

Public Notice posted in accordance  
RSMO. 610 as amended

Date/Time Posted: Friday, January 31, 2020  
5:00 p.m.

By: Kimberly Barfield  
City Clerk

**CITY OF PACIFIC  
300 HOVEN  
BOARD OF ALDERMEN AGENDA  
REGULAR MEETING**

**TUESDAY, FEBRUARY 4, 2020  
7:00 P.M.**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Prayer
5. Approve Agenda
6. Approve the Minutes from the Regular Meeting on January 21, 2020.
7. Approve the Special Meeting Minutes January 27, 2020.
8. Mayor Report
9. Public Participation
10. New Bills
  - a. Bill No. 4088 An Ordinance providing for a Boundary Adjustment between the Cities of Eureka and Pacific (First Baptist Church of Allenton Hts.) (1<sup>st</sup> reading)
  - b. Bill No. 4089 An Ordinance to authorize the Mayor to execute an Agreement between the City of Pacific, Missouri and the Missouri Highway and Transportation Commission providing for construction of Highway N Phase 4 Improvements, Federal Project No. 5419(613) (1<sup>st</sup> reading)
11. Consideration of Bills Previously Introduced
  - a. Bill No. 4085 An Ordinance amending the Fiscal Year 2019-2020 Budget and Wage and Salary Schedule for appointed officials and employees of the City of Pacific. (2<sup>nd</sup> reading)
  - b. Bill No. 4086 An Ordinance providing for the approval of a Final Plat of Riverbend Heights Subdivision Plat 1, a tract of land zoned "R-1B" Single-Family District located at or about

2050 Highway N (Congress Street) Franklin County Parcel ID Franklin County Parcel ID # 19-6-14.0-0-099-034.000 in the City of Pacific. (2<sup>nd</sup> reading)

- c. Bill No. 4087 An Ordinance approving a petition for Voluntary Annexation filed by Kathleen G. Vitale, Joseph C. Vitale and Vitale Farms, LLC, regarding certain property contiguous and compact to the City of Pacific, Missouri and generally located at 5875, 5893, 5881 Lost Hill Lane and 18800 Franklin Road; annexing said property to the City (2<sup>nd</sup> reading)

12. New Business

- a. Resolution No. 2020-04-A Resolution authorizing and directing the Mayor to execute an agreement with SC Engineering, LLC dba Cochran for professional services relating to Preliminary Engineering and Construction Inspection of Denton Road Bridge Replacement Project, Federal Project No. STP 5419(612), TIP# 6914-20
- b. Resolution No. 2020-05- A resolution accepting the dedication of Public Right-of-way known as Longview Meadows Drive, Longview Meadows Subdivision, and authorizing certain actions thereto.
- c. Resolution No. 2020-06 A Resolution accepting a Flood Mitigation Assistance Grant Program Grant Agreement by and between the City of Pacific and the Missouri State Emergency Management Agency (Federal Project # FMA-PJ-07-MO-2018-002) and authorizing execution of certain documents in connection with said grant award.
- d. Resolution No. 2020-07 A Resolution authorizing and directing the Mayor to execute an Agreement for Professional Services with Midwest Pool Management of America, LTD., for management and operation of the City of Pacific Municipal Pool.

13. Unfinished Business

14. City Administrator Report

- a. FY 2019 Financial Report
- b. Streetlights request, Longview Meadows subdivision

15. Director of Community Development Report

16. City Attorney Report

17. Miscellaneous

- a. Approve Special Event Permit, St. Patrick's Day Parade, March 14
- b. Approve use of council room on Wednesday, March 4, 2020 for Silver Lakes Homeowners Association.

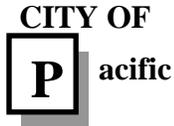
18. Reports of City officials

- a. Alderman Nemeth
- b. Alderman Adams
- c. Alderman Rahn
- d. Alderman Gass
- e. Alderman Johnson

- f. Alderman Stotler
- g. Chief Mansell
- h. Collector Kelley

#### 19. Adjourn

The Board of Aldermen will consider and act upon the matters listed above and such others as may be presented at the Meeting and determined to be appropriate for discussion at that time. The City of Pacific is working to comply with the Americans with Disabilities Act mandates. Individuals who require an accommodation to attend a meeting should contact City Hall (271-0500) at least twenty-four hours in advance.



**JANUARY 21, 2020 \* RECORD OF PROCEEDINGS**

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**CITY OF PACIFIC  
REGULAR MEETING OF THE BOARD OF ALDERMEN  
300 HOVEN  
PACIFIC, MISSOURI 63069**

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**T**he meeting was called to order at 7:00 p.m. by Mayor Myers.

A roll call was taken with the following results:

Present at Roll Call:

Alderman Nemeth  
Alderman Rahn  
Alderman Gass  
Alderman Stotler

A quorum was present.

Also present:

Administrator Roth  
Attorney Karr for Attorney Jones  
Chief Mansell  
Collector Kelley  
Public Works Commissioner Brueggemann  
City Clerk Barfield

**Pledge of Allegiance**

The Pledge of Allegiance is given.

**Prayer**

Ministerial Alliance offered prayer this evening. They also requested use of the council room for the National Day of Prayer. Mayor Myers stated the request was on the agenda this evening.

**Approve Agenda**

Motion made by Alderman Nemeth, seconded by Alderman Rahn to approve the agenda. A voice vote was taken with an affirmative result. Mayor Myers declared the motion carried.

**Minutes**

A. Regular meeting on January 7, 2020

Motion made by Alderman Stotler seconded by Alderman Gass to approve the minutes of the regular meeting on January 21, 2020. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.

B. Executive session meeting on January 7, 2020

Motion made by Alderman Rahn, seconded by Alderman Stotler to approve the minutes of the executive meeting on January 7, 2020. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.

**Public Hearing**

The City will conduct a Public Hearing to hear comments on a verified petition for Voluntary Annexation, Vitale Farms LLC, commonly known as 5875 Lost Hill Lane, 5881 Lost Hill Lane, 5893 Lost Hill Lane, 18800 Franklin Road, Pacific, MO.

Mayor Myers read the Public Hearing into the record. He opened the Public Hearing for comments. Alderman Gass asked how this is contiguous. Mayor Myers stated this is across from the prison. Administrator Roth stated the property is immediately across from Hwy 66 and is in the City limits, then there is the railroad, the contiguous extends across the rights of way. There being no further comments the public hearing was closed.

**Mayor's Report**

a. Tourism Commission recommendation, Welcome to Pacific digital sign

Mayor Myers stated there is a recommendation from the Tourism Commission to increase the size of the digital sign. The quote from Sign Experts is included in the packet, and Paul is present for any questions. Paul stated the sign is almost 10 years old, with only two service calls. The proposal includes taking out all the panels under the sign. The foundation of the sign can still be used, and the new sign has a better resolution of 30%, has its own phone so it can be programmed from your cell phone and is under warranty for 5 years. The cost of the sign is \$ 78,000. The new sign will extend past the existing posts. Administrator Roth stated when the old sign was constructed there is a small piece on MoDot property. There was an agreement passed but it never reached the finish line. This will be cleaned up before we proceed. Motion made by Alderman Gass, seconded by Alderman Rahn to approve the recommendation from the Tourism Commission and move forward with a new sign from Sign Experts. A voice vote was approved with an affirmative result, and Mayor Myers declared the motion carried.

**Public Participation**

Debbie Kelley stated she would hold her comments until Bill No. 4082.

Matt Mansell, 708 Cypress, Pacific, MO stated he would like to speak in reference to electing/appointing a Chief of Police. He stated he started all of this, and he was trying to accomplish promoting from within. Washington and Union both did this and so does Meramec Ambulance. The way this is going, and the more he thinks about it, this was not the way to accomplish what he was trying to do. He has not heard of one person that likes this. He apologized to the Board and hoped they would take a step back. If this passes, which he hopes it don't he would ask that they promote from within. We are a small town and we have good employees and wants to keep it that way.

Greg Hurst, 605 Cypress, stated he moved here in 1966 and has owned a home for 30 years in Pacific. He knows the history, and this is a professional department with the elected chief. The system we have now serves us well. The people have chosen well in the past and we have come a long way and had very good chiefs.

### New Bills

#### **Bill No. 4085 An Ordinance amending the Fiscal Year 2019-2020 Budget and Wage and Salary Schedule for appointed officials and employees of the City of Pacific. (1<sup>st</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4085 for the first reading by title only.

#### **Bill No. 4086 An Ordinance providing for the approval of a Final Plat of Riverbend Heights Subdivision Plat 1, a tract of land zoned “R-1B” Single-Family District located at or about 2050 Highway N (Congress Street) Franklin County Parcel ID 19-6-14.0-0-099-034.000 in the City of Pacific (1<sup>st</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4086 for the first reading by title only. Alderman Gass stated this was originally platted for smaller lots. Mayor Myers stated this was approved at Planning & Zoning last night. This is one home on 6 acres. Alderman Gass stated this is losing rooftops. This is a good piece of ground and there is only one home on it. Mayor Myers stated the owner could not secure funding as originally intended, and he has one buyer for a large lot. Alderman Nemeth stated that Alderman Gass makes a good point, and suggested a standard be wrote, Alderman Rahn agreed.

#### **Bill No. 4087 An Ordinance approving a petition for Voluntary Annexation filed by Kathleen G. Vitale, Joseph C. Vitale and Vitale Farms, LLC, regarding certain property contiguous and compact to the City of Pacific, Missouri and generally located at 5875, 5893, 5881 Lost Hill Lane and 18800 Franklin Road; annexing said property to the City; authorizing other actions in connection with such annexation, and repealing conflicting ordinances. (1<sup>st</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4087 for the first reading by title only.

### Consideration of Bills Previously Introduced

#### **Bill No. 4082 An Ordinance providing for the appointment of Chief of Police (2<sup>nd</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4082 by title only for the second reading. Mayor Myers asked for any discussion. Collector Kelley stated she believes this started as a misunderstanding and feels like this pertains to her office as well. What we have done in the past works. She does not like taking the rights of the citizens away. Her vote is no, and this should continue to be elected. Alderman Gass stated after talking to the Chief and he had phone calls about this, he is going to vote “no” tonight if this goes to a vote. Mayor Myers asked for comments from Attorney Karr. Attorney Karr stated there are four Aldermen present tonight, for the ordinance to pass it will require 4 out of 6 to vote “aye”. Chapter 79 states it will take the majority of the entire board. There was discussion to have the 2<sup>nd</sup> reading at the next regular meeting. City Clerk Barfield stated ballot certification is due on Tuesday, which is before the next board meeting. Mayor Myers stated that this ordinance goes to the voters asking if the change should occur. Staff saw it as a good thing because all cities in the St. Louis area with the exception of 4 don’t elect their chief. All this does is give a larger candidate pool. Anyone downstairs could still apply; it only opens the selection process. At “Coffee with the Mayor” there were

24 people present who were undecided, but now seem to agree this is a good thing. For him its what is best for the City, not best for an individual. He believes the department does a great job, and we always want to do better. Mayor Myers stated there was also discussion about what it takes now to remove a Chief. With the appointment of a Chief it is very difficult to remove one. Chief Mansell stated that is why he is changing his mind. We have good people downstairs. We have to look in our own home first and promote from within. He doesn't want a stranger running his department or this town. Alderman Stotler stated he saw both sides, but this just puts it on the ballot. It does not stop anybody from applying. He thought with all the positions, we look at what we have first. Alderman Nemeth stated the promote from within mentality is what you want at any job. If we don't have candidates that we can promote, then we have failed. The challenge becomes sometimes those people are gone, for whatever reason. The point is not to take it out of Pacific, we put stuff out to find the right talent. Sometimes we are talent pool challenged. Everybody has the right to say no to this when they vote. It's concerning, we are not taking anyone's right away to vote. We are just exploring all the talent, and this is a good thing. Chief Mansell stated if this passes, please look at the people downstairs. Collector Kelley stated we are having our say now, I think you are wrong to put it on the ballot, and I am coming to you as a voter. Mayor Myers stated we are not taking the voters right to vote away; we are giving them a choice. **Motion made by Alderman Gass, seconded by Alderman Rahn to table this for a special meeting on Monday, January 27, 2020 at 7:30 pm. A voice vote was taken with an affirmative result. Attorney Karr stated Sunshine Law allows for video conference of a board member, but a quorum has to be physically present.**

**Bill No. 4083 An Ordinance establishing the position of City Engineer and providing for the qualifications and duties thereof (2<sup>nd</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4083 by title only for the second reading. Motion made by Alderman Gass, seconded by Alderman Nemeth to approve Bill No. 4083. Mayor Myers asked for any discussion. There being none, a roll call vote was taken with the following results: Ayes: Alderman Rahn, Alderman Gass, Alderman Stotler, Alderman Nemeth. Nays: none. Whereupon, Mayor Myers declared **Bill No. 4083 passed and becomes Ordinance No. 3167.**

**Bill No. 4084 An Ordinance providing for a Boundary Adjustment between the Cities of Eureka and Pacific. (2<sup>nd</sup> reading)**

As posted pursuant to the ordinance, Mayor Myers read Bill No. 4084 by title only for the second reading. Motion made by Alderman Nemeth, seconded by Alderman Gass to approve Bill No. 4084. Mayor Myers asked for any discussion. There being none, a roll call vote was taken with the following results: Alderman Gass, Alderman Stotler, Alderman Nemeth, Alderman Rahn. Nays: none. Whereupon, Mayor Myers declared **Bill No. 4084 passed and becomes Ordinance No. 3168.**

**New Business**

**Resolution No. 2020-02 A Resolution authorizing and directing the Mayor to execute a Contract Agreement with HR Green Inc. for Professional services for Storm Water Planning and Preliminary Design Work.**

As posted pursuant to the ordinance, Mayor Myers read Resolution No. 2020-02 by title only. **Motion made by Alderman Gass, seconded by Alderman Nemeth to approve Resolution No. 2020-02 A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.**

**Resolution No. 2020-03 A Resolution authorizing the transfer of funds from the Water &**

**Sewer Fund to the Leasehold Revenue Bond for the Interest Payment and Administrative Fees of the Municipal Assistance Bond Series 2012 in the amount of \$ 148,689.50.**

As posted pursuant to the ordinance, Mayor Myers read Resolution No. 2020-03 by title only. **Motion made by Alderman Stotler, seconded by Alderman Gass to approve Resolution No. 2020-03. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.**

**City Administrator Report**

- a. Denton Road bridge, Engineering Services Contract negotiation

Administrator Roth referred to the memo on the dais. The purpose of the memo was to request authority to cease negotiations with the top-ranked firm for this project, Juneau Associates, and to negotiate with the second-ranked firm Cochran. A copy of the memo is made part of the minutes. Motion made by Alderman Gass, seconded by Alderman Stotler to direct staff to cease negotiations with Juneau Associates and begin negotiations with Cochran Engineering. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried. Administrator Roth stated he would try to have a contract by the next meeting.

- b. Engagement letter, Gilmore Bell in the amount of \$ 1,500.00.

Administrator Roth stated the Engagement letter was for audit work for both bond issues. Motion made by Alderman Stotler, seconded by Alderman Gass to approve. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.

- c. Meramec Regional Planning Commission – Administrator Roth stated there was a meeting this morning with them regarding the 27 buyout properties. We are still waiting for the CDBG portion of the grant. MRPC is going to manage the project for us. He will be putting the notice out soon that this project is back on.

**City Attorney Report**

Heck vs City of Pacific – This was a case on if they were entitled to a non-conforming issue. Attorney Karr stated the court ruled against the City, the judgement has not been entered yet. The City can appeal if they want to.

**Miscellaneous**

- a. Approve the list of bills.

Motion made by Alderman Nemeth, seconded by Alderman Stotler to approve the list of bills. A voice vote was taken with an affirmative result.

- b. Approve the payment of \$ 15,000 to the Tri County Community Center.

Motion made by Alderman Rahn, seconded by Alderman Gass to approve the payment of \$ 15,000 to the Tri County Senior Center. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried. Abstain: Alderman Stotler. Attorney Karr stated this still passes.

- c. Approve Candlewick Lane Pay App 3 in the amount of \$ 46,660.46 and Change Order 1.

Motion made by Alderman Gass, seconded by Alderman Nemeth to approve Candlewick Lane Pay App 3 in the amount of \$ 46,660.46 and Change Order 1. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried.

d. Approve MVCCA request to use City Hall, May 7, 2020.

Motion made by Alderman Nemeth, seconded by Alderman Rahn to approve MVCCA request to use City Hall, May 7, 2020. A voice vote was taken with an affirmative result, a Mayor Myers declared the motion carried.

### **REPORTS OF CITY OFFICIALS**

Alderman Nemeth – No report

Alderman Rahn – No report.

Alderman Gass – Asked for an update on the St. Louis St./Phelan project. Administrator Roth stated he meets with Dan Rahn on Thursday, they still need an easement. Lift station 2 – Administrator Roth stated the report should be coming soon. Reservoir @ Blackburn – the structural engineer evaluated it last week and is putting together some ideas.

Alderman Stotler – stated HGTV Applications are due February 7, 2020. Mayor Myers stated HGTV has a contest for cities to apply if they have an old structure that needs a face lift. He was working on putting something together to send in, but if other organizations do this, he thinks it would help.

Glass at Viaduct and Thornton – Has been there for many weeks and asked we clean it up.

Alderman Stotler – asked Administrator Roth what the Aldermen could do to help support the Economic Development portion of his notes. Administrator Roth stated he just needed time to focus on it. He stated he would like to have more time to work with the non-profits.

Chief Mansell – asked for updated City maps. He also stated he is not getting any communication from MoDot about when they are shutting down streets. Mayor Myers stated he would contact them ask for better communication.

Collector Kelley – asked for an update on Hogan Subdivision. Administrator Roth stated the report should be back soon.

### **ADJOURNMENT**

Motion made by Alderman Gass, seconded by Alderman Rahn to adjourn. A voice vote was taken with an affirmative result and Mayor Myers declared the motion carried.

The meeting adjourned at 8:10 p.m.

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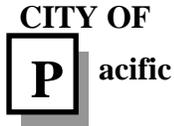
Steve Myers, Mayor

ATTEST:

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City Clerk

Board of Aldermen 1-21-20



**JANUARY 27, 2020 \* RECORD OF PROCEEDINGS**

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**CITY OF PACIFIC  
SPECIAL MEETING OF THE BOARD OF ALDERMEN  
300 HOVEN  
PACIFIC, MISSOURI 63069**

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**T**he meeting was called to order at 7:30 p.m. by Mayor Myers.

A roll call was taken with the following results:

Present at Roll Call:

Alderman Nemeth  
Alderman Adams  
Alderman Rahn  
Alderman Gass  
Alderman Stotler

A quorum was present.

Absent: Alderman Johnson

Also present:

Administrator Roth  
Chief Mansell  
Collector Kelley  
City Clerk Barfield

**Pledge of Allegiance**

The Pledge of Allegiance is given.

**Approve Agenda**

Motion made by Alderman Nemeth, seconded by Alderman Rahn to approve the agenda. A voice vote was taken with an affirmative result. Mayor Myers declared the motion carried.

**Public Participation**

Debbie Kelley, City Collector, stated she wanted to continue to see the office as elected. She was asking the Board and her Aldermen to vote no and not put this on the ballot.

Daniel Beer, PO Box 243, Pacific, MO stated he was concerned for the Prop C proposal. He thought this was a bad idea and took away the right to vote. The cornerstone of a democratic society was to let the people choose. He asked they reconsider this.

Matt Mansell, 708 Cypress, Pacific, MO stated he wanted this to stay as it was and asked that they please vote no on this issue.

Letter from Meramec Ambulance, Chris Clifton – Mayor Myers read into the record a letter that was sent to Chief Mansell, Fire Chief Sagehorn and himself in support of changing the Chief to an appointed position. This is made part of the minutes.

### **Consideration of Bills Previously Introduced**

#### **Bill No. 4082 An Ordinance providing for the appointment of a Chief of Police. (tabled 1-21-2020) (2<sup>nd</sup> reading)**

Motion made by Alderman Rahn, seconded by Alderman Nemeth to remove Bill No 4082 from the table. A voice vote was taken with an affirmative result, and Mayor Myers declared the motion carried. As posted pursuant to the ordinance, Mayor Myers read Bill No. 4082 by title only for the second reading. Mayor Myers asked for any discussion. A roll call vote was taken with the following results: Ayes: Alderman Nemeth, Alderman Adams, Alderman Rahn, Alderman Stotler. Nays: Alderman Gass. Whereupon, Mayor Myers declared **Bill No. 4082 passed and becomes Ordinance No. 3166.**

### **ADJOURNMENT**

Motion made by Alderman Gass, seconded by Alderman Nemeth to adjourn. A voice vote was taken with an affirmative result and Mayor Myers declared the motion carried.

The meeting adjourned at 8:13 p.m.

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Steve Myers, Mayor

ATTEST:

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City Clerk

# MEMORANDUM

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Steve Roth  
City Administrator

636-271-0500 ext. 213  
sroth@pacificmissouri.com

January 31, 2020

**TO: Mayor and Board of Aldermen**  
**RE: City Administrator report, 2-4-20 Board of Aldermen meeting**

Hello everyone,

Please note the following with respect to agenda items and other information for the February 4 meeting.

**1. Boundary Adjustment, First Baptist Church of Allenton Heights.** This bill accepts a Boundary Adjustment for this property, located just east of the Missouri Eastern Correctional Center on Route 66. The property currently is located in the City of Eureka. We have been advised that Eureka finds the proposal acceptable and will consider an ordinance similar to ours at the Feb. 4 meeting. The First Baptist Church property subject of this ordinance is the last property between the prison and the new NB West headquarters site to be transferred between Eureka and Pacific. Obviously as a church the property is tax-exempt, though we do expect to bring the church on as a new water and sewer customer soon. I would want to thank the City of Eureka for their cooperation with this and the prior Boundary Adjustment of the parcel to the immediate east.

**2. Bill to Accept Program Agreement, Highway N Phase 4.** The bill accepts an agreement with Missouri Highways and Transportation Commission for the "Highway N Phase 4" improvements. The total project cost is \$1,071,960, with the federal not-to-exceed set at \$857,568 (Section 12.A of the agreement). The City is responsible for all costs over this figure. The agreement is in the standard MoDOT form and we would not note any objections. The project schedule is for engineering to begin in 2020, with construction scheduled for 2022. We do not anticipate any right-of-way or easement acquisition for this project. Assuming Board approval, we would intend to select engineering services in the fairly near timeframe, and ideally would like to be out for bid with the project by late 2021, or early 2022. (I would note that there has been some previous discussion over the need for the City to eventually drop the "Highway N" designation and officially adopt "Congress" (or potentially some other name) for this section of roadway. However the documents here do continue to refer to "Highway N." Just to be clear, we are not aware of any need to re-designate the roadway as a condition of this federal grant award.)

**3. Bill 4085, Wage and Salary schedule amendments.** This bill was given a first reading Jan. 21 and is scheduled for a second and final reading here. We feel both increases are justified and would respectfully request approval.

**4. Bill 4086, Riverbend Heights Plat 1.** This bill was first read Jan. 21 and is scheduled for a second reading here. Following the Jan. 21 meeting we did receive a question over the Board's authority to potentially require further subdivision of the property as a condition of approval. This question was posed to the City Attorney, who provided a detailed response which I can forward to individual Board members upon request. In essence the Board should be aware that a subdivision plat approval is

“ministerial” in nature and not legislative, and if the Plat in question meets the requirements of the ordinance, it must be approved. The Riverbend Heights Plat 1 as proposed does meet the requirements of the ordinance (Municipal Code Chapter 410: Subdivision Regulations) and thus we would recommend approval. We would note that from a zoning standpoint, if the Board does want to protect certain properties from large-lot development, it would likely have such authorities if the zoning and land use codes were amended in such fashion. However, absent any such dimensional or area requirements (which we don’t have currently), the property owner is free to propose such large lots, subject to conformance with the other platting requirements.

**5. Bill 4087, Voluntary Annexation, Vitale Farms.** This bill accepts the voluntary annexation of the Vitale Farms property, an approximate 255-acre property located south of Dozier Crossing off Route 66. This bill was given a first reading Jan. 21; I have not heard any public comment since that meeting. As noted in my Jan. 21 Board report, the area proposed for annexation includes one parcel that is not owned by the applicant (5995 Lost Hill Lane, St. Louis County Locator 31X130029) and that is essentially surrounded by the property proposed for annexation. We have sent notice to this property owner and to date have not received a response. (The Vitale Farms owner has indicated that this property owner does not object to the annexation.) Also, as noted in my previous Board report, annexation of this property does not create any particular obligation of the City to extend public water or sanitary sewer services. Further, the Lost Hill Lane roadway is not a public right-of-way and thus we would have no maintenance responsibility for this roadway. We would have responsibility of course to provide law enforcement services to this location, and the property would also be subject to City planning and zoning rules and regulations.

**6. Resolution 2020-04, Denton Road bridge engineering contract.** This Resolution accepts a contract with SC Engineering (dba Cochran) for the Denton Road project. The total fee is \$119,308.13 and is within the original project budget of \$119,956. As the Board is aware, Cochran ultimately was determined to be the second-ranked firm in the City’s earlier selection process for this project, though had been rated very highly through the process. We are very confident in their qualifications and capability / capacity for this project and would respectfully request Board approval.

**7. Resolution 2020-05 To Accept Street Right-of-Way dedication, Longview Meadows subdivision.** This Resolution accepts dedication of Longview Meadows Drive to the City of Pacific. This roadway dedication was a required condition of the earlier pre-annexation agreement entered into for this project. The subdivision has now been recorded with Franklin County (as required) and the developer is now working on final plans and specifications for the sanitary sewer and roadway construction. The Board should note that the annexation of this property is not yet complete and is pending satisfaction of these items. I have requested the City Attorney to review this in more detail and would expect him to report to the Board on the larger annexation topic at the meeting.

**8. Resolution 2020-06, To Accept FMA grant award.** This Resolution accepts a Flood Mitigation Assistance (FMA) grant award for the 2018 grant cycle. The award is for two properties, 203 and 207 W. Watson and is for a total amount of \$508,690.00. There is no City match requirement in this grant award. The Board had previously authorized the application for these properties, which was filed in late 2018. Assuming Board approval, we are sending Bryan Kopp to an orientation meeting set for Feb. 5 at Missouri SEMA headquarters in Jeff City. This orientation is required and given that I have quite extensive experience by now with these programs, we felt it better that Mr. Kopp attend. As with other

flood buyout awards, we would note that the program is strictly voluntary on the part of the participating property owners.

**9. Resolution 2020-07, Midwest Pool contract 2020.** This Resolution accepts an agreement with Midwest Pool for management of the Municipal Pool for the 2020 season. The agreement is in essentially the same form as previous years and provides the management and staffing of the pool facility, including concessions. The agreement has two fee structures: A total management fee of \$18,900, paid in monthly installments as specified; and a total salary budget (not-to-exceed) of \$60,040. The salary budget is based on daily hours of operation from May 23 to August 23, and weekend hours from August 24- Sept. 7 (Labor Day). Please note that this schedule is longer than in past years, given the later school starting time as required by recent changes in state law. The salary budget also reflects increases in the state minimum wage (85 cents). The longer hours will be a topic of discussion at the next Park Board meeting (scheduled for March due to scheduling conflicts in February.) The actual pool salary costs of course will depend on final actual hours of operation.

**10. FY 2019 Financial Report.** We have made this an agenda item to provide at least a basic overview of the City's recently completed FY 2109 Financial Report, or audit. Hochschild Bloom prepared the report, which was previously distributed to the Board and which has also been posted on the City website. As stated in previous reports, the report in total is very positive and paints a very strong picture of the City's finances. The City's ending fund balances were nearly \$5 million as of June 30, 2019, up \$585,272 over the prior year. Total net position was \$29.7 million, up from \$27.9 million the year prior, or 6.2 percent. This is quite strong. Water and Sewer fund balances both showed positive growth, with Water now on the rebound after several years of decline. The total General Fund balance did show a slight decrease of 3 percent (\$66,130) though this was expected and budgeted for. However this is a trend that of course cannot continue long-term. The City's total bond debt decreased by \$395,000, or 8 percent, which of course is helpful.

The audit does make certain recommendations in the Management Letter, including the following:

- Adoption of IT security and Computer Controls policy
- Adoption of comprehensive accounting policies and procedures manual
- Adoption of a formal fraud reporting policy
- Adoption of formal written policy for credit card use.

Staff (myself and Kim Barfield, city clerk) met with Hochschild-Bloom staff earlier in January to discuss these recommendations and the report in general. We certainly accept and agree with the above recommendations and would intend to work on them in the coming year.

In general I think the City's finances are well-managed, and would give credit to Ms. Barfield and the entire administrative staff for their work on this. Now that we have additional administrative staff, I would like to focus more strongly on overall financial management and would hope to make some progress in this area in coming months. As the Board is aware, the City's finances are quite complicated with numerous moving parts and managing them is not a simple task. We have generally done well in this area though I do feel it is an area in which we need to continue to improve and get better. I understand this report is just a high-level overview of the City's finances, and we can schedule

Hochschild-Bloom for a more in-depth report if the Board desires. I am also happy to discuss finances with individual aldermen at any time.

**11. Streetlights request, Longview Meadows subdivision.** West Summit LLC has requested a waiver of the City streetlight requirement for this subdivision. A copy of their request is included in the packet. The City Code (410.075.K) requires streetlights at intersections, circular turnarounds, and at intervals at least every 350 feet. <https://ecode360.com/28945315>. This topic was not addressed in the earlier conversation over development requirements for this subdivision. I understand that this is a large lot subdivision and that the lighting will disrupt, to some degree, the "country feel" of the subdivision. On the other hand the lighting does enhance safety and may enhance the aesthetics if done correctly. One potential solution that I have discussed with the developer is making the street lighting a responsibility of the Homeowners Association. This would be recorded in the subdivision indentures and would provide a mechanism for the HOA to install streetlights, if desired, at its discretion.

**12. Bigfoot Plaza / Hogan Storm Water improvements.** I would note that both of these projects are now out for bid, with bid openings scheduled for Feb. 27. The bid notices are on our website under Services: Bid Opportunities. We would hope to have recommendations of award for each project at the March 3 Board of Aldermen meeting.

**13. Parks Open House.** We had a very nice turnout at the Parks Master Plan Open House Jan. 27, with an estimated 50 people or more in attendance. We received comments on a range of topics at that meeting. There is an online survey available (<https://www.surveymonkey.com/r/PacificParks>); we have posted a link on the City website and Facebook page. We will leave the survey open at least for a few weeks.

**14. Medical Marijuana dispensary licenses.** The state released its list of licensed dispensary location on Jan. 24. There were five applications for Pacific and none were approved. The five locations are as follows: 538 E Osage, 1043 E. Osage, 3202 W. Osage, 1340 Thornton and 180 Lamar Parkway.

I have had a few questions over this issue and would make a few general comments:

- The City did not participate in these applications in any way.
- The City's zoning code is very accommodating to these uses and to our understanding was not a "deduct" or negative factor to any of the Pacific applications.
- If a license for a Pacific location had been approved, the facility would have to meet our zoning code requirements, but these essentially default to state law and would be similar in any other jurisdiction.

I understand there may be differences of opinion over this issue. However, given that the issue received such overwhelming approval from City voters in Nov. 2018, it is disappointing in my opinion that we did not have at least one location approved for our City. The full list is available online:

<https://health.mo.gov/safety/medical-marijuana/pdf/dispensary-facility-final-score-licensure-list.pdf>

#### **15. Information items.**

- **No Park Board meeting Feb. 3.** This meeting has been cancelled due to scheduling conflicts. The next meeting will be March 2.
- **Planning and Zoning Commission meeting Feb. 11.** This meeting will be cancelled as we have no business on the agenda. We do expect to meet Feb. 25.

- **Director of Community Development.** We are happy to have Bryan Kopp on the team and feel we are making very good progress since he started Jan. 22. He can provide more detail on his activities in his report. Two early priorities include addressing some lingering code enforcement issues, and re-starting the cemetery mapping work. I am particularly excited about our ability now to move forward with a more comprehensive code enforcement program. As the Board is aware, this was a central recommendation of the Comprehensive Plan, and the Mayor of course has also made it a priority. We feel we will be in excellent position to move forward on this with Mr. Kopp in the lead role.
- **Emergency expenditure, Government Center HVAC system.** We had to authorize significant repair work recently to the Government Center HVAC system. We requested proposals from two different vendors and upon review authorized the low bid to SCMI (Desoto, MO) in the amount of \$8,123. Work involves removal and replacement of the rooftop compressor unit among other items. We would expect to request maintenance agreement proposals from SCMI and others once this work is complete.
- **Missouri City Management Association Winter Workshop.** I attended this one-day conference Jan. 30. We had excellent speakers on topics very relevant to us and I had the opportunity to discuss issues directly with some of these speakers. Two items of note include the MoDOT Cost-Share program, which we hope to utilize for the 1<sup>st</sup> and Osage intersection improvement, and Missouri Department of Natural Resources efforts toward incentivizing regionalization. The MoDOT program continues to be a priority for MoDOT and has the support of Governor Parson (among others), so we feel confident that it will be available to us and that we have a project that fits the program criteria. We do want to move on this fairly quickly and hope to bring more information to the Board in the coming weeks. With respect to MDNR regionalization, we are not sure if the agreement between the City and Brush Creek Sewer District would be a high priority candidate for this program, but we do want to have those conversations and would expect to engage MDNR in the near future.

As always, if you have questions or need further information please don't hesitate to contact me.

Respectfully submitted,



Steve Roth  
City Administrator

**BILL NO. 4088**

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

**SPONSOR: \_\_\_\_\_**

**AN ORDINANCE PROVIDING FOR A BOUNDARY ADJUSTMENT BETWEEN THE CITIES OF EUREKA AND PACIFIC**

WHEREAS, the Revised Missouri State Statutes authorize the transfer of jurisdiction and concurrent detachment and annexation of parcels by boundary adjustment; and

WHEREAS, property owned by First Baptist Church of Allenton Hts at a location numbered 18663 U.S. Highway 66 (St. Louis County Locator Number 30X410016) lies within the Eureka City limits contiguous with the Pacific City limits; and

WHEREAS, it has been determined that it is in the best interest of the City of Eureka and the City of Pacific to approve the boundary adjustment to transfer jurisdiction of the property described herein to facilitate the City of Pacific providing utility service to the subject property which the City of Eureka cannot reasonably provide; and

WHEREAS, all provisions of Section 71.011 RSMo. authorizing such concurrent detachment and annexation have been met; and

WHEREAS, there are no residents living in the area to be concurrently annexed and detached; and

WHEREAS, a copy of the proposed ordinance was available for public inspection prior to consideration by the Board of Aldermen; and

WHEREAS, the City of Eureka will be giving consideration to a proposed Ordinance approving such boundary adjustment.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**SECTION 1:**

The area particularly described as follows:

A tract of land in U.S. Survey 148 Township 43 North Range 3 East inside U.S. Survey 3064 Township 43 North Range 3 East and being more particularly described as follows: Beginning at a point in the North line of U.S. Highway #66 distant South 37 degrees 38 minutes West 38 chains 87 links from the intersection of the East line of tract conveyed to John G. Devine and wife by Deed recorded in Book 1975 Page 397 and the North line of U.S. Highway #66 and said beginning point being also the most Southern corner of property conveyed to John A. and Kathleen Devine, his wife, by Deed recorded in Book 3457 Page 126, thence along

the Southwest line of tract conveyed to John A. Devine and wife, aforesaid, North 52 degrees 15 minutes West 839.52 feet to a point in the most Western corner of tract conveyed to John A. Devine and wife, aforesaid, thence South 37 degrees 38 minutes West 154.62 feet to a point, thence South 52 degrees 15 minutes east 839.52 feet to a point in the North line of U.S. Highway #66, thence along the North line of said U.S. Highway #66 North 37 degrees 38 minutes East 154.62 feet to a point being the most Southern corner of property conveyed to John A. Devine and wife, aforesaid, and the point of beginning, according to Survey executed by B. E. Hammer on October 27, 1961.

is hereby declared to be concurrently detached from the City of Eureka and annexed by the City of Pacific pursuant to applicable procedures including those set forth in the applicable Revised Missouri Statutes, on the effective date of the ordinance enacted by the City of Eureka approving such transfer.

**SECTION 2:**

The City of Pacific, Missouri shall file a certified copy of this ordinance simultaneously with the filing of a certified copy of the related detachment ordinance adopted by the City of Eureka, Missouri in the office of the County Clerk of St. Louis County, the St. Louis County Assessor, the Recorder of Deeds of St. Louis County, and the Clerk of the Circuit Court of St. Louis County, at the cost of the City of Pacific.

**SECTION 3:**

The City Clerk for the City of Pacific is further authorized and directed to take any and all necessary steps to effectuate this concurrent detachment and annexation by and between the City of Pacific, Missouri and the City of Eureka, Missouri.

**SECTION 4:**

This ordinance shall be in full force and effect from and after the date of its passage and approval.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**ATTEST:**

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

BEFORE THE BOARD OF ALDERMEN  
CITY OF PACIFIC, MISSOURI

VERIFIED PETITION FOR VOLUNTARY ANNEXATION

The undersigned, being the owners of all fee interest in that real property described in Exhibit A (the "Property"), attached hereto and incorporated herein by reference, hereby request that the said Property be annexed to the City of Pacific, Missouri, pursuant to the provisions of Sections 71.012, 71.014 and 72.401.9 RSMo.

In support of their Petition, Petitioners state as follows:

1. Petitioners are the owners of all fee interest in the Property.
2. The Property is contiguous and compact to the corporate limits of the City of Pacific, Missouri, a City of the Fourth Class (the "City"), as the Property borders with property located within the corporate limits of Pacific.
3. Annexation into the City will provide to the Property the benefits of traffic control, more intense police protection, zoning and other services of the City, among other things.
4. Annexation of the Property would be consistent with the Comprehensive Plan of the City and allows for the anticipated expansion of municipal services and roads into the area.
5. The City is able to furnish to the Property normal municipal services which the municipality presently provides its populace in the adjoining incorporated areas including: the provision of police protection; planning and zoning services; the protection of building codes; and the ability of the City street department to provide such new services as traffic control, snow plowing and street cleaning.
6. The annexation is reasonable in terms of effect on Petitioners and the Property and necessary to the proper development of the City.
7. The City currently provides water and sanitary sewer services within its corporate boundaries.

The undersigned does hereby request and petition the City to annex to the City of Pacific, Missouri, the Property, together with street and road rights-of-way abutting said Property so that the same is contained within the corporate limits of said City.

The undersigned further states and declares that this request and verified petition is voluntarily made and is made and submitted under the provisions of Sections 71.012, 71.014 and 72.401.9 of the Revised Statutes of Missouri.

The undersigned swears that the matters set forth above are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making a false affidavit or declaration.

IN WITNESS WHEREOF we have hereunto set our hands this 6<sup>th</sup> day of January, 2020

James R. Robinson

James R. Robinson

Trustee

Thomas E. Miles

Thomas E. Miles

Trustee

John W. Guenzler

John W. Guenzler

Trustee

State of Missouri )

) SS

County of Franklin )

On this 6<sup>th</sup> day January, 2020, before me appeared James R. Robinson to me

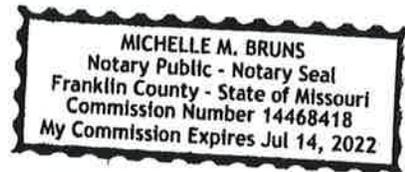
personally known to be the person who executed the foregoing petition and acknowledged that the facts and statements contained therein are true and correct and that they executed the same as their own free acts and deeds.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal in the County and State aforesaid on the day and years last written above.

Michelle M. Bruns

Notary Public

My Commission Expires: July 14, 2022



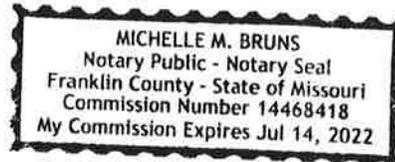
State of Missouri )  
 ) SS  
County of Franklin )

On this 6<sup>th</sup> day January, 2020, before me appeared Thomas E. Miles, to me personally known to be the persons who executed the foregoing Petition and acknowledged that the facts and statements contained therein are true and correct and that they executed the same as their own free acts and deeds.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal in the County and State aforesaid on the day and years last written above.

Michelle M. Bruns  
Notary Public

My Commission Expires: July 14, 2022



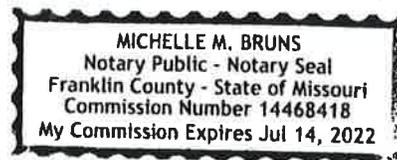
State of Missouri )  
 ) SS  
County of Franklin )

On this 6<sup>th</sup> day January, 2020, before me appeared John W Guenzler, to me personally known to be the persons who executed the foregoing Petition and acknowledged that the facts and statements contained therein are true and correct and that they executed the same as their own free acts and deeds.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal in the County and State aforesaid on the day and years last written above.

Michelle M. Bruns  
Notary Public

My Commission Expires: July 14, 2022



# COPY OF TITLE CERTIFICATE

## St. Louis Title & Abstract Company

RALPH L. SCHWENCK, PRESIDENT



7905 FORSYTH BOULEVARD  
CLAYTON 5, MO.  
PARKVIEW 7-3100  
804 CHESTNUT STREET  
ST. LOUIS 1, MO.  
CHESTNUT 1-5168

CLEO M. SHAW,  
VICE-PRESIDENT  
WILLIAM C. KEMPER,  
VICE-PRESIDENT  
HAROLD J. HACKNEY,  
VICE-PRESIDENT  
WILLIAM J. MEIER,  
VICE-PRESIDENT

C 43304 - 44223 X

We have examined the title to the following described real estate situated in the County of St. Louis, State of Missouri, to-wit:

A tract of land in U. S. Survey 148 Township 43 North Range 3 East inside U. S. Survey 3064 Township 43 North Range 3 East and being more particularly described as follows: Beginning at a point in the North line of U. S. Highway #66 distant South 37 degrees 38 minutes West 38 chains 87 links from the intersection of the East line of tract conveyed to John G. Devine and wife by Deed recorded in Book 1975 Page 397 and the North line of U. S. Highway #66 and said beginning point being also the most Southern corner of property conveyed to John A. Devine and Kathleen Devine, his wife, by Deed recorded in Book 3547 Page 126, thence along the Southwest line of tract conveyed to John A. Devine and wife, aforesaid, North 52 degrees 15 minutes West 839.52 feet to a point in the most Western corner of tract conveyed to John A. Devine and wife, aforesaid, thence South 37 degrees 38 minutes West 154.62 feet to a point, thence South 52 degrees 15 minutes East 839.52 feet to a point in the North line of U. S. Highway #66, thence along the North line of said U. S. Highway #66 North 37 degrees 38 minutes East 154.62 feet to a point being the most Southern corner of property conveyed to John A. Devine and wife, aforesaid, and the point of beginning, according to Survey executed by B. H. Hammer on October 27, 1961.

According to the St. Louis County Records, the fee simple title is vested in

MITCHELL SHRAM, KENNETH MILLES, and ARTHUR GOWEN,  
TRUSTEES FOR PACIFIC HEIGHTS BAPTIST CHURCH,

free and clear of all liens and encumbrances, except as follows: Easements to Union Electric Company of Missouri recorded in Book 2139 Page 142 and Book 2246 Page 381 (Which Easements we are unable to definitely locate.) Reservation for Drainage purposes, according to instrument recorded as Daily #118 on December 20, 1961.

DEEDS OF TRUST:

NONE.

GENERAL TAXES 1961 are due and payable.

SPECIAL TAXES:

NONE reported on Books in County Clerk's Office that are a lien.

JUDGMENTS:

NONE.

MECHANICS' LIENS:

NONE.

ATTACHMENTS:

NONE.

We do not certify as to restrictions, if any, imposed upon said property by any zoning law or ordinance or amendments thereto.

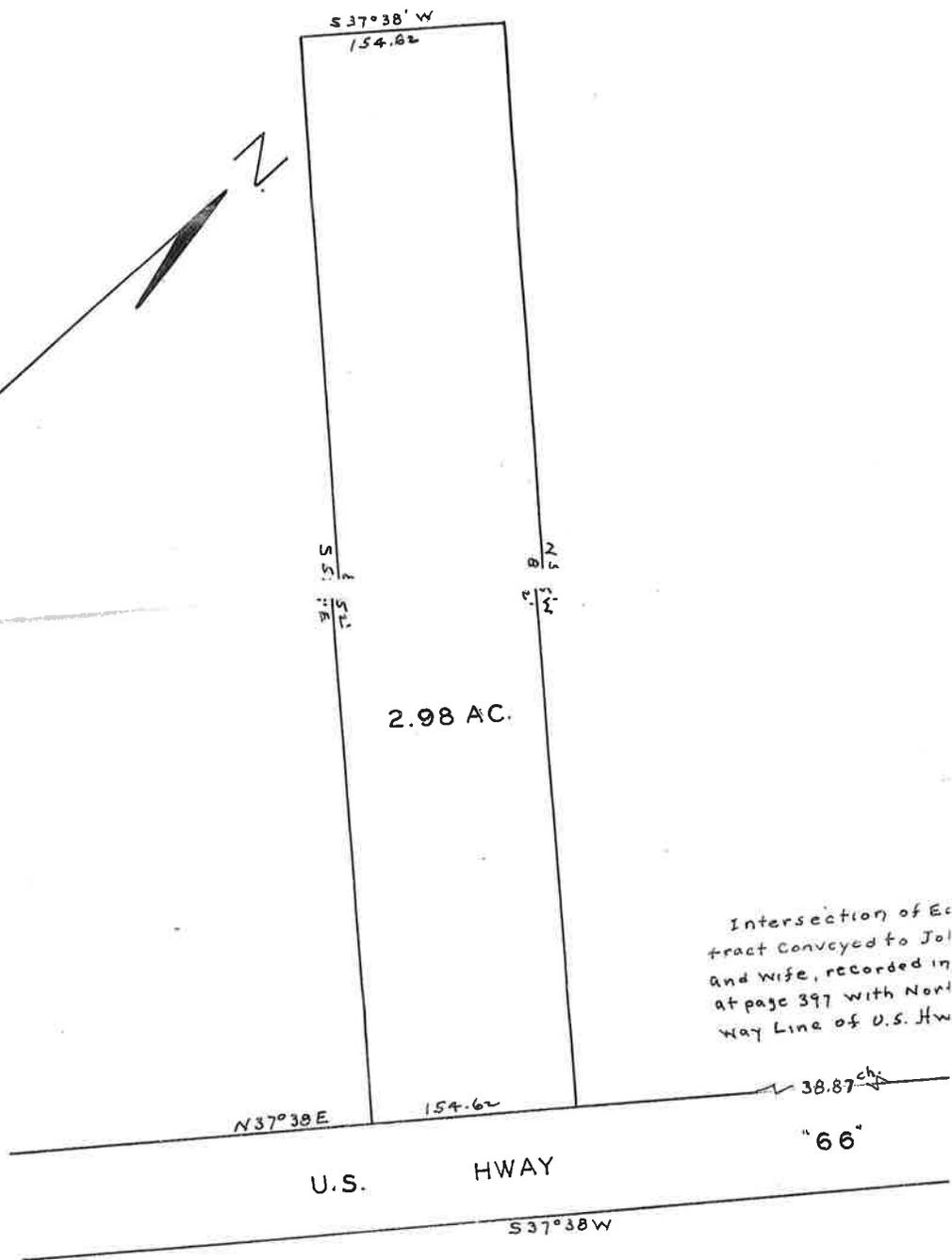
A tract of land in U. S. Survey 148 Township 43 North Range 3 East inside U. S. Survey 3064 Township 43 North Range 3 East and being more particularly described as follows: Beginning at a point in the North line of U. S. Highway #66 distant South 37 degrees 38 minutes West 38 chains 87 links from the intersection of the East line of tract conveyed to John G. Devine and wife by Deed recorded in Book 1975 Page 397 and the North line of U. S. Highway #66 and said beginning point being also the most Southern corner of property conveyed to John A. Devine and Kathleen Devine, his wife, by Deed recorded in Book 3547 Page 126, thence along the Southwest line of tract conveyed to John A. Devine and wife, aforesaid, North 52 degrees 15 minutes West 839.52 feet to a point in the west Western corner of tract conveyed to John A. Devine and wife, aforesaid, thence South 37 degrees 38 minutes West 154.62 feet to a point, thence South 52 degrees 15 minutes East 839.52 feet to a point in the North line of U. S. Highway #66, thence along the North line of said U. S. Highway #66 North 37 degrees 38 minutes East 154.62 feet to a point being the most Southern corner of property conveyed to John A. Devine and wife, aforesaid, and the point of beginning, according to Survey executed by B. H. Hammer on October 27, 1961.

TOWNSHIP 43N. RANGE 3E.  
of the 5th P.M.

PART OF U.S. SURVEY 148

INSIDE

U.S. SURVEY 3064



This is to certify that the above survey was  
made at the request of John G. Devine and that  
it is inside of U.S. Survey 148. P.M.

**BILL NO. 4089**

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

**SPONSOR: \_\_\_\_\_**

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF PACIFIC, MISSOURI AND THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION PROVIDING FOR CONSTRUCTION OF HIGHWAY N PHASE 4 IMPROVEMENTS, FEDERAL PROJECT NO. 5419(613)**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:

**SECTION ONE.**

That the Mayor is hereby authorized and directed to execute on behalf of the City of Pacific, Missouri a contract with the Missouri Highway and Transportation Commission providing for construction of Highway N Phase 4 Improvements, Federal Project No. STP-5419(613).

**SECTION TWO.**

That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

**SECTION THREE.**

This ordinance shall be in full force and effect from and after the date of its passage and approval.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**ATTEST:**

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

CCO Form: FS11  
Approved: 07/96 (KMH)  
Revised: 03/17 (MWH)  
Modified:

CFDA Number: CFDA #20.205  
CFDA Title: Highway Planning and Construction  
Award name/number: STP-5419(613)  
Award Year: 2021  
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
STP-URBAN PROGRAM AGREEMENT**

THIS STP-URBAN AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Pacific, Franklin County, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Fixing America's Surface Transportation Act (FAST) 23 U.S.C. §133, authorizes a Surface Transportation Program (STP) to fund transportation related projects; and

WHEREAS, the City desires to construct certain improvements, more specifically described below, using such STP funding; and

WHEREAS, those improvements are to be designed and constructed in compliance with the provisions of this Agreement.

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

(1) PURPOSE: The purpose of this Agreement is to grant the use of STP funds to the City. The improvement contemplated by this Agreement and designated as Project STP-5419(613) involves:

Resurfacing, lighting, storm sewer and bike lanes on Route N from Westlake Village Drive to Candlewick Lane.

The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project STP-5419(613) by the Commission is within the city limits of Pacific, Missouri. The general

location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference. More specific descriptions are as follows:

Route N from Westlake Village Drive to Candlewick Lane.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the STP system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by

the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement

with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: No acquisition of additional right of way is anticipated in connection with Project STP-5419(613) or contemplated by this Agreement.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. The federal share for this project will be 80 percent not to exceed \$857,568. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the Manual of Uniform Traffic Control Devices (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project STP-5419(613) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by DBEs to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that disadvantaged business enterprises shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The City shall repay any progress payments which involve ineligible costs.

(19) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the City has not paid the vendor prior to receiving reimbursement, the City must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(20) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any STP improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any

privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(21) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(22) AUDIT REQUIREMENT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the City expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(23) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(24) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

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

(26) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(27) COMMISSION REPRESENTATIVE: The Commission's St. Louis District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(28) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

- (A) To the City:  
300 Hoven Drive  
Pacific, MO 63069
  
- (B) To the Commission:  
1590 Woodlake Drive  
Chesterfield, MO 63017  
Facsimile No.: 573-522-6475

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(29) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (29) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(30) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

(31) CONFLICT OF INTEREST: The City shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(32) MANDATORY DISCLOSURES: The City shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

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

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

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

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF PACIFIC

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

\_\_\_\_\_

By \_\_\_\_\_

Secretary to the Commission

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

\_\_\_\_\_

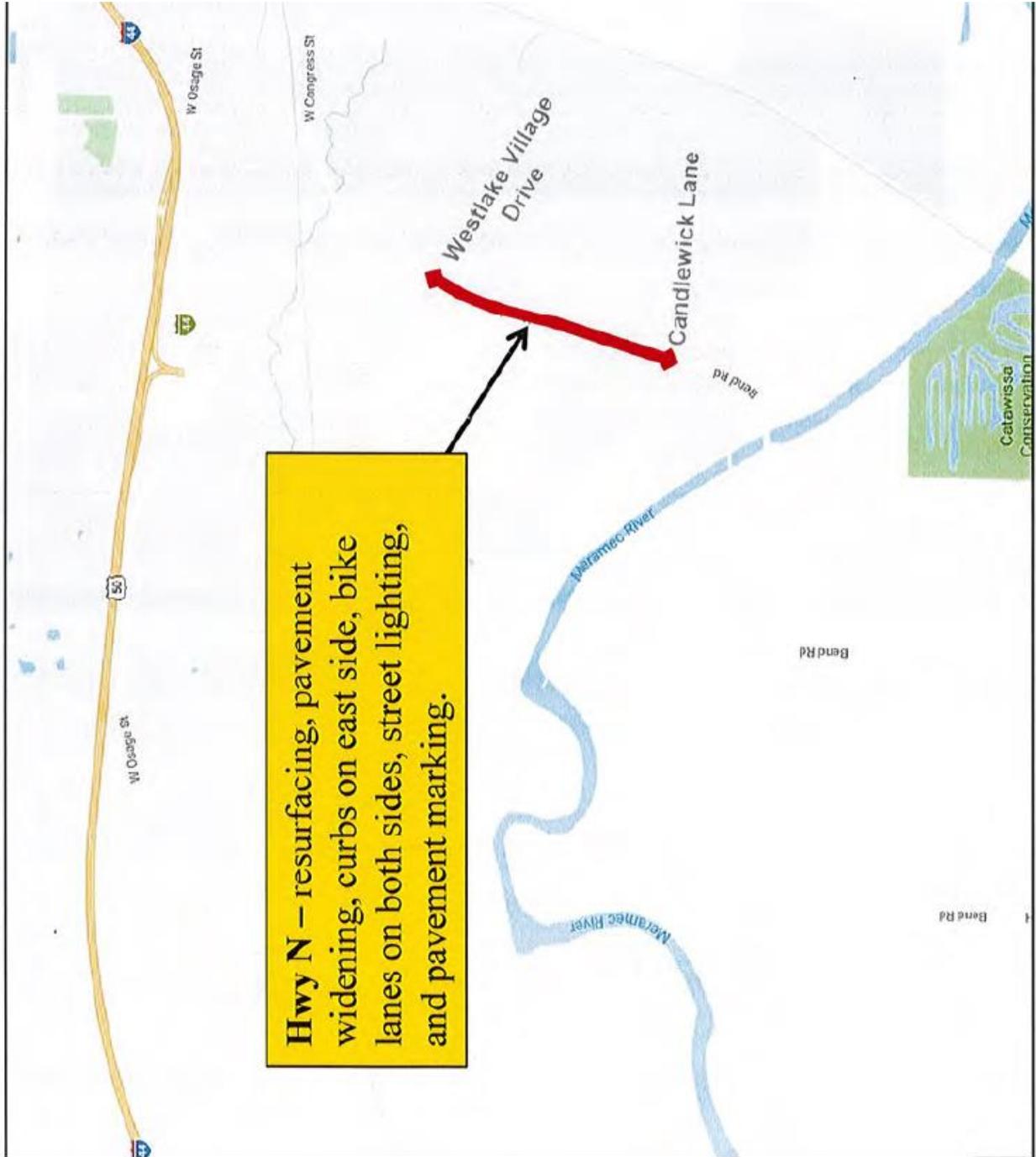
By \_\_\_\_\_

Commission Counsel

Title \_\_\_\_\_

Ordinance No: \_\_\_\_\_

Exhibit A - Location of Project



## Exhibit B – Project Schedule

Project Description: STP-5419(613)

<b>PROJECT DEVELOPMENT SCHEDULE</b>			
<i>Note: many stages can occur concurrently.</i>			
Activity Description	Start Date (MM/YYYY)	Finish Date (MM/YYYY)	Time Frame (Months)
Receive notification letter	10/2019	10/2019	1
Execute agreement (project sponsor and DOT)	11/2019	02/2020	3
<b>Engineering services contract submitted and approved*</b>	10/2020	01/2021	3
Obtain environmental clearances (106, CE2, T&E, etc.)	03/2021	10/2021	7
Public meeting/hearing	08/2021	08/2021	1
Develop and submit preliminary plans	01/2021	04/2021	3
Preliminary plans approved	05/2021	10/2021	5
Develop and submit right-of-way plans			
Review and approval of right-of-way plans			
<b>Submit and receive approval for notice to proceed for right-of-way acquisition (A-Date)*</b>			
Right-of-way acquisition			
Utility coordination	05/2021	05/2022	12
Develop and submit PS&E	11/2021	03/2022	4
<b>District approval of PS&amp;E/advertise for bids*</b>	04/2022	12/2022	8
Submit and receive bids for review and approval	01/2023	04/2023	3
Project implementation/construction	05/2023	10/2023	5
* Finish date must match fiscal year for each milestone shown in <b>bold</b> text.			

\*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

\*\*Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and requires request to adjust.

## Exhibit C - Required Contract Provisions

### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

#### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

#### II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

## **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

## **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

### **1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

**BILL NO. 4085**  
**SPONSOR: \_\_\_\_\_**

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE FISCAL YEAR 2019-20 BUDGET AND WAGE AND SALARY SCHEDULE FOR APPOINTED OFFICIALS AND EMPLOYEES OF THE CITY OF PACIFIC**

WHEREAS, the Board of Aldermen has determined that it is appropriate to amend the Wage and Salary Schedule in the Fiscal Year 2019-20 budget;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:

**SECTION ONE.**

The Board of Aldermen hereby amends the Wage and Salary Schedule in the Fiscal Year 2019-20 budget, as adopted and amended, a copy of which said Wage and Salary Schedule is marked as "Exhibit A" and attached hereto, and made part of hereof by reference. The Wage and Salary amendments as adopted herein shall become effective with the pay period beginning February 3, 2020.

**SECTION TWO.**

This Ordinance shall be in full force and effect both from and after its date of passage by the Board of Aldermen and approval by the Mayor. Any ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_ 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**ATTEST:**

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

EXHIBIT A

<b>Police</b>				
Assistant Chief	Locke	27.80	29.62	\$ 61,610
Corporal	Lynn	24.95	25.20	\$ 52,416

**BILL NO. 4086**

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

**SPONSOR \_\_\_\_\_**

**AN ORDINANCE PROVIDING FOR THE APPROVAL OF A FINAL PLAT OF RIVERBEND HEIGHTS SUBDIVISION PLAT 1, A TRACT OF LAND ZONED “R-1B” SINGLE-FAMILY DISTRICT LOCATED AT OR ABOUT 2050 HIGHWAY N (CONGRESS STREET) FRANKLIN COUNTY PARCEL ID FRANKLIN COUNTY PARCEL ID# 19-6-14.0-0-099-034.000 IN THE CITY OF PACIFIC**

**WHEREAS**, Boo Investments LLC has submitted for review and approval a Final Plat of the Riverbend Heights Subdivision Plat 1, a Minor Subdivision with no proposed public improvements; and,

**WHEREAS**, following a duly advertised Public Hearing, the Planning & Zoning Commission has reviewed the same and has recommended approval thereof; and,

**WHEREAS**, the City has reviewed the Final Plat in accordance with the Subdivision Ordinance of the City of Pacific and has found it to be in substantial compliance with all applicable requirements and has forwarded said Final Plat to the Board of Aldermen; and,

**WHEREAS**, the Board of Aldermen of the City of Pacific having considered the request, desires to take action on said Final Plat.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**Section 1.** The Final Plat for the Riverbend Heights Subdivision Plat 1, which is made part hereof and attached hereto as “Exhibit A”, is hereby approved, subject to the following:

- a. A minimum 10-ft wide utilities easement shall be provided along all lot lines.
- b. Public Drinking Water Service shall be required as a condition of development of each subdivision lot.

**Section 2.** The Mayor and City Clerk are authorized and directed to evidence the approval of the said Final Plat by affixing their signatures and the official seal of the City of Pacific as required on the said document.

**Section 3.** The Ordinance shall be in full force and effect from and after its passage and approval.

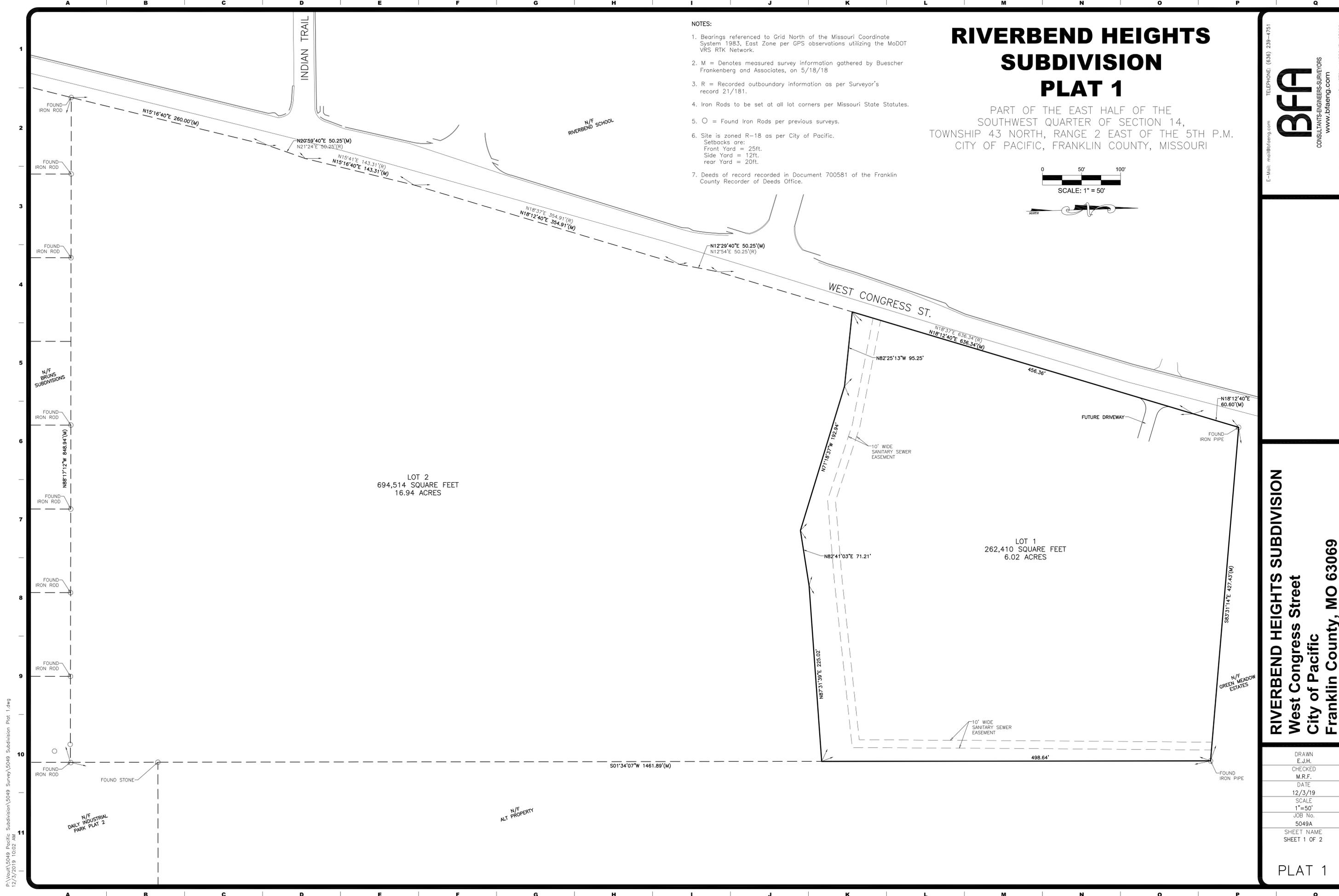
**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_

*Steve Myers, MAYOR*

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

ATTEST:

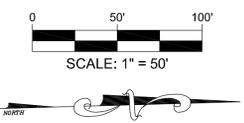
\_\_\_\_\_  
City Clerk



- NOTES:
1. Bearings referenced to Grid North of the Missouri Coordinate System 1983, East Zone per GPS observations utilizing the MoDOT VRS RTK Network.
  2. M = Denotes measured survey information gathered by Buescher Frankenberg and Associates, on 5/18/18
  3. R = Recorded outboundary information as per Surveyor's record 21/181.
  4. Iron Rods to be set at all lot corners per Missouri State Statutes.
  5. O = Found Iron Rods per previous surveys.
  6. Site is zoned R-18 as per City of Pacific.  
Setbacks are:  
Front Yard = 25ft.  
Side Yard = 12ft.  
rear Yard = 20ft.
  7. Deeds of record recorded in Document 700581 of the Franklin County Recorder of Deeds Office.

# RIVERBEND HEIGHTS SUBDIVISION PLAT 1

PART OF THE EAST HALF OF THE  
SOUTHWEST QUARTER OF SECTION 14,  
TOWNSHIP 43 NORTH, RANGE 2 EAST OF THE 5TH P.M.  
CITY OF PACIFIC, FRANKLIN COUNTY, MISSOURI



F:\Vault\5049 Pacific Subdivision\5049 Survey\5049 Subdivision Plat 1.dwg  
12/3/2019 10:02 AM

TELEPHONE: (636) 239-4751  
E-Mail: [mcb@bfaeng.com](mailto:mcb@bfaeng.com)  
**BFA**  
CONSULTANTS-ENGINEERS-SURVEYORS  
[www.bfaeng.com](http://www.bfaeng.com)  
WASHINGTON, MISSOURI 63090  
103 ELM STREET

**RIVERBEND HEIGHTS SUBDIVISION**  
**West Congress Street**  
**City of Pacific**  
**Franklin County, MO 63069**

DRAWN	E.J.H.
CHECKED	M.R.F.
DATE	12/3/19
SCALE	1"=50'
JOB No.	5049A
SHEET NAME	SHEET 1 OF 2

PLAT 1

BILL NO. \_\_\_\_\_

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

**AN ORDINANCE APPROVING A PETITION FOR VOLUNTARY ANNEXATION FILED BY KATHLEEN G. VITALE, JOSEPH C. VITALE AND VITALE FARMS, LLC REGARDING CERTAIN PROPERTY CONTIGUOUS AND COMPACT TO THE CITY OF PACIFIC, MISSOURI AND GENERALLY LOCATED AT 5875, 5893, 5881 LOST HILL LANE AND 18800 FRANKLIN ROAD; ANNEXING SAID PROPERTY TO THE CITY; AUTHORIZING OTHER ACTIONS IN CONNECTION WITH SUCH ANNEXATION, AND REPEALING CONFLICTING ORDINANCES.**

**WHEREAS**, a verified petition requesting annexation into the City of Pacific and signed by the owners of all fee interests of record of all the real estate hereinafter described was filed with the City pursuant to the provisions of Sections 71.012, 71.014 and 72.401.9 of the Revised Statutes of Missouri; and

**WHEREAS**, the real estate hereinafter described and described in the petition aforesaid is contiguous and compact to the existing corporate limits of the City of Pacific and is located in unincorporated St. Louis County, Missouri; and

**WHEREAS**, a public hearing was held by the Board of Aldermen on January 21, 2020 after due notice as required by law, at which any interested person was afforded the opportunity to present evidence regarding the proposed annexation, and no written objection to the proposed annexation was filed with the Board of Aldermen within fourteen days after the public hearing;

**WHEREAS**, the Board of Aldermen hereby finds and determines that the proposed annexation is reasonable and necessary to the proper development of the City; the City has the ability to furnish normal municipal services to the area to be annexed within a reasonable time; annexation of such real estate pursuant to such petition and the Laws of Missouri and the terms set forth and referenced hereinafter is in the best interests of the City and the current and future owners of such real estate, and that all things required by law to accomplish such annexation have been done; and

**WHEREAS**, The City provides water and sanitary sewer services within its corporate limits;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**Section 1.**

Pursuant to the provisions of Sections 71.012, 71.014 and 72.401.9 of the Revised Statutes of Missouri, the real estate described below and owned by Kathleen G. Vitale, Joseph C. Vitale and Vitale Farms, LLC is hereby annexed into the City of Pacific, Missouri, and the city limits of the said City are hereby extended to include such real

estate, to wit:

**Parcel 1: 5875 Lost Hill Lane Pacific, Missouri, (St. Louis County Locator No: 31Y620015)**

A tract of land being part of U.S. Survey 1987, Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, Missouri and being more particularly described as follows:

Commencing at the Northwest corner of U.S. Survey 1897, Township 43 North, Range 3 East, thence with the Northeast line of a tract of land now or formerly of the Missouri Department of Conservation, as recorded in the Deed Book 7041 Page 657 in the St. Louis County Recorder of Deeds Office, South 28 degrees 17 minutes 04 seconds East, 621.43 feet to a point being the most Western corner of a tract of land now or formerly of Jarrell and Sally Lemons, as recorded in Deed Book 12098 Page 2357 in the St. Louis County Recorder of Deeds Office, thence along the Northwest line of Lemons tract, North 62 degrees 19 minutes 34 seconds East, 2097.67 feet to the Point of Beginning of the tract herein described; thence continuing along said Northwest line, North 62 degrees, 19 minutes 34 seconds East, 1500.00 feet to a point; thence departing said Northwest line, South 27 degrees 40 minutes 26 seconds East, 300.00 feet to a point; thence South 62 degrees 19 minutes 34 seconds West, 1500.00 to a point; thence North 27 degrees 40 minutes 26 seconds West, 300.00 feet to the Point of Beginning.

**Parcel 2: 5893 Lost Hill Lane, Pacific, Missouri, (St. Louis County Locator No. 31Y340029)**

A tract of land being part of U.S. Survey 3064 in Fractional section 8 and being part of Lots 1, 2, 3, 4, 5, 6, and 7 of Subdivision of Lot No. 4 of August Chouteau Subdivision of U.S. Survey 1897 all being in Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, State of Missouri being more particularly described as follows:

Beginning at a point in the East line of a tract of land now or formerly of Emil L. Wallach and wife, as recorded in Deed Book 2286 Page 353 in the St. Louis County Recorder of Deeds Office, and said point bearing South 29 degrees 39 minutes East 1982.19 feet along said East line from the Northeast corner of said tract; thence along said East line the following courses and distances: South 29 degrees 39 minutes East, 424.12 feet to a point; South 07 degrees 22 minutes West, 105.5 feet to a point; South 38 degrees 30 minutes West, 425.62 feet to a point, South 40 degrees 22 minutes West, 180.50 feet to a point South 35 degrees 08 minutes West, 335.20 feet to a point, South 51 degrees 43 minutes West, 107.90 feet to a point, South 48 degrees 53 minutes West, 307.80 feet to a point, South 34 degrees 03 minutes West, 209.80 to a point, South 27 degrees 33 minutes West, 282.10 feet to a point, South 33 minutes 58 minutes West, 341.40 feet to a point, South 33 degrees 58 minutes West, 93.00 feet to a point; South 03 degrees 56 minutes East, 190.00 feet to a point; South 40 degrees 03 minutes East, 590.00 feet to the point of intersection with the Meramec River; thence departing said East line and along the North

line of the Meramec River in a Westernly direction and upstream for a distance of 2480 feet, more or less, to the point of intersection with the East line of U.S. Survey 1932; thence departing said North line of the Meramec River and along the East line of U.S. Survey 1932 and the East line of U.S. Survey 1946, North 29 degrees 15 minutes West 1491.06 feet to a point, said point bearing South 29 degrees 15 minutes East, 1584.75 feet from an old stone in the East line of U.S. Survey 1946, at the South corner of a tract of land now or formerly of Moreschell, as recorded in Deed Book 9 Page 524, in the St. Louis County Recorder of Deeds Office, thence North 61 degrees 21 minutes 39 seconds East, 597.67 feet to a point; thence South 28 degrees 38 minutes 22 seconds East, 300.00 feet to a point; thence 61 degrees 21 minutes 38 seconds East, 3000.00 feet to a point; thence North 28 degrees 38 minutes 22 seconds West, 300.00 feet to a point; thence North 61 degrees 21 minutes 38 seconds East, 805.00 feet to the Point of Beginning; AND LESS AND EXCEPTING THEREFROM the tract of land conveyed to Von Der Ahe Truck and Trailer Service, Inc. by Deed Book 6610 Page 155 in the Recorder of Deeds Office of St. Louis County, Missouri.

**Parcel 3: 5881 Lost Hill Lane Pacific, Missouri, (St. Louis County Locator No: 31Y330019)**

A tract of land being part of U.S. Survey 1897, Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Northwest corner of U.S. Survey 1897, Township 43 North, Range 3 East, thence with the Northeast line of a tract of land now or formerly of the Missouri Department of Conservation as recorded in Deed Book 7041 Page 657 in the St. Louis County Recorder of Deeds Office; South 28 degrees 17 minutes 04 seconds East, 621.43 feet to a point being the most Western corner of a tract of land now or formerly of Jarrell and Sally Lemons, as recorded in the Deed Book 12098 Page 2357, in the St. Louis County Recorder of Deeds Office; thence along the Northwest line of said Lemons tract, North 62 degrees 19 minutes, 34 seconds East, 597.67 feet to the Point of Beginning of the tract herein described; thence continuing along said Northwest line, North 62 degrees 19 minutes 34 seconds East, 1500.00 feet to a point; thence departing said Northwest line, South 27 degrees 40 minutes 26 seconds East, 300.00 feet to a point; thence South 62 degrees 19 minutes 34 seconds West, 1500.00 feet to a point, thence North 27 degrees 40 minutes 26 seconds West, 300.00 feet to the Point of Beginning.

**Parcel 4: 18800 Franklin Road, Pacific, Missouri, St. Louis County Locator No. 31X140020**

Parcel 1: A tract of land being part of U.S. Survey 3064 and Fractional Sections 8 and 9 and part of Lots 1, 5, and 6 of the Subdivision of Lot 4 of the August Chouteau Subdivision of U.S. Survey 1897, Township 43 North, Range 3 East, St. Louis County, Missouri, and being more particularly described as follows:

Commencing at and old iron rod (record) at the Southeast corner of Lot 4 of August Chouteau Subdivision of U.S. Survey 1897, thence North 29 degrees 39 minutes West, 1548.14 feet to a point marking the true point of beginning of the tract herein described, thence North 29 degrees 39 minutes West, 4039.05 feet to a point in the Southern right-of-way line of the St. Louis and San Francisco Railroad by suit Numbered X1844, thence along said right-of-way South 30 degrees 03 minutes West, 425.62 feet to a point; thence South 40 degrees 22 minutes West, 100.50 feet to a point; thence South 35 degrees 03 minutes West, 335.20 feet to a point; thence South 51 degrees 43 minutes West, 187.90 feet to a point, thence South 40 degrees 53 minutes West, 307.80 feet to a point, thence South 34 degrees 03 minutes West, 299.80 feet to a point, thence South 27 degrees 33 minutes West, 282.10 feet to a point, thence South 33 degrees 52 minutes West, 434.30 feet to a point; thence South 03 degrees 56 minutes East, 190.00 feet to a point, thence South 40 degrees 03 minutes East, 442.02 to a point; thence North 60 degrees 14 minutes East, 2277.39 feet to a point of beginning, excepting therefrom that part conveyed to Margaret R. Duff by deed recorded in Book 7091, Page 633 of the St. Louis County Records.

Parcel 2: A tract of land being party of U.S. Survey 3064 and Fractional Sections 8 and 9 and parts of Lots 5, 6, and 7 of the Subdivision of Lot 4 of the August Chouteau subdivision of U.S. Survey 1897, Township 43 North, Range 3 East, St. Louis County, Missouri, and being more particularly described as follows:

Commencing at an old iron rod (record) at the Southeast corner of Lot 4 of August Chouteau Subdivision of U.S. Survey 1897; thence South 60 degrees 14 minutes West, 1277 feet more or less, to a point on the bank of the Meramec River; thence along said river bank North 49 degrees 66 minutes West, 876.62 feet, more or less, to a point; thence North 79 degrees 30 minutes West, 904.39 feet, more or less, to a point; thence leaving said river bank North 40 degrees 03 minutes West, 147.96 feet, more or less, to a point, thence North 60 degrees 14 minutes East, 2277.39 feet to a point, thence South 29 degrees 39 minutes East, 1548.14 feet to the point of beginning.

Parcel 3: A parcel of land being part of a larger tract conveyed to Emil L. Wallach, et al, recorded in book 2286, Page 353 of the St. Louis County Records, and situated in, part of the Southeast quarter of the Northeast quarter of Fractional Section 8 and part of the Southeast quarter of the Northeast quarter of Fractional Section 9 and part of U.S. Survey 1897, and being part of Lot 1 of the Subdivision of Lot 4 of August Chouteau Subdivision, all in Township 43 North, Range 3 East, St. Louis County, Missouri, more particularly described as follows:

Beginning at an iron pin at the Northwest corner of a 60 foot wide strip of land described as parcel 1 of conveyance to Richard W. Gentry and Karen L. Gentry, his wife, and Mark Adolphus as recorded in Book 7274, Page 3437 of the St. Louis County Land Records, said pin also being in the Northwest corner of a 20-foot wide strip of land as described in Book 6610, Page 155 of the St. Louis County Records, said pin lying on the South right-of-way line of Burlington Northern railroad (formerly the St. Louis and San Francisco Railroad) also being the Southern right-of-way of Franklin Road; thence along said right-

of-way line South 30 degrees 03 minutes West, 120.0 feet to an iron pin; thence leaving said right-of-way, South 32 degrees 56 minutes 44 seconds East, 1931.42 feet to an iron pin on the West line of said 20-foot wide strip, said pin being on the North line of a trust conveyed to Stephen F. Powell and his wife as recorded in Book 7400, Page 2465 of the St. Louis Country Land Records, said point also located 60 feet Southwest of the East line of the August Chouteau Subdivision; thence following West line of said 20-foot wide strip North 29 degrees 39 minutes West 1973.76 feet to the point of beginning.

Together with all improvements thereon known and numbered as: 18800 Franklin Road, Pacific, MO 63069.

**Section 2.**

The Mayor of the City of Pacific and other appropriate city officials are hereby authorized and instructed to execute the aforesaid Annexation Agreement on behalf of the City, and to take any and all other steps necessary to carrying out its purpose.

**Section 3.**

The City Clerk is hereby authorized and instructed to cause a certified copy of this Ordinance to be filed with the appropriate officials of St. Louis County, Missouri, including three certified copies of the to be filed with the St. Louis County Assessor and St. Louis County Clerk and one certified copy to be filed with the St. Louis County Board of Election Commissioners, and to take any and all other steps necessary or appropriate to effectuate the annexation provided hereby.

**Section 4.**

Any and all ordinances or parts thereof in conflict herewith are hereby repealed.

**Section 5.**

This Ordinance shall be in full force and effect from and after its passage and approval.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020. \_\_\_\_\_  
*Steve Myers, MAYOR*

ATTEST:

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

BEFORE THE BOARD OF ALDERMEN  
CITY OF PACIFIC, MISSOURI

VERIFIED PETITION FOR VOLUNTARY ANNEXATION

The undersigned, being the owners of all fee interest in that real property described in Exhibit A (the "Property"), attached hereto and incorporated herein by reference, hereby request that the said Property be annexed to the City of Pacific, Missouri, pursuant to the provisions of Sections 71.012, 71.014 and 72.401.9 RSMo.

In support of their Petition, Petitioners state as follows:

1. Petitioners are the owners of all fee interest in the Property.
2. The Property is contiguous and compact to the corporate limits of the City of Pacific, Missouri, a City of the Fourth Class (the "City"), as the Property borders with property located within the corporate limits of Pacific.
3. Annexation into the City will provide to the Property the benefits of traffic control, more intense police protection, zoning and other services of the City, among other things.
4. Annexation of the Property would be consistent with the Comprehensive Plan of the City and allows for the anticipated expansion of municipal services and roads into the area.
5. The City is able to furnish to the Property normal municipal services which the municipality presently provides its populace in the adjoining incorporated areas including: the provision of police protection; planning and zoning services; the protection of building codes; and the ability of the City street department to provide such new services as traffic control, snow plowing and street cleaning.
6. The annexation is reasonable in terms of effect on Petitioners and the Property and necessary to the proper development of the City.
7. The City currently provides water and sanitary sewer services within its corporate boundaries.

The undersigned does hereby request and petition the City to annex to the City of Pacific, Missouri, the Property, together with street and road rights-of-way abutting said Property so that the same is contained within the corporate limits of said City.

The undersigned further states and declares that this request and verified petition is voluntarily made and is made and submitted under the provisions of Sections 71.012, 71.014 and 72.401.9 of the Revised Statutes of Missouri.

The undersigned swears that the matters set forth above are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making a false affidavit or declaration.

IN WITNESS WHEREOF we have hereunto set our hands this 18 day of December, 2019.

Kathleen S. Vitale  
Owner

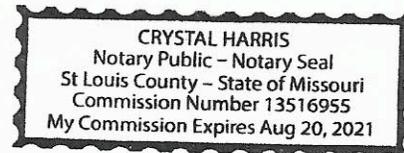
State of Missouri                    )  
  ) SS  
County of ~~Franklin~~ St. Louis )

On this 18 day December, 2019, before me appeared Kathleen G. Vitale, to me personally known to be the persons who executed the foregoing Petition and acknowledged that the facts and statements contained therein are true and correct and that they executed the same as their own free acts and deeds.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal in the County and State aforesaid on the day and years last written above.

Crystal Harris  
Notary Public

My Commission Expires: August 20, 2021



BEFORE THE BOARD OF ALDERMEN  
CITY OF PACIFIC, MISSOURI

VERIFIED PETITION FOR VOLUNTARY ANNEXATION

The undersigned, being the owners of all fee interest in that real property described in Exhibit A (the "Property"), attached hereto and incorporated herein by reference, hereby request that the said Property be annexed to the City of Pacific, Missouri, pursuant to the provisions of Sections 71.012, 71.014 and 72.401.9 RSMo.

In support of their Petition, Petitioners state as follows:

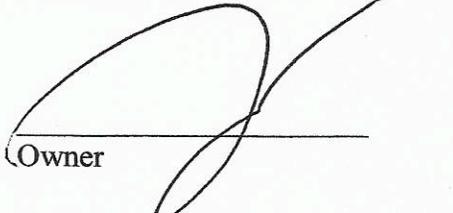
1. Petitioners are the owners of all fee interest in the Property.
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3. Annexation into the City will provide to the Property the benefits of traffic control, more intense police protection, zoning and other services of the City, among other things.
4. Annexation of the Property would be consistent with the Comprehensive Plan of the City and allows for the anticipated expansion of municipal services and roads into the area.
5. The City is able to furnish to the Property normal municipal services which the municipality presently provides its populace in the adjoining incorporated areas including: the provision of police protection; planning and zoning services; the protection of building codes; and the ability of the City street department to provide such new services as traffic control, snow plowing and street cleaning.
6. The annexation is reasonable in terms of effect on Petitioners and the Property and necessary to the proper development of the City.
7. The City currently provides water and sanitary sewer services within its corporate boundaries.

The undersigned does hereby request and petition the City to annex to the City of Pacific, Missouri, the Property, together with street and road rights-of-way abutting said Property so that the same is contained within the corporate limits of said City.

The undersigned further states and declares that this request and verified petition is voluntarily made and is made and submitted under the provisions of Sections 71.012, 71.014 and 72.401.9 of the Revised Statutes of Missouri.

The undersigned swears that the matters set forth above are true and correct to the best knowledge and belief of the undersigned subject to the penalties of making a false affidavit or declaration.

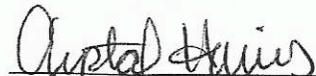
IN WITNESS WHEREOF we have hereunto set our hands this 18 day of December, 2019.

  
\_\_\_\_\_  
Owner

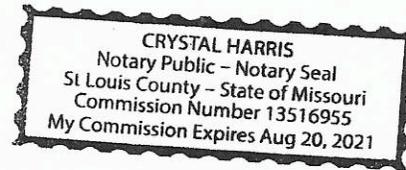
State of Missouri                    )  
  ) SS  
County of Franklin St. Louis)

On this 18 day December 2019, before me appeared Joseph C. Vitale to me personally known to be the persons who executed the foregoing Petition and acknowledged that the facts and statements contained therein are true and correct and that they executed the same as their own free acts and deeds.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal in the County and State aforesaid on the day and years last written above.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: August 20, 2021



## Stewart Title Guaranty Company

### SCHEDULE A

File Number: 93736

NP

### EXHIBIT A

#### PARCEL 1:

A tract of land being part of U.S. Survey 1897, Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Northwest corner of U. S. Survey 1897, Township 43 North, Range 3 East; thence with the Northeast line of a tract of land now or formerly of the Missouri Department of Conservation, as recorded in Deed Book 7041 Page 657 in the St. Louis County Recorder of Deeds Office, South 28 degrees 17 minutes 04 seconds East, 621.43 feet to a point being the most Western corner of a tract of land now or formerly of Jarrell and Sally Lemons, as recorded in Deed Book 12098 Page 2357 in the St. Louis County Recorder of Deeds Office; thence along the Northwest line of said Lemons tract, North 62 degrees 19 minutes 34 seconds East, 2097.67 feet to the Point of Beginning of the tract herein described; thence continuing along said Northwest line, North 62 degrees 19 minutes 34 seconds East, 1500.00 feet to a point ; thence departing said Northwest line, South 27 degrees 40 minutes 26 seconds East, 300.00 feet to a point; thence South 62 degrees 19 minutes 34 seconds West, 1500.00 feet to a point; thence North 27 degrees 40 minutes 26 seconds West, 300.00 feet to the Point of Beginning.

#### PARCEL 2:

A tract of land being part of U. S. Survey 3064 in Fractional Section 8 and being part of Lots 1, 2, 3, 4, 5, 6 and 7 of Subdivision of Lot No. 4 of August Chouteau Subdivision of U.S. Survey 1897 all being in Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, State of Missouri being more particularly described as follows:

Beginning at a point in the East line of a tract of land now or formerly of Emil L. Wallach and wife, as recorded in Deed Book 2286 Page 353 in the St. Louis County Recorder of Deeds Office, and said point bearing South 29 degrees 39 minutes East, 1982.19 feet along said East line from the Northeast corner of said tract; thence along said East line the following courses and distances: South 29 degrees 39 minutes East, 424.12 feet to a point; South 07 degrees 22 minutes West, 105.50 feet to a point; South 38 degrees 30 minutes West, 425.62 feet to a point; South 40 degrees 22 minutes West, 180.50 feet to a point South 35 degrees 08 minutes West, 335.20 feet to a point; South 51 degrees 43 minutes West, 107.90 feet to a point; South 48 degrees 53 minutes West, 307.80 feet to a point; South 34 degrees 03 minutes West, 209.80 feet to a point; South 27 degrees 33 minutes West, 282.10 feet to a point; South 33 degrees 58 minutes West, 341.40 feet to a point; South 33 degrees 58 minutes West, 93.00 feet to a point; South 03 degrees 56 minutes East, 190.00 feet to a point; South 40 degrees 03 minutes East, 590.00 feet to the point of intersection with the Meramec River; thence departing said East line and along the North line of the Meramec River in a Westerly direction and upstream for a distance of 2480 feet, more or less, to the point of intersection with the East line of U. S. Survey 1932; thence departing said North line of the Meramec River and along the East line of U. S. Survey 1932 and the East line of U. S. Survey 1946, North 29 degrees 15 minutes West 1491.06 feet to a point, said point bearing South 29 degrees 15 minutes East, 1584.75 feet from an old stone in the East line of U. S. Survey 1946, at the South corner of a tract of land now or formerly of Moreschell, as recorded in Deed Book 9 Page 524, in the St. Louis County Recorder of Deeds Office; thence North 61 degrees 21 minutes 38 seconds East, 597.67 feet to a point; thence South 28 degrees 38 minutes 22 seconds East, 300.00 feet to a point; thence North 61 degrees 21 minutes 38 seconds East, 3000.00 feet to a point; thence North 28 degrees 38 minutes 22 seconds West, 300.00 feet to a point; thence North 61 degrees 21 minutes 38 seconds East, 805.00 feet to the Point of Beginning; AND LESS AND EXCEPTING THEREFROM the tract of land conveyed to Von Der Ahe Truck and Trailer Service, Inc. by Deed Book 6610 Page 155 in the Recorder of Deeds Office of St. Louis County, Missouri.

Schedule A consists of 3 page(s)

## Stewart Title Guaranty Company

### SCHEDULE A

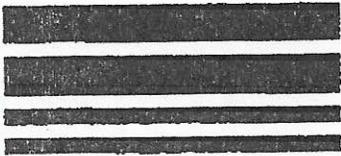
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NP

**PARCEL 3:**

A tract of land being part of U. S. Survey 1897, Township 43 North, Range 3 East, of the Fifth Principal Meridian, in St. Louis County, Missouri, and being more particularly described as follows:

Commencing at the Northwest corner of U. S. Survey 1897, Township 43 North, Range 3 East; thence with the Northeast line of a tract of land now or formerly of the Missouri Department of Conservation as recorded in Deed Book 7041 Page 657 in the St. Louis County Recorder of Deeds Office; South 28 degrees 17 minutes 04 seconds East, 621.43 feet to a point being the most Western corner of a tract of land now or formerly of Jarrell and Sally Lemons, as recorded in Deed Book 12098 Page 2357, in the St. Louis County Recorder of Deeds Office; thence along the Northwest line of said Lemons tract, North 62 degrees 19 minutes 34 seconds East, 597.67 feet to the Point of Beginning of the tract herein described; thence continuing along said Northwest line, North 62 degrees 19 minutes 34 seconds East, 1500.00 feet to a point; thence departing said Northwest line, South 27 degrees 40 minutes 26 seconds East, 300.00 feet to a point; thence South 62 degrees 19 minutes 34 seconds West, 1500.00 feet to a point; thence North 27 degrees 40 minutes 26 seconds West, 300.00 feet to the Point of Beginning.



\* 2 0 1 8 0 6 0 7 0 0 4 6 1 \*

GERALD E. SMITH, RECORDER OF DEEDS  
ST. LOUIS COUNTY MISSOURI  
41 SOUTH CENTRAL, CLAYTON, MO 63105

TYPE OF INSTRUMENT  
WD

GRANTOR  
MID AMERICA RESORTS LLC

TO

GRANTEE  
VITALE FARMS LLC

PROPERTY DESCRIPTION:

AUGUST CHOUTEAU SUB LOT 4 LOT PTS 1 5 6

Lien Number

Notation

Locator

NOTE: I, the undersigned Recorder of Deeds, do hereby certify that the information shown on this Certification Sheet as to TYPE OF INSTRUMENT, the NAMES of the GRANTOR and GRANTEE as well as the DESCRIPTION of the REAL PROPERTY affected is furnished merely as a convenience only, and in the case of any discrepancy of such information between this Certification Sheet and the attached Document, the ATTACHED DOCUMENT governs. Only the DOCUMENT NUMBER, the DATE and TIME of filing for record, and the BOOK and PAGE of the recorded Document is taken from this CERTIFICATION SHEET.

RECORDER OF DEEDS DOCUMENT CERTIFICATION

STATE OF MISSOURI )  
SS.  
COUNTY OF ST. LOUIS )

Document Number  
00461

I, the undersigned Recorder of Deeds for said County and State, do hereby certify that the following and annexed instrument of writing, which consists of 4 pages, (this page inclusive), was filed for record in my office on the 7 day of June 2018 at 02:55PM and is truly recorded in the book and at the page number printed above.

In witness whereof I have hereunto set my hand and official seal the day, month and year aforesaid.

OB  
Deputy Recorder



*Gerald E. Smith*  
Recorder of Deeds  
St. Louis County, Missouri

Mail to:

Investors Title Company - Clayton  
219 S Central Ave  
St. Louis, MO 63105

Destination code: 4002

RECORDING FEE 30.00  
(Paid at the time of Recording)

**GENERAL WARRANTY DEED**  
(Limited Liability Company)

This Deed, Made and entered into this 4<sup>th</sup> Day of June, 20 18 by and between

Mid America Resorts, LLC

whose address is: 8011 Clayton Rd Third Floor, Saint Louis, MO 63117, Missouri Limited Liability Company, organized and existing under the laws of the State of Missouri, party or parties of the first part as **Grantor(s)**, and

Vitale Farms, L.L.C.

Grantee's Mailing Address: 9606 Mill Hill Lane, Saint Louis, MO 63127, party or parties of the second part as **Grantee(s)**.

WITNESSETH, that the said party or parties of the first part, for and in consideration of the sum of Ten Dollars and other valuable considerations paid by the said party or parties of the second part, the receipt of which is hereby acknowledged, does or do by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM unto the said party or parties of the second part, the following described Real Estate, situated in the County of Saint Louis County, State of Missouri, to-wit:

Parcel 1: A tract of land being part of U.S. Survey 3064 and Fractional Sections 8 and 9 and part of Lots 1, 5 and 6 of the Subdivision of Lot 4 of the August Chouteau Subdivision of U.S. Survey 1897, Township 43 North, Range 3 East, St. Louis County, Missouri, and being more particularly described as follows: Commencing at an old iron rod (record) at the Southeast corner of Lot 4 of August Chouteau Subdivision of U.S. Survey 1897; thence North 29 degrees 39 minutes West, 1548.14 feet to a point marking the true point of beginning of the tract herein described; thence North 29 degrees 39 minutes West, 4039.05 feet to a point in the Southern right-of-way line of the St. Louis and San Francisco Railroad by suit Numbered X1844; thence along said right-of-way South 30 degrees 03 minutes West, 64.85 feet to a point; thence South 29 degrees 39 minutes East, 2435.91 feet to a point; thence South 07 degrees 22 minutes West 72.27 feet to a point; thence South 38 degrees 30 minutes West, 425.62 feet to a point; thence South 40 degrees 22 minutes West, 100.50 feet to a point; thence South 35 degrees 03 minutes West, 335.20 feet to a point; thence South 51 degrees 43 minutes West, 187.90 feet to a point; thence South 40 degrees 53 minutes West, 307.80 feet to a point; thence South 34 degrees 03 minutes West, 299.80 feet to a point; thence South 27 degrees 33 minutes West, 282.10 feet to a point; thence South 33 degrees 52 minutes West, 434.30 feet to a point; thence South 03 degrees 56 minutes East, 190.00 feet to a point; thence South 40 degrees 03 minutes East, 442.02 feet to a point; thence North 60

degrees 14 minutes East, 2277.39 feet to a point of beginning, excepting therefrom that part conveyed to Margaret R. Duff by deed recorded in Book 7091, Page 633 of the St. Louis County Records.

Parcel 2: A tract of land being part of U.S. Survey 3064 and Fractional Sections 8 and 9 and part of Lots 5, 6 and 7 of the Subdivision of Lot 4 of the August Chouteau Subdivision of U.S. Survey 1897, Township 43 North, Range 3 East, St. Louis County, Missouri, and being more particularly described as follows: Commencing at an old iron rod (record) at the Southeast corner of Lot 4 of August Chouteau Subdivision of U.S. Survey 1897; thence South 60 degrees 14 minutes West, 1277 feet, more or less, to a point on the bank of the Meramec River; thence along said river bank North 49 degrees 66 minutes West, 876.62 feet, more or less, to a point; thence North 79 degrees 30 minutes West, 904.39 feet, more or less, to a point; thence leaving said river bank North 40 degrees 03 minutes West, 147.96 feet, more or less, to a point; thence North 60 degrees 14 minutes East, 2277.39 feet to a point; thence South 29 degrees 39 minutes East, 1548.14 feet to the point of beginning.

Parcel 3: A parcel of land being part of a larger tract conveyed to Emil L. Wallach, et al, as recorded in Book 2286, Page 353 of the St. Louis County Records, and situated in, part of the Southeast quarter of the Northeast quarter of Fractional Section 8 and part of the Southeast quarter of the Northeast quarter of Fractional Section 9 and part of U.S. Survey 1897, and being part of Lot 1 of the Subdivision of Lot 4 of August Chouteau Subdivision, all in Township 43 North, Range 3 East, St. Louis County, Missouri, more particularly described as follows: Beginning at an iron pin at the Northwest corner of a 60-foot wide strip of land described as part of Parcel 1 of conveyance to Richard W. Gentry and Karen L. Gentry, his wife, and Mark Adolphus as recorded in Book 7274, Page 3437 of the St. Louis County Land Records, said pin also being in the Northwest corner of a 20-foot wide strip of land as described in Book 6610, Page 155 of the St. Louis County Records, said pin lying on the South right-of-way line of Burlington Northern Railroad (formerly the St. Louis and San Francisco Railroad) also being the Southern right-of-way of Franklin Road; thence along said right-of-way line South 30 degrees 03 minutes West, 120.0 feet to an iron pin; thence leaving said right-of-way, South 32 degrees 56 minutes 44 seconds East, 1931.42 feet to an iron pin on the West line of said 20-foot wide strip, said pin being on the North line of a trust conveyed to Stephen F. Powell and wife as recorded in Book 7400, Page 2465 of the St. Louis County Land Records, said point also located 60 feet Southwest of the East line of the original August Chouteau Subdivision; thence following West line of said 20-foot wide strip North 29 degrees 39 minutes West 1973.76 feet to the point of beginning.

Together with all improvements thereon known and numbered as:  
18800 Franklin Road, Pacific, MO 63069

Subject to existing building lines, easements, conditions, restrictions, zoning regulations, etc., now of record, if any.

Locator No: 31X140020

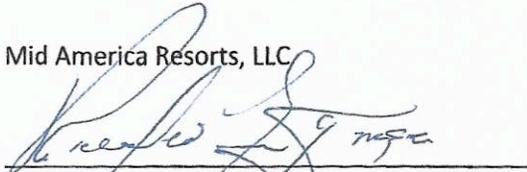
*To Have And To Hold* the same, together with all rights and appurtenances to the same belonging, unto the said party or parties of the second part, and to the heirs and assigns of such party or parties forever.

The said party or parties of the first part hereby covenanting that said party or parties and the heirs, executors, administrators and assigns of such party or parties, shall and will *Warrant and Defend* the title to the premises unto the said party or parties of the second part, and to the heirs and assigns of such party or parties forever, against the lawful claims of all persons whomsoever, excepting, however,

the general taxes for the calendar year 2018 and thereafter, and special taxes becoming a lien after the date of this deed.

*In Witness Whereof*, the said party or parties of the first part has or have hereunto set their hand or hands the day and year first above written.

Mid America Resorts, LLC

  
Richard W. Gentry, Manager

State of Missouri

} ss.

County of St. Louis

On this 4<sup>th</sup> Day of June, 20 18, before me personally appeared Richard C. Gentry, Manager

to me personally known, who, being by me duly sworn, did say that he/she/they, duly authorized agent(s) of Mid America Resorts, LLC, a Limited Liability Company of the State of Missouri, and that said instrument was signed and sealed in behalf of said Limited Liability Company, by the authority of its Members or Principals, and that the said Richard C. Gentry, Manager, acknowledged said instrument to be the free act and deed of said Limited Liability Company.

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

  
Notary Public

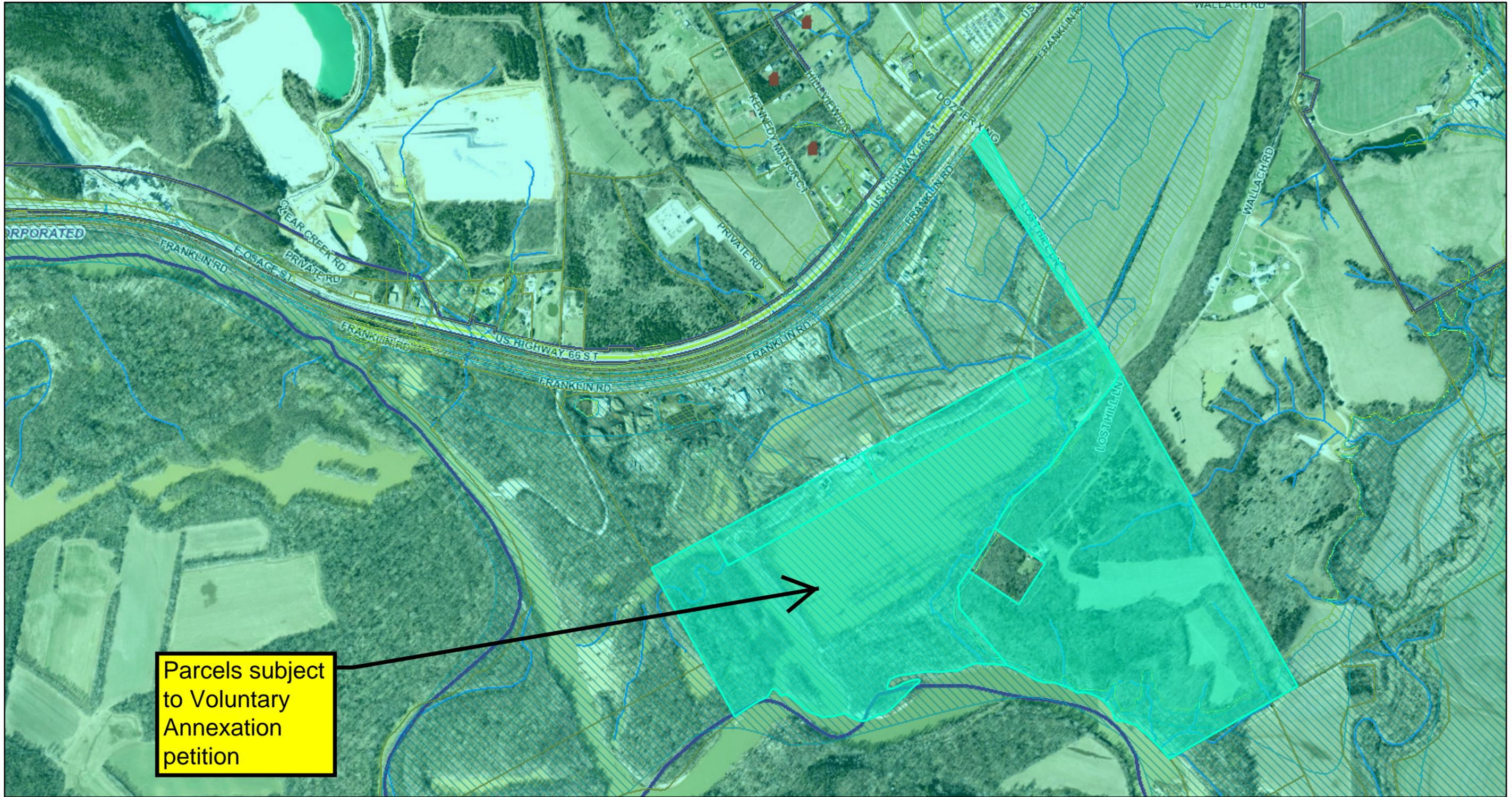
**THE BELOW BOX IS USED FOR NOTARY EXPIRATION AND NOTARY SEAL OR STAMP ONLY**

My commission expires:



NADIA STALLS  
My Commission Expires  
March 19, 2021  
St. Louis County  
Commission #13461523

# Vitale Farms annexation



Parcels subject to Voluntary Annexation petition

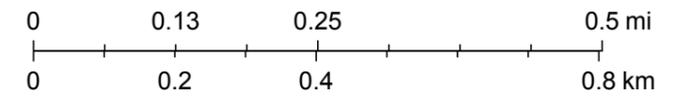
1/15/2020, 11:13:43 AM

Image

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

- Sales (Last 2 Years)
- Other Flood Areas (0.2% Annual Chance)
- Special Flood Hazard Areas (1% Annual Chance)

1:10,000



St. Louis County GIS Service Center

**RESOLUTION NO. 2020-04**

**A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH SC ENGINEERING, LLC dba COCHRAN FOR PROFESSIONAL SERVICES RELATING TO PRELIMINARY ENGINEERING AND CONSTRUCTION INSPECTION OF DENTON ROAD BRIDGE REPLACEMENT PROJECT, FEDERAL PROJECT NO. STP 5419(612), TIP #6914-20**

**WHEREAS,** the City of Pacific has requested qualifications from qualified firms to provide certain professional services relating to design and construction of transportation related infrastructure improvements in the City of Pacific; and

**WHEREAS,** the City of Pacific, upon canvassing the qualifications submitted, has determined that SC Engineering, LLC dba Cochran is the firm best qualified to provide certain professional services as hereinafter set out, and has solicited a proposal from said firm to provide said professional services;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN FOR THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The Mayor is hereby authorized and directed, on behalf of the City of Pacific, to execute an Agreement with SC Engineering, LLC dba Cochran for Professional Services relating to planning and design of the Denton Road Bridge Replacement Project. The Agreement is attached hereto as Exhibit A and made fully a part hereof.

**Adopted by the Board of Aldermen and approved by the Mayor on this 4<sup>th</sup> day of February, 2020.**

---

**Steve Myers, Mayor**

**ATTEST:**

---

**City Clerk**

**CITY OF PACIFIC**  
**Denton Road Bridge Replacement Project**  
**STP-5419(612)**

**ENGINEERING SERVICES CONTRACT**

*THIS CONTRACT* is between the **City of Pacific**, Missouri, hereinafter referred to as the "Local Agency", and SC Engineering, LLC dba **Cochran** with offices located at 737 Rudder Road, Fenton, Missouri 63026, hereinafter referred to as the "Engineer".

*INASMUCH* as funds have been made available by the Federal Highway Administration through its STP program, coordinated through the Missouri Department of Transportation, the Local Agency intends to remove and replace the Denton Road Bridge, and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, surveying, design, and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

**ARTICLE I – SCOPE OF SERVICES**

See Attachment A.

**ARTICLE II - DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:**

- A DBE Goal: The following DBE goal has been established for this Agreement. The dollar value of services and related equipment, supplies, and materials used in furtherance thereof which is credited toward this goal will be based on the amount actually paid to DBE firms. The goal for the percentage of services to be awarded to DBE firms is **16%** of the total Agreement dollar value.
- B. DBE Participation Obtained by Engineer: The Engineer has obtained DBE participation, and agrees to use DBE firms to complete, **16%** of the total services to be performed under this Agreement, by dollar value. The DBE firms which the Engineer shall use, and the type and dollar value of the services each DBE will perform, is as follows:

DBE Firm Name, Street and Complete Mailing Address	Type of DBE Service	Total \$ Value of the DBE Sub-Contract	Contract \$ Amount to Apply to Total DBE Goal	% of Subcontract Dollar Value Applicable to Total Goal
Access Engineering 11820 Tesson Ferry Road, Suite 203, St. Louis MO 63128	Engineering design support and drafting services.	\$19,536.00	\$119,308.13	16%

### **ARTICLE III-ADDITIONAL SERVICES**

The Local Agency reserves the right to request additional work, and changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

### **ARTICLE IV - RESPONSIBILITIES OF LOCAL AGENCY**

The Local Agency will cooperate fully with the Engineer in the development of the project, including the following:

- A. make available all information pertaining to the project which may be in the possession of the Local Agency;
- B. provide the Engineer with the Local Agency's requirements for the project;
- C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;
- E. designate a Local Agency's employee to act as Local Agency's Person in Responsible Charge under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement (see EPG 136.3);
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

### **ARTICLE V - PERIOD OF SERVICE**

The Engineer will commence work within two weeks after receiving notice to proceed from the Local Agency. The general phases of work will be completed in accordance with the following schedule:

- A. PS&E Approval by MODOT shall be completed on 6/1/22.

The Local Agency will grant time extensions for delays due to unforeseeable causes beyond the control of and without fault or negligence of the Consultant. Requests for extensions of time shall be made in writing by the Consultant, before that phase of work is scheduled to be completed, stating fully the events giving rise to the request and justification for the time extension requested.

## ARTICLE VI – STANDARDS

The Engineer shall be responsible for working with the Local Agency in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, Local Agency needs, and guidance provided in the most current version of EPG 136 LPA Policy. If the project is on the state highway system or is a bridge project, then the latest version of MoDOT's Engineering Policy Guide (EPG) and Missouri Standard Specifications for Highway Construction shall be used (see EPG 136.7). The project plans must also be in compliance with the latest ADA (Americans with Disabilities Act) Regulations.

## ARTICLE VII - COMPENSATION

For services provided under this contract, the Local Agency will compensate the Engineer as follows:

- A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of **\$12,634.90**, with a ceiling established for said design services in the amount of **\$119,308.13**, which amount shall not be exceeded.
- B. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment B. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article III - ADDITIONAL SERVICES.
- C. Actual costs in Section A above is defined as:
  - 1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus
  - 2. An amount calculated at 34.92% of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus
  - 3. An amount calculated at 99.85% of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus
  - 4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus
  - 5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.
- D. The rates shown for additives and overhead in Sections VII. C.2 and VII. C.3 above are the established Engineer's overhead rate accepted at the time of contract execution and shall be utilized throughout the life of this contract for billing purposes.

- E. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.
- F. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than once every two weeks and must be submitted monthly for invoices greater than \$10,000. A pro-rated portion of the fixed fee will be paid with each invoice. Upon receipt of the invoice and progress report, the Local Agency will, as soon as practical, but not later than 45 days from receipt, pay the Engineer for the services rendered, including the proportion of the fixed fee earned as reflected by the estimate of the portion of the services completed as shown by the progress report, less partial payments previously made. A late payment charge of one and one half percent (1.5%) per month shall be assessed for those invoiced amount not paid, through no fault of the Engineer, within 45 days after the Local Agency's receipt of the Engineer's invoice. The Local Agency will not be liable for the late payment charge on any invoice which requests payment for costs which exceed the proportion of the maximum amount payable earned as reflected by the estimate of the portion of the services completed, as shown by the progress report. The payment, other than the fixed fee, will be subject to final audit of actual expenses during the period of the Agreement.
- G. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

**ARTICLE VIII - COVENANT AGAINST CONTINGENT FEES**

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

**ARTICLE IX - SUBLETTING, ASSIGNMENT OR TRANSFER**

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the Local Agency. The subletting of the work shall in no way relieve the Engineer of his primary responsibility for the quality and performance of the work. It is the intention of the Engineer to engage subcontractors for the purposes of:

<b>Sub-Consultant Name</b>	<b>Address</b>	<b>Services</b>
Access Engineering, LLC.	11820 Tesson Ferry Road, Suite 203, St. Louis MO 63128	Engineering design support and drafting services.

**ARTICLE X - PROFESSIONAL ENDORSEMENT**

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E

submittals, the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid program.

## **ARTICLE XI - RETENTION OF RECORDS**

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

## **ARTICLE XII - OWNERSHIP OF DOCUMENTS**

Plans, tracings, maps and specifications prepared under this contract shall be delivered to and become the property of the Local Agency upon termination or completion of work. Basic survey notes, design computations and other data prepared under this contract shall be made available to the Local Agency upon request. All such information produced under this contract shall be available for use by the Local Agency without restriction or limitation on its use. If the Local Agency incorporates any portion of the work into a project other than that for which it was performed, the Local Agency shall save the Engineer harmless from any claims and liabilities resulting from such use.

## **ARTICLE XIII – SUSPENSION OR TERMINATION OF AGREEMENT**

- A. The Local Agency may, without being in breach hereof, suspend or terminate the Engineer's services under this Agreement, or any part of them, for cause or for the convenience of the Local Agency, upon giving to the Engineer at least fifteen (15) days' prior written notice of the effective date thereof. The Engineer shall not accelerate performance of services during the fifteen (15) day period without the express written request of the Local Agency.
- B. Should the Agreement be suspended or terminated for the convenience of the Local Agency, the Local Agency will pay to the Engineer its costs as set forth in Attachment B including actual hours expended prior to such suspension or termination and direct costs as defined in this Agreement for services performed by the Engineer, a proportional amount of the fixed fee based upon an estimated percentage of Agreement completion, plus reasonable costs incurred by the Engineer in suspending or terminating the services. The payment will make no other allowances for damages or anticipated fees or profits. In the event of a suspension of the services, the Engineer's compensation and schedule for performance of services hereunder shall be equitably adjusted upon resumption of performance of the services.
- C. The Engineer shall remain liable to the Local Agency for any claims or damages occasioned by any failure, default, or negligent errors and/or omission in carrying out the provisions of this Agreement during its life, including those giving rise to a termination for non-performance or breach by Engineer. This liability shall survive and shall not be waived, or estopped by final payment under this Agreement.
- D. The Engineer shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where the Engineer is deprived of the opportunity to complete the Engineer's services.

E. Upon the occurrence of any of the following events, the Engineer may suspend performance hereunder by giving the Local Agency 30 days advance written notice and may continue such suspension until the condition is satisfactorily remedied by the Local Agency. In the event the condition is not remedied within 120 days of the Engineer's original notice, the Engineer may terminate this agreement.

1. Receipt of written notice from the Local Agency that funds are no longer available to continue performance.
2. The Local Agency's persistent failure to make payment to the Engineer in a timely manner.
3. Any material contract breach by the Local Agency.

#### **ARTICLE XIV - DECISIONS UNDER THIS CONTRACT**

The Local Agency will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The Local Agency's decision shall be final and conclusive.

#### **ARTICLE XV - SUCCESSORS AND ASSIGNS**

The Local Agency and the Engineer agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

#### **ARTICLE XVI - COMPLIANCE WITH LAWS**

The Engineer shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

#### **ARTICLE XVII - RESPONSIBILITY FOR CLAIMS AND LIABILITY**

The Engineer agrees to save harmless the Local Agency, MoDOT and FHWA from all claims and liability due to his negligent acts or the negligent acts of his employees, agents or subcontractors.

#### **ARTICLE XVIII - NONDISCRIMINATION**

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with state and federal related to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.). More specifically, the Engineer will comply with the

regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

## **ARTICLE XIX – LOBBY CERTIFICATION**

CERTIFICATION ON LOBBYING: Since federal funds are being used for this agreement, the Engineer's signature on this agreement constitutes the execution of all certifications on lobbying which are required by 49 C.F.R. Part 20 including Appendix A and B to Part 20. Engineer agrees to abide by all certification or disclosure requirements in 49 C.F.R. Part 20 which are incorporated herein by reference.

## **ARTICLE XX – INSURANCE**

- A. The Engineer shall maintain commercial general liability, automobile liability, and worker's compensation and employer's liability insurance in full force and effect to protect the Engineer from claims under Worker's Compensation Acts, claims for damages for personal injury or death, and for damages to property arising from the negligent acts, errors, or omissions of the Engineer and its employees, agents, and Subconsultants in the performance of the services covered by this Agreement, including, without limitation, risks insured against in commercial general liability policies.
- B. The Engineer shall also maintain professional liability insurance to protect the Engineer against the negligent acts, errors, or omissions of the Engineer and those for whom it is legally responsible, arising out of the performance of professional services under this Agreement.
- C. The Engineer's insurance coverage shall be for not less than the following limits of liability:
  - 1. Commercial General Liability: \$500,000 per person up to \$3,000,000 per occurrence;
  - 2. Automobile Liability: \$500,000 per person up to \$3,000,000 per occurrence;
  - 3. Worker's Compensation in accordance with the statutory limits; and Employer's Liability: \$1,000,000; and
  - 4. Professional ("Errors and Omissions") Liability: \$1,000,000, each claim and in the annual aggregate.
- D. The Engineer shall, upon request at any time, provide the Local Agency with certificates of insurance evidencing the Engineer's commercial general or professional liability ("Errors and Omissions") policies and evidencing that they and all other required insurance are in effect as to the services under this Agreement.

- E. Any insurance policy required as specified in (ARTICLE XX) shall be written by a company which is incorporated in the United States of America or is based in the United States of America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

## **ARTICLE XXI - ATTACHMENTS**

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A – Scope of Service

Attachment B - Estimate of Cost

Attachment C - Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Primary Covered Transactions.

Attachment D - Certification Regarding Debarment, Suspension, and Ineligibility and  
Voluntary Exclusion - Lower Tier Covered Transactions.

Attachment E – DBE Contract Provisions

Attachment F – Fig. 136.4.15 Conflict of Interest Disclosure Form

Executed by the Engineer this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Executed by the City of Pacific this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**FOR: CITY OF PACIFIC, MISSOURI**

BY: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**FOR: SC ENGINEERING LLC DBA COCHRAN**

BY: \_\_\_\_\_  
Dave Christensen, P.E., Vice President

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

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

\_\_\_\_\_  
City Finance Director

## ATTACHMENT A

### Scope of Services

A. **DESIGN PHASE** - The Engineer will:

1. Determine the needs of the Local Agency for the project;
2. Conduct topographic, property and utility surveys sufficient to develop plans for the project;
3. Arrange for subsurface investigations;
4. Conduct hydraulic studies, prepare alternative designs and cost estimates, develop preliminary plans, and recommend to the Local Agency the best overall general design based on these studies, if necessary;
5. Submit electronic files of preliminary plans, estimates and studies for review by the Local Agency and , Missouri Department of Transportation (MoDOT);
6. Prepare detailed construction plans, cost estimates, specifications and related documents as necessary for the purpose of soliciting bids for constructing the project;
7. Secure adequate property title information, determine right-of-way requirements, prepare right-of-way plans, and assist the Local Agency in acquiring the right-of-way deeds needed for the project;
8. Ensure compliance with the requirements of the Missouri Department of Natural Resources;
9. Ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources, and if deemed necessary, arrange to have the site examined by a qualified archaeologist on a subcontract basis;
10. Ensure compliance with all regulations in regards to noise abatement and air quality, if necessary;
11. Provide the Local Agency with five sets of completed plans, specifications and/cost estimates for the purpose of obtaining construction authorization from the Missouri Department of Transportation; and
12. Perform all services required to complete all design phase activities required by MoDOT.

B. **BIDDING PHASE** - The Engineer will:

1. Upon receipt of construction authorization from MoDOT, provide an adequate number of plans, specifications, and bid documents to the Local Agency;
2. Provide the Local Agency with a list of qualified area bidders and assist Local Agency in advertising for bids;
3. Assist the Local Agency in evaluating bids and requesting concurrence in award from MoDOT; and
4. Perform all services required to complete all bidding activities required by MoDOT.

**ATTACHMENT B**

DESIGN AND BIDDING PHASE

	Hours	Rate	Cost
<i>Surveying</i>			
Registered Land Surveyor	40	\$37.00	\$1,480.00
Field Technicians	60	\$25.00	\$1,500.00
CADD Technicians	80	\$27.00	\$2,160.00
<i>Preliminary Design</i>			
Professional Engineers	120	\$44.00	\$5,280.00
Design Engineers	152	\$32.00	\$4,864.00
CADD Technicians	184	\$27.00	\$4,968.00
Clerical	24	\$16.00	\$384.00
<i>Final Design</i>			
Professional Engineers	120	\$44.00	\$5,280.00
Design Engineers	176	\$32.00	\$5,632.00
CADD Technicians	192	\$27.00	\$5,184.00
Clerical	24	\$16.00	\$384.00
	SUBTOTAL		<u>\$37,116.00</u>
<i>Payroll Overhead</i>	34.92%		<u>\$12,960.91</u>
<i>General &amp; Admin. Overhead</i>	99.85%		<u>\$37,060.33</u>
	TOTAL LABOR AND OVERHEAD		<u>\$87,137.23</u>
<i>Fixed Fee</i>	14.50%		<u>\$12,634.90</u>
	TOTAL LABOR, OVERHEAD, AND FIXED FEE		<u>\$99,772.13</u>
Other Direct Costs			
DBE - Access Engineering, LLC			<u>\$19,536.00</u>
	SUBTOTAL DIRECT COSTS		<u>\$19,536.00</u>
	<b>TOTAL FOR DESIGN AND BIDDING PHASES</b>		<b><u>\$119,308.13</u></b>

## ATTACHMENT C

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

---

#### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System.

<https://www.epls.gov/epls/search.do?page=A&status=current&agency=69#A>.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## ATTACHMENT D

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

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#### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List at the Excluded Parties List System.  
<https://www.epls.gov/epl/search.do?page=A&status=current&agency=69#A>.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended,

debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Attachment E**  
**Disadvantage Business Enterprise Contract Provisions**

1. Policy: It is the policy of the U.S. Department of Transportation and the Local Agency that businesses owned by socially and economically disadvantaged individuals (DBE's) as defined in 49 C.F.R. Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Thus, the requirements of 49 C.F.R. Part 26 and Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21) apply to this Agreement.

2. Obligation of the Engineer to DBE's: The Engineer agrees to assure that DBEs have the maximum opportunity to participate in the performance of this Agreement and any subconsultant agreement financed in whole or in part with federal funds. In this regard the Engineer shall take all necessary and reasonable steps to assure that DBEs have the maximum opportunity to compete for and perform services. The Engineer shall not discriminate on the basis of race, color, religion, creed, disability, sex, age, or national origin in the performance of this Agreement or in the award of any subsequent subconsultant agreement.

3. Geographic Area for Solicitation of DBEs: The Engineer shall seek DBEs in the same geographic area in which the solicitation for other subconsultants is made. If the Engineer cannot meet the DBE goal using DBEs from that geographic area, the Engineer shall, as a part of the effort to meet the goal, expand the search to a reasonably wider geographic area.

4. Determination of Participation Toward Meeting the DBE Goal: DBE participation shall be counted toward meeting the goal as follows:

A. Once a firm is determined to be a certified DBE, the total dollar value of the subconsultant agreement awarded to that DBE is counted toward the DBE goal set forth above.

B. The Engineer may count toward the DBE goal a portion of the total dollar value of a subconsultant agreement with a joint venture eligible under the DBE standards, equal to the percentage of the ownership and control of the DBE partner in the joint venture.

C. The Engineer may count toward the DBE goal expenditures to DBEs who perform a commercially useful function in the completion of services required in this Agreement. A DBE is considered to perform a commercially useful function when the DBE is responsible for the execution of a distinct element of the services specified in the Agreement and the carrying out of those responsibilities by actually performing, managing and supervising the services involved and providing the desired product.

D. A Engineer may count toward the DBE goal its expenditures to DBE firms consisting of fees or commissions charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of this Agreement, provided that the fee or commission is determined by MoDOT's External Civil Rights Division to be reasonable and not excessive as compared with fees customarily allowed for similar services.

E. The Engineer is encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals.

5. Replacement of DBE Subconsultants: The Engineer shall make good faith efforts to replace a DBE Subconsultant, who is unable to perform satisfactorily, with another DBE Subconsultant. Replacement firms must be approved by MoDOT's External Civil Rights Division.

6. Verification of DBE Participation: Prior to final payment by the Local Agency, the Engineer shall file a list with the Local Agency showing the DBEs used and the services performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in this Agreement. Failure on the part of the Engineer to achieve the DBE participation specified in this Agreement may result in sanctions being imposed on the Commission for noncompliance with 49 C.F.R. Part 26 and/or Section 1101(b) of TEA-21. If the total DBE participation is less than the goal amount stated by the MoDOT's External Civil Rights Division, liquidated damages may be assessed to the Engineer.

Therefore, in order to liquidate such damages, the monetary difference between the amount of the DBE goal dollar amount and the amount actually paid to the DBEs for performing a commercially useful function will be deducted from the Engineer's payments as liquidated damages. If this Agreement is awarded with less than the goal amount stated above by MoDOT's External Civil Rights Division, that lesser amount shall become the goal amount and shall be used to determine liquidated damages. No such deduction will be made when, for reasons beyond the control of the Engineer, the DBE goal amount is not met.

7. Documentation of Good Faith Efforts to Meet the DBE Goal: The Agreement goal is established by MoDOT's External Civil Rights Division. The Engineer must document the good faith efforts it made to achieve that DBE goal, if the agreed percentage specified is less than the percentage stated. The Good Faith Efforts documentation shall illustrate reasonable efforts to obtain DBE Participation. Good faith efforts to meet this DBE goal amount may include such items as, but are not limited to, the following:

A. Attended a meeting scheduled by the Department to inform DBEs of contracting or consulting opportunities.

B. Advertised in general circulation trade association and socially and economically disadvantaged business directed media concerning DBE subcontracting opportunities.

C. Provided written notices to a reasonable number of specific DBEs that their interest in a subconsultant agreement is solicited in sufficient time to allow the DBEs to participate effectively.

D. Followed up on initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in subconsulting work for this Agreement.

E. Selected portions of the services to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down subconsultant agreements into economically feasible units to facilitate DBE participation).

F. Provided interested DBEs with adequate information about plans, specifications and requirements of this Agreement.

G. Negotiated in good faith with interested DBEs, and not rejecting DBEs as unqualified without sound reasons, based on a thorough investigation of their capabilities.

H. Made efforts to assist interested DBEs in obtaining any bonding, lines of credit or insurance required by the Commission or by the Engineer.

I. Made effective use of the services of available disadvantaged business organizations, minority contractors' groups, disadvantaged business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBE firms.

8. Good Faith Efforts to Obtain DBE Participation: If the Engineer's agreed DBE goal amount as specified is less than the established DBE goal given, then the Engineer certifies that good faith efforts were taken by Engineer in an attempt to obtain the level of DBE participation set by MoDOT's External Civil Rights.

**Attachment F – Fig. 136.4.15**  
**Conflict of Interest Disclosure Form for LPA/Consultants**  
Local Federal-aid Transportation Projects

**Firm Name (Engineer):** SC Engineering, LLC dba Cochran

**Project Owner (LPA):** City of Pacific

**Project Name:** Denton Road Bridge Replacement Project

**Project Number:** STP-5419(612)

As the LPA and/or Engineer for the above local federal-aid transportation project, I have:

1. Reviewed the conflict of interest information found in Missouri’s Local Public Agency Manual (EPG 136.4)
2. Reviewed the Conflict of Interest laws, including 23 CFR § 1.33, 49 CFR 18.36.

And, to the best of my knowledge, determined that, for myself, any owner, partner or employee, with my firm or any of my sub-consulting firms providing services for this project, including family members and personal interests of the above persons, there are:

No real or potential conflicts of interest  
If no conflicts have been identified, complete and sign this form and submit to LPA

Real conflicts of interest or the potential for conflicts of interest  
If a real or potential conflict has been identified, describe on an attached sheet the nature of the conflict, and provide a detailed description of Engineer’s proposed mitigation measures (if possible). Complete and sign this form and send it, along with all attachments, to the appropriate MoDOT District Representative, along with the executed engineering services contract.

LPA

Engineer

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

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

**RESOLUTION NO. 2020-05**

**A RESOLUTION ACCEPTING THE DEDICATION OF PUBLIC RIGHT-OF-WAY KNOWN AS LONGVIEW MEADOWS DRIVE, LONGVIEW MEADOWS SUBDIVISION, AND AUTHORIZING CERTAIN ACTIONS THERETO**

**WHEREAS,** the City of Pacific and West Summit, LLC, owner / developer of a certain property known as Longview Meadows Subdivision, have previously entered into an agreement setting forth certain terms and conditions relating to annexation of the subdivision property; and

**WHEREAS,** a condition of said agreement is that West Summit LLC (owner / developer) dedicate the subdivision roadway to the City of Pacific;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN FOR THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The City Administrator is hereby authorized and directed to execute a Deed of Dedication (Longview Meadows Subdivision) in the form as attached hereto as Exhibit A, thereby affecting the City's acceptance of said roadway dedication.

**SECTION 2.** Notwithstanding the above, this authorization is strictly limited to acceptance of the dedication of the roadway only. Nothing in this authorization shall be construed as acceptance of ownership and maintenance of said roadway, which shall require further action of the Board of Aldermen.

**Adopted by the Board of Aldermen and approved by the Mayor on this 4<sup>th</sup> day of February, 2020.**

---

**Steve Myers, Mayor**

**ATTEST:**

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**City Clerk**

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(Space Reserved for the Recorder of Deeds)

***DEED of DEDICATION***  
**(Longview Meadows Subdivision)**

**THIS DEED**, made and entered into as of the 24th day of January, 2020, by and between West Summit, LLC, the Owner/Developer of Longview Meadows Subdivision, a residential subdivision located in Franklin County, Missouri, with a mailing address of 12647 Olive Blvd, Suite 510, St. Louis MO. hereinafter Grantor, and the City of Pacific, Missouri, a political subdivision of the State of Missouri, 300 Hoven Drive, Pacific, Missouri 63069, hereinafter Grantee.

*WITNESSETH*, that the said Grantor, for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration paid to them by Grantee, the receipt and sufficiency of which are hereby acknowledged by Grantor, do by these presents *Dedicate, Bargain and Sell, Convey and Confirm*, the following described real estate, situated in the County of Franklin, State of Missouri, to-wit:

The Roadway known as Longview Meadows Drive, 50 feet wide, including the cul-de-sac and turn-around, and shown on and described on the Plat of Longview Meadows Subdivision recorded on January 14, 2020, as Document Number 2000648 which is made a part hereof

*TO HAVE AND TO HOLD* the same, together with all rights and appurtenances to the same belonging (collectively the "Roadway"), unto the said Grantee, and its successors and assigns, for public use forever.

*IN WITNESS WHEREOF*, the said Grantor has executed these presents the day and year first above written.

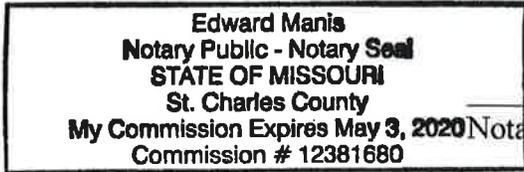
**GRANTOR:**

*Mitchell M. Wexler*  
By: Mitchell M. Wexler  
Title: Manager of West Summit, LLC

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF FRANKLIN    )

On this 24<sup>th</sup> day of January, 2020, before me appeared Mitchell M. Wexler, to me personally known, who, being by me duly sworn, did say that he is the Manager of West Summit, LLC, the Owner/Developer of Longview Meadows Subdivision, and that he executed the foregoing instrument with the authority as manager of West Summit, LLC and as the free act and deed of the Owner/Developer of Longview Meadows Subdivision.

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



*Edward Manis*  
Notary Public

My commission expires: *MAY 3, 2020*

**Acknowledgement of Political Subdivision:**

I hereby acknowledge, on behalf of the City of Pacific, Missouri, the dedication of streets as reflected in the above Deed of Dedication and further acknowledge that the governing body of the City has taken action to accept such deed and dedication of streets.

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

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

Now on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, appeared before me Steve Roth, who stated that he is the City Administrator of the City of Pacific and that he executed the foregoing Acknowledgement on behalf of the City as authorized by the City's governing body.

IN WITNESS WHEREOF, I have placed my hand and my official seal on the day and year first above written.

---

Notary Public

My commission expires:

**RESOLUTION NO. 2020-06**

**A RESOLUTION ACCEPTING A FLOOD MITIGATION ASSISTANCE GRANT PROGRAM GRANT AGREEMENT BY AND BETWEEN THE CITY OF PACIFIC AND THE MISSOURI STATE EMERGENCY MANAGEMENT AGENCY (FEDERAL PROJECT # FMA-PJ-07-MO-2018-002) AND AUTHORIZING EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION WITH SAID GRANT AWARD**

**WHEREAS,** the City of Pacific has made application, through the State of Missouri, for federal funding for property acquisition and demolition of certain flood-damaged structures in the City of Pacific; and

**WHEREAS,** the Missouri State Emergency Management Agency (SEMA), as recipient of the federal funding, has notified the City of Pacific, as sub-recipient, that its application for funding has been approved, subject to execution of certain agreements and documents as hereinafter described;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN FOR THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The City Administrator is hereby authorized and directed to execute a Grant Agreement by and between the City of Pacific and Missouri SEMA, relating to property acquisition and demolition of certain flood-damaged structures in the City of Pacific, Federal Project # FMA-PJ-07-MO-2018-002. A copy of said Grant Agreement is attached hereto as Exhibit A and made fully a part of this Resolution hereof.

**SECTION 2.** The City Administrator is hereby authorized and directed to execute a Funding Approval Form relating to Project # FMA-PJ-07-MO-2018-002; said form setting a total project budget of \$508,690.00 in federal funding and \$0.00 in non-federal (local) funding. A copy of said Funding Approval Form is attached hereto as Exhibit B and made fully a part of this Resolution hereof.

**Adopted by the Board of Aldermen and approved by the Mayor on this 4<sup>th</sup> day of February, 2020.**

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**Steve Myers, Mayor**

**ATTEST:**

---

**City Clerk**

**Missouri State Emergency Management Agency  
Flood Mitigation Grant Program (FMA)  
Funding Approval Form  
FMA-PJ-07-MO-2018-002**



<b>Name and Address of Recipient:</b> Missouri State Emergency Management Agency P.O. Box 116 Jefferson City, Missouri 65102		<b>Name and Address of Subrecipient:</b> City of Pacific 300 Hoven Road Pacific, Missouri 63069 <b>DUNS: 144985343</b>	
<b>Disaster Number:</b> Award:FMA-07-MO-2018 Subaward: (Project ID) FMA-PJ-07-MO-2018-002 Agreement: EMK-2019-FM-E003 (1)		<b>CFDA Number:</b> 97.029	
<b>Grant Award Date:</b> January 13, 2020		<b>Anticipated Project Completion Date:</b> January 13, 2022	
<b>Non-Federal Match Source (25% Cost Share):</b> The City of Pacific will not provide the 25% local non-Federal match. This is a 100% Federal funded project.			
<b>Project Description:</b> The acquisition and demolition of the residential structures located at 203 W. Watson Street and 207 W. Watson Street, Pacific, Missouri.			
<b>Budget</b>			
<b>Description:</b>	<b>Federal Award</b>	<b>Non-Federal Share</b>	<b>Total Project Cost</b>
Project Funds:	\$508,690.00	\$0.00	\$508,690.00
<b>Total Funds Awarded:</b>	<b>\$508,690.00</b>	<b>\$0.00</b>	<b>\$508,690.00</b>

**Signature of Authorized Representatives:**

\_\_\_\_\_  
Steve Roth, City Administrator  
City of Pacific

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ronald C. Broxton, Recovery Division Manager  
Missouri State Emergency Management Agency

\_\_\_\_\_  
Date

**Missouri State Emergency Management Agency  
Flood Mitigation Assistance Grant Program  
Grant Agreement  
FMA-07-MO-2018, Project # FMA-PJ-07-MO-2018-002**



This grant agreement is made by and between the **Missouri State Emergency Management Agency (SEMA)**, herein called the **State** and the **City of Pacific**, herein called the **Sub-recipient**.

In reliance upon and in consideration of the mutual representations and obligations hereunder, the State and the Sub-recipient agree as follows:

1. The Sub-recipient agrees to accept responsibility for adherence to this Agreement.
2. The Sub-recipient agrees that any and all such amount of local funds or in-kind (force account) services or materials shall be equal to or greater than 25% of the total project costs. For severe repetitive loss no match required and 10% match for repetitive loss.
  - (A) The following documentation is required for matching cash contributions:
    - Record of source of donor, dates, rates, amounts, deposit slips
  - (B) The following documentation is required for matching noncash contributions:
    - Record of donor, dates, rates, and amount.
3. The Sub-recipient agrees that any proposed activity budget variances (from the Funding Approval form) in excess of the amount of this Agreement shall be approved by the State in writing prior to an obligation of funds for such activity; however, any variance shall be approved by the Sub-recipient's governing body in advance of an obligation of such activity.
4. The Sub-recipient agrees to complete the project in its entirety as indicated in the Funding Approval form unless amended in writing by agreement of all parties.
5. The (applicant) sub-recipient shall not contract with any entity identified on the General Services Administration System for Award Management (SAM) <https://www.sam.gov/SAM> Excluded Parties List (Debarred List) or the Missouri State Attorney General's Know MO web Link: <https://ago.mo.gov/app/search>
6. Procurement by noncompetitive proposals: Sub-recipient must follow 2 CFR Part 200.320 (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply: (1) The item is available only from a single source; (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or (4) After solicitation of a number of sources, competition is determined inadequate.
7. The Sub-recipient agrees to implement the project in accordance with the milestones identified in the application work schedule. Should the Sub-recipient determine that any milestone will not be met; the Sub-recipient will contact the State to request approval to revise the work schedule accordingly.

8. The Sub-recipient agrees that any federal funds remaining from the allocation indicated in the Funding Approval form after the project has been completed shall be returned to the State if they have been drawn to the Sub-recipient's local depository, or canceled if such funds have not been drawn.
9. The Sub-recipient agrees that the State and FEMA officials shall have full access to any documents or materials relating to this Agreement at any reasonable time.
10. The Sub-recipient agrees to comply with 2 CFR Part 200. This guidance supersedes and consolidates the requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, A-133, and A-50. This applies to all awards issued after December 26, 2014.
11. The Sub-recipient agrees to provide the State Monthly Progress Reports by the 10<sup>th</sup> of each month.
12. The Sub-recipient agrees to comply with any and all guidance provided by the State in regards to this grant to include the *Local Officials Guide to Managing a Voluntary Buyout* guidebook along with all requirements as outlined in *44 Code of Federal Regulations Part 80: Property Acquisition and Relocation for Open Space*.
13. The Sub-recipient agrees that all funds received under this Agreement shall be held and used by the Sub-recipient for the purpose of accomplishing the project only and none of the funds so held or received shall be diverted to any other use or purpose.
14. The Sub-recipient agrees that any material prepared by the Sub-recipient or persons or firms employed or contracted by the Sub-recipient shall not be subject to copyright, and the State shall have unrestricted authority to publish, disclose, distribute or otherwise use, in whole or in part, any reports, data or other material prepared under this agreement.
15. The Sub-recipient agrees that any approval of contracts, sub-contracts, material or service orders, or any other obligation by the Sub-recipient or its agents shall not be deemed an obligation by the State, and the State shall not be responsible for fulfillment of the Sub-recipient's obligations.
16. Advance Payment Request Requirements:

**Advance Payment:** For the purposes of this Grant Agreement, advance payment is defined as funds given to a sub-recipient in advance of the sub-recipient incurring the debt. For example, if a sub-recipient requests advance payment prior to paying the vendors bill, receiving the funds would be considered an advance payment. Reimbursement cannot be made until the activity has been performed, i.e. equipment or services has been delivered and invoiced. For example, when purchasing goods and services or an equipment item, reimbursement cannot be made until the item has been received and the vendor has billed for the item.

Consequently, the sub-recipient does not have to pay the vendor before submitting the reimbursement request. The sub-recipient must have incurred the debt prior to submitting the reimbursement request.

Reimbursement prior to paying a vendor, the following conditions must be taken into consideration:

- (a) There will be a minimum dollar amount established for sub-recipients requesting a reimbursement with an advance payment; the dollar amount will be determined on a case-by-case basis.
  - (b) When requesting a reimbursement with an advance payment, sub-recipients are required to submit proof of payment (i.e. copy of check or credit card statement) to SEMA within 30 days.
17. In the event that the State or an audit has determined that the Sub-recipient has failed to comply with this Agreement, the Sub-recipient shall perform remedial actions to correct the deficiency, as determined by the State, which may include:
- a) Repayment or reimbursement of federal and state funds spent inappropriately to the State;
  - b) The return of federal and state funds deposited at the Sub-recipient's local financial institution to the State;
  - c) The return of any equipment, materials or supplies purchased, leased, lease purchased using federal, or state funds to the State or supplier;
  - d) Other actions as the State deems appropriate.
18. The State may terminate this agreement in whole or in part, at any time before the date of completion, whenever it is determined by the State that the Sub-recipient has failed to comply with the conditions of this Agreement. The State shall notify the Sub-recipient in writing of the determination and the reasons for the termination, together with the effective date. The Sub-recipient shall not incur new obligations for the terminated portion after the effective date of the revocation of the Agreement, and it shall be the Sub-recipient's duty to cancel all outstanding obligations that are legally possible.
19. The State and Sub-recipient each binds himself to his successors, executors, administrators, assigns and legal representatives or such other party, in respect to all covenants, agreements, and obligations of this agreement.
20. The State, may at any time, in its sole discretion, give any consent, deferment, subordination, release, satisfaction, or termination of any or all of the Sub-recipient's obligations under this Agreement, with or without valuable consideration, upon such terms and conditions as the State may determine to be (a) advisable to further the purpose of the project or to protect the State's financial interest therein, and (b) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it was made.
21. The Sub-recipient agrees to complete such action as is required to become fully informed of all State and National laws and county and municipal ordinances and regulations in any manner affecting those engaged or employed in the work, or the materials used in the work, or in any way affecting the conduct of the work and the Sub-recipient shall at all times observe and comply with, all such applicable existing and future laws, ordinances, regulations, orders and decrees and the Sub-recipient further agrees to protect, indemnify and hold harmless, with respect to any damages arising from any completed work or tort done in performing any of the work embraced by this Agreement, SEMA, the State of

Missouri and the Federal Emergency Management Agency and the officers and agents of those entities, from any claim or liability arising from or based on the violation of any law, ordinance, regulation, order or decree, whether by the Sub-recipient or the Sub-recipient's employees

22. The Sub-recipient agrees that the remediation of any hazardous materials (except asbestos in acquisition/demolition projects) discovered during the completion of this project is the sole responsibility of the Sub-recipient. The Sub-recipient must follow all Federal and State regulations. SEMA and FEMA will not contribute any funds or resources to the required remediation.
23. The Sub-recipient agrees that it understands and accepts the responsibility under the Revised Statutes of Missouri (RSMo) Sections 285.525 through 285.550 (Illegal Immigrants) to ensure that "no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri." The Sub-recipient further certifies that any contract awarded by the Sub-recipient will require the contracted business entity to comply with the references mentioned above. The Sub-recipient understands that failure to comply with this requirement will subject the Sub-recipient to the penalties described in the references mentioned above.
24. The Sub-recipient agrees to make every effort to quantify and report losses avoided and success stories to the State, for the recognized life of the project, after an event occurs that realizes the benefit or objective of the project.

**Signatory Approval of the  
Flood Mitigation Assistance Program  
Flood Buyout Grant Agreement**

*The parties hereto have made and executed this Agreement as of the day and year indicated in the Funding Approval form.*

**Sub-recipient Signatory Representative**

\_\_\_\_\_  
Steve Roth, City Administrator  
City of Pacific

\_\_\_\_\_  
Date

**State Signatory Representative**

\_\_\_\_\_  
James Remillard, Acting Director  
Missouri State Emergency Management Agency

\_\_\_\_\_  
Date

**RESOLUTION NO. 2020-07**

**A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH MIDWEST POOL MANAGEMENT OF AMERICA, LTD., FOR MANAGEMENT AND OPERATION OF THE CITY OF PACIFIC MUNICIPAL POOL**

**WHEREAS,** Midwest Pool Management of America, LTD. has proposed an agreement for operation and management of the City of Pacific Municipal Pool; and

**WHEREAS,** the parties desire to enter into an agreement for said services.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN FOR THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

**SECTION 1.** The Mayor is hereby authorized and directed, on behalf of the City of Pacific, to execute an Agreement for Professional Services with Midwest Pool Management of America, LTD. A copy of the Agreement is attached hereto as Exhibit A and made fully a part hereof.

**Adopted by the Board of Aldermen and approved by the Mayor on this 4<sup>th</sup> day of February, 2020.**

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**Steve Myers, Mayor**

**ATTEST:**

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**City Clerk**

## **City of Pacific, Missouri Aquatic Center Management Agreement**

THIS CONTRACT is made as of the, \_\_\_\_ day of \_\_\_\_\_ 2020, by and between the CITY OF PACIFIC, a municipal corporation located in Missouri, hereinafter called “City” and MIDWEST POOL MANAGEMENT OF AMERICA, LTD, a for-profit company, hereinafter called “Midwest Pool Management.”

**WHEREAS**, the City owns Pacific City Pool in Pacific located at 690 West Congress, Pacific, Missouri; and

**WHEREAS**, the City desires to retain Midwest Pool Management to manage the operations of their aquatic facility.

**WHEREAS**, Midwest Pool Management possesses the expertise and experience necessary to provide pool management services to the City; and

**NOW THEREFORE**, for and in consideration of mutual covenants herein contained, it is agreed as follows:

### **Section 1. Representations and Warranties of Midwest Pool Management.**

Midwest Pool Management hereby represents and warrants as follows:

- a) Under this agreement, Midwest Pool Management will manage the operations of the Pacific pool as per the scope of duties outlined in Section 2.
- b) Midwest Pool Management will coordinate its activities with the City’s designated representative in an effort to reduce duplication of services.
- c) Midwest Pool Management is a for-profit company, the principal purpose of which is the operations and management of aquatic facilities in the areas surrounding the Kansas City and St. Louis areas.
- d) Midwest Pool Management warrants and represents that its services provided under this Contract will at all times be performed and delivered in a competent, skillful and workmanlike manner and will in all respects be fit for their intended purposes.
- e) Midwest Pool Management warrants and represents that it is duly qualified to do business in Missouri and that it possesses all necessary statutory authority to transact business in the state as a corporation.

### **Section 2. Services to be Provided by Midwest Pool Management.**

Midwest Pool Management shall provide the following managerial and operational services:

**1. Operations and Maintenance of Pool**

**A. Midwest Pool Management shall provide for the operation of the Pacific City Pool from May 23 – September 7, 2020:**

May 23 – August 23, 2020	Noon – 8:00 p.m. daily
Aug. 24 – Sept. 7, 2020	Pool shall be closed weekdays while school is in session
Aug, 24 – Sept. 7, 2020	Open weekends, including Labor Day: Noon – 8:00 p.m.

The City may, at its sole discretion, amend the hours of operation to provide for Open Swim, Pool Rentals, Pacific Swim Team meets, and other special events or uses of the pool. Changes in hours of operation shall be closely coordinated with Midwest Pool Management and subject to their consent, which shall not be unreasonably withheld.

**1.2 Spring Opening:** The City is responsible for opening the pool in the spring and having it ready for operation at least 5 days before opening day. Midwest Pool Management will take over maintaining the pool after start up by the City.

**1.3 Operation of the Pacific City Pool**

Midwest Pool Management will use reasonable care and diligence to provide the following services for the operation of the Pacific City Pool:

- a. Enforce all rules and regulations stipulated by the City and suggest and advise with regard to additional rules and regulations for the operation of the pool.
- b. Maintain any records as reasonably required by the City.
- c. Furnish and supply necessary consumable first aid supplies adequate to the size and operation of the Pacific City Pool. The First Aid Kit will carry supplies for a minimum of 50 persons and at minimum include: adhesive bandages, sterile pads, gauze pads, eye pads, tape, dressings, elastic bandage, antiseptic, ammonia inhalants, scissors, tweezers, latex gloves, clean wipes, eye wash, elastic gauze, large bandage patch. First aid kit will include a pocket mask with a one-way valve, and a bodily fluid exposure kit. Midwest Pool Management shall provide first responder first aid kits, including rubber gloves and pocket mask with one-way valve, for all on duty personnel. This proposal does not include non-consumable equipment, such as backboard, oxygen tank, AED or rescue tubes.
- d. Vacuum pools. Each pool will be vacuumed entirely a minimum of one time a week and spot vacuumed on a daily basis to maintain a clean appearance and be free of all debris. Pools will be vacuumed before the public enters the pool.
- e. Work with the City in handling complaints users may have, reporting all complaints to the designated representative.
- f. Conduct in-service training as per guidelines of Starfish Aquatics or equivalent.
- g. Midwest Pool Management will retain a record of all problems brought to their attention. The City may review this log. A daily log of communication will be kept in the manager’s office for the managers and designated City personnel to review on a daily basis.

- h. Keep detailed records of any pullouts where a lifeguard enters the water for a rescue, describing the circumstances surrounding the incident and denoting the specific location of the pull out.
- i. Power wash or hose decks daily.
- j. Maintain, and operate the filter equipment in accordance with manufacturers' requirements.
- k. Perform safety checklist daily.
- l. Clean the Pacific City Pool, including: guard and manager office areas, bathhouse, and areas within the fencing. Cleaning to be completed prior to operational hours.
- m. Maintain tests and records as required by State of Missouri and City and meet all requirements for such.
- n. Maintain and backwash filter system per manufacturer's recommendations.
- o. Clean the hair and lint strainers on all pumps and associated filtering devices to avoid a reduction in flow.
- p. Midwest Pool Management's representative will meet with City's representative either weekly, biweekly or as requested by the City.

#### **1.4 Fall Closing / Winterizing**

At the end of the swimming season, City will winterize and close pool for the season.

#### **1.5 Operational Supplies/Utilities**

City will order all necessary pool chemicals. Pool Management will provide consumable first-aid supplies as specified, for the pool operation during the season.

The City shall provide janitorial supplies (paper towels, soap, trash bags, toilet paper, cleaners, light bulbs, etc.) for the facility. The City shall furnish water, telephone, electric, gas and pay for the same. The City shall provide four (4) sets of keys for locks that access the pools, bathhouse and equipment areas.

#### **1.6 Maintenance and Replacement of City Owned Equipment.**

Repairs and replacement of equipment needed during the season to continue the operation of the Pacific City Pool and to maintain health and safety standards shall be the responsibility of the City. At the City's request Midwest Pool Management, shall advise and receive approval from the City to make repairs should the need arise. The City is responsible for the maintenance and replacement of the buildings, structures, utilities, and surrounding areas including shrubbery.

All non-consumable equipment required for the operation and maintenance of the Pacific City Pool, such as deck vacuum, vacuum head, hoses, power washer etc. will be provided by the City. Any said equipment shall be returned to the City at the end of the season in the same condition as received, with reasonable wear and tear expected. Midwest Pool Management makes every effort to prevent losses and damages to City-owned property during hours of operation and at all times during which any such property owned by City is

in Midwest Pool Management’s possession or control. Damaged or malfunctioning equipment will be reported immediately to the City.

**2. Personnel.**

Midwest Pool Management shall furnish personnel for the operation of the Pacific City Pool. All lifeguards will hold a minimum qualification of a lifeguard certificate from Starfish Aquatics or equivalent which includes CPR and First Aid training. Said personnel will be furnished in a manner to operate the Pacific City Pool in the safest manner possible and in the best interest of the City. All personnel must be uniformly identified at all times. All personnel employed by Midwest Pool Management in the performance of fulfilling a contract for the operation of the Pacific City Pool shall be considered employees of Midwest Pool Management and not of the City. All personnel employed by Midwest Pool Management shall be paid in accordance with the Federal Wage and Hour Laws.

Personnel shall be scheduled for the regular operation of the Pool according to the following schedule and staffing levels:

**Schedule:**

May 23 – August 23, 2020	Noon – 8:00 p.m. daily
Aug. 24 – Sept. 7, 2020	Pool shall be closed weekdays while school is in session
Aug. 24 – Sept. 7, 2020	Open weekends, including Labor Day: Noon – 8:00 p.m.

**Staffing levels:**

Manager or Asst Mgr:	11:00 a.m. – 8:00 p.m.
2 - 3 Lifeguards:	11:45 a.m. – 8:00 p.m.
1 Front Desk/Concession:	11:45 a.m. – 8:00 p.m.

At City’s request, Midwest Pool Management shall provide personnel for lifeguard services for amended open swim hours, Pacific Swim Team practices and events, Private Pool Rentals, or other special programs and events scheduled outside of public swim sessions not listed in the paragraph above. City will be invoiced for this time at the hourly rates as provided in Part B: Salary Budget.

Midwest Pool Management shall have the authority to temporarily close the Pacific City Pool during inclement weather (heavy rain, high wind or lightning) and shall be prepared to reopen it when the weather permits. Midwest Pool Management shall have all necessary personnel available seven (7) days per week, twenty-four (24) hours per day to attend to any problems that may arise. If the Pacific City Pool is to be closed for the day, there will be an agreement by and between Midwest Pool Management and the City to close to the public.

**Swim Lessons:** Midwest Pool Management will manage the swim lesson program, take registrations and will hire, train and supervise the swim lesson coordinator, swim lesson instructors and swim lesson lifeguard. The net revenue will then be turned into the City of Pacific after the salaries of the coordinator, and swim lesson instructors has been deducted.

**Front Desk and Concession Operations:** Midwest Pool Management will have one staff member on duty during all times of open swim that will handle the concession and front desk responsibilities. Cashiers will be responsible for the collection and accounting of daily pool receipts, as well as giving out accurate information regarding the Pacific City Pool and its programs. Cashiers will verify start up cash daily, sell concessions, monitor patrons entering and exiting facility for rule enforcement, keep front desk area clean, count money at the end of the day, assist manager in preparing deposit. Cashiers will keep an accurate count of the number of patrons using the pool on a daily basis and shall make such information available to the City. Deposits will be made in accordance to the method approved by the City. Ordering and payment of concessions supplies will be Midwest Pool Management's responsibility. All fees collected for concession sales will be turned into the City at the end of the season, less cost for supplies.

### **3. Method of Payment.**

Midwest Pool Management has submitted a firm management fee, which includes all overhead and insurance costs required for the season, as outlined in the scope of services. Management fee shall be paid monthly as outlined on page 12.

Midwest Pool Management has submitted a "not-to-exceed" Salary Budget (as defined below) amount on page 13 of this agreement for staff salaries and associated payroll taxes for the open swim hours and staffing levels detailed in section 2 of this agreement. There is no additional lifeguard staffing expense to the City except as requested by the City to provide staffing for special programming, private rentals or hours outside of the scope detailed in section 2. The City will be responsible for actual staff hours worked not to exceed the amount outlined in the contract. The Salary Budget shall be invoiced monthly, with payroll records subject to review by the City. Salary budget will be recapped in October of each year and reconciled with actual hours worked at the rates outlined in Part B "Salary Budget".

Upon any change in Federal or State guidelines, which govern Midwest Pool Management's operation and/or employees, Midwest Pool Management may present a new contract amount in writing to the City. The City has 30 days to accept or reject the new amount.

### **4. Licenses and Permits**

The City shall be responsible for obtaining and paying the costs of all necessary permits and licenses required by any applicable laws, rules and/or regulations (including the Ordinances of City) necessary for the operation of the facility and concession stand, provided, however, Midwest Pool Management shall be responsible for obtaining a business license.

### **5. Health and Safety Standards**

Midwest Pool Management shall meet all State and Federal Standards as they relate to its operation, including laws and regulations relating to employment of individuals and entities. Midwest Pool Management shall be responsible for maintaining the condition of the pool

water in conformity with the standards specified by the City, and the operation shall be in accordance with all the rules and regulation of the Health Department of the State of Missouri.

**6. Services to be Provided by City**

The City will be responsible for the repair, maintenance and replacement of the buildings, pool structures, decks, pool equipment, utilities and surrounding areas including shrubbery, except policing for trash, waste, garbage and other debris.

The City shall have the ultimate authority and responsibility for compliance with the Virginia Graeme Baker Pool and Spa Safety Act and the Americans with Disabilities Act. Midwest Pool Management shall communicate with the City about any violations it observes under these Acts.

The City shall furnish all staff and equipment and products necessary for the collection of fees and sale of goods at concession stand and front desk.

**7. Term:**

This contract shall be effective upon approval and execution of this agreement on \_\_\_\_\_ of \_\_\_\_\_ 2020 and shall terminate on December 31, 2020. Upon the expiration of this Agreement, the City shall have the option to renew this Agreement for two additional years under the same terms and conditions provided that the City shall give written notice to Midwest Pool Management on or before December 1 of its intention to renew. Any necessary adjustments for a renewal, in the management fee and salary budget shall be negotiated between the City and Midwest Pool Management, and agreed upon in writing signed by both parties.

**8. Insurance:**

Midwest Pool Management shall purchase and maintain the following insurance through the life of this contract:

- a. Commercial General Liability Insurance with a minimum limit of \$1,000,000 each occurrence / \$2,000,000 general aggregate written on an occurrence basis.
- b. Comprehensive Business Automotive Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by Midwest Pool Management with a combined single limit of \$1,000,000 minimum.
- c. Workers Compensation insurance with statutorily limits required by any applicable Federal or state law and Employers Liability insurance with minimum limit of \$1,000,000 per accident.

Midwest Pool Management shall make City an additional insured on each policy of insurance that Midwest Pool Management is required to maintain under the contract documents.

Any coverage available to City as a named insured shall be secondary, so that the primary coverage to the City shall be as an additional insured on the policies maintained by Midwest Pool Management.

No provision of this agreement shall constitute a waiver of the City's right to assert a defense based on the doctrines of sovereign immunity, official immunity, or any other immunity available by law.

Insurance required by this contract and supported by the additional insured endorsement shall be as broad as necessary to support the hold harmless requirement in said contract or as broad as the indemnitor's insurance coverage, whichever is broader.

### **8.5 Indemnification.**

Midwest Pool Management shall, at its sole cost and expense, indemnify, hold harmless and protect the City, including its officers and employees, from and against any and all claims, damages, costs or expenses (including court costs and reasonable attorney's fees) for any claim arising out of Midwest Pool Management's negligent acts under this Agreement; provided, however, that this hold harmless and indemnification shall not apply where such claims, actions, damage, liability, or expenses result from any omission, fault, negligence, or misconduct on the part of the City, its agents, servants, employees, managers, or licensees. Notwithstanding the foregoing, Midwest Pool Management's indemnity obligations are limited solely to the extent directly caused by Midwest Pool Management's fault or negligence.

### **9. Independent Manager**

Midwest Pool Management is retained by City only for the purposes of, and to the extent set forth in, this Contract, and the relationship of Midwest Pool Management with City under this Contract during the term of this Contract shall be that of an independent manager and not an employee, partner, member, owner, officer, director or other agent of City. Midwest Pool Management agrees to devote sufficient time, effort, resources, ability, skill and attention as may be necessary for Midwest Pool Management to perform the services required to be provided to City under this Contract, but performing such services subject to the provisions of this Contract, all applicable laws, rules, regulations governing the business of Midwest Pool Management and the work to be performed hereunder. Midwest Pool Management shall not be considered by reason of the provisions of this Contract or otherwise as being an employee of City. This Agreement will not be deemed to create a partnership, joint venture, agency or fiduciary relationship between the parties. Midwest Pool Management shall have no right to bind City to any agreement with any other person or entity and is not authorized to act for City in any manner except as expressly set forth in the Agreement.

**10. Notices.**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received at:

**Midwest Pool Management**  
Attn: Crissy Withrow  
Vice President  
156 Weldon Parkway  
Maryland Heights, MO 63043  
Fax: 314.432.0059

**City of Pacific**  
Attn: Steve Roth  
City Administrator  
300 Hoven Drive  
Pacific, MO 63069  
Fax 636.271.0500

**11. Nondisclosure.**

Midwest Pool Management agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Contract.

**12. Changes.**

No change in this Contract shall be made except in writing prior to the change in work or terms being performed.

**13. Termination.**

This Contract may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Contract. The non-performing party shall have fifteen calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

The City shall have the right to terminate the Contract at any time for any reason by giving Midwest Pool Management written notice to such effect.

**14. Accounting.**

During the period of this Contract, Midwest Pool Management shall maintain books of accounts of its expenses and charges in connection with this Contract in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by Midwest Pool Management.

**15. Entire Agreement.**

This contract contains all the agreements of the parties relating to the subject matter. Any oral representations or modifications concerning this instrument are of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

**16. Transferability.**

Neither City nor Midwest Pool Management shall assign any rights or duties under this Contract without the prior written consent of the other party.

**18. Satisfactory Performance.**

The City shall have the right to notify Midwest Pool Management of any performance by its employees that is detrimental to the best interest of the City, and Midwest Pool Management agrees to correct such performance within twenty-four (24) hours.

**19. Third Party Rights.**

Nothing in this Contract is intended to benefit any third party.

**20. Certification of Lawful Presence/Work Authorization.**

Midwest Pool Management will complete the required certifications of lawful presence and, if the contract is to exceed \$5,000.00 shall complete and return the Work Authorization Certificate.

**IN WITNESS WHEREOF**, the parties have made and executed this contract in multiple copies, each of which shall be an original.

**CITY OF PACIFIC, MISSOURI**

**MIDWEST POOL MANAGEMENT**

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

\_\_\_\_\_  
**By:** Crissy Withrow, Vice President

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
**By:**  
**Name, Title**

\_\_\_\_\_  
**By:**  
**Name, Title**

**PACIFIC CITY POOL**

**PART A “MANAGEMENT FEE”**

The Midwest Pool Management agrees to provide all items as listed in the accompanying specifications as part of the base bid “Management Fee”.

	<b>2020</b>
April 1	<u>\$ 3,580.00</u>
May 1	<u>\$ 3,580.00</u>
June 1	<u>\$ 3,580.00</u>
July 1	<u>\$ 3,580.00</u>
August 1	<u>\$ 3,580.00</u>
Final Payment	<u>\$ 1,000.00</u>
Total Management Fee Bid	<u>\$ 18,900.00</u>

Taxes. The Contract amount as stated above includes all sales taxes, excise taxes, and other taxes, for all materials and appliances subject to and upon which taxes are levied.

**PACIFIC CITY POOL**  
**PART B “SALARY BUDGET”**

**MAXIMUM BASE SALARY      \$60,040.00**

	<b>2020</b>
April 1	<u>\$ 2,000.00</u>
May 1	<u>\$ 14,000.00</u>
June 1	<u>\$ 14,000.00</u>
July 1	<u>\$ 14,000.00</u>
August 1	<u>\$ 14,000.00</u>
September 1	<u>\$ 2,040.00</u>
Maximum Salary Budget	<u>\$ 60,040.00</u>

**STAFF RATES FOR RECREATION PROGRAMS / SPECIAL EVENTS NOT COVERED UNDER SECTION 1.4:** Rates below are not the rates paid to staff, but the hourly staff rates with Worker’s Compensation and payroll taxes included:

**2020**

Manager	<u>\$ 15.21</u> per hour
Lifeguard	<u>\$ 12.12</u> per hour
Front Desk/Concession:	<u>\$ 11.82</u> per hour

# **West Summit LLC**

Mr. Steven Roth  
City Administrator  
City of Pacific  
636-271-0500 ext 213  
[sroth@pacificmissouri.com](mailto:sroth@pacificmissouri.com)

Re: Final plan for Longview Meadows subdivision on Old Gray Summit Road

Steve,

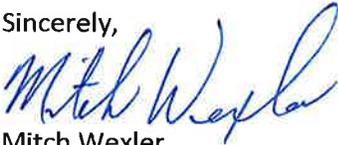
We are pleased to be annexing this approximately 60 acre site into the City of Pacific. We look forward to getting the final plat recorded and finalizing the sales of lots. This is going to be one of the most impressive residential developments in the St. Louis metro area.

The plans that were approved as part of the annexation ordinance did not include streetlights and we never install streetlights in three-acre lot subdivisions. The buyers of these extremely large lots are looking for a country feel and those who want lights around their homes will install them as part of the homebuilding process on their land.

When the 130-lot subdivision built on the adjacent land, streetlights will of course be included in the plans.

As always, we appreciate your consideration.

Sincerely,



Mitch Wexler  
West Summit LLC / Manager  
[mwexler@tristarcompanies.net](mailto:mwexler@tristarcompanies.net) / (314) 292-5333  
12647 Olive Boulevard  
Suite 510  
St. Louis, MO 63141

COPY

# City of Pacific Special Events Permit Application

Date: Jan 16, 2020

Permit No: 20-031 SP2020-001

Name of Person or Organization: PACIFIC DOWNTOWN MERCHANTS ASSOC

Address: 330 WEST OSAGE

City: PACIFIC State: MO Zip: 63069

Description of Event: ST PATRICK'S DAY PARADE

Location or Address of Event: DOWN TOWN STREETS  
ST LOUIS STREET ETC

Date of Event: MARCH 14 10am

Is event in a City Park? Yes  No  Park Board Approval? Yes  No

Is this event sponsored or co-sponsored by the City? Yes  No

Copy of Insurance coverage for Event? (Attached)  Yes  No

What City services will be needed for this Event? POLICE

Check if Not-For-Profit Group? (need proof of 501(c) 3 status) Yes  No

**Special Events Permit Fee \$100.00**

Applicant Signature James O Mueller Date \_\_\_\_\_

For office use only  
Special Event Type 1 2 3 4 Circle one  
Other Departments approval Fire  Police  EMS  Public Works   
Exemptions of terms and conditions per Section 401.020 Yes  No

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

# **PUBLIC WORKS REPORT**

## **November 15, 2019 - January 31, 2020**

- DAILY WATER/SEWER ROUNDS
- DAILY WATER/SEWER ONE CALL LOCATES
- DAILY SERVICE CALL SHEETS
- MONTHLY WATER SHUT OFF LIST
- MONTHLY SAFETY MEETINGS
- METER READING
- METER CHANGING/REPAIRS
- ROUTINE WATER SAMPLING
- ROUTINE SEWER SAMPLING
- MONTHLY SEWER REPORTS
- DAILY PARK CLEANING, WEEKLY INSPECTIONS
- WATER TAPS AND SEWER INSPECTIONS FOR NEW HOMES
- ROUTINE MAINTENANCE OF EQUIPMENT AND VEHICLES INCLUDING POLICE CARS
- BRUSH AND BAGS PICKUP
- PATCHING POT HOLES IN STREETS
- REPLACING STREET SIGNS & STOP SIGNS
- MONTHLY SMITH FOODS SEWER BILLING
- SNOW PLOWING, SALT SPREADING, CLEANING OF TRUCKS
- ASPHALT SEAL WESTERN AVE OVER GRAFFITI
- ASPHALT REPLACED N FOURTH FROM WATER LEAK AND DRIVEWAY AT 129 CHEROKEE FROM NEW CULVERT
- INSTALLED NEW POOL PUMP (USED THE SPARE)
- CAMERA STORM PIPES AT 1622 HAWTHORNE AND HWY N AT INDIAN TRAIL
- SWEPT STREETS HAWTHORNE AND CEDARS, LEAVES OUT OF CURBS
- WINTERIZE 222 N FIRST HOUSE AND RED CEDAR

- PUT UP HOLIDAY WREATHS ALONG FIRST AND ST. LOUIS STREETS, REPLACED OLD LIGHTS WITH LED LIGHTS. REMOVED AFTER HOLIDAYS
- CAMERA SEWER MAIN 622 N ELM FOR LATERAL REPLACEMENT
- FIX BANNERS ALONG OSAGE WITH BUCKET TRUCK
- SINK HOLE 712 N COLUMBUS REPAIRED
- REPLACED WATER CURBSTOP AT 112 N FIFTH, REPLACED SIDEWALK SECTION
- USED VACUUM TRAILER CLEAN OUT INLET BOXES AND EXPOSE SEWER LINES OUTSIDE OF LIFT ONE WET WELL
- REPLACED THREE 8" PIPES GOING THROUGH CONCRETE WALL OF WET WELL AT LIFT STATION ONE. NEW 8" SCH 80 PIPE AND 90° ELBOWS INSIDE WET WELL
- MOVED BOXES ETC. FROM OLD COMMUNITY SCHOOL INTO COLEMAN SCHOOL CLASSROOM
- INSTALLED TWO NEW GATES END OF DENTON ROAD
- POURED NEW SIDEWALKS AT 1013 SILVER LAKES EST, 112 N FIFTH AND 516 N COLUMBUS
- REPLACED CULVERT UNDER ROSE LANE AT WESTERN
- 8" WATER MAIN GOING FROM ADB TO NB WEST LOT, INSPECTIONS AND FLUSHING. IS TURNED ON AND IN SERVICE
- 3" SEWER FORCE MAIN FROM PRISON LIFT STATION TO NB WEST LOT INSPECTIONS, ONLINE READY FOR SERVICE
- REPLACED WATER CURBSTOP 70 CEDAR BROOK
- MIRMA REPORTS
- NEW LED LIGHTS INSTALLED IN SEWER MACHINE ROOM
- REPLACED CULVERT AND CLEANED OUT DITCH AT 1902 WESTERN
- N FIRST/PARK/HWY OO 10" WATER MAIN INSPECTIONS
- 6" WATER MAIN BREAK REPAIR HOGAN AT W PACIFIC
- PICK UP CHRISTMAS TREES AND BRUSH
- CAMERA SEWER MAIN ORR STREET AFTER SEWER BACK UP

- CLEARED TREES AND LEVELED AREA FOR NEW POLICE EVIDENCE STORAGE SHED AT MAINTENANCE BUILDING LOT
- WET WEATHER EVENTS AT MANHOLES WITH HEAVY RAINS
- REPLACED TWO STOP SIGNS AT MCDONALD'S
- ROCK IN ALLEYS THIRD TO FOURTH STREET AND BEHIND PACIFIC STATION PLAZA
- CLEANED OUT LARGE TREES AND DEBRIS STUCK ON BRIDGE ON CONGRESS AT HAWTHORNE. STUCK AFTER BRUSH CREEK HIGH LEVELS
- RL, JE AND LB ONE DAY WATER CLASS IN O'FALLON FOR CREDIT HOURS
- REPLACE WATER CURBSTOP AT 446 WILLIAMS
- REPLACED 12" CULVERT UNDER STREET 800 BLOCK N FIRST AT DEAD END
- REPLACED 18" CULVERT ON WESTERN FROM TULIP TO CREEK
- REPLACED CURBSTOP AND INSTALLED METER PIT 89 CEDAR RIDGE
- EXPOSE UNDERGROUND AIR HEADER PIPE AT LAGOON FOR REPAIR

**Robert Brueggemann**

ROBERT BRUEGGEMANN

PUBLIC WORKS COMMISSIONER

# **PUBLIC WORKS UPCOMING PROJECTS**

**UPDATED 1/31/2020**

- HWY N AT INDIAN TRAIL REPLACE 24" CULVERT UNDER HWY N TO DITCH
- DEAD TREE REMOVED UNION STREET ACROSS FROM JANEY LN
- 650 S 5TH MANHOLE RAISED
- 501 MONROE CURBSTOP REPLACED
- 402 N FIRST CURBSTOP REPLACED
- 2326 SILVER LAKES CURBSTOP REPLACED
- 2432 SILVER LAKES CURB FIXED
- REPLACE ADAMS GARDEN PUMP AND PIT
- CREAK CLEARED ALONG THORNTON RD BEHIND EAGLE LANDING
- JENSEN POINT ELECTRIC SERVICE TRENCHED IN
- ASPHALT REPAIRS; ROSE LANE CULVER CROSSING, 1902 WESTERN CULVERT CROSSING, TULIP CULVERT CROSSING, 712 N COLUMBUS CULVERT REPAIR, HOGAN ST WATER LEAK REPAIR, 808 N FIRST CULVER CROSSING
- UNDERGROUND AIR LEAK AT LAGOON
- REMOVE THREE LOCUS TREES HAWTHORNE PARK ( BY POND)
- PAINT RR CROSSINGS AND STOP BARS
- REPLACE 2" HYDRANT 343 HIGHLAND
- 118 N 3RD ALLEY TO UNION ST, REPLACE CURB AND BROKEN SIDEWALK
- REPLACE SIDEWALKS IN FRONT OF 603, 609, 613 & 516 N COLUMBUS ST
- REPLACE CURBS SOUTH SIDE OF 101 E UNION (D'ANGELOS)
- 115 3RD, ALLEY TO UNION REPLACE CURB
- FRANKLIN AT COLUMBUS BROKEN CURB REPAIR (417 COLUMBUS TO FRANKLIN ST)
- 3RD ST NORTH OF ST. LOUIS CURB REPAIR
- REINSTALL WITH NEW FEEDER TUBING, REINSTALL REST OF GUIDE CABLES, POUR NEW ANCHORS FOR FLOATING COVER
- FINISH PAINTING HYDRANTS
- REPLACE SOFTENER CONTROL AT WELL ONE
- REPLACE BAD CONCRETE SLABS IN HAWTHORNE

Residential Inspections 01-17-20 to 01-30-20

Occupancy	Occupancy Re-inspection	Final	Footing Foundation	Framing	Electric Service	Electrical Inspections	Plumbing Inspections	Mechanical Inspections
11	2	7	2	3	3	4	6	4

