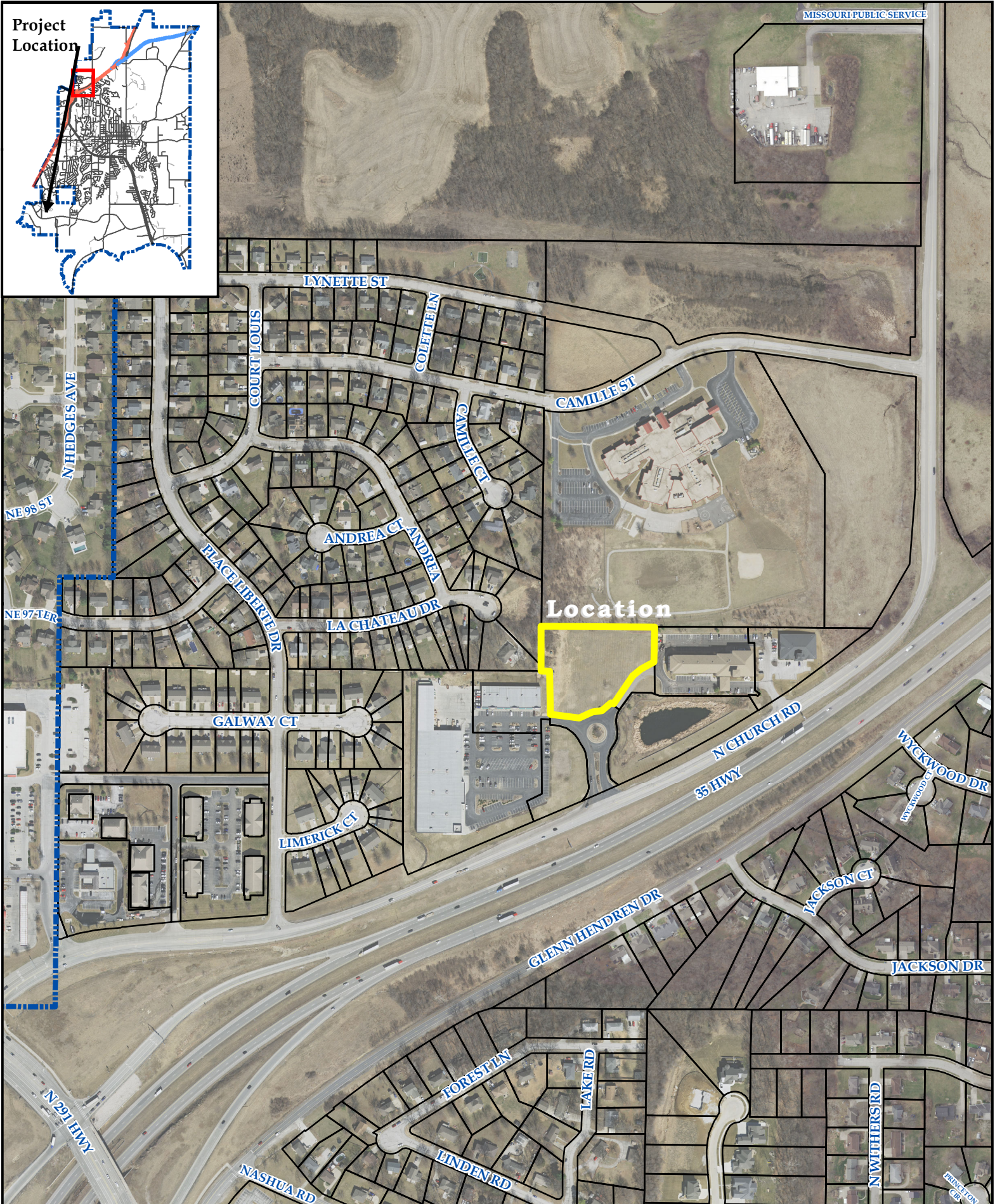
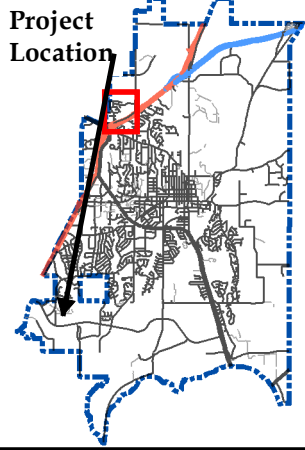
Staff finds this application meets the standards of review for a Preliminary Development Plan if the variance is accepted and recommends approval of P&Z Case 23-03PDP.

PZ RECOMMENDATION

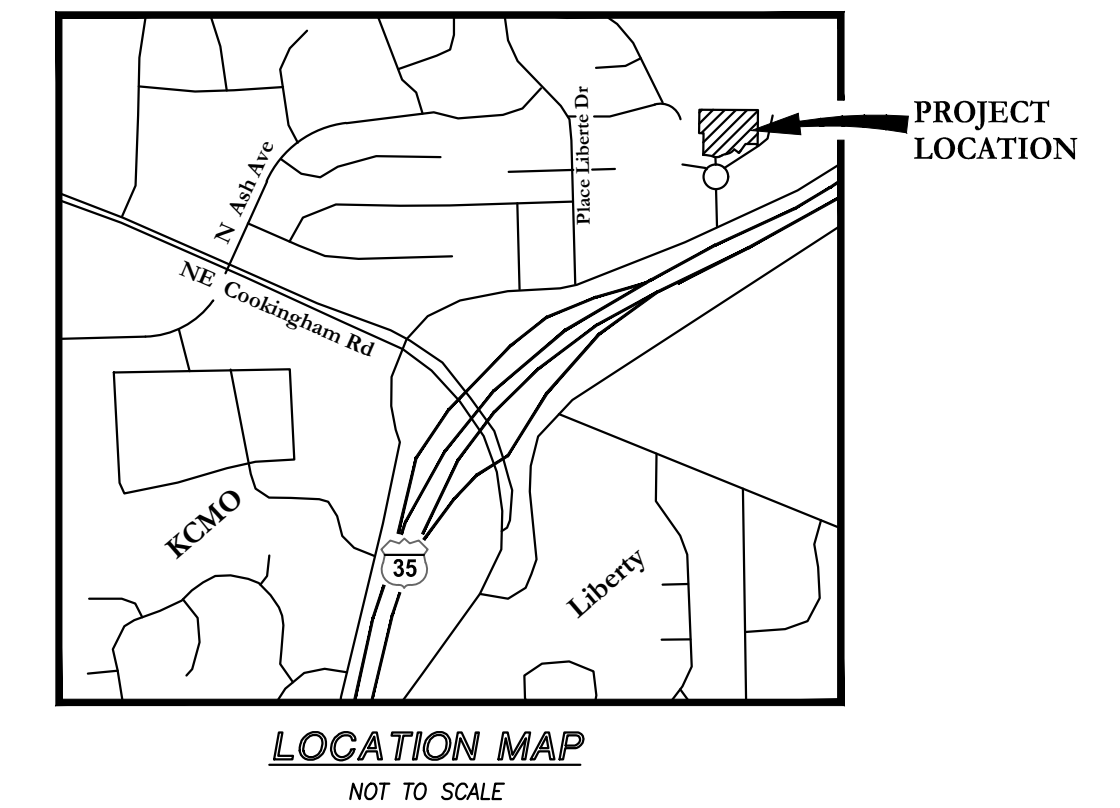
At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 23-03PDP as presented in the staff report.

ATTACHMENTS

Exhibit A:	Vicinity Map
Exhibit B:	Site Plan
Exhibit C:	Landscaping Plan
Exhibit D:	Building Elevations
Exhibit E:	Variance Request
Exhibit E:	Minutes Excerpt from Planning & Zoning Commission meeting
Exhibit F:	Resolution

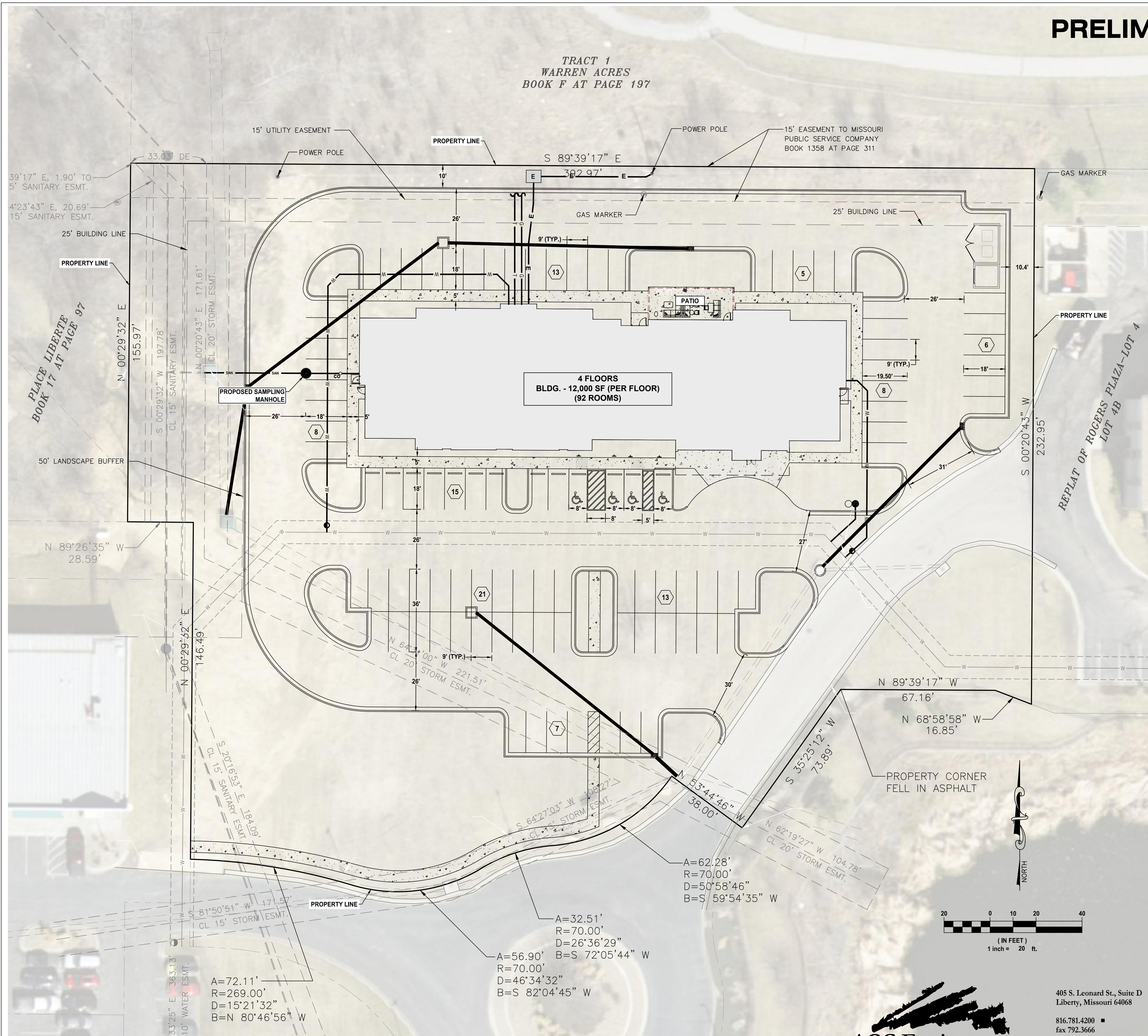


Site Plan



<u>PROPOSED</u>		<u>EXISTING</u>	
	GAS MARKER		GAS MARKER
	MANHOLE		MANHOLE
	WATER METER		WATER METER
	FIRE HYDRANT		FIRE HYDRANT
	LIGHT POLE / POWER POLE		LIGHT POLE / POWER POLE
	STORM INLET		STORM INLET
	SANITARY SEWER		SANITARY SEWER

BY		REVISION		DATE:	SHEET 1 of 1
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AA/ACA	FOR REVIEW			1-6-23	

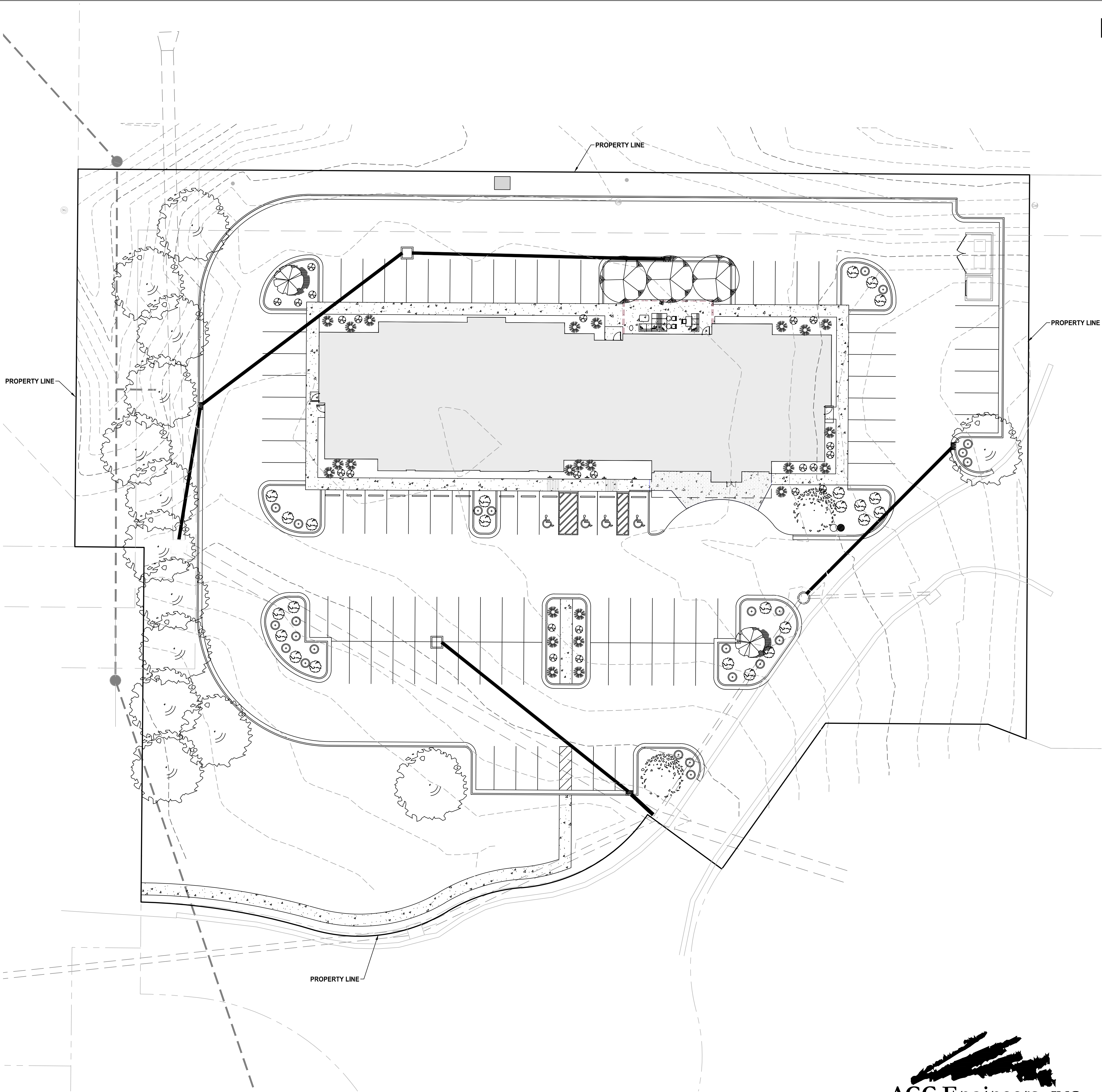


PRELIMINARY DEVELOPMENT PLAN

TRU BY HILTON

Liberty, Clay County, Missouri

Landscape Plan

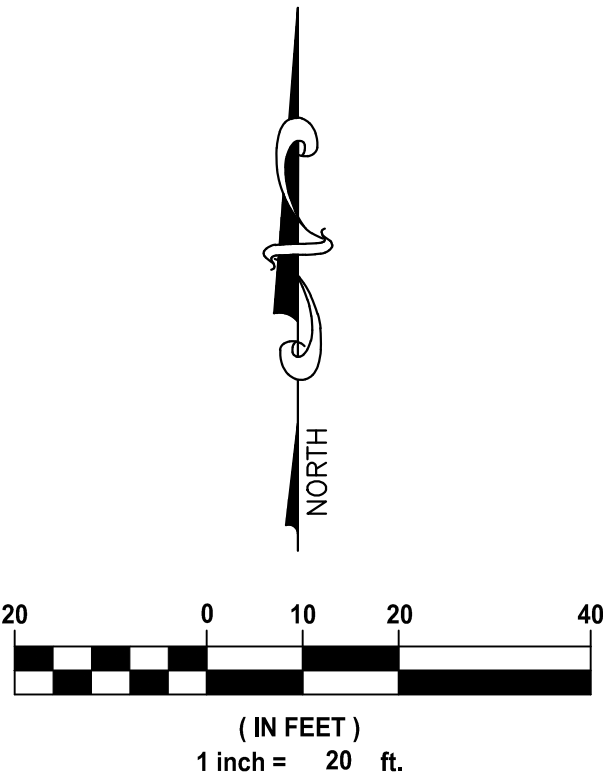


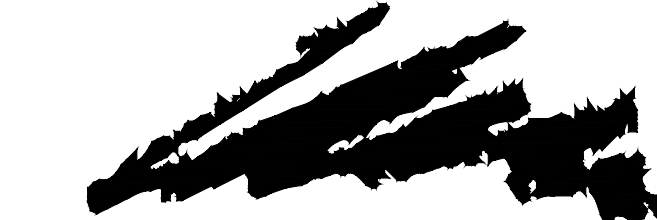
REQUIRED LANDSCAPING				
Trees (size)			# Required	# Provided
Ornamental (Small)	1/15 Stalls	96 Stalls	7	7
Shade (Large)	1/10 Stalls	96 Stalls	10	10
Building - 1 large / 3000 sf (Large)	1/3000 SF	12,000 SF	4	4
Total	7 SMALL + 14 LARGE =		21	21

Shrubs			# Required	# Provided
Parking	1/2 Stalls	96 Stalls	48	48
Building	1/250 SF	12,000 SF	48	48
Total			96	96

PLANTING SCHEDULE		
	COMMON NAME	TOTAL
	TREES	
	LARGE (3 varieties)	14
	SMALL (1)	2
	SMALL (2)	2
	SMALL (3)	3
TOTAL		21
	SHRUBS	
	SHRUB (1)	24
	SHRUB (2)	24
	SHRUB (3)	24
	SHRUB (4)	24
TOTAL		96

THIS PLAN IS PRELIMINARY PLAN WITH SUGGESTED LAYOUT TO CONFIRM THE REQUIRED NUMBER OF TREE'S AND SHRUBS CAN BE PROVIDED ON SITE. FINAL PLAN MAY DIFFER IN LAYOUT BUT WILL MATCH OR EXCEED THE MINIMUM NUMBER PROVIDED HERE IN AND IDENTIFY THE PROPOSED SPECIES.





405 S. Leonard St., Suite D
Liberty, Missouri 64068
816.781.4200 ■
fax 792.3666
www.agcengineers.com

BY	REVISION	DATE:	SHEET
			1 of 1
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AA/ACA	FOR REVIEW	1-6-23	

N:\Land Projects\Stella Ray - Tru by Hilton Liberty\Drawings\Drawings\Plan\PRELIMINARY DEVELOPMENT PLAN - LANDSCAPE PLAN.dwg, LANDSCAPE PLAN.dwg, 1/6/2023 8:19:21 AM, ARCT (11.36.00 inches), 1:1



STOCK IMAGE- BUILDING WILL BE MIRRORED ON SITE
LIBERTY, MO



Project No: XXX
Facility ID: XXX
Liberty, MO

PROJECT ARCHITECT Ben Cortez, AIA	PROJECT COORDINATOR RK PATEL Design & Planning, LLC
--------------------------------------	--

CURRENT LAND OWNER: ROGERS SPORTING GOODS COMMERCIAL LEASING LLC LIBERTY, MO	FUTURE DEVELOPER: RAY PATEL LIBERTY, MO
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TRU BY HILTON
REPLAT OF ROGERS PLAZA
LOT 4A, 2.43 ACRE
Liberty, Missouri



Revisions:

Drawn By: _____
Checked By: _____
Issue Date: _____
Project No: _____

SHEET INFORMATION

Exterior RENDERING

Sheet No:

A5.02

I respectfully request a variance from Liberty Ordinance No. 8804, § I, 4-11-05 which limits the height of commercial buildings to three stories. We need the 4 stories as it's a prototype. The brand does not allow new construction of 3 story building.

Most upper tier hotel franchises prefer a minimum of four stories as you've seen with the last four hotels built within the City. Four stories will afford the hotel excellent visibility and the high caliber of design and construction will add to Liberty's positive image.

Ray Patel

B. P&Z Case 23-03PDP: Preliminary Development Plan for Tru by Hilton a 92 room, 48,000 sq. ft hotel at Rogers Plaza, with variance to allow 4 stories.

Mr. Peterman presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions.

Chairman Rosekrans asked the applicant if they wish to speak.

Art Akin, AGC Engineers, 405 S. Leonard, representing the applicant, stated this is the same developer of Home 2 Suites on 291 Hwy. The request for the variance to allow 4 stories is based on the standard footprint for hotels of this size.

Chairman Rosekrans opened the public hearing. He asked if there was anyone in the audience that would like to speak for or against the case, seeing none he closed the public hearing.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Summers moved to approve the case as presented in the staff report. Commissioner Evans seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PRELIMINARY DEVELOPMENT PLAN FOR THE TRU HOTEL AT 1820 N. CHURCH ROAD IN ROGERS PLAZA TO ALLOW A 92 ROOM HOTEL ON 2.4 ACRES WITH A VARIANCE TO ALLOW FOUR STORIES IN A C-2 ZONING DISTRICT, IN LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, public hearings have been held by the Planning & Zoning Commission February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, a preliminary development plan for the Tru Hotel in Liberty, Clay County, Missouri, has been duly and properly presented to the Planning and Zoning Commission and the City Council;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Clay County, Missouri, that preliminary development plan is hereby granted to allow a 92 room hotel on 2.4 acres with a variance to allow four stories in a C-2 zoning district in the City of Liberty, Clay County, Missouri, according to the plan on file in the Planning and Development Department.

BE IT FURTHER RESOLVED, that any and all development within the above-described plan shall be allowed only after a final development plan which substantially conforms to this preliminary plan is approved, and shall comply with all other applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri except for the following variance:

1. to allow four stories in a C-2 zoning district.

PASSED by the City Council this ____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LIBERTY, MISSOURI BY
REZONING 17.3+/- ACRES AT THE NE CORNER OF SOUTH LIBERTY PARKWAY AND
FLINTLOCK TO PD "PLANNED DEVELOPEMNT" DISTRICT
FOR LIBERTY PARKWAY APARTMENTS

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

SECTION I

WHEREAS, the City Council finds that the rezone described duly conforms to the standards and requirements of the Unified Development Ordinance of the City of Liberty, Missouri, the official zoning map shall be and the same is hereby amended rezoning Liberty Parkway Apartments in the City of Liberty, Clay County, Missouri, the legal description of which is as follows:

All that part of the East One Half of the Southwest Quarter of Section 23, Township 51, Range 32, in the City of Liberty, Clay County, Missouri; as prepared by Michael Lay, PLS No. 2013000044, on November 11th, 2022, being more particularly described as follows:

COMMENCING at the Southeast corner of said Southwest Quarter; thence North 00°51'04" East, along the East line of said Southwest Quarter, a distance of 316.39 feet, to the PO/NT OF BEGINNING, said point also being on the North Right—of—Way line of South Liberty Parkway, as now established per Right—of—Way No. 2 in Tract 4 of Condemnation recorded in Book 4667 at Page 287; thence North 89°08'59" West, departing said East line, along said North Right—of—Way line, a distance of 30.00 feet, to a point on a non—tangent curve; thence Southwesterly, continuing along said North Right—of—Way line, along a curve to the right, having a radius of 447.46 feet, a central angle of 08°40'35", and whose initial tangent bearing is South 14°46'52" West, a distance of 67.76 feet; thence South 23°27'22" West, continuing along said North Right—of—Way line, a distance of 109.45 feet; thence South 63°25'37" West, continuing along said North Right—of—Way line, a distance of 11.88 feet, to a point on non—tangent curve; thence Northwesterly, continuing along said North Right—of—Way line, along a curve to the right, having a radius of 1375.39 feet, a central angle of 37°54'10", and whose initial tangent bearing is North 64°58'34" West, a distance of 909.86 feet; thence North 27°04'24" West, continuing along said North Right—of—Way line, a distance of 202.55 feet; thence North 03°52'19" West, along the transition from said North Right—of—Way line to the East Right—of—Way line of North Flintlock Road, as now established per said Condemnation, a distance of 31.55 feet; thence North 67°55'36" East, along said East Right—of—Way line, a distance of 135.86 feet, to a point of curvature; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1492.39 feet, and a central angle of 13°31'10", a distance of 352.14 feet, to a point on a non—tangent curve; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1487.39 feet, a central angle of 11°00'20", and whose initial tangent bearing is North 47°24'40" East, a distance of 285.70 feet; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1482.39 feet, a central angle of 16°19'45", and whose initial tangent bearing is North 38°24'31" East, a distance of 422.48 feet; thence South 85°00'35" East, continuing along said East Right—of—Way line, a distance of 50.51 feet, to a point on said East line of the Southwest Quarter; thence South 00°51'04" West, departing said East Right—of—Way line, along said East line of the Southwest Quarter, a distance of 1492.15 feet, to the POINT OF BEGINNING, containing 759,285.4616 square feet or 17.43 acres, more or less, except that part in roads.

ORDINANCE NO. _____ (CONT.)

SECTION II

The City Council finds and declares that, prior to any action on the amendment herein described, all requirements pertaining to notices and hearings have been fulfilled.

SECTION III

Any and all development within the above-described lot shall comply with all applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this _____ day of _____, 2023.

MAYOR



STAFF REPORT

Planning and Zoning Case 22-59R&PDP

Staff: Katherine Sharp, Director of Planning and Development

Date: February 27, 2023

GENERAL INFORMATION

Application:	P&Z Case 22-59R&PDP: Rezoning & Preliminary Development Plan Rezoning to PD "Planned Development" for Liberty Parkway Apartments. A 328-unit apartment complex and 16,000 sq. ft. of commercial space on 17 +/- acres at South Liberty Parkway and Flintlock Rd.
Applicant:	Curtis Petersen Polsinelli PC 900 W. 48 th Place, Ste. 900 Kansas City, MO 64112
Owner:	George Filios Liberty Investors 17 LLC 9640 W. Tropicana Ave., Ste. 900 Las Vegas, NV 89147
Location:	17.3 +/- acres north of South Liberty Parkway between Plummer Road and Flintlock Road.
Existing Land Use/Zoning:	Undeveloped / PD, Expired Planned Development
Future Land Use Designation:	High Density Residential
Proposed Zoning:	PD "Planned Development" for Liberty Parkway Apartments. A 328-unit apartment complex and 16,000sq. ft. of commercial space on 17.3 +/- acres at South Liberty Parkway and Flintlock Rd.
Surrounding Land Uses/Zoning:	Northwest: Religious Retreat Center/ R-P3 "One -Family Cluster District" Northeast: Immaculata Manor /R-1A "Suburban Residential" South: South Liberty Parkway East: Undeveloped / PD "Planned Development" for apartments West: Flintlock Road
Public Notice:	Legal Notice printed in Courier Tribune- November 23 & January 26 Letter sent to property owners within 185 ft on November 28 & January 26 Sign Posted on site on November 23
File Date:	November 4, 2022

PREVIOUS CASE

PZ Case 22-41A: Future Land Use Map Amendment from Commercial to High Density Residential was approved by the City Council September 26, 2022

PZ Case 16-30A: Future Land Use Amendment for South Liberty Parkway Phase I was approved by the City Council in February 2017.

PZ Case 16-17FDP: Final Development Plan to allow the development of Liberty Parkway Heights, Phase I, a 204 unit multi-family development was approved by the City Council April 25, 2016

PZ Case 16-18FP: Final Plat of Liberty Parkway Heights was approved by the City Council April 25, 2016

PZ Case 16-11R&PDP: Rezone and Preliminary Development Plan was approved by City Council March 28, 2016

PZ Case 16-12PP: Preliminary Plat for 3 lots was approved by City Council March 28, 2016

*The 2016 approvals of the Planned Development zoning and Development Plans sunset after two years of inactivity.

APPLICANT'S PROPOSAL

Summary

This is an application for 7 buildings with 328 apartment units and 16,000 sq. ft. of commercial space on 17.43 acres. The apartments will be on the southern portion of the site abutting South Liberty Parkway on the south, Flintlock Rd. on the west and Plummer Rd. on the east. The proposed commercial space will be on the north end of the property adjacent to Flintlock and the new public street that will connect Flintlock and Plummer roads.

The applicant's submittal includes the following description;

The residential portion will have approximately 328 dwelling units with a housing mix of one, two and three-bedroom units. The buildings will have a high level of architectural detailing and will include a community clubhouse and amenities such as an infinity pool, premium fitness center, bark park, outdoor turf for gaming, Zen area and co-working space. The buildings are situated around the perimeter of the site to provide significant open space between the buildings. This portion of the development will provide a total of 597 parking spaces, comprised of electronic vehicle charging stations, 109 garage spaces, covered parking and surface parking. An integrated sidewalk system will be created to provide pedestrian connectivity and create a more neighborhood- oriented feel to the development.

The commercial portion of the development is 2+ acres and will provide +/- 16,000 square feet of commercial space with surface parking spaces. The commercial building will be 2-stories in height in order to maintain a pedestrian scale while also including attractive architecture.

Use

The applicant proposes that the site be high density residential to allow for apartments and a small portion to allow for a commercial/office type building.

Site Design

The residential development is comprised of 7 buildings that are 4/5 stories tall. A clubhouse, pool, and dog park are being proposed as potential amenities to the site. The buildings are situated throughout the site and provide significant open space between the buildings. In final development plan phase, staff will work with the applicant on final-level details to the site plan. The applicant is proposing a 35-foot building setback from property lines along South Liberty Parkway and Flintlock for the apartment buildings.

Building Design

The 7 residential buildings will be comprised primarily of vertical and horizontal lap board and batten siding and stone accents with asphalt composition roofing. The proposed buildings are 4 and 5 stories in height. The tallest height is 61 feet to the top of the peak of a building. The clubhouse with similar design is also proposed. Final building details will be worked through during the final development plan phase.

Access/Circulation/Parking

The proposal includes one entrance from South Liberty Parkway, two entrances on Plummer Road, and full access on Flintlock Road from the new Mercy St. on the north. Plummer Road will be signalized and fully improved to city standards. Access on South Liberty Parkway from the development will have a restricted turning movement, allowing for a right in and right out only.

There are 566 total parking spaces for this residential portion. The commercial portion is proposing 69 stalls. The proposed number of parking stalls meets the standards within the Unified Development Ordinance (UDO) which requires 1.7 parking stalls for each dwelling unit in an apartment complex.

New sidewalks will be installed on the east side of Plummer Road and throughout the site for pedestrian connectivity. There are existing sidewalks along Flintlock and South Liberty Parkway. Site and parking lot lighting must be designed to minimize light spillage onto neighboring properties and will be further addressed in the final development plan application.

Landscaping/ Parkland

The residential portion, exceeds the 20% open space requirements by providing just over 50% (8.69 ac) open space on site. Ornamental trees, evergreens and shrubs are planned throughout the site. Further evaluation of landscaping will occur at Final Development Plan phase.

As no parkland has been identified for this project, a fee-in-lieu of parkland dedication will be due as required in Sec. 90-94.1 of the UDO.

PUBLIC INFRASTRUCTURE

The submitted plans for this application have been evaluated in accordance with the adequate public facilities ordinance:

Streets

The proposed residential portion includes two entrances on Plummer Road, an access off of South Liberty Parkway, an entrance from Mercy St. on the north and a private drive will loop through the site.

Plummer Road will be signalized and fully improved to city standards. Access on South Liberty Parkway from the development will have a restricted turning movement, allowing for a right in/right out. A full turning movement will be allowed from Mercy St. on to Flintlock Road.

Sanitary Sewer

Sanitary service will be provided via an 8" public sewer main that runs to the site across South Liberty Parkway at the southwest corner.

Water

Water service will be provided via connections to an existing 16" water main on South Liberty Parkway and a 12" water main on Flintlock Road.

Stormwater

Stormwater will be collected by an on-site collection system directed to the storm water detention areas located on the site, then released into the Liberty stormwater system at an acceptable rate. Final detailed stormwater analysis will be required at the final development plan phase.

STAFF ANALYSIS

Staff evaluates all rezoning applications in accordance with the following criteria described in section 30-24.3 of the Unified Development Ordinance:

1. The conformance of the proposed rezoning to the comprehensive plan and other adopted planning policies.

The Comprehensive Plan was updated for this area in 2016 during an extensive discussion regarding South Liberty Parkway (SLP) Phase I. The applicant received approval to amend the Land Use Map in September 2022 to allow for High Density residential on the majority of site with commercial to the north.

Staff believes the proposed rezoning conforms to the current Future Land Use map.

2. The effect the proposed rezoning will have on properties in the general vicinity.

The UDO describes the Planned Development District (PD) as:

The purpose of the planned development district is to facilitate the development of unique, large scale or mixed use developments, or for the development of difficult sites due to topographical or other environmental considerations. The PD district allows a mix of land uses, densities, setbacks, and building heights for a defined area. This zoning district is intended to encourage innovative and creative design and to facilitate a mix of uses in the development of a balanced community.

The impact of this development will be felt mostly by the existing properties to the north. These impacts might include increase in traffic, noise, and light generated by this development. However, the community has envisioned this parcel as developing with high density residential and commercial since the Future Land Use Plan approval in 2016. Additionally, South Liberty Parkway has been designed to accommodate increased traffic capacity and Plummer Road will be improved and signalized to mitigate traffic concerns. The proposal of a PD zoning district is appropriate, and shows quality design.

3. The extent to which public facilities and services are available and adequate to meet the demand generated by the proposed use.

As further described in the Infrastructure section, the site will be served by adequate public facilities.

In accordance with the Liberty Unified Development Ordinance (UDO), staff's analysis of a Preliminary Development Plan application is guided by Section 30-27.3. In evaluating an application for a preliminary development plan the following three criteria are considered:

1. The plan substantially complies with the intent of the comprehensive plan;

As addressed above, staff believes this proposal does satisfy the intent of the Comprehensive Plan and the Future Land Use map.

2. The plan complies with the provisions of this UDO;

The plan meets all standards and provisions and requires no variances.

3. The plan substantially complies with approved city development standards and policies;

Staff finds that this PD does comply with the intent of city development standards and policies.

STAFF RECOMMENDATION

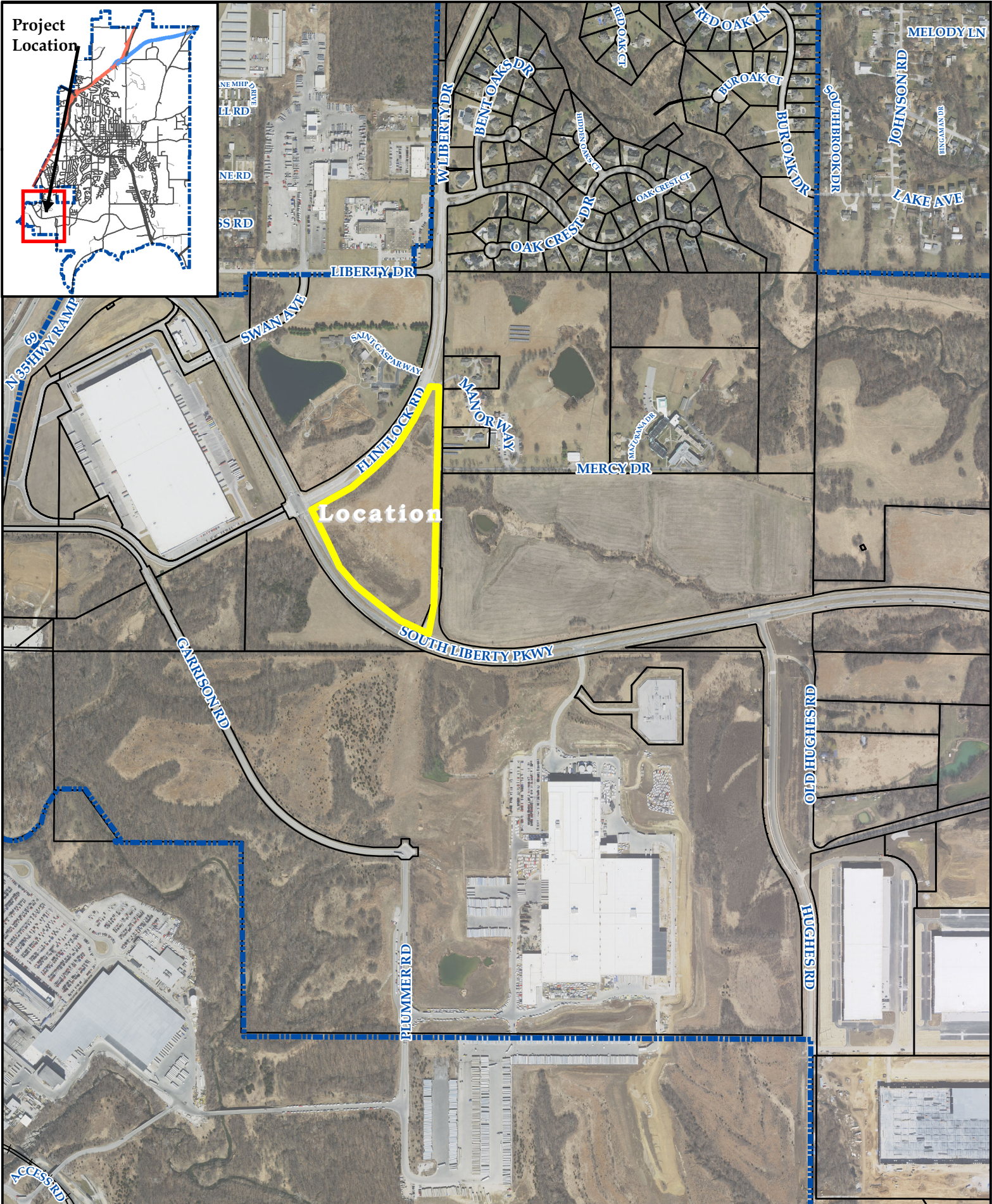
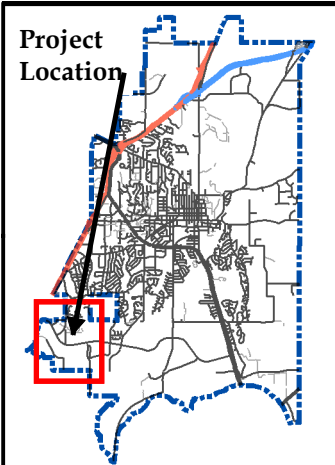
This application does meet the standards of review for a rezoning and preliminary development plan and so staff recommends approval of P&Z Case 22-59R&PDP.

PZ RECOMMENDATION

At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 22-59R&PDP as presented in the staff report.

ATTACHMENTS

Exhibit A:	Vicinity Map
Exhibit B:	Applicant's proposal
Exhibit C:	Site Plan
Exhibit D:	Elevations
Exhibit E :	Preliminary Landscaping Plan
Exhibit E:	Minutes Excerpt from Planning & Zoning Commission meeting
Exhibit F:	Ordinance



Location



LIBERTY PARKWAY APARTMENTS

Written Description of Proposal

The subject property is approximately 17.43 acres in size and is located north of South Liberty Parkway between N. Flintlock and Plummer. Liberty Parkway Apartments is a Planned Development of approximately 17.43 acres, which is comprised of +/-15 acres of residential apartments and +/-2 acres of commercial development and will include public improvements to Plummer Road, an extension of Our Lady of Mercy Home Drive to N. Flintlock Road and public water and sewer mains. The overall development has been designed to create an attractive neighborhood environment and possibly opportunities for employment within walking distance of their homes. It is currently estimated that the overall development, as designed, will provide approximately 2+ acres of landscaping open space/greenery.

One of the key recommendations in the Blueprint for Liberty plan is to help establish a variety of land uses throughout the South Liberty Roadway Corridor and acknowledges that mixed-use areas provide an opportunity to support higher residential densities and generate employment areas to support those neighborhoods. The proposed project will: (a) provide an appropriate balance of residential and commercial use along South Liberty Parkway; (b) support the growing industrial presence of S. Liberty Parkway; (c) meet the spirit of the definition of walkability/access associated with mixed-use and its future sustainability; and (d) generate more customers for existing commercial uses in the Liberty Triangle and Liberty Commons developments.

The residential portion will have approximately 328 dwelling units with a housing mix of one, two and three-bedroom units. The buildings will have a high level of architectural detailing and will include a community clubhouse and amenities such as an infinity pool, premium fitness center, bark park, outdoor turf for gaming, zen area and co-working space. The buildings are situated around the perimeter of the site to provide significant open space between the buildings. This portion of the development will provide a total of 597 parking spaces, comprised of electronic vehicle charging stations, 109 garage spaces, covered parking and surface parking. An integrated sidewalk system will be created to provide pedestrian connectivity and create a more neighborhood- oriented feel to the development.

The commercial portion of the development is 2+ acres and will provide +/- 16,000 square feet of commercial space with surface parking spaces. The commercial building will be 2-stories in height in order to maintain a pedestrian scale while also including attractive architecture.

C:\153301 Civil 3D\Production Drawings\ Preliminary Site Plans\15330100200.dwg, Layout: C1 General Layout, Thursday, December 15, 2022, 11:30am, Architect 20212, Professional Engineer 000133, Professional Land Surveyor 000259, Copyright 2022, George Butler Associates, Inc.

UTILITY CONTACTS

BEFORE EXCAVATING CALL:
1 (800) DIG-RITE (344-7483)

SEWER
CITY WATER AND SEWER
CITY OF LIBERTY CITY HALL
(816) 792-6000
CITY OF LIBERTY OMI

WATER
CLAY COUNTY PUBLIC RURAL WATER DISTRICT NO. 5
(816) 532 0775 (OFFICE)
ATTN: CHUCK MCREYNOLDS
24 HOUR EMERGENCY
(816) 863-8805

GAS
MISSOURI GAS ENERGY
(816) 756-5252
GAS LEAK EMERGENCY
(800) 582-0000

PETROLEUM
"BUCKEYE PARTNERS, L.P."
PIPELINE (610) 904-4000
EMERGENCY (800) 331-4115

ELECTRICITY
KANSAS CITY POWER AND LIGHT
(913) 894-3000

TELEPHONE AT&T DISTRIBUTION

PARKING CALCULATION

Lot 1 - Multi-Family

Buildings 1 and 2 - Total units: 104
Parking required: 104 x 1.7 = 177
Parking provided: tuck-under 34
garages 12
carports 15 (1 ADA stall and 1 ADA aisle)
surface 104 (1 ADA stall and 1 ADA aisle)
total parking 165 spaces

Buildings 3 and 4 - Total units: 90
Parking required: 90 x 1.7 = 153
Parking provided: tuck-under 31 (1 ADA garage)
garages 12
carports 16
surface 122 (3 ADA stalls and 2 ADA aisles)
total parking 181 spaces

Building 5 - Total units: 45
Parking required: 45 x 1.7 = 77
Parking provided: tuck-under 14
garages 6
carports 7 (1 ADA)
surface 32
total parking 59

Buildings 6 and 7 - Total units: 89
Parking required: 89 x 1.7 = 152
Parking provided: tuck-under 29
garages 42
carports 54 with 2 ADA stalls
surface 352 with 6 ADA stalls
Clubhouse: 10 with 2 ADA stalls
Total On-site Parking: 566 cars with 12 ADA spaces.

Total parking required: 328 DUs x 1.7 = 558 cars

Parking provided: 108 with 2 ADA garage
garages: 42
carports: 54 with 2 ADA stalls
surface: 352 with 6 ADA stalls
Clubhouse: 10 with 2 ADA stalls
Total On-site Parking: 566 cars with 12 ADA spaces.

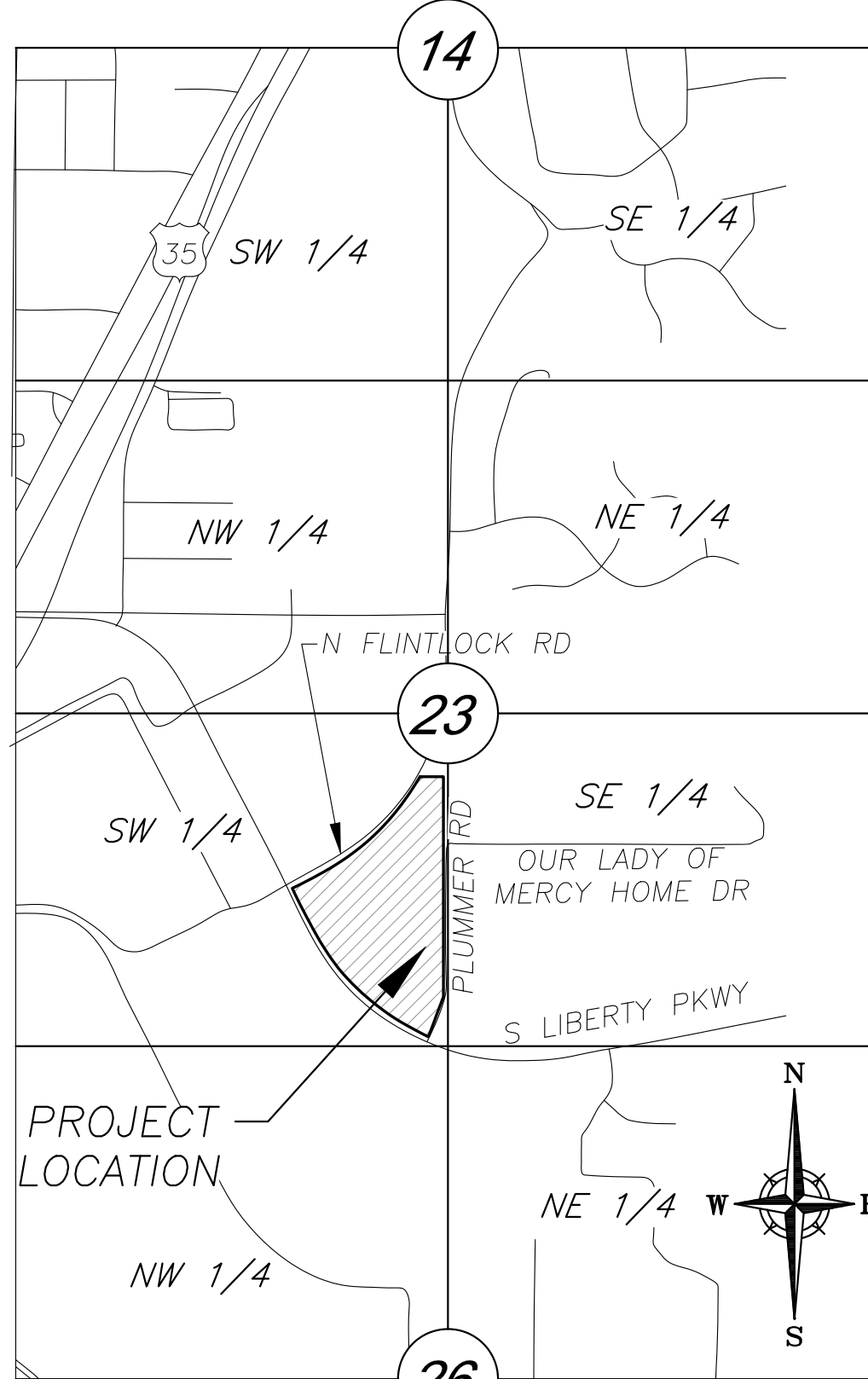
Parking Ratio 566/328 DUs = 1.73 spaces/DU.

Lot 2 - Commercial Office

Commercial Office: 17,230 SF
Parking required: 1 space / 250 SF
17,230 / 250 = 69
Parking provided: 69

LEGEND

— W —	Proposed Water Line
— SWS —	Proposed Storm Sewer
— [] —	Proposed Fence Line
— SAN —	Proposed Sanitary Sewer
— [] —	Existing Storm Sewer
— [] —	Existing Sanitary Sewer
— [] —	Existing Fence Line
— [] —	Existing Gas Line
— [] —	Existing Overhead Electric
— [] —	Existing Underground Electric
— 900 —	Proposed Contour Major
— 902 —	Proposed Contour Minor
— 900 —	Existing Contour Major
— 902 —	Existing Contour Minor
— [] —	Property Line
— P.P. —	Power Pole
— [] —	Guy Anchor
— [] —	Electrical Manhole
— [] —	Electric Pedestal
— [] —	Gate Post
— [] —	Bollard/Guard Post
— [] —	Gas Meter
— [] —	Gas Valve
— [] —	Gas Regulator
— [] —	Area Inlet
— [] —	Junction Box
— [] —	Sanitary Sewer Manhole
— [] —	Light Pole
— [] —	Yard Light
— [] —	Sign
— [] —	Telephone Manhole
— [] —	Telephone Pedestal
— [] —	Telephone Pole
— [] —	Tree Coniferous
— [] —	Tree Deciduous
— [] —	Fire Hydrant
— [] —	Water Meter



VICINITY MAP

Section 23-Township 51-Range 32
City of Liberty
Clay County, Missouri
Scale: 1"=1000'

Area Summary Table

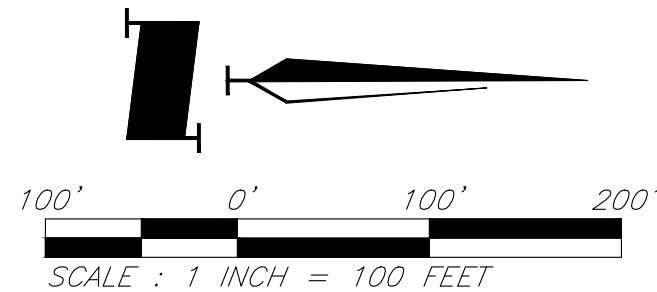
Lot 1	15.05 AC (655,537.50 SF)
Lot 2	1.92 AC (83,447.31 SF)
Mersey St R/W	0.44 AC (19,141.65 SF)
Liberty Pkwy R/W	0.03 AC (1,161.27 SF)
Total	17.43 AC (759,285.46 SF)

LEGAL DESCRIPTION

All that part of the East One Half of the Southwest Quarter of Section 23, Township 51, Range 32, in the City of Liberty, Clay County, Missouri, as prepared by Michael Loy, PLS No. 2013000044, on November 11th, 2022, being more particularly described as follows:

COMMENCING at the Southeast corner of said Southwest Quarter; thence North 00°51'04" East, along the East line of said Southwest Quarter, a distance of 316.39 feet, to the POINT OF BEGINNING, said point also being on the North Right-of-Way line of South Liberty Parkway, as now established per Right-of-Way No. 2 in Tract 4 of Condemnation recorded in Book 4667 at Page 287; thence North 89°08'59" West, departing said East line, along said North Right-of-Way line, a distance of 30.00 feet, to a point on a non-tangent curve; thence Southwesterly, continuing along said North Right-of-Way line, along a curve to the right, having a radius of 447.46 feet, a central angle of 08°40'35", and whose initial tangent bearing is South 14°46'52" West, a distance of 67.76 feet; thence South 23°27'22" West, continuing along said North Right-of-Way line, a distance of 109.45 feet; thence South 63°25'37" West, continuing along said North Right-of-Way line, a distance of 11.88 feet, to a point on a non-tangent curve; thence Northwesterly, continuing along said North Right-of-Way line, along a curve to the right, having a radius of 1375.39 feet, a central angle of 37°54'10", and whose initial tangent bearing is North 64°58'34" West, a distance of 909.86 feet; thence North 27°04'24" West, continuing along said North Right-of-Way line, a distance of 202.55 feet; thence North 03°52'19" West, along the transition from said North Right-of-Way line to the East Right-of-Way line of North Flintlock Road, as now established per said Condemnation, a distance of 31.55 feet; thence North 62°55'36" East, along said East Right-of-Way line, a distance of 135.86 feet, to a point of curvature; thence Northeastly, continuing along said East Right-of-Way line, along a curve to the left, having a radius of 1492.39 feet, and a central angle of 13°31'10", a distance of 352.14 feet, to a point on a non-tangent curve; thence Northeastly, continuing along said East Right-of-Way line, along a curve to the left, having a radius of 1487.39 feet, a central angle of 11°00'20", and whose initial tangent bearing is North 47°24'40" East, a distance of 285.70 feet; thence Northeastly, continuing along said East Right-of-Way line, along a curve to the left, having a radius of 1482.39 feet, a central angle of 16°19'45", and whose initial tangent bearing is North 38°24'31" East, a distance of 422.48 feet; thence South 85°00'35" East, continuing along said East Right-of-Way line, a distance of 50.51 feet, to a point on said East line of the Southwest Quarter; thence South 00°51'04" West, departing said East Right-of-Way line, along said East line of the Southwest Quarter, a distance of 1492.15 feet, to the POINT OF BEGINNING, containing 759,285.4616 square feet or 17.43 acres, more or less, except that part in roads.

General Layout





BUILDING TYPE "A" 4/5
FRONT ELEVATION

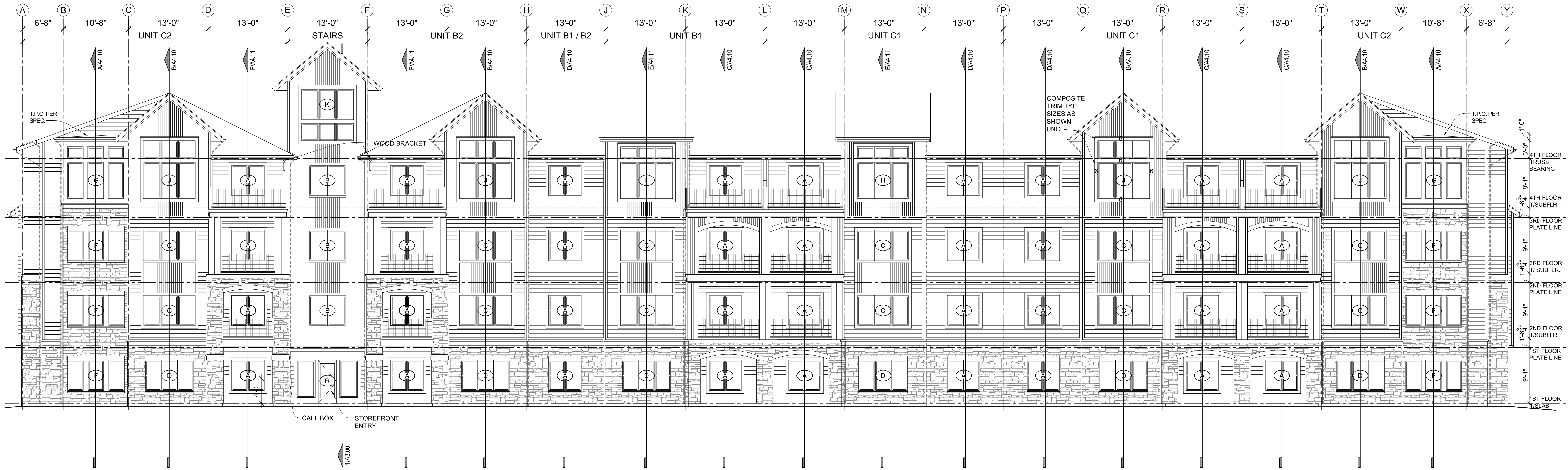
1/8" = 1'-0"
BUILDING NUMBER 7 AS SHOWN



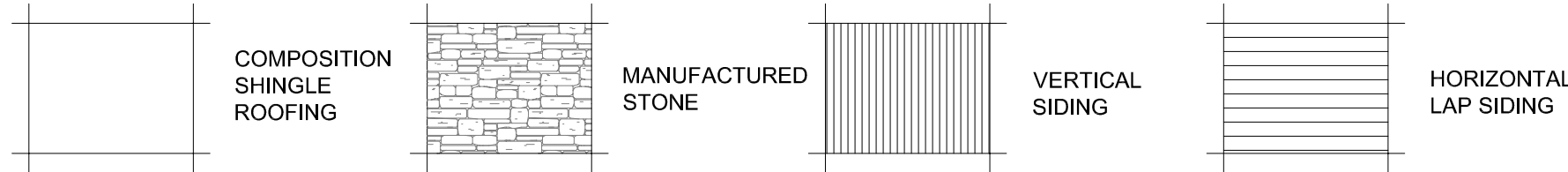
BUILDING TYPE "A" 4/5
REAR ELEVATION

1/8" = 1'-0"
BUILDING NUMBER 7 AS SHOWN

PRELIMINARY DEVELOPMENT PLAN



ELEVATION
MATERIAL
LEGEND



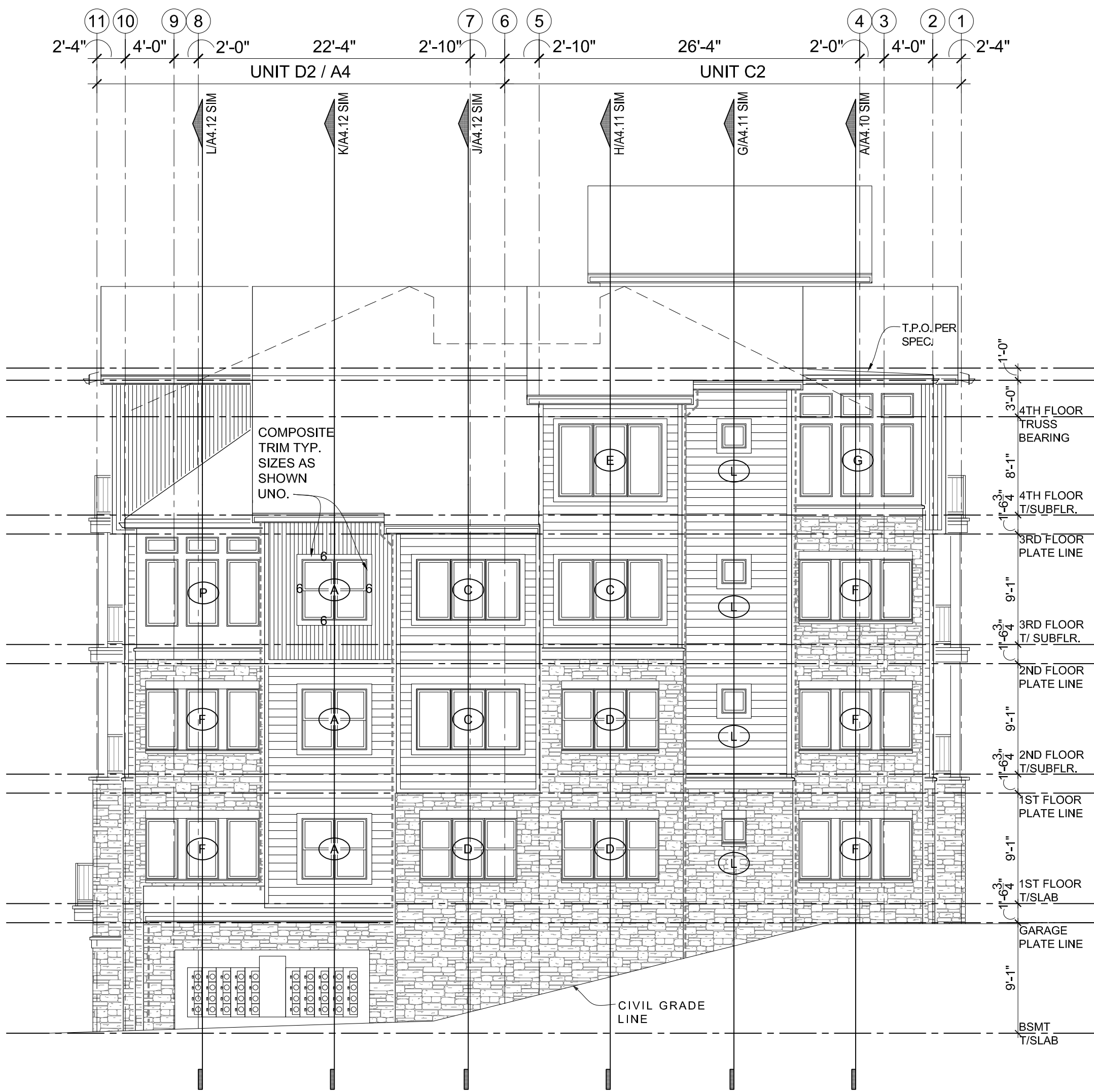
BUILDING TYPE "B" 4/5
FRONT ELEVATION

1/8" = 1'-0"
BUILDING NUMBER 1 AS SHOWN



BUILDING TYPE "B" 4/5
REAR ELEVATION

1/8" = 1'-0"
BUILDING NUMBER 1 AS SHOWN

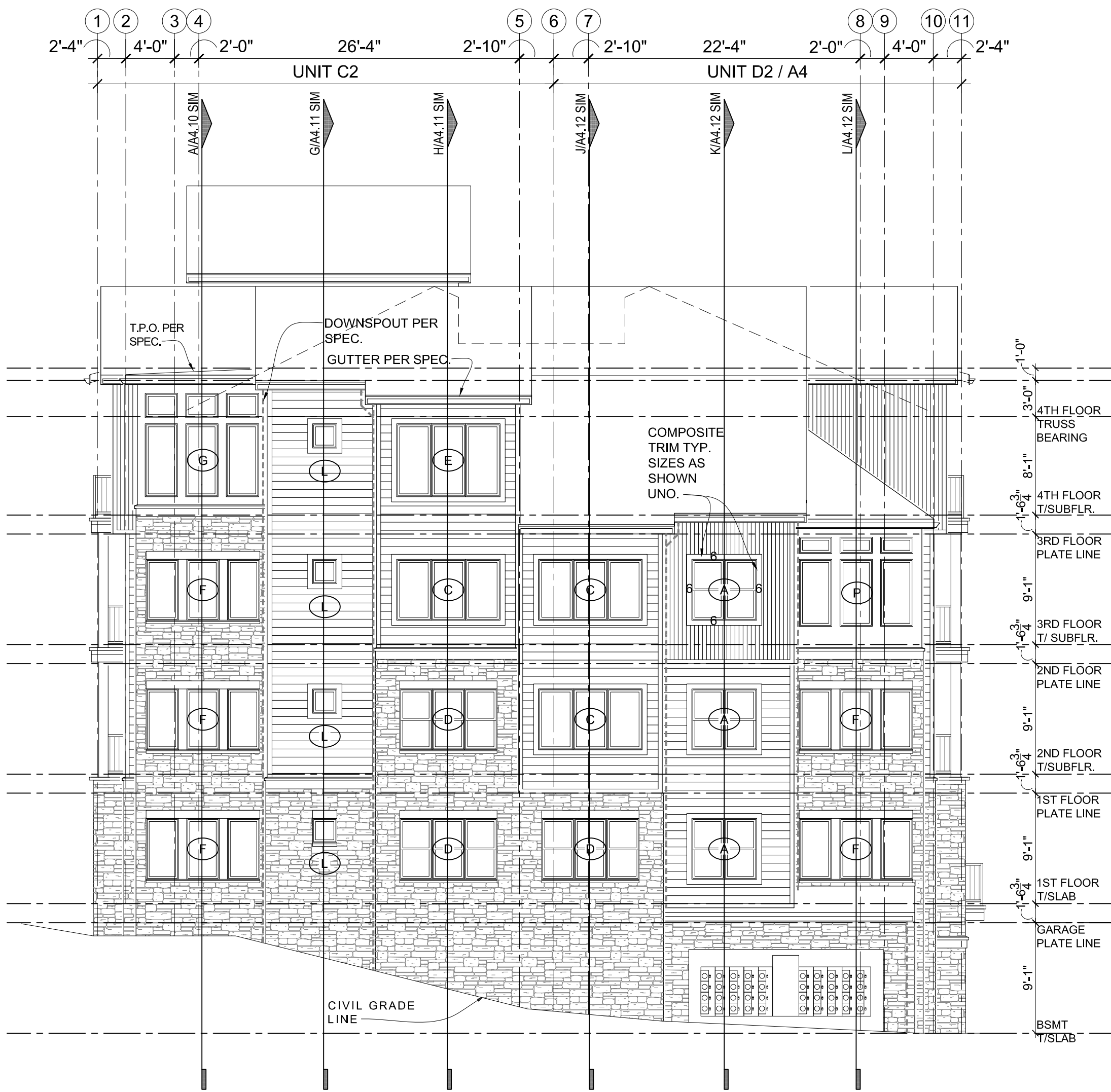


BUILDING TYPE "B" 4/5
LEFT ELEVATION

1/8" = 1'-0"
BUILDING NUMBER 1 AS SHOWN

ELEVATION
MATERIAL
LEGEND

- COMPOSITION SHINGLE ROOFING
- MANUFACTURED STONE
- VERTICAL SIDING
- HORIZONTAL LAP SIDING



BUILDING TYPE "B" 4/5
RIGHT ELEVATION

1/8" = 1'-0"
BUILDING NUMBER 1 AS SHOWN

REVISIONS

DATE
11/04/2022
JOB NO.
722622
DRAWN BY:
WHP/CSB
SHEET NO.

PLANT LIST:

Existing Trees to be Removed			
Common Name	Botanical Name	Size	Notes
Shade Trees			
ARM	Armstrong Maple	Acer freemontii 'Armstrong'	2" Cal. B&B
CHB	Columnar Hornbeam	Carpinus betulus 'Fastigata'	2" Cal. B&B
COM	Columnar Sugar Maple	Acer saccharum 'Endowment'	2" Cal. B&B
HOK	Heritage Oak	Quercus macdaniellii 'Clemens'	2" Cal. B&B
RPO	Columnar Regal Prince Oak	Quercus robur x bicolor 'Long'	2" Cal. B&B
ABM	Autumn Blaze Maple	Acer x fernaldii 'Autumn Blaze'	2" Cal. B&B
AFM	Autumn Fantasy Maple	Acer x fernaldii 'Autumn Fantasy'	2" Cal. B&B
BCV	Common Baldcypress	Taxodium distichum	2" Cal. B&B
BWM	Brandywine Red Maple	Acer rubrum 'Brandywine'	2" Cal. B&B
COM	Crimson Queen Red Maple	Acer platanoides 'Crimson Queen'	2" Cal. B&B
FEM	Frontier Elm	Ulmus carpinifolia x parvifolia 'Frontier'	2" Cal. B&B
FFM	Fall Fiesta Sugar Maple	Acer saccharum 'Fall Fiesta'	2" Cal. B&B
GNK	Autumn Gold Ginkgo	Ginkgo biloba 'Autumn Gold'	2" Cal. B&B
HOK	Heritage Oak	Quercus macdaniellii 'Clemens'	2" Cal. B&B
LLL	Greenspire Littleleaf Linden	Tilia cordata 'Greenspire'	2" Cal. B&B
LPT	London Plane Tree	P. x acerifolia 'Bloodgood'	2" Cal. B&B
LSM	Legacy Sugar Maple	Acer saccharum 'Legacy'	2" Cal. B&B
NSM	Norwegian Sunset Maple	Acer truncatum x A. platanoides 'Keiltsform'	2" Cal. B&B
OGM	October Glory Red Maple	Acer rubrum 'October Glory'	2" Cal. B&B
PSM	Pacific Sunset Maple	Acer truncatum x A. platanoides 'Warrenred'	2" Cal. B&B
ROK	Red Oak	Quercus rubra	2" Cal. B&B
SGM	Sienna Glen Maple	Acer x fernaldii 'Sienna'	2" Cal. B&B
SKH	Skyline Honeylocust	Gleditsia triacanthos 'Skyline'	2" Cal. B&B
SOK	Shumard Oak	Quercus shumardii	2" Cal. B&B
SVM	Sun Valley Maple	Acer rubrum 'Sun Valley'	2" Cal. B&B
SWO	Swamp White Oak	Quercus bicolor	2" Cal. B&B
ZEL	Zelkova	Zelkova serrata 'Green Vase'	2" Cal. B&B
Evergreen Trees			
ARB	Thuja orientalis	Oriental Arborvitae	6" Ht. B&B
BSP	Bakeri Blue Spruce	Picea pungens 'Bakeri'	6" Ht. B&B
CBS	Columnar Blue Spruce	Picea pungens 'Blue Totem'	6" Ht. B&B
CNS	Columnar Norway Spruce	Picea abies 'Cupressina'	6" Ht. B&B
ERC	Red Cedar	Juniperus virginiana	6" Ht. B&B
KTJ	Keteleeri Juniper	Juniperus chinensis 'Keteleeri'	6" Ht. B&B
NWS	Norway Spruce	Picea abies	6" Ht. B&B
SBS	Serbian Spruce	Picea omorika	6" Ht. B&B
TYJ	Taylor Juniper	Taylor Upright Juniper	6" Ht. B&B
RSS	Riverside Upright Spruce	Picea omorika 'Riverside'	6" Ht. B&B
WSS	Wellsprir Spruce	Picea mariana 'Wellsprir'	6" Ht. B&B
Ornamental Trees			
CBC	Coraburst Crabapple	Malus 'Coraburst'	1" cal. B&B
CPP	Crimson Pointe Plum	Prunus x cerasifera 'Cripotzam'	1" cal. B&B
ERB	Eastern Redbud	Cercis canadensis	1" cal. B&B
FLD	Flowering Dogwood	Cornus florida	1" cal. B&B
HGC	Harvest Gold Crabapple	Malus 'Harvest Gold'	1" cal. B&B
MAG	Evergreen Magnolia	Magnolia grandiflora 'DD Blanchard'	1" cal. B&B
PFC	Prairiefire Crabapple	Malus x 'Prairiefire'	1" cal. B&B
RRC	Royal Red Crabapple	Malus 'Royal Red'	1" cal. B&B
RVB	River Birch	Betula nigra	1" cal. B&B
SBM	Sweetbay Magnolia	Magnolia virginiana v. australis	1" cal. B&B
SSC	Spring Snow Crabapple	Malus 'Spring Snow'	1" cal. B&B
SVB	Autumn Brilliance Serviceberry	Amelanchier x grandiflora 'Autumn Brilliance'	1" cal. B&B
WBD	Whitebud	Cercis canadensis 'White Bud'	1" cal. B&B

THE ABOVE PLANT LIST REPRESENTS A RANGE OF POTENTIAL PLANT MATERIAL AND IS SUBJECT TO CHANGE

GENERAL NOTES:

1.

EACH BIDDER SHALL VISIT THE SITE OF THE PROPOSED WORK AND EXAMINE THE SITE CONDITIONS. HE SHALL ALSO CAREFULLY EXAMINE THE DRAWINGS FOR THE PROPOSED WORK AND FAMILIARIZE HIMSELF WITH ALL CONDITIONS, WHICH MAY AFFECT THE PROPOSED WORK.
2.

THE PLANTING PLAN GRAPHICALLY ILLUSTRATES OVERALL PLANT MASSINGS. EACH PLANT SPECIES MASSING SHALL BE PLACED IN THE FIELD TO UTILIZE GREATEST COVERAGE OF GROUND PLANE. THE FOLLOWING APPLIES FOR INDIVIDUAL PLANTINGS:

A.

CREEPING GROUNDCOVER SHALL BE A MINIMUM OF 6" FROM PAVING EDGE.

B.

ALL TREES SHALL BE A MINIMUM OF 3' FROM PAVING EDGE.

C.

ALL PLANTS OF THE SAME SPECIES SHALL BE EQUALLY SPACED APART AND PLACED FOR BEST AESTHETIC VIEWING.

D.

ALL SHRUBS SHALL BE A MINIMUM OF 2' FROM PAVED EDGE.
3.

NOTIFY LANDSCAPE ARCHITECT 1 WEEK PRIOR TO ANTICIPATED START OF PLANT MATERIAL INSTALLATION. LANDSCAPE CONTRACTOR SHALL STAKE ALL PROPOSED PLANTING BED EDGES, SET OUT SHRUBS IN INTENDED LOCATIONS, AND STAKE TREE LOCATIONS FOR APPROVAL BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
4.

ALL NEW PLANT BED AREAS TO BE IRRIGATED. REFER TO SPECIFICATIONS FOR IRRIGATION SYSTEM DESCRIPTION.
5.

REFER TO L1.00 SERIES SHEETS FOR TREE PLANTINGS.
6.

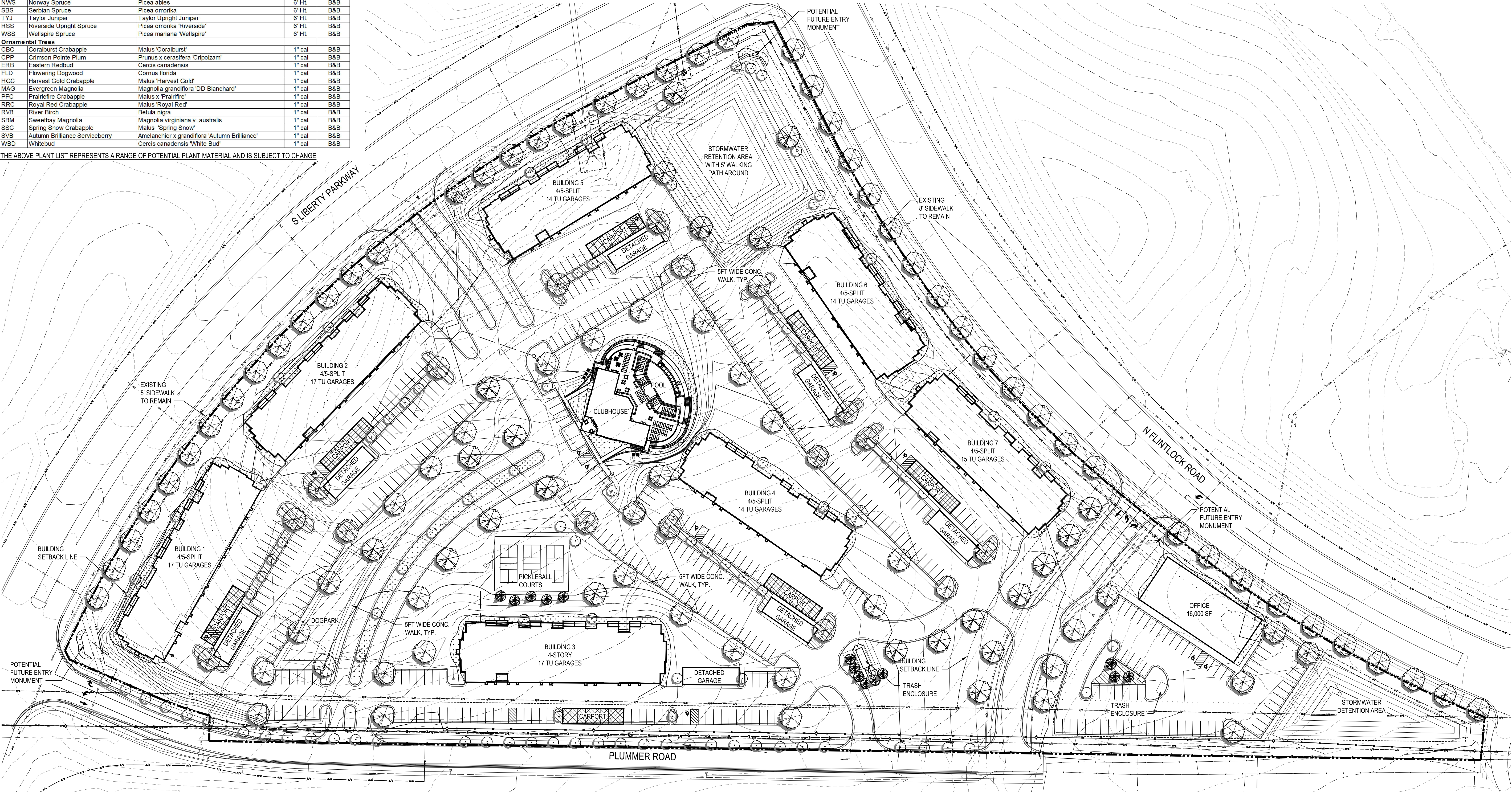
REFER TO L3.00 SERIES SHEETS FOR PLANTING DETAILS & SPECIFICATIONS.
7.

IN THE EVENT OF WORK IN OR ON THE JCW SANITARY MAIN. ANY TREES OR PLANTINGS PLACED WITHIN THE SEWER EASEMENT MAY BE REMOVED WITHOUT REPLACEMENT OR COMPENSATION THERE OF AND SHALL BE REPLACED BY THE PROPERTY OWNER AS REQUIRED BY THE CITY.
8.

STRIP TOP SOIL & SAVE FOR PLANTING AREAS. EXCAVATE TO A DEPTH OF 18" FOR ALL PLANTING BEDS AND REPLACE WITH PLANTING SOIL MIX. REFER TO L3.00 FOR PLANTING SOIL MIX.
9.

ROCK BEDS SHALL BE BUFFALO RIVER ROCK, 1"-2.5" SIZE, BY HOUSE OF ROCKS OR APPROVED EQUAL. ALL ROCK BED AREAS SHALL HAVE FILTER FABRIC & BE 4" MIN. DEPTH.
- PARKING AREA PLANTING REQUIREMENTS

OPEN SPACE AREA PLANTING REQUIREMENTS



LANDSCAPE REQUIREMENTS (LIBERTY, MO)

STREET TREES:		
1. 1 LARGE TREE PER 50 LF OF STREET FRONTAGE.		
2. 1 SMALL TREE PER 35 LF OF STREET FRONTAGE - IF THE PLANTING OF LARGE GROWING STREET TREES INTERFERES WITH OVERHEAD UTILITY LINES.		
S LIBERTY PKWY = +/-1155 LF/ 50 LF =	REQUIRED: 24 TREES	PROVIDED: 24 TREES
N FLINTLOCK RD = +/-1196 LF/ 50 LF =	24 TREES	24 TREES
PLUMMER RD = +/-1186 LF/ 35 LF =	34 TREES	34 TREES

- PARKING (TUCK UNDER GARAGE PARKING EXCLUDED, COMMERCIAL PARKING INCLUDED):
- MAY BE PLANTED WITHIN LANDSCAPE ISLANDS, BUFFER AREAS OR OPEN SPACE
 - 1 LARGE TREE PER 10 SPACES
 - 1 SMALL TREE PER 15 SPACES
 - 1 SHRUB PER 2 SPACES

1. 525 PARKING SPACES / 10 =	REQUIRED: 53 LARGE TREES	PROVIDED: 54 LARGE TREES
2. 525 PARKING SPACES / 15 =	35 SMALL TREES	36 SMALL TREES
3. 525 PARKING SPACES / 2 =	263 SHRUBS	263+ SHRUBS

- OPEN SPACE:
- 1 LARGE TREE PER 3,000 SF OF BUILDING AREA, 2 SMALL TREES MAY COUNT AS 1 LARGE TREE
 - 1 SHRUB PER 250 SF OF BUILDING AREA, NO MORE THAN 400 SHRUBS REQUIRED
- | | | |
|--|--------------------------|--------------------------|
| BUILDING AREA = +/-140,680 SF / 3000 = | REQUIRED: 47 LARGE TREES | PROVIDED: 24 LARGE TREES |
| +/-140,680 SF / 250 = | 563 SHRUBS | 46 SMALL TREES |
| | | 563+ SHRUBS |

A NEW MIXED-USE DEVELOPMENT:
GFI-LIBERTY PARKWAY APTS.
S. LIBERTY PARKWAY & N. FLINTLOCK ROAD
LIBERTY, MISSOURI

DRAWING RELEASE LOG	
11.04.22	POP SUBMITTAL
11.21.22	POP R&SUBMITTAL
12.02.22	POP R&SUBMITTAL
12.16.22	POP R&SUBMITTAL

REVISIONS

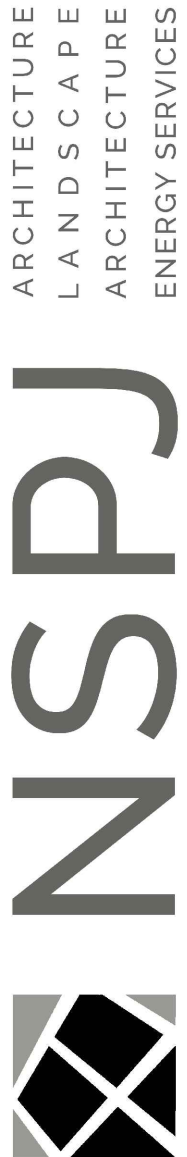
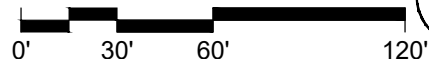
JOB NO. 722622	DATE 12.16.22
DRAWN BY WHP / BNH	
PRELIM. DEVELOP. PLAN	

SHEET NAME
TREE PLANTING PLAN

SHEET NO.
L1.00

TREE PLANTING PLAN

1" = 60'-0"



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F. 913.831.1563
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ARCHITECTURE
LANDSCAPE
ARCHITECTURE
ENERGY SERVICES

C. P&Z Case 22-59R&PDP: Rezoning and Preliminary Development Plan for Liberty Parkway Apartments. Rezoning to PD for 328 units and 16,000 sf of commercial space on 17.3 acres at the NE corner of South Liberty Parkway and Flintlock.

Ms. Sharp presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions.

Commissioner Dilts asked why this application did not require a variance for the height.

Ms. Sharp stated that in a request to rezone to PD "Planned Development" the developer can request specific zoning requirements such as height and setbacks based on the criteria for that specific development.

Commissioner Dilts asked if she was a developer could she submit a request for a height of 10 stories for example.

Ms. Sharp said that each situation is evaluated separately and that such an extreme case likely wouldn't fit in Liberty at this time. If that were the case, Staff would not recommend approval of that request.

Commissioner Dilts asked about specific requirements to alleviate light from this project affecting neighbors.

Ms. Sharp stated that there are very specific codes in the UDO that address lighting and minimizing the effects to surrounding properties.

Chairman Rosekrans asked the applicant if they wish to speak.

Curtis Petersen, Polsinelli, representing the owner, stated the Land Use amendment was approved in September of 2022 to allow multifamily development on this site. GFI, the owner is a National builder with many projects around the KC area including Copper Ridge in Liberty. He hopes that this project will help to activate South Liberty Parkway.

Mr. Petersen stated in response to Commissioner Dilts questions regarding height of the buildings, the 4/5 split is due to grade changes on the site and that Copper Ridge has the same type and height of buildings. There is a preliminary traffic study that states that a traffic signal is not warranted at Plummer and South Liberty Parkway, but the developer is pursuing options for installation based on city's desire to have a signal at that location. He also stated that while the plans are not in the Final form yet, they intend to follow all city standards regarding lighting and understand Commissioner Dilts concern about light spillage onto other properties.

Chairman Rosekrans opened the public hearing. He asked if there was anyone in the audience that would like to speak for or against the case, seeing none he closed the public hearing.

John Davis, Foresight Realty, 2089 Red Oak Lane, neighbor to the east stated that he is in general support of the project. His concern is that there is not commercial

proposed along South Liberty Parkway. It will be detrimental to his commercial project to the east of Plummer Road if there is not a continuity of commercial along South Liberty Parkway. He asked that the plan be reworked to have commercial along the Parkway.

Chairman Rosekrans asked if anyone else would like to speak for or against the case, seeing none he closed the public hearing.

Chairman Rosekrans asked the commissioners if they had any other questions.

Chairman Rosekrans asked if staff had comments on the statement raised by Mr. Davis.

Ms. Sharp stated that the change to the Land Use map was approved in September of 2022. Staff evaluates applications based on current codes and policies and evaluated this application based on the most current Land Use map. Because the Land Use map now shows High Density Residential at this location, and met all other requirements of the code, staff is recommending approval of the rezoning application.

Commissioner Holt asked if commercial continuity is important.

Ms. Sharp stated that staff is not in a position to make a comment about that question. She said that she is not a commercial developer and so can not speak to the importance or existence of commercial continuity in the commercial development sector.

Chairman Rosekrans stated that before the City Council meeting Mr. Davis should sharpen his definition of Commercial Continuity so that the City Council can have a better understanding about what that statement means and the statistics and theories behind it.

Commissioner Holt agreed.

Commissioner Personett stated that all commercial areas have a beginning and an end. Mr. Davis should also look into how that occurs.

Commissioner Dilts stated that she was unsure how the should go forward with the question regarding the commercial area outstanding.

Chairman Rosekrans stated that the Planning & Zoning Commission reviews applications based on current codes and the current Land Use Plan. Political questions should be left up to the City Council.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Holt moved to approve the case as presented in the staff report. Commissioner Reinier seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers
No: None
Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LIBERTY, MISSOURI
BY REZONING 17.3+/- ACRES AT THE NE CORNER OF SOUTH LIBERTY PARKWAY AND
FLINTLOCK TO PD "PLANNED DEVELOPEMNT" DISTRICT
FOR LIBERTY PARKWAY APARTMENTS

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

SECTION I

WHEREAS, the City Council finds that the rezone described duly conforms to the standards and requirements of the Unified Development Ordinance of the City of Liberty, Missouri, the official zoning map shall be and the same is hereby amended rezoning Liberty Parkway Apartments in the City of Liberty, Clay County, Missouri, the legal description of which is as follows:

All that part of the East One Half of the Southwest Quarter of Section 23, Township 51, Range 32, in the City of Liberty, Clay County, Missouri; as prepared by Michael Lay, PLS No. 2013000044, on November 11th, 2022, being more particularly described as follows:

COMMENCING at the Southeast corner of said Southwest Quarter; thence North 0051'04" East, along the East line of said Southwest Quarter, a distance of 316.39 feet, to the PO/NT OF BEGINNING, said point also being on the North Right—of—Way line of South Liberty Parkway, as now established per Right—of—Way No. 2 in Tract 4 of Condemnation recorded in Book 4667 at Page 287; thence North 89°08'59" West, departing said East line, along said North Right—of—Way line, a distance of 30.00 feet, to a point on a non—tangent curve; thence Southwesterly, continuing along said North Right—of—Way line, along a curve to the right, having a radius of 447.46 feet, a central angle of 08°40'35", and whose initial tangent bearing is South 14°46'52" West, a distance of 67.76 feet; thence South 23°27'22" West, continuing along said North Right—of—Way line, a distance of 109.45 feet; thence South 63°25'37" West, continuing along said North Right—of—Way line, a distance of 11.88 feet, to a point on non—tangent curve; thence Northwesterly, continuing along said North Right—of—Way line, along a curve to the right, having a radius of 1375.39 feet, a central angle of 37°54'10", and whose initial tangent bearing is North 64°58'34" West, a distance of 909.86 feet; thence North 27°04'24" West, continuing along said North Right—of—Way line, a distance of 202.55 feet; thence North 03°52'19" West, along the transition from said North Right—of—Way line to the East Right—of—Way line of North Flintlock Road, as now established per said Condemnation, a distance of 31.55 feet; thence North 67°55'36" East, along said East Right—of—Way line, a distance of 135.86 feet, to a point of curvature; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1492.39 feet, and a central angle of 13°31'10", a distance of 352.14 feet, to a point on a non—tangent curve; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1487.39 feet, a central angle of 11°00'20", and whose initial tangent bearing is North 47°24'40" East, a distance of 285.70 feet; thence Northeasterly, continuing along said East Right—of—Way line, along a curve to the left, having a radius of 1482.39 feet, a central angle of 16°19'45", and whose initial tangent bearing is North 38°24'31" East, a distance of 422.48 feet; thence South 85°00'35" East, continuing along said East Right—of—Way line, a distance of 50.51 feet, to a point on said East line of the Southwest Quarter; thence South 00°51'04" West, departing said East Right—of—Way line, along said East line of the Southwest Quarter, a distance of 1492.15 feet, to the POINT OF BEGINNING, containing 759,285.4616 square feet or 17.43 acres, more or less, except that part in roads.

ORDINANCE NO. _____ (CONT.)

SECTION II

The City Council finds and declares that, prior to any action on the amendment herein described, all requirements pertaining to notices and hearings have been fulfilled.

SECTION III

Any and all development within the above-described lot shall comply with all applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri.

SECTION IV

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this _____ day of _____, 2023.

MAYOR

Document No. _____

ORDINANCE NO. _____

AN ORDINANCE ACKNOWLEDGING VENDOR PAYMENTS
FOR THE PERIOD OF FEBRUARY 3, 2023 TO FEBRUARY 17, 2023

BE IT ORDAINED, by the City Council of the City of Liberty, Clay County, Missouri,
as follows:

The attached lists of vendor checks as drawn by the finance director is hereby
acknowledged, in the amounts and to the persons as listed. Said report is hereby
incorporated by reference as part of this ordinance. Total disbursements by individual
fund is also hereby acknowledged as listed below:

FUND NAME	FUND NUMBER	AMOUNT
GENERAL OPERATING FUND	10	\$ 155,111.62
CAPTIAL SALES TAX FUND	50	\$ 8,880.82
TRANSPORTATION SALES TAX FUND	52	\$ 620.00
PARK SALES TAX FUND	54	\$ 17,547.78
PARKS FUND	60	\$ 8,012.60
SPORTS COMPLEX FUND	61	\$ 14,273.81
COMMUNITY CENTER FUND	65	\$ 6,835.99
TRANSIENT GUEST TAX FUND	67	\$ 44,024.33
CEMETERY MAINTENANCE FUND	73	\$ 105.00
WATER OPERATING FUND	90	\$ 53,662.93
WASTEWATER OPERATING FUND	92	\$ 226,322.77
WATER CAPITAL FUND	94	\$ 14,105.75
SOLID WASTE FUND	98	\$ 162,908.50
PAYROLL CHECKS & BENEFITS	2/10/23	\$ 844,140.95
TOTAL APPROPRIATIONS		<u><u>\$ 1,556,552.85</u></u>

PASSED by the Council this 27th day of February, 2023.

MAYOR PRO TEM

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this 27th day of February, 2023.

MAYOR PRO TEM

Appropriations Legend

Account Number	Fund and Departments
10	General Fund
10.10	Council
10.20	Administration
10.25	Human Resources
10.30	Finance
10.40	Police
10.50	Fire
10.60	Parks-Aging Services
10.70	Public Works
10.80	Planning and Development Services
10.90	Information Services
10.95	City Wide
11	Limited Capital Fund
14	Downtown 353
15	Residential 353
16	TIF-Liberty Commons
17	CID-Liberty Commons
18	TDD-Liberty Commons
20-21	TIF-Liberty Triangle Project
22	TIF-Liberty Triangle Series 2007
23	TIF-Roger's Plaza
24	TIF-Blue Jay Crossing
25	TIF-Triangle Project B-1
26	TIF-Triangle Project F
27	Rogers CID Sales Tax
28	Blue Jay Crossing CID Sales Tax
29	Triangle CID Sales Tax
30	South Liberty Parkway
31	TIF-South Liberty Parkway-Whitehall
32	TIF-Project E
33	TIF-Triangle Project E
35	TIF-Tiangle Project E-4
36	Liberty Corners CID
37	TIF-Triangle Project E-1
38	TIF-Triangle Project E-2
39	Healthy Living Community
40 & 41	Cemetery Trust Funds
42	F Hughes Library Trust
50	Capital Sales Tax Fund
51	PFA Construction Fund
52	Transportation Sales Tax Fund
54	Park Sales Tax Fund
55	Parks Development Fund
56	Eco/Devo Sales Tax Fund
57	Capital Const Bond Fund
58	Fire Sales Tax Fund
59	Public Safety Sales Tax Fund
60	Parks Fund
61	Sports Complex Fund
65	Community Center Fund
67	Transient Guest Tax Fund
68	Preservation & Development Fund
69	Police Training Fund
70	Cable Reserve Fund
73	Cemetery Maintenance Fund
75	Loss Control Fund
80	Debt Service Fund
81	Tax Escrow Fund
82	TIF-Triangle B-1 Debt Service (CCHC)
83	TIF Debt Service 2007 Fund
86	TIF Debt Service Fund
87	NID Debt Service Fund
88	PFA Debt Service Fund
90	Water Operating Fund
90.30	Finance-Utility Billing
90.70	Public Works
92	Wastewater Operating Fund
92.30	Finance-Utility Billing
92.70	Public Works
94	Water Capital Fund
96	Wastewater Capital Fund
97	Wastewater Treatment Facility
98	Solid Waste Fund
98.30	Finance-Utility Billing
98.70	Public Works

FEBRUARY 10TH CHECKS

Payments by Vendor

VENDOR NAME AND NUMBER		CHECK# DATE		DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S	ACCOUNT NAME	ACCOUNT
A+ INSULATION OF KANSAS		000064									
180540		02/10/23		PKS SPRY FOAM INSULATION	5,350.00	038670	14872551		P N W	BUILDING IMPROVE	61.60.458.36.7402
ALL COPY PRODUCTS, INC.		000492									
180541		02/10/23		POSTAGE MTR LEASE	277.78	038712	33364936		P - W	OFFICE EQUIPMENT	60.60.415.14.5551
AMERICAN DIGITAL SECURIT		004908									
180542		02/10/23		POL REPL CAMERA	1,608.88	038671	INV0007350		P - W	MINOR EQUIPMENT	10.40.500.18.5601
180542		02/10/23		ST BLDG ALARM SYSTEM	24.95	038672	INV0009299		P - W	BUILDING MAINTEN	10.70.225.14.5571
					1,633.83	*CHECK TOTAL					
VENDOR TOTAL					1,633.83						
AMES II/RICHARD ASHLEY		006627									
180543		02/10/23		CCTR SWIM INSTR	16.00	038673	2/5		P N W	PRIVATE SWIMMING	65.60.417.08.8125
ANDERSON/SKYLAR		000612									
180544		02/10/23		CCTR SWIM INSTR	15.00	038674	2/6		P N W	PRIVATE SWIMMING	65.60.417.08.8125
BOUND TREE MEDICAL LLC		002300									
180545		02/10/23		FIRE EMS SUPPLIES	1,055.63	038624	84835295		P - W	MEDICAL SUPPLIES	10.50.311.04.5003
BRANT/ERIKA		000615									
180546		02/10/23		PKS MPRA CONF	228.80	038625	2/15		P - W	TRAINING TRAVEL	60.60.415.06.5210
BURNS & MCDONNELL ENG CO		003160									
180547		02/10/23		WTR LIME FEED UPGRADE	7,982.53	038713	117361-13	220103	P - W	ENGINEERING DESI	94.70.802.36.7501
CARTER WATERS CORP.		000091									
180548		02/10/23		ST ASPHALT	120.75	038675	15787511-00		P - W	ASPHALT-STREET R	50.75.607.14.5621
CENTRAL JACKSON CO FPD		008355									
180549		02/10/23		FIRE CPR CARDS	760.00	038626	TC-23-026		P - W	CPR TRAINING SUP	10.50.315.04.5025
CHILDRENS MERCY HOSPITAL		005598									
180550		02/10/23		POL LAB SERVICES	231.00	038676	8000019938		P M W	MISCELLANEOUS FE	10.40.500.08.5399
CHUCK ANDERSON FORD INC		006320									
180551		02/10/23		FIRE #623 BRAKE PADS,ROT	449.61	038627	FOCS164908		P - W	VEHICLE MAINTENA	10.50.301.14.5541
CINTAS FIRST AID & SAFET		004991									
180552		02/10/23		1ST AID SUPPLIES,STOCK	362.15	038628	5143392173		P - W	MAINTENANCE MATE	10.95.140.04.5009
COLD SOLUTIONS AT RUSH C		000337									
180553		02/10/23		PWK STORAGE	1,800.00	038677	1338		P N W	REFUSE COLLECTIO	10.70.221.08.5381
180553		02/10/23		PWK STORAGE	1,800.00	038760	1339		P N W	REFUSE COLLECTIO	10.70.221.08.5381
					3,600.00	*CHECK TOTAL					
VENDOR TOTAL					3,600.00						
COMPSYCH CORPORATION		000613									
180554		02/10/23		HR EAP SERVICES	3,945.60	038629	22070897		P - W	EMPLOYEE ASSISTA	10.95.140.02.4110

Payments by Vendor

VENDOR NAME AND NUMBER

CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S ACCOUNT NAME	ACCOUNT
CONRAD FIRE EQUIPMENT IN 003684								
180555	02/10/23	FIRE SCBA RPRS	293.61		038630 565588		P - W SCBA SUPPLIES	10.50.301.04.5099
180555	02/10/23	FIRE #612 HVAC REPL	1,117.20		038631 565527		P - W VEHICLE MAINTENA	10.50.301.14.5541
180555	02/10/23	FIRE BUNKER GEAR SUSPEND	326.83		038632 565580		P - W PROTECTIVE CLOTH	10.50.301.38.5813
180555	02/10/23	FIRE NOZZLES	91.20		038633 565313		P - W MISC EQUIPMENT M	10.50.301.14.5559
			1,828.84		*CHECK TOTAL			
		VENDOR TOTAL	1,828.84					
CONTROL PRINTING GROUP 004146								
180556	02/10/23	UTIL SERVICE PADS	37.50		038678 876033		P - W OUTSIDE PRINTING	98.30.135.04.5120
180556	02/10/23	UTIL SERVICE PADS	37.50		038678 876033		P - W OUTSIDE PRINTING	92.30.134.04.5120
180556	02/10/23	UTIL SERVICE PADS	37.50		038678 876033		P - W OUTSIDE PRINTING	90.30.133.04.5120
			112.50		*CHECK TOTAL			
		VENDOR TOTAL	112.50					
CORE & MAIN LP 008799								
180557	02/10/23	WTR INVENTORY	141.59		038634 R965697		P - W MAINS & LINES MA	90.70.801.14.5532
CUMMINS SALES AND SERVIC 004424								
180558	02/10/23	FIRE GENERATOR MAINT	205.41		038635 H9-18086		P - W EMERGENCY MGT MA	10.50.300.14.5553
180558	02/10/23	FIRE GENERATOR MAINT	193.07		038636 H9-18087		P - W EMERGENCY MGT MA	10.50.300.14.5553
180558	02/10/23	FIRE GENERATOR MAINT	255.80		038637 H9-18228		P - W EMERGENCY MGT MA	10.50.300.14.5553
180558	02/10/23	FIRE GENERATOR MAINT	1,927.18		038638 H9-39875		P - W EMERGENCY MGT MA	10.50.300.14.5553
			2,581.46		*CHECK TOTAL			
		VENDOR TOTAL	2,581.46					
EWER/MEREDITH ANN 000583								
1857	02/10/23	SICK/VAC PAYOUT	2,917.15		038667 10 OF 13		P N H REGULAR	10.40.501.02.4001
1857	02/10/23	AM FIDELITY REFUND	77.34		038667 10 OF 13		P N H ADDL INS PRODUCT	10.2164
			2,994.49		*CHECK TOTAL			
		VENDOR TOTAL	2,994.49					
FLEX MADE EASY 005921								
180559	02/10/23	HR FLEX SPENDING FEES	52.00		038639 LIB JAN 2023		P N W MISCELLANEOUS FE	10.25.011.08.5399
FLUID EQUIPMENT CO INC 008060								
180560	02/10/23	WTR SUPPLIES	469.41		038640 5556250		P - W WATER PLANT MAIN	90.70.802.14.5534
180560	02/10/23	DISCOUNT	6.94	CR	038640 5556250		P - W WATER PLANT MAIN	90.70.802.14.5534
			462.47		*CHECK TOTAL			
		VENDOR TOTAL	462.47					
FNF PETROLEUM 000610								
180561	02/10/23	PKS DIESEL	3,056.40		038679 IFNF12100		P - W DIESEL FUEL	60.60.420.14.5522
FUN FLICKS KS 006672								
180562	02/10/23	PKS MOVIE SCREENS,AUDIO	799.00		038641 12961363		P - W RECREATION SUPPL	60.60.415.04.5004
180562	02/10/23	PKS MOVIE SCREENS,AUDIO	799.00		038642 12961411		P - W RECREATION SUPPL	60.60.415.04.5004
			1,598.00		*CHECK TOTAL			
		VENDOR TOTAL	1,598.00					

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GALL'S INC 005394									
180563	02/10/23	FIRE UNIFORMS	147.84	038643	023357031			P - W CLOTHING EXPENSE	10.50.301.38.5812
180563	02/10/23	POL UNIFORM BOOTS	179.95	038680	023176688			P - W CLOTHING EXPENSE	10.40.500.38.5812
180563	02/10/23	POL UNIFORM BOOTS	300.00	038681	023212569			P - W CLOTHING EXPENSE	10.40.500.38.5812
180563	02/10/23	POL UNIFORM BOOTS	126.39	038682	023128017			P - W CLOTHING EXPENSE	10.40.500.38.5812
			754.18	*CHECK TOTAL					
		VENDOR TOTAL	754.18						
GIBBS/JIMMY 000614									
180564	02/10/23	PKS MPRA CONF	416.30	038644	2/13-2/17			P - W TRAINING TRAVEL	60.60.415.06.5210
GLADSTONE AUTO TRIM & 005140									
180565	02/10/23	CCTR UPHOLSTERY RPRS	1,638.00	038714	2/2/23			P - W MISC EQUIPMENT M	65.60.491.14.5559
GRAINGER 001155									
180566	02/10/23	PKS HEATER FUSE	27.87	038645	9584969878			P - W MISC EQUIPMENT M	61.60.458.14.5559
GT DISTRIBUTORS INC 006123									
180567	02/10/23	POL VESTS	2,603.88	038683	INV0934750			P - W CLOTHING EXPENSE	10.40.500.38.5812
180567	02/10/23	POL TAC LIGHTS	1,816.75	038684	INV0937639			P - W CLOTHING EXPENSE	10.40.500.38.5812
			4,420.63	*CHECK TOTAL					
		VENDOR TOTAL	4,420.63						
GUILD CONTENT 000147									
180568	02/10/23	MARKETING VISIT LIBERTY	4,925.00	038715	2809	230022	P N W	CONSULTING SERV-	67.20.061.08.5342
HEARTLAND TACTICAL OFFIC 007830									
180569	02/10/23	POL SWAT OPERATIONS REG	1,250.00	038685	2016-1586			P - W REGISTRATION FEE	10.40.500.06.5251
HIGH PLAINS TECHNOLOGY I 006258									
180570	02/10/23	T&L PRINTERLOGIC RENEWAL	2,016.33	038686	54094			P - W SOFTWARE MAINTEN	10.90.132.14.5591
180570	02/10/23	T&L PRINTERLOGIC RENEWAL	1,008.17	038686	54094			P - W OTHER PREPAYMENT	10.1810
			3,024.50	*CHECK TOTAL					
		VENDOR TOTAL	3,024.50						
HISTORIC DOWNTOWN LIBERT 004528									
180571	02/10/23	P&D HDLI CONTRACT 2023	3,333.33	038716	FEB 2023	230007	P - W	HDLI CONTRACT	67.20.061.38.5823
HOFFMAN/DR BRADFORD V 005904									
180572	02/10/23	FIRE 2023 MEDICAL DIRECT	1,000.00	038717	FEB	230008	P M W	MEDICAL FEES	10.50.311.08.5356
HOLLIDAY CONCRETE LLC .14344									
180573	02/10/23	REFUND OVERPMT	200.00	038687	ROW-02-2300014			P - W RIGHT-OF-WAY PER	10.40.3219
J & M DISPLAYS INC 004511									
180574	02/10/23	LIBERTY FEST FIREWORKS	35,000.00	038718	57696	230038	F - W	LIBERTY FEST	67.20.061.38.5804
JEKEL/KATHLEEN .14343									
180575	02/10/23	PKS REFUND ENROLLMENT	115.00	038688	1755651			P - W REFUNDS PAYABLE	61.2265

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JOEL REINOEHL MARKETING 000012								
180576	02/10/23	BANNER SPONSORSHIP	412.50	038646	IA008		P N W MISCELLANEOUS FE	61.60.458.08.5399
180576	02/10/23	BANNER SPONSORSHIP	202.50	038646	IA008		P N W SPONSORSHIPS	65.60.491.08.5398
180576	02/10/23	BANNER SPONSORSHIP	135.00	038646	IA008		P N W CONTRACT LABOR	60.60.415.08.5397
			750.00	*CHECK TOTAL				
		VENDOR TOTAL	750.00					
JONES/NATHAN 005257								
180577	02/10/23	CCTR SWIM INSTR	144.00	038689	2/5		P N W PRIVATE SWIMMING	65.60.417.08.8125
180577	02/10/23	CCTR SWIM INSTR	78.00	038689	2/5		P N W SEMI-PRIVATE SWI	65.60.417.08.8123
			222.00	*CHECK TOTAL				
		VENDOR TOTAL	222.00					
K C MO WATER SERVICES 003552								
180578	02/10/23	WWT SERVICE	977.32	038647	527657-320655		P - W SEWAGE TREATMENT	92.70.902.08.5394
K C WINWATER WORKS CO 002767								
180579	02/10/23	WTR INVENTORY	850.00	038692	305649 02		P - W INVENTORY-MATERI	90.1700
180579	02/10/23	WTR SUPPLIES	144.00	038693	305649 02		P - W MAINS & LINES MA	90.70.801.14.5532
180579	02/10/23	SUPPLIES-H HWY PROJECT	3,022.92	038694	306349 01		P - W CONST CNTRCT-CLA	94.70.801.36.7510
180579	02/10/23	WTR INVENTORY	15,600.00	038695	306261 01		P - W INVENTORY-MATERI	90.1700
			19,616.92	*CHECK TOTAL				
		VENDOR TOTAL	19,616.92					
KAPKE & WILLERTH LLC 007509								
180580	02/10/23	LEGAL FEES	6,364.00	038691	66498		P N W LEGAL FEES	10.20.021.08.5311
180580	02/10/23	LEGAL FEES	92.50	038691	66498		P N W LEGAL FEES	60.60.415.08.5311
180580	02/10/23	LEGAL FEES	333.00	038691	66498		P N W LEGAL FEES	98.30.135.08.5311
			6,789.50	*CHECK TOTAL				
		VENDOR TOTAL	6,789.50					
KC REGIONAL DESTINATION 006681								
180581	02/10/23	KCRDA MEMBERSHIP	500.00	038690	21		P - W CONTRIBUTIONS TO	67.20.061.38.5807
KEY EQUIPMENT & SUPPLY C 007275								
180582	02/10/23	WWT EQUIPMENT	83.73	038648	KC206536		P - W MISC EQUIPMENT M	92.70.901.14.5559
KONICA MINOLTA BUSINESS 005910								
180583	02/10/23	COPIER LEASE	279.66	038696	492718077		P - W MAINT-OFFICE EQU	65.60.491.14.5551
180583	02/10/23	COPIER LEASE	279.66	038696	492718077		P - W OFFICE EQUIPMENT	10.60.483.14.5551
			559.32	*CHECK TOTAL				
		VENDOR TOTAL	559.32					
LAWN & LEISURE 000675								
180584	02/10/23	PKS MOWER SEATS	880.00	038697	52305		P - W MISC EQUIPMENT M	60.60.420.14.5559
LIBERTY SOLAR, LLC 006703								
180585	02/10/23	SOLAR SERVICES	2,881.96	038698	43		P N W ELECTRIC	61.60.458.12.5401
180585	02/10/23	SOLAR SERVICES	7,335.33	038698	43		P N W ELECTRIC	90.70.802.12.5401
180585	02/10/23	SOLAR SERVICES	819.71	038698	43		P N W ELECTRIC	92.70.902.12.5401
			11,037.00	*CHECK TOTAL				

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LIBERTY SOLAR, LLC				006703							
				VENDOR TOTAL	11,037.00						
LIBERTY SPORTS OFFICIALS				009209							
180586		02/10/23		PKS OFFICIATING SERVICES	3,894.00		038719 WINTER 6-2023	230011	P - W	CONTRACT LABOR	61.60.458.08.5397
MADDEN MEDIA				006202							
180587		02/10/23		VISIT LIB ADVERTISING	266.00		038699 2023-016585		P N W	ADVERTISING	67.20.061.08.5371
MAR-JIM CONTRACTING LLC				004230							
180588		02/10/23		PKW GUARDRAIL RPR-KS ST	2,375.00		038700 199 KANSAS		P N W	ASPHALT-STREET R	50.75.607.14.5621
MC JANITORIAL LLC				003416							
180589		02/10/23		JANITORIAL SERVICES	138.67		038649 11864		P - W	BUILDING MAINTEN	90.70.801.14.5571
180589		02/10/23		JANITORIAL SERVICES	138.67		038649 11864		P - W	BUILDING MAINTEN	92.70.902.14.5571
180589		02/10/23		JANITORIAL SERVICES	138.66		038649 11864		P - W	MISCELLANEOUS FE	92.70.901.08.5399
					416.00	*CHECK TOTAL					
				VENDOR TOTAL	416.00						
MCCLOSKEY/MICHELLE				.14342							
180590		02/10/23		CCTR REFUND MEMBERSHIP	230.00		038701 1755645		P - W	REFUNDS PAYABLE	65.2265
MEALS ON WHEELS				003134							
180591		02/10/23		AGING SUBSIDIZED MEALS	3,736.26		038650 7		P - W	MEALS ON WHEELS	10.60.481.04.5064
MFA OIL COMPANY				000226							
180592		02/10/23		PKS PROPANE	731.50		038651 3661011		P - W	MISCELLANEOUS EX	61.60.458.38.5989
MIDWAY FORD TRUCK CENTER				000582							
180593		02/10/23		AGING #323 BLOWER MOTOR	652.64		038652 R100392818:01		P - W	VEHICLE MAINTENA	10.60.482.14.5541
MISSISSIPPI LIME CO INC				005761							
180594		02/10/23		WTR HYDRATED LIME	8,335.43		038720 1654359	230034	P - W	CHEMICALS	90.70.802.04.5010
MO CITY CLERKS & FINANCE				008809							
180595		02/10/23		MEMBERSHIP DUES	50.00		038702 RANES		P - W	REGISTRATION FEE	10.20.021.06.5251
MO DEPT OF LABOR & INDUS				000272							
180596		02/10/23		REIMB BENEFIT PMT	72.00		038721 2/8/23		P - W	UNEMPLOYMENT CLA	10.2208
MO ONE CALL SYSTEM INC				004393							
180597		02/10/23		UTIL LOCATES	349.65		038653 3010215		P - W	MISSOURI ONE CAL	90.70.801.08.5305
180597		02/10/23		UTIL LOCATES	349.65		038653 3010215		P - W	MISSOURI ONE CAL	92.70.901.08.5305
					699.30	*CHECK TOTAL					
				VENDOR TOTAL	699.30						
MO POLICE CHEIFS CHARITA				005169							
180598		02/10/23		POL PROMO TESTING	4,700.00		038703 16490		P - W	TESTING FEES	10.40.500.08.5336

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MOTOROLA INC 002018									
180599	02/10/23	POL #210 RADIO INSTALL	4,181.10		038704 8281542012			P - W MINOR EQUIPMENT	10.40.500.18.5601
180599	02/10/23	POL #210 RADIO EXP	21.50		038705 8281545248			P - W MINOR EQUIPMENT	10.40.500.18.5601
			4,202.60		*CHECK TOTAL				
		VENDOR TOTAL	4,202.60						
MTS CONTRACTING INC 008127									
180600	02/10/23	PKS EXTERIOR IMPROVEMENT	45,572.00		038722 22-4452A		220113	P - W BUILDING IMPROVE	54.60.415.36.7402
MUNICIPAL LEAGUE OF METR .14341									
180601	02/10/23	TRAINING-MARIJUANA LAWS	20.00		038706 JAN 2023			P - W REGISTRATION FEE	10.20.021.06.5251
MURCH/DOUGLAS G 005463									
180602	02/10/23	CCTR CABLE MACHINE RPRS	457.50		038654 1612			P N W MISC EQUIPMENT M	65.60.491.14.5559
NORTHLAND READY-MIX INC 000357									
180603	02/10/23	CONCRETE-H HWY	2,333.00		038707 185621,622			P - W CONST CNTRCT-CLA	94.70.801.36.7510
180603	02/10/23	DISCOUNT	46.66	CR	038707 185621,622			P - W CONST CNTRCT-CLA	94.70.801.36.7510
			2,286.34		*CHECK TOTAL				
		VENDOR TOTAL	2,286.34						
NORTHWESTERN UNIVERSITY 005713									
180604	02/10/23	POL GRADUATION LUNCHEON	60.00		038708 27147			P - W MEETING EXPENSE	10.40.500.38.5803
NPG NEWSPAPERS INC 000221									
180605	02/10/23	DD LEGAL NOTICE	40.33		038655 6734388			P - W LEGAL ADS	10.80.151.08.5379
180605	02/10/23	PWK HOLIDAY AD	515.40		038709 95988-010323			P - W MISCELLANEOUS FE	98.70.227.08.5399
180605	02/10/23	PWK HOLIDAY AD	257.70		038710 95988-020123			P - W MISCELLANEOUS FE	98.70.227.08.5399
			813.43		*CHECK TOTAL				
		VENDOR TOTAL	813.43						
OUTDOOR RESTROOMS LLC 003763									
180606	02/10/23	PKS PORT A POTS	330.00		038656 664914			P - W RECREATION SUPPL	61.60.458.04.5004
180606	02/10/23	PKS PORT A POTS	225.00		038711 664915			P - W RENTAL	60.60.420.18.5611
			555.00		*CHECK TOTAL				
		VENDOR TOTAL	555.00						
PACE ANALYTICAL SERVICES 005664									
180607	02/10/23	WTR LEE CHEMICAL TESTING	1,035.00		038723 2360176856		230024	P - W LEE CHEMICAL OPE	90.70.802.08.5343
PETTY CASH/CITY OF LIBER 000204									
180608	02/10/23	FIRE DETAIL REIMB	6.30		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	17.89		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	6.63		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	15.26		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	10.63		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	2.00		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	2.00		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE DETAIL REIMB	8.63		038657 PETTY CASH			P - W DETAIL ALLOWANCE	10.50.301.02.4115
180608	02/10/23	FIRE HG SUPPLIES	24.25		038657 PETTY CASH			P - W GENERAL SUPPLIES	10.50.301.04.5001
180608	02/10/23	FIRE MEMORIAL WALL FLAG	109.83		038657 PETTY CASH			P - W STATION SUPPLIES	10.50.301.04.5020

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PETTY CASH/CITY OF LIBER 000204								
180608	02/10/23	FIRE EXT CORD	4.25	038657	PETTY CASH		P - W STATION SUPPLIES	10.50.301.04.5020
180608	02/10/23	FIRE BOOT REIMB	100.00	038657	PETTY CASH		P - W CLOTHING EXPENSE	10.50.301.38.5812
180608	02/10/23	FIRE #604 VEH FUEL	16.22	038657	PETTY CASH		P - W VEHICLE FUEL	10.50.301.14.5521
180608	02/10/23	FIRE QI MEETING SUPPLIES	29.43	038657	PETTY CASH		P - W FOOD	10.50.300.04.5013
			353.32	*CHECK TOTAL				
		VENDOR TOTAL	353.32					
PRIDE CLEANERS 000186								
180609	02/10/23	FIRE UNIFORM CLEANING	3.00	038658	333659-093022		P - W CLOTHING EXPENSE	10.50.301.38.5812
180609	02/10/23	FIRE UNIFORM CLEANING	14.55	038659	333659-103122		P - W CLOTHING EXPENSE	10.50.301.38.5812
180609	02/10/23	TAX CREDIT	0.58CR	038660	333659-103122		P - W CLOTHING EXPENSE	10.50.301.38.5812
180609	02/10/23	FIRE UNIFORM CLEANING	12.00	038661	333659-123122		P - W CLOTHING EXPENSE	10.50.301.38.5812
			28.97	*CHECK TOTAL				
		VENDOR TOTAL	28.97					
PRINTING UNLIMITED 004763								
180610	02/10/23	BUSINESS CARDS	274.88	038662	68567		P - W GENERAL SUPPLIES	10.30.130.04.5001
180610	02/10/23	BUSINESS CARDS	10.70	038662	68567		P - W GENERAL SUPPLIES	90.70.803.04.5001
180610	02/10/23	BUSINESS CARDS	11.59	038662	68567		P - W GENERAL SUPPLIES	92.70.903.04.5001
180610	02/10/23	BUSINESS CARDS	29.69	038662	68567		P - W GENERAL SUPPLIES	90.30.133.04.5001
180610	02/10/23	BUSINESS CARDS	29.78	038662	68567		P - W GENERAL SUPPLIES	92.30.134.04.5001
180610	02/10/23	POL CERTIFICATES	18.00	038724	68662		P - W OUTSIDE PRINTING	10.40.500.04.5120
			374.64	*CHECK TOTAL				
		VENDOR TOTAL	374.64					
PROFESSIONAL PEST SOLUTI 006333								
180611	02/10/23	PKS PEST CONTROL	150.00	038663	11755		P - W MISCELLANEOUS EX	61.60.458.38.5989
RANDY RUSSELL SERVICE CO 001794								
180612	02/10/23	PKS REFRIGERATION SERV	335.50	038664	2673		P N W MISCELLANEOUS EX	61.60.458.38.5989
REJIS COMMISSION 006030								
180613	02/10/23	MOBILE TICKET INTERFACE	105.50	038665	500275		P - W MISCELLANEOUS FE	10.20.131.08.5399
180613	02/10/23	COURT FEES	32.55	038666	500440		P - W MISCELLANEOUS FE	10.20.131.08.5399
180613	02/10/23	COURT FEES	60.00	038666	500440		P - W MISCELLANEOUS FE	10.20.131.08.5399
180613	02/10/23	POL LEWEB SUBSCRIPTION	911.77	038725	500342		P - W REGIONAL ALERT S	10.40.512.08.5393
			1,109.82	*CHECK TOTAL				
		VENDOR TOTAL	1,109.82					
RICOH USA, INC 000314								
180614	02/10/23	COPIER USAGE	36.22	038727	5066662473		P - W COPIER LEASE & U	10.20.131.04.5110
RICOH USA, INC 007683								
180615	02/10/23	POL COPIER LEASE	153.81	038726	106889258		P - W COPIER LEASE & U	10.40.512.04.5110
RUSH TRUCK CENTERS 000457								
180616	02/10/23	ST #712 VEH MAINT	1,130.00	038728	3030074824		P - W BUILDING MAINTEN	10.70.225.14.5571
180616	02/10/23	ST #714 VEH MAINT	74.90	038729	3030460237		P - W BUILDING MAINTEN	10.70.225.14.5571

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RUSH TRUCK CENTERS 000457											
180616 02/10/23 ST #714 VEH MAINT					381.34	038730	3030499048			P - W BUILDING MAINTEN	10.70.225.14.5571
180616 02/10/23 ST #714 VEH MAINT					3,864.37	038731	3030548991			P - W BUILDING MAINTEN	10.70.225.14.5571
180616 02/10/23 ST CREDIT					364.23CR	038732	3030549011			P - W BUILDING MAINTEN	10.70.225.14.5571
					5,086.38	*CHECK TOTAL					
VENDOR TOTAL					5,086.38						
SAMS CLUB DISCOVER-GEGRS 003621											
1859 02/10/23 OFFICE SUPPLIES					3.99	038668	JAN 2023			P - H GENERAL SUPPLIES	10.30.130.04.5001
1859 02/10/23 OFFICE SUPPLIES					732.12	038668	JAN 2023			P - H STATION SUPPLIES	10.50.301.04.5020
1859 02/10/23 OFFICE SUPPLIES					14.98	038668	JAN 2023			P - H GENERAL SUPPLIES	65.60.491.04.5001
1859 02/10/23 OFFICE SUPPLIES					77.40	038668	JAN 2023			P - H MAINTENANCE MATE	65.60.491.04.5009
1859 02/10/23 OFFICE SUPPLIES					105.00	038668	JAN 2023			P - H MISCELLANEOUS SU	73.70.226.04.5099
1859 02/10/23 OFFICE SUPPLIES					3.99	038668	JAN 2023			P - H GENERAL SUPPLIES	90.30.133.04.5001
					937.48	*CHECK TOTAL					
VENDOR TOTAL					937.48						
SHOGER/LAUREL 005680											
180617 02/10/23 CCTR SWIM INSTR					180.00	038733	2/5			P N W PRIVATE SWIMMING	65.60.417.08.8125
SIEMENS INDUSTRY INC 005996											
180618 02/10/23 CCTR ANNUAL MONITORING					380.00	038734	5330721572			P - W BUILDING MAINTEN	65.60.491.14.5571
SIGNARAMA KANSAS CITY NO 005863											
180619 02/10/23 POL VEHICLE GRAPHICS					3,608.10	038735	INV-7374	230029		P - W VEHICLE CHANGE OV	10.40.500.18.5606
SPECTRUM BUSINESS 004364											
180620 02/10/23 POL CABLE SERVICE					100.00	038736	0333316011723			P N W REGIONAL ALERT S	10.40.512.08.5393
STAR DEVELOPMENT CORP 000617											
180621 02/10/23 RAILROAD AGREEMENT REF					5,000.00	038737	DEPOSIT REFUND			P - W A/R REIMBURSEABL	50.1405
SUMNERONE INC 005662											
180622 02/10/23 FIN PRINTER RPR					25.90	038738	3457605			P - W GENERAL SUPPLIES	10.30.130.04.5001
SUTTON/KATELYN DANIELLE 000327											
180623 02/10/23 CCTR SWIM INSTR					28.00	038739	2/7			P N W PRIVATE SWIMMING	65.60.417.08.8125
180623 02/10/23 CCTR SWIM INSTR					50.00	038739	2/7			P N W SWIM TEAM BASICS	65.60.417.08.8121
180623 02/10/23 CCTR SWIM INSTR					20.00	038739	2/7			P N W SWIM TEAM BASICS	65.60.417.08.8121
					98.00	*CHECK TOTAL					
VENDOR TOTAL					98.00						
SYNERGY SERVICES INC 005964											
180624 02/10/23 DOMESTIC VIOLENCE FUND					884.00	038740	JAN 2023			P - W DOMESTIC VIOLENC	10.2472
TOWN AND COUNTRY BUILDIN 007143											
180625 02/10/23 2023 CITY HALL JANITORIA					2,380.00	038741	00151830	230027		P - W CONTRACT LABOR	10.70.221.08.5397
TW SPORTSWEAR, LLC 005575											
180626 02/10/23 UNIFORM CLOTHING					1,624.95	038742	26049			P - W CLOTHING EXPENSE	65.60.491.38.5812
180626 02/10/23 UNIFORM CLOTHING					209.90	038742	26049			P - W CLOTHING EXPENSE	60.60.420.38.5812

VENDOR NAME AND NUMBER

CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S ACCOUNT NAME	ACCOUNT
TW SPORTSWEAR, LLC 005575								
180626	02/10/23	UNIFORM CLOTHING	22.48	038742	26049		P - W CLOTHING EXPENSE	10.60.482.38.5812
180626	02/10/23	UNIFORM CLOTHING	84.46	038742	26049		P - W CLOTHING EXPENSE	10.60.481.38.5812
180626	02/10/23	UNIFORM CLOTHING	73.97	038742	26049		P - W CLOTHING EXPENSE	10.60.483.38.5812
180626	02/10/23	UNIFORM CLOTHING	45.48	038742	26049		P - W CLOTHING EXPENSE	61.60.458.38.5812
180626	02/10/23	UNIFORM CLOTHING	168.92	038742	26049		P - W CLOTHING EXPENSE	60.60.415.38.5812
			2,230.16	*CHECK TOTAL				
		VENDOR TOTAL	2,230.16					
UMB BANK N A 004100								
1858	02/08/23	SRF 2015 ADMIN FEES	10,786.99	038669	3/15-6/15		P - H BOND SERVICE FEE	92.70.903.24.6021
1858	02/08/23	SRF 2015 ADMIN FEES	172,041.25	038669	3/15-6/15		P - H SRF 2015 INTERES	92.70.903.24.6027
			182,828.24	*CHECK TOTAL				
		VENDOR TOTAL	182,828.24					
USIC LOCATING SERVICES I 006076								
180627	02/10/23	WTR 2022 LOCATES	6,348.86	038743	564117	220038	P - W CONTRACT LABOR	90.70.801.08.5397
180627	02/10/23	WWT 2022 LOCATES	6,348.86	038744	564117	220038	F - W CONTRACT LABOR	92.70.901.08.5397
			12,697.72	*CHECK TOTAL				
		VENDOR TOTAL	12,697.72					
VALVOLINE LLC 005460								
180628	02/10/23	POL #201 OIL CHANGE	24.99	038745	48595		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	POL #229 OIL CHANGE	24.99	038746	48826		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	POL #206 OIL CHANGE	46.23	038747	49227		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	POL #214 OIL CHANGE	24.99	038748	49217		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	POL #202 OIL CHANGE	24.99	038749	49180		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	POL #203 OIL CHANGE	46.23	038750	49158		P - W VEHICLE MAINTENA	10.40.500.14.5541
180628	02/10/23	OIL CHANGE #124	12.50	038751	49222		P - W VEHICLE MAINTENA	90.70.801.14.5541
180628	02/10/23	OIL CHANGE #124	12.49	038751	49222		P - W VEHICLE MAINTENA	92.70.901.14.5541
180628	02/10/23	OIL CHANGE #187	12.50	038752	49234		P - W VEHICLE MAINTENA	90.70.801.14.5541
180628	02/10/23	OIL CHANGE #187	12.49	038752	49234		P - W VEHICLE MAINTENA	92.70.901.14.5541
180628	02/10/23	OIL CHANGE #138	24.99	038753	49229		P - W VEHICLE MAINTENA	90.70.801.14.5541
			267.39	*CHECK TOTAL				
		VENDOR TOTAL	267.39					
VIRTRU CORPORATION 000093								
180629	02/10/23	T&L VIRTRU RENEWAL	4,127.01	038754	INV-55823		P - W INTERNET SERVICE	10.90.132.08.5304
WEATHER OR NOT INC 005309								
180630	02/10/23	FIRE WEATHER OR NOT SERV	13,973.00	038755	9648	230036	P - W EMERGENCY MGT MA	10.50.300.14.5553
180630	02/10/23	PW WEATHER OR NOT SERV	7,500.00	038756	9648	230036	F - W MISCELLANEOUS FE	10.70.201.08.5399
			21,473.00	*CHECK TOTAL				
		VENDOR TOTAL	21,473.00					
WEX BANK 005626								
180631	02/10/23	FUEL-JAN	32,577.54	038757	87041694		P - W INVENTORY-GASOLI	10.1720
WOODRUFF/ANNIE .14340								
180632	02/10/23	CCTR REFUND ENROLLMENT	59.00	038758	1717464		P - W REFUNDS PAYABLE	65.2265

Payments by Vendor

VENDOR NAME AND NUMBER							
CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S ACCOUNT NAME ACCOUNT
ZONES INC 004299							
180633	02/10/23	WWT TOWER ANTENNA	213.24	038759	K20249780103		P - W SOFTWARE MAINTEN 92.70.901.14.5591
3CMA 007305							
180634	02/10/23	MEMBERSHIP DUES	400.00	038623	2344		P - W MEMBERSHIP DUES 10.20.031.38.5811

FEBRUARY 17th CHECKS

VENDOR NAME AND NUMBER		CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S	ACCOUNT NAME	ACCOUNT
A T & T MOBILITY				008295							
180635	02/17/23	MOBILE	PHONE SERVICE	43.85	038764	X02012023				P N W MOBILE PHONES	10.50.311.12.5453
180635	02/17/23	MOBILE	PHONE SERVICE	56.63	038764	X02012023				P N W MOBILE PHONES	10.50.315.12.5453
180635	02/17/23	MOBILE	PHONE SERVICE	97.87	038764	X02012023				P N W MOBILE PHONES	10.50.321.12.5453
180635	02/17/23	MOBILE	PHONE SERVICE	100.87	038764	X02012023				P N W MOBILE PHONES	10.50.300.12.5453
180635	02/17/23	MOBILE	PHONE SERVICE	149.36	038764	X02012023				P N W MOBILE PHONES	10.90.132.12.5453
				448.58	*CHECK	TOTAL					
VENDOR TOTAL				448.58							
ALEX AIR APPARATUS INC				005728							
180636	02/17/23	FIRE	SCBA COMP TEST	850.69	038761	6419				P - W SCBA SUPPLIES	10.50.301.04.5099
ALLIED OIL & TIRE COMPAN				004711							
180637	02/17/23	WTR	EXHAUST FLUID	178.13	038762	647856-00				P - W VEHICLE MAINTENA	90.70.801.14.5541
180637	02/17/23	WTR	EXHAUST FLUID	178.13	038762	647856-00				P - W VEHICLE MAINTENA	92.70.901.14.5541
				356.26	*CHECK	TOTAL					
VENDOR TOTAL				356.26							
AMEREN MISSOURI				007206							
1860	02/15/23	ELECTRIC	SERVICE	52.20	038795	54334-08113				P - H ELECTRIC	90.70.801.12.5401
1860	02/15/23	ELECTRIC	SERVICE	33.25	038796	29334-08115				P - H ELECTRICITY-STRE	10.70.225.12.5405
1860	02/15/23	ELECTRIC	SERVICE	13.24	038797	48334-08115				P - H EMERGENCY MGT MA	10.50.300.14.5553
				98.69	*CHECK	TOTAL					
VENDOR TOTAL				98.69							
AMERIGLASS CLEANING INC				006196							
180638	02/17/23	FIRE	WINDOW CLEANING	80.00	038763	180520				P - W BUILDING MAINTEN	10.50.300.14.5571
AMES II/RICHARD ASHLEY				006627							
180639	02/17/23	CCTR	SWIM INSTR	64.00	038799	2/12				P N W PRIVATE SWIMMING	65.60.417.08.8125
ANDERSON/SKYLAR				000612							
180640	02/17/23	CCTR	SWIM INSTR	15.00	038800	2/11-2/12				P N W PRIVATE SWIMMING	65.60.417.08.8125
BRADY INDUSTRIES OF KANS				000081							
180641	02/17/23	2023	CUSTODIAL SUPPLIES	855.21	038801	7833518			230009	P N W MAINTENANCE MATE	10.95.140.04.5009
CENTRAL JACKSON CO FPD				008355							
180642	02/17/23	FIRE	PARAMEDIC CLASSES	300.00	038765	TC23-030				P - W TRAINING COSTS	10.50.315.06.5259
CLAY CO COLLECTOR				006360							
180643	02/17/23	2022	PILOT PMT	399.00	038766	BLDG 4				P - W A/R REIMBURSEABL	10.1405
CLAY CO RECORDER				001059							
180644	02/17/23	RECORDING	FEES	69.00	038767	20230002412				P - W RECORDING FEES	10.80.151.08.5361
CUMMINS SALES AND SERVIC				004424							
180645	02/17/23	WWT	LIFTSTATIONS	1,799.18	038802	H9-40465		220083		P - W CONTRACT LABOR	92.70.902.08.5397
180645	02/17/23	WWT	LIFTSTATIONS	1,864.44	038803	H9-40463		220083		P - W CONTRACT LABOR	92.70.902.08.5397

Payments by Vendor

VENDOR NAME AND NUMBER		CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S	ACCOUNT NAME	ACCOUNT
CUMMINS SALES AND SERVIC				004424							
	180645	02/17/23	WWT	LIFTSTATIONS	3,504.87	038804	H9-40470		220083	F - W CONTRACT LABOR	92.70.902.08.5397
					7,168.49	*CHECK TOTAL					
				VENDOR TOTAL	7,168.49						
DAY STAR CORP				002328							
	180646	02/17/23	ST	PROTECTIVE EQUIP	74.38	038805	589949-000			P - W PROTECTIVE CLOTH	10.70.225.38.5813
DENALI WATER SOLUTIONS				004182							
	180647	02/17/23	SWR	DISPOSAL WTR PLANT	17,457.23	038806	INV395472		230037	P N W FEES-BIOSOLID DI	92.70.902.08.5370
FIRE RECOVERY EMS LLC				005342							
	180648	02/17/23	AMB	BILLING CHARGES	7,346.31	038768	15526			P N W CONTRACT LABOR-A	10.95.140.08.5397
	180648	02/17/23	AMB	BILLING CHARGES	11,873.94	038769	022023LYMO			P N W CONTRACT LABOR-A	10.95.140.08.5397
					19,220.25	*CHECK TOTAL					
				VENDOR TOTAL	19,220.25						
FORCE AMERICA				007242							
	180649	02/17/23	ST #703	O-RING,BELT	906.48	038807	001-1703616			P - W VEHICLE MAINTENA	10.70.225.14.5541
FRICK/RUSSELL				005694							
	180676	02/17/23	WWT	DIRT	250.00	038770	752211			P N W MAINS & LINES MA	92.70.901.14.5532
	180676	02/17/23	WTR	DIRT	250.00	038770	752211			P N W MAINS & LINES MA	90.70.801.14.5532
					500.00	*CHECK TOTAL					
				VENDOR TOTAL	500.00						
G W VAN KEPPEL CO				005267							
	180650	02/17/23	WTR	EQUIP MAINT	50.64	038771	PSO317358-1			P - W MISC EQUIPMENT M	90.70.801.14.5559
	180650	02/17/23	WWT	EQUIP MAINT	50.64	038771	PSO317358-1			P - W MISC EQUIPMENT M	92.70.901.14.5559
					101.28	*CHECK TOTAL					
				VENDOR TOTAL	101.28						
GALL'S INC				005394							
	180651	02/17/23	FIRE	UNIFORMS	30.00	038772	023408906			P - W CLOTHING EXPENSE	10.50.301.38.5812
GENE'S CLEANERS				004807							
	180652	02/17/23	FIRE	UNIFORM CLEANING	99.75	038773	DEC/JAN			P N W CLOTHING EXPENSE	10.50.301.38.5812
GENERAL FIRE SPRINKLER				005845							
	180653	02/17/23	WTR	INSPECTIONS	197.50	038774	10346			P - W BUILDING MAINTEN	90.70.801.14.5571
	180653	02/17/23	WWT	INSPECTIONS	197.50	038774	10346			P - W BUILDING MAINTEN	92.70.901.14.5571
	180653	02/17/23	WTR	INSPECTIONS	195.50	038775	10425			P - W BUILDING MAINTEN	90.70.801.14.5571
	180653	02/17/23	WWT	INSPECTIONS	195.50	038775	10425			P - W BUILDING MAINTEN	92.70.901.14.5571
					786.00	*CHECK TOTAL					
				VENDOR TOTAL	786.00						
HDR ENGINEERING INC				006018							
	180654	02/17/23	PW WITHER&	HOLT TRAFFIC	620.00	038808	1200499597		210008	P -W OVERLAY PROGRAM	52.75.607.14.5501

Payments by Vendor

VENDOR NAME AND NUMBER		CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S	ACCOUNT NAME	ACCOUNT
HELGET GAS PRODUCTS 006305		180655	02/17/23	FIRE OXYGEN	37.95	038776	02568675		P - W	CHEMICALS	10.50.311.04.5010
		180655	02/17/23	FIRE OXYGEN	25.12	038777	01979872		P - W	CHEMICALS	10.50.311.04.5010
					63.07	*CHECK TOTAL					
VENDOR TOTAL					63.07						
IDEKER INC 005268		180656	02/17/23	ST ROAD ROCK	97.86	038809	21735		P - W	ASPHALT-STREET R	50.75.607.14.5621
		180656	02/17/23	ST ROAD ROCK	1,021.25	038810	21744		P - W	ASPHALT-STREET R	50.75.607.14.5621
		180656	02/17/23	ST ROAD ROCK	101.33	038811	21754		P - W	ASPHALT-STREET R	50.75.607.14.5621
					1,220.44	*CHECK TOTAL					
VENDOR TOTAL					1,220.44						
JCI INDUSTRIES INC 006471		180657	02/17/23	WWT PUMP	5,048.00	038812	8246803		P - W	WWTR PLANT MAINT	92.70.902.14.5534
JOEL REINOEHL MARKETING 000012		180658	02/17/23	PKS SPONSORSHIP	225.00	038778	CBW003		P N W	CONTRACT LABOR	60.60.415.08.5397
K C WINWATER WORKS CO 002767		180659	02/17/23	WTR INVENTORY	1,350.00	038779	306402 01		P - W	INVENTORY-MATERI	90.1700
KIMBALL MIDWEST INC 1 006275		180660	02/17/23	MISC SUPPLIES	80.31	038780	100723099		P - W	MAINS & LINES MA	90.70.801.14.5532
		180660	02/17/23	MISC SUPPLIES	80.31	038780	100723099		P - W	MAINS & LINES MA	92.70.901.14.5532
					160.62	*CHECK TOTAL					
VENDOR TOTAL					160.62						
LAWN & LEISURE 000675		180511	02/15/23	VOIDED CHECK	28,024.22	CR 038798	27423154		P - H	VEHICLES	54.60.420.36.7101
LIBERTY AGGREGATES LLC 004693		180661	02/17/23	ROCK	499.20	038781	20941		P - W	RECREATION SUPPL	60.60.415.04.5004
		180661	02/17/23	ROCK	251.81	038781	20941		P - W	MAINS & LINES MA	90.70.801.14.5532
		180661	02/17/23	ROCK	251.81	038781	20941		P - W	MAINS & LINES MA	92.70.901.14.5532
		180661	02/17/23	ROCK-H HWY PROJECT	686.77	038782	20943		P - W	CONST CNTRCT-CLA	94.70.801.36.7510
		180661	02/17/23	ROCK-H HWY PROJECT	127.19	038783	20942		P - W	CONST CNTRCT-CLA	94.70.801.36.7510
		180661	02/17/23	ROCK	271.31	038783	20942		P - W	MAINS & LINES MA	90.70.801.14.5532
		180661	02/17/23	ROCK	271.31	038783	20942		P - W	MAINS & LINES MA	92.70.901.14.5532
					2,359.40	*CHECK TOTAL					
VENDOR TOTAL					2,359.40						
MADDOX/DEBORAH .14345		180662	02/17/23	CCR REFUND MEMBERSHIP	18.75	038813	1758754		P - W	REFUNDS PAYABLE	65.2265
MCKESSON MEDICAL-SURGICA 006532		180666	02/17/23	FIRE EMS SUPPLIES	19.13	038784	20285637		P - W	MEDICAL SUPPLIES	10.50.311.04.5003
METRO YOUTH ORCHESTRA OF 000440		180663	02/17/23	CCTR REFUND	1,000.00	038785	2/6/23		P - W	MEETING ROOM REN	65.40.8051

Payments by Vendor

VENDOR NAME AND NUMBER

CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S	ACCOUNT NAME	ACCOUNT
MIDWEST OFFICE TECHNOLOG 008612									
180664	02/17/23	COPIER USAGE	31.02	038786	INST348906		P - W	COPIER LEASE & U 10.80.151.04.5110	
180664	02/17/23	COPIER USAGE	31.02	038786	INST348906		P - W	COPIER LEASE & U 10.70.201.04.5110	
			62.04	*CHECK TOTAL					
		VENDOR TOTAL	62.04						
MISSISSIPPI LIME CO INC 005761									
180665	02/17/23	WTR HYDRATED LIME	8,409.20	038814	1655427	230034	P - W	CHEMICALS	90.70.802.04.5010
NPG NEWSPAPERS INC 000221									
180667	02/17/23	WWT PUBLIC HEARING AD	26.83	038815	6735163		P - W	MISCELLANEOUS FE 92.30.134.08.5399	
PRINTING UNLIMITED 004763									
180668	02/17/23	UTIL BILL INSERT	1,311.20	038787	68660		P - W	PRINTING	10.20.031.04.5120
180668	02/17/23	MOW ENVELOPES	696.00	038788	68703		P - W	A/R REIMBURSEABL 10.1405	
			2,007.20	*CHECK TOTAL					
		VENDOR TOTAL	2,007.20						
R E PEDROTTI COMPANY INC 004253									
180669	02/17/23	WWT CALIBRATING MTRS	550.80	038789	14034		P - W	WWTR PLANT MAINT 92.70.902.14.5534	
RED EQUIPMENT, LLC 001027									
180670	02/17/23	WTR VACCON RIPSAW	348.44	038790	2910		P - W	MISC EQUIPMENT M 90.70.801.14.5559	
RENNER SUPPLY COMPANY IN 003867									
180671	02/17/23	ST BLDG MAINT	337.00	038816	496131		P - W	BUILDING MAINTEN 10.70.225.14.5571	
REPUBLIC SERVICES #468 008397									
180672	02/17/23	DUMPSTER SERVICE	1,363.07	038791	0468-003995832		P - W	MISCELLANEOUS FE 92.70.902.08.5399	
180672	02/17/23	DUMPSTER SERVICE	258.95	038791	0468-003995832		P - W	CONTRACT LABOR 90.70.801.08.5397	
180672	02/17/23	DUMPSTER SERVICE	258.95	038791	0468-003995832		P - W	CONTRACT LABOR 92.70.901.08.5397	
180672	02/17/23	DUMPSTER SERVICE	76.19	038792	0468-003996008		P - W	MISCELLANEOUS FE 92.70.902.08.5399	
180672	02/17/23	DUMPSTER SERVICE	76.19	038792	0468-003996008		P - W	CONTRACT LABOR 90.70.801.08.5397	
180672	02/17/23	DUMPSTER SERVICE	76.20	038792	0468-003996008		P - W	CONTRACT LABOR 92.70.901.08.5397	
180672	02/17/23	SOLID WASTE COLLECTION	128,295.60	038827	3-0468-0011069		P - W	NEIGHBORHOOD COL 98.70.227.08.5381	
180672	02/17/23	RECYCLING COLLECTION	38,469.30	038827	3-0468-0011069		P - W	NEIGHBORHOOD COL 98.70.227.08.5381	
180672	02/17/23	SERVICE FAILURE	5,000.00	CR 038827	3-0468-0011069		P - W	NEIGHBORHOOD COL 98.70.227.08.5381	
			163,874.45	*CHECK TOTAL					
		VENDOR TOTAL	163,874.45						
RICOH USA, INC 000314									
180673	02/17/23	FIRE COPIER USAGE	268.21	038794	5066671019		P - W	COPIER LEASE & U 10.50.300.04.5110	
RICOH USA, INC 007683									
180674	02/17/23	FIRE COPIER LEASE	137.89	038793	106909317		P - W	COPIER LEASE & U 10.50.300.04.5110	
ROBINSON/BRENDA .14346									
180675	02/17/23	CCTR REFUND MEMBERSHIP	131.25	038818	1760280		P - W	REFUNDS PAYABLE 65.2265	

Payments by Vendor

VENDOR NAME AND NUMBER

CHECK#	DATE	DESCRIPTION	AMOUNT	CLAIM	INVOICE	PO#	F 9 S ACCOUNT NAME	ACCOUNT
SCHULTE SUPPLY INC 005774								
180677	02/17/23	WTR TOOLS	819.88	038819	S1196291.001		P - W SMALL TOOLS	90.70.801.04.5018
180677	02/17/23	WWT TOOLS	819.88	038819	S1196291.001		P - W SMALL TOOLS	92.70.901.04.5018
			1,639.76	*CHECK TOTAL				
		VENDOR TOTAL	1,639.76					
SUMNERONE INC 005662								
180678	02/17/23	FIRE PRINTER CARTRIDGE	78.00	038820	3472523		P - W GENERAL SUPPLIES	10.50.300.04.5001
SUTTON/KATELYN DANIELLE 000327								
180679	02/17/23	CCTR SWIM INSTR	42.00	038821	2/8-2/11		P N W PRIVATE SWIMMING	65.60.417.08.8125
180679	02/17/23	CCTR SWIM INSTR	50.00	038821	2/8-2/11		P N W SWIM TEAM BASICS	65.60.417.08.8121
180679	02/17/23	CCTR SWIM INSTR	20.00	038821	2/8-2/11		P N W SWIM TEAM BASICS	65.60.417.08.8121
			112.00	*CHECK TOTAL				
		VENDOR TOTAL	112.00					
T & M MOBILE SERVICE 004621								
180680	02/17/23	FIRE #613 CRANKCASE FILT	140.00	038822	41503		P - W VEHICLE MAINTENA	10.50.301.14.5541
VOSS LIGHTING INC 005809								
180681	02/17/23	PWK DIM LED PANEL	184.45	038825	17260914-00		P - W FACILITIES MAINT	10.70.221.14.5572
WORK ZONE INC/THE 008901								
180682	02/17/23	ST SIGN MATERIALS	23.63	038823	64402		P - W STREET SIGNS	50.75.607.14.5641
180682	02/17/23	ST SIGN MATERIALS	141.00	038824	64508		P - W STREET SIGNS	50.75.607.14.5641
			164.63	*CHECK TOTAL				
		VENDOR TOTAL	164.63					
ZOH0 CORPORATION 000283								
180683	02/17/23	T&L SW MAINT	4,003.08	038826	2361955		P - W SOFTWARE MAINTEN	10.90.132.14.5591
180683	02/17/23	T&L SW MAINT	363.92	038826	2361955		P - W OTHER PREPAYMENT	10.1810
			4,367.00	*CHECK TOTAL				
		VENDOR TOTAL	4,367.00					

RESOLUTION NO. _____

RESOLUTION APPROVING A PRELIMINARY PLAT FOR LIBERTY PARKWAY
APARTMENTS, 2 LOTS ON 17.3 ACRES AT THE NE CORNER OF SOUTH LIBERTY
PARKWAY AND FLINTLOCK., A SUBDIVISION OF LAND IN LIBERTY, CLAY COUNTY,
MISSOURI

WHEREAS, a preliminary plat for Liberty Parkway Apartments, a subdivision of land in Liberty, Clay County, Missouri, has been duly and properly presented to the Planning and Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, the City Council finds that the preliminary plat described duly conforms to the standards and requirements of section 30-28.10 of the Unified Development Ordinance:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Missouri, that the preliminary plat for Liberty Parkway Apartments, a subdivision of land in Liberty, Clay County, Missouri, is hereby approved and made apart hereof as though more fully set out herein;

BE IT FURTHER RESOLVED, that any and all development within the above-described preliminary plat shall be allowed only after a final plat which substantially conforms to this preliminary plat is approved and recorded, and shall comply with all other applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK



STAFF REPORT

Planning and Zoning Case 22-60PP

Staff: Katherine Sharp, Director of Planning and Development

Date: February 27, 2023

GENERAL INFORMATION

Application: **P&Z Case 22-60PP: Preliminary Plat application for Liberty Parkway Apartments at South Liberty Parkway and Flintlock**

Applicant: Curtis Petersen
Polsinelli PC
900 W. 48th Place, Ste. 900
Kansas City, MO 64112

Owner: George Filios
Liberty Investors 17 LLC
9640 W. Tropicana Ave., Ste. 900
Las Vegas, NV 89147

Location: 17.3 +/- acres north of South Liberty Parkway between Plummer Road and Flintlock Road.

Existing Land Use/Zoning: Undeveloped / PD, Expired Planned Development

Future Land Use Designation: High Density Residential

Proposed Zoning: PD "Planned Development" for Liberty Parkway Apartments. A 328-unit apartment complex and 16,000sq. ft. of commercial space on 17.3 +/- acres at South Liberty Parkway and Flintlock Rd.

Surrounding Land Uses/Zoning: **Northwest:** Religious Retreat Center/ R-P3 "One -Family Cluster District"
Northeast: Immaculata Manor /R-1A "Suburban Residential"
South: South Liberty Parkway
East: Undeveloped / PD "Planned Development"
West: Flintlock Road

File Date: November 4. 2022

PREVIOUS CASE

PZ Case 22-59R&PDP is running concurrently with this application.

PZ Case 22-41A: Future Land Use Map Amendment from Commercial to High Density Residential was approved by the City Council September 26, 2022

PZ Case 16-30A: Future Land Use Amendment for South Liberty Parkway Phase I was approved by the City Council in February 2017.

PZ Case 16-17FDP: Final Development Plan to allow the development of Liberty Parkway Heights, Phase I, a 204 unit multi-family development was approved by the City Council April 25, 2016

PZ Case 16-18FP: Final Plat of Liberty Parkway Heights was approved by the City Council April 25, 2016

PZ Case 16-11R&PDP: Rezone and Preliminary Development Plan was approved by City Council March 28, 2016

PZ Case 16-12PP: Preliminary Plat for 3 lots was approved by City Council March 28, 2016

*The 2016 approvals of the Planned Development zoning and Development Plans/Plat sunset after two years of inactivity.

PUBLIC INFRASTRUCTURE

The application meets all requirements for providing adequate public facilities as the site will have access to the City's sewer and water systems.

Streets

The proposed residential portion includes two entrances on Plummer Road, an access off of South Liberty Parkway, an entrance from Mercy St. on the north and a private drive will loop through the site. Plummer Road will be signalized and fully improved to city standards. Access on South Liberty Parkway will have a restricted turning movement, allowing for a right in/right out.

Sanitary Sewer

Sanitary service will be provided via an 8" public sewer main that runs to the site across South Liberty Parkway at the southwest corner.

Water

Water service will be provided via connections to an existing 16" water main on South Liberty Parkway and a 12" water main on Flintlock Road.

Stormwater

Stormwater will be collected by an on-site collection system directed to the storm water detention

areas located on the site, then released into the Liberty stormwater system at an acceptable rate. Final detailed stormwater analysis will be required at the final development plan phase.

STAFF ANALYSIS

A preliminary plat is required for the general subdivision of land to ensure the layout of a proposed subdivision conforms to the comprehensive plan and the UDO. Staff's analysis of a preliminary plat application is guided by Section 30-28.10. Preliminary plat, approval criteria:

(1) The preliminary plat substantially complies with the intent of the comprehensive plan;

The Comprehensive Plan was updated for this area in 2016 during an extensive discussion regarding South Liberty Parkway (SLP) Phase I. The applicant received approval to amend the Land Use Map in September 2022 to allow for High Density residential on the majority of site with commercial to the north.

Staff believes the proposed rezoning conforms to the current Future Land Use map.

(2) The preliminary plat complies with the provisions of this UDO; and

Staff finds that the application substantially conforms to the requirements set forth in the Unified Development Ordinance.

(3) The preliminary plat substantially complies with approved city development standards and policies.

This Preliminary Plat does conform to the city development standards and policies.

STAFF RECOMMENDATION

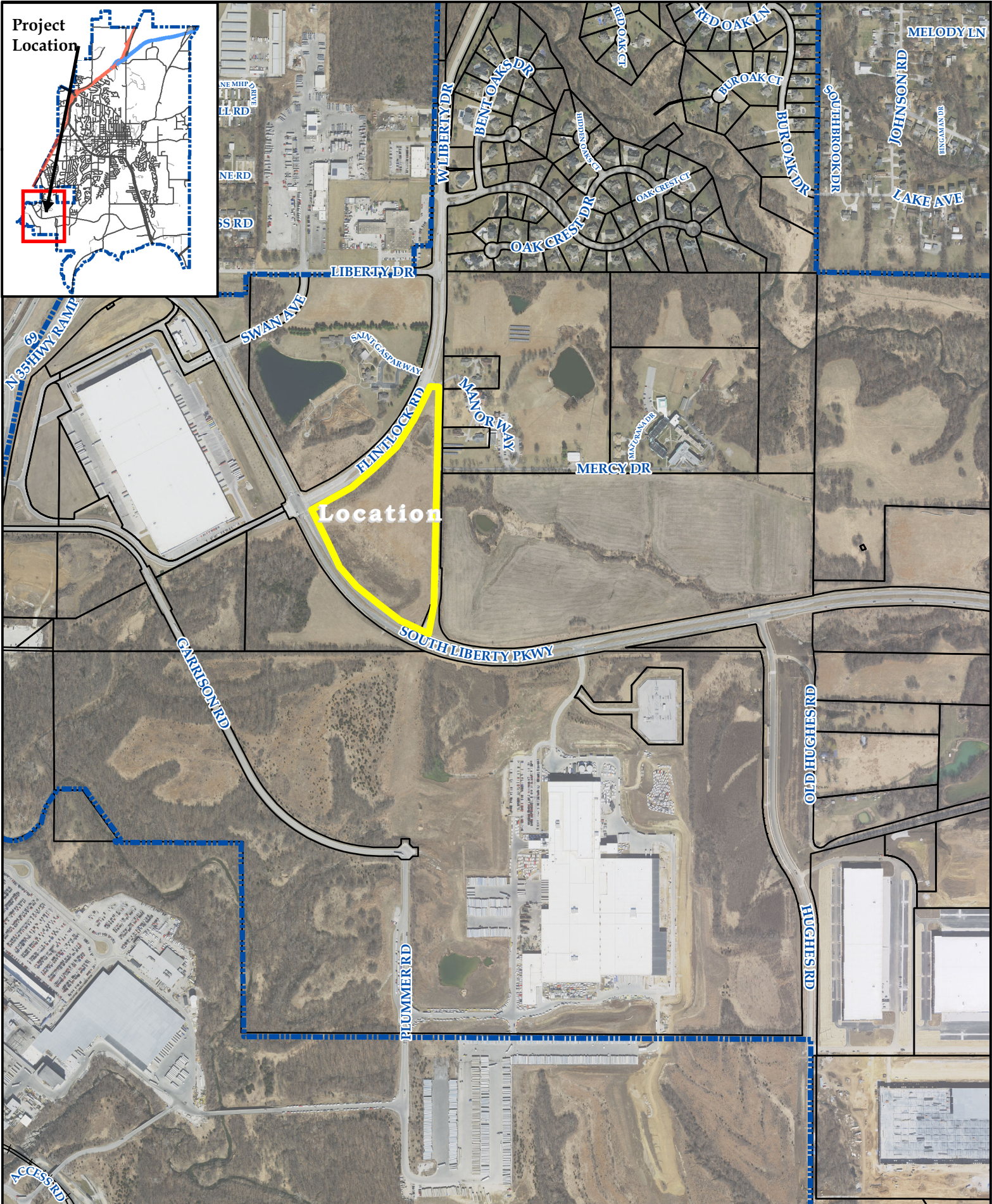
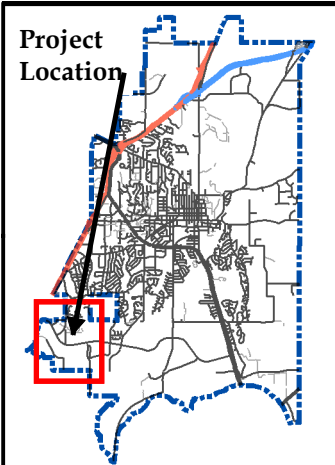
Staff finds that the application does conform to Section 30-28.10. - Preliminary plat, approval criteria. Therefore, staff recommends approval of P&Z Case 22-60PP.

PZ RECOMMENDATION

At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 22-60PP as presented in the staff report.

ATTACHMENTS

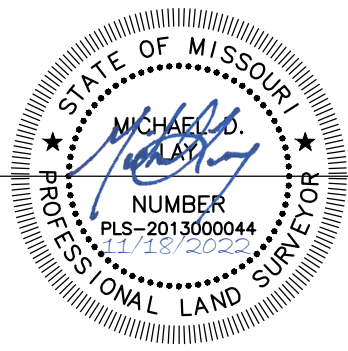
- Exhibit A: Vicinity Map
- Exhibit B: Proposed Preliminary Plat
- Exhibit C: Minutes Excerpt from Planning & Zoning Commission meeting
- Exhibit D: Resolution



C:\151301 Civil 3D\Production Drawings\ Preliminary Site Plans\151301000.dwg Layout: 1 Preliminary Plat Tuesday, November 15, 2022, 11:54am Copyright 2022, George Butler Associates, Inc. Architect 20212, Professional Engineer 000133, Professional Land Surveyor 000269

PREPARED FOR:
GFI DEVELOPMENT LLC
140 BROADWAY, 41ST FLOOR
NEW YORK, NY 10005
CONTACT: ANDREW FAULDS
PHONE: 917-359-4179
EMAIL: AFAULDS@GFCAP.COM

PREPARED BY:
GEORGE BUTLER ASSOCIATES, INC.
9801 RENNER BOULEVARD
LENEXA, KANSAS 66219-9745
CONTACT: JAY HEALY, PE
PHONE: 913-492-0400
EMAIL: JHEALY@GBATEAM.COM

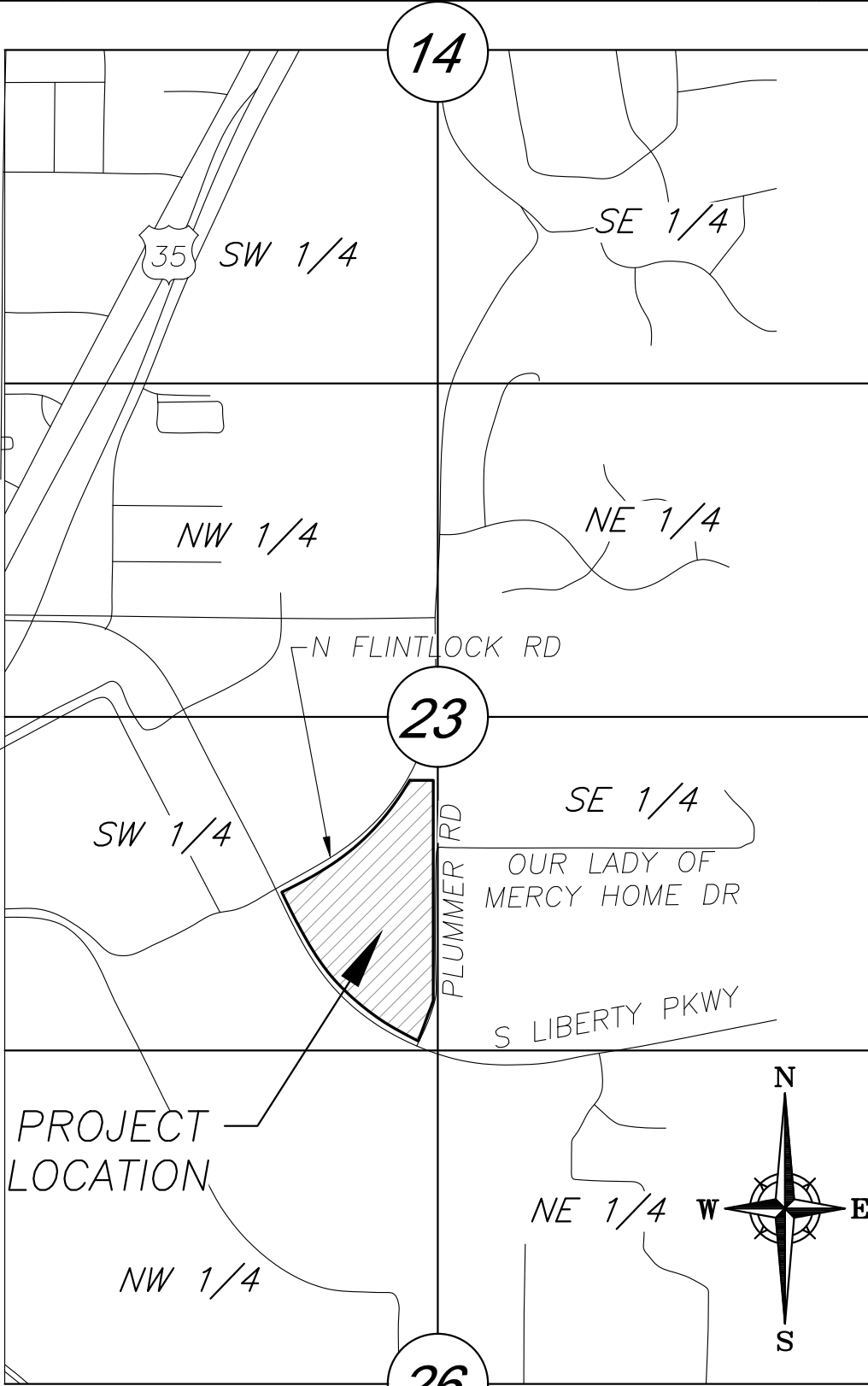


GBA
9801 Renner Blvd., Ste. 300
Lenexa, KS 66219
913.492.0400
gbateam.com

DATE:	11-4-22
DESIGN BY:	JRH
DRAWN BY:	JWM/NK
PROJECT NO.:	15330
SHEET NO.	TOTAL SHEETS
1	1

Preliminary Development Plan
Liberty Parkway Apartments
Liberty, Missouri

NO.	DATE	REVISIONS	BY	APPROVED



VICINITY MAP
Section 23-Township 51-Range 32
City of Liberty
Clay County, Missouri
Scale: 1"=1000'

LEGAL DESCRIPTION

All that part of the East One Half of the Southwest Quarter of Section 23, Township 51, Range 32, in the City of Liberty, Clay County, Missouri, as prepared by Michael Lay, PLS No. 2013000044, on November 11th, 2022, being more particularly described as follows:

COMMENCING at the Southeast corner of said Southwest Quarter; thence North 00°51'04" East, along the East line of said Southwest Quarter, a distance of 316.39 feet, to the POINT OF BEGINNING, said point also being on the North Right-of-Way line of South Liberty Parkway, as now established per Right-of-Way No. 2 in Tract 4 of Condemnation recorded in Book 4667 at Page 287; thence North 89°08'59" West, departing said East line, along said North Right-of-Way line, a distance of 30.00 feet, to a point on a non-tangent curve; thence Southwesterly, continuing along said North Right-of-Way line, along a curve to the right, having a radius of 447.46 feet, a central angle of 08°40'35", and whose initial tangent bearing is South 14°46'52" West, a distance of 67.76 feet; thence South 23°27'22" West, continuing along said North Right-of-Way line, a distance of 109.45 feet; thence South 63°25'37" West, continuing along said North Right-of-Way line, a distance of 11.88 feet, to a point on a non-tangent curve; thence Northwesterly, continuing along said North Right-of-Way line, along a curve to the right, having a radius of 1375.39 feet, a central angle of 37°54'10", and whose initial tangent bearing is North 64°58'34" West, a distance of 909.86 feet; thence North 27°04'24" West, continuing along said North Right-of-Way line, a distance of 202.55 feet; thence North 03°52'19" West, along the transition from said North Right-of-Way line to the East Right-of-Way line of North Flintlock Road, as now established per said Condemnation, a distance of 31.55 feet; thence North 62°55'36" East, along said East Right-of-Way line, a distance of 135.86 feet, to a point of curvature; thence Northeasterly, continuing along said East Right-of-Way line, along a curve to the left, having a radius of 1492.39 feet, a central angle of 13°31'10", a distance of 352.14 feet, to a point on a non-tangent curve; thence Northeasterly, continuing along said East Right-of-Way line, along a curve to the left, having a radius of 1482.39 feet, a central angle of 16°19'45", and whose initial tangent bearing is North 38°24'31" East, a distance of 422.48 feet; thence South 85°00'35" East, continuing along said East Right-of-Way line, a distance of 50.51 feet, to a point on said East line of the Southwest Quarter; thence South 00°51'04" West, departing said East Right-of-Way line, along said East line of the Southwest Quarter, a distance of 1492.15 feet, to the POINT OF BEGINNING, containing 759,285.4616 square feet or 17.43 acres, more or less, except that part in roads.

UTILITY CONTACTS

BEFORE EXCAVATING CALL:
1 (800) DIG-RITE (344-7483)

SEWER
CITY WATER AND SEWER
CITY OF LIBERTY CITY HALL
(816) 792-6000
CITY OF LIBERTY OMI
ATTN: GARY TURLEY
(816) 792-6075

WATER
CLAY COUNTY PUBLIC RURAL WATER
DISTRICT NO. 5
(816) 532 0775 (OFFICE)
ATTN: CHUCK MCREYNOLDS
24 HOUR EMERGENCY
(816) 863-8805

GAS
MISSOURI GAS ENERGY
(816) 756-5252
GAS LEAK EMERGENCY
(800) 582-0000

PETROLEUM
"BUCKEYE PARTNERS, L.P."
PIPELINE (610) 904-4000
EMERGENCY (800) 331-4115

ELECTRICITY
KANSAS CITY POWER AND LIGHT
(913) 894-3000

TELEPHONE AT&T DISTRIBUTION

LEGEND

W	Proposed Water Line	E.P.	Power Pole	900	Existing Contour Major
□	Proposed Fence Line	←	Guy Anchor	902	Existing Contour Minor
SAN	Proposed Sanitary Sewer	⊕	Electrical Manhole		Property Line
STM	Existing Storm Sewer	⊕	Electric Pedestal		Sign
SSMH	Existing Sanitary Sewer	●	Gate Post	⊕	Telephone Manhole
	Existing Fence Line	□	Bollard/Guard Post	⊕	Telephone Pedestal
G	Existing Gas Line	□	Gas Meter	⊕	Telephone Pole
---OHE---OHE---OHE---	Existing Overhead Electric	□	Gas Valve	⊕	Tree Coniferous
---UGE---UGE---	Existing Underground Electric	□	Gas Regulator	⊕	Tree Deciduous
		□	Area Inlet	⊕	Fire Hydrant
		□	Junction Box	⊕	Water Meter
		⊕	Sanitary Sewer Manhole		
		⊕	Light Pole		
		⊕	Yard Light		

Floodplain

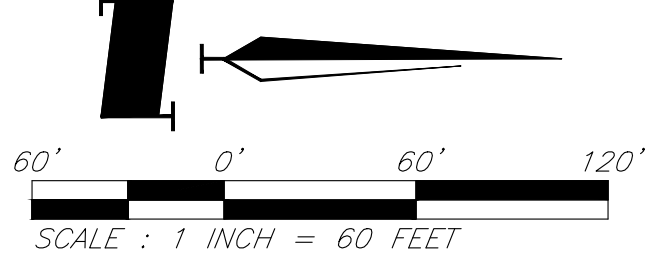
THE SITE IS NOT LOCATED WITHIN ANY SPECIAL FLOOD HAZARD AREAS (SFHA) PER FEMA FIRM MAP 29047C0229E; EFFECTIVE DATE OF AUGUST 3, 2015. NO LETTERS OF MAP AMENDMENT OR REVISIONS ARE BEING PROPOSED.

Disturbed Area
17 +/- AC

APPROVED BY:

Area Summary Table

Lot 1	15.05 AC (655,537.50 SF)
Lot 2	1.92 AC (83,447.31 SF)
Mercy St R/W	0.44 AC (19,141.65 SF)
Liberty Pkwy R/W	0.03 AC (1,161.27 SF)
Total	17.43 AC (759,285.46 SF)



CITY OF LIBERTY OFFICIAL

DATE:

Preliminary Plat

A. **P&Z Case 22-60PP:** Preliminary Plat for Liberty Parkway Apartments, 2 lots on 17.3 acres.

Ms. Sharp presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions.

Commissioner Summers asked if Lot 2 was to the North of the apartment project.

Mr. Peterman pointed out the lot locations on the map (on the northern portion of the property)

Chairman Rosekrans asked the applicant if they wish to speak.

John Davis, Foresight Realty, owner, stated he was available for questions.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Summers moved to approve the case as presented in the staff report. Commissioner Dilts seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

RESOLUTION NO. _____

A RESOLUTION APPROVING A PRELIMINARY PLAT FOR LIBERTY PARKWAY
APARTMENTS, 2 LOTS ON 17.3 ACRES AT THE NE CORNER OF SOUTH LIBERTY
PARKWAY AND FLINTLOCK., A SUBDIVISION OF LAND IN LIBERTY, CLAY COUNTY,
MISSOURI

WHEREAS, a preliminary plat for Liberty Parkway Apartments, a subdivision of land in
Liberty, Clay County, Missouri, has been duly and properly presented to the Planning and
Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, the City Council finds that the preliminary plat described duly conforms to
the standards and requirements of section 30-28.10 of the Unified Development Ordinance:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty,
Missouri, that the preliminary plat for Liberty Parkway Apartments, a subdivision of land in
Liberty, Clay County, Missouri, is hereby approved and made apart hereof as though more fully
set out herein;

BE IT FURTHER RESOLVED, that any and all development within the above-described
preliminary plat shall be allowed only after a final plat which substantially conforms to this
preliminary plat is approved and recorded, and shall comply with all other applicable standards
and requirements as set forth in the City Code of the City of Liberty, Missouri.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

RESOLUTION NO. _____

RESOLUTION FOR A FINAL DEVELOPMENT PLAN FOR FULKERSON COTTAGES,
40 UNITS OF AGE RESTRICTED DUPLEX, TRIPLEX, AND FOUR-PLEXES AT
LIBERTY DR, WEST OF FULKERSON CIRCLE IN LIBERTY, CLAY COUNTY,
MISSOURI

WHEREAS, a final development plan for Fulkerson Cottages, 40 units of age restricted duplex, triplex, and Four-plexes at Liberty Dr, west of Fulkerson Circle in the City of Liberty, Clay County, Missouri, has been duly and properly presented to the Planning & Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, pursuant to the Unified Development Ordinance (UDO) of the City of Liberty, the City Council finds that the final development plan described duly conforms to the standards and requirements of ordinances in place at the time of the application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Missouri, that the final development plan for Fulkerson Cottages, 40 units of age restricted duplex, triplex, and Four-plexes at Liberty Dr, west of Fulkerson Circle in the City of Liberty, Clay County, Missouri, is hereby approved according to the final development plan on file in the office of the Department of Planning and Development.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK



STAFF REPORT

Planning and Zoning Case 23-04FDP

Staff: Michael Peterman, City Planner

Date: February 27, 2023

GENERAL INFORMATION

Application:	Final Development Plan for Fulkerson Cottages to allow the construction of a 40 unit age restricted community at the SW corner of Liberty Dr. & Fulkerson Ct.
Applicant:	Spencer Thomson Patriot Properties, LLC 351 W. Washington St. Kearney, MO 64060
Property Owner:	Fulkerson Trust 14413 E Tipperary Circle Wichita, KS 67230
Location:	Southwest corner of Liberty Dr. & Fulkerson Ct.
Existing Land Use/Zoning:	Undeveloped / PD, "Planned Development" district
Future Land Use Designation:	Low Density Residential
Surrounding Land Uses/Zoning:	North: Single family & Bank/ R-1C "Single Family Residential" & C-2 "General Business" South: Fulkerson Estates / R-1C "Single Family Residential" East: Fulkerson Estates / R-1C "Single Family Residential" West: Westboro / R-1C "Single Family Residential"
Public Notice:	None Required
File Date:	January 6, 2023

PREVIOUS CASE

PZ Case 23-05FP: Final Plat of Fulkerson Cottages, an age restricted residential development on one lot is running concurrently with this application.

PZ Case 22-19R&PDP: Proposal to Rezone 6.68 ac from R-1C to PD for Fulkerson Cottages to allow the construction of a 40 unit age restricted community was approved by the City Council on July 25, 2022.

PZ Case 22-20PP: Preliminary Plat for Fulkerson Cottages, 1 lot on 6.68 acres was approved by the City Council

on July 25, 2022.

PZ Case 16-27A: Proposal to amend the Future Land Use Map to High Density Residential failed at the City Council on July 25, 2016.

PZ Case 16-08R: A request by Historic District Review Commission to rezone 73 Fulkerson Circle (Fulkerson House) to Historic Preservation District Overlay-Local Landmark was recommended for denial by the Planning Commission on March 8, 2016. This case did not go to the City Council.

APPLICANT'S PROPOSAL

Summary

This Final Development Plan is to allow the applicant to build 40 units; 7 duplexes, 2 triplexes, and 5 fourplex units and a clubhouse in an age restricted development. The project will be on 1 lot and all units will be owned by the developer. All internal roads and utilities will be private and maintained by the property owner.

Site Design

The site is proposed south of W. Liberty Drive and west Fulkerson Circle, with one entrance from W. Liberty Drive. The proposal consists of a private internal drive with 40 homes, and a clubhouse. A stormwater management area is located on the north portion of the property. There will be 30 foot building setbacks from Fulkerson Circle. The only public access to the development will be from a drive at the northwest corner of the property onto W. Liberty Drive. There will be a gated emergency drive on Fulkerson Circle that will only be accessible by emergency vehicles.

Access/Circulation/Parking

There will be 1 entrance to the site from W. Liberty Drive. The internal private drive, Reagan Circle, will loop around the development, and is wide enough to allow large service vehicles such as fire trucks adequate maneuverability. Each home has a driveway that fits a minimum of 2 vehicles, which meets the minimum code requirements in UDO Section 30-83.2 for a non-apartment residential use. Additional parking is at the clubhouse.

Building Design/ Signage/Lighting

The home designs will vary with stucco, board and batten siding with shake shingle and stone accents. Examples of these designs are attached to this report.

Landscaping/ Open Space/ Tree Preservation

The application shows a heavily landscaped area along all of Fulkerson Circle. The existing vegetation is proposed to remain in the buffer to the west. The overall site meets the 20% open space standard as defined in the UDO Section 30-97.6. by providing 51.5%. As no parkland is being proposed, the applicant is required to pay the parkland fee of \$12,480 as required in UDO Section 30-94.1.

PUBLIC INFRASTRUCTURE

The submitted plans for this application have been evaluated in accordance with the adequate public facilities ordinance. The detailed Public Improvement plans are currently in review by the Public Works and Utilities departments. Final approval of these plans must be obtained prior to building permits being issued.

Streets

The property will have direct access to W. Liberty Drive.

Sanitary Sewer

The site has access to an 8" public sanitary sewer line to the west along W. Liberty Drive. A public main extension to the property will be required. An internal sewer lines will run along the internal streets.

Water

The site has direct access to a public water line along W. Liberty Drive and Fulkerson Circle. All internal lines will be private

Stormwater

Storm water will be collected on the property and directed into a combination of storm water quality best management practices and a storm water detention basin located on the northern portion of the property. Storm water released from the development will be managed to reduce offsite erosion potential or additional erosion prevention measures will be designed and constructed.

STAFF ANALYSIS

In accordance with the UDO, staff's analysis of a Final Development Plan application follows section 30-27.8. Before staff may recommend approval, the UDO requires the following be determined:

1. The plan substantially complies with the intent of the comprehensive plan;

Staff believes this application conforms to Principles Eight, Eleven and Twelve of the Plan, by providing the development of a vacant and underutilized infill parcel, and the use of a parcel served by existing public utilities.

The property is designated for Low-Density Residential on the Future Land Use map. Low-Density Residential envisions residential development between 0-6 dwelling units per acre. The construction of 40 units on 6.68 acres (Lot 1) equals a density of 5.98 units per acre.

Staff believes the project conforms to the Comprehensive Plan.

2. The plan complies with the provisions of this UDO;

Staff finds that the application substantially conforms to the requirements set forth in the Unified Development Ordinance.

3. The plan substantially complies with approved city development standards and policies;

Staff finds that this application fully complies with the intent of city development standards and policies.

4. The plan substantially complies with the approved preliminary development plan, where applicable.

Staff finds that this application does substantially comply with the preliminary development plan.

STAFF RECOMMENDATION

Staff finds that this application meets the standards of review for a final development plan. Staff recommends approval of P&Z Case 23-04FDP.

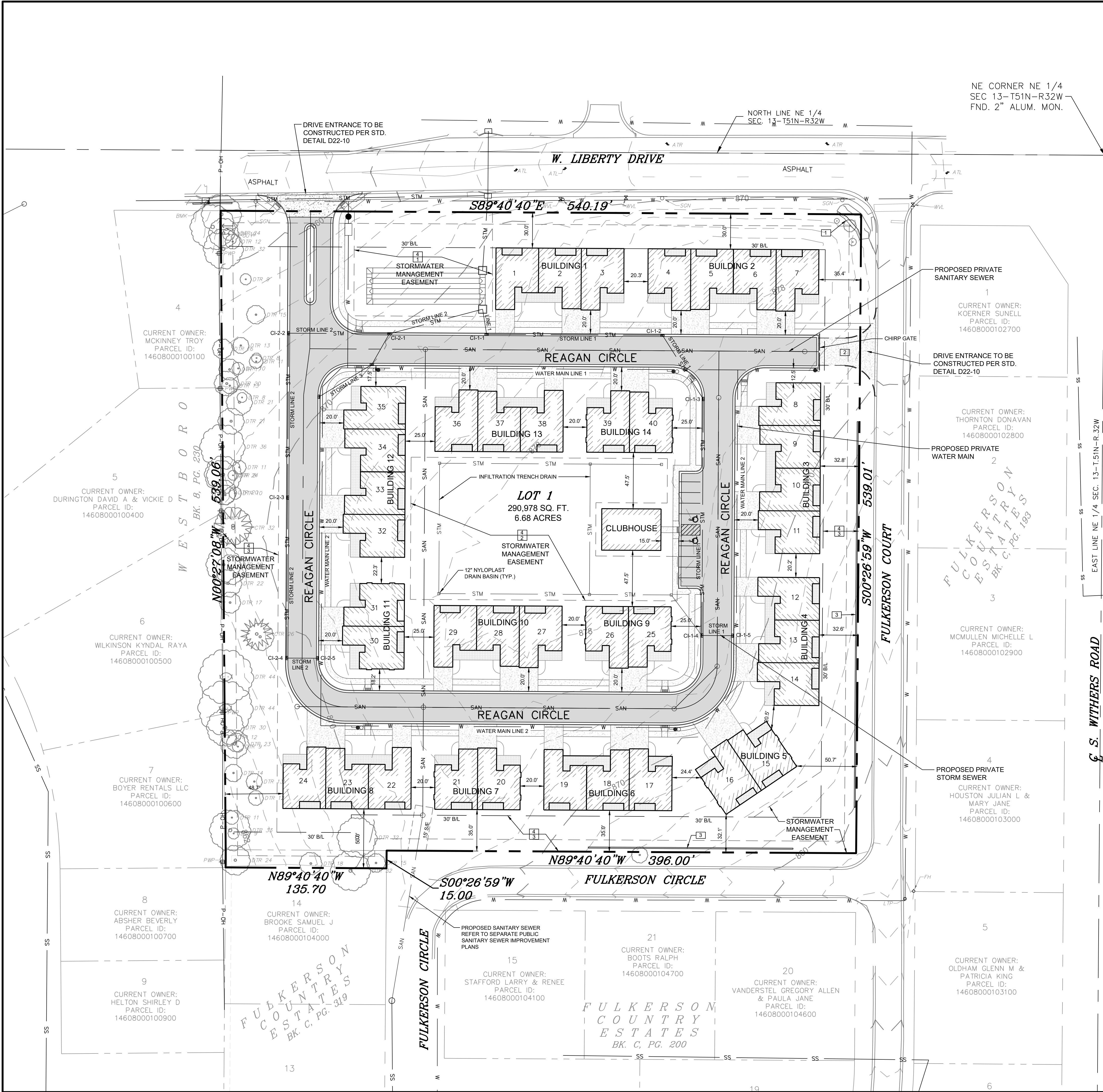
PZ RECOMMENDATION

At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 23-04FDP as presented in the staff report.

ATTACHMENTS

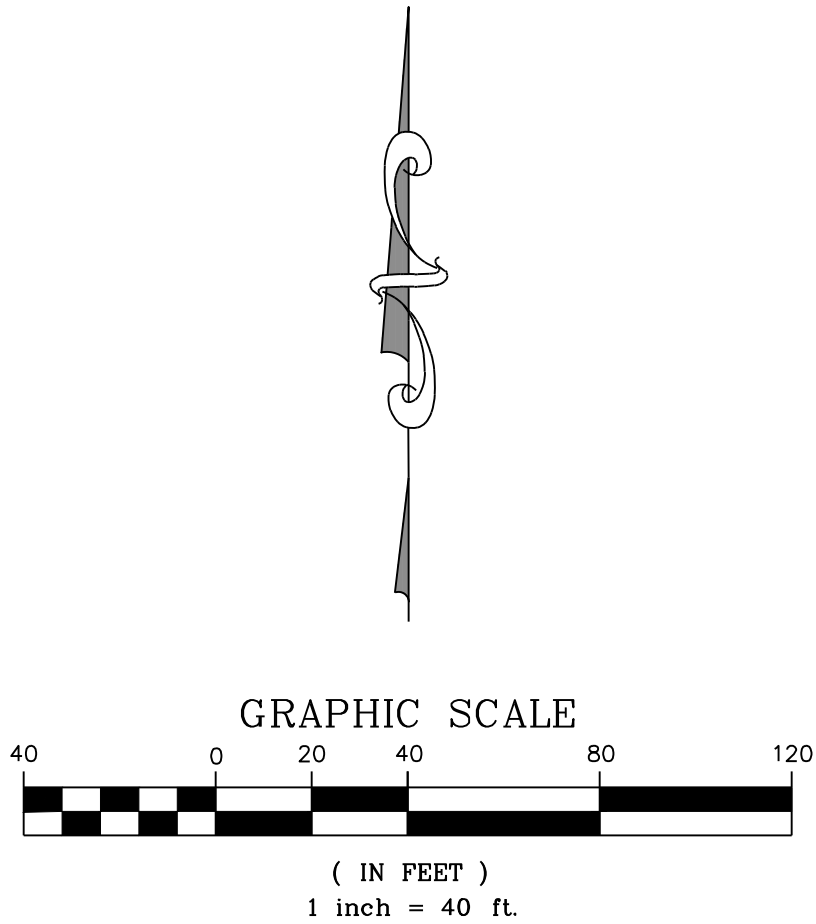
Exhibit A:	Vicinity Map
Exhibit B:	Site Plan
Exhibit C:	Landscape Plan
Exhibit D:	Building Elevations
Exhibit E:	Minutes Excerpt from Planning & Zoning Commission meeting
Exhibit F:	Resolution





GENERAL NOTES:
1. EXISTING MONUMENT SIGN TO REMAIN.
2. EMERGENCY FIRE ACCESS ONLY. INSTALL CHRP GATE.
3. PROPOSED RETAINING WALLS - SEE PLANS FOR HEIGHT
4. PROPOSED STORMWATER MANAGEMENT EASEMENT AREAS.
1. NATIVE VEGETATION & INFILTRATION AREA
2. INFILTRATION AREA
3. NATIVE VEGETATION AREA

FULKERSON COTTAGES		
SITE DATA		
ZONING	EXISTING: PD	PROPOSED: MPD
GROSS AREA	290,980.80 SF	6.68 AC.
USAGE	55+ TOWNHOMES	
BUILDING DATA		
UNIT FOOTPRINT	1,456 SF	TOWNHOME
UNITS PER BUILDING	2, 3 & 4	
NUMBER OF BLDGS	14	
TOTAL NUMBER OF UNITS	40	
CLUBHOUSE TOTAL AREA	1,750 SF	
TOTAL BUILDING FOOTPRINT AREA	65,340 SF	
FLOOR AREA RATIO		
GROSS AREA	290,980.80 SF	6.68 AC.
TOTAL BUILDING FOOTPRINT AREA	65,340 SF	
NUMBER OF UNITS	40	
BUILDING COVERAGE	0.22	5.99 UNITS/AC.
PARKING DATA		
	REQUIRED	PROVIDED
UNIT PARKING STALLS (DRIVEWAY)	2 SPACES PER UNIT=80 SPACES	40 SPACES
UNIT PARKING STALLS (GARAGE)		40 SPACES
CLUBHOUSE PARKING	N/A	10 SPACES
ADA PARKING	4 SPACES	4 SPACES
OPEN SPACE DATA		
PERVIOUS AREA	149,819.00 SF	3.44 AC.
TOTAL SITE AREA	290,980.80 SF	6.68 AC.
OPEN SPACE %	51.5%	



REVISIONS
NO. DATE DESCRIPTION
1 1/18/23 REVIEW COMMENTS
2
3
4
5
6
7

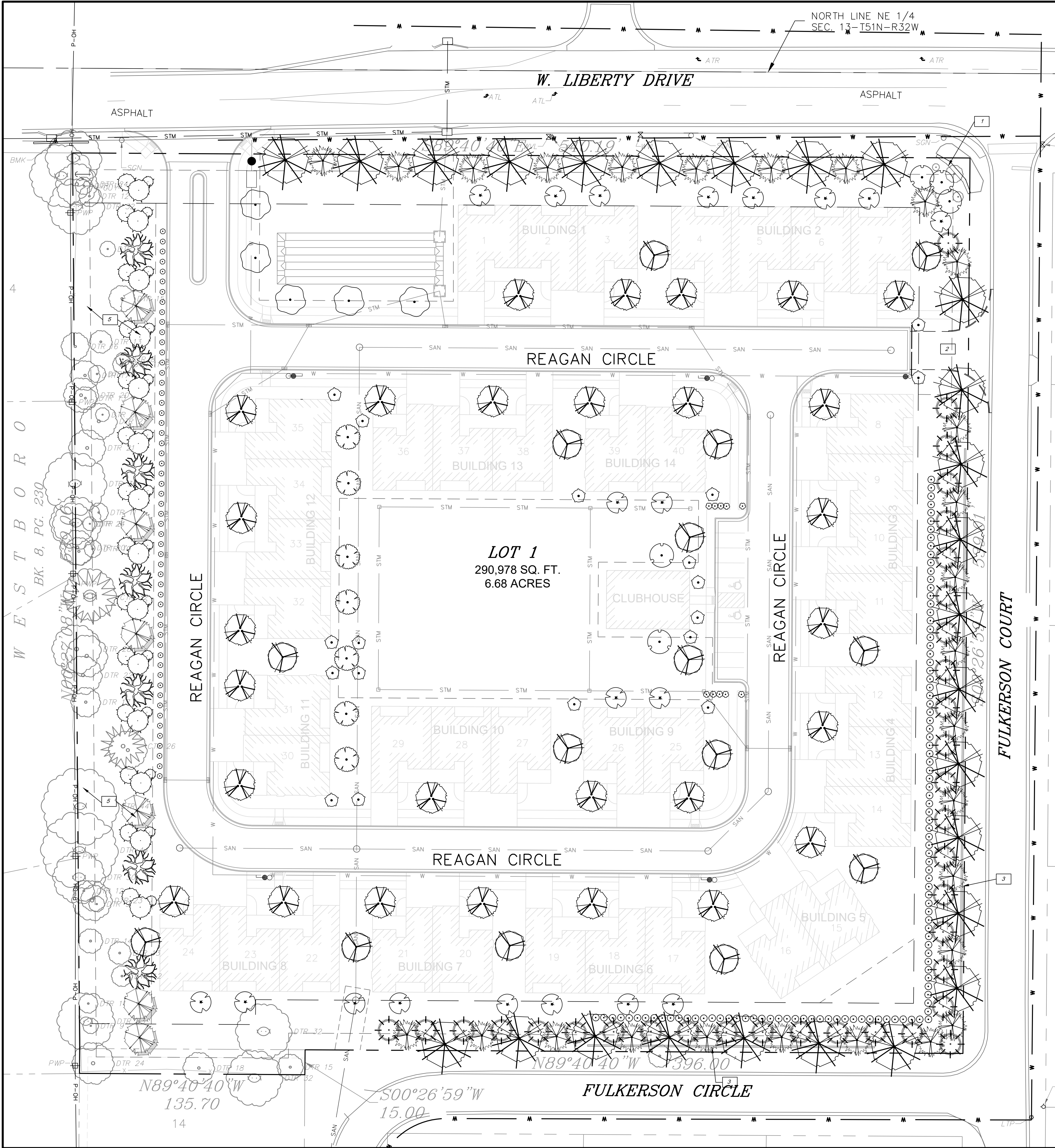
FULKERSON COTTAGES
LIBERTY, CLAY COUNTY, MISSOURI
SITE DEVELOPMENT PLANS
SITE PLAN

ENGINEER'S SEAL
STATE OF MISSOURI
S.M. WARDEN
NUMBER E-20997
1-18-23

R.L. Buford & Associates Engineering, LLC
LAND SURVEYING - CIVIL ENGINEERS - DEVELOPMENT CONSULTANTS
R.L. BUFORD & ASSOCIATES, LLC
P.O. BOX 14069, PARKVILLE, MO. 64152 (816) 741-6192
FOR PATRIOT PROPERTIES

JOB NO. 22-002
COUNTY CLAY
SEC-TWP-RGE. 12-22
PLAN DATE SEPT. 2022
CHECKED BY SMW
DRAWN BY JKR

SHEET NO. 3 OF 18

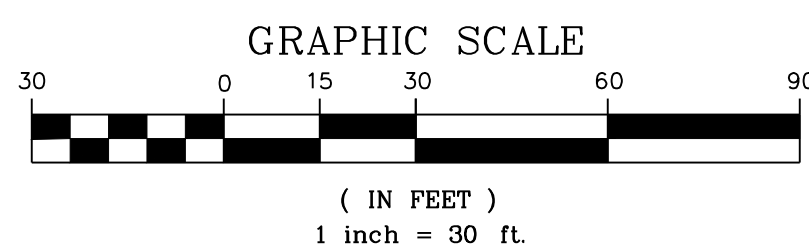


PLANT SCHEDULE						
OVERSTORY TREES	QTY	BOTANICAL / COMMON NAME	SIZE	CONDITION	CALIPER	HEIGHT
	16	ACER TRUNCATUM X PLATANOIDES 'WARRENRED' TM PACIFIC SUNSET MAPLE	N/A	B & B	1.5"	
	7	GINKGO BILOBA 'PRINCETON SENTRY' PRINCETON SENTRY MAIDENHAIR TREE	N/A	B & B	1.5"	
	27	PINUS STROBUS WHITE PINE	N/A	B & B		5' HT.
	33	POPULUS TREMULOIDES 'CLUMP FORM' CLUMP FORM QUAKING ASPEN	N/A	B & B	1.5"	
	26	QUERCUS PALUSTRIS PIN OAK	N/A	B & B	1.5"	
	7	QUERCUS BICOLOR SWAMP OAK	N/A	B & B	1.5"	
	7	ACER PLATANOIDES NORWAY MAPLE	N/A	B & B	1.5"	
	14	AMELANCHIER ARBorea DOWNY SERVICEBERRY	N/A	B & B		5' HT.

UNDERSTORY TREES	QTY	BOTANICAL / COMMON NAME	SIZE	CONDITION	CALIPER	HEIGHT
	5	AMELANCHIER X GRANDIFLORA 'AUTUMN BRILLIANCE' AUTUMN BRILLIANCE APPLE SERVICEBERRY	N/A	B & B	1.5"	
	5	CERCIS CANADENSIS 'FOREST PANSY' FOREST PANSY EASTERN REDBUD	N/A	B & B	1.5"	
	20	CORNUS FLORIDA 'CHEROKEE BRAVE' CHEROKEE BRAVE DOGWOOD	N/A	B & B	1.5"	
	35	THUJA X 'GREEN GIANT' GREEN GIANT ARBORVITAE	N/A	B & B		5' HT.
SHRUBS	QTY	BOTANICAL / COMMON NAME	SIZE			
	18	EUONYMUS ALATUS 'COMPACTUS' COMPACT BURNING BUSH	3 GAL			
	74	JUNIPERUS X MEDIA 'SEA GREEN' SEA GREEN JUNIPER	3 GAL			
	20	PHYSOCARPUS OPULIFOLIUS 'SMPOTW' TM TINY WINE NINEBARK	3 GAL			
	55	SPIRAEA X BUMALDA 'GOLDMOUND' GOLD MOUND SPIREA	3 GAL			
	106	TAXUS X MEDIA 'DENSIFORMIS' DENSE ANGLO-JAPANESE YEW	3 GAL			

LANDSCAPE CALCULATIONS		
REQUIRED RATIO	REQUIRED #	PROVIDED #
STREET FRONTAGE: 1 TREE PER 50 LF	LIBERTY DRIVE 412 LF = 9 TREES	9 TREES
	FULKERSON COURT 484 LF = 10 TREES	10 TREES
	FULKERSON CIRCLE 316 LF = 7 TREES	7 TREES
PARKING LOTS: 1 LARGE TREE PER 10 SPACES 1 SMALL TREE PER 15 SPACES 1 SHRUB PER 2 SPACES	10 SPACES = 1 LARGE TREES = 0 SMALL TREES = 5 SHRUBS	2 LARGE TREES 2 SMALL TREES 10 SHRUBS
OPEN SPACE: 1 LARGE TREE OR 2 SMALL TREES PER 3000 SF BUILDING AND 1 SHRUB PER 250 SF BUILDING	65,340 SF BUILDING = 22 LARGE TREES OR 44 SMALL TREES = 262 SHRUBS	0 TREES (PROVIDED VIA PRESERVED TREES PER BELOW) 262 SHRUBS
PRESERVED TREES: (CREDIT TOWARD OPEN SPACE) +2 TREES PER 8" DIAMETER SAVED	804" TOTAL DIAMETER OF 8"+ TREES PRESERVED = 100 TREES	N/A
TREE REPLACEMENT: 2 TREES PER 8"+ DIAMETER TREE REMOVED	72 (8"+) TREES REMOVED = 144 TREES	144 TREES

- GENERAL NOTES:
- EXISTING MONUMENT SIGN TO REMAIN.
 - EMERGENCY FIRE ACCESS ONLY, INSTALL CHRP GATE.
 - PROPOSED RETAINING WALL.
 - PROPOSED STORMWATER MANAGEMENT AREA.
 - EXISTING VEGETATION TO REMAIN.



REVISED BY: 1 2 3 4 5 6 7

DATE: 1 2 3 4 5 6 7

DESCRIPTION: 1 2 3 4 5 6 7

ENGINEER'S SEAL

1-18-23

R.L. Buford & Associates Engineering, LLC
LAND SURVEYING - CIVIL ENGINEERS - DEVELOPMENT CONSULTANTS
R.L. BUFORD, PRINCIPAL
14069 PARKVILLE, MO 64152 (816) 741-6132

FOR

SEC. - TRIP - REC. 1-18-23

PLAN DATE DEC 2022

CHECKED BY SAN

DRAWN BY JKR

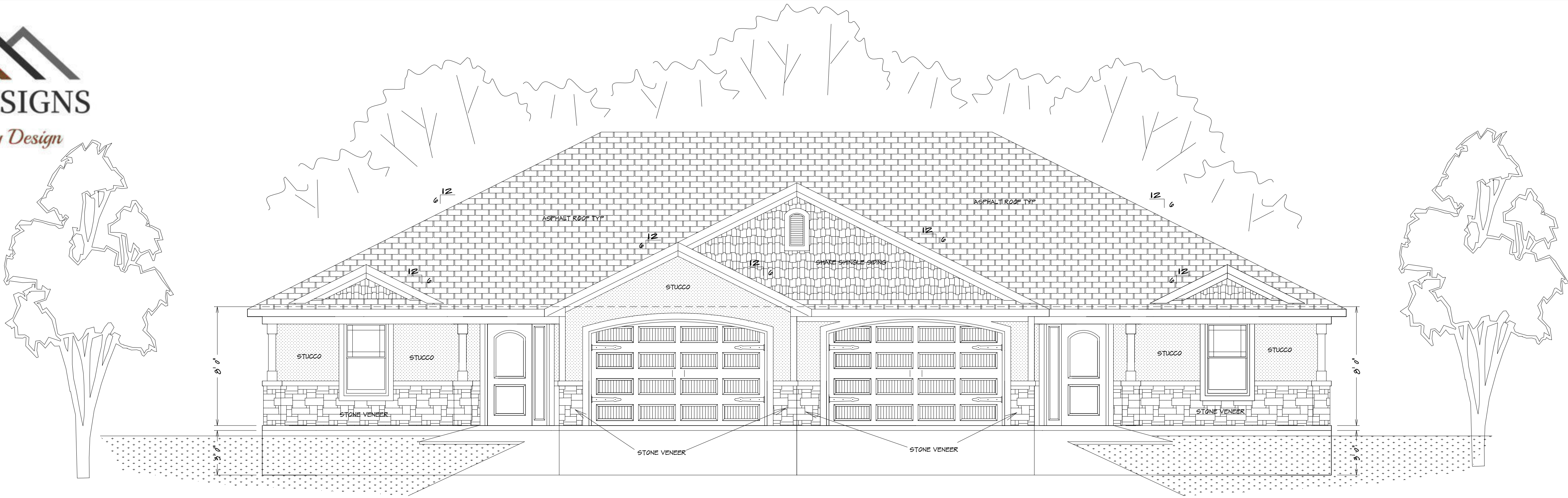
JOB NO. 22-001

COUNTY PATRIOT

PATRIOT PROPERTIES

SHEET NO. 18 OF 18

COPYRIGHT 2022 R.L. BUFORD & ASSOCIATES, LLC
Page 112 of 525



UNIT-A

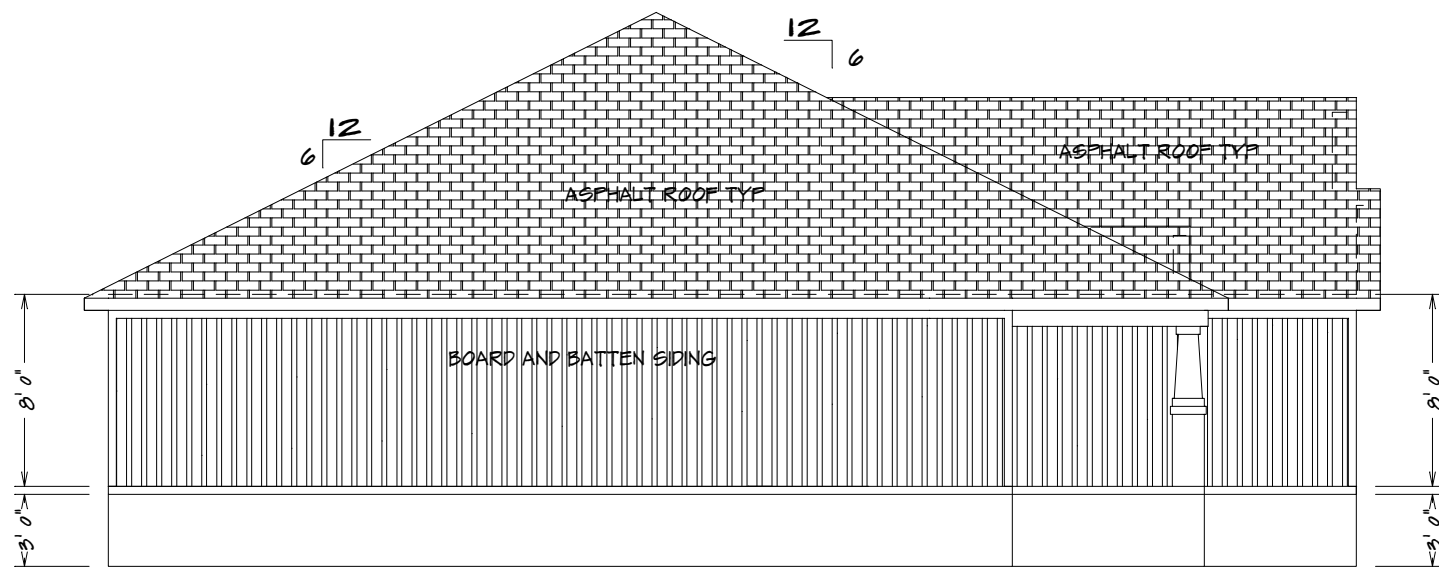
BUILDINGS # 5/7/9/11/14

UNIT-B

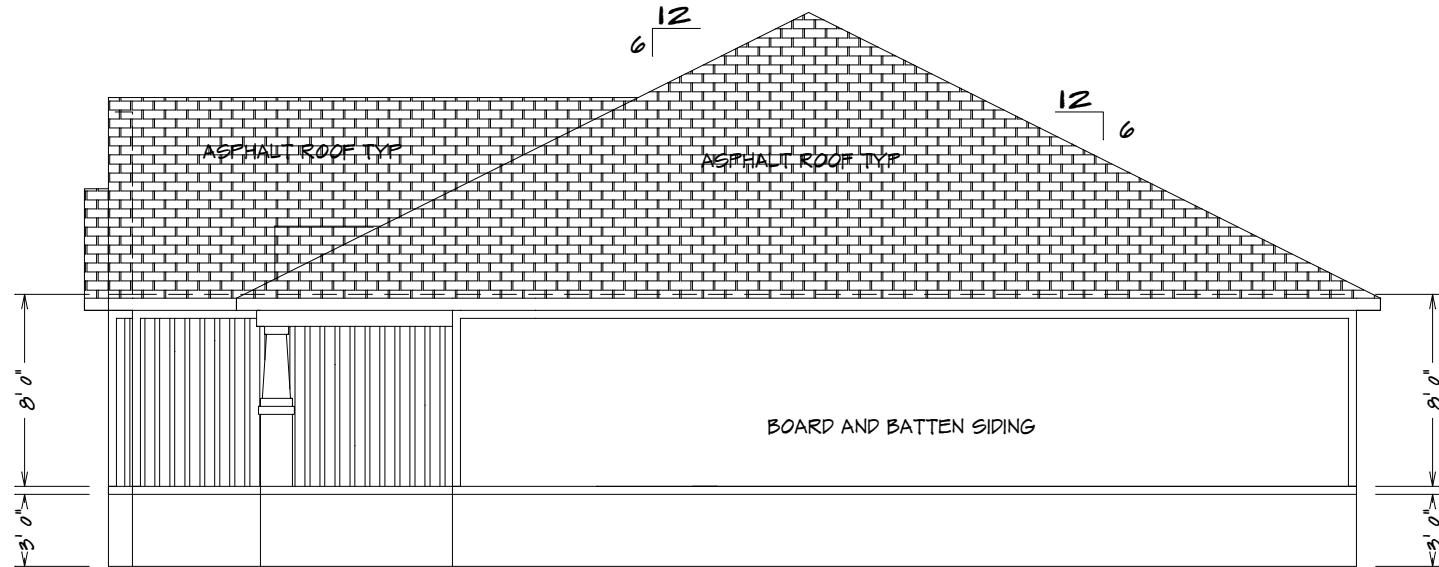
NOTE:
ACTUAL ELEVATIONS MAY VARY FROM ARCHITECTURAL
DRAWINGS, DUE TO TERRAIN/BACKFILL PROCESS.
FRONT ELEVATION IS ARCHITECTURAL DRAWING AND
MAY VARY DUE TO MATERIALS AVAILABILITY.

FRONT ELEVATION
1/4" = 1'0"

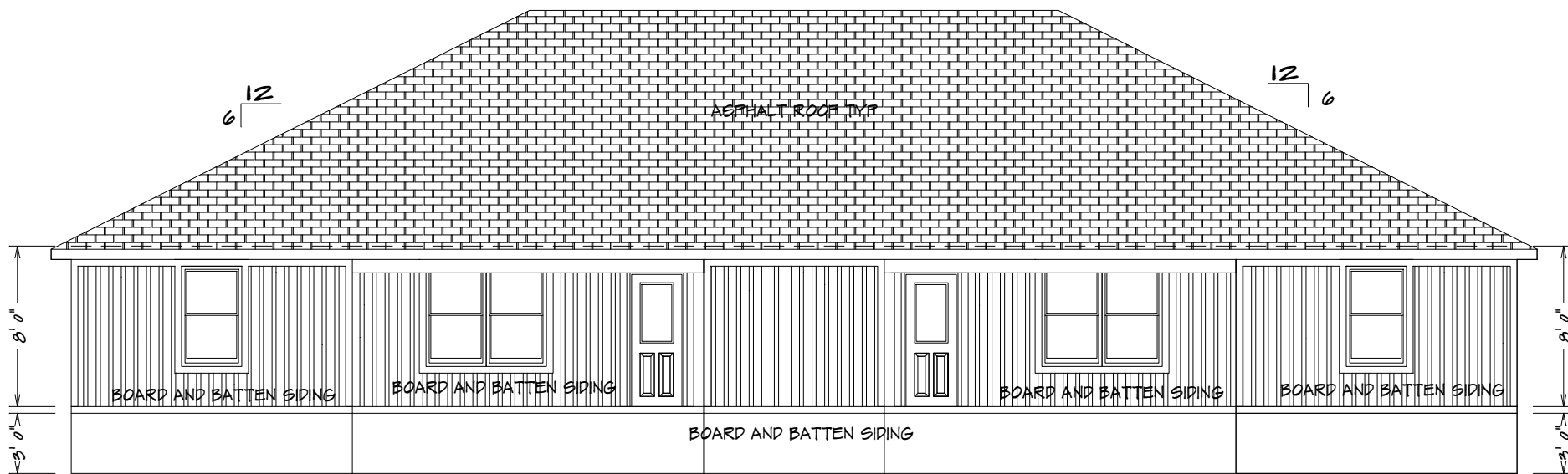
BUILDER/CONTRACTOR IS RESPONSIBLE TO
CHECK ALL DIMENSIONS FOR ACCURACY
BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS.
ALSO VERIFY ALL BEAM, HEADERS, PAD LOCATIONS,
AND COLUMN SIZES.



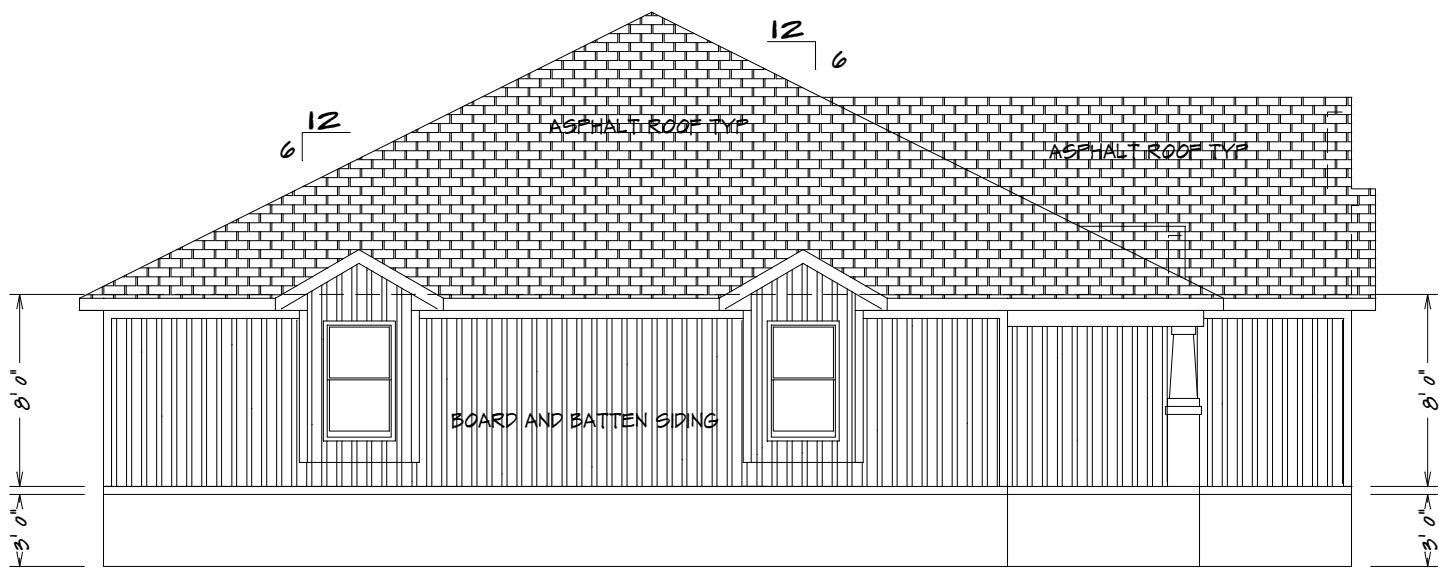
LEFT ELEVATION
1/8" = 1'0"



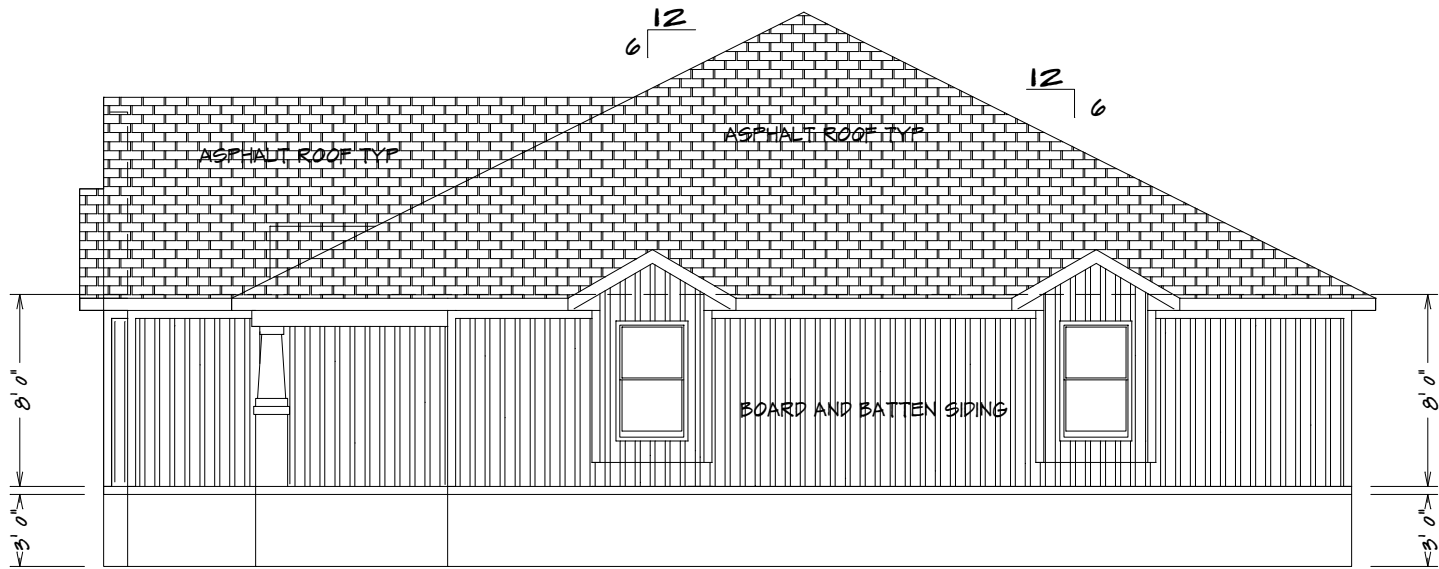
RIGHT ELEVATION
1/8" = 1'0"



REAR ELEVATION
1/8" = 1'0"



OPTIONAL (SIDE WINDOWS)
LEFT ELEVATION
1/8" = 1'0"



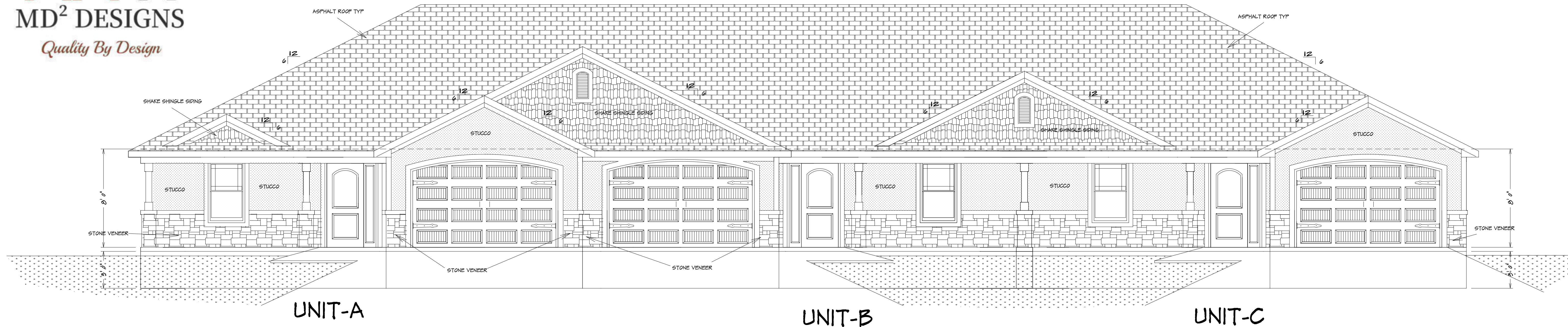
OPTIONAL (SIDE WINDOWS)
RIGHT ELEVATION
1/8" = 1'0"

COM-5065

SQUARE FOOTAGE	
LIVING AREA	
UNIT-A	FIRST FLOOR = 1098
UNIT-B	FIRST FLOOR = 1098
UNFINISHED AREA	
UNIT-A	GARAGE = 368
UNIT-B	GARAGE = 348

HOME BUYER:	PHONE:	DATE DRAWN:	PLAN NO.	SHEET NO.
	PHONE:	DATE REVISED:	COM-5065	1
	SUB-DIVISION:	DESIGNER:	FILE NAME:	APPROX. SQ.FT.
			5065PENT	

BUILDER/CONTRACTOR IS RESPONSIBLE TO CHECK ALL DIMENSIONS FOR ACCURACY
BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS. ALSO VERIFY ALL BEAM, HEADERS,
COLUMNS, AND COLUMN SIZES. BUILDER/CONTRACTOR TO CHECK FOR
CONFLICTS WITH EXISTING UTILITIES. BUILDER/CONTRACTOR
ACCEPTS ALL RESPONSIBILITY FOR LOT PLACEMENT, SET BACKS, AND FLOOD PLANS.
BUILDER/CONTRACTOR AND HOME OWNER ACCEPTS RESPONSIBILITY FOR ANY AND ALL
COPYRIGHT INFRINGEMENTS OR RESEMBLANCES TO OTHER COPYRIGHTED PLANS.
BUILDER/CONTRACTOR ACCEPTS RESPONSIBILITY FOR ANY ON SITE CHANGES MADE
TO STRUCTURE.



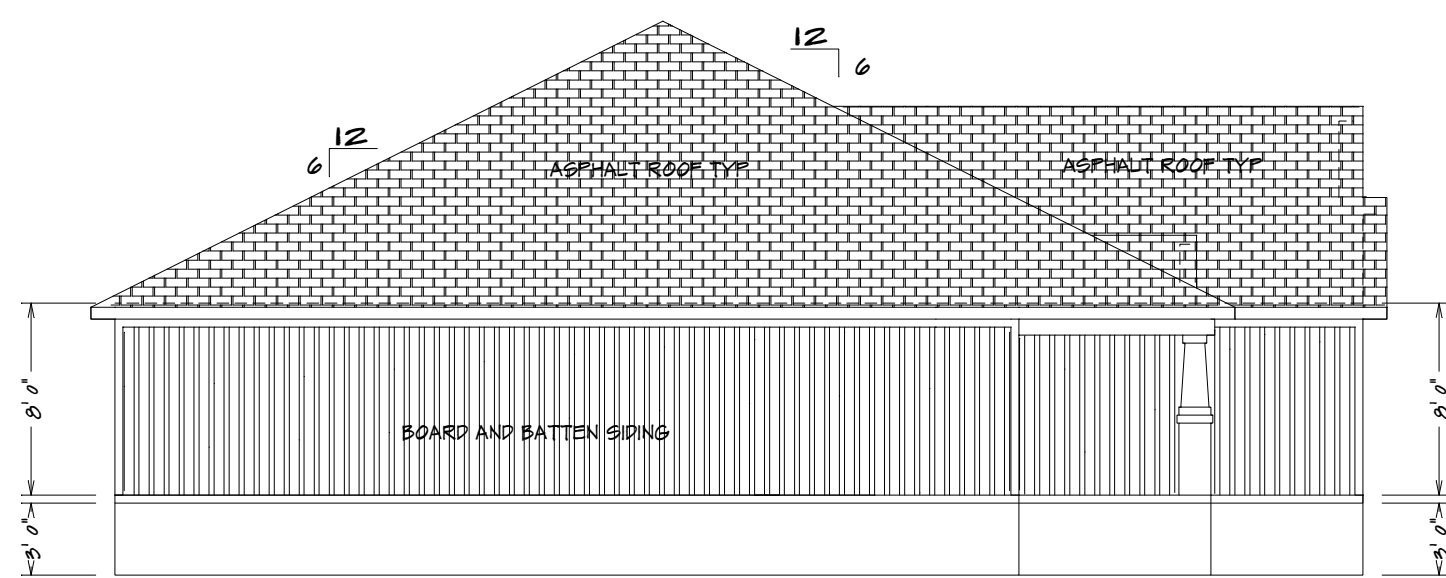
NOTE:
ACTUAL ELEVATIONS MAY VARY FROM ARCHITECTURAL
DRAWINGS, DUE TO TERRAIN/BACKFILL PROCESS.
FRONT ELEVATION IS ARCHITECTURAL DRAWING AND
MAY VARY DUE TO MATERIALS AVAILABILITY.

BUILDINGS # 1/4/8/10/13
BUILDINGS # 6 (PLAN FLIPPED)

FRONT ELEVATION

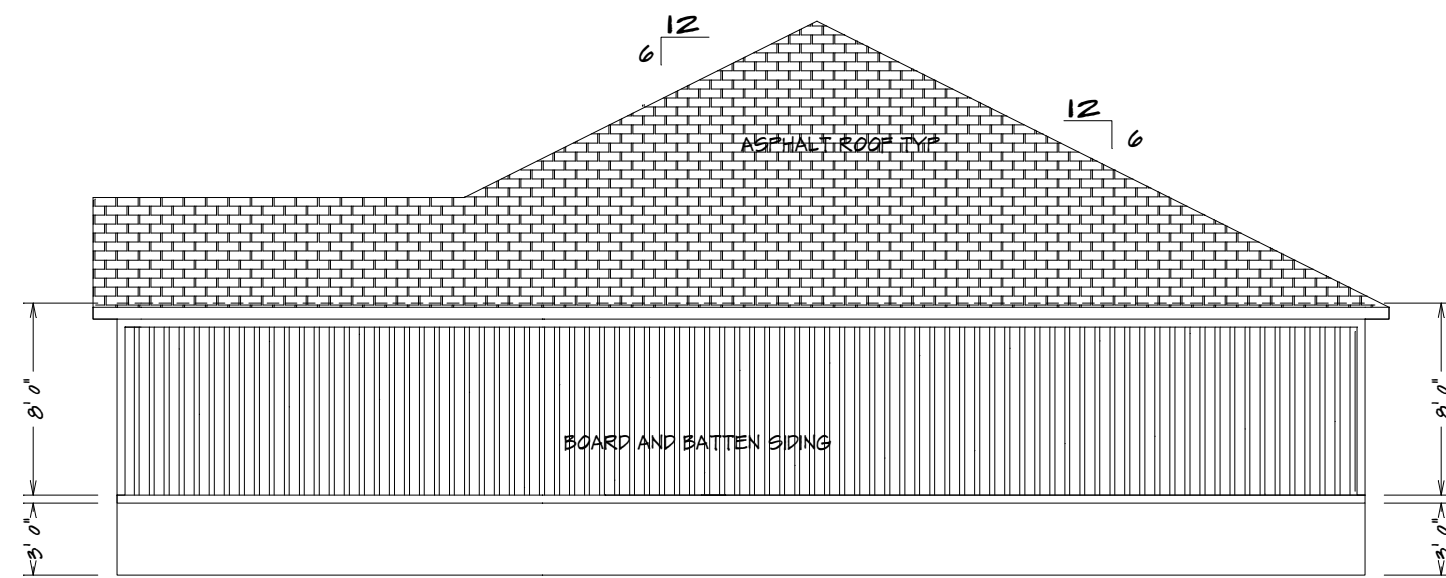
1/4" = 1'0"

BUILDER/CONTRACTOR IS RESPONSIBLE TO
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AND COLUMN SIZES.



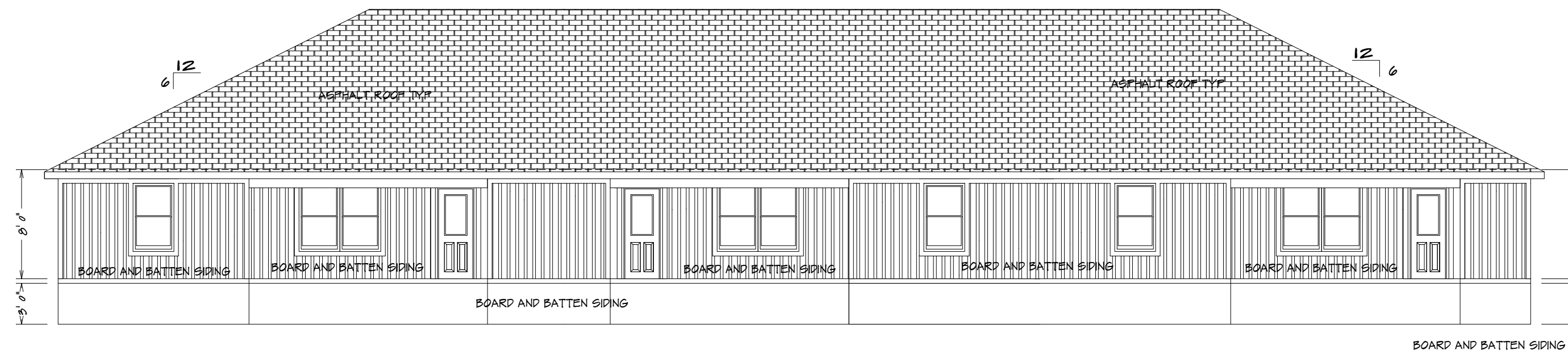
LEFT ELEVATION

1/8" = 1'0"



RIGHT ELEVATION

1/8" = 1'0"



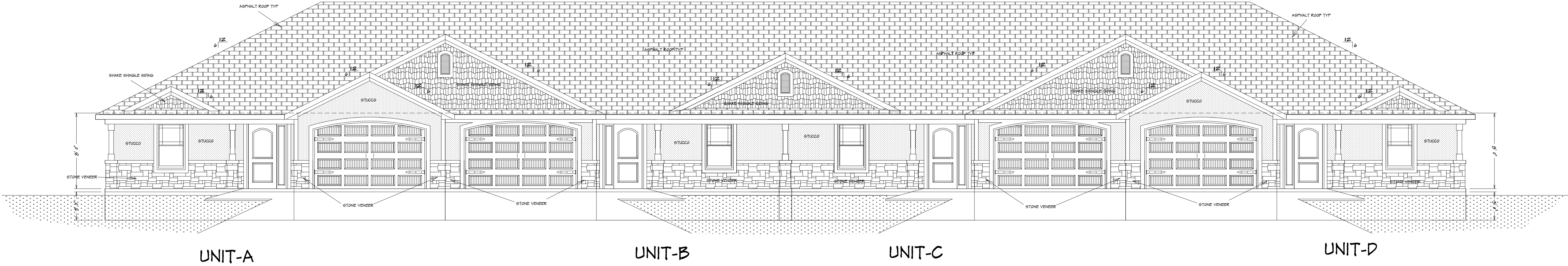
REAR ELEVATION

1/8" = 1'0"

SQUARE FOOTAGE

LIVING AREA
UNIT-A
FIRST FLOOR = 1080
UNIT-B
FIRST FLOOR = 1080
UNIT-C
FIRST FLOOR = 1080
UNFINISHED AREA
UNIT-A
GARAGE = 360
UNIT-B
GARAGE = 340
UNIT-C
GARAGE = 340

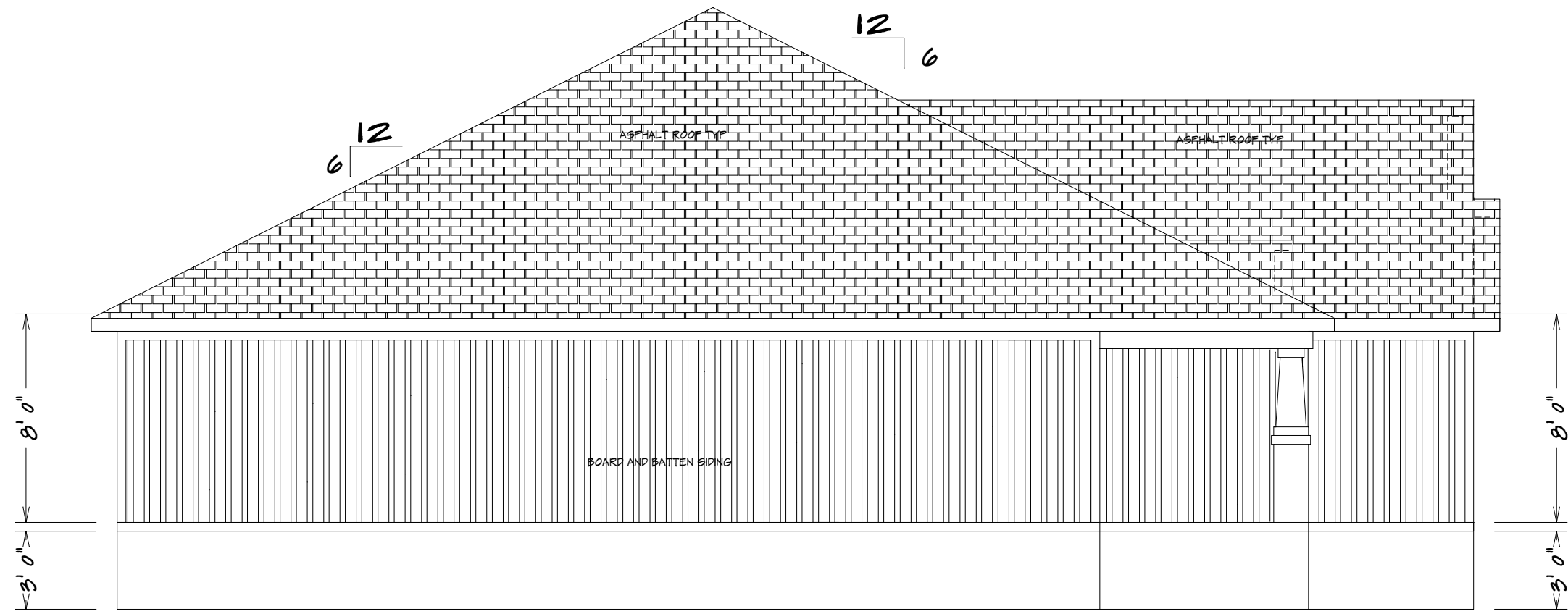
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	BUILDER:	DATE REVISED:	COM-2006 3-FLX	1
	SUB-DIVISION:	DESIGNER:	FILE NAME:	APPROX. SQ.FT.
BUILDER/CONTRACTOR IS RESPONSIBLE TO CHECK ALL DIMENSIONS FOR ACCURACY BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS. ALSO VERIFY ALL BEAM, HEADERS, PAD LOCATIONS, AND COLUMN SIZES. BUILDER/CONTRACTOR TO CHECK FOR CONFORMANCE WITH ALL CITY ORDINANCES. BUILDER/CONTRACTOR ACCEPTS ALL RESPONSIBILITY FOR LOT PLACEMENT, SET BACKS, AND FLOOD PLANS. BUILDER/CONTRACTOR AND HOME OWNER ACCEPTS RESPONSIBILITY FOR ANY AND ALL COPYRIGHT INFRINGEMENTS OR RESEMBLANCES TO OTHER COPYRIGHTED PLANS. BUILDER/CONTRACTOR ACCEPTS RESPONSIBILITY FOR ANY ON SITE CHANGES MADE TO STRUCTURE.				



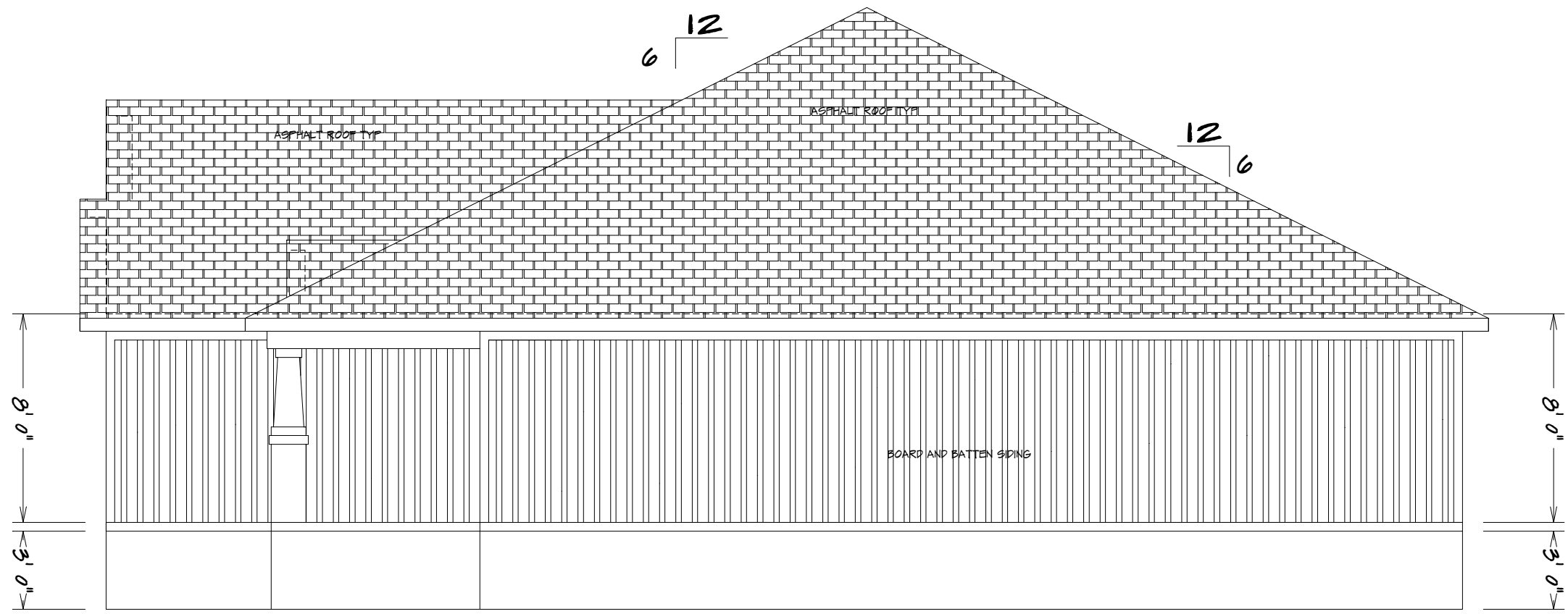
NOTE:
ACTUAL ELEVATIONS MAY VARY FROM ARCHITECTURAL
DRAWINGS, DUE TO TERRAIN/BACKFILL PROGRESS.
FRONT ELEVATION IS ARCHITECTURAL DRAWING AND
MAY VARY DUE TO MATERIALS AVAILABILITY.

BUILDINGS # 2/3/12
FRONT ELEVATION
3/16" = 1'0"

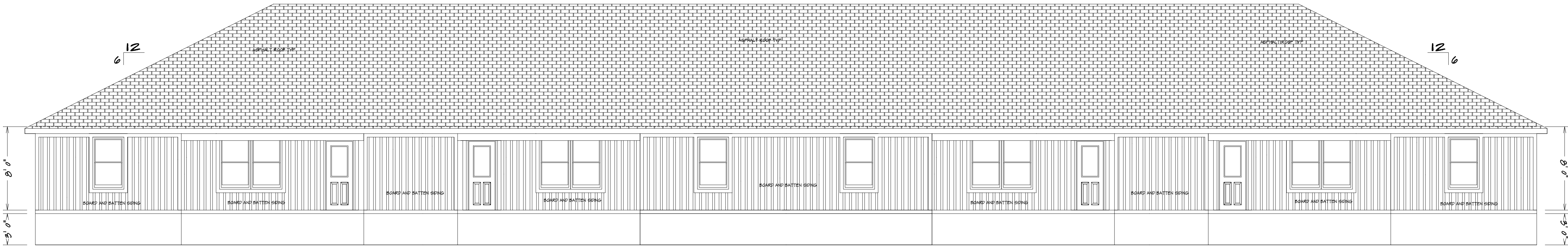
BUILDER/CONTRACTOR IS RESPONSIBLE TO
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BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS.
ALSO VERIFY ALL BEAM, HEADERS, PAD LOCATIONS,
AND COLUMN SIZES.



LEFT ELEVATION
3/16" = 1'0"



RIGHT ELEVATION
3/16" = 1'0"



REAR ELEVATION
3/16" = 1'0"

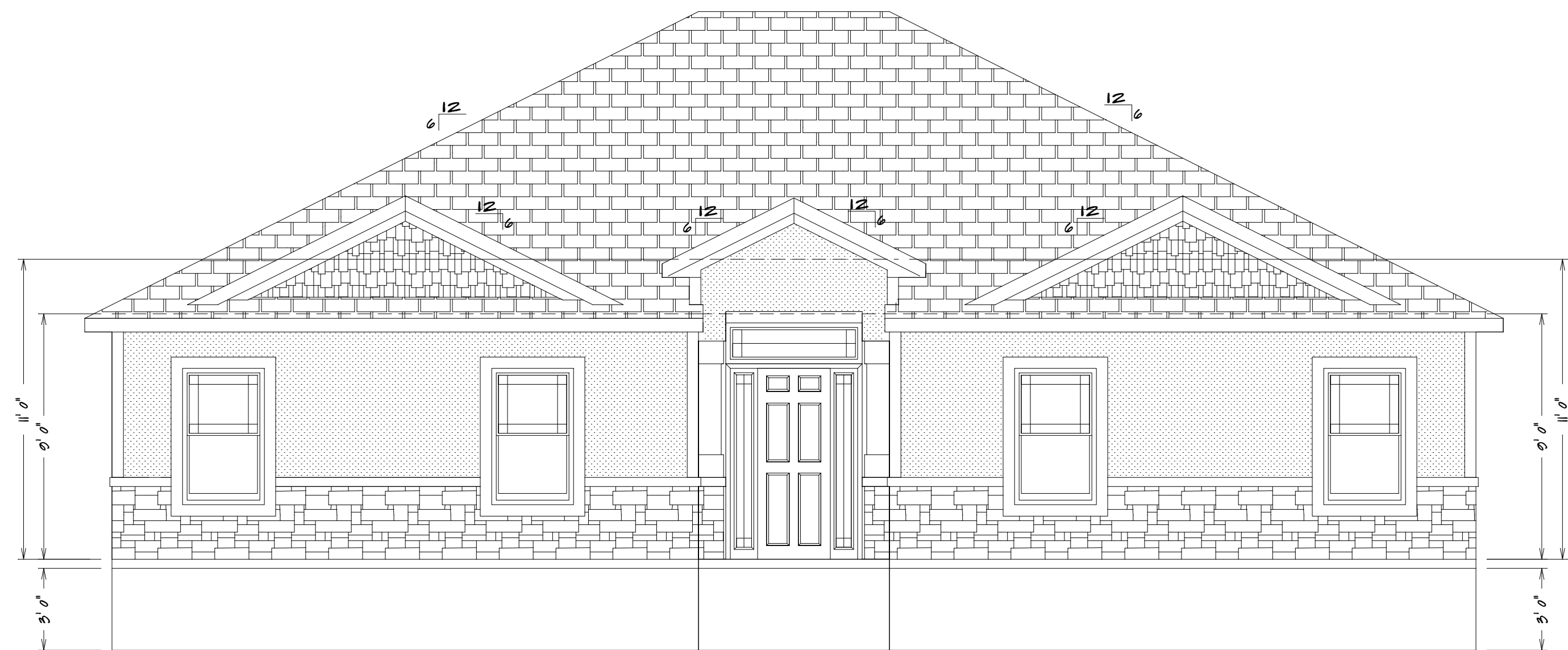
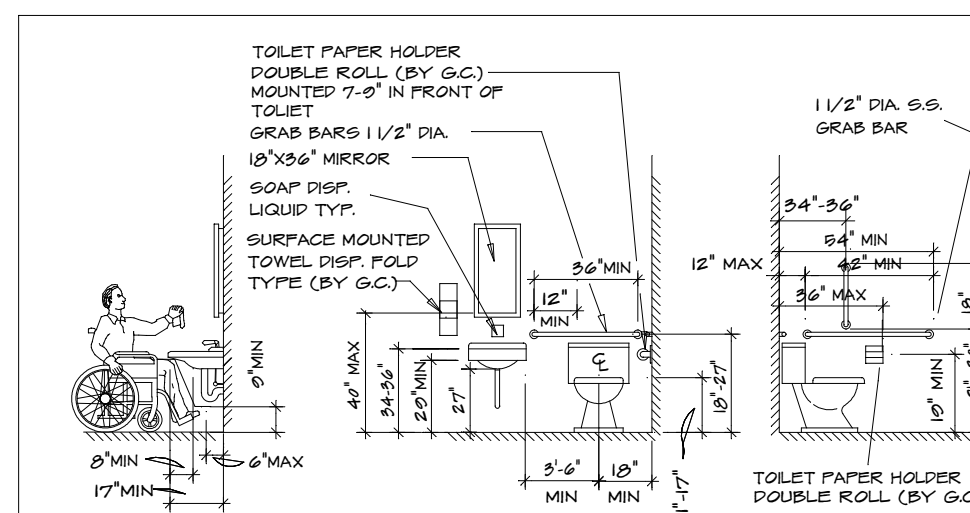
SQUARE FOOTAGE

LIVING AREA	
UNIT-A	UNIT-C
FIRST FLOOR = 1498	FIRST FLOOR = 1498
UNIT-B	UNIT-D
FIRST FLOOR = 1498	FIRST FLOOR = 1498

UNFINISHED AREA	
UNIT-A	UNIT-C
GARAGE = 540	GARAGE = 540
UNIT-B	UNIT-D
GARAGE = 540	GARAGE = 540

BUILDER/CONTRACTOR IS RESPONSIBLE TO CHECK ALL DIMENSIONS FOR ACCURACY
BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS. ALSO VERIFY ALL BEAM, HEADERS,
AND COLUMN SIZES. VERIFY ALL DIMENSIONS FOR CHECK AGAINST THE CONTRACTOR
CANNOT BE RESPONSIBLE FOR LOT PLACEMENT, SET BACKS, AND FLOOD PLANS.
BUILDER/CONTRACTOR AND HOME OWNER ACCEPTS RESPONSIBILITY FOR ANY AND ALL
COPYRIGHT INFRINGEMENTS OR RESEMBLANCES TO OTHER COPYRIGHTED PLANS.
BUILDER/CONTRACTOR ACCEPTS RESPONSIBILITY FOR ANY ON SITE CHANGES MADE
TO STRUCTURE.

HOME BUYER:	PHONE:	DATE DRAWN:	PLAN NO.	SHEET NO.
BUILDER:	PHONE:	DATE REVISED:	COM-8868 4-FLX	1
	LOT NO.	DESIGNER:	FILE NAME:	APPROX. SQ.FT.
SUB-DIVISION:			8468PENT	


$$1/4'' = 1'0''$$


NOTES:

1. LAV. AND WATER CLOSETS TO BE LEVER TYPE CONTROL.	4. PROVIDE 1 1/2" CLEARANCE BETWEEN GRAB BAR AND WALL.
2. SEAT MUST BE LOCATED AT REMOTE AREA.	5. HOT WATER AND DRAIN PIPES UNDER LAV. SHALL BE INSULATED OR OTHERWISE CONFIGURED TO PROTECT AGAINST CONTACT.
3. GRAB BAR AND SEAT SHALL WITHSTAND A LOAD OF NOT LESS THAN 250 POUNDS APPLIED AT ANY POINT.	6. CHECK WITH MANAGER BEFORE INSTALLING BATH ACCESSORIES.

GENERAL LAYOUT

1. ALL DIMENSIONS TO FACE OF GYP. BOARD / FACE OF FINISHED MATERIAL, UNLESS OTHERWISE NOTED
2. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS IN THE FIELD AND INFORM THE OWNER OF ANY DISCREPANCIES BEFORE PROCEEDING
3. PROVIDE 2X BLOCKING IN ALL WALLS AS REQUIRED FOR SUPPORT
4. CONTRACTOR TO DESIGN, COORDINATE, INSTALL, ETC. ALL CASEWORK/MILLWORK WITH OWNER
5. COORDINATE ALL FINAL OUTLET, WALL AND DOOR LOCATION W/ OWNER BEFORE CONSTRUCTION
6. COORDINATE ALL FINISHES WITH OWNER
7. PROVIDE FIRE EXTINGUISHERS AS REQUIRED BY FIRE MARSHAL
8. FIELD VERIFY ALL DIMENSIONS AND SITE CONDITIONS
9. CONTRACTOR TO COORDINATE W/ OWNER ON ALL ITEMS SUPPLIED AND AFFECTING THE CONTRACTORS WORK
10. NEW WALL CONSTRUCTION SHALL BE 24-GAUGE STUDS, TRACK AND BLOCKING, STUDS SET 24" OC MIN. W/ 1/2 GYPSUM BOARD
Wall studs shall be designed in accordance with either AISI S211 or AISI S100
11. WALL COVERING IN PROPOSED BATHROOM TO HAVE TILE OR OTHER NONABSORBENT SURFACE, TO A HEIGHT NOT LESS THEN 40" OFF.

1 EXIT LIGHT W/ LED LAMPS, BATTERY BACKUP

2 EXIT SIGN W/ ARROW, RED LETTER ON WHITE BACKGROUND WITH EMERGENCY LIGHTING

ALL CONSTRUCTION FOR THIS PROJECT SHALL CONFORM TO THE REQUIREMENTS OF THE FOLLOWING CODES ALL AS AMENDED BY THE CITY OF INDEPENDENCE

2010 INTERNATIONAL BUILDING CODE
2017 NATIONAL ELECTRIC CODE
2012 INTERNATIONAL PLUMBING CODE
2012 INTERNATIONAL MECHANICAL CODE
2012 INTERNATIONAL FIRE CODE & LIFE SAFETY CODE
2012 INTERNATIONAL FUEL GAS CODE
UNIFIED DEVELOPMENT ORDINANCE

2010 ADA (AS ADOPTED BY THIS JURISDICTION)

TENANT USE: OCCUPANCY CLASSIFICATION A-3

TYPE OF CONSTRUCTION (IBC 602): TYPE - V

AUTOMATIC SPRINKLER SYSTEM : NA

SQUARE FOOTAGE AREA = TOTAL 218 SQ.FT.

INDOOR TENANT 1647 SQ.FT.

STORAGE : 163 SQ.FT.

FATIO AREA : 384 SQ.FT.

OCCUPANT LOAD (TABLE 1004.12) :

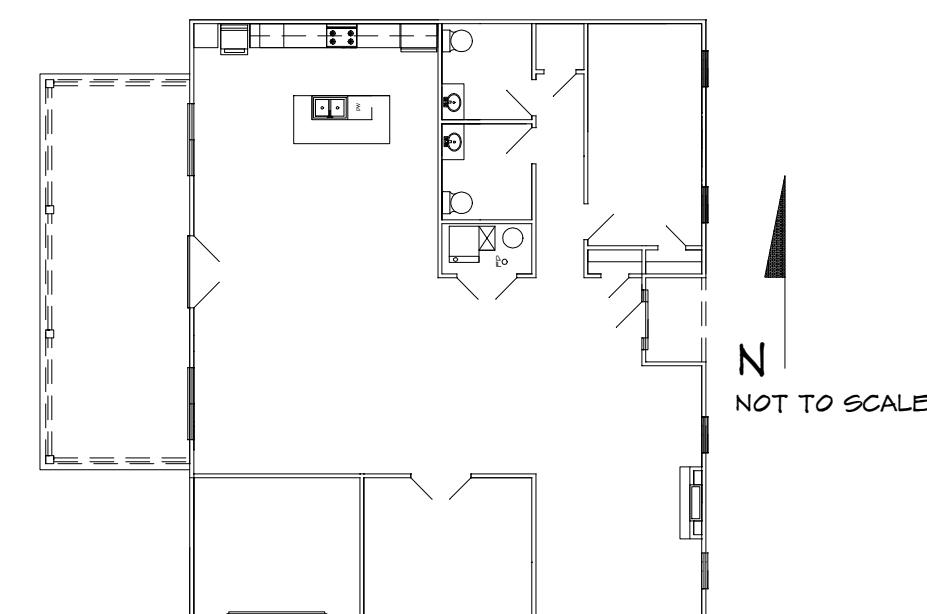
1047/78 = 13.9

PLUMBING REQUIREMENTS (TABLE 2002.1) :

USE GROUP A-3

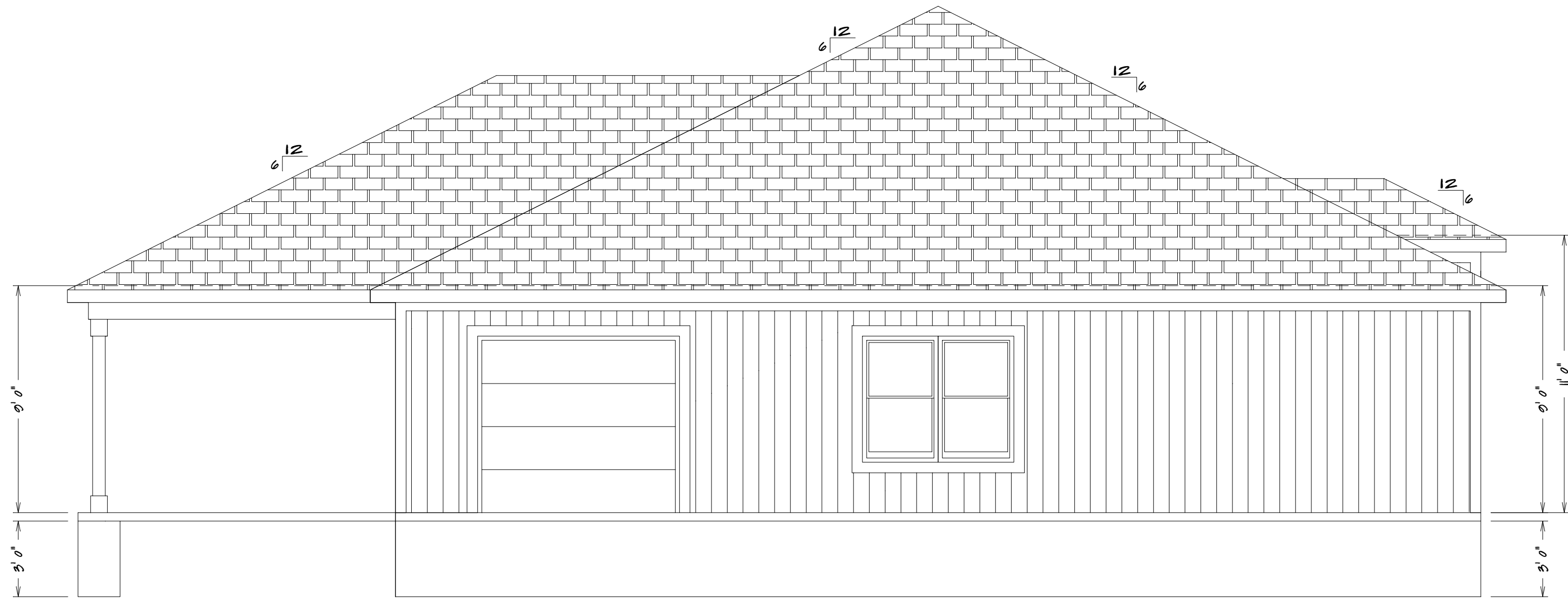
WATER CLOSETS: = (UNISEX) 1 PER 75 = 2

1. THE EXTENSION OF THE MECH. ELEC. AND PLUMBING SYSTEM SHALL BE ON A DESIGN-BUILD BASIS BY THE GENERAL CONTRACTOR
2. CONTRACTOR TO INSTALL COMMERCIAL GRADE ELEC. OUTLETS, SWITCHES, PLUMB. FIXTURES ECT. COORDINATE ALL OUTLETS LOCATION WITH PLAN
3. HVAC AND DUCT WORK EXISTING
4. ALL ELECTRICAL WORK SHALL COMPLY WITH 2011 NEC
5. ALL WIRING SHALL BE IN EMT CONDUIT OR MC CABLE, MINIMUM WIRE SIZE SHALL BE #12 AWG. MINIMUM CONDUIT SIZE SHALL BE 1/2"
6. EXISTING ELECTRICAL PANEL IS 200 AMP-3P W/ 4-#5/0 CU THWN #6GND IN 1 1/2" EMT CONDUIT. VOLTAGE 208/120
7. PROVIDE EXIT SIGNS AND EMERGENCY LIGHTS TO BE IN ACCORDANCE WITH ALL CODES AND REGULATIONS



BUILDER/CONTRACTOR IS RESPONSIBLE TO CHECK ALL DIMENSIONS FOR ACCURACY FROM FLOORS, FOUNDATION, AND ELEVATIONS, ALSO VERIFY ALL BEAM, HEADERS, AND JOIST LOCATIONS. BUILDER/CONTRACTOR TO CHECK FOR COMPLIANCE WITH CONTRACTS, CITY, AND NATIONAL CODES. BUILDER/CONTRACTOR ACCEPTS ALL RESPONSIBILITY FOR LOT PLACEMENT, SET-BACKS, AND FLOOD PLANS. BUILDER/CONTRACTOR AND HOME OWNER ACCEPTS RESPONSIBILITY FOR ANY AND ALL COPYRIGHT INFRINGEMENTS OR RESEMBLANCES TO OTHER COPYRIGHTED PLANS. BUILDER/CONTRACTOR ACCEPTS RESPONSIBILITY FOR ANY ON SITE CHANGES MADE TO STRUCTURE.

HOME BUYER:	PHONE:	DATE DRAWN:	PLAN NO.	SHEET NO.
BUILDER:	PHONE:	DATE REVISED:	CON-8000	1
SUB-DIVISION:	LOT NO.	DESIGNER:	FILE NAME: 8000 FRNT	APPROX. SQ.FT.



LEFT ELEVATION
1/4" = 1'0"

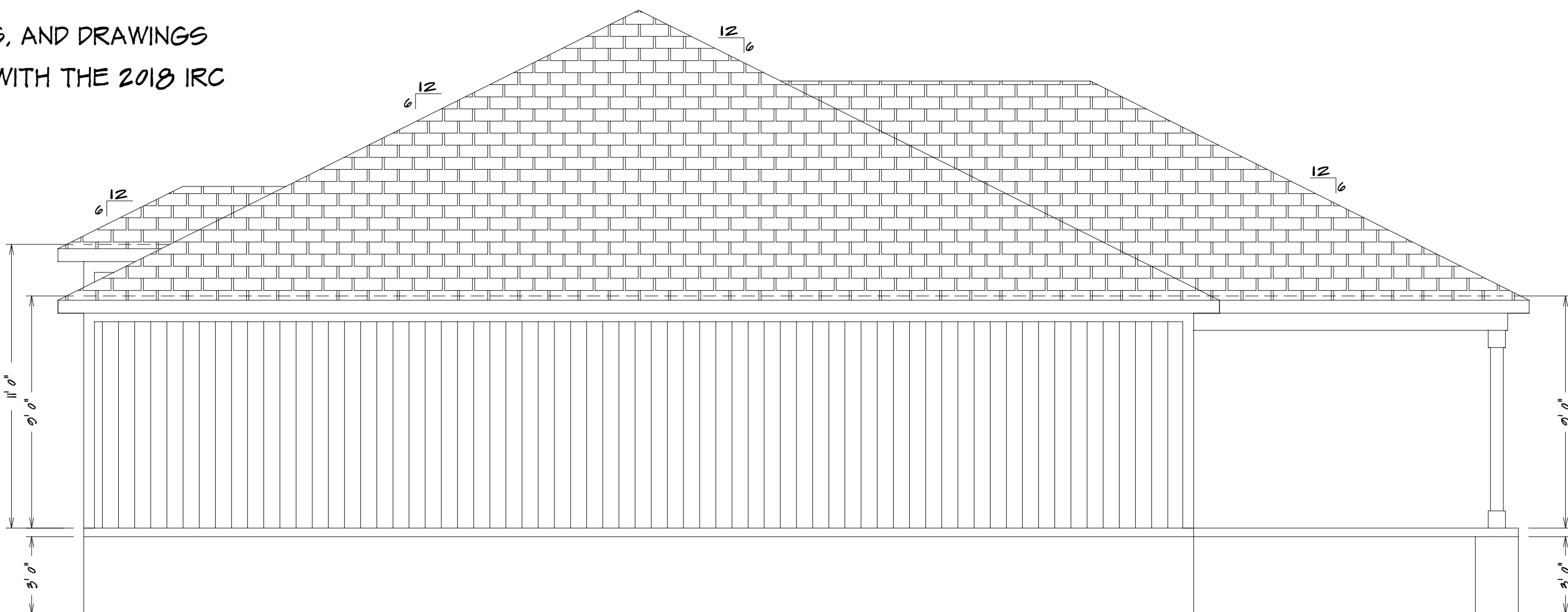
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ALSO VERIFY ALL BEAM, HEADERS, PAD LOCATIONS,
AND COLUMN SIZES.

NOTE:
ACTUAL ELEVATIONS MAY VARY FROM ARCHITECTURAL
DRAWINGS, DUE TO TERRAIN/BACKFILL PROCESS.
FRONT ELEVATION IS ARCHITECTURAL DRAWING AND
MAY VARY DUE TO MATERIALS AVAILABILITY

ALL NOTES, SECTIONS, AND DRAWINGS
ARE IN ACCORDANCE WITH THE 2018 IRC



REAR ELEVATION
1/4" = 1'0"



RIGHT ELEVATION
1/4" = 1'0"

HOME BUYER:	PHONE:	DATE DRAWN:	PLAN NO.	SHEET NO.
	BUILDER:	DATE REVISED:	COM-5000	2
	SUB-DIVISION:	DESIGNER:	FILE NAME:	APPROX. SQ.FT.
			5000 ELEV	

BUILDER/CONTRACTOR IS RESPONSIBLE TO CHECK ALL DIMENSIONS FOR ACCURACY
BETWEEN FLOORS, FOUNDATION, AND ELEVATIONS. ALSO VERIFY ALL BEAM, HEADERS,
PAD LOCATIONS, AND COLUMN SIZES. BUILDER/CONTRACTOR TO CHECK FOR
CONCRETE CURING TIME, AND VERIFY ALL DIMENSIONS. BUILDER/CONTRACTOR
ACCEPTS ALL RESPONSIBILITY FOR LOT PLACEMENT, SETBACKS, AND PLANS.
BUILDER/CONTRACTOR AND HOME OWNER ACCEPTS RESPONSIBILITY FOR ANY AND ALL
COPYRIGHT INFRINGEMENTS OR RESEMBLANCES TO OTHER COPYRIGHTED PLANS.
BUILDER/CONTRACTOR ACCEPTS RESPONSIBILITY FOR ANY ON-SITE CHANGES MADE
TO STRUCTURE.

B. **P&Z Case 23-04FDP:** Major Final Development Plan for Fulkerson Cottages, 40 units of age restricted duplex, triplex, and four-plexes at Liberty Dr, west of Fulkerson Circle.

Mr. Peterman presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any questions.

Chairman Rosekrans asked the applicant if they wish to speak.

Spencer Thomson, 1207 Campbell Drive, owner, stated that the engineer, Steve Warger, is also in attendance and they are available for questions.

Commissioner Personett asked about the design of the stormwater area.

Mr. Warger stated that it is designed as an underground pipe detention in a depressed basin. It will be grass covered and should be dry most of the time. It will only hold water in large events.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Personett moved to approve the case as presented in the staff report. Commissioner Dilts seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

RESOLUTION NO. _____

FINAL DEVELOPMENT PLAN FOR FULKERSON COTTAGES, 40 UNITS OF AGE RESTRICTED DUPLEX, TRIPLEX, AND FOUR-PLEXES AT LIBERTY DR, WEST OF FULKERSON CIRCLE IN LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, a final development plan for Fulkerson Cottages, 40 units of age restricted duplex, triplex, and Four-plexes at Liberty Dr, west of Fulkerson Circle in the City of Liberty, Clay County, Missouri, has been duly and properly presented to the Planning & Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, pursuant to the Unified Development Ordinance (UDO) of the City of Liberty, the City Council finds that the final development plan described duly conforms to the standards and requirements of ordinances in place at the time of the application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Liberty, Missouri, that the final development plan for Fulkerson Cottages, 40 units of age restricted duplex, triplex, and Four-plexes at Liberty Dr, west of Fulkerson Circle in the City of Liberty, Clay County, Missouri, is hereby approved according to the final development plan on file in the office of the Department of Planning and Development.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

Document No. _____

ORDINANCE NO. _____

ORDINANCE ACCEPTING AND APPROVING A FINAL PLAT FOR
FULKERSON COTTAGES, IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, a final plat for Fulkerson Cottages in the City of Liberty, Clay County, Missouri, has been duly and properly presented to the Planning and Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, pursuant to Section 30-28.14 of the Unified Development Ordinance of the City of Liberty, the City Council finds that the plat described duly conforms to the standards and requirements of ordinances in place at the time of the application;

BE IT ORDAINED, by the City Council of the City of Liberty, Clay County, Missouri, as follows:

SECTION I

The City Council hereby accepts and approves a final plat for Fulkerson Cottages in the City of Liberty, Clay County, Missouri the legal description of which follows:

TRACT I:

PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION THIRTEEN (13), TOWNSHIP FIFTY-ONE (51), RANGE THIRTY-TWO (32), IN LIBERTY, CLAY COUNTY, MISSOURI, AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SECTION THIRTEEN (13), TOWNSHIP FIFTY-ONE (51), RANGE THIRTY-TWO (32); THENCE SOUTH ON THE SECTION LINE, A DISTANCE OF 1182.6 FEET; THENCE WEST, A DISTANCE OF 736.7 FEET; THENCE NORTH, A DISTANCE OF 1182.6 FEET TO A POINT IN THE NORTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION THIRTEEN (13); THENCE EAST ALONG THE SECTION LINE TO THE POINT OF BEGINNING, EXCEPT THAT PART IN ROADS, AND EXCEPT, THAT PART PLATTED AS LOTS 1 THRU 5, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI, AND EXCEPT THAT PART PLATTED AS LOTS 6 THRU 10, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI, AND EXCEPT THAT PART PLATTED AS LOTS 11 THRU 14, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI, AND EXCEPT THAT PART PLATTED AS LOTS 15 THRU 21, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI,

TRACT II:

THE NORTH 15 FEET OF LOT 14, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI

SECTION II

ORDINANCE NO. _____ (CONT.)

Any and all development within the above-described final plat shall comply with all applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this _____ day of _____, 2023.

MAYOR



STAFF REPORT

Planning and Zoning Case 23-05FP

Staff: Mike Peterman, City Planner

Date: February 27, 2023

GENERAL INFORMATION

Application: Final Plat of Fulkerson Cottages, an age restricted residential development on one lot at the SW corner of Liberty Dr. & Fulkerson Ct.

Applicant: Spencer Thomson
Patriot Properties, LLC
351 W. Washington St.
Kearney, MO 64060

Property Owner: Fulkerson Trust
14413 E Tipperary Circle
Wichita, KS 67230

Location: Southwest corner of Liberty Dr. & Fulkerson Ct.

Existing Land Use/Zoning: Undeveloped / PD, "Planned Development" district

Future Land Use Designation: Low Density Residential

Surrounding Land Uses/Zoning: **North:** Single family & Bank/ R-1C "Single Family Residential" & C-2 "General Business"
South: Fulkerson Estates / R-1C "Single Family Residential"
East: Fulkerson Estates / R-1C "Single Family Residential"
West: Westboro / R-1C "Single Family Residential"

Public Notice: None Required

File Date: January 6, 2023

PREVIOUS CASES / SITE HISTORY

PZ Case 23-04FDP: Final Development Plan for Fulkerson Cottages to allow the construction of a 40 unit age restricted community is running concurrently with this application.

PZ Case 22-19R&PDP: Proposal to Rezone 6.68 ac from R-1C to PD for Fulkerson Cottages to allow the construction of a 40 unit age restricted community was approved by the City Council on July 25, 2022.

PZ Case 22-20PP: Preliminary Plat for Fulkerson Cottages, 1 lot on 6.68 acres was approved by the City Council on July 25, 2022.

PZ Case 16-27A: Proposal to amend the Future Land Use Map to High Density Residential failed at the City Council on July 25, 2016.

PZ Case 16-08R: A request by Historic District Review Commission to rezone 73 Fulkerson Circle (Fulkerson House) to Historic Preservation District Overlay-Local Landmark was recommended for denial by the Planning Commission on March 8, 2016. This case did not go to the City Council.

APPLICANT'S PROPOSAL

Technical Information

This is final plat for 1 lot for Fulkerson Cottages. The proposal is to build 40 units; 7 duplexes, 2 triplexes, and 5 fourplex units and a clubhouse in an age restricted development.

Park dedication

As no parkland will be dedicated with this development a fee is required to be paid in the amount of \$12,480.

PUBLIC INFRASTRUCTURE

FACILITY	CITY STANDARD	STATUS
Streets	Direct connection to fully improved street network	The property will have direct access to W. Liberty Drive.
Sanitary Sewer	Direct, gravity flow connection	The site has access to an 8" public sanitary sewer line to the west along W. Liberty Drive. A public main extension to the property will be required. An internal sewer lines will run along the internal streets.
Water	Direct connection to City water services	The site has direct access to a public water line along W. Liberty Drive and Fulkerson Circle. All internal lines will be private
Storm Water	All storm water must be released from the site at an acceptable rate	Storm water will be collected on the property and directed into a combination of storm water quality best management practices and a storm water detention basin located on the northern portion of the property. Storm water released from the development will be managed to reduce offsite erosion potential or additional erosion prevention measures will be designed and constructed.

STAFF ANALYSIS

In accordance with the UDO, staff's analysis of a Final Plat application is guided by Section 30-28.14.

1. The final plat substantially complies with the intent of the comprehensive plan;

The proposed plat conforms to guidelines 1 and 2 of Principle Twelve, which encourages development in a contiguous area in which municipal services are readily available. The Comprehensive Plan also encourages the creation of a diverse mixture of housing types to create a balanced full service community. Staff believes this proposal satisfies the intent of the Comprehensive Plan.

- 2. The final plat complies with the provisions of this UDO;**
The proposed plat complies with all standards of the UDO.
- 3. The final plat substantially complies with approved city development standards and policies;**
The proposed plat has direct access to water, sewer, and the public street network and substantially complies with City standards and policies.
- 4. The final plat substantially conforms to the approved preliminary plat, when applicable;**
The proposed plat substantially conforms to the previously-approved preliminary plat.
- 5. All public works elements have been designed to city specifications and certified by the city engineer;**
All public improvement plans have been submitted and will be approved prior to the recordation of this plat.
- 6. All necessary easements, dedications, vacations, and other agreements have been accepted or approved.**
All easements and dedications have been reviewed and approved by the City Engineer and will be accepted with the approval and recordation of this plat.

STAFF RECOMMENDATION

Staff finds the application meets the standards of review for a Final Plat in Section 30-28.14 of the UDO and recommends approval of P&Z Case 23-05FP.

PZ RECOMMENDATION

At its February 14, 2023 meeting, the Planning Commission voted 8-0-0 to recommend approval of P&Z Case 23-05FP as presented in the staff report.

ATTACHMENTS

Exhibit A:	Vicinity Map
Exhibit B:	Preliminary Plat
Exhibit C:	Final Plat
Exhibit D:	Minutes Excerpt from Planning & Zoning Commission meeting
Exhibit E:	Resolution



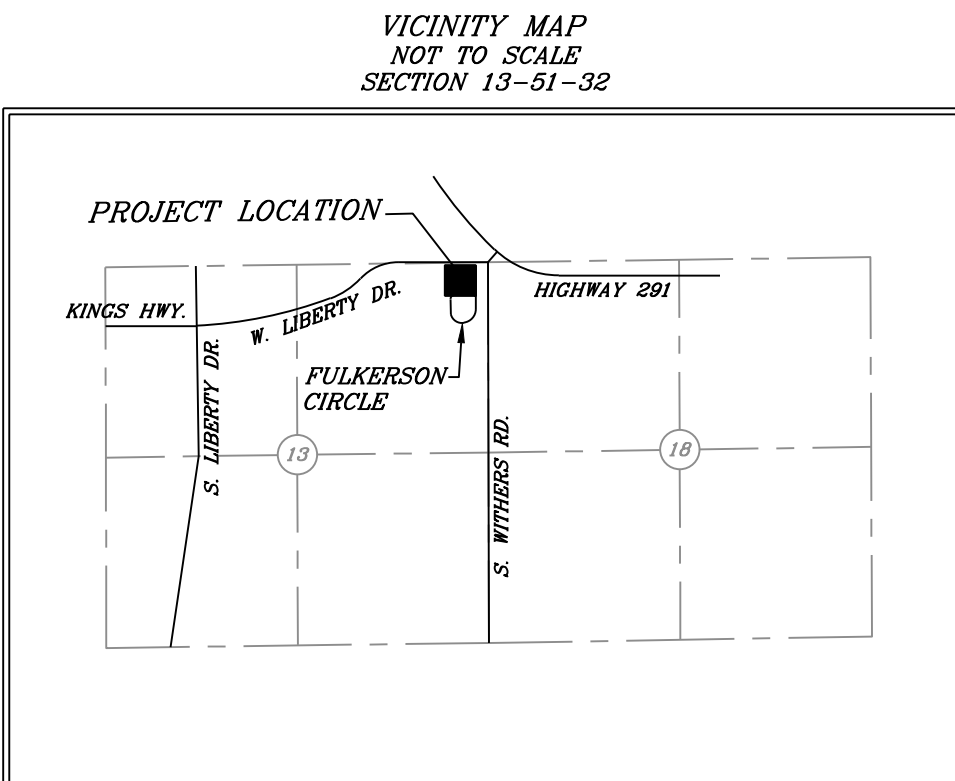
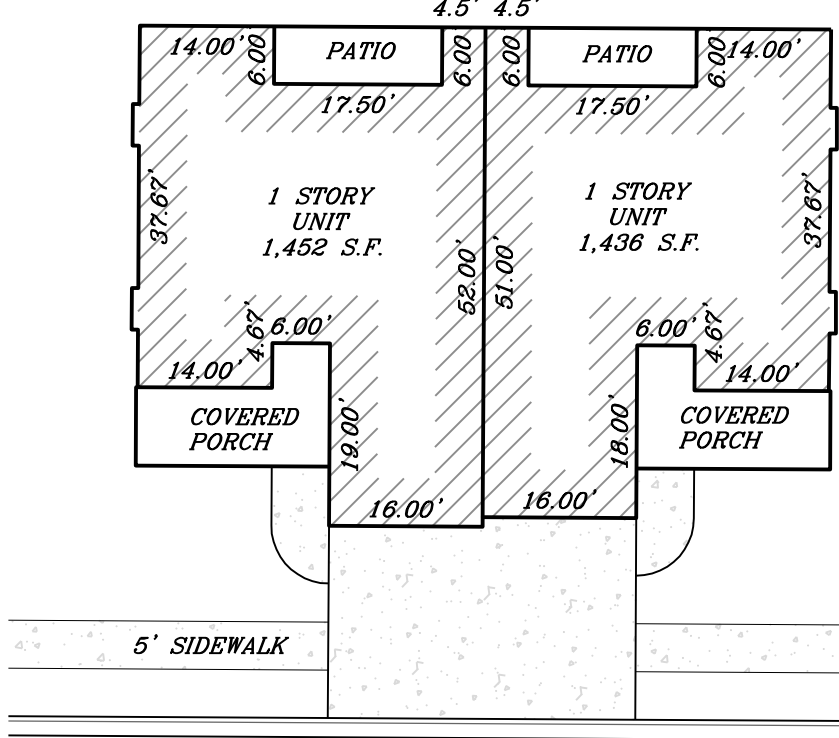
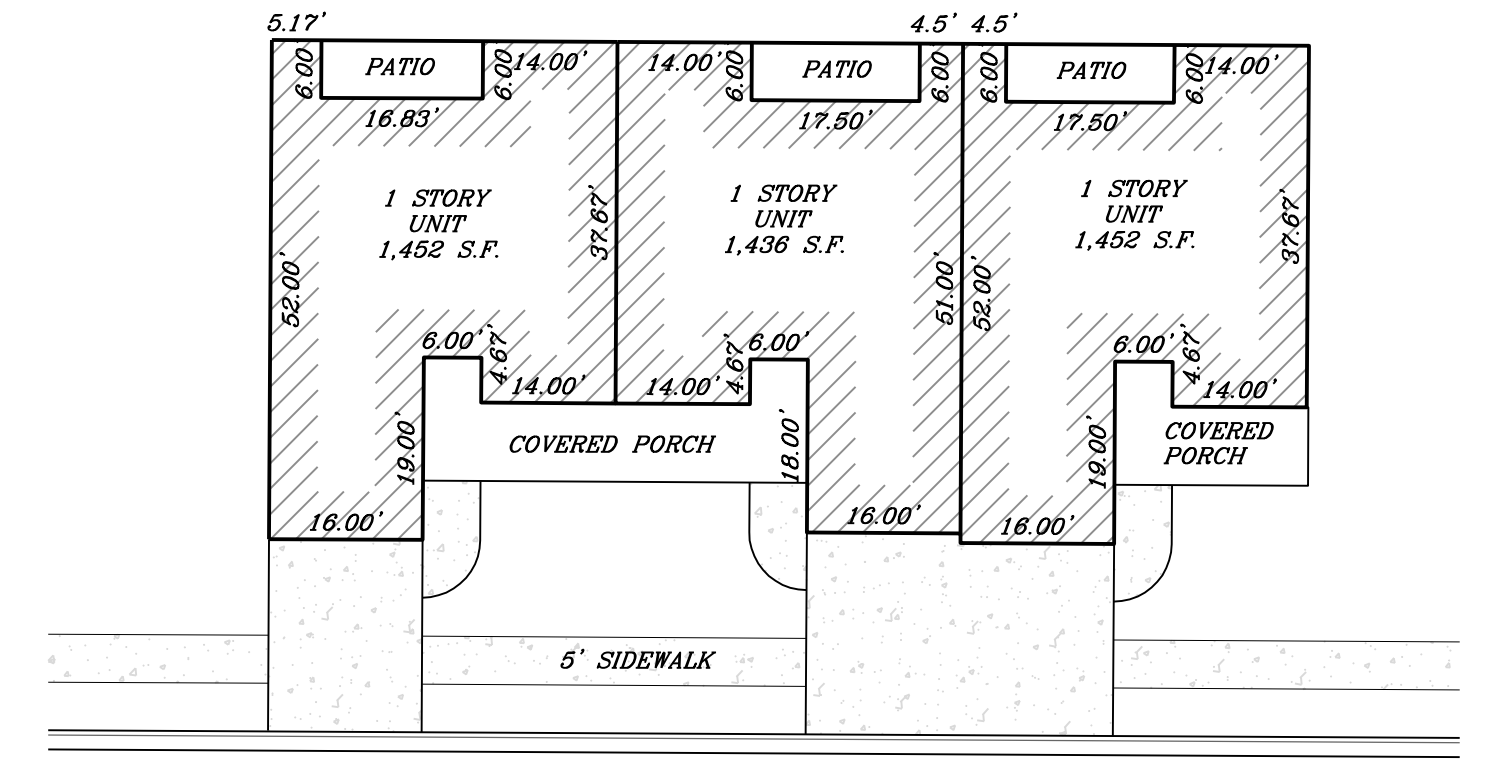
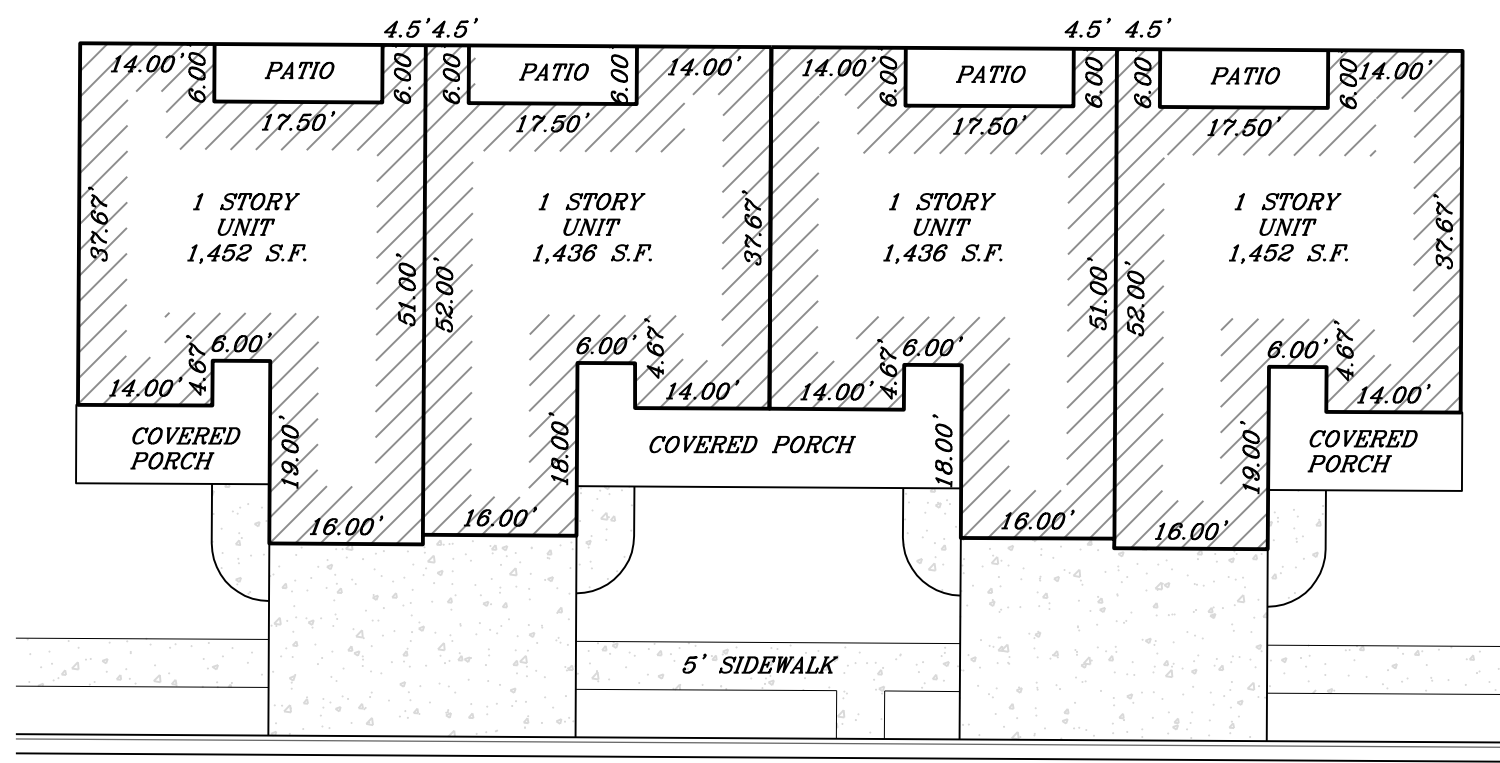
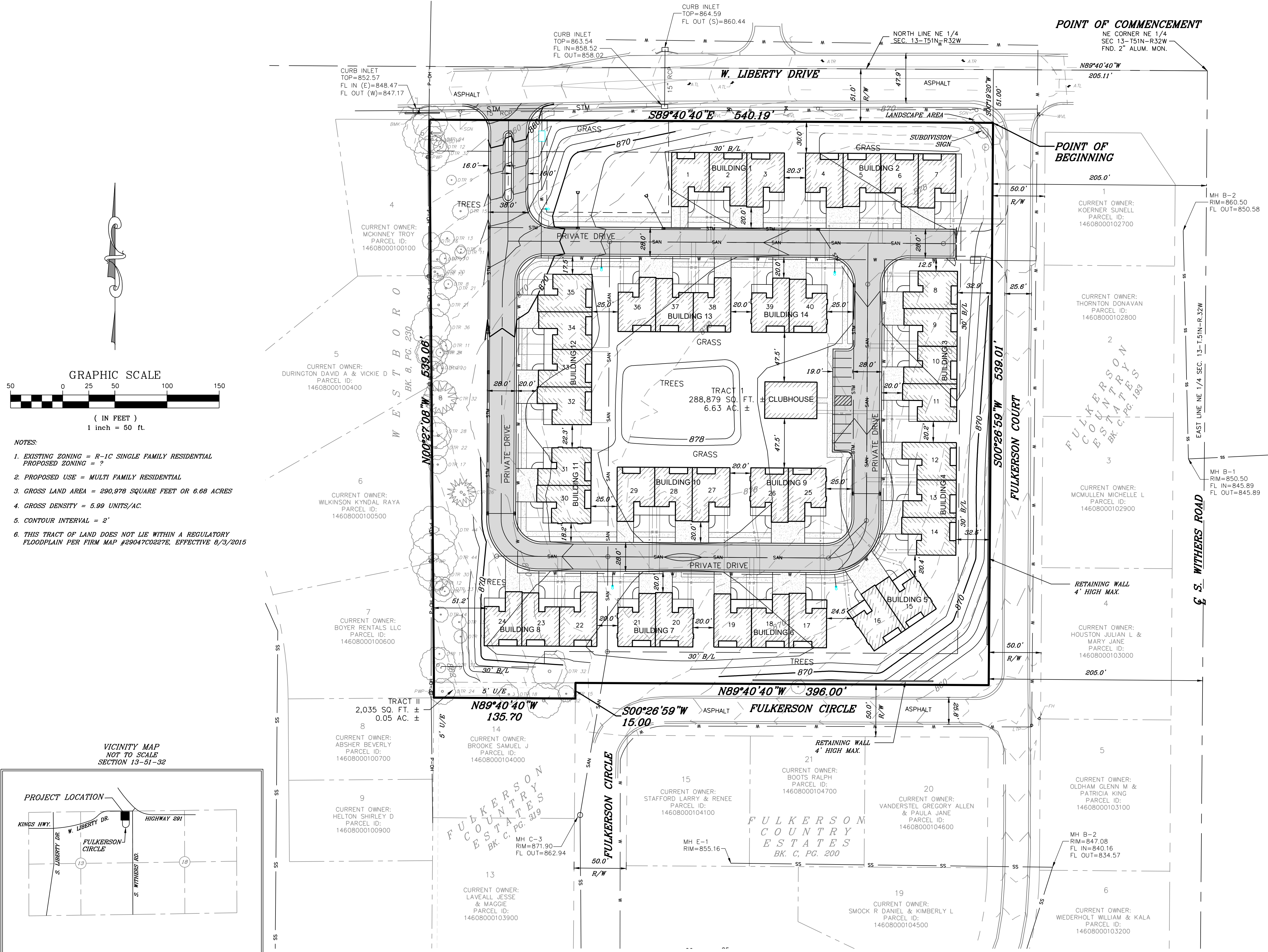
PRELIMINARY PLAT
FULKERSON COTTAGES
PART OF THE NORTHEAST QUARTER OF
SECTION 13, TOWNSHIP 51 NORTH, RANGE 32 WEST,
LIBERTY, CLAY COUNTY, MISSOURI

SHEET 1 OF 1

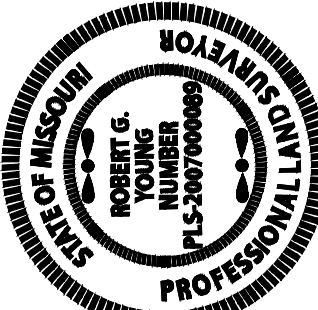
PROPERTY DESCRIPTION

CONTAINING 290,978 SQUARE FEET OR 6.68 ACRES

ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 51 NORTH, RANGE 32 WEST, LIBERTY, CLAY COUNTY, MISSOURI, BEING FURTHER DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 13; THENCE N89°40'40"W, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 205.11 FEET; THENCE S00°26'59"W, A DISTANCE OF 51.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF W. LIBERTY DRIVE, SAID POINT BEING ON THE WEST RIGHT OF WAY LINE OF FULKERSON COURT AND THE POINT OF BEGINNING OF THE TRACT HEREIN TO BE DESCRIBED; THENCE S00°26'59"W, ALONG THE WEST RIGHT OF WAY LINE OF SAID FULKERSON COURT, A DISTANCE OF 539.01 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF FULKERSON CIRCLE; THENCE N89°40'40"W, ALONG THE NORTH RIGHT OF WAY LINE OF SAID FULKERSON CIRCLE AND THE NORTH LINE OF LOT 14, FULKERSON COUNTRY ESTATES, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI, A DISTANCE OF 396.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14, SAID POINT ALSO BEING ON THE EAST LINE OF LOT 7, WESTBORO, A SUBDIVISION IN LIBERTY, CLAY COUNTY, MISSOURI; THENCE N00°27'08"W, ALONG THE EAST LINE OF LOTS 4, 5, 6 & 7 OF SAID WESTBORO, A DISTANCE OF 539.06 FEET TO THE NORTHEAST CORNER OF LOT 4 OF SAID WESTBORO, SAID POINT BEING ON THE SOUTH RIGHT OF WAY LINE OF SAID W. LIBERTY DRIVE; THENCE S89°40'40"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 540.19 FEET TO THE POINT OF BEGINNING.



PLAN REVISIONS



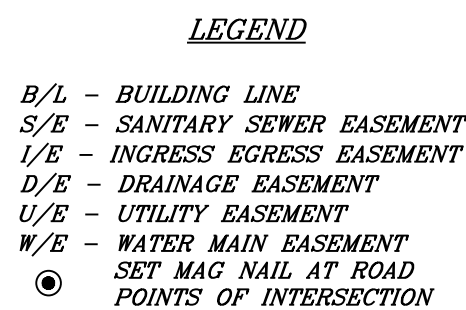
SURVEYOR'S CERTIFICATION
I HEREBY CERTIFY THAT WE HAVE MADE A SURVEY OF THE PREMISES HEREIN DESCRIBED WHICH MEET OR EXCEED THE CURRENT "MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS" AS JOINTLY ESTABLISHED BY THE MISSOURI DEPARTMENT OF NATURAL RESOURCES, DIVISION OF LAND SURVEYING, AND THE MISSOURI BOARD OF LAND SURVEYING. THE RESULTS OF SAID SURVEY ARE REPRESENTED ON THIS DRAWING TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

ROBERT G. YOUNG, PLS 007000089 DATE: REV 06/03/2022

R.L. Buford & Associates, LLC
LAND SURVEYING - CIVIL ENGINEERS - DEVELOPMENT CONSULTANTS
R.L. BUFORD & ASSOCIATES, LLC - NO CERT. OF AUTHORITY
202016031877
P.O. BOX 14069, PARKVILLE, MO. 64112 (816) 741-6152

JOB NO. J-22210
SEC.-TWP.-RGE. COUNTY CLAY
DATE 06/24/2022
FIELD BOOK
FOR 27, LLC
PO Box 616
RAYMORE, MO 64083
DOMINIAN JONES (816) 787-6565
DRAWN BY J.K.K.
FULKERSON COTTAGES - PRELIMINARY PLAT





PROPERTY DESCRIPTION
CONTAINING 290.979 SQUARE FEET OR 6.68 ACRES

ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 51 NORTH, RANGE 32 WEST IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI BEING FURTHER DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 13, THENCE N89°40'40" W, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 205.00 FEET, THENCE S00°56'59" W, A DISTANCE OF 51.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF W. LIBERTY DRIVE, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF FULKERSON COURT AND THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED, THENCE S00°56'59" W, ALONG THE SOUTH RIGHT OF WAY LINE OF SAID FULKERSON COURT, A DISTANCE OF 539.01 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF FULKERSON CIRCLE, THENCE N89°40'40" W, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 396.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF SAID FULKERSON CIRCLE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 14, FULKERSON COUNTRY ESTATES, A SUBDIVISION OF LAND IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI, THENCE S32°28'59" W, ALONG THE WEST RIGHT OF WAY LINE OF SAID FULKERSON CIRCLE, A DISTANCE OF 135.70 FEET TO A POINT ON THE WEST LINE OF SAID LOT 14, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 7, WESTBORO, A SUBDIVISION OF LAND IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI; THENCE N02°27'08" W, ALONG THE EAST LINE OF LOTS 4, 5, 6 AND 7 OF SAID WESTBORO, A DISTANCE OF 539.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 4, SAID POINT ALSO BEING ON THE SOUTH RIGHT OF WAY LINE OF W. LIBERTY DRIVE, THENCE S89°40'40" E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 540.19 FEET TO THE POINT OF BEGINNING.

DEDICATION:
THE UNDERSIGNED PROPRIETORS OF THE PROPERTY DESCRIBED HEREIN HAVE CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER AS SHOWN
ON THIS PLAT AND SAID PROPERTY SHALL HEREAFTER BE KNOWN AS:

FULKERSON COTTAGES

[illegible]

STORMWATER FACILITY EASEMENT DEDICATION:
AN EASEMENT IS HEREBY GRANTED TO THE HOMES ASSOCIATION TO LOCATE, CONSTRUCT, RECONSTRUCT, MAINTAIN, REMOVE, OPERATE, REPLACE AND REPAIR AND TO AUTHORIZE THE LOCATION, CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR OF THE AREA OF LAND, AND ANY AND ALL APPURTENANCES INCIDENT THERETO SAID EASEMENT TRACT WILL BE KEPT FREE FROM BUILDINGS AND ANY OTHER STRUCTURES OR OBSTRUCTIONS WHICH WILL INTERFERE WITH THE EXCAVATING UPON SAID LAND AND NO EXCAVATION OR FILL SHALL BE MADE OTHER THAN THAT REQUIRED MAINTENANCE, AND NO OTHER OPERATIONS OF ANY KIND OR NATURE SHALL BE PERFORMED OR AUTHORIZED WHICH WILL INHIBIT THE PROPER OPERATION OF THE STORMWATER DETENTION FACILITIES AND INSTALLATIONS, STORMWATER QUALITY BMPs, AND UNDERGROUND DRAINAGE SYSTEMS, AND CONDUITS AND APPURTENANCES FOR DRAINAGE, STORMWATER QUALITY, AND DETENTION PURPOSES ON AND UNDER AND ALONG THE STRIPS OF LAND OUTLINED THEREON.

SANITARY SEWER EASEMENT DEDICATION
AN EASEMENT OR LICENSE IS HEREBY GRANTED TO THE CITY OF LIBERTY, MISSOURI, TO LOCATE, CONSTRUCT AND MAINTAIN AND TO AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF SURFACE DRAINAGE WAYS AND INSTALLATIONS AND UNDERGROUND DRAINAGE CONDUITS AND APPURTENANCES THERETO, OVER, UNDER AND ALONG THE STRIPS OF LAND OUTLINED ON THIS PLAT DESIGNATED "SANITARY SEWER EASEMENT" (S/E).

BUILDING SETBACK LINES:
BUILDING SETBACK LINES ARE ESTABLISHED ON THIS PLAT AND NO BUILDING SHALL BE CONSTRUCTED BETWEEN THIS LINE AND THE STREET RIGHT OF WAY LINE.

IN WITNESS WHEREOF: PATRIOT PROPERTIES, LLC, HAS CAUSED THESE PRESENTS TO BE EXECUTED THIS _____ DAY OF _____, 20____.

SPENCER THOMSON

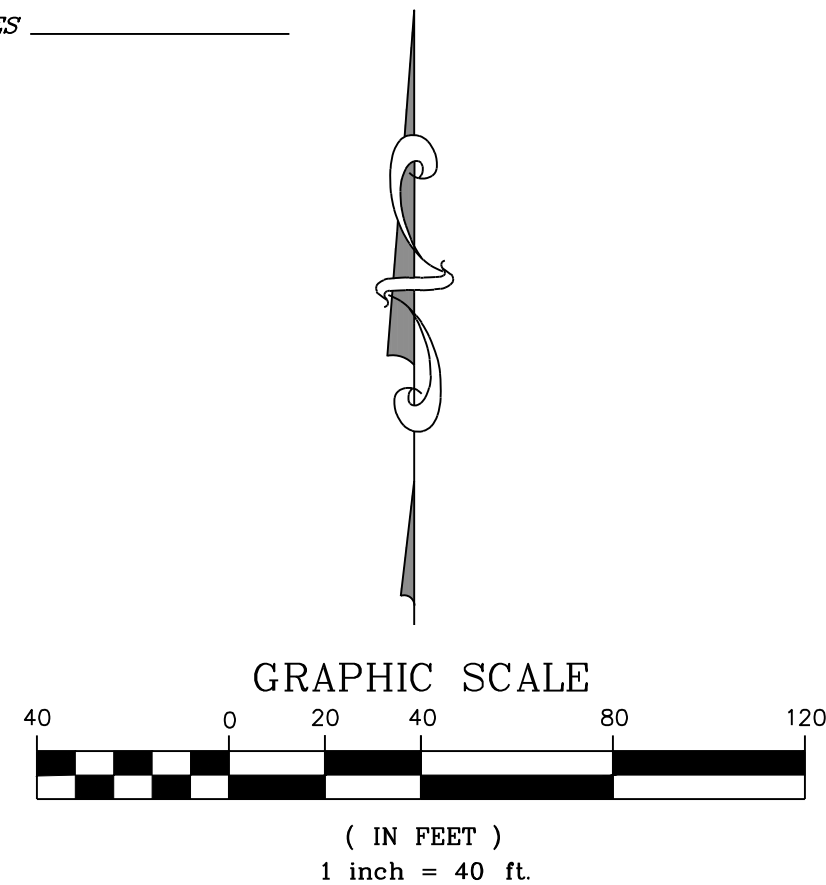
STATE OF MISSOURI)
) SS
COUNTY OF)

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20____, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, PERSONALLY APPEARED SPENCER THOMSON, MEMBER OF PATRIOT PROPERTIES, LLC WHO EXECUTED THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSES THEREIN STATED.

IN WITNESS WHEREOF: I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL THE DATE HEREIN LAST ABOVE WRITTEN.

NOTARY PUBLIC

MY COMMISSION EXPIRES _____



COORDINATE TABLE
BEARINGS AND COORDINATES ARE BASED ON THE MISSOURI COORDINATE SYSTEM 1983
WESTERN ZONE, AT KANSAS CITY METRO CONTROL MONUMENT JA-11 RESET, GRID
FACTOR=0.9999089, COORDINATES IN METERS. COORDINATES OBTAINED BY GPS.

SURVEYOR'S CERTIFICATION
I HEREBY CERTIFY THAT WE HAVE MADE A SURVEY OF THE PREMISES HEREIN DESCRIBED WHICH MEET OR EXCEED THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS AND THE MISSOURI BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS AND LANDSCAPE ARCHITECTS, AND THAT THE RESULTS OF SAID SURVEY ARE REPRESENTED ON THIS DRAWING TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

R.L. Buford & Associates, LLC

FOR	SEC. - TWP. - RGE.	COUNTY	JOB NO.
-----	--------------------	--------	---------

FINAL PLAT	DRAWN BY 140
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REV 01/17/2023

C. **P&Z Case 23-05FP:** Final Plat for Fulkerson Cottages, 1 lot on 7+/- acres

Mr. Peterman presented the case as described in the staff report.

Chairman Rosekrans asked the commissioners if they had any other questions, seeing none he asked for a motion.

Action: Commissioner Reinier moved to approve the case as presented in the staff report. Commissioner Summers seconded the motion.

Vote: Motion passed 8-0-0

Yes: Dilts, Evans, Holt, Howard, Personett, Reinier, Rosekrans, Summers

No: None

Recusal: None

Chairman Rosekrans said this case would be heard in front of the City Council on Monday, February 27, 2023.

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING AND APPROVING A FINAL PLAT FOR
FULKERSON COTTAGES, IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI

WHEREAS, a final plat for Fulkerson Cottages in the City of Liberty, Clay County, Missouri, has been duly and properly presented to the Planning and Zoning Commission on February 14, 2023 and City Council on February 27, 2023; and

WHEREAS, pursuant to Section 30-28.14 of the Unified Development Ordinance of the City of Liberty, the City Council finds that the plat described duly conforms to the standards and requirements of ordinances in place at the time of the application;

BE IT ORDAINED, by the City Council of the City of Liberty, Clay County, Missouri, as follows:

SECTION I

The City Council hereby accepts and approves a final plat for Fulkerson Cottages in the City of Liberty, Clay County, Missouri the legal description of which follows:

ALL THAT PART OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 51 NORTH, RANGE 32 WEST IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI BEING FURTHER DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 13; THENCE N89°40'40"W, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 13, A DISTANCE OF 205.00 FEET; THENCE S00°26'59"W, A DISTANCE OF 51.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF W. LIBERTY DRIVE, SAID POINT ALSO BEING ON THE WEST RIGHT OF WAY LINE OF FULKERSON COURT AND THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE CONTINUING S00°26'59"W, ALONG THE WEST RIGHT OF WAY LINE OF SAID FULKERSON COURT, A DISTANCE OF 539.01 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF FULKERSON CIRCLE; THENCE N89°40'40"W, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 396.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF SAID FULKERSON CIRCLE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 14, FULKERSON COUNTRY ESTATES, A SUBDIVISION OF LAND IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI; THENCE S00°26'59"W, ALONG THE WEST RIGHT OF WAY LINE OF SAID FULKERSON CIRCLE AND THE EAST LINE OF SAID LOT 14, A DISTANCE OF 15.00 FEET; THENCE N89°40'40"W, A DISTANCE OF 135.70 FEET TO A POINT ON THE WEST LINE OF SAID LOT 14, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 7, WESTBORO, A SUBDIVISION OF LAND IN THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI; THENCE N00°26'59"E, ALONG THE WEST LINE OF LOT 14 OF SAID FULKERSON COUNTRY ESTATES AND THE EAST LINE OF LOT 7 OF SAID WESTBORO, A DISTANCE OF 15.00 FEET; THENCE N00°27'08"W, ALONG THE EAST LINE OF LOTS 4, 5, 6 AND 7 OF SAID WESTBORO, A DISTANCE OF 539.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 4, SAID POINT ALSO BEING ON THE SOUTH RIGHT OF WAY LINE OF SAID W. LIBERTY DRIVE; THENCE S89°40'40"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 540.19 FEET TO THE POINT OF BEGINNING.

ORDINANCE NO. _____ (CONT.)

SECTION II

Any and all development within the above-described final plat shall comply with all applicable standards and requirements as set forth in the City Code of the City of Liberty, Missouri.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor.

PASSED by the City Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this _____ day of _____, 2023.

MAYOR



**CITY COUNCIL
ACTION REPORT**

Meeting Date: February 27, 2023

A/R No.: 2023-398

Department: Parks & Recreation

Submitted By: BJ Staab, Director Parks & Recreation

Subject: ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH KITCH'S LAWNCARE FOR 2023 MOWING SERVICES AT FAIRVIEW, NEW HOPE AND MOUNT MEMORIAL CEMETERIES IN AN AMOUNT NOT TO EXCEED \$46,200.00

Summary:

- The City of Liberty annually enters into an agreement with a lawn company to provide professional mowing services at Fairview, New Hope and Mount Memorial Cemeteries.
- The City rebid the mowing of cemeteries in 2022 and signed a contract with Kitch's LawnCare that could be extended for two additional years if both parties mutually consent to continuing the agreement.
- This new contract is for a period of one year (2023) with an option to renew again for one additional one-year term (2024) if both parties agree to the terms outlined in the proposal.
- Kitch's LawnCare has been the professional service provider at the cemeteries for several years and is in good standing with the City of Liberty.

Background:

The City of Liberty annually enters into an agreement with a lawn care company for professional mowing services for Fairview, New Hope and Mount Memorial Cemeteries. The services provided include mowing and trimming. The FY 2023 cemetery budget includes adequate funding for these services.

Staff recommends renewing Kitch's LawnCare's contract for cemetery mowing in 2023. In 2022, staff addressed performance and operational issues with Kitch's LawnCare and were satisfied with the immediate response and subsequent adjustments addressed.

Given the weather-related variability of service needs year-to-year, the contract guarantees a minimum of 22 mows and all other services will be requested by staff as the budget allows.

Previous Action (if applicable):

Policy/Committee Review:

Citizen Sales Tax Oversight Committee	Completed/Recommended:
Public Safety Sales Tax Oversight Committee	Completed/Recommended:

Budget Committee	Completed/Recommended:
Other:	Completed/Recommended:

Financial Considerations:

X	Budgeted:	Line Item: 73.70.226.14.5577	Amount: \$46,200.00
		Line Item:	Amount:
		Revenue Line (if applicable):	Amount:
	Non-Budgeted	Line Item:	Amount:
		Line Item:	
		Funding Source:	Amount:

Attachments:

1. Ordinance - Cemetery Mowing for 2023 - Kitch
2. Contract - Cemetery Mowing for 2023 - Signed by Kitch 1.24.2023
3. CMap 1
4. CMap 2

Document No. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A GUARANTEED PRICING AGREEMENT WITH
KITCH'S LAWN CARE FOR 2023 MOWING SERVICES AT FAIRVIEW, NEW HOPE, AND
MOUNT MEMORIAL CEMETERIES IN AN AMOUNT NOT TO EXCEED \$46,200.00

BE IT ORDAINED, by the City Council of the City of Liberty, Clay County, Missouri,
as follows:

SECTION I

The City Council of the City of Liberty, Clay County, Missouri, hereby approves a
certain agreement by and between the City of Liberty and Kitch's Lawncare, 9951 NE 112th St.,
Kansas City, MO 64117, in an amount not to exceed FORTY SIX THOUSAND TWO
HUNDRED AND NO/100 DOLLARS (\$46,200), for mowing services at Fairview, New Hope,
and Mount Memorial Cemeteries, a copy of said agreement being incorporated herein by
reference and available for review as required by law.

SECTION II

The City Council of the City of Liberty, Clay County, Missouri, hereby authorizes the
Mayor to sign the agreement described in Section I of this ordinance.

SECTION III

This ordinance shall be in full force and effect from and after its passage by the City
Council and approval by the Mayor according to law.

PASSED by Council this _____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

Approved by the Mayor this _____ day of _____, 2023.

MAYOR

CITY OF LIBERTY, MISSOURI



CONTRACT FOR SERVICES *Mowing Services for City-Owned Cemeteries*

AGREEMENT FOR PROVISION OF THE FOLLOWING SERVICES

This agreement is made and entered into this 27th day of February, 2023, by and between the Mayor, Councilmen, and Citizens of the City of Liberty, Clay County, Missouri, a municipal corporation with its principal office located at 101 E. Kansas Street, Liberty, Missouri, hereinafter referred to as CITY, and Kitch Lawncare, an entity organized and existing under the laws of the State of Missouri, with its principal office located at 9951 NE 112th St, Kansas City, MO 64117, hereafter referred to as the Contractor.

This contract and applicable attachments represent the entire understanding and agreement between the parties and no oral, implied, alterations or variations to the contract will be binding on the parties, except to the extent that they are in writing and signed by the parties hereto. This contract shall be binding upon the heirs, successors, administrators, executors and assigns of the parties hereto. In the event there are any inconsistencies in the provisions of this contract and those contained in the proposal they will be resolved in accordance with the terms of this contract.

This contract was approved on February 27, 2023 and is effective as of March 1, 2023 and shall remain in effect as described within.

ARTICLE I THE WORK

Contractor agrees to perform all work and provide all materials as specified in Invitation To Bid PK22 - 09 and the General Terms and Conditions in Appendix B, commonly referred to as Contract Terms and Conditions and according to Contract Agreement set forth here. Contractor agrees to provide all labor, materials, tools, permits, and/or professional services and perform the contracted work in accordance with all specifications, terms and conditions as set forth within the proposal documents, including bonding, insurance, prevailing wage requirements, and

termination clauses as needed or required. The work as specified in Appendix A may commence upon the signing of this contract and scheduling and approval of the City.

ARTICLE II CONTRACT TERM

The term of this contract shall be **March 1, 2023 to December 31, 2023**. If both parties mutually consent to continue the agreement, it may be extended for one additional one-year term (2024) under the same terms and conditions.

ARTICLE III CONTRACT SUM AND PAYMENT

The Contractor agrees to perform all work described in the Contract Documents and to enter in to a guaranteed pricing contract with the City in an amount not to exceed **\$46,200** and in accordance with the service rates proposed with the contractor's bid submission.

The City agrees to pay the Contractor as outlined in the Contract Documents and subject to deductions provided for in Articles IV and VI.

ARTICLE IV CONTRACT PAYMENT

Payment shall be made upon receipt of invoices presented in duplicate as outlined in Appendix B.

The City will be the sole judge as to the sufficiency of the work performed. If the Contractor shall fail to complete the work within the contract time, or an extension of time granted by the City, the Contractor will pay to the City up to \$250.00 per day liquidated damaged due to breach of contract. This amount will be deducted from any money due to the Contractor. The Contractor and Contractor's surety will be liable for all liquidated damages.

The Contractor agrees that the City may withhold any and all payment for damage or destruction, blatant or otherwise, incurred to the City's property caused by poor performance or defective equipment or materials or personnel employed or utilized by the Contractor. Additionally, it is agreed the Contractor shall also be liable to the City for replacement of materials or services occasioned by such breach.

ARTICLE V INSURANCE REQUIREMENTS

Insurance shall be provided as outlined in the General Terms and Conditions Appendix B to the Contract.

ARTICLE VI DAMAGES/DELAYS/DEFECTS

The City will not sustain monetary damage if the whole or any part of this contract is delayed through the failure of the Contractor and/or his sureties to perform any part or the whole of this contract. Thus, if at any time the Contractor refuses or neglects to supply sufficiently skilled workmen or proper materials, or fails in any respect to execute the contract, including extras, with the utmost diligence, the City may take steps deemed advisable to promptly secure the necessary labor, tools, materials, equipment, services, etc., by contract or otherwise, to complete whatever portion of the contracted work which is causing delay or is not being performed in a workmanlike manner.

Contractor and/or their sureties will be liable to the City for any cost for labor, tool, materials, equipment, services, delays, or claims incurred by the City to finish the work.

Contractor will store, contain, or remove all debris, materials, tools, equipment and vehicles at the end of each day so that no hazardous or dangerous situations are created within the work location and surrounding area.

Contractor will promptly repair all damage to public and private property caused by their agents or employees. Should damages not be promptly repaired, the City will authorize the hiring of another Contractor to do the repairs. The original Contractor agrees to promptly pay for the services of any such Contractor hired to do such repairs.

Contractor shall immediately report, to the City, or a duly authorized representative, any accident whatsoever arising out of the performance of this contract, especially those resulting in death, serious injury or property damage. Contractor must provide full details and statements from any witnesses.

ARTICLE VII RESPONSIBILITIES

The City shall provide all information or services under their control with reasonable promptness and shall designate a representative to render decisions on behalf of the City and on whose actions and approvals the Contractor may rely.

The Contractor's responsibilities and obligations under this agreement are accepted subject to strikes, outside labor troubles (including strikes or labor troubles affecting vendors or suppliers of Contractor), accidents, transportation delays, floods, fires, or other acts of God, and any other causes of like or different character beyond the control of Contractor. Impossibility of performance by reason of any legislative, executive, or judicial act of any governmental authority shall excuse performance of or delay in performance of this agreement. The City and the

Contractor shall agree upon such delay or cancellation of performance and execute this agreement in writing.

Contractor agrees to provide all materials, labor, tools, and equipment necessary to perform and complete the contract as specified. All equipment will be of such type and in such condition so as not to cause any damages to City property or the community at large. All equipment used on site will meet the minimum requirements of Occupational Safety Health Administration and related federal, state, county, and city regulations, including EPA NESHAPS. All material will be of a type and quality acceptable to the City, and which will not cause injury to property or persons.

Contractor will supervise and direct the work performed, and shall be responsible for his employees. Contractor will also supervise and direct the work performed by sub-contractors and their employees and be responsible for the work performed by sub-contractors hired by the contractor.

Contractor agrees to obtain and maintain during the term of this contract the necessary licenses and permits required by federal, state, county and municipal governments to perform the services as required by this contract. Contractor shall bear the cost of any permits which he is obligated to secure. Contractor will also ensure any sub-contractors hired will obtain the necessary licenses and permits as required.

Contractor agrees to comply with all applicable federal, state, county and municipal laws and regulations, including, but not limited to, affirmative action, equal employment, fair labor standards and all applicable provisions of the Occupational Safety and Health Act of 1970, as amended. Contractor agrees to ensure sub-contractors and their employees comply with all applicable laws and regulations aforementioned.

Contractor also agrees to be, at all times, in full compliance with any and all applicable federal, state and local laws and regulations as they may change from time to time.

ARTICLE VIII TERMINATION OF AGREEMENT

With Cause – If Contractor fails to perform his duties as specified in this contract, the City through its appointed representative, shall notify the Contractor to correct any default under the terms of this contract. Such notification may be made by telephone or in writing. If the Contractor fails to correct any default after notification of such default, the City shall have the right to immediately terminate this agreement by giving the Contractor ten (10) days written notice.

Without Cause – The City may terminate this agreement at any time by providing sixty (60) days written notice, by certified mail, to the Contractor at the address listed below.

In the event this agreement is terminated, the City may hold as retainer the amount needed to complete the work in accordance with bid specifications.

ARTICLE IX ARBITRATION

In case of a dispute, the Contractor and the City shall each appoint a representative, who, together, shall select a third party to arbitrate the issue. Resolution of the issue will be binding upon both parties.

ARTICLE X AFFIDAVIT of WORK AUTHORIZATION

Pursuant to 285.530 RSMo, the bidder must affirm its enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by:

- * submitting the attached AFFIDAVIT OF WORK AUTHORIZATION and
 - * providing documentation affirming the bidder's enrollment and participation in a federal work authorization program (see below) with respect to the employees proposed to work in connection with the services requested herein.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of the following two pages of the E-Verify Memorandum of Understanding (MOU): 1) a valid, completed copy of the first page identifying the bidder and 2) a valid copy of the signature page completed and signed by the bidder, the Social Security Administration, and the Department of Homeland Security – Verification Division.

ARTICLE XI
ENTIRE AGREEMENT

The parties agree that this constitutes the entire agreement and there are no further items or provisions, either oral or otherwise. City agrees that it has not relied upon any representations of Bidder as to prospective performance of the goods, but has relied upon its own inspection and investigation of the subject matter.

The parties have executed this agreement at The City of Liberty the day and year first above written.

IN WITNESS WHEREOF, the parties hereunto have executed two (2) counterparts of this agreement the day and year first written above.

(SEAL)

THE CITY OF LIBERTY, MISSOURI

By: _____
Lyndell Brenton, Mayor

Attest: _____
Janet Pittman, Deputy City Clerk

(SEAL)

Kitch's LawnCare & Landscape Svcs, Inc.
Company Name

By: Randy Kitch

Title: Owner

Attest: _____

APPENDIX A
Scope of Work and Special Provisions

Mowing Services for City-Owned Cemeteries

GENERAL REQUIREMENTS

- A. The contractor agrees to immediately notify the City of Liberty of any accidents or incidents which occur as a result of the contractor's duties. This would include any damage or shifting of headstones caused as a result of being hit by a mower or other equipment. The Contractor will be responsible for the costs to repair any such damage.
- B. The contractor agrees to maintain effective and courteous contact with the public while performing the terms of this agreement.
- C. If, for any reason, the contractor cannot fulfill the terms of this agreement, the contractor shall immediately notify the City. The contract may then be canceled based upon nonperformance.
- D. Payment shall be on a **per mow** basis with a cost/mow statement submitted to the Parks and Recreation Department. Payment shall be made within 30 days of submitting the invoice.
- E. In the event that an area is not mowed as specified, the contractor agrees to correct the error within 24 hours' notice from the Parks Manager or designated representative. Failure to correct noted deficiencies shall result in liquidated damages, withholding payment for work not performed or cancellation of contract.
- F. The contractor agrees to take the necessary safety controls to protect Cemetery visitors and Cemetery facilities from damage to include headstones. Also, the contractor agrees to comply with all pertinent federal, state, and local regulations pertaining to performance of this agreement.
- G. Contractor shall provide supervision of all work crews at all times while performing work under this contract. Personal supervision is not required, provided that equipment or other means are provided that enable the work crew to communicate with the contractor at all times. Each work crew shall have a designated person at the work site that has the authority to respond to inquiries about work details or priorities.
- H. In the event the contractor develops difficulty in meeting the maintenance schedule and contract specification, the Contractor may be assessed up to \$250.00 per day liquidated damaged due to breach of contract.

- I. A City Employee or their designee will be assigned to inspect the contracted areas. He/she will be responsible for scheduling inspections, re-inspections, monitoring the contractor's actions, and ensuring the work performed in the area is done to the quality level prescribed in this contract.
- J. The contractor hereby expressly binds himself or itself to indemnify and save harmless the City and its officers and employees for suits or actions of every kind and nature brought, or which may be brought, or sustained by any person, firm or corporation, or persons, firms or corporations, in connection with, or on account of, the Contractor's work, or in consequence of any negligence in connection with same, or on account of any poor workmanship, or on account of any act of commission or omission of the Contractor or his, its, or their agent or employees, or for any cause arising during the course of the work of this contract.
- K. The Contractor shall further indemnify the City of Liberty for any and all expenses, including reasonable attorney fees, incurred in the City's pursuance of any remedial action required to correct deficiencies in the work on account of poor workmanship, negligence, or any act of omission on the part of the Contractor, its agents or employees.
- L. The City may retain from any payment due or to become due the Contractor such sums as are deemed necessary to protect its interests until all such claims or suits have been settled or disposed of, and suitable evidence to that effect furnished to the City.

WORK SPECIFICATIONS

- A. Contractor shall mow and trim all areas approximately once every ten (10) to fourteen (14) days, or on an as needed basis during periods of inclement weather during the term of the contract period. A schedule of approximate mowing dates will be worked out with selected vendor prior to starting the contract annually. Contractor will be provided with at least 48 hours' notice if schedule needs to be adjusted based on growing conditions or other factors.
- B. Mowers will be 36" cut rotary mowers or larger. The use of tractors with finish mowers are not an acceptable means for mowing.
- C. Mowing under wet conditions or when the ground is saturated will not be permitted.
- D. A minimum of 22 mows will be required for the season with a maximum of 32 mows for the season. Actual number will be determined by City of Liberty based on growing conditions.
- E. All mowing equipment shall be equipped with sharp blades so as not to tear, but cleanly cut the grass blades. Mower decks should be level as to cut an even height from side to side of mower deck. All grass shall be cut at a height of approximately two and a half

inches (2 ½"). All structures, trees, poles, tables, signs, fences, headstones, shrub beds and other objects are to be trimmed closely. Special care shall be given to trimming around small trees so as not to inflict damage to the bark of the trees. All trimming shall be accomplished maintaining the required two and a half inches (2 ½") cutting height. All trimming must be accomplished concurrently with mowing operations and must be completed in the same 48hr-72hr timeframe. Upon completion, a mowed area shall be free of clumped grass and tire tracks or ruts from the mowing equipment. Turf shall be cut in a professional manner so as not to scalp turf or leave areas of uncut grass. Care shall be taken to avoid discharging grass clippings on to any surface such as headstones, streets, or adjacent properties. Any material so discharged shall be removed immediately prior to proceeding with mowing of other areas.

- F. Removal of all trash on the ground prior to mowing and at the conclusion of each mow is required. Any trash and litter cut or broken during mowing operations shall be completely removed from mowing areas immediately prior to proceeding with the mowing of other areas. This includes any silk flowers hit by mowers.
- G. Removal of all fallen tree limbs to a designated brush pile on site must be completed prior to moving to next site.
- H. All plant growth in cracks, seams and/or joints of paved areas, such as sidewalks, curbs, and driveways, shall be cut down to the pavement surface during the completion of each mowing.
- I. The Contractor may be asked to provide a bid to apply a broadleaf weed control once in the spring **before Memorial Day**. All weed control must be approved by City Staff prior to the application.
- J. Mowing shall be conducted within two days prior to Memorial Day, July 4th, and Labor Day. As with all mowings, the contractor will provide for the removal of all grass debris on headstones following mowing.
- K. Cutting of all perennials within the cemetery shall occur in the first 10 days of October.
- L. The exact mowing boundaries will be provided at the work site prior to the first mowing of each of the areas designated in this contract.

CITY OF LIBERTY, MISSOURI
RFP # PK22 – 09

APPENDIX B
Standard Terms and Conditions

A. *Procedures*

The extent and character of the services to be performed by the Contractor shall be subject to the general control and approval of the City Administrator or his authorized representative (s). The Contractor shall not comply with requests and/or orders issued by any other person. The City Administrator will designate his authorized representatives in writing. Both the City of Liberty and the Contractor must approve any changes to the contract in writing.

B. *Contract Award*

Award of this contract is anticipated no later than 60 days after bid deadline.

C. *Insurance*

The Contractor shall procure, maintain, and provide proof of, insurance coverages for injuries to persons and/or property damage as may arise from or in conjunction with, the work performed on behalf of the City of Liberty by the Contractor, its agents, representatives, employees or subcontractors. Proof of coverage as contained herein shall be submitted prior to the commencement of work and such coverage shall be maintained by the Contractor for the duration of the contract period. Claims made on policies must be enforce or that coverage purchased for three (3) years after contract completion date.

1. Comprehensive General Liability:

- Minimum Limits - \$2,000,000 per occurrence and \$2,000,000 aggregate

2. Comprehensive Automobile Liability:

- Minimum \$2,000,000 combine single limit for bodily injury and property damage per occurrence

3. Workers' Compensation:

- Missouri Statutory Requirement. Must show proof of workers' compensation coverage for any person performing work for the City.

4. Employers' Liability:

- \$1,000,000 each employee, \$1,000,000 each accident and \$1,000,000 policy limit
-

D. *Hold Harmless Clause*

The Contractor shall, during the term of the contract including any warranty period, indemnify, defend, and hold harmless the City of Liberty, its officials, employees, agents, residents and representatives thereof from all suits, actions, or claims of any kind, including attorney's fees,

brought on account of any personal injuries, damages, or violations of rights, sustained by any person or property as a consequence of any neglect in safeguarding contract work or on account of any act or omission by the Contractor or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulation or decree. The vendor agrees that this clause shall include claims involving infringement of patent or copyright.

E. Exemption from Taxes

The City of Liberty is exempt from state sales tax and federal excise tax. Tax exemption certificates indicating this tax exempt status will be furnished on request, and therefore the City shall not be charged taxes for materials or labor.

F. Employment Discrimination by Contractors Prohibited/Wages/ Information

During the performance of a contract, the Contractor shall agree that it will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disabilities, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor; that it will post in conspicuous places, available to employees and applicants for employment, notices setting forth nondiscrimination practices, and that it will state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that it is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient to meet this requirement.

The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order so that the provisions will be binding upon each subcontractor or vendor used by the Contractor.

G. Invoicing and Payment

The Contractor shall submit invoices, in duplicate, for services outlined above in the scope of services and according to the schedule agreed upon during final negotiations, with proper attachments documenting work performed, fees applied, etc.

H. Cancellation

The City of Liberty reserves the right to cancel and terminate this contract in part or in whole without penalty upon 30 days written notice to the Contractor. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

I. Contractual Disputes

The Contractor shall give written notice to the City of Liberty of its intent to file a claim for money or other relief at the time of the occurrence or the beginning of the work upon which the claim is to be based.

The written claim shall be submitted to the City no later than sixty (60) days after final payment. If the claim is not disposed of by agreement, the City of Liberty shall reduce their

decision to writing and mail or otherwise forward a copy thereof to the Contractor within thirty (30) days of receipt of the claim.

City decision shall be final unless the Contractor appeals within thirty (30) days by submitting a written letter of appeal to the City Administrator, or his designee. The City Administrator shall render a decision within sixty (60) days of receipt of the appeal.

J. Severability

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire Agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding and in full force and effect.

K. Applicable Laws

This contract shall be governed in all respects by federal and state laws. All work performed shall be in compliance with all applicable City of Liberty codes.

L. Drug/Crime Free Work Place

The Respondent acknowledges and certifies that it understands that the following acts by the contractor, its employees, and/or agents performing services on City of Liberty property are prohibited:

1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
2. Any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes)
3. Any crimes committed while on City property.

The Respondent further acknowledges and certifies that it understands that a violation of these prohibitions constitutes a breach of contract and may result in default action being taken by the City of Liberty in addition to any criminal penalties that may result from such conduct.

M. No Escalation of Fees

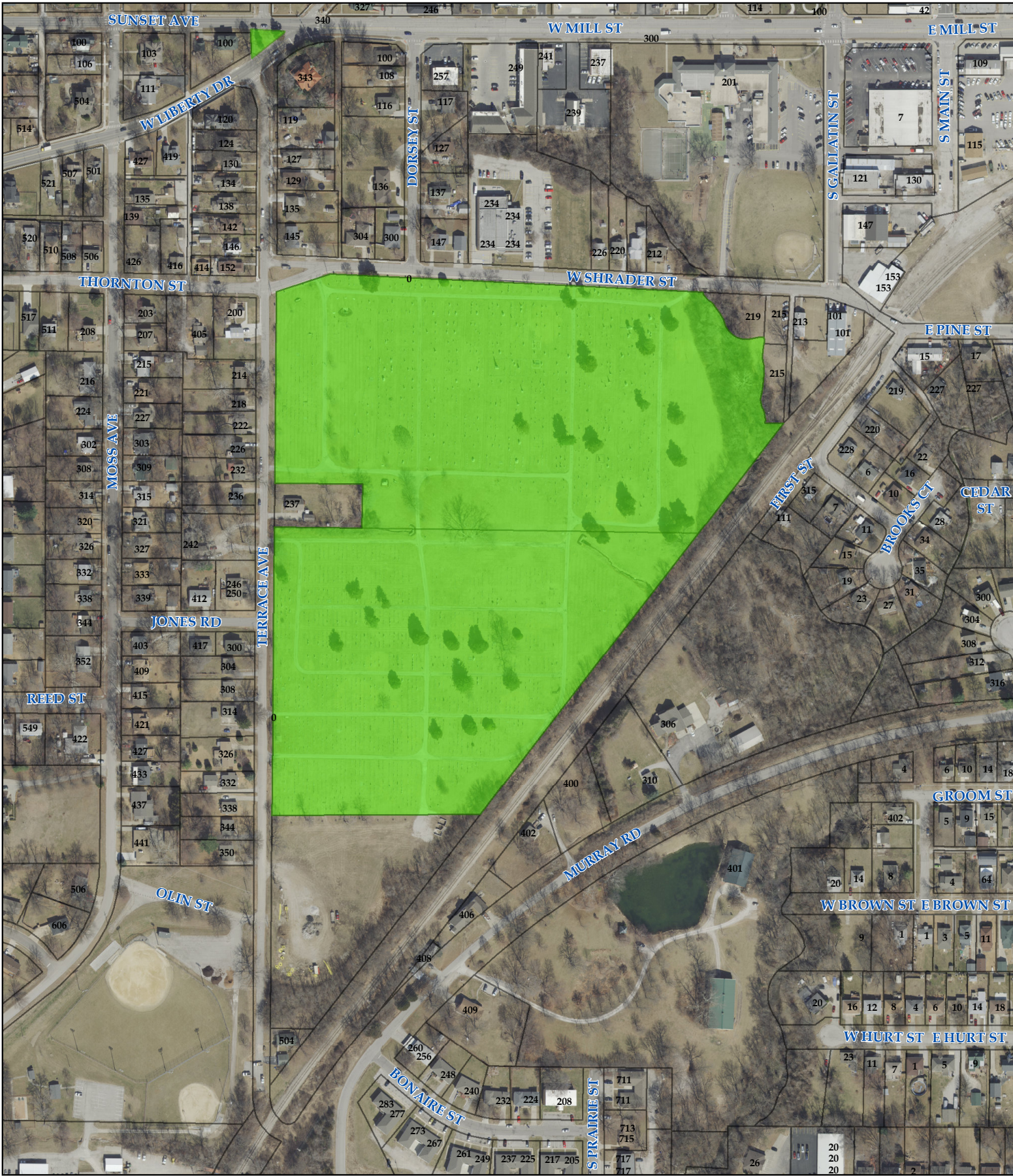
The pricing of services contained in the contract for the selected Contractor shall remain in effect for the duration of the contract. No escalation of fees will be allowed.

N. Permits

The successful Contractor shall be responsible for obtaining all permits, and for incurring all expenses associated with those permits, prior to proceeding with the scope of work and services described in this solicitation. Included in these permits will be the "Occupation License" required of all contractors doing business within the City limits of Liberty. This permit can be obtained from the office of the Deputy City Clerk, 101 E. Kansas, Liberty, Missouri, 64068.

O. *Compliance with Missouri Law Regarding the Employment of Illegal Aliens*

The successful Contractor shall be responsible for understanding and complying with all Missouri laws pertaining to the employment of illegal aliens. This will include certification to the City of such







CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-399

Department: Public Works

Submitted By: Joshua Martinez, Capital
Projects Engineer

Subject: ORDINANCE APPROVING A CONTRACT WITH PRECISION
CONSTRUCTION & CONTRACTING, LLC FOR CITY OF LIBERTY PROJECT PW-
CIP-23-002 2023 CONCRETE FLATWORK REPLACEMENT IN AN AMOUNT NOT
TO EXCEED \$331,910.00

Summary:

- Ordinance approving a contract between the City of Liberty and Precision Construction & Contracting (PCC) for City of Liberty Project PW-CIP-23-002 2023 Concrete Flatwork Replacement
- Scope of work provides for the maintenance of concrete flatwork adjacent to City property and on City Streets in preparation for pavement resurfacing.
- Citizen Sales Tax Oversight Committee reviewed the project at the February 9, 2023 meeting and determined it meets voter intent.

Background:

The Capital Improvement Plan includes a Street Restoration Program in order to project expenditures necessary for streets in need of restoration. Prior to 2022, the street restoration program involved a single contract that included both asphalt pavement work such as milling and overlaying, and concrete flat work such as curb/gutter, ADA ramps and sidewalk. Beginning in 2022, the typical single contract was broken into two distinct contracts to encourage a better bidding environment. The contracts are managed in a staggered, parallel fashion so as to ensure that the work from the first complements the second contract. This Ordinance pertains to the 2023 Concrete Flatwork Replacement Project, otherwise known as Public Works Capital Improvement Project 23-002 (PW-CIP-23-002).

In the months prior to bidding, City Staff identified areas in need of concrete cross pans, sidewalk removal and replacement, concrete curb and gutter removal and replacement, ADA curb ramps installation or removal and replacement, full depth concrete pavement repair and minor mill and overlay. In addition to the previous items, (1) the private driveway, which was impacted by a 2022 Public Works project, and (2) small areas of private drive approaches that were directly impacted by past City maintenance operations were added to the scope of work. The project involves work on the following streets:

- Marion St
- Cosby St
- Charles St
- Bob White

- Ridge Ave
- Park Ln
- Brooks Ct
- Kansas St
- S Jewell St
- N Jewell St
- Heartland West
- Heartland North
- Heartland East
- Withers Rd
- Wyckwood Drive

The work consists of approximately 1,684 linear feet of curb and gutter, 2,732 square feet of sidewalk, 17 ADA ramps and 8,048 square ft of full depth concrete pavement repair.

A Bid Manual was put together using the scope of work established by staff. The Bid Manual was advertised beginning January 5, 2023. A total of (6) bids were received and opened on 02/01/2023 at 2 p.m. The bids received and the City estimate were as follows:

Internal City Estimate (ICE)	\$490,880.57
Freeman Concrete Construction, LLC.	\$486,468.00
Terry Snelling Construction, Inc.	\$373,674.20
Sands Construction, LLC.	\$373,421.00
McConnell & Associates, Corp.	\$365,633.00
JD Bishop Construction, LLC.	\$349,198.20
Precision Construction & Contracting, LLC.	\$288,616.81

PCC was the low qualifying bidder. As Public Works had not previously awarded a contract to PCC a verification of references was done. The referral confirmed PCC's ability to perform the work within the project, at which point staff notified PCC of their selection.

This report and subsequent Ordinance requests approval of a contract with PCC in the amount of \$288,616.81 with authorization to spend up to \$331,910.00. The amount requested includes the low bid dollar amount and the addition of a 15% contingency fee. Funds requested above the low bid are requested for the following reasons:

- Final payments are based on the actual unit quantities used during the project and may be more or less than estimated, resulting in fluctuations in bid price.
- Current market trends have been deemed highly volatile with rapid escalations in prices. A 15% contingency allows for flexibility in the event of a required unforeseen change order.
- Allows quick action in the event of emergency concrete repair/replacement issues that may develop over the length of the contract.

The 2023 Street Restoration Project base budget was established at \$2,400,000.00 for 2023 during CIP development. This includes \$1,200,000.00 from Transportation Sales Tax and \$1,200,000.00 from Capital Sales Tax. The Citizen Sales Tax Oversight

Committee reviewed the project at the February 9th, 2023 meeting and determined it meets voter intent.

Staff recommends approval of a contract with Precision Construction & Contracting, LLC for Public Works Capital Improvement Project 23-002 (PW-CIP-23-002) in the amount of \$288,616.81 with authorization to spend \$331,910.00.

Previous Action (if applicable):

- The Citizen Sales Tax Oversight Committee reviewed the project at the Feb. 9, 2023 meeting and determined it meets voter intent.

Policy/Committee Review:

X Citizen Sales Tax Oversight Committee	Completed/Recommended: 02-09-2023
X Public Safety Sales Tax Oversight Committee	Completed/Recommended: NA
X Budget Committee	Completed/Recommended: NA
X Other:	Completed/Recommended: NA

Financial Considerations:

Budgeted: YES	Line Item:50.75.604.36.7515	Amount:\$331,910.00
	Line Item:	Amount:
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

1. PCC signed contract
2. 2023-399 Approve 2023 Concrete Contract - ORD (4)

The City of



2023 Concrete Flatwork
Replacement

Project No. 23-002

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City of Liberty

101 East Kansas Street
Liberty, MO 64068
816-439-4500

2023 CONCRETE FLATWORK REPLACEMENT
LIBERTY, MISSOURI

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BID FORM

**CITY OF LIBERTY
LIBERTY, MISSOURI
2023 CONCRETE FLATWORK REPLACEMENT
PROJECT #23-002
FEBRUARY 1, 2023**

ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to:
City of Liberty, 101 E. Kansas Street, Liberty, MO 64068
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:
- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
<u>1</u>	<u>01/23/2023</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if

any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

A. UNIT PRICE SCHEDULE:

Item #	Description	Unit	Estimated Quantity	Unit Price	Bid Price
1	Full Depth Concrete Pavement Repair	SF	8,048	\$ 14.54	\$ 117,017.92
2	ADA Curb Ramp	EA	17	\$ 1,554.87	\$ 26,432.79
3	Concrete Curb and Gutter, Removal & Replacement	LF	1,684	\$ 49.00	\$ 82,516.00
4	Sidewalk Removal & Replacement (4")	SF	2,732	\$ 14.75	\$ 40,297.00
5	Concrete Cross Pan & Drive Way (6")	SF	614	\$ 14.75	\$ 9,056.50
6	Mill and Overlay (1.5")	SY	83	\$ 160.20	\$ 13,296.60
GRAND TOTAL BID:					\$ 288,616.81

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Total of Lump Sum and Unit Price Bids = Total Bid Price \$ 288,616.81

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security;
- B. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
- C. Contractor's License No.: _____ [or] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids;

ARTICLE 8 – DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

Precision Construction & Contracting, LLC - DBA PCC

By:

[Signature]

Ethan Stanfill

[Printed name]

Ethan Stanfill

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]

Jack Smoyer

[Printed name]

Jack Smoyer

Title:

Estimator/Assistant Project Manager

Submittal Date:

02/01/23

Address for giving notices:

600 SW Jefferson St, Suite 204, Lee's Summit, MO 64063

Telephone Number:

816-876-6975

Fax Number:

855-697-4194

Contact Name and e-mail address:

Ethan Stanfill e.stanfill@pcc.build

Bidder's License No.: N/A
(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

OSHA REQUIREMENTS

ARTICLE 1 – DEFINED TERMS

- 1.01 Terms used in this form have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. *RSMo* – Missouri Revised Statutes.

ARTICLE 2 – OSHA 10-HOUR REQUIREMENTS

- 2.01 Contractor and any subcontractor of Contractor shall require all on-site employees to complete the 10-hour training program required under RSMo Section 292.675 or such employees must hold documentation of prior completion of a certified program.

ARTICLE 3 – PENALTIES

- 3.01 The Contractor shall forfeit as a penalty to the City of Liberty, two thousand five hundred dollars (\$2500) plus one hundred dollars (\$100) for each employee employed by the Contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period set forth in RSMo Section 292.675
- 3.02 The City of Liberty shall withhold and retain therefrom all sums and amounts due and owing as a result of any violation of RSMo Chapter 292 when making payments to the Contractor under the Contract. The Contractor may withhold from any subcontractor sufficient sums to cover any penalties the City of Liberty has withheld from the Contractor resulting from the subcontractor's failure to comply with the terms of RSMo Section 292.675. If the payment has been made to the subcontractor without withholding, the Contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the Clay County, Missouri Circuit Court.

FEDERAL WORK AUTHORIZATION

STATE OF MISSOURI)
) ss
 COUNTY OF Jackson)

AFFIDAVIT

(as required by Section 285.530, Revised Statutes of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE:

Any person performing work or service of any kind or character for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM:

Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY:

A person acts knowingly or with knowledge,

(a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or

(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN:

An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared _____

Ethan Stanfill, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is Ethan Stanfill and I am currently the President of

Precision Construction & Contracting, LLC - DBA PCC hereinafter "Contractor"), whose business address is

600 SW Jefferson St, Suite 204, Lee's Summit, and I am authorized to make this Affidavit.
MO 64063

2. I am of sound mind and capable of making this Affidavit, and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and E-Verify, see attached

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

Ethan Stanfill
(SIGNATURE)

Ethan Stanfill
[printed name], Affiant

Subscribed and sworn to before me this 1st day of February, 2023

Taylor Lyn White
Notary Public State of Missouri

My Commission Expires: 01/02/24
Commissioned in Jackson County
Commission #: 20348557

TAYLOR LYN WHITE
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: January 02, 2024
Commission # 20348557

PLEASE NOTE:

Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding:

1. A valid, completed copy of the first page identifying the Contractor; and
2. A valid copy of the signature page completed and signed by the Contractor, and the Department of Homeland Security – Verification

Division.



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THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS) and **Precision Construction and Contracting, LLC** (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), and the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts.

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). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

1. SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.
2. SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.
3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).



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4. SSA agrees to provide a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility within 3 Federal Government work days of the initial inquiry.

5. SSA agrees to provide a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

B. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for aliens through E-Verify, DHS agrees to provide the Employer access to selected data from DHS's database to enable the Employer to conduct, to the extent authorized by this MOU:

- Automated verification checks on alien employees by electronic means, and
- Photo verification checks (when available) on employees.

2. DHS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer a manual (the E-Verify User Manual) containing instructions on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.

4. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

5. DHS agrees to issue the Employer a user identification number and password that permits the Employer to verify information provided by alien employees with DHS's database.

6. DHS agrees to safeguard the information provided to DHS by the Employer, and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal laws, and to administer Federal contracting requirements.

7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative



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nonconfirmation of employees' employment eligibility within 3 Federal Government work days of the initial inquiry.

8. DHS agrees to provide a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

C. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the 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.

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 regarding E-Verify.

3. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

4. The Employer agrees that any Employer Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.

A. The Employer agrees that all Employer representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify, including any tutorials for Federal contractors if the Employer is a Federal contractor.

B. Failure to complete a refresher tutorial will prevent the Employer from continued use of the program.

5. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:

- If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
- If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The employer will use the photocopy to verify the photo and to assist DHS with its review of photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.



E-VERIFY IS A SERVICE OF DHS

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6. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 5 above; (2) a rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of E-Verify; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ an employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith based on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate E-Verify verification procedures for new employees within 3 Employer business days after each employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify User Manual. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. In all cases, the Employer must use the SSA verification procedures first, and use DHS verification procedures and photo screening tool only after the SSA verification response has been given. Employers may initiate verification by notating the Form I-9 in circumstances where the employee has applied for a Social Security Number (SSN) from the SSA and is waiting to receive the SSN, provided that the Employer performs an E-Verify employment verification query using the employee's SSN as soon as the SSN becomes available.

8. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use not authorized by this MOU. Employers must use E-Verify for all new employees, unless an Employer is a Federal contractor that qualifies for the exceptions described in Article II.D.1.c. Except as provided in Article II.D, the Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer understands that if the Employer uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its access to SSA and DHS information pursuant to this MOU.

9. The Employer agrees to follow appropriate procedures (see Article III. below) regarding tentative nonconfirmations, including notifying employees of the finding, providing written referral instructions to employees, allowing employees to contest the finding, and not taking



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adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

10. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo non-match, does not establish, and should not be interpreted as evidence, that the employee is not work authorized. In any of the cases listed above, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, refusing to assign the employee to a Federal contract or other assignment, or otherwise subjecting an employee to any assumption that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 or OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

11. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the unfair immigration-related employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

12. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

13. The Employer agrees that it will use the information it receives from SSA or DHS pursuant to E-Verify and this MOU only to confirm the employment eligibility of employees as



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authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

14. The Employer acknowledges that the information which it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

15. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

D. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. The Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801) in addition to verifying the employment eligibility of all other employees required to be verified under the FAR. Once an employee has been verified through E-Verify by the Employer, the Employer may not reverify the employee through E-Verify.

a. Federal contractors not enrolled at the time of contract award: An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to use E-Verify to initiate verification of employment eligibility of new hires of the Employer who are working in the United States, whether or not assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within 3 business days after the date of hire. Once enrolled in E-Verify as a Federal contractor, the Employer must initiate verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

b. Federal contractors already enrolled at the time of a contract award: Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to initiate verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within 3 business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must initiate verification of each employee assigned to the



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contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Institutions of higher education, State, local and tribal governments and sureties: Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), State or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. The provisions of Article II.D, paragraphs 1.a and 1.b of this MOU providing timeframes for initiating employment verification of employees assigned to a contract apply to such institutions of higher education, State, local and tribal governments, and sureties.

d. Verification of all employees: Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to do so only in the manner designated by DHS and initiate E-Verify verification of all existing employees within 180 days after the election.

e. Form I-9 procedures for Federal contractors: The Employer may use a previously completed Form I-9 as the basis for initiating E-Verify verification of an employee assigned to a contract as long as that Form I-9 is complete (including the SSN), complies with Article II.C.5, the employee's work authorization has not expired, and the Employer has reviewed the information reflected in the Form I-9 either in person or in communications with the employee to ensure that the employee's stated basis in section 1 of the Form I-9 for work authorization has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen). If the Employer is unable to determine that the Form I-9 complies with Article II.C.5, if the employee's basis for work authorization as attested in section 1 has expired or changed, or if the Form I-9 contains no SSN or is otherwise incomplete, the Employer shall complete a new I-9 consistent with Article II.C.5, or update the previous I-9 to provide the necessary information. If section 1 of the Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired subsequent to completion of the Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.C.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual. Nothing in this section shall be construed to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU, or to authorize verification of any existing employee by any Employer that is not a Federal contractor.

2. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.



Company ID Number: 228756

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.
2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.
3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within 8 Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.
4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.
2. If the Employer finds a photo non-match for an employee who provides a document for which the automated system has transmitted a photo, the employer must print the photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding.
3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible



Company ID Number: 228756

after the Employer receives it.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within 8 Federal Government work days.

5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:

- Scanning and uploading the document, or
- Sending a photocopy of the document by an express mail account (furnished and paid for by DHS).

7. The Employer understands that if it cannot determine whether there is a photo match/non-match, the Employer is required to forward the employee's documentation to DHS by scanning and uploading, or by sending the document as described in the preceding paragraph, and resolving the case as specified by the Immigration Services Verifier at DHS who will determine the photo match or non-match.

ARTICLE IV

SERVICE PROVISIONS

SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access the E-Verify System, an Employer will need a personal computer with Internet access.

ARTICLE V

PARTIES

A. This MOU is effective upon the signature of all parties, and shall continue in effect for as long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take



Company ID Number: 228756

mandatory refresher tutorials. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such a circumstance, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, that Employer will remain a participant in the E-Verify program, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

B. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect its performance of its contractual responsibilities.

C. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

D. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

E. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

F. The Employer understands that the fact of its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

H. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.



E-VERIFY IS A SERVICE OF DHS

Company ID Number: 228756

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer Precision Construction and Contracting, LLC

Stanfill Ethan

Name (Please Type or Print)

Title

Electronically Signed

Signature

07/09/2009

Date

Department of Homeland Security – Verification Division

USCIS Verification Division

Name (Please Type or Print)

Title

Electronically Signed

Signature

07/09/2009

Date



E-VERIFY IS A SERVICE OF DHS

Company ID Number: 228756

Information Required for the E-Verify Program

Information relating to your Company:

Company Name: Precision Construction and Contracting, LLC

Company Facility Address: 105 E. Battlefield Rd. Suite B

Lone Jack, MO 64070

Company Alternate
Address: P.O Box 320

Lone Jack, MO 64070

County or Parish: JACKSON

Employer Identification
Number: 204277702

North American Industry
Classification Systems
Code: 237

Parent Company:

Number of Employees: 5 to 9

Number of Sites Verified
for: 2

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

- MISSOURI 1 site(s)



Company ID Number: 228756

- KANSAS 1 site(s)

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name: **Forbis Pat**
Telephone Number: **(816) 697 - 4194** Fax Number: **(816) 566 - 0437**
E-mail Address: **Pat.Forbis@precisioncompanies.biz**

Name: **Stanfill J Ethan**
Telephone Number: **(816) 697 - 4194** Fax Number: **(816) ~~697 - 8834~~**
E-mail Address: **ethanstanfill@precisioncompanies.biz**

PREVAILING WAGE

ARTICLE 1 – PREVAILING WAGE REQUIREMENTS

- 1.01 Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, shall be paid to all workers performing work under the contract.
- 1.02 The hourly rate of wages shall not be less than the wages stated in:

Missouri Division of Labor Standards

Annual Wage Order No. 29

Section 024

Clay County

A copy of which is attached to this form.

ARTICLE 2 – REQUIRED SUBMITTALS

- 2.01 Contractor shall submit weekly payroll records with each monthly payment application.
- 2.02 The Contractor and all subcontractors must file an Affidavit of Compliance before final payment can be made for the project. An Affidavit of Compliance is attached to this form.
- 2.03 Contractor must report to the City of Liberty if a wage subsidy, bid supplement, or rebate was provided. The amount and date of such subsidy, supplement or rebate must be reported to the City of Liberty within 30 days of receipt of payment.

ARTICLE 3 – ENFORCEMENT

- 3.01 The Contractor must maintain a legible list of prevailing wage rates posted in a prominent and easily accessible place at the worksite during the full time any worker is employed on the project.
- 3.02 The contractor will forfeit a penalty to the City of Liberty of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor.

Missouri

Division of Labor Standards

WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

Annual Wage Order No. 29

Section 024
CLAY COUNTY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Todd Smith, Director
Division of Labor Standards

Filed With Secretary of State: March 10, 2022

Last Date Objections May Be Filed: April 11, 2022

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for
CLAY County

Section 024

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$66.22
Boilermaker	\$31.44*
Bricklayer	\$59.38
Carpenter	\$59.64
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$54.27
Plasterer	
Communications Technician	\$55.20
Electrician (Inside Wireman)	\$65.94
Electrician Outside Lineman	\$31.44*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$31.44*
Glazier	\$31.44*
Ironworker	\$66.41
Laborer	\$47.56
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$54.19
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$60.02
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$49.94
Plumber	\$73.63
Pipe Fitter	
Roofer	\$57.74
Sheet Metal Worker	\$71.49
Sprinkler Fitter	\$31.44*
Truck Driver	\$31.44*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

Heavy Construction Rates for
CLAY County

Section 024

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$57.92
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$31.44*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$49.24
General Laborer	
Skilled Laborer	
Operating Engineer	\$57.18
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$49.61
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

OVERTIME and HOLIDAYS

OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, **"overtime work"** shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

HOLIDAYS

January first;
The last Monday in May;
July fourth;
The first Monday in September;
November eleventh;
The fourth Thursday in November; and
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

AMERICAN PRODUCTS REQUIREMENTS

ARTICLE 1 – GOODS OR COMMODITIES

- 1.01 Any manufactured goods or commodities used or supplied in the performance of the Contract Documents or any subcontract thereto shall be manufactured or produced in the United States as required and in accordance with Section 34.353 RSMo.

ARTICLE 2 – EXCEPTIONS TO REQUIREMENTS

- 2.01 The requirements of this form are not required when:
- A. Only one line of a particular good or product is manufactured or produced in the United States;
 - B. The specified products are not manufactured or produced in the United States in sufficient quantities to meet the City's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the City's requirements;
 - C. Obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent.
- 2.02 If the requirements shall not apply because of the circumstance described in paragraphs 2.01.B or 2.01.C above, then the Contractor shall provide the City with the information necessary to make the certifications required under Section 34.353 RSMo.

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between Mayor, City Council and the Citizens of the City of Liberty, Missouri, a Municipal Corporation ("Owner") and Precision Construction & Contracting, LLC ("Contractor"). Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

- A. Full depth concrete pavement repair
- B. ADA curb ramp replacement
- C. Concrete curb and gutter removal and replacement
- D. 4" Sidewalk removal and replacement
- E. Concrete cross pan construction
- F. Concrete drive way removal and replacement
- G. 1.5" Asphalt pavement mill and overlay

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2023 CONCRETE FLATWORK REPLACEMENT – PROJECT NO. 23-002**

ARTICLE 3 – ENGINEER

3.01 The part of the Project that pertains to the Work has been designed by the City of Liberty, 101 E. Kansas Street, Liberty, MO 64068.

3.02 The Owner has retained The office of the City Engineer of the City of Liberty ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

- A. Contractor shall complete the work in accordance with the contract documents between the dates of February 28, 2023 and July 28, 2023. City shall be notified of the start date a minimum of three weeks prior to the start date of construction.

- B. Earliest Construction Start Date..... Upon Issuance of Notice to Proceed
- C. Latest Substantial Completion:..... July 21, 2023
- D. Latest Final Completion Date..... July 28, 2023
- E. Parts of the Work shall be substantially or final completed on or before the following Milestone(s):
1. Milestone 1 – **First Priority Areas**. Replacements and restorations are **required to be completed by May 5, 2023**. The goal of this milestone is to have concrete replacement completed to allow for asphalt resurfacing of these streets in 2023 starting May 8, 2023.
 2. Milestone 2 – **Second Priority Areas**. Replacements and restorations are **required to be completed by July 28, 2023**.
 3. Milestone 3 – **Restoration of Yards**. Yards disrupted during construction must be restored within 14-week days of the disruption.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
 4. Milestones: Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of each stated Milestone, until stated Milestone is achieved.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a lump sum of: \$N/A.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item): \$288,616.81.

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) N/A.
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all, if any,: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
 - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, if any, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
 - F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
- K. Contractor currently possesses the in-house capability, or will have the in-house capability prior to the commencement of Work hereunder, to perform not less than thirty five percent (35%) of all Work required to be performed on the project by Contractor by and through employees in the direct employ of Contractor without any reliance upon or utilization of subcontractors by Contractor from the time of commencement of Work hereunder and at all such times thereafter, Contractor shall continue to maintain such in-house capability to perform the above-stated percentage of the Work without any reliance upon or utilization of subcontractors.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. Prevailing Wage (section C-470, inclusive).
 - 2. MO Annual Wage Order No. 29 (section C-471, inclusive).
 - 3. This Agreement (section C-520, inclusive).
 - 4. Performance and Maintenance bond (section C-610, inclusive).
 - 5. Payment bond (section C-615, inclusive).
 - 6. General Conditions (section C-700, inclusive).
 - 7. Supplementary Conditions (section C-800, inclusive).
 - 8. Job Special Conditions (section C-810, inclusive).
 - 9. Specifications as listed in the table of contents of the Project Manual.
 - 10. Addenda (numbers X, inclusive).
 - 11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (section C-410, inclusive).
 - b. 2023 Summary of Estimated Quantities and Site Locations (Exhibit A)
 - c. ADA Checklist (Exhibit B)
 - 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *General Conditions*

- A. Owner stipulates that the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

10.07 *Indemnification*

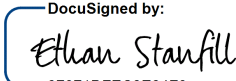
- A. The Contractor hereby expressly binds himself, herself, or itself to indemnify and save harmless the City and its officers and employees for any and all expenses, including reasonable attorney's fees, and against all damages, losses, claims, suites or actions of every kind and nature asserted, brought or which may be brought, asserted, incurred or sustained by any person, firm, or corporation, or persons, firms or corporations, in connection with or on account of the Contractor's work or in consequence of any negligence in connection with same, or on account of any poor workmanship, or on account of any act of commission or omission of the Contractor or his, her, its, or their subcontractors, agents or employees, or in connection with or on account of any other cause arising during the course of and related to construction, irrespective of the responsibility of third parties therefore.
- B. The Contractor shall further indemnify the City of Liberty for any and all expenses, including reasonable attorney's fees, incurred in the City's pursuing any remedial action required to correct deficiencies in the work on account of poor workmanship, the negligence or any act of omission of the Contractor or his, her, its, or their subcontracts, agents or employees.
- C. The City may retain from any payment due or to become due the Contractor such sums as are deemed necessary to protect its interests until all such claims or suits have been settled or disposed of and suitable evidence to that effect furnished to the City.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER: **City of Liberty, Missouri**

CONTRACTOR:

DocuSigned by:

97071DFEC3E84F0...

By: _____

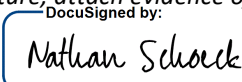
By: Ethan Stanfill

Title: _____

Title: GM-1-855-697-4194

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

DocuSigned by:

B2703EE4410A403...

Title: _____

Title: Project Manager

Address for giving notices:

Address for giving notices:
PO Box 1000 Lee`s Summit MO 64081

License No.: _____
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

PERFORMANCE AND MAINTENANCE BOND

CONTRACTOR (name and address):

SURETY (name and address of principal place of business):

OWNER (name and address):

City of Liberty, Missouri
101 E Kansas St
Liberty, Mo 64068

CONSTRUCTION CONTRACT

Effective Date of the Agreement: February 28, 2023

Amount:

Description (name and location):

BOND

Bond Number:

Date (not earlier than the Effective Date of the Agreement of the Construction Contract):

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____(seal)
Contractor’s Name and Corporate Seal

_____(seal)
Surety’s Name and Corporate Seal

By: _____
Signature

By: _____
Signature (attach power of attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the said Contractor shall construct or cause to be constructed and completed the entire improvement in accordance with specifications used by the City of Liberty for like improvements, and to the lines and grades shown on the plans, all to be done subject to the approval and acceptance of the Engineer for the said City of Liberty, and shall construct said with such materials in such manner that same shall endure without need of any repairs for the period of two (2) years from and after the completion of said improvement and acceptance thereof; and if said improvement shall endure without the need of repairs for the period of two (2) years from and after completion and acceptance thereof as aforesaid, then the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3; otherwise to be in full force and effect.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR (name and address):

SURETY (name and address of principal place of business):

OWNER (name and address):

City of Liberty, Missouri
101 E Kansas St
Liberty, Mo 64068

CONSTRUCTION CONTRACT

Effective Date of the Agreement: February 28, 2023

Amount:

Description (name and location):

BOND

Bond Number:

Date (not earlier than the Effective Date of the Agreement of the Construction Contract):

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 19

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____(seal)
Contractor’s Name and Corporate Seal

_____(seal)
Surety’s Name and Corporate Seal

By: _____
Signature

By: _____
Signature (attach power of attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and

shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. It is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 50 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment," wherever used in this BOND and whether referring to the BOND or the Contract shall include any alteration, addition, extension or modification of any character whatsoever.

19. Modifications to this Bond are as follows:

**STANDARD GENERAL CONDITIONS OF THE
CONSTRUCTION CONTRACT**

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the

result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other

submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract

Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or

requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility

that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise;

(b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and

procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
2. is of such a nature as to require a change in the Drawings or Specifications; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments:*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or

decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;

- c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
2. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection

with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition

created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until two years after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - 3. Broad form property damage coverage.
 - 4. Severability of interest.
 - 5. Underground, explosion, and collapse coverage.
 - 6. Personal injury coverage.
 - 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.

8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
 - E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
 - F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
 - G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
 - H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
 - I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.

4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available

under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will

provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of

payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.

- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

- 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
- b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

- a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not

identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times

resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone

employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 - 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 - 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
- 1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 - 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 - 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
- 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors,

members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 - 1. observations by Engineer;
 - 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. use or occupancy of the Work or any part thereof by Owner;
 - 5. any review and approval of a Shop Drawing or Sample submittal;
 - 6. the issuance of a notice of acceptability by Engineer;
 - 7. any inspection, test, or approval by others; or
 - 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to

perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by

Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to

an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change

involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and

11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;

- d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*:
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
 - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction,

the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
 - 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.

- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the

Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction

imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor

may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer

(less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with

respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs,

losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the

Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of

them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

**SUPPLEMENTARY CONDITIONS OF THE
CONSTRUCTION CONTRACT**

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ARTICLE 2 – PRELIMINARY MATTERS

SC-2.07 Add the following new paragraph immediately after Paragraph 2.06:

“Owner is a municipality and Owner and Contractor acknowledge and agree that this Agreement constitutes a “Public Works Contract” as defined in Section 34.058 R.S.Mo. Notwithstanding anything else herein to the contrary, Owner and Contractor agree that the provisions contained in this Contract are subject to and superseded by the provisions of Section 34.058 R.S.Mo. Owner and Contractor both agree to conform to the legal requirements set forth in Section 34.057 R.S.Mo., which requirements shall supersede any provisions herein to the contrary.”

ARTICLE 4 - COMMENCEMENT AND PROGRESS OF THE WORK

SC-4.05.C.2 Add the following language at the end of paragraph 4.05.C.2:

“Inclement weather is not considered as abnormal weather or an act of God. Extensions in Contract Time for abnormal weather shall be judged on the National Oceanic and Atmospheric Administration (NOAA) Local Climatological Data records for the area in which the project is being constructed. NOAA averages will be considered normal weather. Contractor shall be responsible for obtaining, preparing and presenting the appropriate weather data to support and substantiate Contractor’s request for an extension in Contract Time for abnormal weather.”

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.B:

A. The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:

1. Not used.

SC 5.06 Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

B. Not Used.

ARTICLE 6 – BONDS AND INSURANCE

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

1. Contractor may obtain worker’s compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker’s compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker’s compensation insurance for similar projects by the state within the last 12 months

SC 6.03 Add the following new paragraph immediately after Paragraph 6.03.J:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

State:	<u>Statutory</u>
Federal, if applicable (e.g., Longshoreman's):	<u>Statutory</u>

Employer's Liability:

Bodily injury, each accident	\$ <u>500,000</u>
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2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate	\$ <u>2,000,000</u>
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Products - Completed Operations Aggregate	\$ <u>2,000,000</u>
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Personal and Advertising Injury With employment exclusion deleted	\$ <u>2,000,000</u>
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Each Occurrence (Bodily Injury and Property Damage)	\$ <u>2,000,000</u>
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3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Combined Single Limit of	\$ <u>2,000,000</u>
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4. Excess or Umbrella Liability:

Per Occurrence	\$ <u>2,000,000</u>
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General Aggregate	\$ <u>2,000,000</u>
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5. Contractor's Pollution Liability:

Each Occurrence	\$ <u>Not Applicable</u>
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General Aggregate	\$ <u>Not Applicable</u>
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If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

6. Additional Insureds: In addition to Owner and Engineer, include as additional insureds the following: None.

7. Contractor's Professional Liability:

Each Claim	\$ <u>2,000,000</u>
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Annual Aggregate	\$ <u>2,000,000</u>
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ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

SC-7.01.C. Add the following new subparagraphs immediately after Paragraph 7.01.B:

The Contractor shall be responsible for the conduct of Contractor’s employees and the employees of Subcontractors and suppliers on the Work site. The Contractor shall take immediate steps to remedy any activity which may be construed as discriminatory or which creates a hostile Work environment. Activities covered by this provision include, but shall not be limited to, signs or language that is vulgar, profane, or racially or sexually derogatory.

SC-7.02.B. Add the following new subparagraphs immediately after Paragraph 7.02.B:

1. Regular working hours will be 7:00 AM to 5:00 PM
2. Owner's legal holidays are:
 - a) New Year’s Day
 - b) Martin Luther King Jr. Day
 - c) President’s Day
 - d) Memorial Day
 - e) Juneteenth
 - f) Independence Day
 - g) Labor Day
 - h) Veterans’ Day
 - i) Thanksgiving Day
 - j) Day after Thanksgiving
 - k) Christmas Day

SC-7.02.B. Append Paragraph 7.02.B to state “No Sunday work shall be allowed.”

SC 7.09 Add a new paragraph immediately after Paragraph 7.09.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Missouri and of cities and counties thereof on all materials to be incorporated into the Work.**
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.**

1. **General:** RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
2. **Schedules:** Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.
3. **Conferences and Meetings:** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.
4. **Liaison:**
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. **Interpretation of Contract Documents:** Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. **Shop Drawings and Samples:**
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. **Modifications:** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. **Review of Work and Rejection of Defective Work:**
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents,

or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. Inspections, Tests, and System Start-ups:

- a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

10. Records:

- a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- c. Maintain records for use in preparing Project documentation.

11. Reports:

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.

12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. **Certificates, Operation and Maintenance Manuals:** During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
 14. **Completion:**
 - a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.
 - b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the work.
- C. The RPR shall not:**
1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
 7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
 8. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC 13.01.B.5.c Delete Paragraph 13.01.B.5.c in its entirety and insert the following in its place:

- c. **Construction Equipment and Machinery:**
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly,

dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the Rental Rate Blue Book, FHWA Hourly Rate. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

SC 13.03.E Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 1. if the extended price of a particular item of Unit Price Work amounts to 15 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
 2. if there is no corresponding adjustment with respect to any other item of Work; and
 3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

ARTICLE 15 – PAYMENT TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC-15.01.C.1 Amend the first sentence of Paragraph 15.08.A by replacing the words “10 days” with the words “20 days”.

SC-15.08.A Amend the first sentence of Paragraph 15.08.A by replacing the words “one year” with the words “two years”.

SC-15.08.D Amend the first sentence of Paragraph 15.08.D by replacing the words “one year” with the words “two years”.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

SC-16.02.D Add the following new sub-paragraph immediately after Paragraph 16.02.D.

SC-16.02.D.1 Contractor shall be deemed to have persistently failed to perform the Work in accordance with the Contract Documents, if Contractor has twice not timely cured failures of performance by Contractor which have been brought to the attention of Contractor by written notices of the Owner within the time specified in

such notices and Owner gives a third notice to the Contractor of any such failure to perform.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

SC-17.02 Attorneys' Fees: For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

SPECIAL CONDITIONS OF THE
CONSTRUCTION CONTRACT

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SPC-1.01 Scope of Work

The work provided for in these specifications shall consist of furnishing all labor, materials, equipment and performing all work necessary to accomplish curb repair, sidewalk installation, and ADA compliant curb ramps together with other incidental and related work as set forth in these specifications and the detail drawings and as directed by the Engineer to make a complete and finished job. More specifically the streets are:

2023 CONCRETE FLATWORK REPLACEMENT PROJECT

First Priority	
Second Priority	
Street	Work
Ridge	ADA curb ramp replacement
Park Ln	Concrete curb and gutter removal and replacement, 4" sidewalk removal and replacement and ADA curb ramp replacement
Brooks Ct	4" Sidewalk removal and replacement
Kansas St	ADA curb ramp replacement
S Jewell St	ADA curb ramp and concrete curb and gutter removal and replacement
N Jewell St	Concrete curb and gutter removal and replacement
Heartland West	ADA curb ramp replacement, 4" sidewalk removal and replacement and concrete curb and gutter removal and replacement
Heartland North	ADA curb ramp replacement and concrete curb and gutter removal and replacement
Heartland East	Concrete curb and gutter removal and replacement
999 Wyckwood Dr.	Drive Way removal and replacement
Marion St	Full depth concrete pavement repair
Cosby St	Full depth concrete pavement repair, ADA curb ramp and concrete curb and gutter removal and replacement
Charles St	Full depth concrete pavement repair and concrete curb and gutter removal and replacement
Bob White	Asphalt pavement mill & overlay, concrete curb and gutter removal and replacement and concrete cross pan construction
Withers Rd	Concrete curb and gutter removal and replacement and minor concrete drive approach repair.

Refer to Project Manual Exhibit B for a more detailed list of estimated quantities and special job site conditions.

SPC-2.01 Contract Special Conditions

The work shall conform to these special conditions and to the Liberty Technical Specifications as referenced herein. The Liberty Technical Specifications (Latest Edition) will govern as though it were repeated verbatim herein, except as modified or superseded by these special provisions.

SPC-2.02 Asphalt Cement Price Index

There will be no price adjustment for asphalt concrete materials on the Project.

SPC-3.01 Contractor Furnished Staking

- A. The Contractor shall furnish stakes, and surveys, and other materials as may be required for the proper staking and laying out of the work, and in making measurements and surveys and in establishing temporary or permanent reference marks in connection with said work.
- B. All survey and staking work performed under this contract shall be done to the lines, grades and elevations shown on the plans and shall be subsidiary to the contract. No direct payment for this work will be made to the Contractor.
- C. Any work done without being properly located and established by base lines, offset stakes, bench marks, or other basic reference points may be ordered removed and replaced at the Contractor's cost and expense.
- D. The Contractor shall be responsible for all monuments, property corners, bench marks, reference points and stakes, and in case of willful or careless destruction of same, will be charged with the resulting expense of replacement, and he/she shall be responsible for any mistakes or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the loss of stakes causes a delay in the work, the Contractor shall have no claim for damages or extensions of time. In the case of any permanent monuments, property corners, or bench marks that have been moved or destroyed, the Contractor will be charged with the resulting expense of replacement.

SPC-4.01 Traffic Control and Routing

All costs for traffic control shall be considered incidental to the work and no direct payment shall be allowed.

- A. Construction operations shall be coordinated to result in the least practicable delay to pedestrians and traffic. Traffic shall be carried through construction with a minimum of one lane open in each direction at all times. Pedestrians shall be routed safely around construction areas and sidewalks shall be closed appropriately with proper traffic control barricades, cones, sidewalk closure signage, and temporary fencing as needed for safety. Access to adjoining businesses and residences will be maintained at all times.
- B. The Contractor shall furnish adequate signs, barricades, warning lights, and all other equipment necessary to direct and reroute traffic and shall furnish all flagmen and other personnel necessary to provide the required traffic control. All signs and barricades used on the project shall conform to the latest edition of the Manual on Uniform Traffic Control Devices pertaining to traffic controls for street and highway construction.
- C. When construction requires machinery or men to be in an intersection or roadway, barricades shall be placed and a flagman shall control the intersection or roadway traffic as indicated in the typical traffic control detail for intersection or roadway construction. Barricades shall be moved back out of the intersection or roadway as shown in the same detail after the construction operation is complete.
- D. Barricades and/or signs shall not be removed from a resurfaced or patched street until said street's temperature has cooled such that marks will not occur in the street surface once it is opened to traffic. Such determination will be made by the Engineer or his representative in the field.
- E. The Project Inspector and Contractor's representative on this project will make inspections of the traffic control devices installed as part of this contract and maintain record of any maintenance required and the date on which it was completed. These records will be maintained for the duration of the project and be incorporated as part of the final records.
- F. The Contractor will be required at the time of the preconstruction conference to provide a schedule regarding the proposed location, length and approximate timing of traffic lane and/or sidewalk

closures for construction activities and to designate a specific employee to be responsible for the maintenance of the traffic control devices and establish a method of contacting this person during both working and non-working hours. This information will be provided to the City Engineer.

- G. The Contractor shall be responsible for contacting the City Engineer, local police, fire, ambulance and other emergency services of the proposed closures a minimum of 48 hours prior to commencing such closure.
- H. The City of Liberty, Missouri reserves the right to make adjustments or revisions in traffic handling requirements which may become necessary after construction on the project has started. These changes will be determined on the basis of periodic inspections throughout the duration of the project. Notice of such change will be transmitted to the Contractor and it will be his responsibility to make the necessary changes as soon as practicable after receipt of the notification.

SPC-5.01 Fees for Construction Permits

The City agrees to waive all fees for construction permits associated with the work to be done under this contract. Fees for occupation license, as required by the City, will be the responsibility of the Contractor and subcontractors to secure prior to the start of work and shall be subsidiary to the Contract.

SPC-6.01 Restoration of Yards

There shall be no direct payment made for the restoration of yards disrupted in conjunction with this project (unless otherwise specified in these Special Conditions). The Contractor shall contain all construction activities to within the public right-of-way and easement lines. All yards damaged beyond the construction limits shall be restored to at least equal to current condition as approved by the Engineer. Such work shall include grading, preparation of topsoil, and placement of seed, fertilizer, and mulch to repair lawn damaged by the Contractor's construction operations. No direct payment will be made to the Contractor for restoration of yards beyond the limits of the work as shown on the plans except as otherwise approved by the Engineer. Restoration shall occur within fourteen (14) week days of disruption.

SPC-7.01 Asphalt Pavement – Material and Placement Requirements

- A. Asphalt surface materials and placement shall be based upon **Type 5-01** in accordance with KC Metro Chapter APWA Section 2205 Asphaltic Concrete Surface and Base. However, balanced mix design principles shall be used to design a performance test-based crack resistant and rut resistant asphalt mix that meets flexibility index (FI) and rut resistance (HWT) criteria detailed in SPC-18.01.3 and SPC-18-01.4.
- B. The Contractor shall provide a smooth transition from the resurfaced roadway section to the existing pavement at intersections and driveways as directed by the Engineer or his representative in the field.
- C. Conventional Paving: The bituminous paver shall be equipped with automatic screed controls as set forth in the above referenced Liberty Technical Specifications. Reference grade shall be established by the Contractor at his expense in connection with construction staking.
- D. Standard Tack shall be allowed. Tack is a subsidiary of the Asphalt line item and no additional payment for Tack shall be made.

SPC-7.02 Cold Milling

All curb and gutter streets selected within this contract shall be edge milled.

- 1. Edge milling shall be 1 ½" in depth at curb side and ½" at opposite edge of the milling cylinder. The balance of the street surface shall be textured milled.

2. Full width milling shall be 1 ½" in depth at edge or curb side of the street and extend full width across the street providing a smooth surface.
3. Joints shall be milled on all streets (curbed and non-curbed) where new paving matches existing pavements, curbs, ramps, and drive approaches.
4. Full depth milling shall be the full depth of the existing pavement up to a maximum of 8" depth as located in the field and incidental to the Full Depth Repair pay item.
5. Structures in the street such as manholes, water valves, survey monument boxes, utility vaults, etc. shall be adjusted to match finished asphalt surface grade. Structures may be milled around on all streets, or riser rings may be used for manholes and water valves which shall be furnished and installed by the Contractor with the cost incidental to the milling and/or paving pay items. Grade adjustments to all other structures (utility vaults, survey monument boxes, etc.) shall be done as necessary to meet finished asphalt surface grade by milling, riser rings, or other means by the Contractor with the cost incidental to the milling and/or paving pay items.
6. Millings shall be disposed of by the Contractor. Collection and removal of Millings shall be considered incidental to the Cold Milling contract line item and no additional payment shall be made.

SPC-7.03 Balanced Asphalt Mix Design and Testing

Asphalt surface materials shall be based upon **Type 5-01** in accordance with KC Metro Chapter APWA Section 2205 Asphaltic Concrete Surface and Base. However, balanced mix design principles shall be used to design an economical, crack resistant, and rut resistant asphalt mix that meets performance test based flexibility index (FI) and rut resistance (HWT) criteria detailed in SPC-18.01.3 and SPC-18-01.4.

Acceptable test results meeting the FI and HWT shall be submitted with the mix design for approval. Acceptable Performance Grade binders shall be PG 64-22 or PG 64-28, or other as approved by the City Engineer.

Quality Control (QC) testing performed by the contractor is incidental to the asphalt paving pay items. Quality Assurance (QA) testing furnished and paid for by the City shall be performed at the discretion of the City Engineer and coordinated with the contractor. A favorable comparison will be achieved if the results for QA and QC are within 30%.

7. Performance Testing: Quality Control (QC) testing for Flexibility Index (FI) and Hamburg Wheel Track (HWT) Testing will be required by the contractor on the first full day of production for mainline pavement. Testing will not be required for days with less than 200 tons of production. Random testing location will be determined by the engineer.
8. Mix Sampling and Preparation: Loose mix may be sampled from the roadway or the plant, in accordance with AASHTO R 97. No conditioning will be performed on the plant mixed samples. Lab mixed samples for mix design submittal shall be short term conditioned in accordance with AASHTO R30 prior to splitting. All loose mix material shall be allowed to cool to room temperature and then reheated to compaction temperature for splitting to the appropriate size in accordance with R47. Samples shall then be heated to the compaction temperature +/- 3 C prior to molding. The specimens shall be compacted to 7.0 +/- 0.5% air voids.
9. Flexibility Index Testing: The Flexibility Index (FI) testing will be completed in accordance with I-FIT (Illinois Flexibility Index Test) Procedure 405 dated 01/01/2016 available at https://www.modot.org/sites/default/files/documents/Illinois_Flexibility_Index_Test.pdf. In lieu of the FI, the Ideal CT criteria may be substituted using the limits shown below. The Ideal Cracking Test (CT) criteria may be substituted using the limits shown below. The Ideal CT shall be completed in accordance with ASTM D8225 and at a test temperature of 25 C when used.

FLEXIBILITY INDEX	Ideal CT	PASS / FAIL
NMAS* < 190	NMAS* < 190	
< 2.0	< 32	FAILED
> 2.0	> 32	PASSED

*NMAS = Nominal Maximum Aggregate Size

10. **Hamburg Wheel Track:** Hamburg Wheel Track testing will be completed in accordance with AASHTO T324 at test temperature of 50 C and 62 mm specimen height.

PG Grade	Minimum Wheel Passes	Maximum Rut Depth
64-22	10,000	12.5 mm
64-28	10,000	12.5 mm

11. **Design Gyration:** The number (N) of gyrations required for gyratory compaction shall be in accordance with KC Metro APWA Type 5-01.
12. **VFA Requirements:** Voids Filled with Asphalt (VFA) shall be omitted provided that the Hamburg Wheel Tracking Requirements are satisfied and the Flexibility Index is above 2.
13. **Removal Limits:** If corrective action is necessary as a result of failed QA/QC testing, cost of testing and necessary corrective action will be borne by the Contractor. Failure results of IF or HWT tests will result in immediate shutdown of operations and removal of materials placed that day at the contractor's expense. Operations may resume when the contractor is confident that production and placement will meet the performance requirements. Testing (QC and QA) will be required following resuming of operations and shall be at the cost of the contractor.

SPC-8.01 Surface Structures Affected by Construction

All pavement, surfaces, driveways, curbs, walks, buildings, traffic signs, utility poles, guy wires and other surface structures affected by construction operations in connection with the performance of the contract, together with all sod and shrubs in yards, parks and parking, shall be maintained and if removed or otherwise damaged, shall be restored to the original condition thereof, as determined and approved by the Engineer. All replacement of such surface structures or parts thereof shall be made with new materials conforming to the requirements of these specifications or, if not specified, as approved by the Engineer, at the Contractor's own cost and expense, unless otherwise provided by the contract.

SPC-9.01 Safety of the Public

The Contractor shall provide temporary walks, fencing, barricades and other protective measures as necessary to insure the safety of the public traversing the construction site. Equipment storage areas and material stockpiles shall be located on sites provided by the Contractor with due regard to location, appearance, and hazard potential to the traveling public. All work necessary shall be subsidiary to the contract and no direct payment will be made to the Contractor.

- A. **Public Notification:** The Contractor shall place door hangar notifications on all residences and businesses adjacent to work at least 48 hours prior to start of intended work at said locations.

Door hangar notifications shall be supplied and placed by the Contractor. Engineer shall review and approved proposed door hangars prior to printing and placement.

Emergency No Parking Signage (Temp.): Contractor may supply and place emergency no parking signage as needed adjacent to work at least 48 prior to start of intended work. Cars that are parked in the way of construction shall be tagged with a non-stick notice under the driver side windshield wiper a minimum of 48 hours prior to start of intended work, vehicles that have been tagged will be towed at the owner's expense and shall be coordinated with the City project inspector. However, towing shall only be a last resort after all other means of contacting the owner are exhausted.

Sec. 20-143. - No parking for construction activities.

Pursuant to section 20-121, parking is prohibited at all times, when temporarily posted as such, to facilitate public construction activities. Any vehicle parked within the posted temporary No Parking areas will be towed at the owner's expense.

Ord. No. 6696, § 6, 11-8-93

- B. Emergency Services Notification: The Contractor shall coordinate construction activities with the City project inspector so they may notify City emergency dispatch, City public relations, postal service, school district, trash collection, etc. as necessary.

SPC-10.01 Dimensions and Elevations

It is the intent of this project to match existing dimensions and elevations unless otherwise notified. The Contractor shall verify all dimensions and elevations. Any discrepancy between the dimensions and elevations shown on the plans and those found by the Contractor shall be supplied to the Engineer for approval prior to construction.

SPC-11.01 Pavement Markings

Any pavement markings damaged during construction shall be replaced per the pre-existing pattern. Pavement markings shall be thermoplastic type pavement markings in accordance with the City of Liberty Technical Specifications on newly patched asphalt surface. MMA (Methyl Methacrylate) type pavement markings shall be used on pre-existing asphalt and pre-existing and/or new concrete pavement. All pavement marking symbols shall conform to the (MUTCD). This work shall include all labor, materials and equipment necessary to complete the work.

Removal of existing pavement markings when necessary shall be ground off; blacking-out existing markings with paint or other surface treatments other than grinding will not be acceptable.

SPC-12.01 ADA Requirements

The City of Liberty has adopted the MoDOT ADA checklist as an ADA acceptance criterion. The MoDOT ADA checklist is attached as Exhibit B to the Project Contract. In the event of a conflict between the specifications of the City and the adopted acceptance criteria a request for determination shall be made to the Owner via electronic mail.

A. Curb Ramps:

The term Curb Ramp shall be used to apply to curb ramps, blended transitions and combinations of curb ramps and blended transitions.

1. All Curb Ramps shall be constructed to fully meet all adopted ADA requirements.
2. Curb ramps shall be constructed to accommodate the "Cast in Tact Detectable Warning Panel No. MA TP22" insets, or approved equal. The insets shall be placed so truncated domes extend

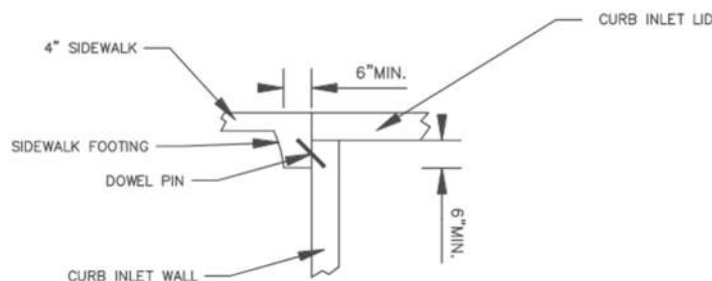
across the entire width of the flush curb opening at the base of the ramp. Insets and/or surface mount tactiles shall be cut and trimmed as necessary to extend across any flush opening gaps.

3. ADA detectable surface mount tactiles shall be 2' wide and 4' or more in dimension and placed as necessary (and trimmed if needed) on existing ADA ramps to extend the full width of the curb opening at the base of the ADA ramp. Beveled edge and truncated dome pattern shall meet all ADA requirements.
4. The contractor shall at each curb ramp replace the required 5'x5' landing (hereafter referred to as landing). Where a landing does not already exist for replacement the existing concrete shall be removed and replaced by a new landing. The landing shall be considered incidental to the ADA Curb Ramp line item.
5. The contractor shall be expected to replace sidewalk either side of landings as necessary to meet ADA slope requirements and provide a full and finished product. Refer to the Measurement and Payment Job Special Conditions for the procedure for measurement and payment of any additional sidewalk required as part of the ADA Curb Ramp line item.
6. The contractor shall be expected to replace curb and gutter either side of each ADA Ramp as necessary to provide a full and finished product. Refer to the Measurement and Payment Job Special Conditions for the procedure for measurement and payment of any additional Curb and Gutter required as part of the ADA Curb Ramp line item.

SPC-13.01 Sidewalk and Drive Approach Removal and Replacement

Except as modified or stipulated herein, sidewalk removal and replacement shall conform to the requirements of Section 2200 as contained in the Technical Specifications for Public Improvement Projects of the City of Liberty, Missouri. Backfill of concrete flatwork with topsoil, seed, and mulch is subsidiary to the work.

1. Sidewalk Removal & Replacement (4"): The Contractor shall saw cut the limits of the sidewalk removal. The saw cut shall be the full depth of the walk including brick or concrete base. The Contractor shall place 4" thick concrete sidewalks, including 4" picture frame pattern, according to Section 2200. Sidewalk sections replaced adjacent to storm sewer inlet structures shall be anchored to the structure as shown in the sidewalk footing at curb inlet detail below:



NOTES:

1. DOWEL PINS SHALL BE #4 BARS, 7" LONG, INSERTED A MINIMUM OF 3" AND A MAXIMUM OF 4" INTO CURB INLET WALL.
2. EXPANSION JOINTS SHALL BE PLACED AROUND THE LID WHERE THE SIDEWALK ABUTS AND SHALL ISOLATE THE SIDEWALK FROM THE FULL DEPTH OF THE LID. THESE SHALL NOT BE COUNTED TOWARDS THE EXPANSION REQUIRED.
3. DOWEL PINS SHALL BE PLACED ON 18" CENTERS WITH A MINIMUM OF ONE PER EVERY SIDE AFFECTED.
4. FOOTING SHALL BE USED WHENEVER ANY PORTION OF THE CURB INLET LID IS UTILIZED FOR SIDEWALK AND TOP OF CURB INLET AND SIDEWALK SHALL BE FLUSH. IF CURB INLET LID IS USED IT MUST MEET ADA CROSS SLOPE REQUIREMENTS.
5. COST OF FOOTING IS SUBSIDIARY TO THE SIDEWALK BID.

SIDEWALK FOOTING AT CURB INLET DETAIL

2. Integral Sidewalk and Curb: The Contractor shall saw cut the limits of the sidewalk removal. The saw cut shall be the full depth of the walk including brick or concrete base. The Contractor shall place 4" thick concrete sidewalks with integral 6" tall vertical retaining wall curb on one or two sides, including 4" picture frame pattern, according to Section 2200.
3. Sidewalk Removal and Restoration to Turf (if needed): Existing sidewalk shall be removed and the area backfilled with topsoil, graded, and seeded.
4. Drive Approach Removal and Replacement (if needed): The Contractor shall saw cut the limits of the drive approach removal. The saw cut shall be the full depth of the approach. The Contractor shall place 6" thick concrete approach, including 4" picture frame pattern, according to Section 2200.
5. 6" Concrete Cross Pan: Six (6) foot wide, 6" thick non-reinforced concrete cross pan shall be placed across intersection to achieve positive drainage. Contractor shall saw cut limits of the cross pan and remove the existing asphalt pavement. Subgrade shall be prepped for 4" crushed stone base and placement of minimum 6" thick concrete "swale" across the intersection. Cross pan shall be dowelled into adjacent concrete curbs at each end, with saw cut or tooled joints as appropriate. Cross Pan shall be paid for under 6" Drive Approach Removal and Replacement.

SPC-14.01 Concrete Curb and Gutter, Removal & Replacement

Except as modified or stipulated herein, curb and gutter removal and replacement shall conform to the requirements of Section 2100 as contained in the Technical Specifications for Public Improvement Projects of the City of Liberty, Missouri.

1. Removal and Replacement: The Contractor shall saw cut the limits of the Curb and Gutter removal. The saw cut shall be the full depth of the Curb and Gutter. The Contractor shall place new Curb and Gutter to meet the City of Liberty technical specifications for Curb and Gutter. Curb and Gutter sections shall be no less 5' in length.
2. Curb and Gutter removed and replaced as part of the replacement of an ADA ramp shall be measured and paid for as defined within the Measurement and Payment SPC.
3. Asphalt patching in streets adjacent to replaced Curb and Gutter shall be done by sawcut, milling, or other means so as to leave a neat, clean, straight edge where matching adjacent pavements. Patches may be filled with full depth asphalt, or by concrete up to 1.5" below finished pavement elevation followed by 1.5" cold patch asphalt surface placed to finished surface elevation. Patching is required at all areas the same day in which forms are removed. Patching (concrete and/or asphalt) shall be considered incidental to the Concrete Curb and Gutter, Removal & Replacement line item and as such no additional compensation will be allowed.

SPC-15.01 Concrete Cross Pan & Drive Way (6")

1. 6" Concrete Cross Pan: 6" thick non-reinforced concrete cross pan shall be placed across intersection to achieve positive drainage as shown in the Cross-Pan Exhibit (See Contract Exhibit B). Contractor shall saw cut limits of the cross pan and remove the existing asphalt pavement. Subgrade shall be prepped for 4" crushed stone base and placement of minimum 6" thick concrete "swale" across the intersection. Cross pan shall be dowelled into adjacent concrete curbs at each end, with saw cut or tooled joints as appropriate. Cross Pan shall be paid for under the Concrete Cross Pan & Drive Way (6") line item.
2. 6" Concrete Drive Way: 6" thick non-reinforced concrete drive ways shall be placed where specified. Contractor shall remove existing driveway totally to the nearest contraction or expansion joint. All activity shall meet the requirements of City of Liberty Specifications for subgrade preparation, forms, joints, concrete work, backfill, joint sealing and clean up, and

surface tolerances. Drive Ways shall be paid for under the Concrete Cross Pan & Drive Way (6") line item.

SPC-16.01 Full Depth Concrete Pavement Repair

A. General

1. The Owner/Engineer shall mark the limits of the areas to be repaired. All pavement repairs must be of full panels (as defined by existing joints) unless otherwise specified.
2. The existing pavement shall be saw cut full depth at the limits established. Sawing shall be incidental to the removal.
3. The existing concrete pavement thickness is estimated to be 7". Concrete sawing and removal thickness may be as much as 1" greater than indicated on the repair plan without additional compensation to the contractor.
4. Removal of the existing aggregate base and subgrade to the 13" depth as necessary to accommodate the placement of the 6" aggregate base and 7" concrete pavement as specified is included in this removal.

B. Removal of Concrete

1. Concrete pavement within the limits of the repair area can be removed with pavement breakers, jackhammers and backhoe equipment. Care must be taken not to damage existing pavement adjacent to the removal repair.
2. Concrete Curb and Gutter shall not be removed as part of the Full Depth Concrete Pavement Repair. Where concrete pavement is integral with the curb and gutter a full depth saw cut joint shall be made so as to allow removal of the concrete pavement without damaging of the curb and gutter. Any curb and gutter damaged and removed as part of the Full Depth Concrete Pavement Repair shall be replaced, replacement shall be incidental for the Full Depth Concrete Pavement Repair contract line item and no additional compensation for curb and gutter shall be made.
3. Removal and discarding of Concrete from the site shall be considered incidental.

C. Correction of Subgrade and Aggregate base

1. After pavement removal and removal of existing base to depth as specified for placement of the aggregate base, the contractor shall shape and compact the sub-grade. Compaction shall meet the requirements of the City of Liberty Specifications and Design Criteria.
2. Crushed rock (Type AB-3) shall be placed to the depth of 6" and compacted using mechanical compacting equipment.
3. Areas with significant subgrade failure may require subgrade undercutting per the details of the Subgrade Undercut – 8" pay item as directed by the engineer.

D. Drilling and Dowelling

1. All transverse joints across the pavement width shall be drilled and dowelled beginning 12" from each edge and on 24" centers. Longitudinal dowels will not be required unless the patch is less than a full lane width.
2. Dowels shall be minimum 18" in length, minimum ½" dia. smooth, drilled and epoxied into existing concrete with a greased, wrapped or expansion tubes on opposite end.
3. All dowels shall be placed mid slab thickness.

E. Furnishing and Placing Concrete

1. Ready mix concrete for full depth concrete patches shall be a 4000 psi 28-day compressive strength, air-entrained, high-early set concrete that may be opened to traffic once 3000 psi is achieved and verified through compressive strength breaks (e.g. 3, 5, and/or 7-day).
2. Place concrete to 7" depth specified and finish in accordance with City of Liberty Specification 1505.
3. Cure finished concrete as specified.
4. Barricade finished concrete for the recommended cure time.

F. Contraction Joints

1. Place contraction joints by saw cutting (tooling permitted during placement) to match existing joint patterns in the removed pavement section. In triangular or odd shape repair areas consult engineer for jointing patterns. No joint should exceed 12' in width or depth.

G. Subgrade Undercut – 8":

1. Areas with significant mud pumping shall be undercut up to 8" below original depth removal section and replaced with 3" minus crusher run.
2. If deeper undercutting is required, additional compensation shall be paid proportionally as additional subgrade undercut area. For example, if 100 SF of area is undercut 16", payment will be 200 SF of 8" undercut.

SPC-17.01 Measurement and Payment

A. General:

1. It is the intention of this section of the specifications to set forth the method of measurement and payment for that part of the work on the contract documents that will be directly paid for at the price bid per unit of measure.
2. All the work to be performed under this contract will be paid for at the lump sum or unit prices stated in the proposal of the accepted bidder. Unit price payments will be based upon the measurement of installed items. Unit prices and lump sums shall constitute full compensation for all labor, materials, tools, equipment and incidentals required to complete the work, as described in accordance with the contract documents. Any material, equipment or operation not specifically mentioned, however, required for proper completion of the work shall be considered to be incidental to the unit price item to which it pertains.
3. Quantities listed in the bid are not guaranteed and are indicated only for convenience in comparing bids. Payment will be made for actual quantities constructed or installed, be they more or less than those listed unless otherwise indicated; said quantities being measured and determined as follows:

B. ADA Curb Ramp:

1. ADA Curb Ramps shall be measured per each item. This item shall include the following:
 - a. Curb Ramp (The term curb ramp shall encompass curb ramps, blended transitions and combinations of curb ramps and blended transitions.)
 - b. 5'x5' Landing
 - c. "Cast in Tact Detectable Warning Panel" #MA TP22, #MA TP12 or approved equal
 - d. Any Sidewalk Removal & Replacement (4") and/or Concrete Curb and Gutter, Removal & Replacement which is required *shall not* be considered incidental. It shall be documented and measured for payment as follows:

(i) Sidewalk Removal & Replacement (4") for ADA Ramp Installation

- (a) Sidewalk shall only be installed as needed to meet ADA slope requirements. The contractor shall not need to seek owner approval for the installation of 6 linear feet of Sidewalk either side of the 5'x5' Landing. Any Sidewalk which is required to meet ADA slope requirements past 6' either side of the 5'x5' Landing shall require prior approval from the Owner or Owners representative to be eligible for payment. The linear footage of sidewalk required per Ramp to meet ADA slope requirements shall be documented and applied for payment under the line item Sidewalk Removal & Replacement (4").

(ii) Concrete Curb and Gutter, Removal & Replacement for ADA Ramp Installation

- (a) Concrete Curb and Gutter shall only be installed as needed to provide a full and finished product. The contractor shall not need to seek owner approval for the installation of 6 linear feet of Concrete Curb and Gutter either side of the 5'x5' Landing. Any Concrete Curb and Gutter which is required to provide a full and finished product past 6' either side of the 5'x5' Landing shall require prior approval from the Owner or Owners representative to be eligible for payment. The linear footage of Concrete Curb and gutter shall be documented and applied for payment under the line item Concrete Curb and Gutter, Removal & Replacement.

- 2. Payment will be made at the contract unit prices bid as shown in the proposal for the ADA Curb Ramp line item. Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

C. Concrete Curb and Gutter, Removal & Replacement

- 1. Concrete Curb and Gutter shall be measured by the linear foot of acceptable curb in place. Measurement shall be made along the back face of the curb section.
- 2. Payment shall be made at the contract unit price bid as shown in the proposal for Concrete Curb and Gutter, Removal & Replacement. Payment shall be full compensation for all curb removal, curb construction, patching of pavement, sub-grade preparation for all backfilling, and all labor, equipment, materials and incidentals necessary to complete the work including grading and seeding behind curb. Until all associated work including but not limited to backfilling and cleanup behind the curb and patching of pavement is completed 25% of payment for concrete curb and gutter will be withheld.

D. Sidewalk Removal & Replacement (4"):

- 1. Sidewalks shall be measured by the square foot of material placed. Measurement shall be to the nearest square foot, and shall exclude any associated ADA ramp and adjacent 5'x5' ramp landing.
- 2. Payment will be made at the contract unit prices bid as shown in the proposal for Sidewalk Removal & Replacement (4"). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

E. Concrete Drive Approach Removal and Replacement (6" thick):

- 1. Concrete drive approaches and drive ways shall be measured by the square foot of material placed. Thickness is assumed at 6".
- 2. Payment will be made at the contract unit prices bid as shown in the proposal for Concrete Drive Approach Removal & Replacement (6" thick). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

F. Concrete Cross Pan & Driveway (6"):

1. Concrete Cross Pans and Driveways shall be measured by the square foot of material placed. Thickness is assumed at 6".
2. Payment will be made at the contract unit prices bid as shown in the proposal for Concrete Cross Pan & Driveway (6"). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

G. Full Depth Concrete Pavement Repair:

1. Full Depth Concrete Pavement Repairs shall be measured by the square foot of material placed. Thickness is assumed at 7".
2. Payment will be made at the contract unit prices bid as shown in the proposal for Full Depth Concrete Pavement Repair. Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

H. Mill and Overlay (1.5"):

1. Cold Milling and the Asphaltic Concrete (All types) material used for overlaying shall be paid for by the square yard of cold milling completed as indicated on the plans and shall include all sweeping, collecting and disposal of millings, paving and related work.
2. Paving tack is a subsidiary to the Mill and Overlay (1.5") line item.
3. Payment will be made at the contract unit prices bid as shown in the proposal Mill and Overlay (1.5"). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

I. Traffic Control:

1. Traffic control for all project construction shall be subsidiary to other items of work and no additional compensation allowed.

TECHNICAL SPECIFICATIONS

ARTICLE 1 – TECHNICAL SPECIFICATIONS

- 1.01 The specifications that shall govern the materials furnished and work performed in the construction of the project covered by this contract shall be the latest revision of Technical Specifications for Public Improvement Projects, City of Liberty, Missouri as though fully set forth herein.
- 1.02 No attempt has been made in the above designated specifications to segregate work to be performed by any trade, contract or proposal item under any one specification section. Any segregation between trade or craft jurisdiction limits and the establishment of subcontract limits will be solely a matter of agreement between the Contractor and his employees and his subcontractors. The specifications will govern the construction of the entire work and the provisions thereof will govern each item of the work to which such provisions apply.
- 1.03 The aforementioned Technical Specifications are available online at:
<https://www.libertymissouri.gov/208/Design-Criteria-Technical-Specifications>. Questions concerning specifications may be directed to the City Engineer's Office, Third Floor, Liberty City Hall, 101 E. Kansas, Liberty, Missouri, 816-439-4500.

ARTICLE 2 – JOB SPECIFIC TECHNICAL SPECIFICATIONS

- 2.01 Job specific technical specifications shall take precedent over the Technical Specifications for Public Improvement Projects, City of Liberty, Missouri only in the subject matter presented in the job specific technical specifications.
- 2.02 If no job specific technical specifications are listed in the project manual the Technical Specifications for Public Improvement Projects, City of Liberty, Missouri shall govern all work proposed.



MISSOURI PROJECT EXEMPTION CERTIFICATE

AUTHORIZATION FOR PURCHASING CONSTRUCTION MATERIALS FOR TAX EXEMPT PROJECT

DATE: 02-06-2023

CONTRACTOR: Precision Construction and Contracting, LLC

ADDRESS: PO Box 1000

CITY/STATE/ZIP: Lees Summit, MO 64064

NAME OF PERSON TO CONTACT AND PHONE #, IF QUESTIONS: John Findlay, City Engineer - 816.439.4507

PROJECT # ASSIGNED: 23-002

PROJECT DESCRIPTION: 2023 Concrete Flatwork Replacement

PROJECT LOCATION: City of Liberty, Missouri - Various locations throughout City

DATE OF CONTRACT: 02-28-2023 DATE PROJECT TO BEGIN: 2/28/2023

ESTIMATED PROJECT COMPLETION DATE: 7/28/2023 REVISED COMPLETION DATE: _____

THIS CERTIFICATE EXPIRES ON THE COMPLETION DATE STATED ABOVE

The Missouri exempt entity named above hereby authorizes the purchase, without sales tax, of tangible personal property to be incorporated or consumed in the construction of the project identified herein and no other, pursuant to Section 144.062 RSMo.

ATTACHED IS THE STATE OF MISSOURI EXEMPTION FROM MISSOURI SALES AND USE TAX ON PURCHASES

APPROVED

 DIRECTOR OF FINANCE
 DATE 2-7-23

APPROVED

 CITY ENGINEER
 DATE 2023.02.09 16:23:22-0600

INSTRUCTIONS

EXEMPT ENTITY-A signed copy of this certificate, along with your MO Tax Exemption Letter, must be furnished to each contractor and/or subcontractor who will be purchasing tangible personal property for use in the project. It is the exempt entity's responsibility to ensure the validity of the certificate. You must issue a certificate with a Revised Expiration Date if purchases will be required to complete the project beyond the original Project Exemption Certificate Expiration Date.

CONTRACTOR/SUBCONTRACTOR- The contractor shall furnish a completed copy of this exemption certificate, along with a copy of the exempt entity's MO Tax Exemption Letter, to all subcontractors, and any contractor or subcontractor purchasing materials shall present copies of such documents to all material suppliers as authorization to purchase on behalf of the exempt entity, all tangible personal property to be incorporated or consumed in the construction of that project and no other on a tax exempt basis. **A COPY OF EACH CERTIFICATE MUST BE RETAINED BY THE PURCHASER FOR A PERIOD OF FIVE YEARS.**

MATERIAL SUPPLIER-A completed copy of this exemption certificate along with the MO Tax Exemption Letter of the exempt entity contracting for the project, must be obtained from the contractor or subcontractor making purchases of tangible personal property for use in the project, and retained for audit purposes. Invoices issued for such purchases must reflect the name of the exempt entity and the project number assigned by the exempt entity shown above.

State of Missouri

EXEMPTION FROM MISSOURI SALES AND USE TAX ON PURCHASES

Issued to:

CITY OF LIBERTY
101 E KANSAS ST
LIBERTY MO 64068

Missouri Tax ID
Number: 12490938

Effective Date:
07/11/2002

Your application for sales/use tax exempt status has been approved pursuant to section 144.030.1, RSMo. This letter is issued as documentation of your exempt status.

Purchases by your Agency are not subject to sales or use tax if within the conduct of your Agency's exempt functions and activities. When purchasing with this exemption, furnish all sellers or vendors a copy of this letter. This exemption may not be used by individuals making personal purchases.

A contractor may purchase and pay for construction materials exempt from sales tax when fulfilling a contract with your Agency only if your Agency issues a project exemption certificate and the contractor makes purchases in compliance with the provisions of section 144.062, RSMo.

Sales by your Agency are subject to all applicable state and local sales taxes. If you engage in the business of selling tangible personal property or taxable services at retail, you must obtain a Missouri Retail Sales Tax License and collect and remit sales tax.

This is a continuing exemption subject to legislative changes and review by the Director of Revenue. If your Agency ceases to qualify as an exempt entity, this exemption will cease to be valid. This exemption is not assignable or transferable. It is an exemption from sales and use taxes only and is not an exemption from real or personal property tax.

Any alteration to this exemption letter renders it invalid.

If you have any questions regarding the use of this letter, please contact the Division of Taxation and Collection, P.O. Box 3300, Jefferson City, MO 65105-3300, phone 573-751-2836.

EXHIBIT A

Summary of Estimated Quantities for City of Liberty Project 23-002										
Street	From	To	Mill and Overlay (SY)	Full Depth Concrete Pavement Repair (SF)	ADA Curb Ramp (EA)	Concrete Curb and Gutter, Removal & Replacement (LF)	<i>**Concrete Curb and Gutter, Removal & Replacement FOR ADA RAMP INSTALLATION (LF)</i>	Sidewalk Removal & Replacement (4") (SF)	<i>**Sidewalk Removal & Replacement (4") FOR ADA RAMP INSTALLATION (SF)</i>	Concrete Cross Pan & Drive Way (6") (SF)
Marion St	-	-	0.00	3,817.00	0.00	0.00	0.00	0.00	0.00	0.00
Cosby St	-	-	0.00	2,923.00	4.00	79.00	64.00	0.00	600.00	0.00
Charles St	-	-	0.00	1,308.00	0.00	21.00	0.00	0.00	0.00	0.00
Bob White Ridge	-	-	83.00	0.00	0.00	70.00	0.00	0.00	0.00	109.00
Park Ln	-	-	0.00	0.00	1.00	0.00	16.00	0.00	150.00	0.00
Brooks Ct	-	-	0.00	0.00	6.00	50.00	96.00	75.00	900.00	0.00
Kansas St	-	-	0.00	0.00	0.00	0.00	0.00	75.00	0.00	0.00
S Jewell St	-	-	0.00	0.00	2.00	0.00	32.00	0.00	300.00	0.00
N Jewell St	-	-	0.00	0.00	1.00	617.00	16.00	0.00	150.00	0.00
Heartland West	-	-	0.00	0.00	0.00	435.00	0.00	0.00	0.00	0.00
Heartland North	-	-	0.00	0.00	1.00	50.00	16.00	32.00	150.00	0.00
Heartland East	-	-	0.00	0.00	2.00	20.00	32.00	0.00	300.00	0.00
Withers Rd	-	-	0.00	0.00	0.00	30.00	0.00	0.00	0.00	0.00
999 Wyckwood Drive	-	-	0.00	0.00	0.00	40.00	0.00	0.00	0.00	25.00
			0.00	0.00	0.00	0.00	0.00	0.00	0.00	480.00
			83.00	8,048.00	17.00	1,412.00	272.00	182.00	2,550.00	614.00

All quantities are estimates.

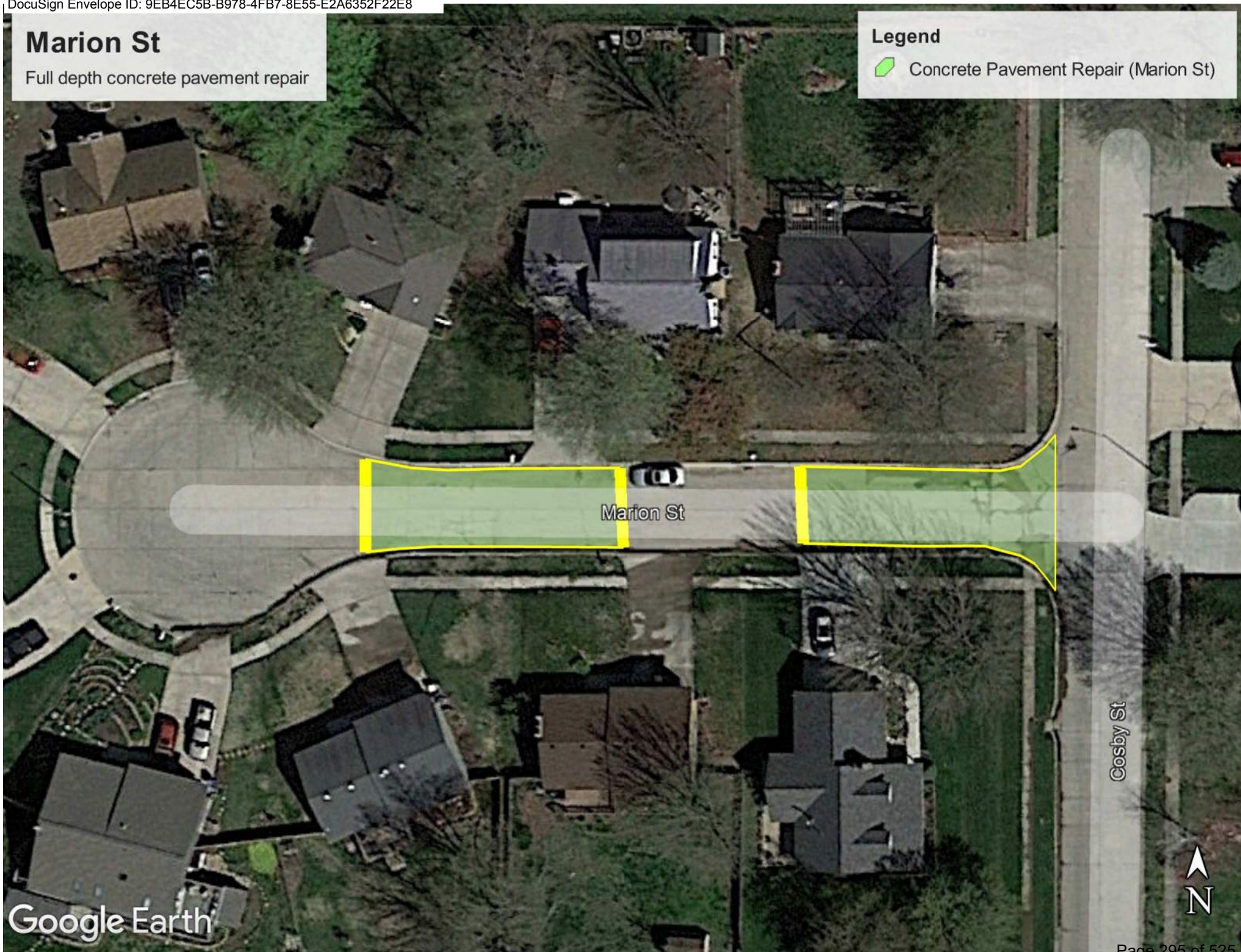
**Quantities associated with concrete Curb and Gutter and Sidewalk FOR ADA RAMP INSTALLATION are based on the maximum anticipated work required per ADA site. As such the quantites are likely to vary base on field conditions.

Marion St

Full depth concrete pavement repair

Legend

 Concrete Pavement Repair (Marion St)

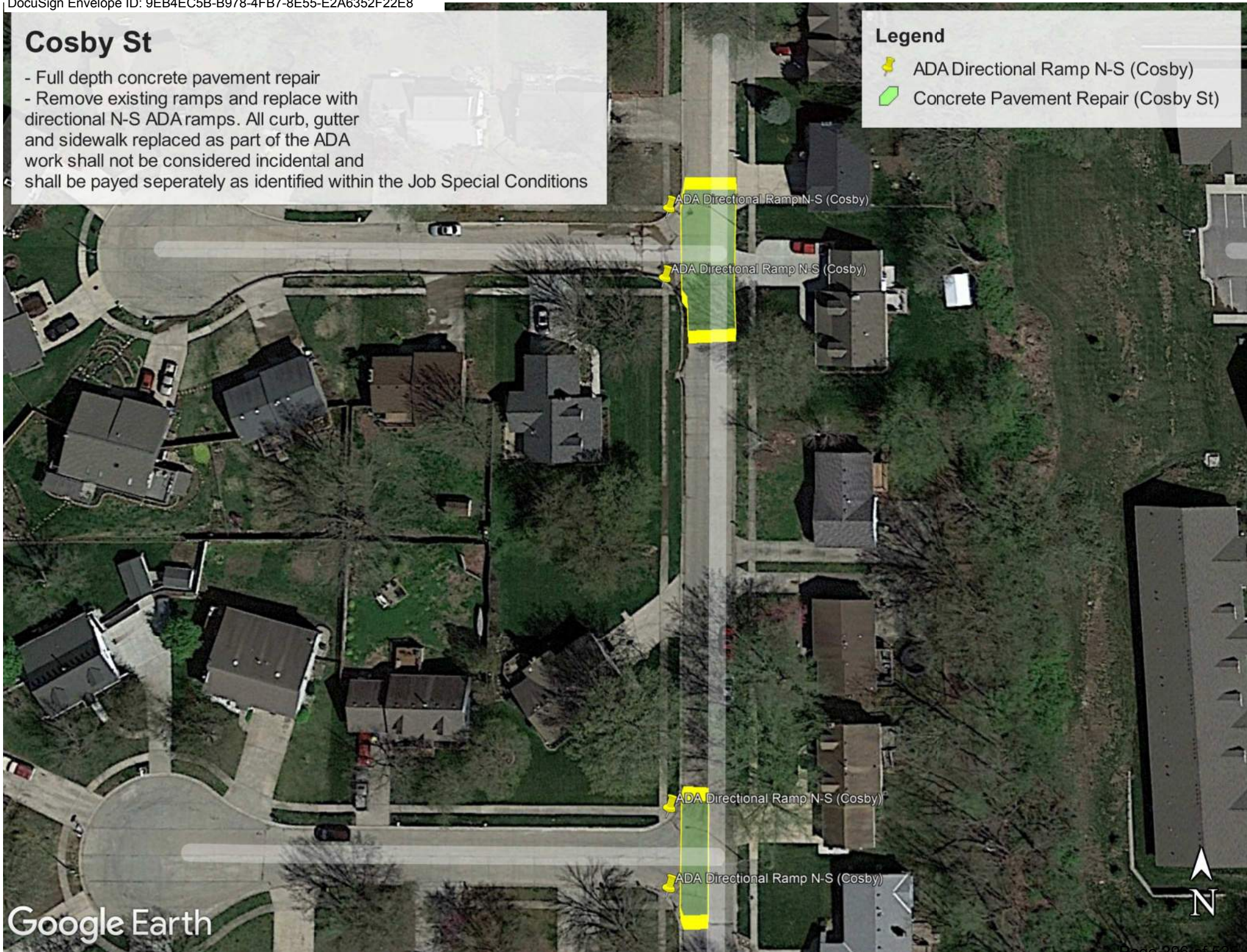


Cosby St

- Full depth concrete pavement repair
- Remove existing ramps and replace with directional N-S ADA ramps. All curb, gutter and sidewalk replaced as part of the ADA work shall not be considered incidental and shall be paid separately as identified within the Job Special Conditions

Legend

-  ADA Directional Ramp N-S (Cosby)
-  Concrete Pavement Repair (Cosby St)

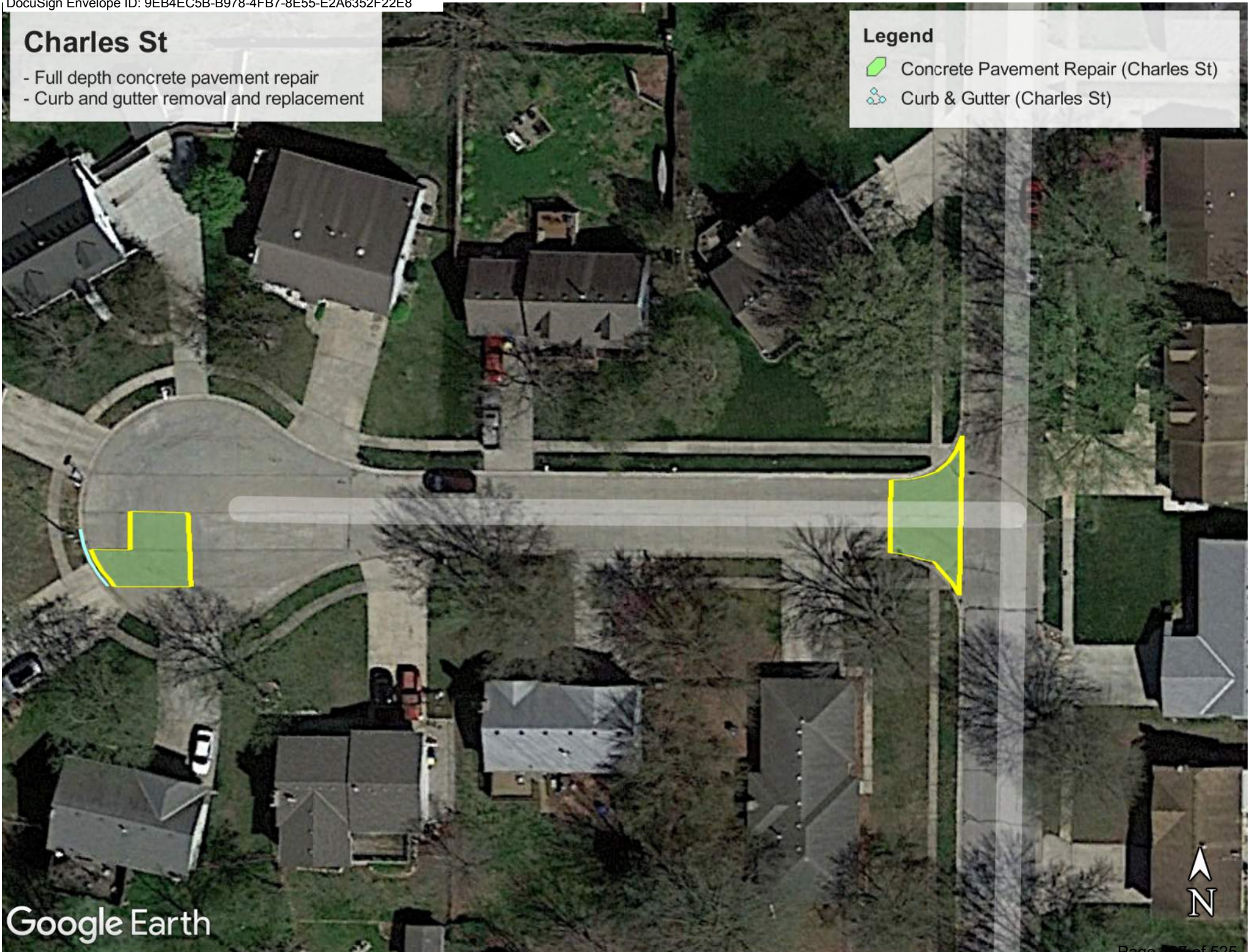


Charles St

- Full depth concrete pavement repair
- Curb and gutter removal and replacement

Legend

-  Concrete Pavement Repair (Charles St)
-  Curb & Gutter (Charles St)

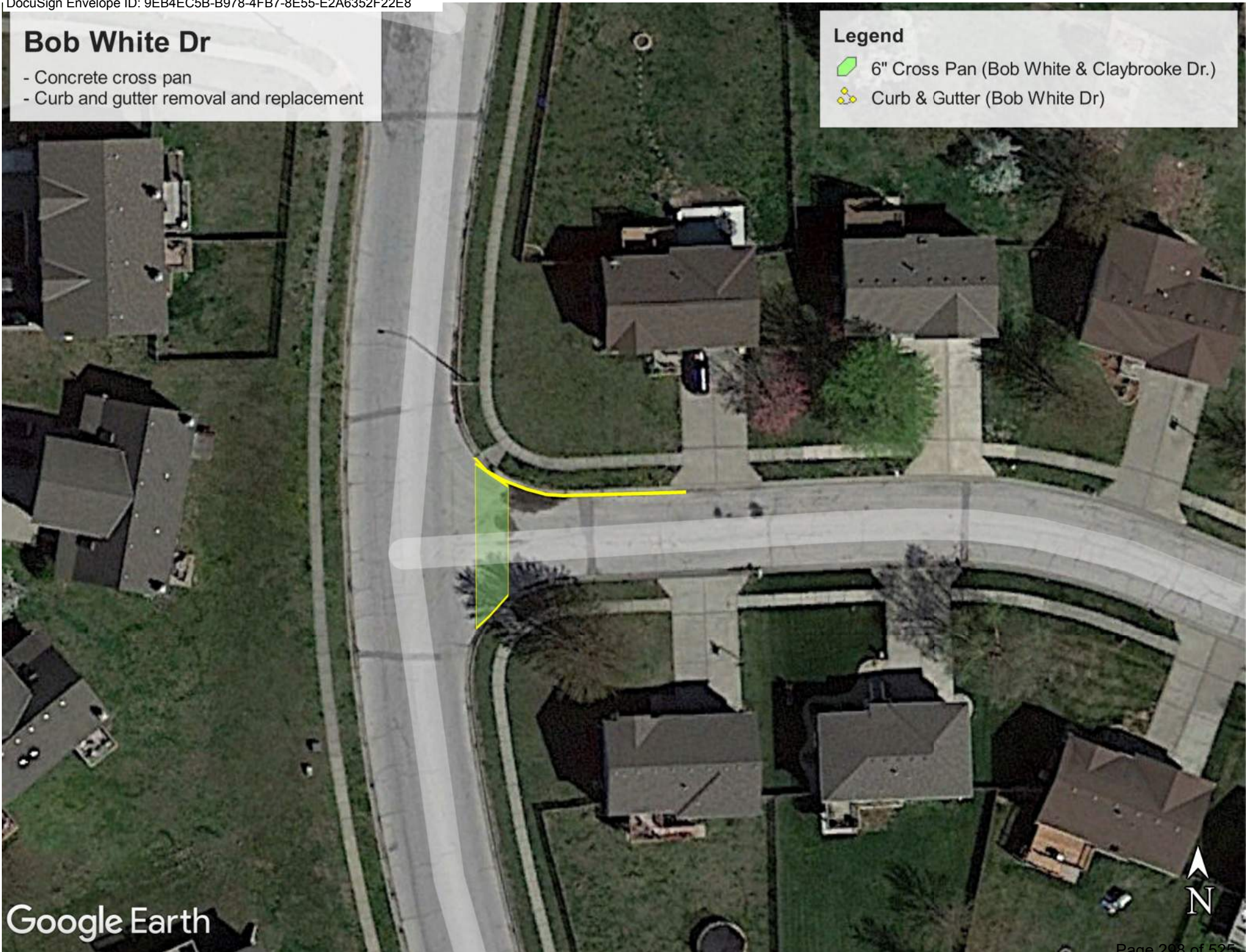


Bob White Dr

- Concrete cross pan
- Curb and gutter removal and replacement

Legend

-  6" Cross Pan (Bob White & Claybrooke Dr.)
-  Curb & Gutter (Bob White Dr)

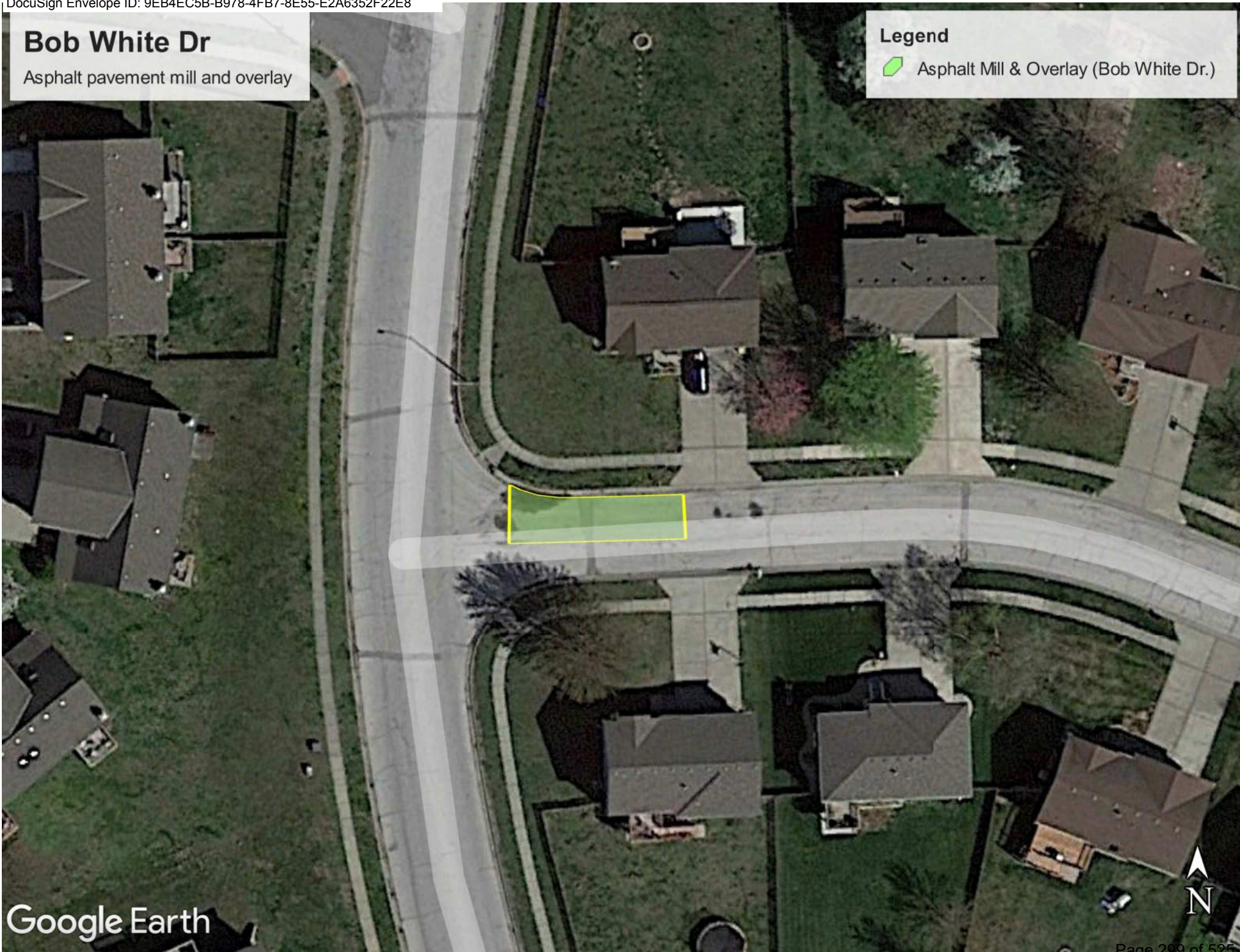


Bob White Dr

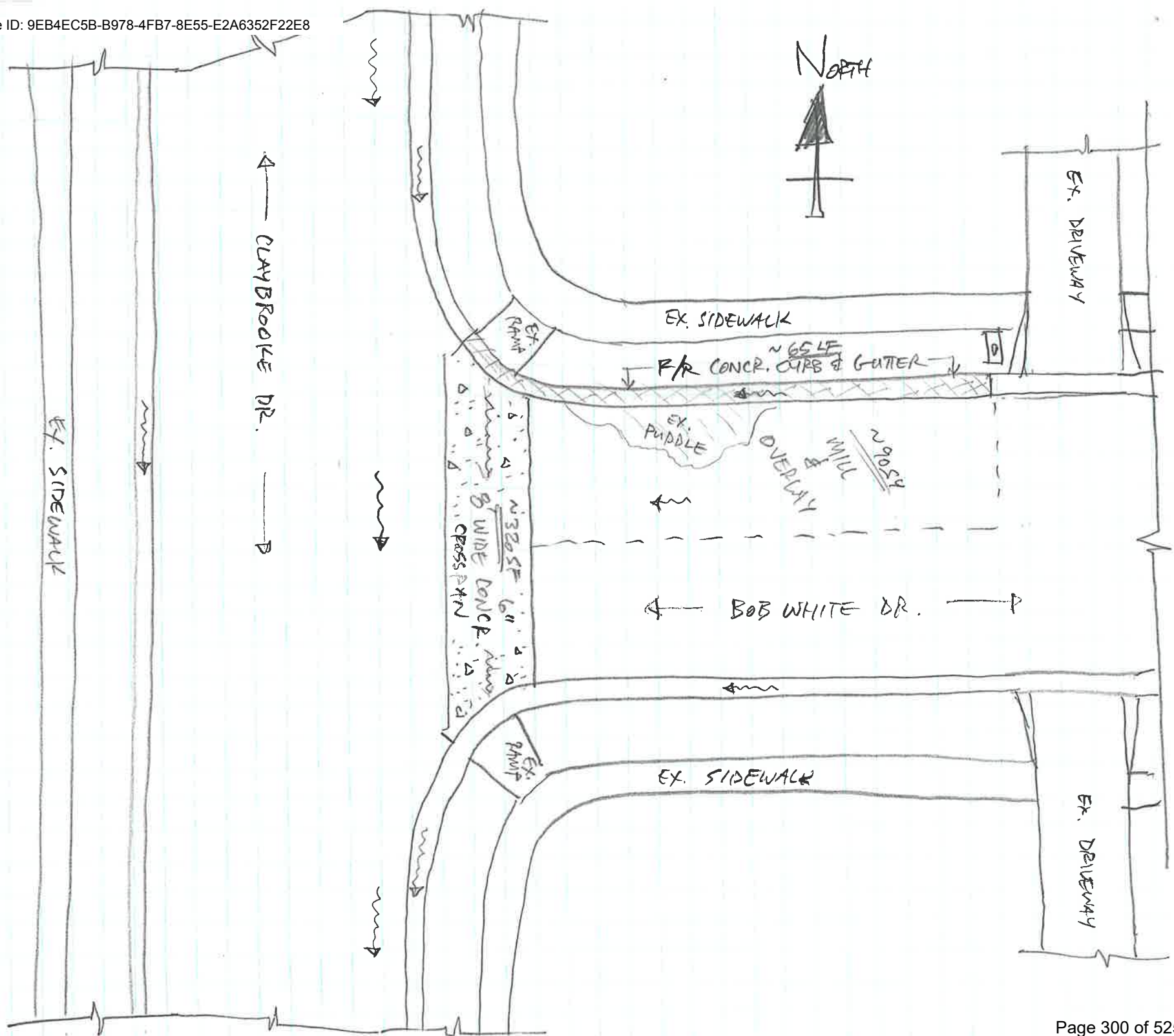
Asphalt pavement mill and overlay

Legend

 Asphalt Mill & Overlay (Bob White Dr.)

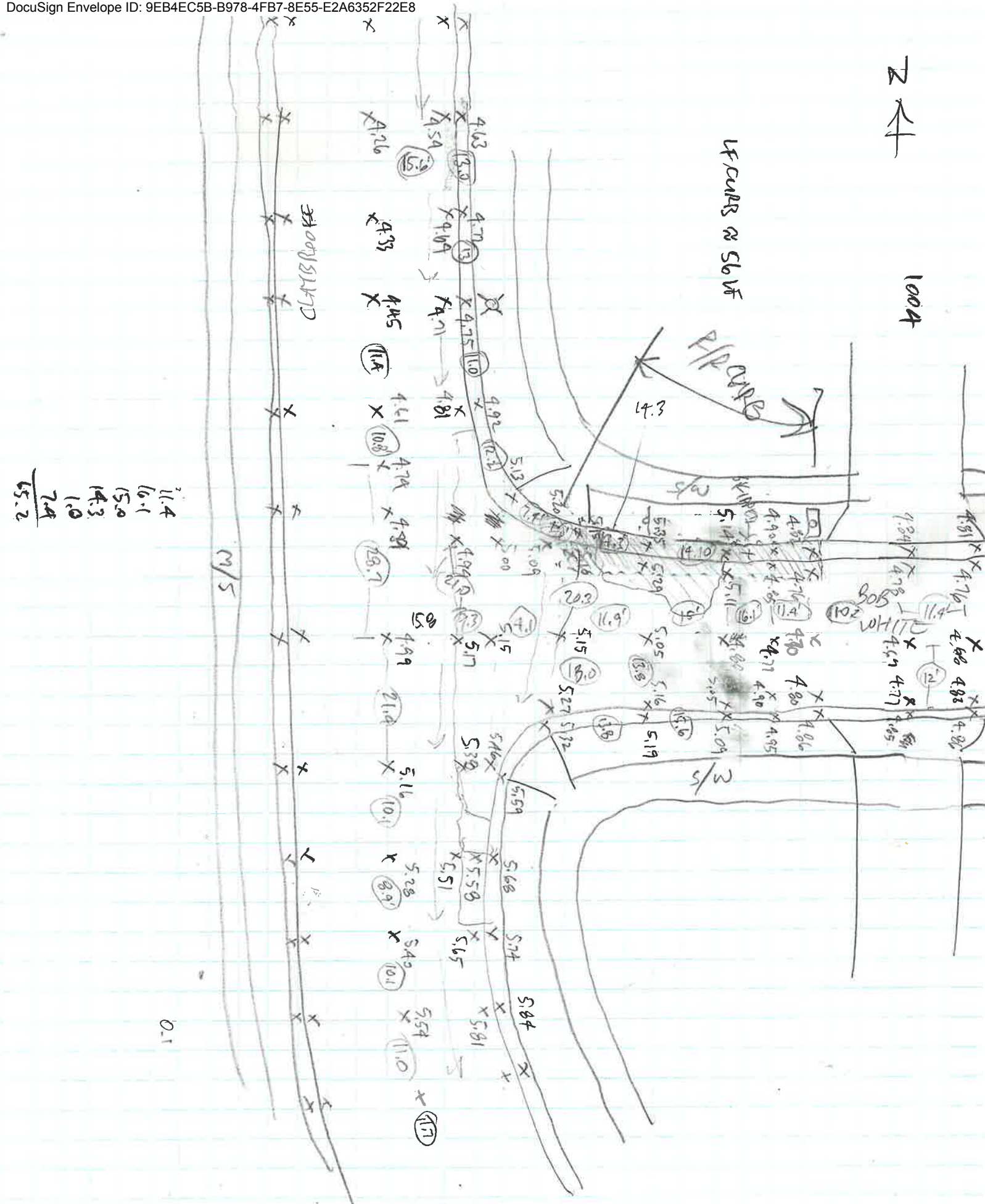


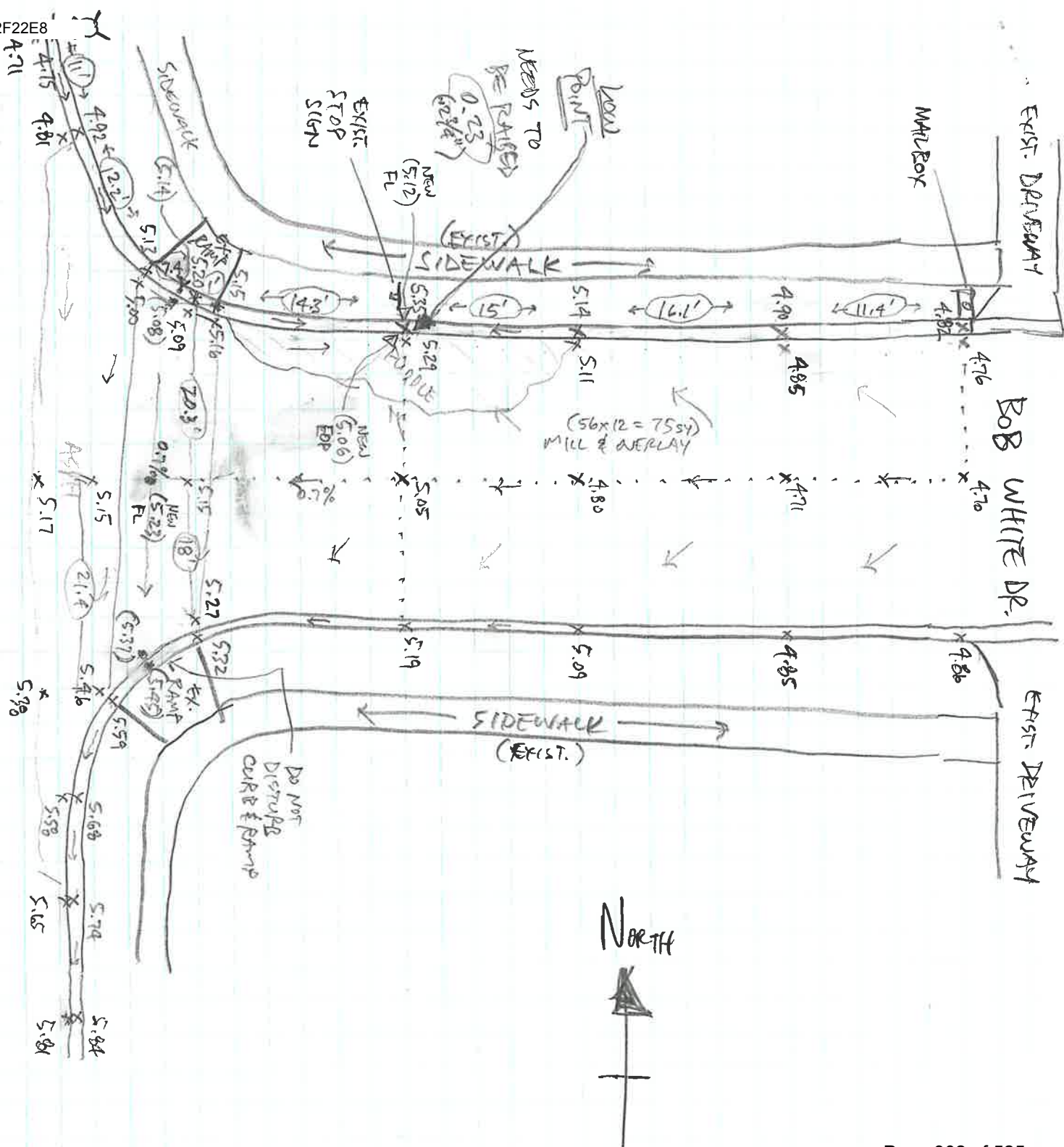
Google Earth



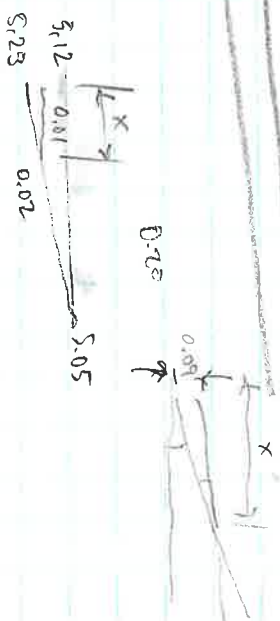
1004

LF CUBS $\approx$ 56 LF





CRSS-P4N
40 LF x 8' wide = 320 SF 6" CONCR.
CALLS
605 LF REPLACE



N Ridge Ave

Install new ADA ramp. Ramp shall provide for travel south.
All curb, gutter and sidewalk replaced as part of the ADA work
shall not be considered incidental and shall be payed seperatley
as defined within the Job Special Conditions.

Legend

 ADA Directional Ramp N-S (N. Ridge Ave)

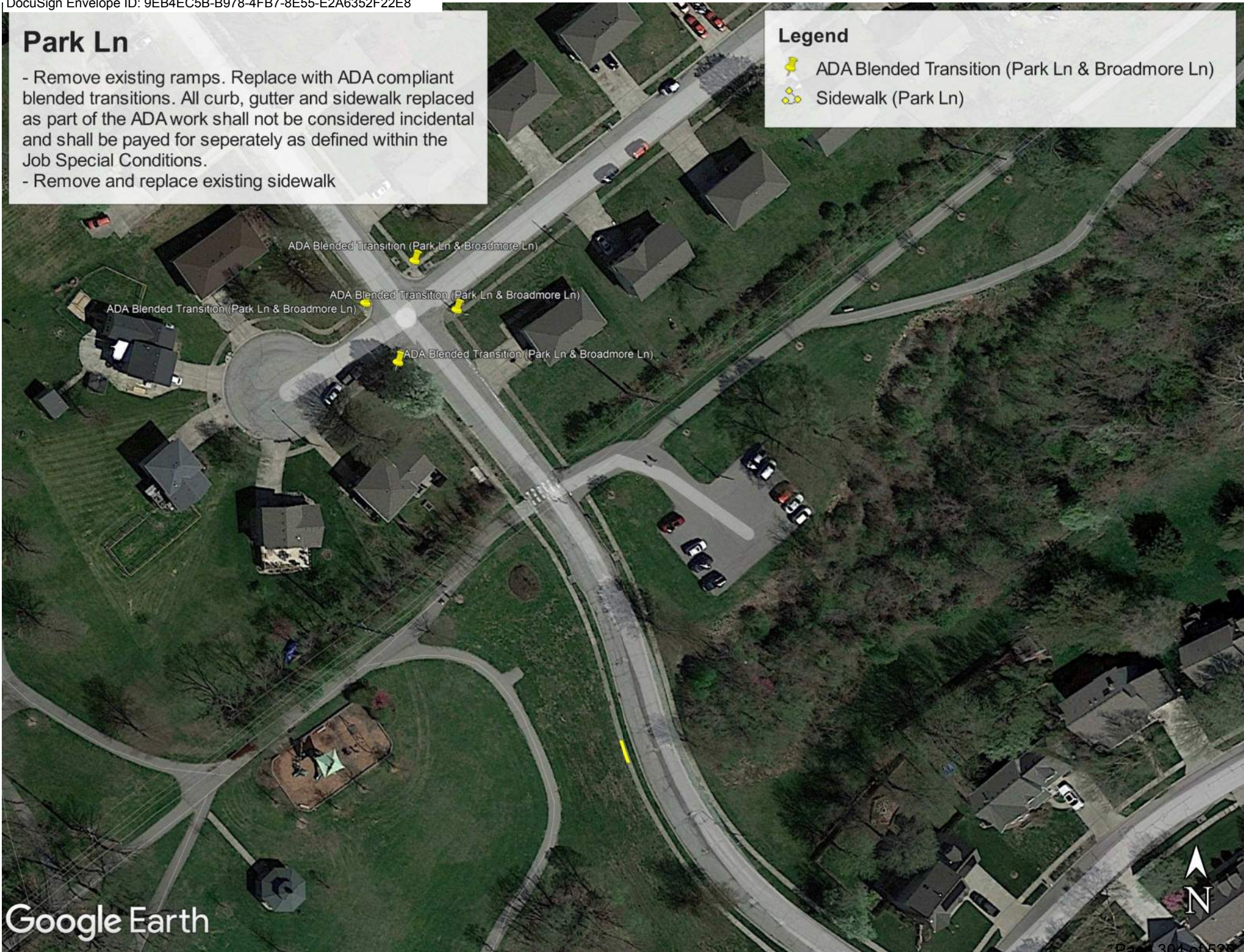
 ADA Directional Ramp N-S (N. Ridge Ave)

Park Ln

- Remove existing ramps. Replace with ADA compliant blended transitions. All curb, gutter and sidewalk replaced as part of the ADA work shall not be considered incidental and shall be paid for separately as defined within the Job Special Conditions.
- Remove and replace existing sidewalk

Legend

-  ADA Blended Transition (Park Ln & Broadmore Ln)
-  Sidewalk (Park Ln)



Park Ln

- Remove existing ramps and replace with direction ADA ramps. Ramps should allow for access from one to another. All curb, gutter and sidewalk replaced as part of the ADA work shall not be considered incidental and shall be paid seperatley as defined within the Job Special Conditions.

- Remove and replace existing curb and gutter.

Legend

-  ADA Directional Ramp (Park Ln)
-  Curb & Gutter (Park Ln)

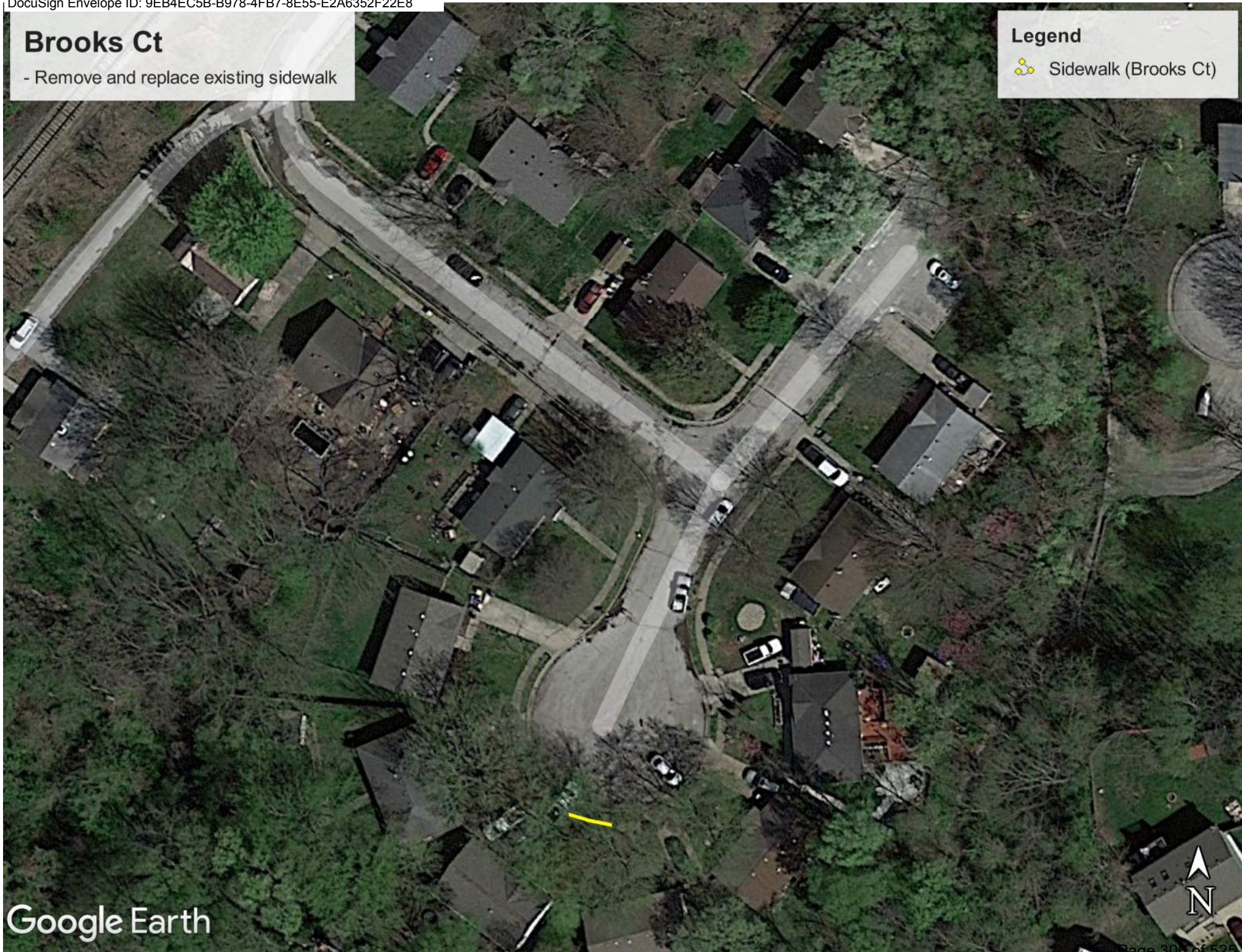


Brooks Ct

- Remove and replace existing sidewalk

Legend

 Sidewalk (Brooks Ct)



Google Earth

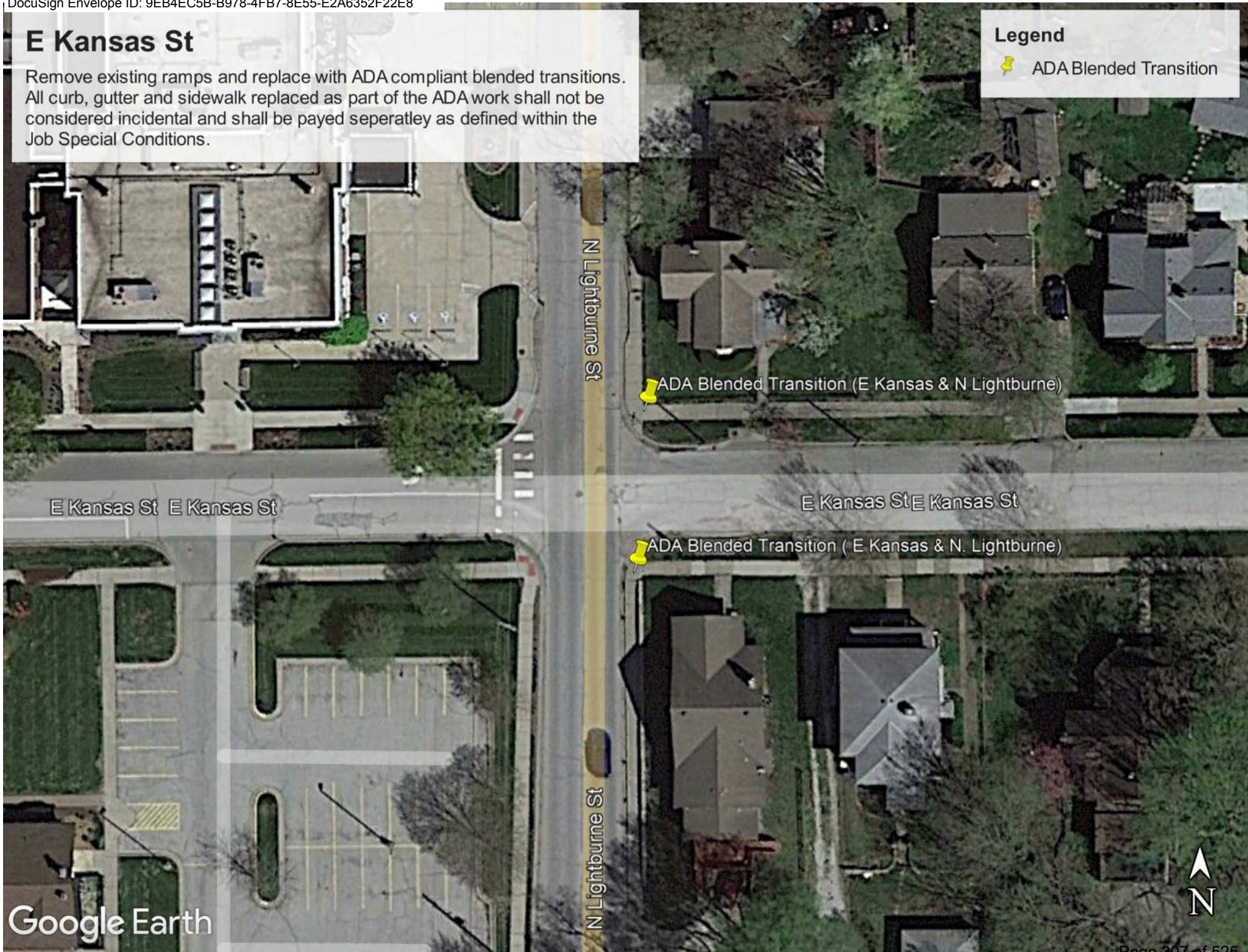


E Kansas St

Remove existing ramps and replace with ADA compliant blended transitions. All curb, gutter and sidewalk replaced as part of the ADA work shall not be considered incidental and shall be paid separately as defined within the Job Special Conditions.

Legend

 ADA Blended Transition



ADA Blended Transition (E Kansas & N Lightburne)

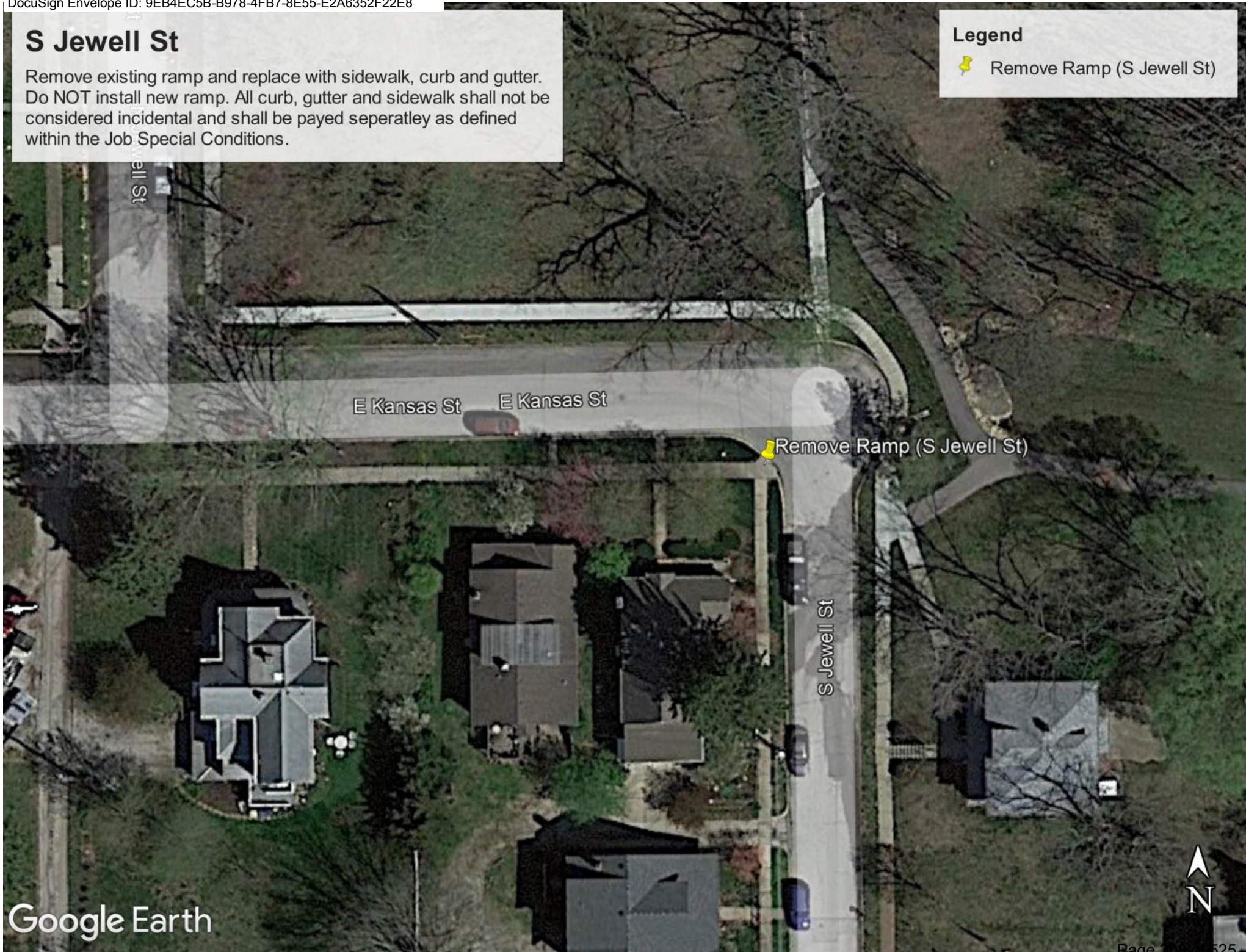
ADA Blended Transition (E Kansas & N. Lightburne)

S Jewell St

Remove existing ramp and replace with sidewalk, curb and gutter. Do NOT install new ramp. All curb, gutter and sidewalk shall not be considered incidental and shall be payed seperatley as defined within the Job Special Conditions.

Legend

 Remove Ramp (S Jewell St)



S Jewell St

Remove and replace existing curb and gutter.
New curb and gutter should meet City of Liberty Specs & Criteria.

Legend

 Curb & Gutter (S Jewell St)



N Jewell St

Remove and replace existing curb and gutter.
New curb and gutter should meet City of Liberty Specs & Criteria.

Legend

 Curb and Gutter (N Jewell St)

N Lincoln St

N Jewell St

Google Earth

N

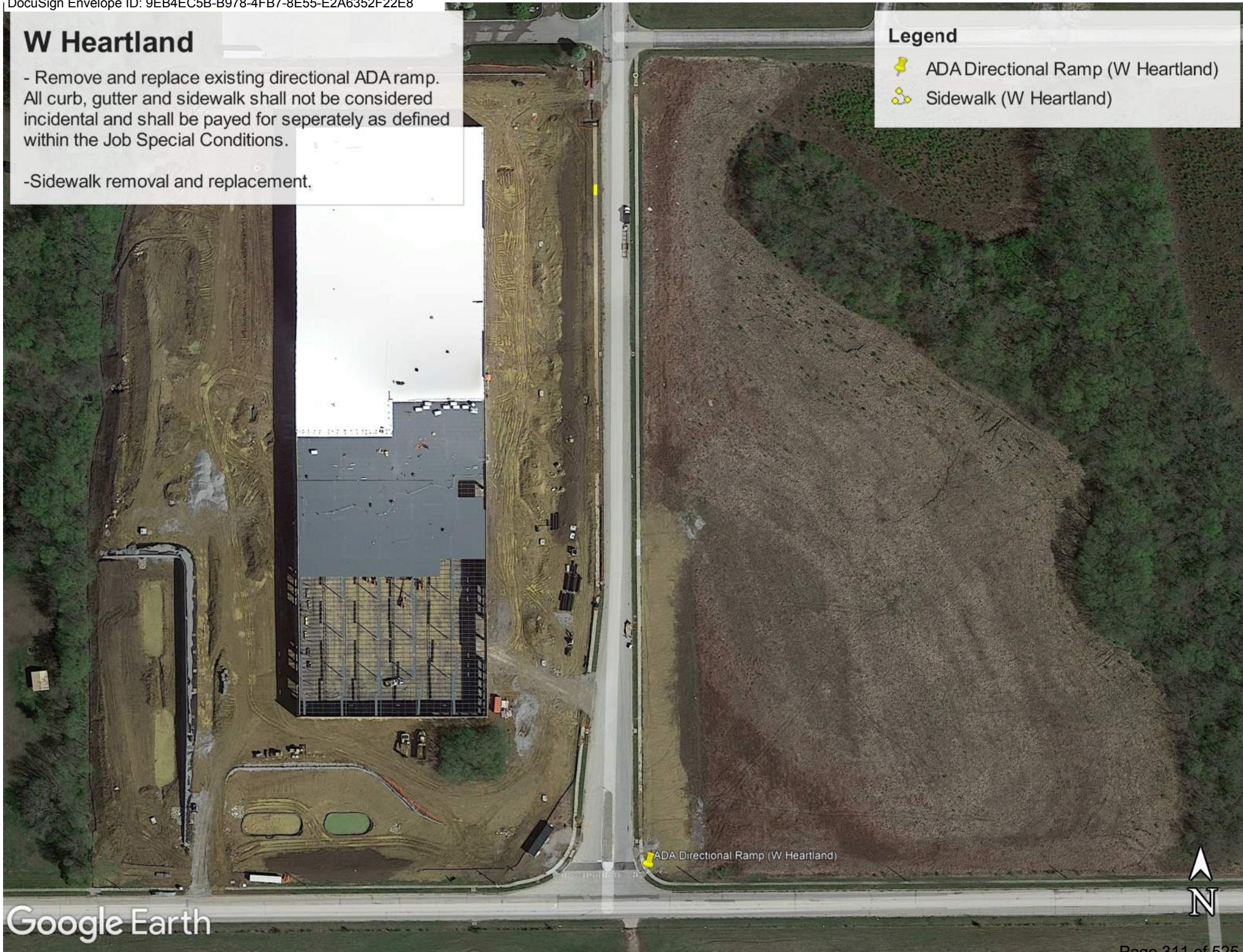
W Heartland

- Remove and replace existing directional ADA ramp.
All curb, gutter and sidewalk shall not be considered incidental and shall be paid for separately as defined within the Job Special Conditions.

-Sidewalk removal and replacement.

Legend

-  ADA Directional Ramp (W Heartland)
-  Sidewalk (W Heartland)

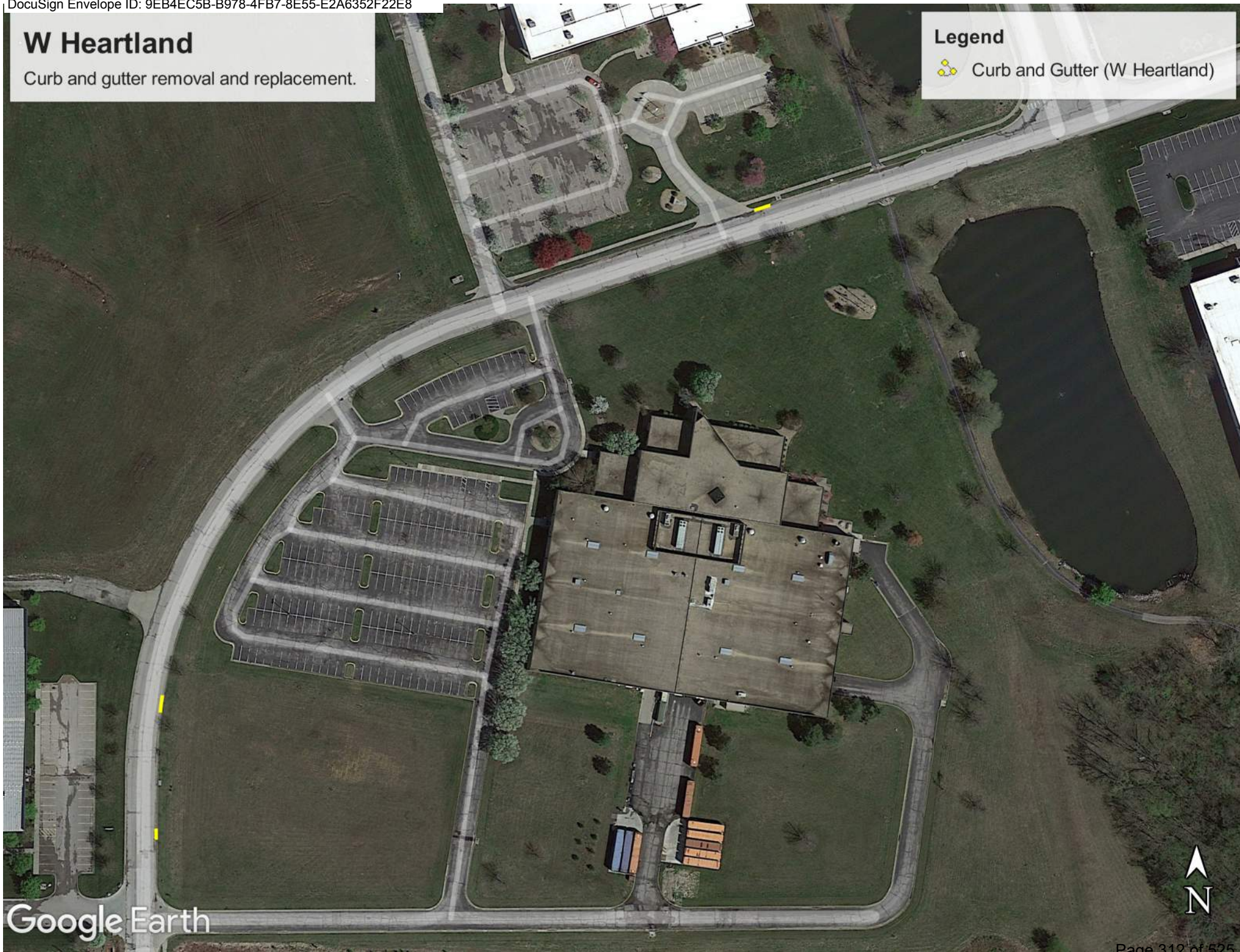


W Heartland

Curb and gutter removal and replacement.

Legend

 Curb and Gutter (W Heartland)



Google Earth

N Heartland

Remove and replace existing directional ADA ramps. New ramps should provide travel to and from one another. All curb, gutter and sidewalk shall not be considered incidental and shall be payed seperatley as defined within the Job Special Conditions.

-Curb and gutter removal and replacement.

Legend

-  ADA Directional Ramp (N Heartland)
-  Curb and Gutter (N Heartland)

ADA Directional Ramp (N Heartland)

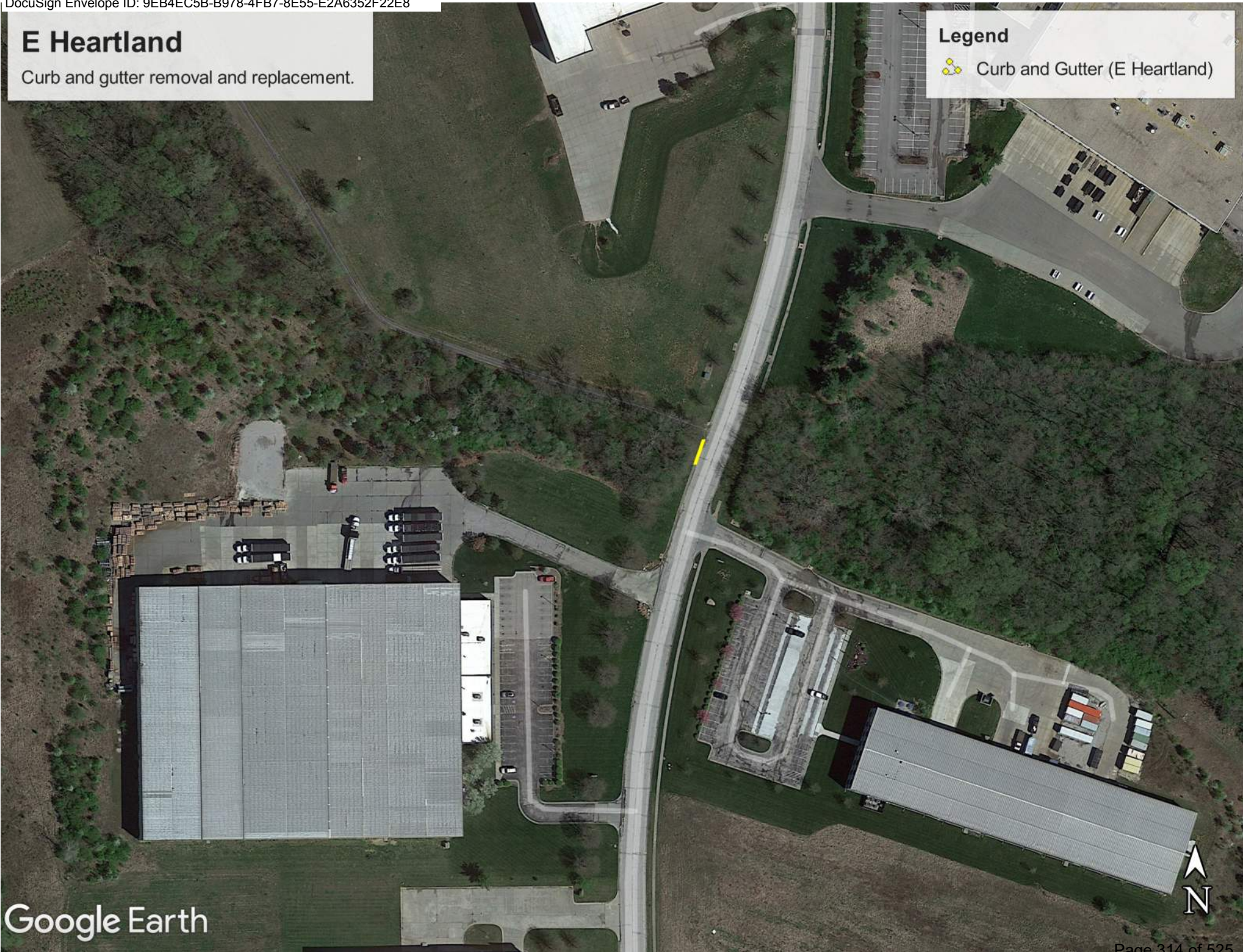
ADA Directional Ramp (N Heartland)

E Heartland

Curb and gutter removal and replacement.

Legend

 Curb and Gutter (E Heartland)

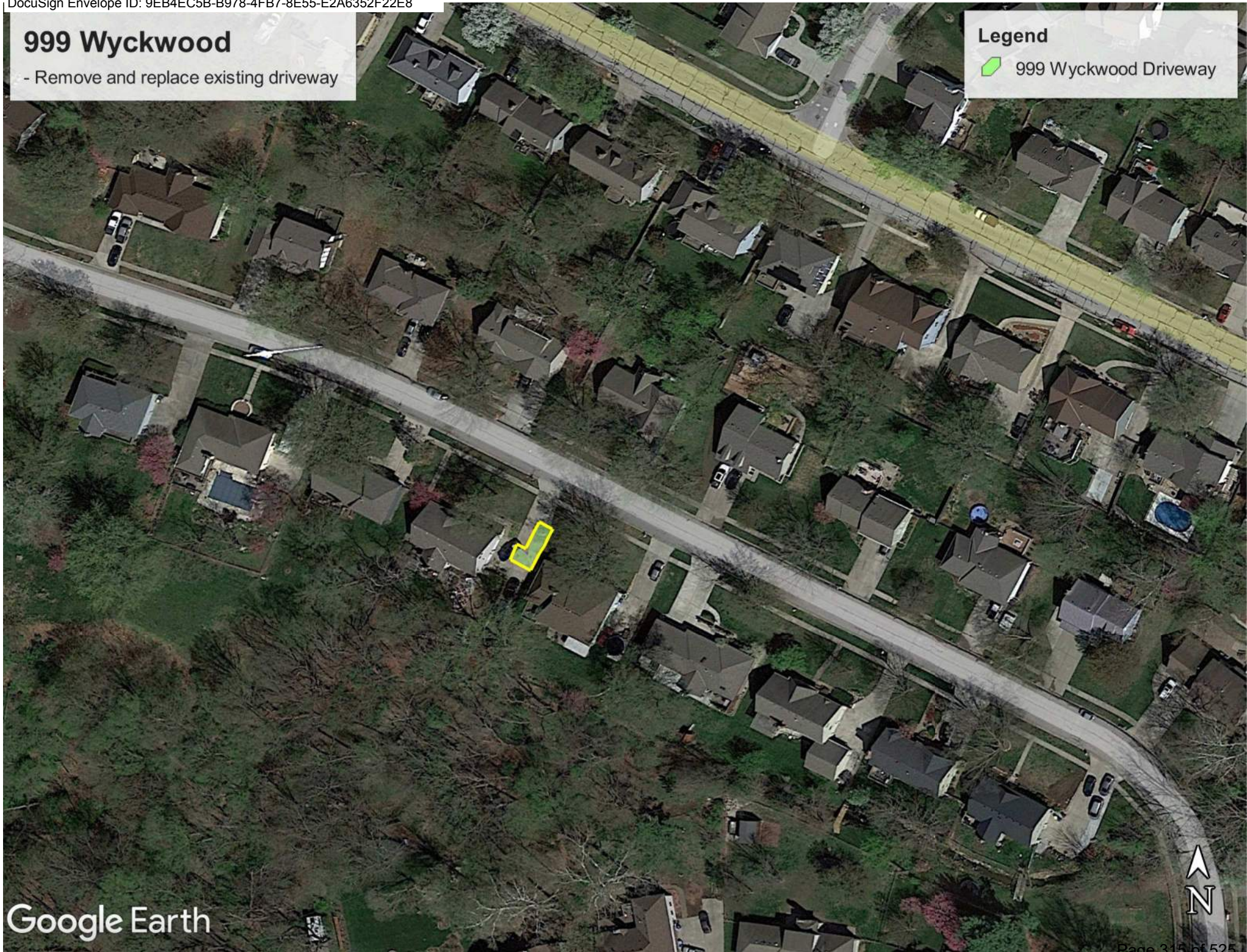


999 Wyckwood

- Remove and replace existing driveway

Legend

 999 Wyckwood Driveway



Google Earth

Withers Rd

- Curb and gutter removal and replacement
- Drive approach repair

Legend

-  Curb and Gutter (Withers Rd)
-  Drive Approach (Withers Rd)

1006 Withers Rd

1010 Withers Rd

Google Earth



100 ft

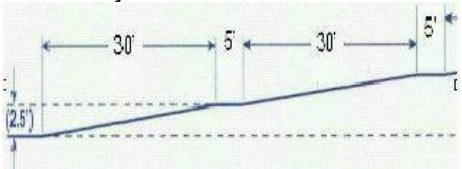
EXHIBIT B

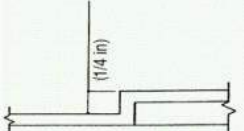
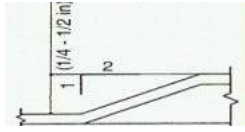
ADA CHECKLIST

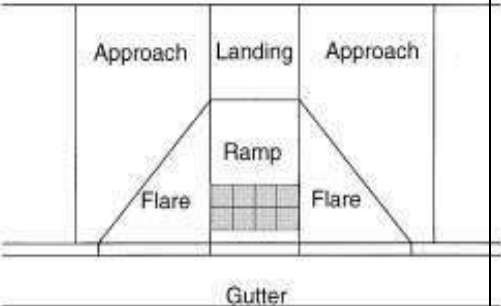
Revised October, 2022

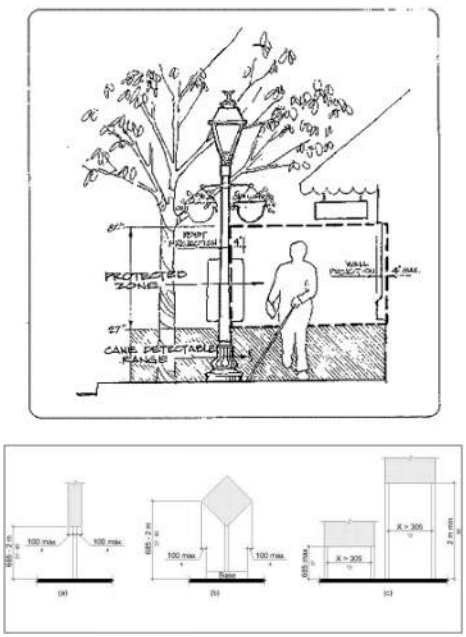
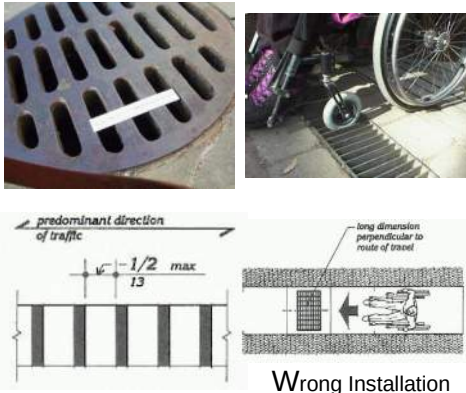
Job No. _____ Route _____ County _____ Location _____

Pedestrian Access Route				
Figures/Examples	Requirements ¹	YES	NO	NA
Sidewalk Width 	- The minimum continuous and unobstructed clear width of a pedestrian access route shall be 4.0 feet, exclusive of the width of the curb. - The continuous clear width of pedestrian access routes for medians and pedestrian refuge islands must be 5 feet minimum in order to allow for passing space. - Sidewalks shall be 5 feet wide minimum. ² - Sidewalks located within 2 feet of the back of curb are to be constructed 6 feet wide minimum and constructed adjacent to the back of the curb. ² - Exception: an unaltered, existing sidewalk shall be 3 feet wide minimum and shall provide 5 foot x 5 foot passing spaces at intervals of 200 feet maximum. ² - Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. Where commercial driveways are provided with traffic control devices or otherwise are permitted to operate like public streets, detectable warnings should be provided at the junction between the pedestrian route and the street. - Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. - Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush.			
Passing Spaces	- Walkways in pedestrian access routes that are less than 5 feet in clear width shall provide passing spaces at intervals of 200 feet maximum. - Pedestrian access routes at passing spaces shall be 5 feet wide for a distance of 5 feet.			
Sidewalk Running Slope The grade that is parallel to the direction of travel, expressed as a ratio of rise to run or as a percent.	- The running slope of a pedestrian access route shall be 5 percent maximum. <u>Roadway Grade Exception:</u> Where pedestrian access routes are contained within a street or highway right-of-way, the grade of the pedestrian access route is permitted to equal the general grade established for the adjacent street or highway. - Running Slopes shall be measured using a calibrated 2 foot long digital level.			

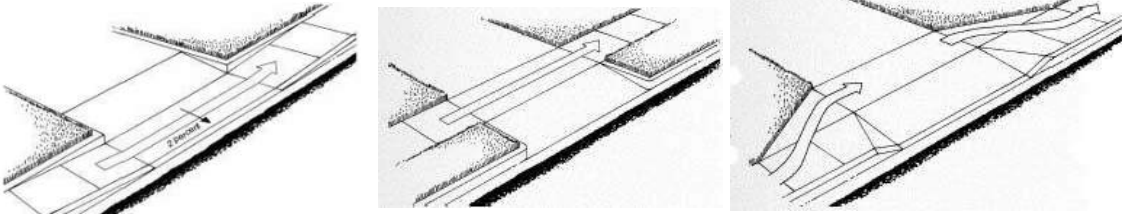
Figures/Examples	Requirements ¹	YES	NO	NA
Sidewalk Cross Slope The grade that is perpendicular to the direction of accessible pedestrian travel, measured perpendicular to the curb line or edge of the street or highway, or measured perpendicular to the running grade.	• The cross slope of the walkway of a pedestrian access route shall be 2 percent maximum. (Roadway Grade Exception may be considered) • 2010 ADA/ABA allows for cross slopes of up to ¼ inch per foot (2.08 percent). • In either case, a cross slope measurement of 2.1 percent or greater is not ADA compliant. • Cross Slopes shall be measured using a calibrated 2 foot long digital level.			
Sidewalk Ramps For example, a ramp segment with the maximum allowed running slope of 8.33% would require 5' x 5' landing after every 30' of run. 	• A sidewalk segment (not contained within a street or highway border) with a running grade in excess of 5 percent but less than 8.33 percent is by definition a sidewalk ramp. • The clear width of landings, blended transitions, and curb ramps, excluding flares, shall be 4.0 feet minimum. • Cross slope of ramp runs shall be 2 percent maximum. • The rise for any ramp run shall be 30 inches maximum. • Ramps shall have landings at the top and the bottom of each ramp run. • Ramp runs with a rise greater than 6 inches shall have handrails. • Handrails shall be provided on both sides of stairs and ramps. • Edge protection shall be provided on each side of ramp runs. • Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. • Gratings, access covers, and other appurtenances shall not be located on ramps, landings, blended transitions, and gutters within the pedestrian access route. • Grade breaks shall not be permitted on the surface of ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush.			

Figures/Examples	Requirements ¹	YES	NO	NA
Vertical Alignment	- Vertical alignment shall be planar within curb ramp runs, blended transitions, landings, and gutter areas within the pedestrian access route, and within clear spaces required for accessible pedestrian signals, street furniture, and operable parts. - Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. - Grade breaks shall be flush. - Running Slopes and Cross Slopes shall be measured using a calibrated 2 foot long digital level. - Where the pedestrian access route crosses rail tracks at grade, the surface of the pedestrian access route shall be level and flush with the top of the rail at the outer edges of the rail. The surface between the rails shall be aligned with the top of the rail.			
Changes in Level   	- Changes in level at grade breaks shall be flush. - Changes in level of $\frac{1}{4}$ inch high maximum shall be permitted to be vertical. - Changes in level between $\frac{1}{4}$ inch high maximum and $\frac{1}{2}$ inch high maximum shall be beveled with a slope not steeper than 1v:2h. - The bevel shall be applied across the entire level change. - Changes in level greater than $\frac{1}{2}$ inch high shall be ramp grade or flatter, a slope of 8.33 percent or less.			

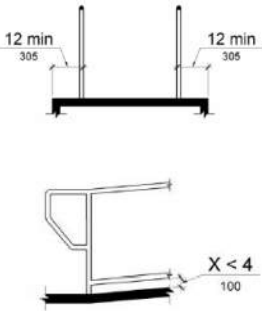
Figures/Examples	Requirements ¹	YES	NO	NA
Landing A required level space required at both ends of a ramp. An area 5' x 5' with no slope greater than 2 percent. This space can be used as a place to rest, turn or pass another user. Landings that are contained within a street or highway border are permitted to use the Roadway Grade Exception for running slopes or cross slopes in the direction of the roadway travel being matched.  The diagram illustrates a cross-section of a pedestrian access route. It shows a central 'Landing' area flanked by 'Approach' areas. A 'Ramp' is shown within the landing area, with 'Flare' areas on either side. Below the landing area is a 'Gutter'.	• The landing clear width shall be at least as wide as the widest ramp run leading to the landing. • The clear width of landings, blended transitions, and curb ramps, excluding flares, shall be 4 feet minimum. • The landing clear length shall be 5 feet long minimum. • Landing slopes shall be 2 percent maximum. • Changes in level at grade breaks shall be flush. • Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. Detectable warning shall be located on the landing or blended transition at the back of curb. • Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. • Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush. <u>Roadway Grade Exception:</u> The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway. The cross slope of curb ramps, blended transitions, landings, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade. • Running Slopes and Cross Slopes shall be measured using a calibrated 2 foot long digital level.			

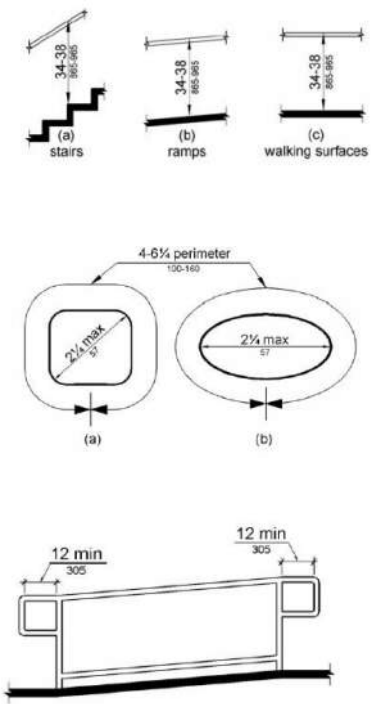
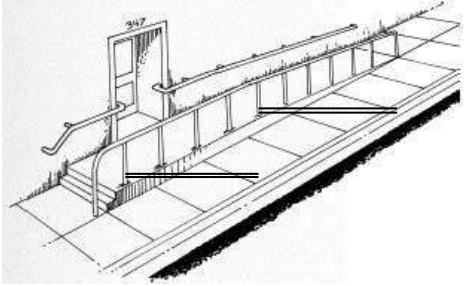
Figures/Examples	Requirements ¹	YES	NO	NA
	- Protruding objects on sidewalks and other pedestrian circulation paths shall not reduce the clear width required for pedestrian accessible routes. - Objects with leading edges more than 27 inches and not more than 80 inches above the finish floor or ground shall protrude 4 inches maximum horizontally into the circulation path. - Free-standing objects mounted on posts or pylons shall overhang circulation paths 4 inches maximum measured horizontally from the post or pylon base when located 27 inches minimum and 80 inches maximum above the finish floor or ground. The base dimension shall be 2.5 inches thick minimum. (2011 PROWAG R402.3) - Where a sign or other obstruction is mounted between posts or pylons and the clear distance between the posts or pylons is greater than 12 inches, the lowest edge of such sign or obstruction shall be 27 inches maximum or 80 inches minimum above the finish floor or ground. - Vertical clearance shall be 80 inches high minimum. Guardrails or other barriers shall be provided where the vertical clearance is less than 80 inches high. The leading edge of such guardrail or barrier shall be located 27 inches maximum above the finish floor or ground. - Guardrails or other barriers shall be provided where the vertical clearance is less than 80 inches high. The leading edge of such guardrail or barrier shall be located 27 inches maximum above the finish surface or ground.			
 Wrong Installation	- Openings in floor and ground surfaces shall not allow passage of a sphere more than ½ inch diameter. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel. - Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. - Lift holes for manhole/utility covers shall not have an opening greater than ½ inch. Plugging of holes greater than ½ inch with a material approved by the engineer is acceptable as long as it complies with the changes in level requirements.			

ENTRANCES (PROWAG R301)

Figures/Examples	Requirements ¹	YES	NO	NA
	- The minimum continuous and unobstructed clear width of a pedestrian access route provided across commercial and residential entrances shall be 4 feet minimum. - Cross slope shall be 2 percent maximum. - Be cautious with the transition from the driveway to the roadway to avoid grade combinations that will cause vehicles to bottom out when driving over the transition.² 			

EDGE PROTECTION (PROWAG R406.8)

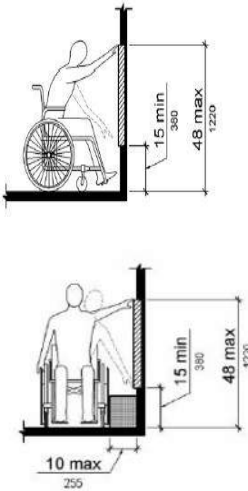
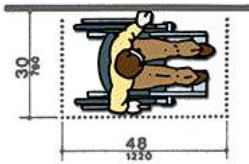
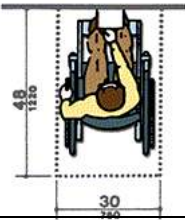
Figures/Examples	Requirements ¹	YES	NO	NA
	- Edge protection shall be provided on each side of ramp runs and at each side of ramp landings. - A curb or barrier shall be provided that prevents the passage of a 4 inch diameter sphere, where any portion of the sphere is within 4 inches of the finish floor or ground surface. - Edge-protection shall not be required when the floor or ground surface of the ramp run or landing extends 12 inches minimum beyond the inside face of a handrail. - Edge protection shall not be required on curb ramps and their landings. - Edge protection shall not be required on ramps that are not required to have handrails and have flares not steeper than 1:10. - Edge protection shall not be required on the sides of ramp landings having a vertical drop-off of ½ inch maximum within 10 inches horizontally of the minimum landing area.			

HANDRAIL AND PEDESTRIAN GUARDRAIL (PROWAG R408)				
Figures/Examples	Requirements ¹	YES	NO	NA
 	- The clear width of walking surfaces shall be 4.0 feet minimum. - Handrails are required on ramp runs with a rise greater than 6 inches and on certain stairways. Handrails are not required on walking surfaces with running slopes less than 1:20. Where required, handrails shall be provided on both sides of stairs and ramps. - Handrails shall be continuous within the full length of each stair flight or ramp run. Inside handrails on switchback or dogleg stairs and ramps shall be continuous between flights or runs. - Top of gripping surfaces of handrails shall be 34 inches minimum and 38 inches maximum vertically above walking surfaces, stair nosings, and ramp surfaces. Handrails shall be at a consistent height above walking surfaces, stair nosings, and ramp surfaces. - Clearance between handrail gripping surfaces and adjacent surfaces shall be 1 1/2 inches minimum. - Handrail gripping surfaces with a circular cross section shall have an outside diameter of 1 1/4 inches minimum and 2 inches maximum. - Handrail gripping surfaces with a non-circular cross section shall have a perimeter dimension of 4 inches minimum and 6 1/4 inches maximum, and a cross-section dimension of 2 1/4 inches maximum. - Handrail gripping surfaces and any surfaces adjacent to them shall be free of sharp or abrasive elements and shall have rounded edges. - Handrails shall not rotate within their fittings. - Ramp handrails shall extend horizontally above the landing for 12 inches minimum beyond the top and bottom of ramp runs. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent ramp run. - At the top of a stair flight, handrails shall extend horizontally above the landing for 12 inches minimum beginning directly above the first riser nosing. Extensions shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight. - At the bottom of a stair flight, handrails shall extend at the slope of the stair flight for a horizontal distance at least equal to one tread depth beyond the last riser nosing. Extension shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent stair flight. - See Edge Protection section above (also PROWAG 406.8) for additional details.			

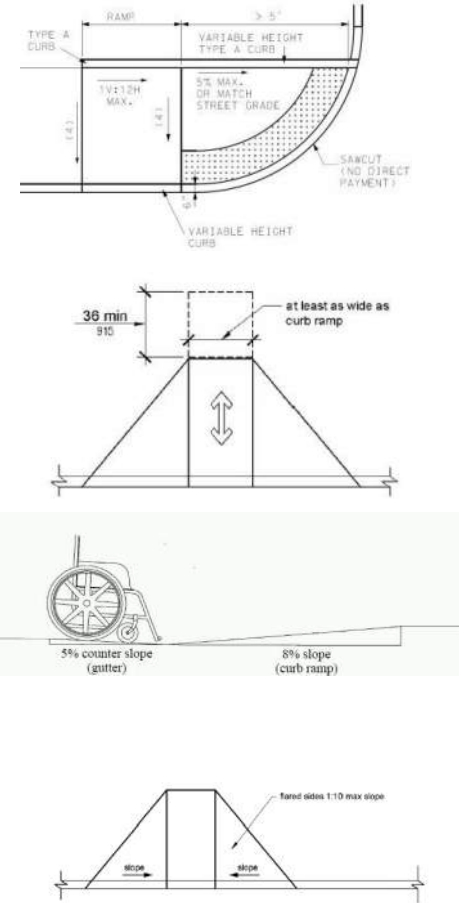
STAIRWAYS (PROWAG R407)

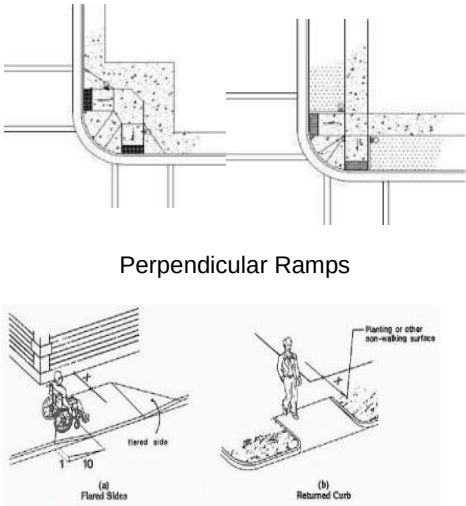
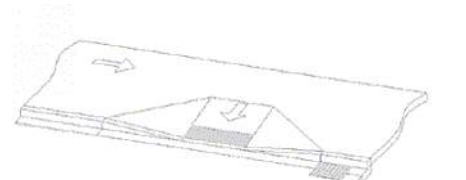
Figures/Examples	Requirements ¹	YES	NO	NA
	- All steps on a flight of stairs shall have uniform riser heights and uniform tread depths. Risers shall be 4 inches high minimum and 7 inches high maximum. Treads shall be 11 inches deep minimum. - Open risers are not permitted. - The radius of curvature at the leading edge of the tread shall be 1/2 inch maximum. Nosings that project beyond risers shall have the underside of the leading edge curved or beveled. Risers shall be permitted to slope under the tread at an angle of 30 degrees maximum from vertical. The permitted projection of the nosing shall extend 1 1/2 inches maximum over the tread below. - Stairs shall have handrails complying with PROWAG 2005 R408.			

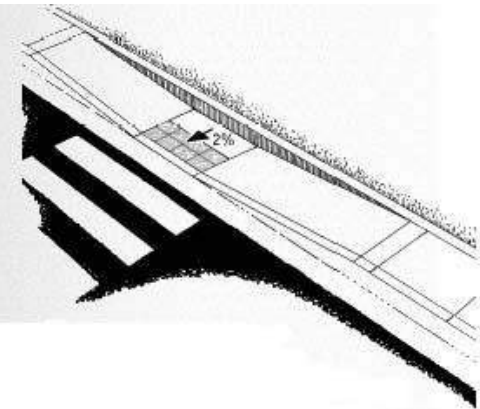
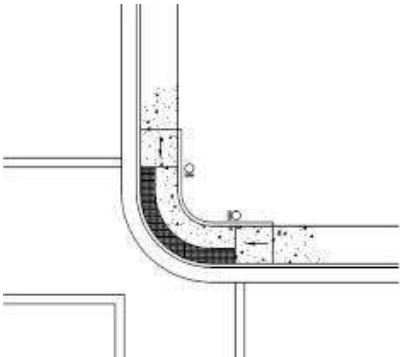
UNOBSTRUCTED REACH RANGES (PROWAG R406)

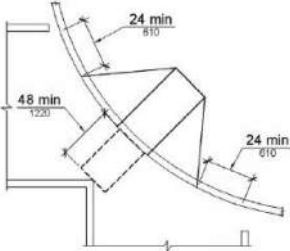
Figures/Examples	Requirements ¹	YES	NO	NA
	Forward Reach - Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. Side Reach - Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. - EXCEPTION: An obstruction shall be permitted between the clear floor or ground space and the element where the depth of the obstruction is 10 inches maximum. (2011 PROWAG R406.3) Parallel Approach  Forward Approach 			

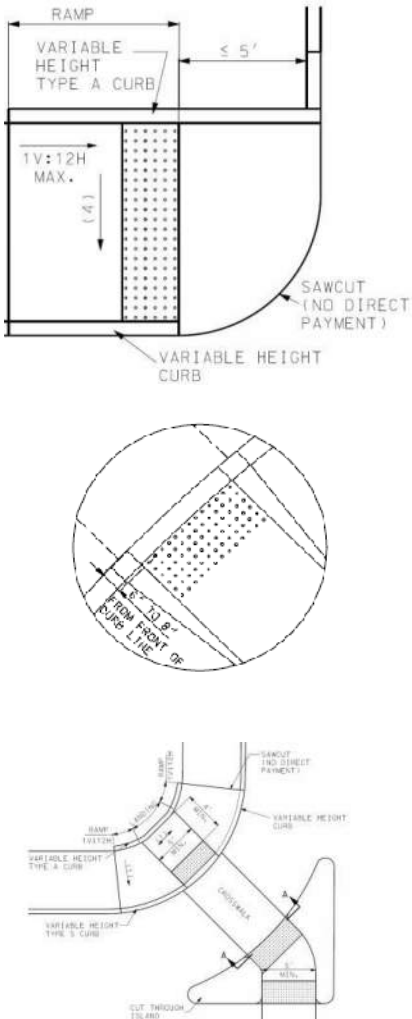
CURB RAMPS (PROWAG R303)

Figures/Examples	Requirements ¹	YES	NO	NA
A curb ramp, blended transition, or a combination of curb ramps and blended transitions shall connect the pedestrian access routes at each pedestrian street crossing.  15 Foot Rule: For a compliant curb ramp to exceed 8.33 percent running grade, its constructed length must exceed 15.0 feet.	- The clear width of ramps, excluding the flares, shall be 4.0 feet minimum. - Ramp runs shall have a running slope between 5 percent minimum and 8.33 percent maximum but shall not require the ramp length to exceed 15.0 feet. Exception: 15 Foot Rule: The running slope for a curb ramp is not limited to 8.33 percent maximum if the constructed curb ramp length exceeds 15 feet in length. - Cross slope of ramp runs shall be 2 percent maximum. (Roadway Grade Exception may be considered) - The cross slope at midblock crossings shall be permitted to be warped to meet street or highway grade. - Ramps shall have landings at the top and the bottom of each ramp run. - The landing clear width shall be at least as wide as the widest ramp run leading to the landing. - The landing clear length shall be 5.0 feet long minimum. - Ramps that change direction between runs at landings shall have a clear landing 5.0 feet minimum by 5.0 feet minimum. - Handrails and Edge protection shall not be required on curb ramps and their landings. - Curb height = 0 inches within curb ramp spaces. 2 - Curb ramps must be flush with street. - The counter slope of the gutter or street at the foot of a curb ramp, landing, or blended transition shall be 5 percent maximum. (R303.3.5) - The adjacent surfaces at transitions at curb ramps to walks, gutters, and streets shall be at the same level. - Flared sides with a slope of 10 percent maximum, measured parallel to the curbline, shall be provided where a pedestrian circulation path crosses the curb ramp. - In alterations, where there is no landing at the top of curb ramps, curb ramp flares shall be provided and shall not be steeper than 1:12. - Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. - Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. - Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush. - Grade Breaks at the top and bottom of curb ramp runs shall be perpendicular to the direction of the ramp run.			

Figures/Examples	Requirements ¹	YES	NO	NA
 Perpendicular Ramps Flared Sides Not in Pathway Roadway Grade Exception: Where curb ramps, landings and blended transitions are contained within a street or highway right-of-way, the grade of the pedestrian access route is permitted to be modified to equal the general grade established for the adjacent street or highway. 	- Perpendicular curb ramps shall have a running slope that cuts through or is built up to the curb at right angles or meets the gutter grade break at right angles. - The clear width of landings, blended transitions, and curb ramps, excluding flares, shall be 4.0 feet minimum. - The running slope shall be 5 percent minimum and 8.33 percent maximum but shall not require the ramp length to exceed 15.0 feet. - The cross slope at intersections shall be 2 percent maximum. (Roadway Grade Exception may be considered) - The cross slope at midblock crossings shall be permitted to be warped to meet street or highway grade. Roadway Grade Exception: The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway. The cross slope of curb ramps, blended transitions, landings, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade. - A landing 4.0 feet minimum by 4.0 feet minimum shall be provided at the top of the curb ramp and shall be permitted to overlap other landings and clear space. - Flared sides with a slope of 10 percent maximum, measured parallel to the curbline, shall be provided where a pedestrian circulation path crosses the curb ramp. - If the flared sides are not in the pathway (grass next to ramp), then there is no maximum slope and can be vertical curbs. (See adjacent figure for further explanation.) - Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. - Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. - Grade breaks at the top and bottom of perpendicular curb ramps shall be perpendicular to the direction of ramp run. At least one end of the bottom grade break shall be at the back of curb. - Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush. - Where both ends of the bottom grade break are 5.0 feet or less from the back of curb, the detectable warning shall be located on the ramp surface at the bottom grade break. Where either end of the bottom grade break is more than 5.0 feet from the back of curb, the detectable warning shall be located on the lower landing.			

Figures/Examples	Requirements ¹	YES	NO	NA
 Curb Ramps and landings that are contained within a street or highway border may use the Roadway Grade Exception for slopes or cross slopes in the direction of the roadway travel being matched.	• Parallel curb ramps shall have a running slope that is in-line with the direction of sidewalk travel. • The clear width of landings, blended transitions, and curb ramps, excluding flares, shall be 4.0 feet minimum. • The running slope shall be 5 percent minimum and 8.33 percent maximum but shall not require the ramp length to exceed 15.0 feet. • The cross slope shall be 2 percent maximum. (Roadway Grade Exception may be considered) <u>Roadway Grade Exception:</u> The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway. The cross slope of curb ramps, blended transitions, landings, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade. • A landing 4.0 feet minimum by 4.0 feet minimum shall be provided at the bottom of the ramp run and shall be permitted to overlap other landings and clear floor or ground space. • Where a parallel curb ramp does not occupy the entire width of a sidewalk, drop-offs at diverging segments shall be protected. • Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. • Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. • Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush.			
	• Blended Transitions shall have a running slope of 5 percent maximum and cross slope shall be 2 percent maximum. • The clear width blended transitions, excluding flares, shall be 4.0 feet minimum. • Detectable warning surfaces shall be provided where a blended transition connects to a street. • Gratings, access covers, and other appurtenances shall not be located on blended transitions within the pedestrian access route. • Grade breaks at the top and bottom of perpendicular curb ramps shall be perpendicular to the direction of ramp run. At least one end of the bottom grade break shall be at the back of curb. Grade breaks shall not be permitted on the surface of blended transitions and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush.			

Figures/Examples	Requirements ¹	YES	NO	NA
 	• Diagonal Curb Ramps or corner type curb ramps are no longer preferred design types. A design that provides individual ramps for each crossing direction is recommended by the US Access Board. • Diagonal Curb Ramps or corner type curb ramps with returned curbs or other well-defined edges shall have the edges parallel to the direction of pedestrian flow. • The bottom of diagonal curb ramps shall have a clear space 48 inches minimum outside active traffic lanes of the roadway. • Diagonal curb ramps provided at marked crossings shall provide the 48 inches minimum clear space within the markings. • Diagonal curb ramps with flared sides shall have a segment of curb 24 inches long minimum located on each side of the curb ramp and within the marked crossing. <u>Roadway Grade Exception:</u> The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway. The cross slope of curb ramps, blended transitions, landings, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade. • Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. • Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. • Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush. • Running and cross slope at midblock crossings shall be permitted to be warped to meet street or highway grade.			

DETECTABLE WARNINGS DEVICES (TRUNCATED DOMES) (PROWAG R304)				
Figures/Examples	Requirements ¹	YES	NO	NA
A surface feature of truncated dome material built in or applied to the walking surface to advise of an upcoming change from pedestrian to vehicular way. 	• Detectable warnings shall consist of a surface of truncated domes aligned in a square or radial grid pattern complying with 2010 ADA Standards. Detectable warning surfaces shall contrast visually with adjacent gutter, street or highway, or walkway surfaces, either light-on-dark or dark-on-light. • Detectable warning surfaces shall extend 24 inches minimum in the direction of travel and the full width of the curb ramp (exclusive of flares), the landing, or the blended transition. Detectable warning surfaces are required where curb ramps, blended transitions, or landings provide a flush pedestrian connection to the street. • Sidewalk crossings of residential driveways should not generally be provided with detectable warnings, since the pedestrian right-of-way continues across most driveway aprons and overuse of detectable warning surfaces should be avoided in the interests of message clarity. However, where commercial driveways are provided with traffic control devices or otherwise are permitted to operate like public streets, detectable warnings should be provided at the junction between the pedestrian route and the street. • Perpendicular Curb Ramps: Where both ends of the bottom grade break are 5 feet or less from the back of curb, the detectable warning shall be located on the ramp surface at the bottom grade break. Where either end of the bottom grade break is more than 5 feet from the back of curb, the detectable warning shall be located on the lower landing. • Landings and Blended Transitions: The detectable warning shall be located on the landing or blended transition at the back of curb. • Rail Crossings: The detectable warning surface shall be located so that the edge nearest the rail crossing is 6 feet minimum and 15 feet maximum from the centerline of the nearest rail. The rows of truncated domes in a detectable warning surface shall be aligned to be parallel with the direction of wheelchair travel. • Detectable warnings at cut-through islands shall be located at the curb line in-line with the face of curb and shall be separated by a 2.0 foot minimum length of walkway without detectable warnings. Where the island has no curb, the detectable warning shall be located at the edge of roadway. • Exception, when detectable warnings are required by a manufacturer's installation specifications to be embedded into concrete with a surrounding edge, domes may be installed at less than the required full width. Under this exception, the detectable warning surface shall never be more than 2 inches from the edge of the curb ramp, the landing, or the blended transition. ² • Detectable warnings shall not be stamped into concrete.			

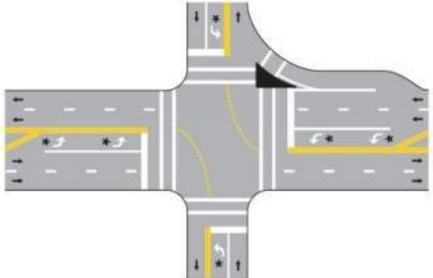
ISLANDS AND MEDIANS (PROWAG R305.4)

Figures/Examples	Requirements ¹	YES	NO	NA
 (a) cut through at island (b) curb ramp at island	- Medians and pedestrian refuge islands in crosswalks shall contain a pedestrian access route, including passing space and connecting to each crosswalk. - Raised islands in crossings shall be cut through level with the street or have curb ramps and required landings at both sides. - All median island passage spaces shall provide a clear width of 5 feet minimum. ² - Medians and pedestrian refuge islands shall be 6.0 feet minimum in length in the direction of pedestrian travel. <u>Roadway Grade Exception:</u> The grade of pedestrian access routes within sidewalks is permitted to equal the general grade established for the adjacent street or highway. The cross slope of curb ramps, blended transitions, landings, and turning spaces at pedestrian street crossings without yield or stop control where vehicles can proceed through the intersection without slowing or stopping, and at midblock pedestrian street crossings are permitted to equal the street or highway grade. - Each curb ramp shall have a level area 48 inches long minimum by 36 inches wide minimum at the top of the curb ramp in the part of the island intersected by the crossings. - Each 48 inch minimum by 36 inch minimum area shall be oriented so that the 48 inch minimum length is in the direction of the running slope of the curb ramp it serves. The 48 inch minimum by 36 inch minimum areas and the accessible route shall be permitted to overlap. - Detectable warning surfaces shall be provided, where a curb ramp, landing, or blended transition connects to a street. Medians and pedestrian refuge islands shall have detectable warnings at curb ramps and blended transitions. - Detectable warnings at cut-through islands shall be located at the curb line in-line with the face of curb and shall be separated by a 2.0 foot minimum length of walkway without detectable warnings. Where the island has no curb, the detectable warning shall be located at the edge of roadway. - Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. - Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush.			

ACCESSIBLE PEDESTRIAN SIGNALS (PUSHBUTTONS) (PROWAG R306 and EPG 902.6.1 – EPG 902.6.15)

Figures/Examples	Requirements ¹	YES	NO	NA
    	- Each crosswalk with pedestrian signal indication shall have an accessible pedestrian signal which includes audible and vibrotactile indications of the WALK interval at new signalized intersections and shall be considered at existing intersections being altered or are needing maintenance applications. Where a pedestrian pushbutton is provided, it shall be integrated into the accessible pedestrian signal. - Accessible pedestrian signals shall be located so that the vibrotactile feature can be contacted from the level landing serving a curb ramp, if provided, or from a clear floor or ground space that is in line with the crosswalk line adjacent to the vehicle stop line. - Accessible pedestrian pushbuttons shall be located within a reach range complying with EPG 642. - A clear floor or ground space shall be provided at the pushbutton and shall connect to or overlap the pedestrian access route. Roadway Grade Exception: Clear spaces required at accessible pedestrian signals and pedestrian pushbuttons and at other accessible elements are permitted to have a running slope or cross slope consistent with the grade of the adjacent pedestrian access route. - Pedestrian signals shall comply with PROWAG 2005 R306 and EPG 902.6.1 through 902.6.15. - Pushbuttons are a minimum 2 inches across in one dimension, raised (not recessed), contrast visually with the housing or mounting, and have a maximum force of 3.5 pounds to activate operable parts. - The control face of the pushbuttons is installed parallel to the direction of the crosswalk it serves. - The location of pushbuttons for new construction are within a longitudinal distance of 5 feet maximum from the crosswalk line, and 30 inches minimum to 6 feet maximum from the curb line. - For audible pedestrian signal devices only, pushbuttons are a minimum 10 feet apart. - Pushbuttons are located at a height of approximately 42 inches, but no higher than 48 inches from the ground and within 10 inch reach from a level paved clear floor or ground space with minimum dimensions of 48 inches x 30 inches positioned for a parallel approach to the pushbutton. For a forward approach space (30 x 48 inches) the allowed reach range is 0 inches. - Where pushbuttons for the visually impaired are installed, tactile signs are to be provided that meet ADA requirements.			

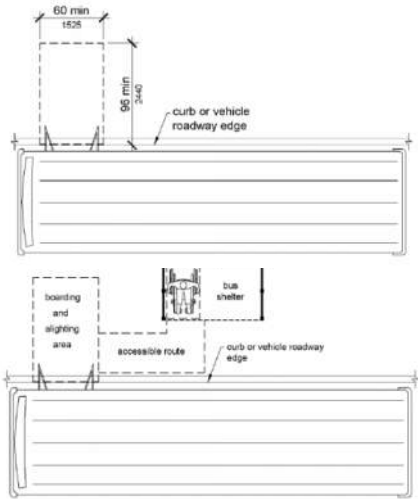
PEDESTRIAN STREET CROSSINGS (PROWAG R305 and EPG 642)

Figures/Examples	Requirements ¹	YES	NO	NA
 	• Crosswalks shall contain a pedestrian access route that connects to departure and arrival walkways through any median or pedestrian refuge island. • Marked crosswalks shall be 6 feet wide minimum. • The grade of the pedestrian access route is permitted to equal the general grade established for the adjacent street or highway, except that where pedestrian access routes are contained within pedestrian street crossings a maximum grade of 5 percent is required. • A 5 percent maximum cross slope is specified for pedestrian access routes contained within pedestrian street crossings without yield or stop control. • Crossings with Stop Control: The cross slope shall be 2 percent maximum. • The cross slope at midblock crossings shall be permitted to be warped to meet street or highway grade. • The running slope shall be 5 percent maximum, measured parallel to the direction of pedestrian travel in the crosswalk. • Accessible pedestrian signals and pedestrian pushbuttons provided at pedestrian crossings with pedestrian signals (See EPG 642 for applicability) shall comply with EPG 902.6.8 through 902.6.15. Operable parts shall comply with EPG 902.6.9 – 902.6.15. • Crosswalk pavement marking is 6 inches wide white. • Stop bar is at minimum 4 feet from the crosswalk. • Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides. • Gratings, access covers, and other appurtenances shall not be located on curb ramps, landings, blended transitions, and gutters within the pedestrian access route. • Grade breaks shall not be permitted on the surface of curb ramps, blended transitions, landings, and gutter areas within the pedestrian access route. Surface slopes that meet at grade breaks shall be flush. • Beyond the curb face, a clear space of 4.0 feet minimum by 4.0 feet minimum shall be provided within the width of the crosswalk and wholly outside the parallel vehicle travel lane.			

ALTERNATE CIRCULATION PATH (PROWAG R302)

Figures/Examples	Requirements ¹	YES	NO	NA
	• Alternate circulation paths shall contain a pedestrian access route. • To the maximum extent feasible, the alternate circulation path shall be provided on the same side of the street as the disrupted route. • Where the alternate circulation path is exposed to adjacent construction, excavation drop-offs, traffic, or other hazards, it shall be protected with a pedestrian barricade or channelizing device complying with MUTCD 6F-58, 6F-63, and 6F-66. • Pedestrian barricades and channelizing devices shall be continuous, stable, and non-flexible and shall consist of a wall, fence, or enclosures specified in section 6F-58, 6F-63, and 6F-66 of the MUTCD (incorporated by reference; see PROWAG 2005 R104.2.4). • A detectable continuous bottom edge shall be provided 2 inches maximum above the ground or walkway surface. • Devices shall provide a continuous surface or upper rail at 3.0 feet minimum above the ground or walkway surface. • Support members shall not protrude into the alternate circulation path.			

BUS BOARDING AND ALIGHTING AREAS (PROWAG R410)

Figures/Examples	Requirements ¹	YES	NO	NA
	• Bus stop boarding and alighting areas shall have a firm, stable surface. • Bus stop boarding and alighting areas shall provide a clear length of 8 feet minimum, measured perpendicular to the curb or vehicle roadway edge, and a clear width of 5 feet minimum, measured parallel to the vehicle roadway. • Bus stop boarding and alighting areas shall be connected to streets, sidewalks, or pedestrian paths by an accessible route. • Parallel to the roadway, the slope of the bus stop boarding and alighting area shall be the same as the roadway, to the maximum extent practicable. Perpendicular to the roadway, the slope of the bus stop boarding and alighting area shall not be steeper than 2 percent. • Bus shelters shall provide a minimum 30 inch by 48 inch clear floor or ground space entirely within the shelter. • Bus shelters shall be connected by an accessible route to a boarding and alighting area.			

¹ Any “NO” answer means that location is ADA non-compliant and needs to be corrected before final acceptance of the work, except as follows. Although exceptions listed in the above requirements may not meet MoDOT current policy standards, work that does meet the minimum ADA standards will be accepted as ADA compliant. Where it is technically infeasible to correct deficiencies as part of the current work, those locations will be labeled as non-compliant and marked “NO”. These items will be added to the Transition Plan Inventory for correction at a later date. (Guidance is provided in ADA documents and in the EPG on what may be considered as technically infeasible.)

² A MoDOT requirement.

Unless otherwise noted, all notes on this form are direct ADA requirements as published in either the PROWAG dated November 23, 2005 or ADA/ABA Standards from 2010.

All exceptions and technically infeasible locations should be discussed with the project manager and/or area engineer prior to acceptance of the work. All exceptions and technically infeasible locations will need to be thoroughly documented by the engineer, and that documentation will be attached to this form and retained as part of the final acceptance records.

All slope and grade measurements for ADA compliance will be made using a calibrated 2 foot long digital level.

US Access Board PROWAG

R202.3.1 Prohibited Reduction in Required Access. An alteration shall not decrease or have the effect of decreasing the accessibility of a facility or an accessible connection to an adjacent building or site below the requirements for new construction in effect at the time of the alteration.

Inspector Name: _____ Inspector Signature: _____	Date:
Resident Engineer or Area Engineer Name: _____ Resident Engineer or Area Engineer Signature:	Date:
Distribution: ☐ Project Office ☐ District Permit Office	

SAMPLE

ADA EXCEPTIONS DOCUMENTATION

Job No. _____ Route _____ County _____ Location _____

<u>Item</u>	<u>Location</u>	<u>Standard</u>	<u>As Built</u>	<u>Discussion</u>
Sidewalk Width	Third Street Sta 3+00 to 7+00 RT	5' wide	Exist 3' wide	Required 5' x 5' Passing Space added at 5+00
Curb Ramp Grade	SE Quad of Main & First	8.33%	11.2%	As-built Curb Ramp is 16.0' long
Parallel Ramp Landing running grade (turning space)	Sta 35+20 to 35+25 Rt Rte 14	2.00%	2.6%	Landing running grade matches existing roadway grade
Sidewalk Grade	Sta 23+45 to 23+52	5.0%	8.4%	Match existing floor at two exist doorways, Straight grade between fixed elevations

Inspector Name: _____	
Inspector Signature: _____	Date:
Resident Engineer or Area Engineer Name: _____	
Resident Engineer or Area Engineer Signature:	Date:
Distribution: ☐ Project Office ☐ District Permit Office	

Document No. _____

ORDINANCE NO. _____

ORDINANCE APPROVING A CONTRACT WITH PRECISION CONSTRUCTION &
CONTRACTING, LLC FOR CITY OF LIBERTY PROJECT PW-CIP-23-002 2023
CONCRETE FLATWORK REPLACEMENT IN AN AMOUNT NOT TO EXCEED
\$331,910.00

BE IT ORDAINED by the City Council of the City of Liberty, Clay County, Missouri,
as follows:

SECTION I

The City Council of the City of Liberty, Clay County, Missouri, hereby approves a contract by and between the City of Liberty and Precision Construction & Contracting, LLC. for City of Liberty Project PW-CIP-23-002 Concrete Flatwork Replacement with a bid amount of TWO HUNDRED EIGHTY-EIGHT THOUSAND SIX HUNDRED SIXTEEN DOLLARS AND EIGHTY-ONE CENTS (\$288,616.81), with authorization to spend up to THREE HUNDRED THIRTY-ONE THOUSAND NINE HUNDRED TEN DOLLARS AND ZERO CENTS (\$331,910.00), a copy of said contract being incorporated by reference herein and available for review as required by law.

SECTION II

The City Council hereby authorizes the Mayor to sign the contract as described in Section I of this Ordinance.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor according to law.

PASSED by the City Council this ____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

ORDINANCE NO. _____(CONT.)

APPROVED by the Mayor this ____ day of _____, 2023.

MAYOR



CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-401

Department: Public Works

Submitted By: Joshua Martinez, Capital
Projects Engineer

Subject: ORDINANCE APPROVING A CONTRACT WITH SUPERIOR BOWEN
ASPHALT COMPANY, LLC FOR CITY OF LIBERTY PROJECT PW-CIP-23-003 2023
STREET MAINTENANCE PAVEMENT RESTORATION

Summary:

- Ordinance approving a contract between Superior Bowen Asphalt Company, LLC for City of Liberty Project PW-CIP-23-003 2023 Street Maintenance Pavement Restoration.
- The scope of work provides for the maintenance of city streets through overlay and pavement repairs.
- The Citizen Sales Tax Oversight Committee reviewed the project at the Feb. 9, 2023 meeting and determined it meets voter intent.

Background:

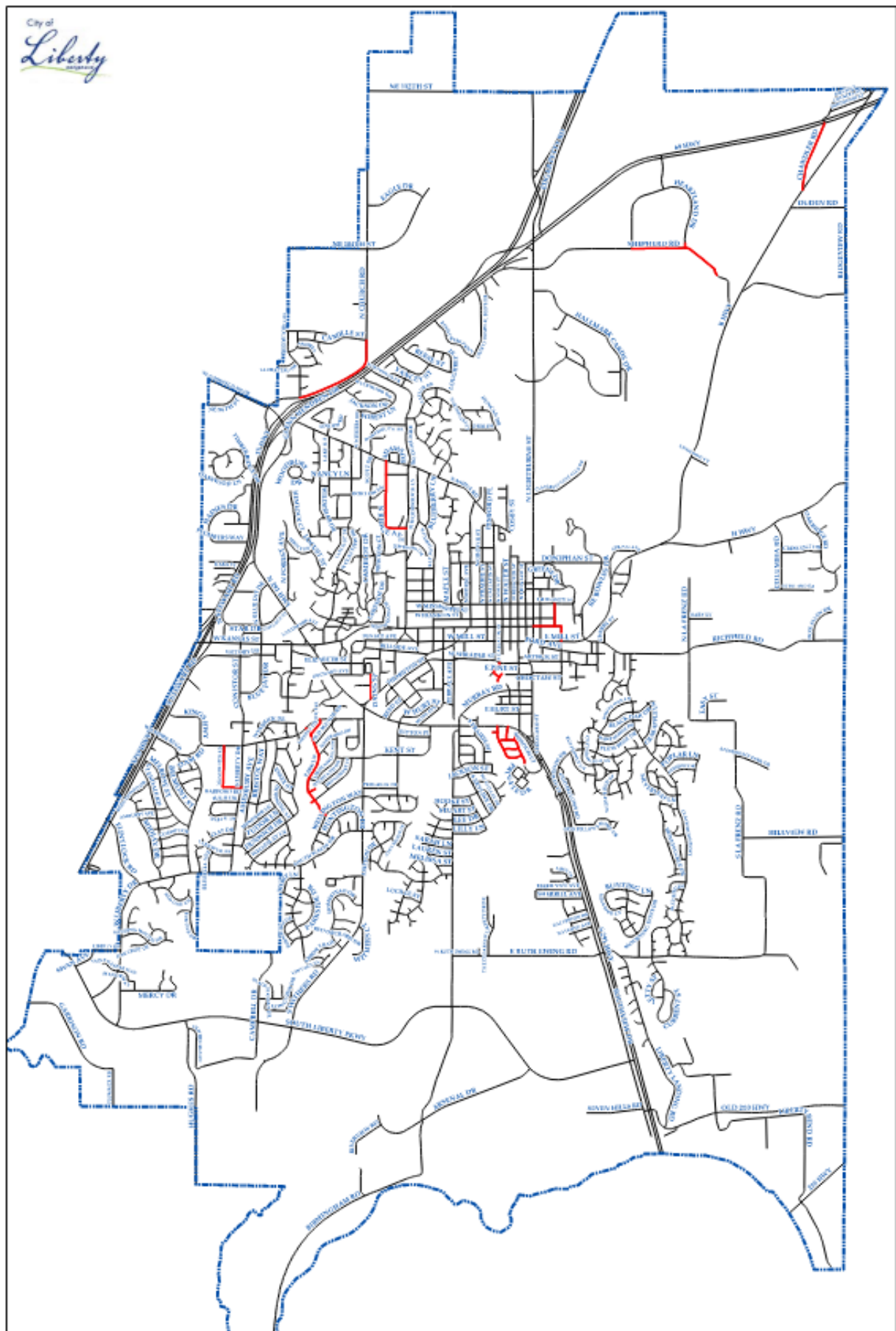
The Capital Improvement Plan includes a Street Restoration Program in order to project expenditures necessary for streets in need of restoration. Prior to 2022, the Street Restoration Program involved a single contract that included both asphalt pavement work such as milling and overlaying and concrete flat work such as curb/gutter, ADA ramps and sidewalk. Beginning in 2022, the typical single contract was broken into two distinct contracts to encourage a better bidding environment. The contracts are managed in a staggered parallel fashion so as to ensure that the work from the first complements the second contract. This memo pertains to the 2023 Street Maintenance Pavement Restoration Project, otherwise known as Public Works Capital Improvement Project 23-003 (PW-CIP-23-003).

In the months prior to bidding, City staff identified areas in need of milling and overlaying and associated work. These locations formed the scope of work for the project. The figures below define the specific project locations.

Figure 1

Street	From	To
Park Ln (1)	Barford Dr	Wellington Way
Park Ln (2)	Barford Dr	Liberty Dr
Park Cir	Park Ln	End
Broadmore Ln (Cul De Sac)	Park Ln	End
Liberty Dr Terrace	Liberty Dr	Park Ln
Manchester Rd	Kings Hwy	Barford Rd
Barford Rd	Manchester Rd	Liberty Dr
N Church Rd	Camille St	Place Liberte
Brooks Ct (1)	S Main St	Brooks Ct
Brooks CT (2)	To	End
S Main St	Pine St	Brooks Ct
E Kansas St	N Lightburne St	S Jewell St
S Jewell St	E Kansas St	E Mill St
N Jewell St	E Mississippi St	E Kansas St
N Ridge Ave	Woodridge Ln	Nashua
S Water St	Rt 291	Manor Ln
S Main St	Rt 291	Eastwood Ln
Georgia Ln	S Missouri St	S Main St
Eastwood Ln	S Main St	Missouri St
Manor Ln	S Main St	Missouri St
Main Ct (Cul De Sac)	S Main St	End
Manor Ct (Cul De Sac)	Manor Ln	End
Missouri St	Manor Ln	End
Cherokee St	Liberty Dr	Cherokee Dr
Shepherd Rd	W Heartland	Low Water Bridge
Chandler	B-Hwy	Rt 69
E Heartland Dr	Intersection of Shephard Rd	North of Inlets

Figure 2

— Proposed 2023 Overlay City of Liberty

Date: 2/8/2023

Previous Action (if applicable):

- The Citizen Sales Tax Oversight Committee reviewed the project at the Feb. 9, 2023 meeting and determined it meets voter intent.

Policy/Committee Review:

X Citizen Sales Tax Oversight Committee	Completed/Recommended: 02-09-2023
X Public Safety Sales Tax Oversight Committee	Completed/Recommended: NA
X Budget Committee	Completed/Recommended: NA
X Other:	Completed/Recommended: NA

Financial Considerations:

X Budgeted:	Line Item: 52.75.607.14.5501	Amount:\$964,063.00
	Line Item:	Amount:
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

1. 2023-401 Approve 2023 Resurfacing Contract - ORD
2. 23-003 Contract Manual - Signed

Document No. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING A CONTRACT WITH SUPERIOR BOWEN ASPHALT COMPANY, LLC FOR CITY OF LIBERTY PROJECT PW-CIP-23-003 2023 STREET MAINTENANCE PAVEMENT RESTORATION

BE IT ORDAINED by the City Council of the City of Liberty, Clay County, Missouri, as follows:

SECTION I

The City Council of the City of Liberty, Clay County, Missouri, hereby approves a contract by and between the City of Liberty and Superior Bowen Asphalt Company, LLC. for City of Liberty Project PW-CIP-23-003 Street Maintenance Pavement Restoration with a bid amount of EIGHT HUNDRED THIRTY-EIGHT THOUSAND THREE HUNDRED FIFTEEN DOLLARS AND ZERO CENTS (\$838,315.00), with authorization to spend up to NINE HUNDRED SIXTY-FOUR THOUSAND SIXTY-THREE DOLLARS AND ZERO CENTS (\$964,063.00), a copy of said contract being incorporated by reference herein and available for review as required by law.

SECTION II

The City Council hereby authorizes the Mayor to sign the contract as described in Section I of this Ordinance.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor according to law.

PASSED by the City Council this ____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this ____ day of _____, 2023.

MAYOR

The City of



2023 Street Maintenance
Pavement Restoration

Project No. 23-003

City of Liberty

101 East Kansas Street
Liberty, MO 64068
816-439-4500

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BID FORM

**CITY OF LIBERTY
LIBERTY, MISSOURI
2023 STREET MAINTENANCE PAVEMENT RESTORATION
PROJECT #23-003
FEBRUARY 2, 2023**

ARTICLE 1 – BID RECIPIENT

- 1.01 This Bid is submitted to:
City of Liberty, 101 E. Kansas Street, Liberty, MO 64068
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents that:
- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
None	

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if

any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

Minor revisions to project locations and extents resulted in a net increase to the grand total bid of \$5,817.85 for a revised grand total of \$844,132.85. These revisions were presented to Superior Bowen and agreed to on 02-08-2023 via electronic mail. All changes occurred after notice of selection. *Joshua Martinez (Joshua Martinez 02-08-2023)*

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

A. Asphalt Index price is not applicable for this project.

B. UNIT PRICE SCHEDULE:

*** The following Asphalt Index Price shall be used as a basis for the bid and subsequent adjustment as described in section 2.02 of the Job Special Conditions

DATE February 2023 PRICE \$620.00

Index is applicable. This was communicated during the bid process via email on 02-01-23

*Joshua Martinez
02-08-23*

Line Item #	Description	Unit	Estimated Quantity	Unit Price	Bid Price
CONVENTIONAL PAVING:					
1	Cold Milling	SY	76,650	\$ 1.85	\$ 141,802.50
2	***1.5" Asphaltic Concrete Surface (Type 5-01)	TON	7,456	\$ 84.50	\$ 630,032.00
3	6" Solid White Parallel Cross Walk (Striping Thermoplastic)	LF	444	\$ 10.00	\$ 4,440.00
4	24" Stop Bar (Striping Thermoplastic)	LF	168	\$ 20.00	\$ 3,360.00
5	Turn Arrow (Striping Thermoplastic)	EA	10	\$ 360.00	\$ 3,600.00
6	4" Skips Yellow (Striping Thermoplastic)	LF	86	\$ 5.00	\$ 430.00
7	4" Solid Double Yellow (Striping Thermoplastic)	LF	12,034	\$ 1.00	\$ 12,034.00
8	4" Skips White (Striping Thermoplastic)	LF	1,208	\$ 1.00	\$ 1,208.00
9	6" Solid Edge Line White (Striping Thermoplastic)	LF	12,305	\$ 1.50	\$ 18,457.50
10	4" Solid Lane Line White (Striping Thermoplastic)	LF	1,286	\$ 1.00	\$ 1,286.00
11	Rail Road Crossing (Striping Thermoplastic)	EA	2	\$ 850.00	\$ 1,700.00
12	Full Depth Pavement Repair	SY	165	\$ 121.00	\$ 19,965.00
GRAND TOTAL BID:					\$ 838,315.00

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2)

estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Total of Lump Sum and Unit Price Bids = Total Bid Price \$ 838,315.00

Eight Hundred Thirty Eight Thousand Three Hundred Fifty Dollars and No Cents

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;
 - B. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - C. Contractor's License No.: *0011249 [or] Evidence of Bidder's ability to obtain a State Contractor's License and a covenant by Bidder to obtain said license within the time for acceptance of Bids; * MODOT Vendor Number

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

Superior Bowen Asphalt Company, LLC

By:

[Signature]

Amenda Mohr

[Printed name]

Amenda Mohr

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]

Neil Shacklett

[Printed name]

Neil Shacklett

Title:

Estimator / Project Manager

Submittal Date: 02/02/2023

Address for giving notices:

520 W. Pennway St., Suite 300 Kansas City, MO 64108

Telephone Number: 913-689-5567

Fax Number:

Contact Name and e-mail address: Neil Shacklett

nshacklett@superiorbowen.com

Bidder's License No.:

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

OSHA REQUIREMENTS

ARTICLE 1 – DEFINED TERMS

- 1.01 Terms used in this form have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:

A. *RSMo* – Missouri Revised Statutes.

ARTICLE 2 – OSHA 10-HOUR REQUIREMENTS

- 2.01 Contractor and any subcontractor of Contractor shall require all on-site employees to complete the 10-hour training program required under RSMo Section 292.675 or such employees must hold documentation of prior completion of a certified program.

ARTICLE 3 – PENALTIES

- 3.01 The Contractor shall forfeit as a penalty to the City of Liberty, two thousand five hundred dollars (\$2500) plus one hundred dollars (\$100) for each employee employed by the Contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. The penalty shall not begin to accrue until the time period set forth in RSMo Section 292.675
- 3.02 The City of Liberty shall withhold and retain therefrom all sums and amounts due and owing as a result of any violation of RSMo Chapter 292 when making payments to the Contractor under the Contract. The Contractor may withhold from any subcontractor sufficient sums to cover any penalties the City of Liberty has withheld from the Contractor resulting from the subcontractor's failure to comply with the terms of RSMo Section 292.675. If the payment has been made to the subcontractor without withholding, the Contractor may recover the amount of the penalty resulting from the fault of the subcontractor in an action maintained in the Clay County, Missouri Circuit Court.

STATE OF MISSOURI)
) ss
COUNTY OF Jackson)

(as required by Section 285.530, Revised Statutes of Missouri)

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and The City of Liberty

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant saith not.

Amanda Mohr

(SIGNATURE)

Amanda Mohr

[printed name], Affiant

Subscribed and sworn to before me this 9th day of February, 2023

Laura L. Roehrich

Notary Public State of Missouri

My Commission Expires: ~~12/1~~ Oct. 27, 2024

Commissioned in Jackson County

Commission #: 12446238

LAURA L. ROEHRICH
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
JACKSON COUNTY
MY COMMISSION EXPIRES 10/27/2024
COMMISSION # 12446238

PLEASE NOTE:

Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding:

1. A valid, completed copy of the first page identifying the Contractor; and
2. A valid copy of the signature page completed and signed by the Contractor, and the Department of Homeland Security – Verification Division.



Company ID Number: 181510

Information Required for the E-Verify Program

Information relating to your Company:

Company Name: Superior Bowen Asphalt Company LLC

Company Facility Address: 11030 Hickman Mills Drive

Kansas City, MO 64134

Company Alternate

Address: P.O. Box 9669

Kansas City, MO 64134

County or Parish JACKSON

Employer Identification

Number: 431861896

North American Industry
Classification Systems

Code: 237

Parent Company:

Number of Employees: 100 to 499

Number of Sites Verified

for: 1

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

- MISSOURI 1 site(s)



Company ID Number: 181510

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer Superior Bowen Asphalt Company LLC

Greg D Shook

Name (Please Type or Print)

Title

Electronically Signed

Signature

01/16/2009

Date

Department of Homeland Security – Verification Division

USCIS Verification Division

Name (Please Type or Print)

Title

Electronically Signed

Signature

01/16/2009

Date

ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF Missouri)
COUNTY OF Jackson) ss

On the 19th day of December, 2011, before me appeared Greg Shook
Affiant name

personally known to me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, stated as follows:

• I, the Affiant, am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

• I, the Affiant, am the CRF/Int. Secy of Superior/Bowen/Harkett Co. LLC, and I am duly authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.
title business name

• I, the Affiant, hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security, and the aforementioned business entity shall participate in said program to verify the employment eligibility of newly hired employees working in connection with any services contracted by the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

• I, the Affiant, also hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection with any services contracted by MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

• I, the Affiant, am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

• I, the Affiant, acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.


Affiant Signature

Subscribed and sworn to before me in _____, _____ the day and year first above-written.
city (or county) state

Notary Public

My commission expires:

[documentation of enrollment/participation in a federal work authorization program attached]



Company ID Number: 181510

THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS) and **Superior Bowen Asphalt Company LLC** (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), and the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts.

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). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

1. SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.
2. SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.
3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).



Company ID Number: 181510

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	Greg D Shook	Fax Number:	(816) 765 - 0945
Telephone Number:	(816) 765 - 1313		
E-mail Address:	gdshook@superiorbowen.com		
Name:	Carl B Alford	Fax Number:	(816) 765 - 0945
Telephone Number:	(816) 765 - 1313		
E-mail Address:	cbalford@superiorbowen.com		

PREVAILING WAGE

ARTICLE 1 – PREVAILING WAGE REQUIREMENTS

- 1.01 Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made part of the specification for work under the contract, shall be paid to all workers performing work under the contract.
- 1.02 The hourly rate of wages shall not be less than the wages stated in:

Missouri Division of Labor Standards

Annual Wage Order No. 29

Section 024

Clay County

A copy of which is attached to this form.

ARTICLE 2 – REQUIRED SUBMITTALS

- 2.01 Contractor shall submit weekly payroll records with each monthly payment application.
- 2.02 The Contractor and all subcontractors must file an Affidavit of Compliance before final payment can be made for the project. An Affidavit of Compliance is attached to this form.
- 2.03 Contractor must report to the City of Liberty if a wage subsidy, bid supplement, or rebate was provided. The amount and date of such subsidy, supplement or rebate must be reported to the City of Liberty within 30 days of receipt of payment.

ARTICLE 3 – ENFORCEMENT

- 3.01 The Contractor must maintain a legible list of prevailing wage rates posted in a prominent and easily accessible place at the worksite during the full time any worker is employed on the project.
- 3.02 The contractor will forfeit a penalty to the City of Liberty of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor.

Missouri

Division of Labor Standards

WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

Annual Wage Order No. 29

Section 024
CLAY COUNTY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by _____

Todd Smith, Director
Division of Labor Standards

Filed With Secretary of State: _____ **March 10, 2022**

Last Date Objections May Be Filed: **April 11, 2022**

Prepared by Missouri Department of Labor and Industrial Relations

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$66.22
Boilermaker	\$31.44*
Bricklayer	\$59.38
Carpenter	\$59.64
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$54.27
Plasterer	
Communications Technician	\$55.20
Electrician (Inside Wireman)	\$65.94
Electrician Outside Lineman	\$31.44*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$31.44*
Glazier	\$31.44*
Ironworker	\$66.41
Laborer	\$47.56
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$54.19
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$60.02
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$49.94
Plumber	\$73.63
Pipe Fitter	
Roofer	\$57.74
Sheet Metal Worker	\$71.49
Sprinkler Fitter	\$31.44*
Truck Driver	\$31.44*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

Heavy Construction Rates for
CLAY County

Section 024

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$57.92
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$31.44*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$49.24
General Laborer	
Skilled Laborer	
Operating Engineer	\$57.18
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$49.61
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

**The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

OVERTIME and HOLIDAYS

OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, **"overtime work"** shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

HOLIDAYS

January first;
The last Monday in May;
July fourth;
The first Monday in September;
November eleventh;
The fourth Thursday in November; and
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

AMERICAN PRODUCTS REQUIREMENTS

ARTICLE 1 – GOODS OR COMMODITIES

- 1.01 Any manufactured goods or commodities used or supplied in the performance of the Contract Documents or any subcontract thereto shall be manufactured or produced in the United States as required and in accordance with Section 34.353 RSMo.

ARTICLE 2 – EXCEPTIONS TO REQUIREMENTS

- 2.01 The requirements of this form are not required when:
- A. Only one line of a particular good or product is manufactured or produced in the United States;
 - B. The specified products are not manufactured or produced in the United States in sufficient quantities to meet the City's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the City's requirements;
 - C. Obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent.
- 2.02 If the requirements shall not apply because of the circumstance described in paragraphs 2.01.B or 2.01.C above, then the Contractor shall provide the City with the information necessary to make the certifications required under Section 34.353 RSMo.

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between Mayor, City Council and the Citizens of the City of Liberty, Missouri, a Municipal Corporation ("Owner") and Superior Bowen Asphalt Company, LLC ("Contractor"). Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:
- A. Milling
 - B. Conventional Asphalt Overlay
 - C. Full Depth Asphalt Pavement Repair
 - D. Thermoplastic Pavement Marking.

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **2023 STREET MAINTENANCE PAVEMENT RESTORATION – PROJECT NO. 23-003**

ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by the City of Liberty, 101 E. Kansas Street, Liberty, MO 64068.
- 3.02 The Owner has retained the office of the City Engineer of the City of Liberty ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 *Contract Times: Days*
- A. Contractor shall complete the work in accordance with the contract documents between the dates of February 28, 2023 and September 29, 2023. City shall be notified of the start date a minimum of three weeks prior to the start date of construction.
 - B. Earliest Construction Start Date..... Upon Issuance of Notice to Proceed
 - C. Latest Substantial Completion:..... September 22, 2023
 - D. Latest Final Completion Date..... September 29, 2023

- E. Parts of the Work shall be substantially or final completed on or before the following Milestone(s):
1. Milestone 1 – Surface Paving. Surface Paving of street segment must be completed within 7-week days of completion of removal of surface paving of said street segment.
 2. Milestone 2 - Permanent Pavement Markings. Permanent Paving Markings of street segment must be completed within 14-week days of completion of final surface paving of said street segment.
 3. Milestone 3 – Restoration of Yards. Yards disrupted during construction must be restored within 14-week days of the disruption.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
 4. Milestones: Contractor shall pay Owner \$100 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of each stated Milestone, until stated Milestone is achieved.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a lump sum of: \$N/A.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item): \$844,132.85.

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General

Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$N/A.
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all, if any,: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, if any, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.
- K. Contractor currently possesses the in-house capability, or will have the in-house capability prior to the commencement of Work hereunder, to perform not less than thirty five percent (35%) of all Work required to be performed on the project by Contractor by and through employees in the direct employ of Contractor without any reliance upon or utilization of subcontractors by Contractor from the time of commencement of Work hereunder and at all such times thereafter, Contractor shall continue to maintain such in-

house capability to perform the above-stated percentage of the Work without any reliance upon or utilization of subcontractors.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. Prevailing Wage (section C-470, inclusive).
 - 2. MO Annual Wage Order No. 29 (section C-471, inclusive).
 - 3. This Agreement (section C-520, inclusive).
 - 4. Performance and Maintenance bond (section C-610, inclusive).
 - 5. Payment bond (section C-615, inclusive).
 - 6. General Conditions (section C-700, inclusive).
 - 7. Supplementary Conditions (section C-800, inclusive).
 - 8. Job Special Conditions (section C-810, inclusive).
 - 9. Specifications as listed in the table of contents of the Project Manual.
 - 10. Addenda (numbers __, inclusive).
 - 11. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (section C-410, inclusive).
 - b. 2023 General Project Location Map (Exhibit A)
 - c. 2023 Summary of Estimated Quantities and Site Locations (Exhibit B)
 - d. 2023 Boring Logs (Exhibit C)
 - 12. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *General Conditions*

- A. Owner stipulates that the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

10.07 *Indemnification*

- A. The Contractor hereby expressly binds himself, herself, or itself to indemnify and save harmless the City and its officers and employees for any and all expenses, including reasonable attorney's fees, and against all damages, losses, claims, suites or actions of every kind and nature asserted, brought or which may be brought, asserted, incurred or sustained by any person, firm, or corporation, or persons, firms or corporations, in connection with or on account of the Contractor's work or in consequence of any negligence in connection with same, or on account of any poor workmanship, or on account of any act of commission or omission of the Contractor or his, her, its, or their subcontractors, agents or employees, or in connection with or on account of any other cause arising during the course of and related to construction, irrespective of the responsibility of third parties therefore.
- B. The Contractor shall further indemnify the City of Liberty for any and all expenses, including reasonable attorney's fees, incurred in the City's pursuing any remedial action required to correct deficiencies in the work on account of poor workmanship, the negligence or any act of omission of the Contractor or his, her, its, or their subcontracts, agents or employees.
- C. The City may retain from any payment due or to become due the Contractor such sums as are deemed necessary to protect its interests until all such claims or suits have been settled or disposed of and suitable evidence to that effect furnished to the City.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on 02-28-2023 (which is the Effective Date of the Contract).

OWNER: **City of Liberty, Missouri**

CONTRACTOR:

Superior Bowen Asphalt Company, LLC

By: _____

By: 

Title: _____

Title: COO

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: 

Title: _____

Title: Estimator / Project Manager

Address for giving notices:

Address for giving notices:

520 W. Pennway St., Suite 300

Kansas City, MO 64108

License No.: _____

(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

PERFORMANCE AND MAINTENANCE BOND

CONTRACTOR (name and address):

Superior Bowen Asphalt Company, LLC
520 W Pennway, Suite 300
Kansas City, MO 64108

SURETY (name and address of principal place of business):

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

OWNER (name and address):

City of Liberty, Missouri
101 E Kansas St
Liberty, Mo 64068

CONSTRUCTION CONTRACT

Effective Date of the Agreement: February 28, 2023

Amount: Eight Hundred Forty Four Thousand, One Hundred Thirty Two and 85/100 (\$844,132.85)

Description (name and location):

2023 Street Maintenance Pavement Restoration in Liberty, Missouri - Project No. 23-003

BOND

Bond Number: 107781557

Date (not earlier than the Effective Date of the Agreement of the Construction Contract): February 28, 2023

Amount: Eight Hundred Forty Four Thousand, One Hundred Thirty Two and 85/100 (\$844,132.85)

Modifications to this Bond Form: ☒ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Superior Bowen Asphalt Company, LLC (seal)
Contractor's Name and Corporate Seal

By: [Signature]
Signature

MATHEW J. BOWEN
Print Name

Vice President
Title

Attest: [Signature]
Signature

Estimator / Project Manager
Title

SURETY

Travelers Casualty and Surety Company of America (seal)
Surety's Name and Corporate Seal

By: [Signature]
Signature (attach power of attorney)

Kara Foulk
Print Name

Attorney-in-Fact
Title

Attest: [Signature]
Signature

Senior Account Manager
Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the said Contractor shall construct or cause to be constructed and completed the entire improvement in accordance with specifications used by the City of Liberty for like improvements, and to the lines and grades shown on the plans, all to be done subject to the approval and acceptance of the Engineer for the said City of Liberty, and shall construct said with such materials in such manner that same shall endure without need of any repairs for the period of two (2) years from and after the completion of said improvement and acceptance thereof; and if said improvement shall endure without the need of repairs for the period of two (2) years from and after completion and acceptance thereof as aforesaid, then the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3; otherwise to be in full force and effect.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:
 - 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR (name and address):

Superior Bowen Asphalt Company, LLC
520 W Pennway, Suite 300
Kansas City, MO 64108

SURETY (name and address of principal place of business):

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

OWNER (name and address):

City of Liberty, Missouri
101 E Kansas St
Liberty, Mo 64068

CONSTRUCTION CONTRACT

Effective Date of the Agreement: February 28, 2023

Amount: Eight Hundred Forty Four Thousand One Hundred Thirty Two and 85/100 (\$844,132.85)

Description (name and location):

2023 Street Maintenance Pavement Restoration Project - Project No 23-003

BOND

Bond Number: 107781557

Date (not earlier than the Effective Date of the Agreement of the Construction Contract): Feb 28th, 2023

Amount: Eight Hundred Forty Four Thousand One Hundred Thirty Two and 85/100 (\$844,132.85)

Modifications to this Bond Form: ☒ None ☐ See Paragraph 19

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Superior Bowen Asphalt Company, LLC (seal)

Contractor's Name and Corporate Seal

By:



Signature

MATHEW J. BOWEN

Print Name

Vice President

Title

Attest:



Signature

Estimator / Project Manager

Title

SURETY

Travelers Casualty and Surety Company of America (seal)

Surety's Name and Corporate Seal

By:



Signature (attach power of attorney)

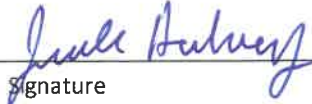
Kara Foulk

Print Name

Attorney-in-Fact

Title

Attest:



Signature

Senior Account Manager

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and

shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. It is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 50 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment," wherever used in this BOND and whether referring to the BOND or the Contract shall include any alteration, addition, extension or modification of any character whatsoever.

19. Modifications to this Bond are as follows:



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

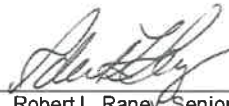
KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kara M Foulk** of **KANSAS CITY**, **Missouri**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

City of Hartford ss.

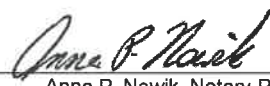
By: 
 Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026




 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **28th** day of **February**, 2023




 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brush Creek Kansas City 0116 520 West Pennway St, Ste LL Kansas City, MO 64108	CONTACT NAME:	
	PHONE (A/C, No, Ext): (816) 523-2323 FAX (A/C, No):	
	E-MAIL ADDRESS: info@brushkcc.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: American Contractors Insurance Company Risk Retention Group	12300
INSURED Superior Bowen Asphalt Company, LLC 520 W Pennway St. Suite 300 Kansas City, MO 64108	INSURER B: XL Specialty Insurance Company	37885
	INSURER C: ACIG Insurance Company	
	INSURER D: Steadfast Insurance Company	26387
	INSURER E: Travelers Property Casualty Company of America	25674
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:			GL22A00048*	6/1/2022	6/1/2023	EACH OCCURRENCE \$ 10,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 10,000,000
							GENERAL AGGREGATE \$ 10,000,000
							PRODUCTS - COMP/OP AGG \$ 10,000,000
							STOP GAP \$ 10,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			AL22000015	6/1/2022	6/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			US00084656L122A	6/1/2022	6/1/2023	EACH OCCURRENCE \$ 15,000,000
							AGGREGATE \$ 15,000,000
							\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A	WCA000012022	6/1/2022	6/1/2023	☒ PER STATUTE ☐ OTH-ER
							E.L. EACH ACCIDENT \$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Pollution/Prof			PCAB-5018843-0622	6/1/2022	6/1/2023	Ea Claim/Aggregate* 10,000,000
E	Equipment Floater			QT-630-5K196395-TIL-22	12/1/2022	12/1/2023	Any One Item 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate Holder & Engineer are Additional Insured on a primary & non-contributory basis on all lines of coverage listed above except Work Comp/Emp.Liab.
Waiver of subrogation is applicable on all lines of coverage as required by written contract and as allowed by law.

CERTIFICATE HOLDER

CANCELLATION

CITY OF LIBERTY 101 E. KANSAS P.O. BOX 159 LIBERTY, MO 64068	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.

23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner’s acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor’s plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor’s Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and

submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the

result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other

submittals, in electronic media or digital format, either directly, or through access to a secure Project website.

- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract

Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.

- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or

requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. abnormal weather conditions;
 - 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 - 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility

that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.

- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise;

(b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and

procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:

1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
2. is of such a nature as to require a change in the Drawings or Specifications; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.

C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.

D. *Possible Price and Times Adjustments:*

1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or

decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;

- c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.

2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection

with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition

created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until two years after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.

- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - 3. Broad form property damage coverage.
 - 4. Severability of interest.
 - 5. Underground, explosion, and collapse coverage.
 - 6. Personal injury coverage.
 - 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.

8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, “Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured” or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer’s liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor’s pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor’s operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor’s commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor’s professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.

4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available

under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will

provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of

payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.

- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.

- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;

- 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
- b. Contractor certifies that, if approved and incorporated into the Work:
- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:

- a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.

- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.

- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not

identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times

resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone

employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

- d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 - 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
 - 3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
- 1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 - 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 - 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
- 1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors,

members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.

- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 - 1. observations by Engineer;
 - 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. use or occupancy of the Work or any part thereof by Owner;
 - 5. any review and approval of a Shop Drawing or Sample submittal;
 - 6. the issuance of a notice of acceptability by Engineer;
 - 7. any inspection, test, or approval by others; or
 - 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to

perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by

Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.

- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to

an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.
 - 3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change

involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 - 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 - 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
 - 1. a mutually acceptable fixed fee; or
 - 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and

11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;

- d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
 - 1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.

2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process*: The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*:
1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction,

the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
 - g. The cost of utilities, fuel, and sanitary facilities at the Site.
 - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.

- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.
- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
 - 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
 - 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 - 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 - 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 - 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.
- E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.

- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.

1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the

Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction

imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor

may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer

(less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with

respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs,

losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the

Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of

them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 2 – PRELIMINARY MATTERS

SC-2.07 Add the following new paragraph immediately after Paragraph 2.06:

“Owner is a municipality and Owner and Contractor acknowledge and agree that this Agreement constitutes a “Public Works Contract” as defined in Section 34.058 R.S.Mo. Notwithstanding anything else herein to the contrary, Owner and Contractor agree that the provisions contained in this Contract are subject to and superseded by the provisions of Section 34.058 R.S.Mo. Owner and Contractor both agree to conform to the legal requirements set forth in Section 34.057 R.S.Mo., which requirements shall supersede any provisions herein to the contrary.”

ARTICLE 4 - COMMENCEMENT AND PROGRESS OF THE WORK

SC-4.05.C.2 Add the following language at the end of paragraph 4.05.C.2:

“Inclement weather is not considered as abnormal weather or an act of God. Extensions in Contract Time for abnormal weather shall be judged on the National Oceanic and Atmospheric Administration (NOAA) Local Climatological Data records for the area in which the project is being constructed. NOAA averages will be considered normal weather. Contractor shall be responsible for obtaining, preparing and presenting the appropriate weather data to support and substantiate Contractor’s request for an extension in Contract Time for abnormal weather.”

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.B:

A. The following reports of explorations and tests of subsurface conditions at or adjacent to the Site are known to Owner:

1. Not used.

SC 5.06 Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.

B. Not Used.

ARTICLE 6 – BONDS AND INSURANCE

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

1. Contractor may obtain worker’s compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the project is located, (b) is certified or authorized as a worker’s compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker’s compensation insurance for similar projects by the state within the last 12 months

SC 6.03 Add the following new paragraph immediately after Paragraph 6.03.J:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. **Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:**

State:	<u>Statutory</u>
Federal, if applicable (e.g., Longshoreman's):	<u>Statutory</u>

Employer's Liability:

Bodily injury, each accident	\$ <u>500,000</u>
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2. **Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:**

General Aggregate	\$ <u>2,000,000</u>
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Products - Completed Operations Aggregate	\$ <u>2,000,000</u>
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Personal and Advertising Injury With employment exclusion deleted	\$ <u>2,000,000</u>
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Each Occurrence (Bodily Injury and Property Damage)	\$ <u>2,000,000</u>
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3. **Automobile Liability under Paragraph 6.03.D. of the General Conditions:**

Combined Single Limit of	\$ <u>2,000,000</u>
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4. **Excess or Umbrella Liability:**

Per Occurrence	\$ <u>2,000,000</u>
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General Aggregate	\$ <u>2,000,000</u>
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5. **Contractor's Pollution Liability:**

Each Occurrence	\$ <u>Not Applicable</u>
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General Aggregate	\$ <u>Not Applicable</u>
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If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

6. **Additional Insureds: In addition to Owner and Engineer, include as additional insureds the following: None.**

7. **Contractor's Professional Liability:**

Each Claim	\$ <u>2,000,000</u>
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Annual Aggregate	\$ <u>2,000,000</u>
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ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

SC-7.01.C. Add the following new subparagraphs immediately after Paragraph 7.01.B:

The Contractor shall be responsible for the conduct of Contractor’s employees and the employees of Subcontractors and suppliers on the Work site. The Contractor shall take immediate steps to remedy any activity which may be construed as discriminatory or which creates a hostile Work environment. Activities covered by this provision include, but shall not be limited to, signs or language that is vulgar, profane, or racially or sexually derogatory.

SC-7.02.B. Add the following new subparagraphs immediately after Paragraph 7.02.B:

1. Regular working hours will be 7:00 AM to 5:00 PM
2. Owner's legal holidays are:
 - a) New Year’s Day
 - b) Martin Luther King Jr. Day
 - c) President’s Day
 - d) Memorial Day
 - e) Juneteenth
 - f) Independence Day
 - g) Labor Day
 - h) Veterans’ Day
 - i) Thanksgiving Day
 - j) Day after Thanksgiving
 - k) Christmas Day

SC-7.02.B. Append Paragraph 7.02.B to state “No Sunday work shall be allowed.”

SC 7.09 Add a new paragraph immediately after Paragraph 7.09.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Missouri and of cities and counties thereof on all materials to be incorporated into the Work.**
1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner’s exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.**

1. **General:** RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
2. **Schedules:** Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.
3. **Conferences and Meetings:** Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.
4. **Liaison:**
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. **Interpretation of Contract Documents:** Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. **Shop Drawings and Samples:**
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. **Modifications:** Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. **Review of Work and Rejection of Defective Work:**
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents,

or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.

9. Inspections, Tests, and System Start-ups:

- a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

10. Records:

- a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- c. Maintain records for use in preparing Project documentation.

11. Reports:

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.

12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. **Certificates, Operation and Maintenance Manuals:** During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
 14. **Completion:**
 - a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.
 - b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the work.
- C. The RPR shall not:
1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
 7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
 8. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC 13.01.B.5.c Delete Paragraph 13.01.B.5.c in its entirety and insert the following in its place:

- c. **Construction Equipment and Machinery:**
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly,

dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

- 2) Costs for equipment and machinery owned by Contractor will be paid at a rate shown for such equipment in the Rental Rate Blue Book, FHWA Hourly Rate. These computed rates will include all operating costs. Costs will include the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, shall cease to accrue when the use thereof is no longer necessary for the changed Work. Equipment or machinery with a value of less than \$1,000 will be considered small tools.

SC 13.03.E Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
 1. if the extended price of a particular item of Unit Price Work amounts to 15 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
 2. if there is no corresponding adjustment with respect to any other item of Work; and
 3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

ARTICLE 15 – PAYMENT TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC-15.01.C.1 Amend the first sentence of Paragraph 15.08.A by replacing the words “10 days” with the words “20 days”.

SC-15.08.A Amend the first sentence of Paragraph 15.08.A by replacing the words “one year” with the words “two years”.

SC-15.08.D Amend the first sentence of Paragraph 15.08.D by replacing the words “one year” with the words “two years”.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

SC-16.02.D Add the following new sub-paragraph immediately after Paragraph 16.02.D.

SC-16.02.D.1 Contractor shall be deemed to have persistently failed to perform the Work in accordance with the Contract Documents, if Contractor has twice not timely cured failures of performance by Contractor which have been brought to the attention of Contractor by written notices of the Owner within the time specified in

such notices and Owner gives a third notice to the Contractor of any such failure to perform.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

SC-17.02 Attorneys' Fees: For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

SPECIAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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SPC-1.01 SCOPE OF WORK

The work provided for in these specifications shall consist of furnishing all labor, materials, equipment and performing all work necessary to accomplish milling, conventional asphalt overlay, full depth asphalt pavement repair, manhole adjustments, pavement marking and special shoulder additions/repairs together with other incidental and related work as set forth in these specifications and the detail drawings and as directed by the Engineer to make a complete and finished job. More specifically the streets, are:

2023 STREET MAINTENANCE PAVEMENT RESTORATION PROJECT

Overlay Depth	Street	From	To
1.5"	Park Ln (1)	Barford Dr	Wellington Way
1.5"	Park Ln (2)	Barford Dr	Liberty Dr
1.5"	Park Cir	Park Ln	End
1.5"	Broadmore Ln (Cul De Sac)	Park Ln	End
1.5"	Liberty Dr Terrace	Liberty Dr	Park Ln
1.5"	Manchester Rd	Kings Hwy	Barford Rd
1.5"	Barford Rd	Manchester Rd	Liberty Dr
1.5"	N Church Rd	Camille St	Place Liberte
1.5"	Brooks Ct (1)	S Main St	Brooks Ct
1.5"	Brooks CT (2)	To	End
1.5"	S Main St	Pine St	Brooks Ct
1.5"	E Kansas St	N Lightburne St	S Jewell St
1.5"	S Jewell St	E Kansas St	E Mill St
1.5"	N Jewell St	E Mississippi St	E Kansas St
1.5"	N Ridge Ave	Woodridge Ln	Nashua
1.5"	S Water St	Rt 291	Manor Ln
1.5"	S Main St	Rt 291	Eastwood Ln
1.5"	Georgia Ln	S Missouri St	S Main St
1.5"	Eastwood Ln	S Main St	Missouri St
1.5"	Manor Ln	S Main St	Missouri St
1.5"	Main Ct (Cul De Sac)	S Main St	End

1.5"	Manor Ct (Cul De Sac)	Manor Ln	End
1.5"	Missouri St	Manor Ln	End
1.5"	Cherokee St	Liberty Dr	Cherokee Dr
1.5"	Shepherd Rd	W Heartland	Low Water Bridge
1.5"	Chandler Rd	B-Hwy	Rt. 69
1.5"	East Heartland Dr	Intersection of Shephard Rd	North of Inlets

Refer to Project Manual Exhibit B for a more detailed list of estimated quantities striping and special job site conditions.

SPC-2.01 Contract Special Conditions

The work shall conform to these special conditions and to the Liberty Technical Specifications as referenced herein. The Liberty Technical Specifications (Latest Edition) will govern as though it were repeated verbatim herein, except as modified or superseded by these special provisions

SPC-2.02 Asphalt Cement Price Index

This is the method of price adjustment for asphalt concrete materials (regardless of the type) used on the Project. Adjustments will be made to the unit prices used to determine payments due the Contractor for any asphalt concrete base or asphalt concrete surface when the monthly average price for the asphalt cement price has fluctuated from the price determined on the month the project was bid. Adjustment calculations are based on PG64-22, but will apply equally to all grades of asphaltic cement. The calendar month price shall be obtained as follows:

The midpoint of the published low and high prices taken from the "Asphalt Weekly Monitor"® Kansas City Area, published by Poten & Partners Inc. The weekly report which encompasses the 15th day of each month will be used to determine the Kansas City Area index Price.

The price adjustment will be applied to the percent of asphalt binder used in the mix design of the asphaltic concrete approved for the project. The method of determining the amount shall be based on the percentage of virgin asphalt contained in the approved design mix. The effective asphalt content obtained from the use of recycled asphaltic concrete pavement (RAP) will not be eligible for adjustment.

To determine the adjustment the following formula shall be used: $A = (B \times C) \times (D - E)$

Where A= Adjustment for mix placed during monthly average index period.

B= Tons of Mix placed during the monthly average index period.

C= % of virgin asphalt binder as listed in the job mix formula in use.

D= Monthly average price at time of mix placement.

E= Monthly average price listed in bid proposal.

The Engineer will make adjustment payments (or deductions) for the applicable work completed. If the contract time has expired payments (or deductions) will continue to be applied, but the adjustment will be based on the index for the month the contract expired.

SPC-3.01 Contractor Furnished Staking

- A. The Contractor shall furnish stakes, and surveys, and other materials as may be required for the proper staking and laying out of the work, and in making measurements and surveys and in establishing temporary or permanent reference marks in connection with said work.
- B. All survey and staking work performed under this contract shall be done to the lines, grades and elevations shown on the plans and shall be subsidiary to the contract. No direct payment for this work will be made to the Contractor.
- C. Any work done without being properly located and established by base lines, offset stakes, bench marks, or other basic reference points may be ordered removed and replaced at the Contractor's cost and expense.
- D. The Contractor shall be responsible for all monuments, property corners, bench marks, reference points and stakes, and in case of willful or careless destruction of same, will be charged with the resulting expense of replacement, and he/she shall be responsible for any mistakes or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the loss of stakes causes a delay in the work, the Contractor shall have no claim for damages or extensions of time. In the case of any permanent monuments, property corners, or bench marks that have been moved or destroyed, the Contractor will be charged with the resulting expense of replacement.

SPC-4.01 Traffic Control and Routing

All costs for traffic control shall be considered incidental to the work and no direct payment shall be allowed.

- A. Construction operations shall be coordinated to result in the least practicable delay to traffic. Traffic shall be carried through construction with a minimum of one lane open in each direction at all times. Access to adjoining businesses and residences will be maintained at all times.
- B. The Contractor shall furnish adequate signs, barricades, warning lights, and all other equipment necessary to direct and reroute traffic and shall furnish all flagmen and other personnel necessary to provide the required traffic control. All signs and barricades used on the project shall conform to the latest edition of the Manual on Uniform Traffic Control Devices pertaining to traffic controls for street and highway construction.
- C. When construction requires machinery or men to be in an intersection or roadway, barricades shall be placed and a flagman shall control the intersection or roadway traffic as indicated in the typical traffic control detail for intersection or roadway construction. Barricades shall be moved back out of the intersection or roadway as shown in the same detail after the construction operation is complete.
- D. Barricades and/or signs shall not be removed from a resurfaced or patched street until said street's temperature has cooled such that marks will not occur in the street surface once it is opened to traffic. Such determination will be made by the Engineer or his representative in the field.
- E. The Project Inspector and Contractor's representative on this project will make inspections of the traffic control devices installed as part of this contract and maintain record of any maintenance required and the date on which it was completed. These records will be maintained for the duration of the project and be incorporated as part of the final records.
- F. The Contractor will be required at the time of the preconstruction conference to provide a schedule regarding the proposed location, length and approximate timing of traffic lane closures for construction activities and to designate a specific employee to be responsible for the maintenance of the traffic control devices and establish a method of contacting this person during both working and non-working hours. This information will be provided to the City Engineer.

- G. The Contractor shall be responsible for contacting the City Engineer, local police, fire, ambulance and other emergency services of the proposed closures a minimum of 48 hours prior to commencing such closure.
- H. The City of Liberty, Missouri reserves the right to make adjustments or revisions in traffic handling requirements which may become necessary after construction on the project has started. These changes will be determined on the basis of periodic inspections throughout the duration of the project. Notice of such change will be transmitted to the Contractor and it will be his responsibility to make the necessary changes as soon as practicable after receipt of the notification.

SPC-5.01 Fees for Construction Permits

The City agrees to waive all fees for construction permits associated with the work to be done under this contract. Fees for occupation license, as required by the City, will be the responsibility of the Contractor and subcontractors to secure prior to the start of work and shall be subsidiary to the Contract.

SPC-6.01 Restoration of Yards

There shall be no direct payment made for the restoration of yards disrupted in conjunction with this project (unless otherwise specified in these Special Conditions). The Contractor shall contain all construction activities to within the public right-of-way and easement lines. All yards damaged beyond the construction limits shall be restored to at least equal to current condition as approved by the Engineer. Such work shall include grading, preparation of topsoil, and placement of seed, fertilizer, and mulch to repair lawn damaged by the Contractor's construction operations. No direct payment will be made to the Contractor for restoration of yards beyond the limits of the work as shown on the plans except as otherwise approved by the Engineer. Restoration shall occur within fourteen (14) **week** days of disruption.

SPC-7.01 Asphalt Pavement – Material and Placement Requirements

- A. Asphalt surface materials and placement shall be based upon **Type 5-01** in accordance with KC Metro Chapter APWA Section 2205 Asphaltic Concrete Surface and Base. However, balanced mix design principles shall be used to design a performance test-based crack resistant and rut resistant asphalt mix that meets flexibility index (FI) and rut resistance (HWT) criteria detailed in SPC-18.01.3 and SPC-18-01.4.
- B. The Contractor shall provide a smooth transition from the resurfaced roadway section to the existing pavement at intersections and driveways as directed by the Engineer or his representative in the field.
- C. Conventional Paving: The bituminous paver shall be equipped with automatic screed controls as set forth in the above referenced Liberty Technical Specifications. Reference grade shall be established by the Contractor at his expense in connection with construction staking.
- D. **Low-Tracking or Non-Tracking Tack Coat:** A Low-Tracking or Non-Tracking Tack Coat shall be used in the preparing and treating of existing bituminous or concrete surface prior to an asphalt overlay.
 - a. Requirements: Products accepted for use as low-tracking or non-tracking tack shall not stick to the tires, tracks or other parts of paving equipment or vehicles such that the surface to be overlaid becomes visible or void of tack prior to the placement of the asphaltic concrete pavement mixture. The tack material shall exhibit a low-tracking or non-tracking characteristic within 30 minutes of being applied to the roadway. Products accepted for use shall exhibit a laboratory "no-pick-up" time of 60 minutes or less. The product shall bond the two pavements. Products accepted for use shall exhibit a laboratory bond strength greater than or equivalent to a standard SS-1h tack material.

The test method used may be any AASHTO, ASTM method or other approved research test methods.

- b. Equipment and Construction Requirements: All equipment and construction requirements shall be in accordance with the product manufacturer. A copy of this information shall be provided to the Owner.
- c. Storage and Handling: All storage and handling requirements shall be in accordance with the product manufacturer. A copy of this information shall be provided to the Owner.
- d. Distributor: All Distributor requirements shall be in accordance with the product manufacturer. A copy of this information shall be provided to the Owner. If the particle charge of the low-tracking or non-tracking tack is different from the particle charge of the emulsion that was previously used then the tank shall be thoroughly cleaned prior to use, since some products are not compatible.
- e. Curing: In lieu of product manufacturer specified cure times the low-tracking or non-tracking tack shall be allowed 15-30 minutes to cure prior to any construction traffic driving on the tacked surface. A minimum 15 minutes of cure time shall be allowed prior to driving on the tacked surface, unless less cure time is successfully demonstrated and approved by the Owner.
- f. Supplier Information: the low-tracking or non-tracking tack materials are a different type of product compared to conventional tack. There may be multiple products that can meet the low-tracking or non-tracking tack requirements. All products that achieve equivalent field performance will be allowed.
- g. Material Requirements: All material shall be in accordance with the below material specifications. Contractor shall supply to Owner testing data verifying that Tack meets the below listed properties.

Emulsion Properties for Low-Tracking or Non-Tracking Tack Coat			
Parameter	Test Method	Min	Max
Viscosity, Saybolt Furol @ 25°C (77°F), s	AASHTO T 59 or ASTM D88	10	100
Storage Stability Test, 24 hr, %	AASHTO T 59 or ASTM D244	----	1.0
Sieve Test, percent	AASHTO T 59 or ASTM D244	----	0.30
Residue by Distillation, %	AASHTO T 59 or ASTM D244	50	----
Oil Distillate by Distillation, %	AASHTO T 59 or ASTM D244	----	1
Test on Residue from Distillation			
Parameter	Test Method	Min	Max
Penetration 25°C (77°F), 100g, 5 s	ASTM D5	----	90
Solubility in Trichloroethylene, %	AASHTO T 44 or ASTM D2042	97.5	----

- h. Method of Payment: Tack is a subsidiary of the Asphalt line item and no additional payment for Tack shall be made.

SPC-8.01 Surface Structures Affected by Construction

All pavement, surfaces, driveways, curbs, walks, buildings, traffic signs, utility poles, guy wires and other surface structures affected by construction operations in connection with the performance of the contract, together with all sod and shrubs in yards, parks and parking, shall be maintained and if removed or otherwise damaged, shall be restored to the original condition thereof, as determined and approved by the Engineer. All replacement of such surface structures or parts thereof shall be made with new materials conforming to the requirements of these specifications or, if not specified, as approved by the Engineer, at the Contractor's own cost and expense, unless otherwise provided by the contract.

SPC-9.01 Safety of the Public

The Contractor shall provide temporary walks, fencing, barricades and other protective measures as necessary to insure the safety of the public traversing the construction site. Equipment storage areas and material stockpiles shall be located on sites provided by the Contractor with due regard to location, appearance, and hazard potential to the traveling public. All work necessary shall be subsidiary to the contract and no direct payment will be made to the Contractor.

- A. Public Notification: The Contractor shall place door hangar notifications on all residences and businesses adjacent to work at least 48 hours prior to start of intended work at said locations. Pre-printed door hangar notifications shall be supplied by the City of Liberty, but placed by the Contractor.
- B. Emergency Services Notification: The Contractor shall coordinate construction activities with the City project inspector so they may notify City emergency dispatch, City public relations, postal service, school district, trash collection, etc. as necessary.

SPC-10.01 Dimensions and Elevations

It is the intent of this project to match existing dimensions and elevations unless otherwise notified. The Contractor shall verify all dimensions and elevations. Any discrepancy between the dimensions and elevations shown on the plans and those found by the Contractor shall be supplied to the Engineer for approval prior to construction.

SPC-11.01 Pavement Markings

This work shall consist of the installation of the pavement markings to replace the current marking pattern. The Contractor shall be required to inventory the existing pavement markings prior to milling operations for use in layout of re-stripping following paving operations. Pavement marking inventory work shall be incidental to the pavement marking pay items. The pavement markings shall be thermoplastic type pavement markings in accordance with the City of Liberty Technical Specifications. All pavement marking symbols shall conform to the (MUTCD) and be thermoplastic. This work shall include all labor, materials and equipment necessary to complete the work. Removal of existing pavement markings when necessary shall be ground off; blacking-out existing markings with paint or other surface treatments other than grinding will not be acceptable.

New crosswalks shall be two parallel 6" wide solid white lines spaced a minimum of 6 feet apart.

SPC-12.01 Cold Milling

All curb and gutter streets shall be edge milled. However, streets or portions thereof shall be full width milled if the existing pavement crown cross slope is 3% or greater, or full width milling is required to achieve positive drainage (i.e. intersections, correction of "bird-baths," etc.).

1. Edge milling shall be 1 ½" in depth at curb side and ½" at opposite edge of the milling cylinder. The balance of the street surface shall be textured milled.
2. Full width milling shall be 1 ½" in depth at edge or curb side of the street and extend full width across the street providing a smooth surface.
3. Bridge deck and approach surfaces shall not be milled.
4. Joints shall be milled on all streets (curbed and non-curbed) where new paving matches existing pavements, curbs, ramps, and drive approaches.
5. Full depth milling shall be the full depth of the existing pavement up to a maximum of 8" depth as located in the field and incidental to the Full Depth Repair pay item.
6. Structures in the street such as manholes, water valves, survey monument boxes, utility vaults, etc. shall be adjusted to match finished asphalt surface grade. Structures may be milled around on all streets, or riser rings may be used for manholes and water valves which shall be furnished and installed by the Contractor with the cost incidental to the milling and/or paving pay items. Grade adjustments to all other structures (utility vaults, survey monument boxes, etc.) shall be done as necessary to meet finished asphalt surface grade by milling, riser rings, or other means by the Contractor with the cost incidental to the milling and/or paving pay items.
7. Millings shall be disposed of by the Contractor. Collection and removal of Millings shall be considered incidental to the Cold Milling contract line item and no additional payment shall be made.

SPC-14.01 Full Depth Pavement Repair

- A. Full Depth Pavement Repair: Shall be used as needed and marked in the field by the Owner's Representative. The patch shall be a minimum of 6' wide as measured perpendicular to the longitudinal length of the road. Removal of failed asphalt pavement (by milling or other means) and replacement with new asphalt pavement shall be up to 8" depth from milled surface elevation. Asphalt material placed in the patch shall be incidental to this item.
 - (1) Areas with significant mud pumping shall be undercut by milling or excavator up to 8" below the milled surface elevation and replaced with 3" minus crusher run or asphalt hot mix.
 - (2) If deeper undercutting is required, additional compensation shall be paid proportionally as additional full depth pavement repair area. For example, if 100 SY of area is undercut 16", payment will be 200 SY of Full Depth Asphalt Pavement Repair (8").

SPC-15.01 Balanced Asphalt Mix Design and Testing

Asphalt surface materials shall be based upon **Type 5-01** in accordance with KC Metro Chapter APWA Section 2205 Asphaltic Concrete Surface and Base. However, balanced mix design principles shall be used to design an economical, crack resistant, and rut resistant asphalt mix that meets performance test based flexibility index (FI) and rut resistance (HWT) criteria detailed in SPC-18.01.3 and SPC-18-01.4.

Acceptable test results meeting the FI and HWT shall be submitted with the mix design for approval. Acceptable Performance Grade binders shall be PG 64-22 or PG 64-28, or other as approved by the City Engineer.

Quality Control (QC) testing performed by the contractor is incidental to the asphalt paving pay items. Quality Assurance (QA) testing furnished and paid for by the City shall be performed at the discretion of the City Engineer and coordinated with the contractor. A favorable comparison will be achieved if the results for QA and QC are within 30%.

1. **Performance Testing:** Quality Control (QC) testing for Flexibility Index (FI) and Hamburg Wheel Track (HWT) Testing will be required by the contractor on the first full day of production for mainline pavement. Testing will not be required for days with less than 200 tons of production. Random testing location will be determined by the engineer.
2. **Mix Sampling and Preparation:** Loose mix may be sampled from the roadway or the plant, in accordance with AASHTO R 97. No conditioning will be performed on the plant mixed samples. Lab mixed samples for mix design submittal shall be short term conditioned in accordance with AASHTO R30 prior to splitting. All loose mix material shall be allowed to cool to room temperature and then reheated to compaction temperature for splitting to the appropriate size in accordance with R47. Samples shall then be heated to the compaction temperature +/- 3 C prior to molding. The specimens shall be compacted to 7.0 +/- 0.5% air voids.
3. **Flexibility Index Testing:** The Flexibility Index (FI) testing will be completed in accordance with I-FIT (Illinois Flexibility Index Test) Procedure 405 dated 01/01/2016 available at https://www.modot.org/sites/default/files/documents/Illinois_Flexibility_Index_Test.pdf. In lieu of the FI, the Ideal CT criteria may be substituted using the limits shown below. The Ideal Cracking Test (CT) criteria may be substituted using the limits shown below. The Ideal CT shall be completed in accordance with ASTM D8225 and at a test temperature of 25 C when used.

FLEXIBILITY INDEX	Ideal CT	PASS / FAIL
NMAS* < 190	NMAS* < 190	
< 2.0	< 32	FAILED
> 2.0	> 32	PASSED

**NMAS = Nominal Maximum Aggregate Size*

4. **Hamburg Wheel Track:** Hamburg Wheel Track testing will be completed in accordance with AASHTO T324 at test temperature of 50 C and 62 mm specimen height.

PG Grade	Minimum Wheel Passes	Maximum Rut Depth
64-22	10,000	12.5 mm
64-28	10,000	12.5 mm

5. **Design Gyration:** The number (N) of gyrations required for gyratory compaction shall be in accordance with KC Metro APWA Type 5-01.
6. **VFA Requirements:** Voids Filled with Asphalt (VFA) shall be omitted provided that the Hamburg Wheel Tracking Requirements are satisfied and the Flexibility Index is above 2.
7. **Removal Limits:** If corrective action is necessary as a result of failed QA/QC testing, cost of testing and necessary corrective action will be borne by the Contractor. Failure results of IF or HWT tests will result in immediate shutdown of operations and removal of materials placed that day at the contractor's expense. Operations may resume when the contractor is confident that production and placement will meet the performance requirements. Testing (QC and QA) will be required following resuming of operations and shall be at the cost of the contractor.

SPC-16.01 Measurement and Payment

A. General:

1. It is the intention of this section of the specifications to set forth the method of measurement and payment for that part of the work on the contract documents that will be directly paid for at the price bid per unit of measure.
2. All the work to be performed under this contract will be paid for at the lump sum or unit prices stated in the proposal of the accepted bidder. Unit price payments will be based upon the measurement of installed items. Unit prices and lump sums shall constitute full compensation for all labor, materials, tools, equipment and incidentals required to complete the work, as described in accordance with the contract documents. Any material, equipment or operation not specifically mentioned, however, required for proper completion of the work shall be considered to be incidental to the unit price item to which it pertains.
3. Quantities listed in the bid are not guaranteed and are indicated only for convenience in comparing bids. Payment will be made for actual quantities constructed or installed, be they more or less than those listed unless otherwise indicated; said quantities being measured and determined as follows:

B. Asphaltic Concrete (conventional paving overlays):

1. Asphaltic Concrete (All types) shall be measured by the tons of material placed. Measurement shall be computed from the ticketed quantities for materials placed and accepted.
2. Payment will be made at the contract unit prices bid as shown in the proposal for Asphaltic Concrete Surface (All Types). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.
3. Paving tack is subsidiary to the asphalt item.

C. Cold Milling:

1. Cold milling shall be measured by the square yard of cold milling completed as indicated on the plans and shall include all sweeping, collecting and disposal of millings and related work.
2. Payment will be made at the contract unit price bid as shown in the proposal for cold milling. Payment shall be full compensation for all labor, materials, equipment and incidentals necessary to complete the work.

D. Thermoplastic Striping and Permanent Marking:

1. Thermoplastic longitudinal and skip striping shall be measured by the linear feet of pavement marking placed.
 - a. Skips shall be 4" wide and 12' long with 30 foot gap spacing.
 - b. Double yellow shall be 4" wide with 4" gap between longitudinal lines. Double yellow shall be measured by linear foot of pavement marking placed; for example, 1000 linear feet of roadway striped with double yellow would be measured and paid as 2000 linear feet of double yellow striping.
2. Arrows and Words shall be thermoplastic and counted as each.
3. Stop Bars shall be measured by the linear feet of 24" striping.
4. Crosswalks shall be two parallel 6" white stripes transversely placed across the street a minimum of 6' apart and measured by the linear feet of 6" striping.

5. Railroad Crossing symbols shall be thermoplastic and counted as each. Symbols shall include all words, symbols, and lines necessary to comply with MUTCD standards.
 6. Contractor will be responsible for inventory of the existing pavement markings prior to milling operations. Inventory work shall be incidental to the pavement marking pay items.
 7. Payment will be made at the Contract unit price bid as shown in the proposal for each type of striping installed and accepted, which prices shall be full compensation for all labor, materials, equipment and incidentals necessary to complete the striping operation.
- E. Traffic Control:
1. Traffic control for all project construction shall be subsidiary to other items of work and no additional compensation allowed.
- F. Full Depth Asphalt Pavement Repair (Overlay Streets - Spot Locations):
1. Full depth pavement repair shall be measured by the square yard of material placed up to 8" depth below milled surface elevation. Deeper patches may be paid at a price proportional to the 8" depth unit price. Measurement shall be to the nearest square yard prior to the placement of final asphalt.
 2. Payment will be made at the contract unit prices bid as shown in the proposal for Full Depth Pavement Repair (spot locations). Payment shall be full compensation for all labor, equipment, materials, and incidentals necessary to complete the work.

TECHNICAL SPECIFICATIONS

ARTICLE 1 – TECHNICAL SPECIFICATIONS

- 1.01 The specifications that shall govern the materials furnished and work performed in the construction of the project covered by this contract shall be the latest revision of Technical Specifications for Public Improvement Projects, City of Liberty, Missouri as though fully set forth herein.
- 1.02 No attempt has been made in the above designated specifications to segregate work to be performed by any trade, contract or proposal item under any one specification section. Any segregation between trade or craft jurisdiction limits and the establishment of subcontract limits will be solely a matter of agreement between the Contractor and his employees and his subcontractors. The specifications will govern the construction of the entire work and the provisions thereof will govern each item of the work to which such provisions apply.
- 1.03 The aforementioned Technical Specifications are available online at:
<https://www.libertymissouri.gov/208/Design-Criteria-Technical-Specifications>. Questions concerning specifications may be directed to the City Engineer's Office, Third Floor, Liberty City Hall, 101 E. Kansas, Liberty, Missouri, 816-439-4500.

ARTICLE 2 – JOB SPECIFIC TECHNICAL SPECIFICATIONS

- 2.01 Job specific technical specifications shall take precedent over the Technical Specifications for Public Improvement Projects, City of Liberty, Missouri only in the subject matter presented in the job specific technical specifications.
- 2.02 If no job specific technical specifications are listed in the project manual the Technical Specifications for Public Improvement Projects, City of Liberty, Missouri shall govern all work proposed.



MISSOURI PROJECT EXEMPTION CERTIFICATE

AUTHORIZATION FOR PURCHASING CONSTRUCTION MATERIALS FOR TAX EXEMPT PROJECT

DATE: 02-06-2023

CONTRACTOR: Superior Bowen Asphalt Company, LLC

ADDRESS: 520 W. Penway St. Suite 300

CITY/STATE/ZIP: Kansas City, Mo 64108

NAME OF PERSON TO CONTACT AND PHONE #, IF QUESTIONS: John Findlay, City Engineer - 816.439.4507

PROJECT # ASSIGNED: 23-003

PROJECT DESCRIPTION: 2023 Street Maintenance Pavement Restoration

PROJECT LOCATION: City of Liberty, Missouri - Various locations throughout City

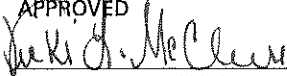
DATE OF CONTRACT: 02-28-2023 DATE PROJECT TO BEGIN: 2/28/2023

ESTIMATED PROJECT COMPLETION DATE: 9/29/2023 REVISED COMPLETION DATE: _____

THIS CERTIFICATE EXPIRES ON THE COMPLETION DATE STATED ABOVE

The Missouri exempt entity named above hereby authorizes the purchase, without sales tax, of tangible personal property to be incorporated or consumed in the construction of the project identified herein and no other, pursuant to Section 144.062 RSMo.

ATTACHED IS THE STATE OF MISSOURI EXEMPTION FROM MISSOURI SALES AND USE TAX ON PURCHASES

APPROVED

DIRECTOR OF FINANCE

2-8-23
DATE

APPROVED

CITY ENGINEER

John Findlay, P.E.
2023.02.07 15:52:42-06'00'

DATE

INSTRUCTIONS

EXEMPT ENTITY-A signed copy of this certificate, along with your MO Tax Exemption Letter, must be furnished to each contractor and/or subcontractor who will be purchasing tangible personal property for use in the project. It is the exempt entity's responsibility to ensure the validity of the certificate. You must issue a certificate with a Revised Expiration Date if purchases will be required to complete the project beyond the original Project Exemption Certificate Expiration Date.

CONTRACTOR/SUBCONTRACTOR- The contractor shall furnish a completed copy of this exemption certificate, along with a copy of the exempt entity's MO Tax Exemption Letter, to all subcontractors, and any contractor or subcontractor purchasing materials shall present copies of such documents to all material suppliers as authorization to purchase on behalf of the exempt entity, all tangible personal property to be incorporated or consumed in the construction of that project and no other on a tax exempt basis. **A COPY OF EACH CERTIFICATE MUST BE RETAINED BY THE PURCHASER FOR A PERIOD OF FIVE YEARS.**

MATERIAL SUPPLIER-A completed copy of this exemption certificate along with the MO Tax Exemption Letter of the exempt entity contracting for the project, must be obtained from the contractor or subcontractor making purchases of tangible personal property for use in the project, and retained for audit purposes. Invoices issued for such purchases must reflect the name of the exempt entity and the project number assigned by the exempt entity shown above.

State of Missouri

EXEMPTION FROM MISSOURI SALES AND USE TAX ON PURCHASES

Issued to:

CITY OF LIBERTY
101 E KANSAS ST
LIBERTY MO 64068

Missouri Tax ID
Number: 12490938

Effective Date:
07/11/2002

Your application for sales/use tax exempt status has been approved pursuant to section 144.030.1, RSMo. This letter is issued as documentation of your exempt status.

Purchases by your Agency are not subject to sales or use tax if within the conduct of your Agency's exempt functions and activities. When purchasing with this exemption, furnish all sellers or vendors a copy of this letter. This exemption may not be used by individuals making personal purchases.

A contractor may purchase and pay for construction materials exempt from sales tax when fulfilling a contract with your Agency only if your Agency issues a project exemption certificate and the contractor makes purchases in compliance with the provisions of section 144.062, RSMo.

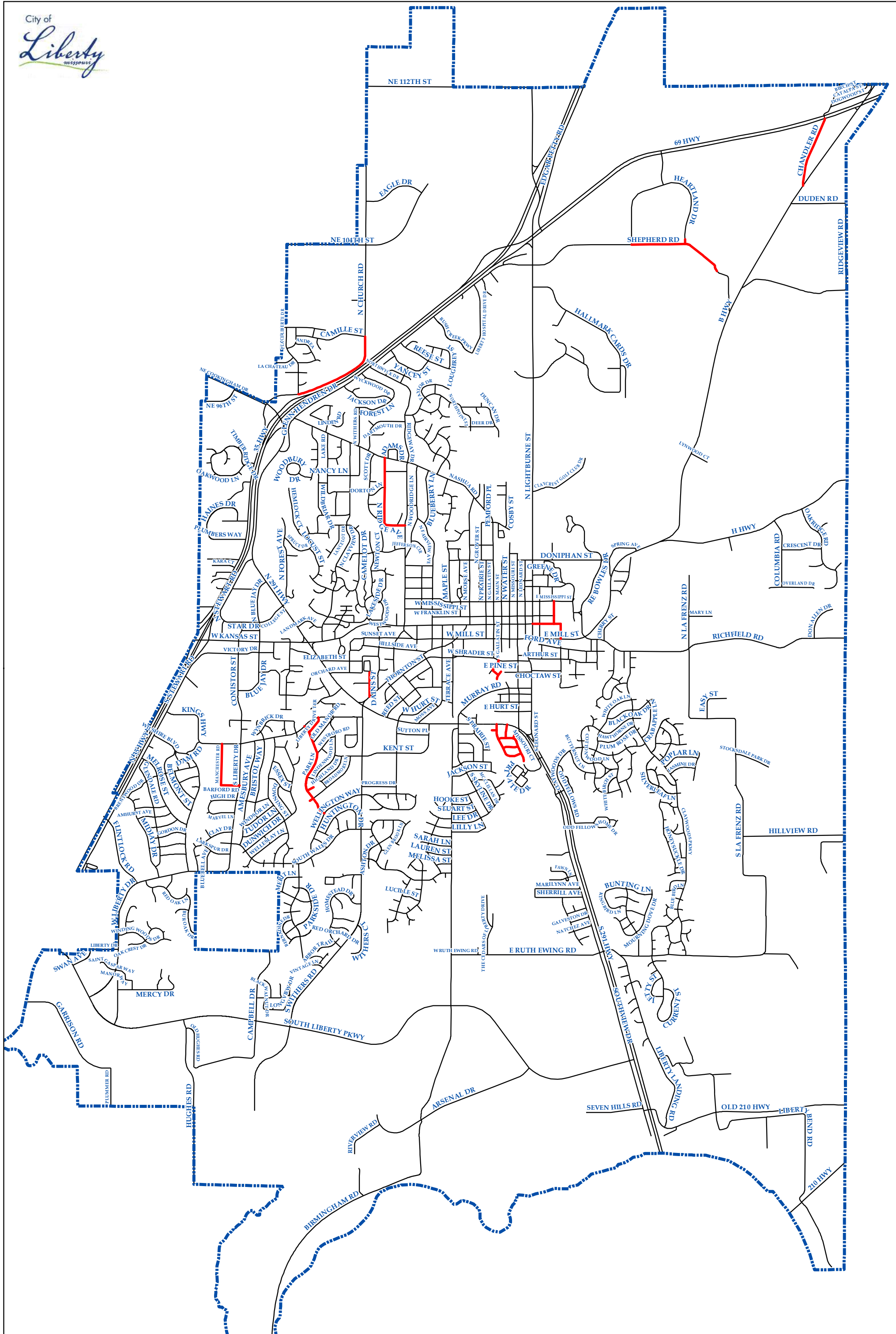
Sales by your Agency are subject to all applicable state and local sales taxes. If you engage in the business of selling tangible personal property or taxable services at retail, you must obtain a Missouri Retail Sales Tax License and collect and remit sales tax.

This is a continuing exemption subject to legislative changes and review by the Director of Revenue. If your Agency ceases to qualify as an exempt entity, this exemption will cease to be valid. This exemption is not assignable or transferable. It is an exemption from sales and use taxes only and is not an exemption from real or personal property tax.

Any alteration to this exemption letter renders it invalid.

If you have any questions regarding the use of this letter, please contact the Division of Taxation and Collection, P.O. Box 3300, Jefferson City, MO 65105-3300, phone 573-751-2836.

EXHIBIT A



2023 Proposed Pavement Maintenance

— Proposed 2023 Overlay  City of Liberty



EXHIBIT B

Summary of Estimated Quantities for City of Liberty Project 23-003															
Street	From	To	Road Area (sqyd)	Overlay Depth (in)	Full Depth (Assumed 0.2%) (SY)	6” Solid White Parallel Cross Walk (LF)	24" Stop Bar (LF)	Turn Arrow (EA)	4" Skips Yellow (LF)	4" Solid Double Yellow (LF)	4" Skips White (LF)	6" Solid Edge Line White (LF)	4" Solid Lane Line White (LF)	Rail Road Crossing (LF)	Asphalt Tonnage per Street (tons)
Park Ln (1)	Barford Dr	Wellington Way	3,970.00	1.50	8.00	48.00	24.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	386.00
Park Ln (2)	Barford Dr	Liberty Dr	5,425.00	1.50	11.00	106.00	22.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	527.00
Park Cir	Park Ln	End	930.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	91.00
Broadmore Ln (Cul De Sac)	Park Ln	End	670.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	66.00
Liberty Dr Terrace	Liberty Dr	Park Ln	1,448.00	1.50	3.00	96.00	22.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	141.00
Manchester Rd	Kings Hwy	Barford Rd	2,694.00	1.50	6.00	0.00	22.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	262.00
Barford Rd	Manchester Rd	Liberty Dr	1,314.00	1.50	3.00	92.00	10.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	128.00
N Church Rd	Camille St	Place Liberte	16,184.00	1.50	33.00	0.00	0.00	9.00	0.00	9,992.00	1,208.00	6,367.00	1,211.00	0.00	1,572.00
Brooks Ct (1)	S Main St	Brooks Ct	638.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	62.00
Brooks CT (2)	To	End	1,214.00	1.50	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	118.00
S Main St	Pine St	Brooks Ct	666.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	65.00
E Kansas St	N Lightburne St	S Jewell St	2,751.00	1.50	6.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	268.00
S Jewell St	E Kansas St	E Mill St	1,312.00	1.50	3.00	42.00	21.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	128.00
N Jewell St	E Mississippi St	E Kansas St	2,164.00	1.50	5.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	211.00
N Ridge Ave	Woodridge Ln	Nashua	6,289.00	1.50	13.00	60.00	16.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	611.00
S Water St	Rt 291	Manor Ln	1,112.00	1.50	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	109.00
S Main St	Rt 291	Eastwood Ln	2,882.00	1.50	6.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	280.00
Georgia Ln	S Missouri St	S Main St	1,248.00	1.50	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	122.00
Eastwood Ln	S Main St	Missouri St	1,009.00	1.50	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	98.00
Manor Ln	S Main St	Missouri St	1,247.00	1.50	3.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	122.00
Main Ct (Cul De Sac)	S Main St	End	753.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	74.00
Manor Ct (Cul De Sac)	Manor Ln	End	782.00	1.50	2.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	76.00
Missouri St	Manor Ln	End	2,203.00	1.50	5.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	214.00
Cherokee St	Liberty Dr	Cherokee Dr	3,412.00	1.50	7.00	0.00	0.00	0.00	0.00	71.00	0.00	0.00	0.00	0.00	332.00
Shepherd Rd	W Heartland	Low Water Bridge	10,801.00		22.00	0.00	0.00	1.00	0.00	1,971.00	0.00	2,775.00	75.00	2.00	1,050.00
Chandler	B-Hwy	Rt 69	4,033.00	1.50	9.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	392.00
E Heartland Dr	Intersection of Shephard Rd	North of Inlets	460.00	1.50	1.00	0.00	0.00	0.00	86.00	0.00	0.00	0.00	0.00	0.00	58.00
			77,611.00	-	168.00	444.00	137.00	10.00	86.00	12,034.00	1,208.00	9,142.00	1,286.00	2.00	7,563.00

Park Ln (1)

From: Barford Dr
To: Wellington Way

Legend

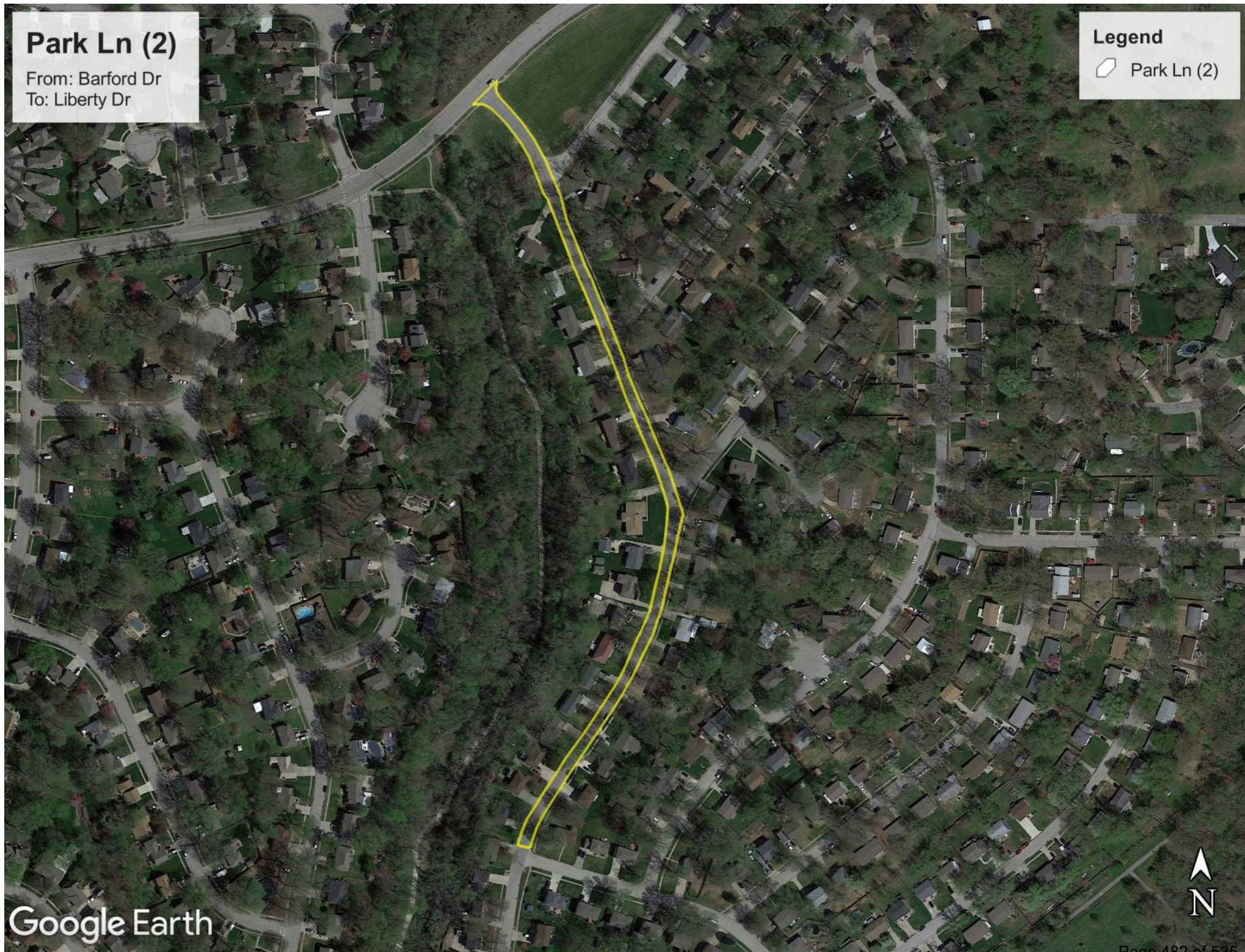
 Park Ln (1)

Park Ln (2)

From: Barford Dr
To: Liberty Dr

Legend

 Park Ln (2)



Park Cir

From: Park Ln
To: End

Legend

 Park Cir



Broadmore Ln (Cul De Sac)

From: Park Ln
To: End

Legend

 Broadmore Ln (Cul De Sac)



Liberty Dr Terrace

From: Liberty Dr
To: Park Ln

Legend

 Liberty Dr Terrace



Manchester Rd

From: Kings Hwy
To: Barford Rd

Legend

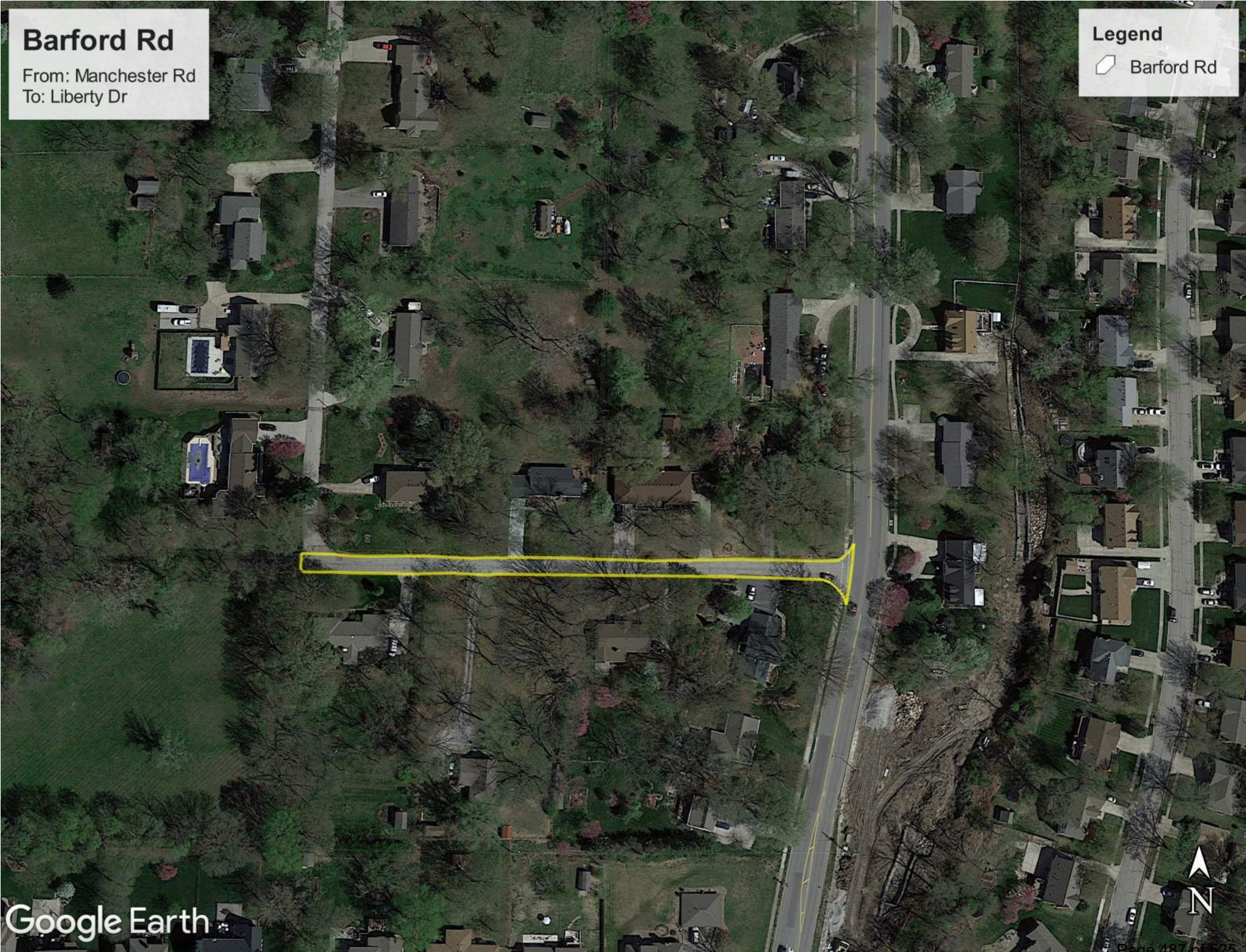
 Manchester Rd

Barford Rd

From: Manchester Rd
To: Liberty Dr

Legend

 Barford Rd



N Church Rd

From: Camille St
To: Place Liberte

Legend

 N Church Rd



Google Earth

Brooks Ct (1)

From: S Main St
To: Brooks Ct

Legend

 Brooks Ct (1)



Brooks Ct (2)

From: Start
To: End

Legend

 Brooks Ct (2)

Google Earth



S Main St

From: Pine St
To: Brooks Ct

Legend

 S Main St

Google Earth



E Kansas St

From: N Lightburne St
To: S Jewell St

Legend

 E Kansas St

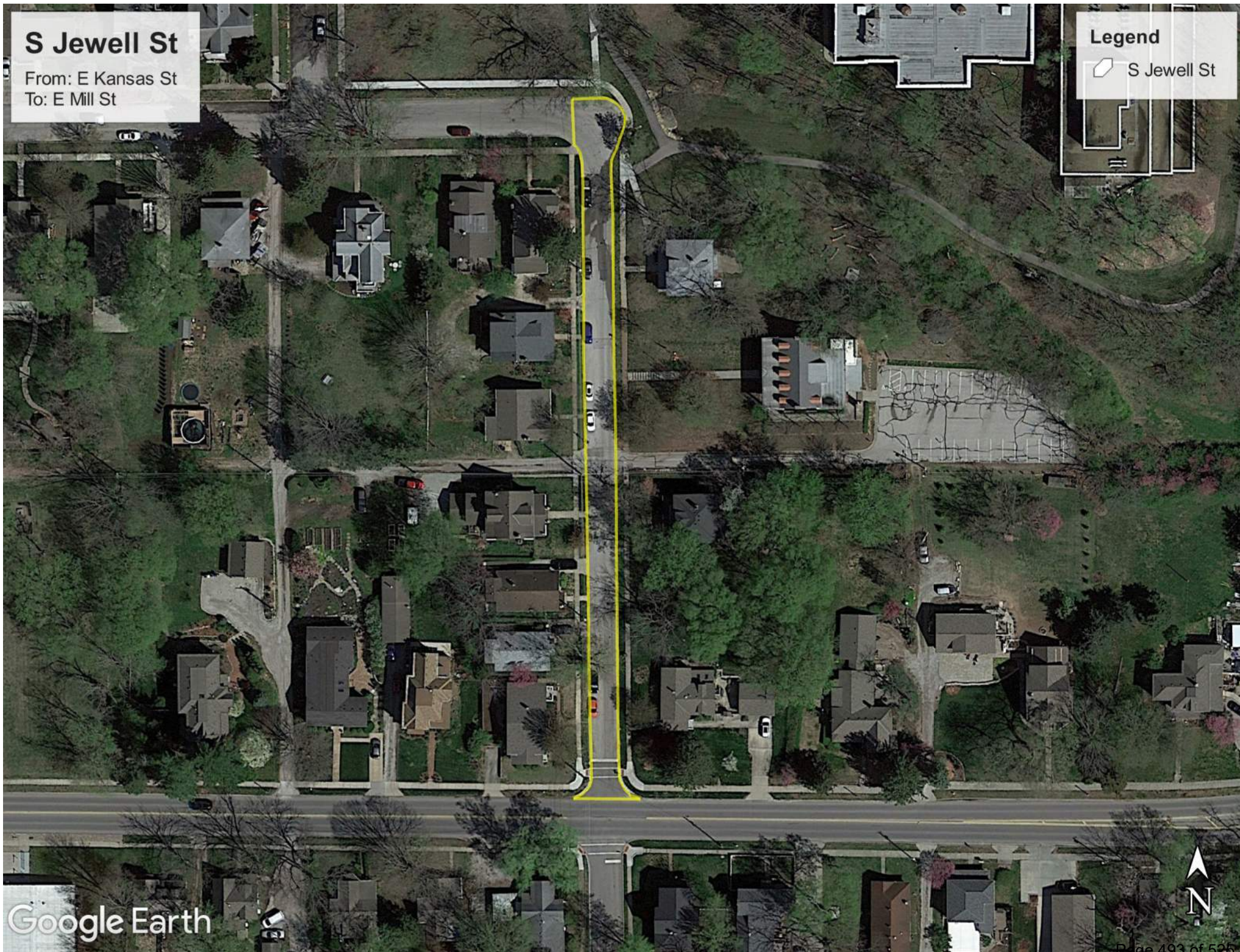


S Jewell St

From: E Kansas St
To: E Mill St

Legend

S Jewell St



N Jewell St

From: E Mississippi St
To: E Kansas St

Legend

 N Jewell St



N Ridge Ave

From: Woodridge Ln
To: Nashua

Legend

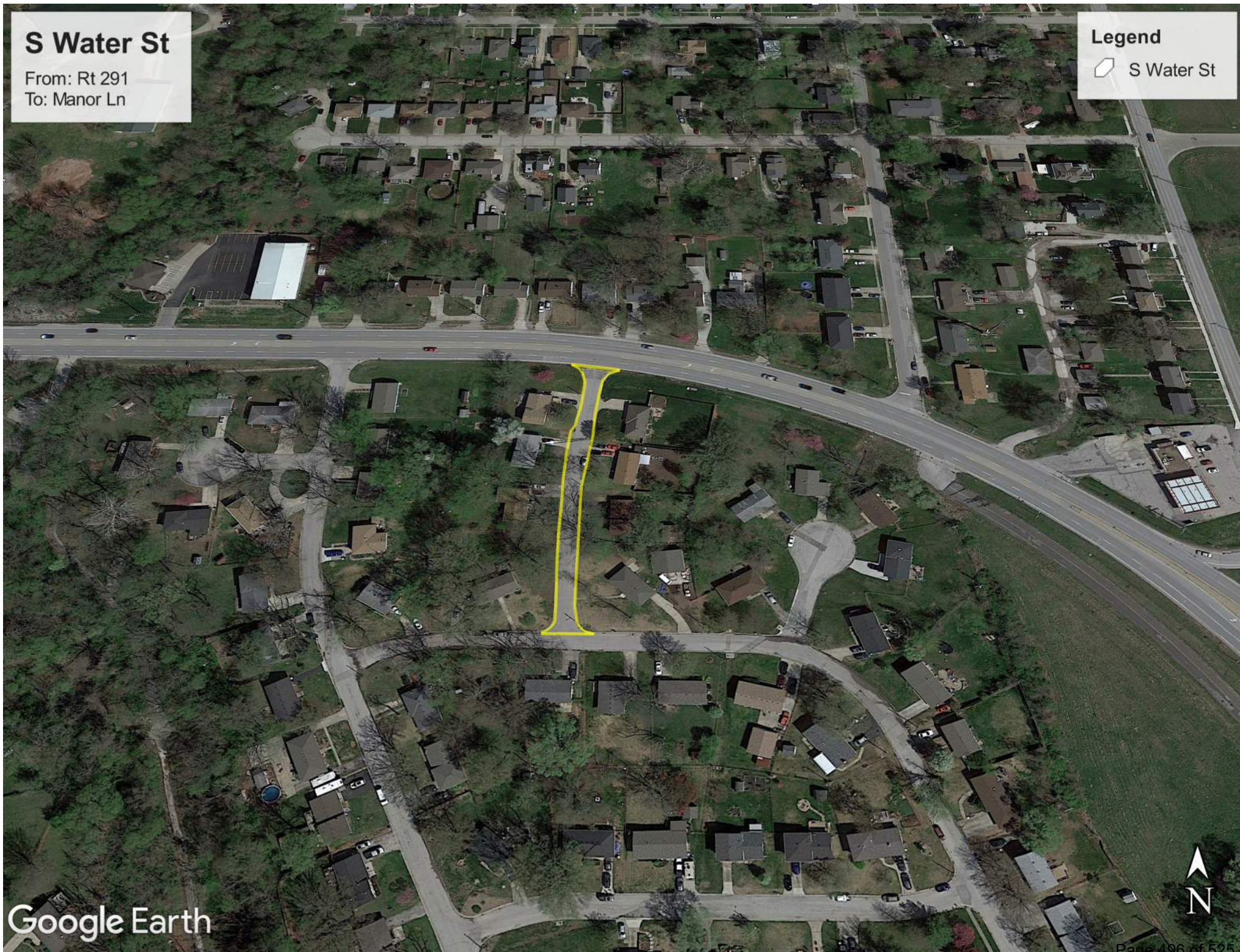
 N Ridge Ave

S Water St

From: Rt 291
To: Manor Ln

Legend

 S Water St



S Main St

From: Rt 291
To: Eastwood Ln

Legend

 S Main St

Google Earth



Georgia Ln

From: S Missouri St
To: S Main St

Legend

Georgia Ln



Eastwood Ln

From: S Main St
To: Missouri St

Legend

 Eastwood Ln

Manor Ln

From: S Main St
To: Missouri St

Legend

 Manor Ln

Google Earth



Main Ct (Cul De Sac)

From: S Main St
To: End

Legend

 Main Ct (Cul De Sac)



Manor Ct (Cul De Sac)

From: Manor Ln
To: End

Legend

 Manor Ct (Cul De Sac)



Missouri St

From: Manor Ln
To: End

Legend

 Missouri St

Cherokee St

From: Liberty Dr
To: Cherokee Dr

NOTE: Speed bump at the far northern end of Cherokee St is to be removed and replaced and is considered incidental.

Legend

 Cherokee St



Shepherd Rd

From: W Heartland Dr
To: Low Water Bridge

Legend

 Shepherd Rd

Chandler Rd

From: B Highway
To: Rt 69

Legend

 Chandler



E Heartland Dr

From: Intersection of Shephard Rd
To: North of Inlets

Note: Mill and Overlay in this location is to be 2"

Legend

 E Heartland Dr (1) CITY

EXHIBIT C

BORE RESULTS

1209 LIBERT TERRACE	INCHES
DEPTH OF BORE	10.5
ASPHALT	3.5
CONCRETE	7
ROCK	0
CLAY	0
1225 LIBERT TERRACE	INCHES
DEPTH OF BORE	8.25
ASPHALT	4.25
CONCRETE	4
ROCK	0
CLAY	0
824 PARK LN	INCHES
DEPTH OF BORE	9.75
ASPHALT	5
CONCRETE	0
ROCK	0
CLAY	4.75
1336 PARK LN	INCHES
DEPTH OF BORE	11
ASPHALT	4.25
CONCRETE	0
ROCK	2
CLAY	4.75
PARK LN & WELLINGTON	INCHES
DEPTH OF BORE	11
ASPHALT	7
CONCRETE	0
ROCK	0
CLAY	4

1933 BARFORD	INCHES
DEPTH OF BORE	12
ASPHALT	8.5
CONCRETE	0
ROCK	0
CLAY	3.5
1204 BARFORD	INCHES
DEPTH OF BORE	9.5
ASPHALT	9.5
CONCRETE	0
ROCK	0
CLAY	0
920 MANCHESTER	INCHES
DEPTH OF BORE	7.75
ASPHALT	7.5
CONCRETE	0
ROCK	0
CLAY	0.5
1120 MANCHESTER	INCHES
DEPTH OF BORE	11.5
ASPHALT	10
CONCRETE	0
ROCK	0
CLAY	1.5



CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-402

Department: Public Works

Submitted By: Joshua Martinez, Capital
Projects Engineer

Subject: ORDINANCE AMENDING ORDINANCE NO. 11556 APPROVING THE CONTRACT WITH VSM ENGINEERING FOR MISSISSIPPI STREET AND LIBERTY DRIVE SIDEWALK DESIGN PROJECT INCREASING THE CONTRACT BY \$36,960.00 FROM \$66,510.00 IN AN AMOUNT NOT TO EXCEED \$103,470.00

Summary:

- Ordinance approving a contract amendment between the City of Liberty and VSM Engineering for Mississippi Street and Liberty Drive Sidewalk Design Project
- The amended scope of work provides for the survey and design of an additional segment on the south side of Liberty Drive from Midjay Dr. to Red Oak Ln.

Background:

City of Liberty project 21-025 "Mississippi and Liberty Drive Sidewalks Design Project" was initiated after City staff received requests from citizens and elected officials to complete sidewalk improvements to bridge gaps in the city's sidewalk system. At the Feb. 28, 2022 City Council meeting, a design contract was approved with VSM Engineering for the design of sidewalk improvements at two locations which had been identified as priorities:

- Mississippi St. from Fairview Avenue to Maple St.
- Liberty Dr. from Midjay Dr. to Wilshire Ave.

During the analysis period, conducted by VSM Engineering, City staff requested that VSM engineering consider expanding the southern option on Liberty Drive to include the sidewalk segment between Midjay Drive and Red Oak Lane as this would be a fuller and more logical end point than Midjay Drive. This Ordinance seeks to amend the scope of work by adding the before-mentioned section to Liberty Drive. This amendment to the scope of work requires additional surveying, engineering analysis and design for the construction of improvements to meet current standards of the City. This amendment will be a net increase of \$36,960.00 to the previously approved \$66,510.00, bringing the total design contract to \$103,470.00. The additional work (Amendment Documents are attached as exhibits) includes:

- Construction Plans and Development of Flood Permitting
- Legal Descriptions and Tract Maps
- Quantities and Cost Estimates
- Submittals and Comment Responses
- Final Plans, Estimates and Special Provisions.

Staff recommends approval of an Ordinance amending the previously approved design contract with VSM Engineering, LLC for the Mississippi Street Sidewalk and Liberty Drive Trail projects, thereby increasing the contract amount by \$36,960.00 to a total of \$103,470.00 .

Previous Action (if applicable):

- The Citizen Sales Tax Oversight Committee reviewed the project at the February 2022 meeting and determined it meets voter intent.
- The Liberty City Council approved a design contract with VSM Engineering at the February 28, 2022 meeting.

Policy/Committee Review:

X Citizen Sales Tax Oversight Committee	Completed/Recommended: February 9, 2022
X Public Safety Sales Tax Oversight Committee	Completed/Recommended: NA
X Budget Committee	Completed/Recommended: NA
X Other:	Completed/Recommended: NA

Financial Considerations:

X Budgeted:	Line Item:	Amount: Increase by
	Line Item: 52.75.607.14.5625	\$36,960.00 to \$103,470.00
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

1. 2023-402 Ammend Contract VSM - ORD
2. 2.1) Exhibit A - Scope of Services with Amend 1
3. 3.1) Exhibit B - Payment to Engineers for Services Amend 1

Document No. _____

ORDINANCE NO. _____

ORDINANCE AMENDING ORDINANCE NO. 11556 APPROVING THE CONTRACT
WITH VSM ENGINEERING FOR MISSISSIPPI STREET AND LIBERTY DRIVE
SIDEWALK DESIGN PROJECT INCREASING THE CONTRACT BY \$36,960.00
FROM \$66,510.00 IN AN AMOUNT NOT TO EXCEED \$103,470.00

WHEREAS, an agreement for Design Services with VSM Engineering, LLC. was
approved by Ordinance 11556 on 2/28/2022 with a not to exceed amount of \$66,510.00;

BE IT ORDAINED by the City Council of the City of Liberty, Clay County, Missouri,
as follows:

SECTION I

The City Council of the City of Liberty, Clay County, Missouri, hereby amends
Ordinance No. 11556 approving a contract by and between the City of Liberty and VSM
Engineering, LLC for the Mississippi and Liberty Dr Sidewalks Design Project on an
amendment to increase the agreement by THIRTY-SIX THOUSAND NINE HUNDRED
SIXTY AND 00/100 DOLLARS (\$36,960.00) from SIXTY-SIX THOUSAND FIVE
HUNDRED TEN AND 00/100 DOLLARS (\$66,510.00) to a not to exceed amount of ONE
HUNDRED AND THREE THOUSAND FOUR HUNDRED SEVENTY AND 00/100
DOLLARS (\$103,470.00) to provide for additional surveying and design related to an
increase in segment selection. A copy of said amendment being incorporated by
reference herein and available for review as required by law.

SECTION II

The City Council hereby authorizes the Mayor to sign the contract as described in
Section I of this Ordinance.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the
City Council and approval by the Mayor according to law.

PASSED by the City Council this ____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this ____ day of _____, 2023.

MAYOR

Project #21-025
Design Mississippi Street Sidewalk – Fairview Ave to Maple St. and Liberty
Drive Trail – Midjay Dr. to Wilshire Blvd
Sidewalk and Trail Improvements
Last updated 2-17-23

VSM Engineering LLC

ATTACHMENT A
SCOPE OF WORK
AMENDMENT 1

The design professional shall complete all tasks for the Project.

Objective and Goals

The City of Liberty desires to add new concrete sidewalk on Mississippi Street and a new asphalt trail on Liberty Drive. The purpose of this project is to fill in gaps of the Liberty sidewalk system to improve pedestrian safety. The design services potentially needed for this project include; Survey, Tract Maps, Civil Design, Storm Sewer Design, H&H, Utility Coordination, Erosion Control, Construction Estimates, and As-Constructed Drawings. The project is budgeted for these improvements to be done only on the most cost-effective side of the street.

Phase 2A – Plans & Cost Estimate and Special Provisions for 5-ft sidewalk along Liberty Drive from Red Oak Lane east to Wilshire Blvd– 70 days

Task 700– Construction Plan Development + No-Rise Flood Permit

Attend meeting and develop meeting minutes. Assume two (2) meetings plus Kick-off Meeting. Also includes design professional contract/subcontract preparation, Quality Control reviews and invoicing.

Construction Plan Development – Create 16 Plan sheets (see detail attached) for construction plans for 1600 LF± of 5-ft wide sidewalk along the south side of Liberty Drive from Red Oak Lane east to connect to the existing sidewalk at Wilshire Blvd (South side). This includes appropriate details including an MSE retaining wall (280 LF ±) long.

No-Rise Permit - Collect data for Hydraulic and Hydrology design. Obtain GIS data from City of Liberty and FEMA (if needed). Prepare and Submit No-Rise certificate to FEMA Administrator. Respond to comments and resubmit if needed.

This would include utility data and ownership data from the assessor. This includes one (1) site visit.

Additional Field Survey - Collect Additional Field survey for the extent designed and create a base map. Survey will include property lines, topographic data, tree diameters, utility data, and control points and benchmarks. Survey shall include entire width of the right of way, plus any additional areas beyond the right of way as necessary to design the project. Additional Survey area will include

the south half of the right-of-way of Liberty Drive from MidJay west to Red Oak Lane (east side). This includes about 60 LF along Red Oak Lane to connect to the existing sidewalk.

Task 800- Legal Descriptions and Tract Maps – This task is deleted from this route since the entire route is within platted right-of-way.

Task 900- Quantities & Cost Estimate

Estimate Costs for using earthwork, stormwater, sidewalk and subgrade and subbase quantities and other items such as construction traffic control, retaining, etc.

Task 1000 – Develop Special Provisions

Develop Special Contract Provisions as needed for the project. The remainder of the Specification document will be prepared by the City of Liberty.

Task 1100 – Submittal, Comment and Responses

Respond to City comments and make adjusts to plans and estimated as needed. Assume one round of comments and responses.

Task 1200 – Final Submittal, Plans, Estimate and Special Provisions

Submittal of Final contract deliverables that are sealed and in the requested format.

Deliverables

- Two half-size sets 11" x 17"
- Pdf sets –Emailed or on flash drive
- Cad drawings-On flash drive

Expenses (for both phases) - \$300

To include mileage, printing, etc.

Bid Phase- Not Included in Scope at this time.

Construction Phase - Not Included in Scope at this time.

Record Drawings – Not Included in Scope at this time.

Develop record drawings based upon redlines from contractor or City. Include survey to determine final as-built constructed public facilities changed or adjusted during construction (i.e. storm sewer, sanitary sewer, watermain).

Task	Description			V	V	S	A/M	W	N	Incidental Expenses L. S. \$	Comments/Clarifications
				Principal /Project Manager	Sr. Civil Engineer	Senior Civil Engineer	Civil Engineer EI	Civil Tech/Drafting	Admin		
1				Phase 1 - Concept Design (70 calendar days)							
100				Meeting and Admin (for both Phases)	32						4 progress meeting + 1 kick-off meeting - invoicing + admin svcs
200				Field Survey	8					\$12,800	45 calendar days for survey and base map
300				Collect Data		4	8	4			Utilities, Flood Permit , Site Visit
400				Preliminary Plan and Profile from Base survey Data		8	24				4 plan & Profiles - 2 sides x 2 streets
500				Quantities and Cost estimate	2	8	16				4 Options - North side & South side for 2 sites
600				Memorandum	4		4				Deliverable is Memo with Cost Estimate and recommendations
										\$200	Misc. Expenses- Printing, Mileage
				SUBTOTAL CONCEPT DESIGN	46	0	20	52	4	0	\$13,000
				Rates	\$200	\$175	\$150	\$110	\$95	\$60	\$1
				Total Costs	\$9,200	\$0	\$3,000	\$5,720	\$380	\$0	\$13,000 \$31,300

Phase 2 - Trail Construction Plans (60 Calendar days)

700				Construction Plans and Flood Permit	0	4	36	140	0	8	See Drawing List
800				Legal Descriptions and Tract Maps	4	0	0	0	0	0	Assume 8 Tracts (\$850 per tract). Title Reports provided by the City of Liberty.
900				Quantities and Cost Estimate	0	2	0	12	0	0	Includes grading quantities from CAD
1000				Technical specifications	0	4	0	0	0	0	All specs to be done by City of Liberty. Special Provisions by VSM.
1100				Submittals and comment responses	4	0	0	8	0	0	Assume 1 round of comments and responses
1200				Final Plans, Estimate and Special Provisions	2	0	0	8	0	0	Misc. Expenses- Printing, Mileage \$300,
				SUBTOTAL TRAIL CONSTRUCTION PLANS	10	10	36	168	0	8	Deliverables are Plans, Cost Estimate and Special Provisions
				Rates	\$200	\$175	\$150	\$110	\$95	\$60	\$1
				Total Costs	\$2,000	\$1,750	\$5,400	\$18,480	\$0	\$480	\$7,100 \$35,210

TOTAL FEE \$66,510

Drawing List - for 1665 LF of Trail & Sidewalk

Drawings 22 x 34 (1/2 size is 11 x 17)	
Title Sheet	1
General Notes and Survey Data	1
Survey Data Sheet with BM and CP's (VSM to provide Title Block)	1
Alignment Layout Sheet and Typical Sections	1
Plan and Profile View - 1" = 20' for 1665 LF - 00 LF per sheet	5
Cross sections - 12 sections per sheet	2
Watershed Map and Stormwater Design Data for culvert crossings	2
Sediment and Erosion Control Plan (do by note only for Shop drawing)	0
Construction Traffic Control Plan (add note for Shop drawing review only)	0
Details, Handicap ramp detail, Rail for trail, Retaining Wall (CME	2
	15 use 16 sheets

VSM Engr
City of Liberty
Trail and Sidewalk
VSM Project 22-01
Last updated 02-16-23

Task		Description		
700				Construction Plans and Flood Permit
800				Legal Descriptions and Tract Maps
900				Quantities and Cost Estimate
1000				Technical specifications
1100				Submittals and comment responses
1200				Final Plans, Estimate and Special Provisions
		SUBTOTAL SIDEWALK CONSTRUCTION PLANS		
				Rates
				Total Costs

V	V	S	A/M	W	N	
Principal /Project Manager	Sr. Civil Engineer	Senior Civil Engineer	Civil Engineer EI	Civil Tech/Drafting	Admin	Expenses Expenses L. S. \$
4	4	36	200	0	8	\$1,950
0	0	0	0	0	0	\$0
0	2	0	12	0	0	
0	4	0	0	0	0	
4	0	0	8	0	0	
2	0	0	8	0	0	\$300
10	10	36	228	0	8	2250
\$200	\$175	\$150	\$110	\$95	\$60	\$1
\$2,000	\$1,750	\$5,400	\$25,080	\$0	\$480	\$2,250

Comments/Clarifications

See Drawing List. Add'l Survey data from Midjay to Red Oak Lane
Assume No ROW needed since entire route is platted. Title Reports provided by the City of Liberty.
Includes grading quantities from CAD
All specs to be done by City of Liberty. Special Provisions by VSM.
Assume 1 round of comments and responses
Misc. Expenses- Printing, Mileage \$300,
Deliverables are Plans, Cost Estimate and Special Provisions
\$36,960

Drawing List - for 1600 LF of 5-ft Sidewalk

	<u>Sheets</u>
Drawings 22 x 34 (1/2 size is 11 x 17)	
Title Sheet	1
General Notes and Survey Data	1
Survey Data Sheet with BM and CP's	1
Alignment Layout Sheet and Typical Sections	1
Plan and Profile View - 1" = 20' for 1600 LF - 400 LF per sheet	4
Cross sections - 12 sections per sheet	2
Watershed Map and Stormwater Design Data for culvert crossings	2
Sediment and Erosion Control Plan (do by note only for Shop drawing)	0
Construction Traffic Control Plan (add note for Shop drawing review only)	0
Details - Typical Trail Section, Sediment and Erosion Control Details , Handicap ramp detail, Retaining Wall (CME Wall)	<u>3</u>
	15



CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-403

Department: Public Works

Submitted By: John Findlay, City Engineer

Subject: ORDINANCE AMENDING CHAPTER 20, "MOTOR VEHICLES & TRAFFIC," OF THE CODE OF THE CITY OF LIBERTY, CLAY COUNTY, MISSOURI

Summary:

- Approve an ordinance amending chapter 20, "Motor Vehicles & Traffic", of the Code of the City of Liberty, Clay County, Missouri.
- Codify a change to the traffic regulations prohibiting parking on both sides of S. Withers Road south of South Liberty Parkway through the end of the cul-de-sac.

Background:

Amendments to traffic regulations are required to update the City Code for any new or modified traffic signage. The changes to traffic signs may be driven by a citizen request, staff, or temporary situations requiring traffic modifications. The codification of the traffic regulation and the addition of appropriate signage allow for the enforcement of the regulations.

Traffic regulation changes are generally initiated for a 90-day evaluation period monitored by both Public Works and the Police Department. If the changes are determined by both departments to be warranted they are then taken to the Council for approval of a permanent regulation change.

The traffic regulation amendments pertaining to this action are summarized as follows:

- Prohibiting parking on S. Withers Road, both sides, south of South Liberty Parkway through the end of the cul-de-sac.

Previous Action (if applicable):

N/A

Policy/Committee Review:

Citizen Sales Tax Oversight Committee	Completed/Recommended:
Public Safety Sales Tax Oversight Committee	Completed/Recommended:
Budget Committee	Completed/Recommended:
Other:	Completed/Recommended:

Financial Considerations:

Budgeted:	Line Item:	Amount:
	Line Item:	Amount:
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

1. Ord to Amend Traffic Regulations S Withers south of SLP

Document No. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 20,
"MOTOR VEHICLES & TRAFFIC,"
OF THE CODE OF THE CITY OF LIBERTY,
CLAY COUNTY, MISSOURI

BE IT ORDAINED by the City Council of the City of Liberty, Clay County, Missouri, as follows:

SECTION I

Chapter 20, "Motor Vehicles and Traffic," Article XVII, "Schedules," Section 20-180.
Schedule X, "parking prohibited at all times." of the Code of the City of Liberty, Clay County, Missouri is
hereby amended as follows:

Add the following:

S. Withers Road, both sides, from South Liberty Parkway south through the end of the cul-de-sac.

SECTION II

This Ordinance shall be in full force and effect from and after its passage by
the City Council and approval by the Mayor according to law.

PASSED by the City Council this ____ day of _____, 2023.

MAYOR

ATTEST:

DEPUTY CITY CLERK

APPROVED by the Mayor this ____ day of _____, 2023.

MAYOR



CITY COUNCIL ACTION REPORT

Meeting Date: February 27, 2023

A/R No.: 2023-404

Department: Administration

Submitted By: Curt Wenson, City
Administrator

Subject: APPOINTMENT OF SARAH RANES AS DEPUTY CITY CLERK

Summary:

- Appointment of Deputy City Clerk.

Background:

The recommendation to appoint Sarah Ranes as Deputy City Clerk follows eight months of succession planning with retiring Deputy City Clerk Janet Pittman. Ms. Ranes was previously in the Finance Department, serving as a Finance Technician for 2½ years. Ms. Ranes was identified and chosen to be Ms. Pittman's successor for her experience in another municipality as City Clerk, Court Administrator and previous experience managing a law firm.

Section 2-89 of the Liberty Code of Ordinances calls for appointment to this position to be recommended by the City Administrator, and made by the Mayor, by and with the advice and consent of the City Council.

The Deputy City Clerk keeps and maintains all official documents of the city, which include ordinances, resolutions, contracts, deeds, minutes of the City Council, and other materials regarding the governing of the city. The deputy city clerk is responsible for supervision and administration of all city elections, and is authorized to sign and attest all official documents. In addition, the Deputy City Clerk facilitates City Council regular and study session meetings, including agenda and packet preparation.

Ms. Ranes' appointment would be effective March 1, 2023.

Previous Action (if applicable):

Policy/Committee Review:

Citizen Sales Tax Oversight Committee	Completed/Recommended:
Public Safety Sales Tax Oversight Committee	Completed/Recommended:
Budget Committee	Completed/Recommended:
Other:	Completed/Recommended:

Financial Considerations:

Budgeted:	Line Item:	Amount:
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	Line Item:	Amount:
	Revenue Line (if applicable):	Amount:
Non-Budgeted	Line Item:	Amount:
	Line Item:	
	Funding Source:	Amount:

Attachments:

None